



The Planning Inspectorate

# REPORT on the IMPLICATIONS for EUROPEAN SITES Proposed Dogger Bank Creyke Beck Offshore Wind Farm

An Examining Authority report prepared with the support  
of the Environmental Services Team

**14 July 2014**

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# 1 INTRODUCTION

## Background

- 1.1 Forewind Limited (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (as amended) (the PA 2008) for the proposed Dogger Bank Creyke Beck wind farm (the Application). The Secretary of State has appointed an Examining Authority (ExA) to conduct an examination of the Application, to report its findings and conclusions, and to make a recommendation to the Secretary of State, as to the decision to be made on the Application.
- 1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive<sup>1</sup>, the 2010 Habitats Regulations<sup>2</sup> and the Offshore Marine Regulations<sup>3</sup> for applications submitted under the PA 2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing the duties under the 2010 Habitats Regulations and the Offshore Marine Regulations.
- 1.3 This Report on the Implications for European sites ('the Report') compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the examination by both the Applicant and Interested Parties<sup>4</sup>.
- 1.4 This Report is issued to Interested Parties including: Natural England (NE), the Joint Nature Conservation Committee (JNCC)<sup>5</sup> and the Marine Management Organisation (MMO)<sup>6</sup>. The ExA also

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<sup>1</sup> Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive')

<sup>2</sup> The Conservation of Habitats and Species Regulations 2010 (as amended) (the 2010 Habitats Regulations)

<sup>3</sup> The Offshore Marine Conservation (Natural Habitats, &c) Regulations 2007 (as amended) (the Offshore Marine Regulations) will apply beyond UK territorial waters (12 nautical miles)

<sup>4</sup> Interested Parties are defined under s.102 of the PA 2008

<sup>5</sup> NE confirmed that pursuant to an authorisation made on the 9th December 2013 by the JNCC under paragraph 17(c) of Schedule 4 to the Natural Environment and Rural Communities Act 2006, NE is authorised to exercise the JNCC's functions as a statutory consultee in respect of applications for offshore renewable energy installations in offshore waters (0-200nm) adjacent to England. This Application was included in that authorisation and therefore NE provided statutory advice in respect of that delegated authority. However, JNCC retains responsibility as the statutory advisors for European Protected sites that are located outside the territorial sea and UK internal waters (i.e. more than 12 nautical miles offshore), in this instance the Dogger Bank cSAC/SCI, and as such continues to provide advice to NE on the significance of any potential impacts on interest features of that site (paragraph 2.3.1, REP-156). This authorisation was also confirmed by NE at the first issue specific hearing relating to biodiversity, biological environment and ecology and HRA on 4 April 2014 (REP-212, paragraph 3)

<sup>6</sup> The MMO has confirmed in its relevant representation that the MMO defer to the relevant Statutory Nature Conservation Body (SNCB) with regards to HRA (MMO Relevant Representation, page 11 (REP-020)), which is also included in the SoCG between the

addressed questions in the examination, to Natural Resources Wales (NRW) and Scottish Natural Heritage (SNH) in relation to the European sites located in Wales and Scotland respectively, which the Applicant identified within their HRA Report submitted with their DCO application. This was to ensure that these bodies are consulted on habitats regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 61(3) of the 2010 Habitats Regulations and Regulation 25(3) of the Offshore Marine Regulations.

## Documents Used to Inform this Report

### Application Documents

- HRA Report (dated August 2013) comprising:
  - Screening Assessment (APP-045)
  - Information to inform an Appropriate Assessment (IfAA) (APP-046)
  - Supporting Appendices A-D for the Screening and IfAA Reports (APP-047 – APP-050)
  - HRA Screening Matrices (APP-051)
  - HRA Integrity Matrices (APP-052)
- The Environmental Statement (ES) with particular reference to the following Chapters and their supporting appendices:
  - Chapter 8: Designated Sites (APP-083)
  - Chapter 9: Marine Physical Processes (APP-084)
  - Chapter 10: Marine Water and Sediment Quality (APP-085)
  - Chapter 11: Marine and Coastal Ornithology (APP-086)
  - Chapter 12: Marine and Intertidal Ecology (APP-087)
  - Chapter 13: Fish and Shellfish Ecology (APP-088)
  - Chapter 14: Marine Mammals (APP-089)

### Representations

- Pre-examination correspondence from
  - The Applicant, Consolidated Ornithological Addendum including revised integrity matrices (REP-066 to REP-070)
- Relevant Representations from
  - A joint submission from NE (REP-047) and the JNCC (REP-051)

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Applicant and the MMO (REP-116, Appendix 4). The MMO subsequently confirmed to the ExA that the MMO defers to the advice of the relevant SNCB in all matters related to the sufficiency of assessment and the mitigation required in relation to HRA (MMO response to ExA's first questions, Question 125(a) (REP-164)).

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- The MMO (REP-020)
- The Royal Society for the Protection of Birds (RSPB) (REP-052)
- Written Representations from
  - NE (REP-155 and REP-156)
  - The Wildlife Trusts (REP-154)
  - The Applicant (REP-161 and REP-162)
  - RSPB (REP-166)
  - MMO (REP-164)

**Statements of Common Ground (SoCG) and discussions between parties**

- RSPB update on SoCG letter (REP-076)
- Correspondence between the Applicant and RSPB (Offshore) (REP-084)
- SoCG between the Applicant and RSPB (onshore) (REP-114)
- Applicant's update on discussions between the Applicant and RSPB (REP-250)
- Correspondence between the Applicant and SNH (REP-087)
- Applicant's summary of SNH position (REP-271)
- SoCG between the Applicant and the Wildlife Trusts (Offshore) (REP-102)
- SoCG between the Applicant and the MMO (REP-116)
- SoCG between the Applicant, JNCC and NE (Offshore) (and supporting appendices) (REP-126 to REP-150)
- Addendum to SoCG between the Applicant and NE (REP-213)

**Hearing Documents**

- Audio Recording of the first issue specific hearing (ISH) relating to biodiversity, biological environment and ecology and HRA on 4 April 2014 (HR-011 and HR-012)
- Applicant's written summary of the oral case put at the first ISH relating to biodiversity, biological environment and ecology and HRA on 4 April 2014 (REP-220)
- Written summary of the oral case put forward by NE for the first ISH relating to biodiversity, biological environment and ecology and HRA on 4 April 2014 (REP-212 to REP-215)
- RSPB's comments on Table 4 (HR-013) of the ExA's Agenda for the ISH on 4 April 2014 (HR-004)

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- Written note of the morning session of the second ISH relating to biodiversity, biological environment and ecology and HRA on 3 June 2014 (HR-018)<sup>7</sup>
- Audio Recording of the afternoon session of the second ISH relating to biodiversity, biological environment and ecology, and HRA on 3 June 2014 (HR-019)
- Applicant's written summary of the oral case put at the second ISH relating to biodiversity, biological environment and ecology and HRA on 3 June 2014 (REP-342)
- Written summary of the oral case put forward by NE for the second ISH relating to biodiversity, biological environment and ecology and HRA on 3 June 2014 (REP-340)
- Audio Recordings of the third ISH relating to biodiversity, biological environment and ecology and HRA on 1 July 2014 (HR-026 to HR-028)
- Applicant's written summary of the oral case put at the third ISH relating to biodiversity, biological environment and ecology and HRA on 1 July 2014 (REP-391: Applicant's response to Deadline VI, written summary of oral case at Biodiversity, Biological Environment and Ecology, and HRA ISH on 1 July 2014)
- Written summary of the oral case put forward by NE for the third ISH relating to biodiversity, biological environment and ecology and HRA on 1 July 2014 (REP-416)

**Other documents**

- Matrices provided by the Applicant:
  - Screening and integrity matrices provided with the DCO application (APP-051 and APP-052)
  - Revised integrity matrices provided with the Applicant's Consolidated Ornithological Addendum (REP-068)
  - Revised screening and integrity matrices provided in response to Questions 8 and 16 of the ExA's first questions (REP-176 (screening) and REP-177 (integrity))
  - Screening and integrity matrices provided for Flamborough Head and Bempton Cliffs SPA and Flamborough and Filey Coast pSPA (Ref: REP-282)
  - Revised matrices provided in response to the ExA's request at the third Biodiversity, Biological Environment and Ecology, and HRA ISH on 1 July 2014, reflecting agreed positions with NE (REP-401 and REP-402: Applicant's response to Deadline VI, Appendices 10 and 11)

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<sup>7</sup> Due to technical difficulties, an audio recording of the morning session of the ISH on 3 June 2014 is unavailable (see HR-017)

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- Responses to ExA 's First Questions (Deadline II):
  - Applicant's response (REP-174 to REP-206)
  - MMO's response (REP-164)
  - RSPB's response (REP-207)
  - NE's response (REP-156 (Annex G))
- Comments on responses to ExA's First Questions (Deadline III):
  - Applicant's comments on MMO's written representations (REP-226)
  - Applicant's comments on NE's written representation and response to Ornithological Addendum (REP-229)
  - Applicant's comments on RSPB's written representations, response to ExA's first questions and response to Ornithological Addendum (REP-230)
- Responses to ExA's Second Questions (Deadline IV):
  - Applicant's response (REP-281 to REP-322)
  - RSPB's response (REP-328)
  - MMO's response (REP-329)
  - NE's response (REP-333)
- Comments on responses to ExA's Second Questions (Deadline V):
  - NE's comments (REP-340)
  - Applicant's comments on NE's responses (REP-348)
  - Applicant's comments on the RSPB's responses (REP-349)
- Documents provided for Deadline VI
  - Applicant's Summary of final ornithology position (REP-392)
  - Applicant's Deadline VI Appendix 2 - Apportioning of kittiwake populations (REP-393)
  - Applicant's Deadline VI Appendix 3 - Apportioning of gannet populations (REP-394)
  - Applicant's Deadline VI Appendix 4 - Final kittiwake and gannet in-combination tables (Flamborough and Filey Coast pSPA) (REP-395)
  - Applicant's Deadline VI Appendix 5 - Final kittiwake in-combination tables (Farne Islands SPA (REP-396)
  - Applicant's Deadline VI Appendix 6 - Apportioning of guillemot and razorbills (REP-397)

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- Applicant's Deadline VI Appendix 7 - Updated in-combination displacement assessment for guillemot and razorbill (REP-398)
- Applicant's Deadline VI Appendix 8 - Final guillemot and razorbill in-combination tables (REP-399)
- Applicant's Deadline IV Appendix 10 - Updated HRA integrity matrices (REP-401)
- Applicant's Deadline VI Appendix 15 - Applicant's position on Dogger Bank SCI site integrity (REP-406)
- Applicant's Deadline VI Appendix 18 – Offshore decommissioning guidance (REP-409)
- Written summary of the oral case put forward by NE for the third ISH relating to biodiversity, biological environment and ecology and HRA on 1 July 2014 (Annex A: Natural England's summary of fishing in relation to the Dogger Bank SCI (REP-416))
- NE's Supplementary Ornithological Expert Report (updated) and NE's Supplementary Ornithological Expert Report: Annex 1 (updated) (REP-416)

1.5 Reference to the above list will indicate that the Applicant submitted screening and integrity matrices with their DCO application (APP-051 and APP-052) and, as listed above in the 'other documents' section, provided a number of revised screening and integrity matrices during the examination up to 7 July 2014. An explanation for these revisions is provided below.

1.6 After acceptance and prior to the commencement of the examination, the Applicant published and consulted on an Ornithology Addendum (September 2013) (the Ornithological Addendum). This Ornithological Addendum revised the cumulative and in-combination assessment in the Applicant's ES and the IfAA Report, in response to the availability of refined ornithological data for the Hornsea Project One and East Anglia ONE offshore wind farms. This data was used by the Applicant to refine the baseline, the cumulative and in-combination assessment in the ES and the IfAA Report. Having considered the Ornithological Addendum submitted by the Applicant, the ExA made a procedural decision within the Rule 6 letter (PD-003), requiring the Applicant to compile a Consolidated Ornithological Addendum (COA) to include the ornithological information in the ES and the IfAA; and in the Ornithological Addendum. The ExA also required the Applicant to provide updated screening and integrity matrices in light of the information contained within the COA.

1.7 In response to the ExA's Rule 6 letter ( PD-003), the Applicant provided the COA on 11 February 2014 (REP-066 to REP-070) and included consideration of the following proposed wind farm

applications in the in-combination assessment (REP-066, paragraph 1.3.1):

- East Anglia One
- Hornsea Project One
- Firth of Forth (Alpha and Bravo)
- Moray Firth
- Neath na Gaoithe; and
- Inch Cape.

- 1.8 The Applicant confirmed in their response to the ExA's Rule 6 letter, that as no additional sites or features had been screened into the Habitats Regulations Assessment (HRA) process as a result of the information provided within the COA, no changes had been made to the screening matrices provided with the DCO application (REP-066, paragraph 1.5.1). On this basis, the Applicant only provided revised integrity matrices with the COA (REP-068). The changes made to the integrity matrices provided with the DCO application, in light of the information provided in the COA, are summarised in paragraphs 1.5.2 and 1.5.3 in the COA Introduction (REP-066).
- 1.9 The Applicant subsequently provided revised screening and integrity matrices on 18 March 2014 (REP-176 (screening) and REP-177 (integrity)) in response to Questions 8 and 16 of the ExA's first questions and confirmed that the screening matrices are an updated version of the screening matrices appended to the HRA Report provided with the DCO application. The Applicant also confirmed that the integrity matrices were an updated version of the integrity matrices appended to the COA (REP-174, Question 8).
- 1.10 In the ExA's second questions issued on 30 April 2014 (PD-018, Question 6), the ExA requested that the Applicant provide separate screening and integrity matrices for the Flamborough Head and Bempton Cliffs SPA and the Flamborough and Filey Coast pSPA. This was requested because the Applicant had only provided screening and integrity matrices for the potential effects of the Application on Flamborough Head and Bempton Cliffs SPA and NE/JNCC in their joint relevant representations, identified Flamborough and Filey Coast pSPA as one of the SPA sites for which NE/JNCC had outstanding concerns (REP-047 (NE) and REP-051 (JNCC), paragraph 2.2.1). In response to Question 43 of the ExA's first round questions (PD-008), NE explained that the Flamborough and Filey Coast pSPA, supersedes the Flamborough Head and Bempton Cliffs SPA, and was at the time that NE responded to the ExA's first round questions, under consultation for breeding gannets, kittiwakes, guillemots and razorbills, as well as seabird assemblage (REP-162, Annex G, NE's response to Question 43). The Applicant provided the screening and integrity matrices for these sites on 19 May 2014 (REP-282).

- 1.11 The ExA requested at the second ISH on Biodiversity, Biological Environment and Ecology, and HRA on 2 June 2014 (HR-019), that the Applicant provide revised integrity matrices for the following European sites: Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; Farne Island SPA; Forth Island SPA; and Dogger Bank cSAC/SCI. However, the Applicant in response to this request stated that *“As the content of the HRA integrity matrices will not have changed from the last submission, Forewind has not re-submitted the same version of the matrices. Progress is currently being made in this regard, and it is anticipated that updated matrices will be provided at Deadline VI”* (as recorded in the written summary of oral case put forward by the Applicant at the ISH on 3 June 2014 REP-342, paragraph 5.1).
- 1.12 The ExA requested at the third ISH on Biodiversity, Biological Environment and Ecology, and HRA on 1 July 2014 (HR-026 to HR-028), that the Applicant provide revised integrity matrices for the following European sites: Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; Farne Island SPA; Forth Island SPA; and Dogger Bank SCI. The Applicant agreed to update the matrices to separate species that are listed both within their own right and as assemblage features of European sites, so it would be clear that they have been considered at all levels. The Applicant also agreed to update the matrices to reflect agreed positions with NE (Applicant’s Written Summary of Oral Case at the HRA Hearing on 1 July, Deadline VI, paragraph 5.5 (REP-391)). These revised matrices were provided by the Applicant on 7 July 2014 (Applicant’s response to Deadline VI, Appendices 10 and 11 (REP-401 and REP-402)).
- 1.13 The matrices provided by the Applicant, referred to above, presented the Applicant’s evidence on whether the Application, alone or in-combination with other projects, potentially affects a European site<sup>8</sup> within the land or territorial waters of the UK, and whether it is likely to have a significant impact on key features of each European site.
- 1.14 The Applicant’s conclusion of no likely significant effect (No LSE) was not disputed for any of the European sites, or features of those sites, which were considered by the Applicant. These sites are identified in the **Table in Annex 1 to this Report**.
- 1.15 The Interested Parties NE/JNCC and the RSPB, disputed the Applicant’s conclusion of no adverse effect on site integrity (No

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<sup>8</sup> European sites include SCI (Sites of Community Importance), Special Areas of Conservation (SACs), candidate Special Areas of Conservation (cSACs) and Special Protection Areas (SPAs) which are protected under the Habitats Regulations. As a matter of policy, the Government also applies the procedures of the Habitats Regulations to potential SPAs (pSPAs), Ramsar sites, and (in England) proposed Ramsar sites and sites identified, or required, as compensatory measures for adverse effects on any of the above

AEOI) for a number of sites<sup>9</sup> which were identified in NE/ JNCC's and the RSPB's relevant representations and in subsequent representations and responses to the ExA's questions. These disputed European sites are identified in the **Table in Annex 1 of this Report** and were considered further by the ExA during the examination. The integrity matrices for the disputed European sites have been provided in Section 5 of this Report.

- 1.16 NE have confirmed to the ExA, that the species that have been the focus throughout the examination are the only species for which there were on-going concerns and that if a species was not mentioned by NE, then NE were content with the Applicant's conclusions regarding potential impacts on that species (paragraph 12 of their written summary of the oral case put at the third ISH on Biodiversity, Biological Environment and Ecology, and HRA on 1 July 2014 (REP-416)). This Report is therefore focused on those species that were highlighted as giving rise to areas of disagreement between the position of the Applicant and the Interested Parties.

## Structure of this Report

- 1.17 The remainder of this Report is in five parts:

- Section 2 identifies the European sites that have been considered within the examination up to 7 July 2014 (examination Deadline VI), as this is the Deadline for submission of any written summary of an oral case put by an interested party at the last Biodiversity, Biological Environment and Ecology, and HRA ISH held on 1 July 2014. Section 2 also includes a summary of the issues that have emerged during the examination;
- Section 3 lists the European sites and features for which the Applicant has concluded that significant effects are either likely or unlikely, either as a result of the Application alone or in-combination with other plans or projects;
- Section 4 lists the European sites and features for which the Applicant has concluded that adverse effects on integrity will not occur. It identifies where Interested Parties have disputed the Applicant's conclusions;
- Section 5 comprises integrity matrices for those European sites and features, for which the Applicant's conclusion of No AEOI were disputed by the Interested Parties. These integrity matrices summarise the evidence submitted by the

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<sup>9</sup> The European sites identified of concern by NE are: Flamborough and Filey Coast pSPA (with NE noting that the pSPA should be treated the same as SPA); Farne Islands SPA; Dogger Bank cSAC/SCI; Flamborough Head SAC; and Humber Estuary SAC (NE relevant representation (REP-047)); and the European sites identified of concern by the RSPB: Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; and Forth Islands SPA (RSPB written representation (REP-166))

Applicant and the Interested Parties and the position reached by these parties, up to 7 July 2014;

- Annex 1 - Table showing the UK European sites identified by the Applicant and considered during the examination;
- Annex 2 - Table shows the projects included in the Applicant's in-combination assessment; and
- Annex 3 - Conservation objectives for those European sites which are identified in Section 5 where there was disagreement with the Applicant's conclusion of No AEIOI.

## 2 OVERVIEW

### European Sites considered during Examination

- 2.1 Regulation 61 of the 2010 Habitats Regulations and the corresponding Regulation 25 of the Offshore Marine Regulations, require *"a competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which – (a) is likely to have significant effects on a European site or a European offshore marine site (either alone or in-combination with other plans or project s), and (b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications of that site in view of that site's conservation objectives"*.
- 2.2 In response to Question 17 of the ExA's first written questions (PD-008), the Applicant has stated that *"Given that the Application is an offshore wind farm..."* "DBCB is not directly connected with, or necessary to, the management of any of the European sites screened into or out of the DBCB HRA (and the Information for Appropriate Assessment Report'" (REP-174, Applicant's response to Question 17, paragraph 2). This statement has not been disputed by any of the Interested Parties during the examination, up to 7 July 2014. The Application is not connected with or necessary to the management for nature conservation of any of the UK European sites considered within the Applicant's HRA.
- 2.3 The Applicant's HRA Report identified an extensive list of European sites which have been considered for inclusion within the Applicant's HRA. **Column 1 of the Table in Annex 1** of this Report, lists, in alphabetical order, these 199 European sites, which are located within the UK.
- 2.4 In response to Question 34 of the ExA's first round of questions (PD-008), NE commented that it could not agree that the Applicant had identified and assessed all relevant European sites which may be affected by the Application, as the SPAs for migratory waterbirds had not been considered (REP-162, Annex G, NE's response to Question 34). However, NE subsequently stated in the Addendum to the Statement of Common Ground (SoCG) between NE and the

Applicant, that NE could conclude no LSE for all migratory waterbird features assessed at all SPAs (REP-213, paragraph 8) and NE confirmed that all sites and features had been appropriately identified (REP-212, paragraph 6). In response to Question 7 in the ExA's second round of questions (PD-018), NE verified that the Applicant had correctly identified and assessed all the relevant SPAs for the migratory waterbirds ( NE's response to Question 7 (REP-333)).

- 2.5 RSPB confirmed in their response to Question 34 of the ExA's first round questions that the Applicant had screened and assessed all the relevant UK European ornithological sites and their features ( RSPB's response to Question 34 (REP-207)).
- 2.6 In response to Question 20 of the ExA's first round of questions (PD-008), where the ExA sought clarification over the European sites to which NE/JNCC refer to in their joint relevant representations, at paragraph 4.2.2 (REP-047 (NE) and REP-051 (JNCC)), NE confirmed that these sites were the Spurn Point and the Humber Estuary SAC, SPA and Ramsar (REP-162, Annex G, response to Question 20). These European sites are included within **Column 1 of the Table in Annex 1** of this Report as having been identified and assessed within the Applicant's HRA Report.
- 2.7 For the European sites located in Scotland, which the Applicant had screened and assessed in their HRA (as identified in **Column 1 of the Table in Annex 1** of this Report), whilst SNH did not register to become an Interested Party, the ExA addressed examination questions to SNH regarding potential implications on these European sites. These questions included asking if SNH agreed with the conclusions in the Applicant's HRA Report regarding no LSE for these European sites and the Applicant's conclusion that the Application would not adversely affect the integrity of the sites, which have not been identified as a concern by either NE/JNCC or the RSPB (ExA's first questions, Questions 34, 35, 41, 46 and 47 (PD-008)). SNH did not respond to these questions, or to the ExA's request to consider providing Tables<sup>10</sup>, identifying areas of agreement and disagreement between the Applicant and SNH in relation to these Scottish European sites. However, the ExA noted that correspondence from SNH to the Applicant (Deadline III, Appendix 48 (REP-271)), confirms that SNH agree with the JNCC's conclusions regarding impacts on Scottish SPA sites (Question 2, ExA's second Questions (PD-018)).
- 2.8 NE subsequently confirmed to the ExA that whilst it is not within NE's remit to consider impacts to Scottish sites and it is SNH's responsibility to provide their advice to the Applicant, NE will alert SNH to any applications/impacts they should be considering (NE

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<sup>10</sup> SNH were asked by the ExA to consider providing Tables in form appended to the agenda for the ISH on 4 April 2014 (HR-004)

response to ExA's second questions, Question 2 (REP-333)). NE later stated to the ExA that they had a meeting with SNH on the 6 May 2014 where it was discussed that in the future, NE would alert SNH to any impacts, ensuring they are provided with adequate opportunity to respond to consultations if they wished to; and that, in relation to the Application, SNH provided an email of comfort to the Applicant on 15 April 2014 (Deadline III, Applicant's Appendix 48 – Summary of SNH position\_ (REP-271)).

- 2.9 NE is satisfied that SNH are aware of the issues raised and it was up to SNH if they wished to make any representations. SNH have not responded. NE also advised that it maintains its position that it is not the remit of NE to provide advice on Scottish SPAs. NE confirmed that they were not commenting on issues in relation to Scottish SPAs, but that SNH were happy to follow NE's advice on in-combination effects. NE stated to the ExA that SNH have advised they will add nothing further to the advice of NE; the advice of NE being that Scottish wind farm sites should be taken in-combination with English sites (Deadline V, NE's oral statement of case put at the ISH on 3 June 2014, paragraph 22 (REP-340)).
- 2.10 SNH have not expressed any issues and have confirmed to the Applicant that they will place no additional requirements on the Applicant in this regard (Deadline III, Applicant's Appendix 48: Summary of SNH position (REP-271)). NE believes that it would not be unreasonable for the ExA to report to the Secretary of State that SNH would not add any further requirements. NE furthermore advised that Scottish windfarms should be taken into account. NE does not make recommendations about Scottish SPAs, but the Scottish windfarm sites may involve the same populations of birds, as involved in the Application. Therefore, the potential impact on the populations of the Scottish sites should be considered in-combination (paragraphs 21 and 22, NE's written response to Deadline V, (REP-340)).
- 2.11 For the European sites located in Wales, which the Applicant had screened and assessed in their HRA in relation to the designations for the Dee Estuary<sup>11</sup> (as identified in **Column 1 of the Table in Annex 1** of this Report), whilst NRW did not register to become an Interested Party, the ExA has addressed examination questions to NRW regarding potential implications on these European sites. These questions included asking if NRW agreed with the Applicant's conclusion of both No LSE for the Dee Estuary SAC and No AEOI for the Dee Estuary SPA and Ramsar sites (Question 3, ExA's second questions (PD-018)). Whilst NRW did not respond to this question, or to the ExA's request to consider providing Tables<sup>12</sup>, identifying areas of agreement and disagreement between the

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<sup>11</sup> which were identified by the Applicant in their HRA Report submitted with their DCO application (APP-045 and APP-046)

<sup>12</sup> NRW were asked by the ExA to consider providing Tables in form appended to the agenda for the ISH on 4 April 2014 (HR-004)

Applicant and NRW in relation to European sites, NE confirmed to the ExA that NE agreed with the conclusion of No LSE for the Dee Estuary SAC and No AEOI for the Dee Estuary SPA and Ramsar sites. Both designations are jointly managed by NE and NRW. NE also confirmed that it would alert NRW to any applications/impacts they should be considering (response to questions 2 and 3 of the ExA's second questions (REP-333)).

- 2.12 NE subsequently advised the ExA that there were no concerns to raise with NRW and that it seemed reasonable that the ExA should proceed on the assumption that NRW did not have any objection to NE's position as provided in the written response (paragraph 23, NE's written response to Deadline V (REP-340)). This is assumed to mean NE's response to Question 3 of the ExA's second questions, in relation to NE's confirmation to the ExA that it agreed with the Applicant's conclusion of No LSE for the Dee Estuary SAC and No AEOI for the Dee Estuary SPA and Ramsar sites (REP-333).
- 2.13 No additional European sites and features which may be potentially affected by the Application have been identified by any of the Interested Parties.

### The main HRA issues raised during the examination

- 2.14 During the examination, the ExA issued two rounds of written questions (PD-008 and PD-018) and held three ISH on biodiversity, biological environment and ecology and HRA (HR-011 and HR-012 (ISH on 4 April 2014), HR-018 and HR-109 (ISH on 3 June 2014), and HR-026 to HR-028 (ISH on 1 July 2014)), which focused on the consideration of potential impacts on European sites, including marine ornithology.
- 2.15 The main HRA issues raised were:
- whether the Applicant's baseline data was adequate and has been correctly interpreted; NE subsequently confirmed its view that the data used within the ornithology baseline data assessment is adequate. Note: NE clarified that whilst the ornithology data analysis undertaken by the Applicant is a novel approach combining two methods and is undergoing peer review, currently the expert opinion of NE is that it is suitable to analyse the data in this way. NE also advised that there were no other specific concerns over baseline data which had not been covered in the ExA's agenda for the first ISH relating to biodiversity, biological environment and ecology and HRA (REP-212, paragraph 16);
  - that all of the European sites and qualifying features of those sites which may be affected by the Application had been screened and assessed by the Applicant; this discussion has been summarised earlier in this section of the Report;

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- that the Applicant had correctly identified the designation for each European site considered within its HRA; this confirmation was subsequently provided by NE (REP-212, paragraph 7);
- that the Applicant had identified and included within the in-combination assessment all the relevant 'other plans and projects' which may have a potential in-combination effect with the Application; these discussions are recorded in Section 3 of this Report;
- where mitigation has been relied upon by the Applicant to reach a conclusion of No AEIOI, an understanding of how effective this mitigation would be and how it would be secured and delivered through the requirements in the DCO; these discussions are recorded in the integrity matrices in Section 5 of this Report;
- where European sites have been taken forward by the Applicant to the Appropriate Assessment (AA) stage, identification of any sites and features for which it cannot be concluded No AEIOI and clarification how these features would potentially be affected by the Application; these discussions are recorded in Sections 4 and 5 of this Report;
- where European sites have been taken forward by the Applicant to the AA stage, agreement that these sites' conservation objectives have been correctly identified by the Applicant; these discussions are recorded in Section 4 of this Report; and
- consideration of the implications of the Application on the following European sites: Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; Forth Islands SPA; Dogger Bank cSAC; and Farne Islands SPA, including future proofing of the Farne Islands SPA, these discussions are documented in Sections 4 and 5 of this Report.

### 3 LIKELY SIGNIFICANT EFFECTS

- 3.1 A 'significant effect' has been defined within the Applicant's HRA Report to be any effect that may be *"reasonably predicted as a consequence of a plan or project that may affect the conservation objectives of the features for which the site was designated, but excluding trivial or inconsequential effects"* (APP-045, paragraph 2.2.8). The Applicant's HRA Report explains that AA is needed in cases where a LSE is identified (APP-045, paragraph 2.2.7). This follows EC guidance on habitats assessment (EC Guidance document: 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (2000)',<sup>13</sup> and EC Guidance document: 'Assessment of plans and projects significantly affecting Natura 2000 sites (2001)',<sup>14</sup>).
- 3.2 The screening process undertaken by the Applicant is documented in the Applicant's HRA Screening Report (APP-045), and the Applicant's IfAA Report (APP-046). The Applicant's HRA Screening Report undertook screening at both the Zone level, described as the entirety of the Dogger Bank Zone Round 3 development, and for the Application alone (APP-046, paragraph 3.1.3), the results of which are reported in Section 8 of the Applicant's HRA Screening Report (APP-045). The Applicant's IfAA Report (APP-046) records that in response to consultation and further work, re-assessment of LSE was undertaken with respect of sites identified via consultation and further assessment work (APP-046, Section 3.2). The complete list of European sites and their designated features for which screening of LSE has been undertaken by the Applicant and the final conclusions on LSE are presented in Appendix C of the Applicant's HRA Report (APP-049).
- 3.3 The Applicant's approach to the in-combination assessment is based on the following 'other plans and projects' criteria:
- built and operational proposed projects;
  - approved but uncompleted proposed projects;
  - projects under consideration;
  - plans or projects for which an application has been made, that are under consideration by the consenting authorities and for which refined information and robust assessment outcomes are available; and
  - plans and projects which are reasonably foreseeable (APP-046, paragraph 7.1.1).

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<sup>13</sup> Available at:

[http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision\\_of\\_art6\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf) (accessed on 09/06/2014)

<sup>14</sup> Available at:

[http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura\\_2000\\_assess\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/natura_2000_assess_en.pdf) (accessed on 09/06/2014)

- 3.4 The criteria used by the Applicant for its in-combination assessment, as identified in the paragraph above, is similar to NE's tiered approach (as set out below) to consider other plans and projects within an in-combination assessment<sup>15</sup>:
- Tier 1 (built and operational projects);
  - Tier 2 (projects under construction);
  - Tier 3 (projects consented, not constructed);
  - Tier 4 (projects for which an application has been submitted, but not determined); and
  - Tier 5 (identified in the Planning Inspectorate's programme of projects).
- 3.5 The projects included in the Applicant's in-combination assessment are presented in Table 3.7 of the Applicant's IfAA Report (APP-046) and are set out below in the **Table in Annex 2** of this Report. Plans showing the location of the wind farms which have been included and excluded from the Applicant's in-combination assessment are provided in Figures M-MIS-0072-01 and M-MIS-0073-01, respectively in the COA (COA, Part 3 – Plans (REP-069)). In the Applicant's IfAA Report (APP-046), Figure 7.1 shows the location of other projects within 150km of Dogger Bank cSAC/SCI and the Application and Figure 7.4 shows the location of other projects considered for in-combination assessment on grey seal and harbour porpoise Annex II species.
- 3.6 The projects which have been excluded from the Applicant's in-combination assessment are identified in the following places in the Applicant's IfAA Report (APP-046): paragraph 7.4.5 (projects excluded from the assessment in relation to the features of Flamborough Head SAC); and Table 7.13 (offshore wind farms excluded from the in-combination assessment for SPA bird populations).
- 3.7 NE and JNCC in their joint relevant representation (REP-047 and REP-051) identified at paragraph 4.1.13 that they regarded the Applicant's information presented in the in-combination assessments as incomplete, with many proposed projects at various stages in the planning system omitted. NE/JNCC identified that the following additional offshore wind farms needed to be included as a minimum, even if there is low confidence in data that is made publically available:
- Gunfleet Sands;
  - Kentish Flats;

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<sup>15</sup> NE's tiered approach is set out in the Addendum to the SoCG between the Applicant and NE which identifies the projects that NE recommends are included within Tiers 1 to 5, which are identified in Tables 1 to 5 (REP-213)

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- Lynn and Inner Dowsing;
- Scroby Sands;
- East Anglia One;
- Hornsea (Project One);
- Seagreen Alpha;
- Brava;
- Inch Cape;
- Neath na Gaoithe;
- Moray Offshore Renewables Limited;
- Beatrice Offshore Wind Limited; and
- EOWDC (REP-047 and REP-051, paragraph 4.1.13).

3.8 The RSPB in their relevant representation (REP-052) also raised similar concerns in relation to the exclusion of East Anglia One; Hornsea; and the applications in the Firth of Forth and Moray. Whilst the Applicant had considered these offshore wind farm projects in the in-combination assessment in relation to marine and intertidal ecology, fish and shell fish ecology and marine mammals (see Table 3.7 in the Applicant's IfAA (APP-046)), they had not been considered in relation to the in-combination assessment for SPA bird populations (see Tables 7.3, 7.12 and 7.13).

3.9 RSPB in their response to Question 35 of the ExA's first round of questions, (which asked the SNCBs and RSPB whether the Applicant has identified and assessed all the relevant 'other plans and projects' within its cumulative/in-combination assessments, as identified in Sections 7.2 to 7.7 of the Applicant's IfAA and updated in the COA), expressed their concern that the Applicant had not included projects constructed prior to the Dogger Bank baseline data collection. Consequently, RSPB felt that it was unlikely that the construction and operation of these projects had occurred for long enough for their full effects to affect the baseline. RSPB also expressed concern that the Applicant did not include Inch Cape, Moray or Beatrice offshore wind farms in its quantitative cumulative assessment of displacement (REP-207, response to Question 35). Question 35 of the ExA's first round of questions was also addressed to SNH; however, a response was not received.

3.10 In relation to Tier 1 projects<sup>16</sup>, NE raised concerns about a number of constructed/operational projects (e.g. Gunfleet Sands, Kentish Flats, Lynn and Inner Dowsing and Scroby Sands), arguing that the impacts of these sites will not be reflected in the baseline as these projects have not been operational for long enough (especially as

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<sup>16</sup> These projects are listed in Table 1 of the Addendum to the SoCG between the Applicant and NE, which identifies the Tier 1 projects NE has identified for inclusion within the Applicant's in combination assessment (Deadline III Annex A (REP-213))

the 'baseline' is typically taken as a measure of adult survival / mortality, which are generally infrequently updated). NE requested that these should be included in any cumulative/in-combination assessment (NE's written representation, Annex F: Expert Report on offshore ornithology, paragraph 3.3.32 (REP-156)).

- 3.11 The Applicant stated that its position on these operational wind farms has previously been outlined in the Applicant's response to Question 40 of the ExA's first written questions (REP-174) and in Deadline III Appendix 7 (REP-229). The Applicant maintained that its position was appropriate (REP-284, Question 22, Appendix 1: Ornithology Position Statement, Section 6, paragraph 6.5). However, at the request of NE, these projects have been included in the 'common currency' in-combination tables presented in Question 22 Appendix 12 (REP-295 (update to in combination tables)), which updates the tables submitted at Deadline III Appendix 26 (REP-248) and presents an updated view from that presented in the COA submitted to the ExA in February (REP-284, Question 22, Appendix 1: Ornithology Position Statement, Section 6, paragraph 6.4).
- 3.12 The Applicant confirmed that whilst these projects have been presented within the NE 'common currency' in combination tables, the Applicant remained of the view that these projects should not be considered and hence the updated in-combination tables do not include these projects (REP-284, Question 22, Appendix 1: Ornithology Position Statement, Section 6, paragraph 6.7). The Applicant also explained that for both sets of tables provided in the response to Question 22 Appendix 12 (REP-295), projects from Tiers 1-4<sup>17</sup> as listed in NE's Deadline III Annex A (SoCG Addendum, REP-213) have been included (with the exception of the operational projects noted above).
- 3.13 NE advised that since the submission of the Applicant's review of NE's Ornithology Tiered Approach Tables, Appendix 26, submitted on Deadline III (REP-248), Tier 1 projects have been added and the list of projects appeared to be complete for HRA. However, NE noted the exclusion of the Kentish Flats Extension, which the Applicant stated did not consider gannet or kittiwake collisions, and the exclusion of Tier 5 projects (Appendix A: NE Ornithology Position Statement Deadline IV, Section E (REP-333)).
- 3.14 In relation to Tier 5 projects<sup>18</sup>, NE explained that the tiered approach for collision risk has been used in advice for several other offshore wind farm developments allows the ExA to understand the full potential scale of impact when looking either at all projects or

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<sup>17</sup> These projects are listed in Tables 1 to 4 of the Addendum to the SoCG between the Applicant and NE, which identifies the Tier 1 to 4 projects NE has identified for inclusion within the Applicant's in-combination assessment (Deadline III Annex A (REP-213))

<sup>18</sup> These projects are listed in Table 5 of the Addendum to the SoCG between the Applicant and NE, which identifies the Tier 5 projects NE has identified for inclusion within the Applicant's in-combination assessment (REP-213)

those in a 'building block' (i.e. sequential addition of effect) framework. NE therefore advised that for collision risk assessment, the full scale of effect (including Tier 5) needs to be understood, even if there is lower confidence in the eventual predictions for future developments (Appendix A: NE Ornithology Position Statement Deadline IV, Table 1: Summary of NE's position on ornithological issues in response to the ExA's second set of written questions, Question 22 (REP-333)).

- 3.15 The Applicant clarified that for both sets of tables provided in the response to Question 22 Appendix 12 (REP-295), projects listed in Tier 5 of NE's Deadline III Annex A (REP-213), had not been included. The reason provided by the Applicant is that it considers it appropriate for there to be a cut-off for inclusion of new data. This was originally considered to be at least three months prior to assessment, but following a request from the ExA, the Applicant provided updates for the new data from the Scottish projects in the COA (REP-066 to REP-070). Data from Rampion Offshore Wind Farm was previously omitted due to the distance of the project from the Flamborough and Filey Coast pSPA, but NE have since requested it's inclusion within the 'common currency' tables in line with advice also provided on the East Anglia ONE project.
- 3.16 The Applicant has stated that it recognised that the Navitus Bay Wind Park application was accepted on 8 May 2014 for examination, but maintained that this project should still not be considered in the in-combination assessment, given that data has only just become available for this project. In addition, the Applicant recognised that whilst some data is now available on Hornsea Project 2 and Dogger Bank Teesside C and D projects, such information is provided only in the context of cumulative impacts with other projects. Therefore, low confidence is attributed to the assessment outcomes / data as it is potentially subject to significant change given the potential influence of examination-led outcomes in respect of Hornsea Project One and the Application which are located within the same Round 3 Zones. The Applicant therefore does not consider that it is appropriate to include any data for the listed Tier 5 projects in the Application's in-combination assessment, due to these levels of uncertainty (REP-284, Question 22, Appendix 1: Ornithology Position Statement, Section 6, paragraph 6.8). In response, NE have stated that *"No Tier 5 projects are included in the in combination test (Navitus Bay, Hornsea Project 2, East Anglia 3, East Anglia 4) but it is recognised there may be less confidence in these figures as not subject to examination as yet"* (NE's response to Deadline VI - NE's Supplementary Ornithological Expert Report (updated), paragraphs 11, 27, 51, 67 (REP-416)).
- 3.17 As a result of the screening assessment, the Applicant concluded that the Application is NOT likely to give rise to significant effects on the features of the European sites listed in **Column 2 of the Table in Annex 1** of this Report. The Applicant's conclusions were not disputed by any Interested Parties during the examination.

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- 3.18 As a result of the screening assessment, the Applicant concluded that the Application IS likely to give rise to significant effects on the features of the European sites listed in **Column 3 of the Table in Annex 1** of this Report. The Applicant's conclusions were not disputed by any Interested Parties during the examination.
- 3.19 Therefore, the European sites listed in **Column 3 of the Table in Annex 1** of this Report were taken forward into the Applicant's AA. This process is described within Section 4 of this Report.

## 4 ADVERSE EFFECTS ON INTEGRITY

- 4.1 An adverse effect on the integrity of a European site is considered within the Applicant's HRA Report, to be *"one that prevents the site from making the same contribution to favourable status for the relevant feature as it did at the time of designation"* (APP-045, paragraph 2.2.4). Guidance on what constitutes the integrity of a European site is provided by the European Commission (EC 2000), which defines integrity as *"the coherence of the site's ecological structure and function, across its whole area, which enables it to sustain the habitat, complex of habitats and/or populations of species for which the site has been designated"*<sup>19</sup>.
- 4.2 NE confirmed to the ExA in the third ISH on biodiversity, biological environment and ecology and HRA, that the SPA conservation objectives that NE apply to features of sites are generic, and apply to all SPAs (i.e. all SPAs have a 'maintain' objective). This is the standard approach to SPAs and covers a multitude of issues. Therefore, in response to the concern raised by the ExA in the First ExA's Written Questions (Question 45), where the ExA sought confirmation from the SNCBs that the Applicant's use of generic SPA conservation objectives was appropriate (PD-008 and paragraph 6.2.3 of APP-045), NE confirmed that this approach is correct as per NE's published conservation objectives. NE also confirmed that there had been no further generalisation by the Applicant (NE's response to Deadline VI, NE's written summary of the oral case put by NE at the Biodiversity, Biological Environment and Ecology, and HRA ISH on 1 July 2014, paragraph 11 (REP-416)). The Applicant explained that the generic conservation objective can be equally applied to all designated features of these SPAs. The condition of each feature within each SPA is then accounted for through setting of thresholds, for example using potential biological removal (PBR) and population viability analysis (PVA) models, which incorporate consideration of the current status of the population of that feature within a particular SPA (Applicant's response to Deadline VI: Written Summary of HRA Hearing Oral Case on 1 July 2014, paragraph 5.4 (REP-391)).
- 4.3 In the third ISH on biodiversity, biological environment and ecology and HRA, the ExA asked NE and the Applicant, as there are no conservation objectives for the Flamborough and Filey Coast pSPA, on what basis they consider that an AA for this European site could be undertaken. The Applicant and NE confirmed that in the Secretary of State's AA for the East Anglia ONE Offshore Windfarm, the same conservation objectives as the Flamborough Head and Bempton Cliffs SPA were used for the assessment of the pSPA. NE

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<sup>19</sup> EC Guidance document: 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (2000)', paragraph 4.6.3. Available at: [http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision\\_of\\_art6\\_en.pdf](http://ec.europa.eu/environment/nature/natura2000/management/docs/art6/provision_of_art6_en.pdf) (accessed on 09/06/2014)

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stated that the draft conservation objectives for the pSPA were provided to DECC following the close of the examination for East Anglia ONE Offshore Windfarm, following a request from the Secretary of State. In response, the Applicant stated that this information would not be available on the PINS website (NE response to Deadline VI - NE's written summary of the oral case put by NE at the Biodiversity, Biological Environment and Ecology, and HRA ISH on 1 July 2014, paragraph 19 (REP-416); and the Applicant's response to Deadline VI: Written Summary of HRA Hearing Oral Case on 1 July 2014, paragraph 5.21 (REP-391)).

- 4.4 The conservation objectives for the European sites covered in Section 5 of this Report are presented in **Annex 3** to this Report (excluding the Flamborough and Filey Coast pSPA, as explained in paragraph 4.3 above).
- 4.5 The Applicant concluded that the Application would NOT adversely affect the integrity of the European sites and the features of those sites, detailed in **Columns 4 and 5 of the Table in Annex 1** of this Report.
- 4.6 The Applicant's conclusions in relation to the European sites listed in the **Column 4 of the Table in Annex 1** of this Report were not disputed by any Interested Parties during the course of the examination, up to 7 July 2014. However, NE and RSPB confirmed to the ExA that several European sites remained of concern, where NE and RSPB, at that stage in the examination, could not agree with the Applicant's conclusion of No AEOI. These are the sites identified in paragraph 4 in NE's written summary of oral case put by NE during the first Biodiversity, Biological Environment and Ecology, and HRA ISH on 4 April 2014 (REP-212), as: Flamborough and Filey Coast pSPA (with NE noting that the pSPA should be treated the same as SPA); Farne Islands SPA; Dogger Bank cSAC/SCI; Flamborough Head SAC; and Humber Estuary SAC. The RSPB identified the following sites of concern in their comments on Table 4 of the ExA's agenda for the first ISH on biodiversity, biological environment and ecology and HRA, provided on 4 April 2014: Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; and Forth Islands SPA (HR-013).
- 4.7 Subsequently NE confirmed to the ExA that in relation to the Humber Estuary SAC and Flamborough Head SAC, NE agreed with the Applicant's conclusion of No AEOI for all the qualifying features of these sites (in NE's Tables identifying areas of agreement and disagreement provided as Appendix C to NE's Deadline III response (REP-215)).
- 4.8 Therefore, the ExA proposed in their second written questions, to focus the remainder of the examination on the following European sites where agreement between the Applicant and the Interested Parties had not been reached on the Applicant's conclusion of No AEOI, at that stage in the examination: Flamborough Head and

Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; Forth Islands SPA; Dogger Bank cSAC; and Farne Islands SPA and asked whether any Interested Parties disagreed with this approach (PD-018, ExA's second written questions dated 30 April 2014, Question 11). This approach was agreed by the following Interested Parties: the Applicant (REP-281); NE<sup>20</sup> (REP-333, response to Question 11); and the RSPB (REP-328).

- 4.9 When identifying NE's concerns to the ExA in relation to the above European sites, NE stated that in relation to Farne Islands SPA, further features had been identified in the SPA review. NE noted that at present these features have no legal basis for consideration, but NE recommended that these features are treated as features of the SPA so that there is no need for a retrospective assessment. These features are common guillemot, black legged kittiwake and razorbill, as part of the seabird feature and NE noted that the impacts for these features were the same as for the Flamborough and Filey Coast pSPA (Deadline III – NE's written summary of the oral case put by NE at the Biodiversity, Biological Environment and Ecology, and HRA ISH on 4 April 2014, paragraph 12 (REP-212)). NE subsequently advised the ExA that no additional information was required from the Applicant as they have conducted the assessment for guillemot, razorbill and kittiwake and in doing so have future proofed against the future addition of these features to the citation for the Farne Islands SPA (Deadline V: NE's summary of the oral case put by NE at the biodiversity, biological environment and ecology, and HRA ISH on 3 June 2014, paragraph 34 (REP-340)).
- 4.10 Therefore, the five European sites where the Applicant's conclusion of No AEOL was disputed by the Interested Parties during the course of the examination are identified in **Column 5 of the Table in Annex 1** of this Report.
- 4.11 **Tables 4A** and **Table 4B** below set out the qualifying features of the European sites identified in **Column 5 of the Table in Annex 1**, which the Applicant concluded either No LSE for and therefore did not take forward to the AA stage (Table 4A), or concluded LSE and therefore considered that feature in the AA for the European sites, where there was disagreement between the Applicant and the Interested Parties (Table 4B).

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<sup>20</sup> NE had also previously confirmed to the ExA that it agreed to the Applicant's conclusions of no LSE, or no AEOL, for all SPAs other than Flamborough & Filey Coast SPA and Farne Islands SPA (Annex G, response to ExA's first questions, question 41 (REP-156)). NE also subsequently stated in the Addendum to the SoCG between NE and the Applicant, that it could conclude no LSE for all migratory waterbird features assessed at all SPAs (REP-213, paragraph 8).

Table 4A:

Applicant's conclusion of No LSE for a qualifying feature of the European sites identified above in the Table in Annex 1 (column 5)

<p><b>Dogger Bank cSAC / SCI</b></p> <p><i>Features for which No LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"> <li>• The Applicant concluded LSE for the one feature of this site (see Table 4B)</li> </ul>
<p><b>Farne Islands SPA</b></p> <p><i>Features for which No LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"> <li>• Arctic tern (qualifying feature – breeding)</li> <li>• Common tern (qualifying feature – breeding)</li> <li>• Roseate tern (qualifying feature – breeding)</li> <li>• Sandwich tern (qualifying feature – breeding)</li> <li>• Cormorant (qualifying feature – assemblage)</li> <li>• European shag (qualifying feature – assemblage)</li> </ul>
<p><b>Flamborough Head and Bempton Cliffs SPA</b></p> <p><i>Features for which No LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"> <li>• Herring gull (qualifying feature – assemblage)</li> </ul>
<p><b>Flamborough and Filey Coast pSPA</b></p> <p><i>Features for which No LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"> <li>• Herring gull (qualifying feature – assemblage)</li> </ul>
<p><b>Forth Islands SPA</b></p> <p><i>Features for which No LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"> <li>• Arctic tern (qualifying feature – breeding)</li> <li>• Common tern (qualifying feature – breeding)</li> <li>• European shag (qualifying feature – breeding)</li> <li>• Roseate tern (qualifying feature – breeding)</li> <li>• Sandwich tern (qualifying feature – breeding)</li> <li>• Cormorant (qualifying feature – assemblage)</li> <li>• Herring gull (qualifying feature – assemblage)</li> </ul>

4.12 NE confirmed that it agreed with the Applicant's screening conclusion for the following European sites and all the qualifying features of those sites, either alone or in-combination with 'other

plans and projects': Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; and Farne Islands SPA (Table 1, Appendix C NE's Deadline III response (REP-215), see also NE's response to Deadline VI – Tables 5, 6 and 7, Annex 1, NE's Supplementary Ornithological Expert Report (updated) (REP-416)).

- 4.13 NE also confirmed that it did not disagree with the Applicant's conclusion regarding whether or not there is a LSE on the European Sites considered by the Applicant, within NE's jurisdiction, and all the qualifying features of those sites, either alone or in-combination with 'other plans and projects' (Table 3, Appendix C to NE's written summary of oral case (REP-215)). This will therefore include the Applicant's conclusion of LSE for the qualifying feature of the Dogger Bank cSAC/SCI.
- 4.14 Whilst SNH was also asked to complete Tables<sup>21</sup> setting out which European sites they did and did not agree with the Applicant's conclusion of either no LSE or no AEIOI, SNH did not respond. The RSPB responded to the ExA's request to complete the Tables<sup>22</sup>, but only completed Table 4<sup>23</sup> in relation to: Forth Islands SPA<sup>24</sup> (black-legged kittiwake, guillemot, northern gannet and puffin); Flamborough Head and Bempton Cliffs SPA (black-legged kittiwake); and Flamborough and Filey Coast pSPA (black-legged kittiwake, guillemot, northern gannet, razorbill and seabird assemblage). Therefore, it is assumed that RSPB does not disagree with the Applicant's conclusion of No LSE for the features of these sites, as identified in **Table 4A** above.

Table 4B:

Applicant's conclusion of LSE for a qualifying feature of the European sites identified above in the Table in Annex 1 (column 5)

**Dogger Bank cSAC**

*Features for which LSE was concluded by the Applicant:*

- Sandbanks which are slightly covered by sea water all the time (qualifying feature)

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<sup>21</sup> In the form of the Tables appended to the ExA's agenda for the biodiversity, biological environment and ecology, and HRA ISH on 4 April 2014 (HR-004)

<sup>22</sup> In the form of the Tables appended to the ExA's agenda for the biodiversity, biological environment and ecology, and HRA ISH on 4 April 2014 (HR-004)

<sup>23</sup> Table recording RSPB's disagreement with the Applicant's AA conclusion that there is No AEIOI of a Designated Site (HR-013)

<sup>24</sup> RSPB also note that against the feature razorbill for this European site, the RSPB does not agree with the Applicant's conclusion of No AEIOI. However, as the RSPB does not explain why it does not agree with the Applicant's conclusion and instead states N/A, it is therefore assumed that the RSPB mistakenly identified that it does not agree with the Applicant's conclusion of No AEIOI for this feature (see HR-013)

**Farne Islands SPA<sup>25</sup>**

*Features for which LSE was concluded by the Applicant:*

- Common guillemot (qualifying feature – breeding and assemblage)
- Atlantic puffin (qualifying feature – breeding and assemblage)
- Black-legged kittiwake (qualifying feature – assemblage)

**Flamborough Head and Bempton Cliffs SPA<sup>26</sup>**

*Features for which LSE was concluded by the Applicant:*

- Common guillemot (qualifying feature – assemblage)
- Atlantic puffin (qualifying feature – assemblage)
- Black-legged kittiwake (qualifying feature – breeding and assemblage)
- Razorbill (qualifying feature – assemblage)
- Northern gannet (qualifying feature – assemblage)

**Flamborough and Filey Coast pSPA<sup>27</sup>**

*Features for which LSE was concluded by the Applicant:*

- Common guillemot (qualifying feature - breeding)
- Black-legged kittiwake (qualifying feature – breeding assemblage)
- Razorbill (qualifying feature – breeding and assemblage)
- Northern fulmar (qualifying feature – assemblage)
- Northern gannet (qualifying feature – breeding and

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<sup>25</sup> Paragraph 69 of NE's Supplementary Ornithological Expert Report (updated) provided at Deadline VI (REP-416) states that razorbill may have been referred to as a qualifying feature of the Farne Islands SPA in error. NE state that this will be confirmed by NE's ornithologist and any updates required will be undertaken and provided by Deadline IX (5 August 2014)

<sup>26</sup> The Applicant has identified Northern Fulmar as a qualifying feature of the Flamborough Head and Bempton Cliffs SPA in their updated HRA Integrity Matrices submitted at Deadline VI: Appendix 10 (REP-401). NE has included it as an interest feature in Table 5 of Annex 1 to their Supplementary Ornithological Expert Report (updated) provided on Deadline VI (REP-416). However, this species is not listed as a feature on the JNCC website (<http://jncc.defra.gov.uk/default.aspx?page=1995> or on the Natura 2000 data form (<http://jncc.defra.gov.uk/pdf/SPA/UK9006101.pdf>) and therefore it has not been included in the Integrity Matrix provided for this site in Section 5 of this Report

<sup>27</sup> The Applicant has identified Atlantic Puffin as a qualifying feature of the Flamborough and Filey Coast pSPA in their updated HRA Integrity Matrices submitted at Deadline VI: Appendix 10 (REP-401). NE has included it as an interest feature in Table 6 of Annex 1 to their Supplementary Ornithological Expert Report (updated) provided on Deadline VI (REP-416). However, this species is not listed as a feature on the citation form for this site ([http://www.naturalengland.org.uk/Images/Flamborough-citation\\_tcm6-37217.pdf](http://www.naturalengland.org.uk/Images/Flamborough-citation_tcm6-37217.pdf)) and therefore it has not been included in the Integrity Matrix provided for this site in Section 5 of this Report

assemblage)
<p><b>Forth Islands SPA<sup>28</sup></b></p> <p><i>Features for which LSE was concluded by the Applicant:</i></p> <ul style="list-style-type: none"><li>• Atlantic puffin (qualifying feature – breeding and assemblage)</li><li>• Lesser black-backed gull (qualifying feature - breeding and assemblage)</li><li>• Northern gannet (qualifying feature – breeding and assemblage)</li><li>• Black-legged kittiwake (qualifying feature – assemblage)</li><li>• Common guillemot (qualifying feature – assemblage)</li><li>• Razorbill (qualifying feature – assemblage)</li><li>• Northern fulmar (qualifying feature – assemblage)</li></ul>

4.15 As explained in paragraph 1.12 of Section 1 of this Report, the latest revised integrity matrices provided by the Applicant for the European sites listed in **Column 5 of the Table in Annex 1** of this Report, were provided on 7 July 2014 (Deadline VI – Appendix 10: Updated HRA Integrity Matrices (REP-401)).

4.16 Integrity matrices for the European sites and features listed in **Table 4B** above are provided in **Section 5 of this Report** (Site Matrices) and document the discussions, in relation to these European Sites within the examination up to 7 July 2014, (examination Deadline VI), as this is the Deadline for submission of any written summary of an oral case put at the third biodiversity, biological environment and ecology, and HRA ISH.

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<sup>28</sup> The Applicant has not identified northern gannet or Atlantic puffin as an assemblage qualifying feature for the Forth Islands SPA. The Applicant has also incorrectly identified common guillemot and black-legged kittiwake as breeding species qualifying features, and not as assemblage species. Finally, the Applicant has not included lesser black-backed gull as a qualifying feature either as a breeding or assemblage species. These observations have been made with reference to SPA citation for The Forth Islands SPA – available at: [http://gateway.snh.gov.uk/sitelink/documentview.jsp?jsessionid=1c2fa2213616b7e4004802778c8247e629fab0653801775bb4d0fa42380be23d.e38KahaMax4Rai00ax8Sb3mMah50?p\\_pa\\_code=8500&p\\_Doc\\_Type\\_ID=16](http://gateway.snh.gov.uk/sitelink/documentview.jsp?jsessionid=1c2fa2213616b7e4004802778c8247e629fab0653801775bb4d0fa42380be23d.e38KahaMax4Rai00ax8Sb3mMah50?p_pa_code=8500&p_Doc_Type_ID=16). Matrix 5 in Section 5 of this RIES for this European site has been prepared to reflect this understanding.

## 5 INTEGRITY MATRICES

### Background

- 5.1 In relation to the European sites listed in **Column 5 of the Table in Annex 1** of this Report, whilst the Interested Parties, in particular NE and the RSPB, were not able to agree with the Applicant's conclusion of No AEOI, this disagreement does not relate to the features of those sites as identified in **Table 4A**; disagreement relates only to the features of those European sites as identified in **Table 4B** to which the Integrity Matrices provided below relate.
- 5.2 The Integrity Matrices have been produced by the ExA, assisted by the Planning Inspectorate's Environmental Services Team. These integrity matrices summarise the information submitted by the Applicant and the Interested Parties during the examination in relation to the features of the European sites listed in **Table 4B** above, up to 7 July 2014 (examination Deadline VI), as this is the Deadline for submission of any written summary of an oral case put at the third Biodiversity, Biological Environment and Ecology, and HRA ISH.
- 5.3 The integrity matrices provided below record that agreement has been reached between the Applicant and NE, on the Applicant's conclusion of No Adverse Effect on Site Integrity for the following European sites: Dogger Bank cSAC/SCI<sup>29</sup>; Flamborough Head and Bempton Cliffs SPA; Flamborough and Filey Coast pSPA; and the Farne Islands SPA, subject to subject to the points noted below and in the Integrity Matrices for the sites, provided within this Section.
- 5.4 It is noted that NE has identified a possible AEOI in-combination for gannets at an avoidance rate of 98% according to PVA, in relation to Flamborough Head and Bempton Cliffs SPA and Flamborough and Filey Coast pSPA European sites (see Section 5, **Integrity Matrices 3 and 4, footnotes (r) and (r)** respectively).
- 5.5 In addition, whilst NE and the Applicant disagree about whether fishing should be considered a plan or project, in the in-combination assessment for Dogger Bank cSAC/SCI, both NE and the Applicant agree that the effects of the Application on the cSAC/SCI need to be considered in the context of proposed fisheries management measures. These measures are described by NE as proposing the closure of one third of the UK Dogger Bank sSAC/SCI site to all damaging gear. NE explains that these management measures are

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<sup>29</sup> It should be noted that in relation to potential in-combination effects on Dogger Bank cSAC/SCI, NE have not expressly stated agreement with the Applicant's conclusion of No AEOI, in relation to either in-combination effects with or without inclusion of fishing activities as a 'plan or project' as at Deadline VI (7 July 2014), as documented in **Integrity Matrix 1** below

currently with the European Commission for consideration and would hopefully be confirmed as part of the Common Fisheries Policy (timescale currently unavailable).

- 5.6 Whilst both the Applicant and NE hope that these measures would be fully implemented and make a significant contribution to the restoration of the cSAC/SCI site to favourable condition, NE and JNCC note that it is not certain exactly what would represent favourable condition for the site and even the implementation of management measures for fisheries may not result in the achievement of favourable condition and further adaptive fisheries management may be required. The proposed fisheries management measures are not secured through mitigation in the draft DCO or DMLs (see **Integrity Matrix 1, footnote (d)** for further information).
- 5.7 In relation to the Forth Islands SPA, this site was identified as a European site of concern by RSPB, whose concerns are recorded in **Integrity Matrix 5**. NE maintains its position that it is not the remit of NE to provide advice on Scottish SPAs. However, NE is satisfied that SNH are aware of the issues raised and advised that SNH are happy to follow NE's advice on in-combination effects. NE have informed the ExA that SNH have advised NE that they will add nothing further to the advice of NE. SNH have not expressed any issues and have confirmed to the Applicant that they will place no additional requirements on the Applicant in this regard (Deadline III, Appendix 48: Summary of SNH position (REP-271)).
- 5.8 The ExA raised with both the Applicant and the Interested Parties, in particular NE, at the biodiversity, biological environment and ecology, and HRA ISHs on 3 June 2014 and 1 July 2014, whether there was a need for the ExA to consider the application of alternatives and imperative reasons of overriding public interest (IROPI) under the HRA process, in relation to any of the features for the European sites identified in **Column 5 of the Table in Annex 1** of this Report<sup>30</sup>. NE and the Applicant have been able to agree the conclusion of No Adverse Effect on Site Integrity for the above European sites and their respective features. Alternatives and IROPI are therefore, not a consideration for this Report.

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<sup>30</sup> Audio recordings are available of the ISHs on 3 June 2014 and 1 July 2014 (HR-018 (written note of am session of ISH on 3 June 2014), HR-019 (audio recording of pm session of ISH on 3 June 2014); audio sessions for ISH on 1 July 2014 (HR-026 to HR: 028)). See also NE's summary of oral case put by NE at the ISHs on 3 June 2014 and 1 July 2014 (REP-340 and REP-416, respectively) and the Applicant's summary of oral case put by the Applicant at the ISHs on 3 June 2014 and 1 July 2014 (REP-342 and REP-391, respectively)

## STAGE 2: EFFECTS ON INTEGRITY

- 5.9 **Table 4B** in Section 4 of this Report identifies the European sites and features for which the Applicant's conclusions of No AEOI **were disputed** by the Interested Parties.
- 5.10 This section summarises the anticipated effects on the integrity of these European sites, in the context of their conservation objectives (see **Annex 3 of this Report**).

### Stage 2 Matrices Key

- ✓ = Adverse effect on integrity cannot be excluded
- ✗ = Adverse effect on integrity can be excluded
- C = Construction
- O = Operation
- D = Decommissioning

- 5.11 Evidence supporting the conclusions is detailed in footnotes for each table with reference to relevant supporting documentation.
- 5.12 Where an impact is not considered relevant for a feature of a European site, the cell in the matrix is formatted as follows:

n/a
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## Stage 2 Matrix 1: Dogger Bank cSAC and SCI<sup>1</sup>

Site Code: UK0030352

Distance to project: 0 km (project area is within cSAC/SCI boundary)

European site feature(s)	Adverse effect on integrity					
	Physical Damage			In-combination Effects		
	C	O	D	C	O	D
Sandbanks which are slightly covered by sea water all the time	xa	xb	xc	xd	xd	xd

Evidence:

- a. The Applicant has considered the effects of the construction of the wind farm on the physical structure, processes and benthic communities of the SCI in Section 4.2 of the IfAA (APP-046). The Applicant's conclusions on the integrity of the SCI with respect to the achievement of its conservation objectives for the construction phase for the Application alone, is presented in paragraph 4.4.3 of the IfAA Report (APP-046). The consideration of the construction phase impacts of the Application with regard to the individual conservation objectives are examined and the findings presented in Table 4.21 in the IfAA Report (APP-046). The Applicant concluded that the effects that could occur within and around the SCI boundary and affect the SCI subtidal sandbanks feature would be temporary, short-term,

<sup>1</sup> NE has confirmed that the Dogger Bank cSAC is currently undergoing classification by the UK Government as an SAC under the provisions of the EC Directive 92/43 on the Conservation of Natural Habitats and of Wild Fauna and Flora. Dogger Bank is currently both a cSAC and a SCI (following approval as a Site of Community Importance (SCI) by the European Commission (EC)) and this will be the case until the site has been formally designated as a SAC by UK Government (paragraph 5.4.1 (a), (Deadline II – NE Written Representation (REP-156)) (referred to as the 'SCI')

negligible in magnitude, and remain within the existing range experienced and which the species and communities of the subtidal sandbank feature have adapted to. Furthermore, where species and communities would be temporarily affected, they have a low sensitivity to the disturbance impact and would rapidly recover. Consequently, the construction phase for the Application would not affect the achievement of favourable condition with respect to the restoration of, or impacts on, the features of the SCI. The Applicant therefore concluded that there would not be an adverse effect on the integrity of the SCI as a result of the construction of the Application (paragraph 4.4.3 of the IfAA Report (APP-046)).

NE advised that provided there would ultimately be successful decommissioning of the Application, NE and JNCC consider that there would be **no AEOI on the SCI arising from the Application alone** (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraph 1.4.1 (REP-333)). NE advised that the habitat loss from the construction and operation of the Application would be *"long-term temporary if the habitat was able to recover following decommissioning"*, which NE advised would require the removal of all infrastructure that lies on, or protrudes above, the seabed including all protection measures such as rock and mattresses (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraph 1.4.2 (REP-333)). NE explained to the ExA that the reason for raising the issue of 'long-term temporary' was in response to the Sweetman (C258-11) case, which is unrelated to this Application and involved the permanent loss of limestone pavement in Ireland. The European Court of Justice (ECJ) indicated that member states should treat permanent impacts very seriously in any decision making process. Consequently, NE introduced the concept of 'long-term temporary' to address any issues that may arise following the Sweetman ruling. NE also confirmed that in relation to the Application, the long-term temporary impacts relate to the commitment at the time of decommissioning to remove infrastructure which will enable recovery of the SCI to continue. NE have stated to the ExA that there is no clear guidance regarding the matter of what constitutes temporary, either short or long term, other than that of the Sweetman case. The matter is left open to the Secretary of State to interpret and conclude a position based on the guidance and advice provided by NE (Deadline VI: NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraphs 26 and 27 (REP-416)).

NE also pointed out that its remit is not to 'make the proposed development acceptable', but acknowledges that there are shades of grey and that the Secretary of State should be mindful of such uncertainty. It considers that a risk based approach may be appropriate when there is no guidance and no clear thresholds (Deadline VI: NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraphs 26 and 27 (REP-416)). NE advised that it considers this to be a risk based approach to inform what happens at the time of decommissioning and that the

Secretary of State could adopt such an approach recognising adaptive management (NE's written summary of the oral case put by NE at the second HRA ISH on 3 June 2014, paragraph 36 (REP-340)).

Following a request from the ExA, NE provided further explanation of the risk based approach of using adaptive management at the third HRA ISH on 1 July 2014. NE explained that in relation to the disposal mounds, how they will interact over the lifetime of the Application is relatively uncertain: should they comprise of sand then it would be considered that there should be no impact, as the SCI site is not sensitive to topographical changes. However, there is the possibility of clay being present in the drill arisings and if deposited in the mounds at the seabed surface, this could impact upon the sandbank feature of the SCI. There is an expectation by the Applicant that these will winnow away in time to leave only sand. However, as the disposal mound behaviour in relation to clay is not fully understood, there is the potential for the interest feature of the SCI site to be changed. Therefore, NE stated that it had been agreed with the Applicant that monitoring will happen over the lifetime of the Application (monitoring the form and function, composition and communities of the sandbanks) and at the time of decommissioning further consideration will be given to any removal/remedial/restoration work required based on the outcomes of monitoring. NE stated that this monitoring has been secured through conditions 15 (2) (f) of the draft Deemed Marine Licences (DML) 1 & 2, and 14 (2) (f) of DMLs 3 & 4 and within the In Principle Monitoring Plan (IPMP). It is recognised by NE that the final parameters of the Application will determine the true impact to the sandbanks and therefore adaptive management will incorporate monitoring to ensure that at the time of decommissioning the site will be returned to its original state. NE states that as currently there is little evidence, such adaptive management measures allows for a pragmatic, but suitably precautionary, approach (Deadline VI: NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraph 23 (REP-416)).

The ExA queried whether the adaptive management approach has been used before on other sites. NE stated that it did not believe that this has been used on a Round 3 offshore wind farm to date, although an example was provided where it had been used at Lincs offshore wind farm (Round 2), in relation to impacts of the installation of the export cable on the saltmarsh feature of The Wash SAC. NE also added that adaptive management is another term for "monitoring and response" which has been used before. Forewind noted that adaptive monitoring has been used in relation to shellduck at Hinkley Point C New Nuclear Power Station, (Deadline VI – The Applicant's written summary of oral case at the ISH on 1 July 2014, paragraphs 5.37 and 5.38 (REP-391), see also NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraph 25 (REP-416)). NE also highlighted to the ExA that it is important not to get too focused on terminology, but to recognise that this type of approach is just to monitor and respond with

appropriate mitigation, which is a common practice in conservation when evidence is not available (Deadline VI - NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraph 25 (REP-416)).

To ensure that post-decommissioning habitat recovery is allowed to occur, including addressing potential changes in topography and surface sediments, NE recommended a number of conditions (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraphs 1.4.3, 1.4.5, 1.4.8 and 1.4.12 (REP-333)). NE confirmed to the ExA in the HRA ISH on 1 July 2014, that the conditions recommended by NE to enable habitat recovery, have been included within the draft DMLs and the IPMP, as updated at the HRA ISH on the 3 June 2014, which was being discussed between the Applicant and NE. (Deadline VI: NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraph 28 (REP-416)). The IPMP provides the basis for further discussions post consent with the MMO and the relevant statutory nature conservation bodies to agree the exact detail (timings, methodologies etc.) of the monitoring that is required. A draft of the IPMP has been provided by the Applicant at Deadline VI (Deadline VI Appendix 19 - Updated Draft IPMP, paragraph 2.1.2 (REP-410)).

In the third HRA ISH on 1 July 2014, the ExA noted that NE's conclusion of No AEOI on the SCI for the proposed development alone depends on the successful decommissioning of the Application. The ExA queried how decommissioning was secured in the draft DCO and expressed concerns that Requirement 10 (DCO v3) may not be adequate for the envisaged purpose. Requirement 10 states: "*No offshore works shall commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval*". The Applicant states that the decommissioning of an offshore wind farm is governed by a comprehensive statutory code set out in the Energy Act 2004. Consequently, it is not necessary for the DCO to set out in detail the provisions requiring the decommissioning of the Application since it is covered by other legislation. It merely needs to ensure that the statutory code is engaged and this is achieved by Requirement 10 in the draft DCO, which is in a similar form to that incorporated in the Triton Knoll, Galloper, and East Anglia ONE DCOs. The Applicant therefore believes that decommissioning is adequately secured by the DCO, since Requirement 10 requires the submission of a decommissioning programme pursuant to s105 of the Energy Act 2004, prior to any works being commenced. From that point on, the provisions of the Energy Act 2004 are engaged to ensure that decommissioning takes place. The Applicant states that DECC has produced a guidance note on the Decommissioning of Offshore Renewable Energy Installations under the Energy Act 2004, which provides further detail (a copy of the guidance is provided at Deadline VI Appendix 18 (REP-409)). Accordingly, the Applicant does not believe that any amendment to Requirement 10 is

necessary, nor is the addition of any further provisions related to decommissioning (Deadline VI – The Applicant’s written summary of oral case at the ISH on 1 July 2014, paragraph 5.41 to 5.44 (REP-391)).

- b.** Information on the effects of the operation of the wind farm on the physical structure, processes and benthic communities of the SCI is presented in Section 4.2 of the IfAA Report (APP-046). The conclusions on the integrity of the SCI with respect to the achievement of its conservation objectives for the operational phase for the Application alone, is presented in paragraph 4.4.4 in the IfAA Report (APP-046). The consideration of the operational phase impacts of the Application with regard to the individual conservation objectives are examined and the findings are presented in Table 4.22 in the IfAA Report (APP-046). The Applicant has concluded that apart from long-term habitat loss, the majority of the effects associated with the operation of the Application, that could occur within and around the SCI boundary and affect the SCI subtidal sandbanks feature would be temporary, short-term, very low in magnitude, and remain within the ranges currently experienced by the species and communities of the subtidal sandbank feature, to which they have adapted. Furthermore, where species and communities would be temporarily affected by intermittent disturbance, they have a low sensitivity to the disturbance impact and would rapidly recover. Consequently, the operational phase for the Application would not affect the achievement of favourable condition with respect to the impacts on, or restoration of, the features of the SCI. The Applicant has therefore concluded that, under the worst case scenario, there would not be an adverse effect on the integrity of the SCI as a result of the operation of the Application (paragraph 4.4.4 of the IfAA Report, (APP-046)).

NE advised that provided there would ultimately be successful decommissioning of the Application, NE and JNCC consider that there would be **no AEOI on the SCI arising from the Application alone** (Deadline IV: NE’s response to ExA’s second written questions, Appendix C, paragraph 1.4.1 (REP-333)). NE advised that the habitat loss from the construction and operation of the Application would be *“long-term temporary if the habitat was able to recover following decommissioning”*, which NE advises would require the removal of all infrastructure that lies on, or protrudes above, the seabed including all protection measures such as rock and mattresses (Deadline IV: NE’s response to ExA’s second written questions, Appendix C, paragraph 1.4.2 (REP-333)). Please refer to **footnote (a) above** for details about NE’s explanation about the use of the term ‘long-term temporary’ and the risk based approach of using adaptive management in relation to the SCI and the Applicant’s explanation about how decommissioning of the Application would be secured.

- c.** The Applicant has considered the effects of the decommissioning of the wind farm on the physical structure, processes and benthic communities of the SCI in Section 4.2 of the IfAA (APP-046). The Applicant’s conclusions on the integrity

of the SCI with respect to the achievement of its conservation objectives for the decommissioning phase for the Application alone, is presented in paragraph 4.4.45 of the IfAA (APP-046). The consideration of the decommissioning phase impacts of the Application with regard to the individual conservation objectives are examined and the findings presented in Table 4.23 in the IfAA Report (APP-046). The Applicant has concluded that given that the effects of the decommissioning phase are the same, albeit smaller in magnitude and intensity, to those described and assessed for the construction phase (**see footnote (a) above**) and, given that all effects would be temporary, there would not be an adverse effect on the integrity of the SCI as a result of the decommissioning of the Application (paragraph 4.4.5 of the IfAA Report (APP-046)).

NE advised that provided there would ultimately be successful decommissioning of the Application, NE and JNCC consider that there would be **no AEOI on the SCI arising from the Application alone** (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraph 1.4.1 (REP-33)). NE advised that the habitat loss from the construction (and presumably decommissioning) of the Application would be "*long-term temporary if the habitat was able to recover following decommissioning*", which NE advises would require the removal of all infrastructure that lies on, or protrudes above, the seabed including all protection measures such as rock and mattresses (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraph 1.4.2 (REP-333)). Please refer to **footnote (a) above** for details about NE's explanation about the use of the term 'long-term temporary' and the risk based approach of using adaptive management in relation to the SCI and the Applicant's explanation about how decommissioning of the Application would be secured.

- d.** The conclusions on the integrity of the SCI with respect to the achievement of its conservation objectives for the Application in-combination with other projects, is presented in paragraph 7.3.38 in the IfAA Report (APP-046). The consideration of in-combination impacts on the SCI with regard to individual conservation objectives is examined and the findings presented in Table 7.4 in the IfAA Report (APP-046). The Applicant has concluded in respect of the in-combination assessment for the SCI that changes in hydrodynamics would be very localised (i.e. to the immediate vicinity of individual project areas, which in this case are turbine locations) although widespread across Dogger Bank; however, these changes would not be significant in the context of natural variation in physical parameters and would not give rise to any discernible change in the extent and morphology of sandbank features or the benthic communities that these features support; rapid recovery of benthic communities within areas of the SCI affected by seabed disturbance during construction and operation is anticipated for all of the projects examined; the total area of habitat that would be lost for all projects combined for the duration of the Application's operational phase is not considered to

be significant at the scale of the SCI; and where perceived negative effects arise (such as the *de minimis* temporary reduction in the extent of the sandbanks feature) potentially beneficial effects could offset this such as reduced fishing activity in areas adjacent to installed structures (paragraph 7.3.37 of the IfAA Report (APP-046)).

NE's Site Integrity Position Statement for the SCI (Deadline VI – Appendix 15: Applicant's position on Dogger Bank SCI site integrity (REP-406)) states that NE and JNCC are uncertain about the effect on site integrity from the Application in-combination with oil and gas industry development, aggregate extraction areas and the Teesside A and B offshore renewable proposed projects only (no fishing activities), as the magnitude of impact of the Application and other non-fishing activities lies within the 'contentious' range of impact scales in relation to previous decisions, i.e. in some cases this scale of impact has been treated as adverse effect on site integrity, in others as no adverse effect on site integrity (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraphs 1.5.1 and 1.5.2 (REP-333)). NE refers to references<sup>2</sup>, which conclude that habitat loss of a very small scale, including losses in the order of 0.1% or less of a site, in specific cases has been regarded as an adverse effect on site integrity of a designated site. NE therefore concludes that percentage loss is not the only consideration and that ecological function of the area affected should also be assessed in the 'integrity test', which the Applicant also agrees with (Deadline VI – Appendix 15: Applicant's position on Dogger Bank SCI site integrity, paragraph 11 (REP-406)). The Applicant states that with respect to thresholds of habitat loss in the determination of adverse effect, the Applicant has estimated that up to 0.17% of the Annex I habitat within the SCI would be subject to long-term, but temporary loss and notes that NE proposes that this level of impact falls within a range of values that is considered contentious in respect of potential adverse effect on site integrity (as summarised above). However, the Applicant has considered a number of cases<sup>3</sup> and concludes that in all of them, the landtake or habitat loss, or a large element of it, was also permanent, in contrast to the long-term temporary impact agreed on, between the Applicant and NE in this case. The Applicant refers to the recent case of Cygnus Field Development Phase 1, which is described as a project with comparable impacts to the Application on the SCI (i.e. long-term temporary as opposed to permanent), where consent was granted following a conclusion of no adverse effect on integrity (Deadline VI – Appendix 15: Applicant's position on Dogger Bank SCI site integrity, paragraphs 19 and 21 (REP-406)). The Applicant concludes that as set out in Appendix 1 of their Deadline V

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<sup>2</sup> Hoskin, R. And Tyldesley, D. (2006) 'How the scale of effects on internationally designated nature conservation sites in Britain has been considered in decision making: A review of authoritative decisions' and The Habitats Regulations Handbook, [www.dtapublications.co.uk](http://www.dtapublications.co.uk) DTA Publications Limited (September) 2013

<sup>3</sup> These are listed in paragraph 18 of Deadline VI – Appendix 15: Applicant's position on Dogger Bank SCI site integrity (REP-406)

submission (Comments on NE's responses to ExA's second written questions, section 5.1 (REP-348)) they are committed to removing the source of the long-term temporary habitat loss on decommissioning, unless it is preferable to preserve the marine habitat that has been established over the life of the wind farm (and in the case of the SCI, should it be representative of the current protected features). The Applicant states that commitments relating to monitoring are made in the DMLs with a view to the requirements at the point of decommissioning and that monitoring of Annex I habitat is also adequately secured in the DMLs (DMLs 1&2 condition 15(2)(e)), and has been agreed with NE (Deadline VI – Appendix 15: Applicant's position on Dogger Bank SCI site integrity, paragraph 22 (REP-406)).

NE and JNCC advised that they cannot conclude that there will be No AEOI arising from the Application in-combination with the oil and gas industry development, aggregate extraction areas, the Teesside A and B offshore renewables projects and fishing activities within the Application site, based on the overwhelming contribution of fishing activities to the unfavourable condition of the site (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraphs 1.6.1 and 1.6.2 (REP-333)). NE states that Defra's guidance<sup>4</sup> is to consider fishing as a plan or project when assessing impacts to the environment under Article 6 of the Habitats Regulations and states a strong preference that the assessment of fishing activities in inshore European Marine Sites is consistent with the provision of Article 6(3), i.e. treated as a plan or project, and that appropriate management measures should be put in place to avoid damage/deterioration of site features. By extension of this, there is a preference that offshore fisheries should be considered in the same way in relation to European Marine Sites to ensure compliance with the Habitats Directive. Defra intend to submit proposals to the European Commission for fisheries measures needed to ensure site protection is consistent with Article 6 of the Habitats Directive so that appropriate regulations are in place in 2016. Legislative measures will be proposed by the European Commission in accordance with the Common Fisheries Policy (CFP). It was also recognised that while there is no specific authorisation, the mechanism for which it is regulated, is the CFP (Deadline VI - Annex A: NE's summary of fishing in relation to the Dogger Bank SCI, paragraphs 8 and 9 (REP-416)). Therefore, NE has advised that "*any meaningful impact assessment for the site cannot be undertaken without considering fishing activity*", with NE noting and the Applicant agreeing, that the combined impacts of other non-fishing activities are thought to be significantly smaller in magnitude than the inter-annual variation in pressure from fishing activities (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraphs 1.3.4 and

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<sup>4</sup> Please see the following link for the full description of the guidance, in particular paragraph 10 sets out the expectations:  
[http://www.marinemanagement.org.uk/protecting/conservation/documents/ems\\_fisheries/policy\\_and\\_delivery.pdf](http://www.marinemanagement.org.uk/protecting/conservation/documents/ems_fisheries/policy_and_delivery.pdf)

1.6.2 (REP-333) and Deadline VI – Appendix 15: Applicant’s position on Dogger Bank SCI site integrity, paragraph 27 (REP-406)).

In response to the ExA’s request for clear positions on whether fishing should be considered a plan or project at the HRA ISH on 1 July 2014, the Applicant replied that they do not, whilst NE do, following the steer from Defra (Deadline VI: NE’s written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraph 21 (REP-416)). In response, the Applicant stated that until the fisheries themselves are legally required to conduct such assessments, fishing should not be considered at an in-combination level, as a plan or project. The and the Applicant further emphasises this in its response to Deadline VI ‘Written Summary of HRA Hearing Oral Case’ (In Appendix A to Natural England’s submission at Deadline III (11th April 2014, REP-221)), stating fishing within the Dogger Bank SCI is not a “plan” or “project” for the purposes of the Habitats Directive and therefore is not a matter which falls due to be considered for the purposes of in-combination assessment. This is because fishing within an SCI is not currently a regulated or defined activity, making meaningful assessment impossible. However, whilst it should not form part of any in-combination assessment, the Applicant explains that its assessment has still incorporated fishing activity as part of the baseline in reaching its conclusion of no adverse effect on integrity. It is therefore not the case that fishing activity has not been considered. Furthermore, the Applicant explains that it is not aware that fishing activity within the SCI has itself been the subject of assessment as a “plan” or “project” under the Habitats Regulations, which supports its stance that it should not be treated as such in this case (Deadline VI – Appendix 15: Applicant’s position on Dogger Bank SCI site integrity, paragraphs 29 and 30 (REP-406), see also Deadline VI – The Applicant’s written summary of oral case at the ISH on 1 July 2014, paragraphs 5.26 to 5.28 (REP-391)).

Both the Applicant and NE agree that the effects of the Application on the SCI need to be considered in the context of the proposed fisheries management measures, which it is hoped would be fully implemented and make a significant contribution to the restoration of the site to favourable condition (Deadline IV: NE’s response to ExA’s second written questions, Appendix C, paragraph 1.6.3 (REP-333) and Deadline VI – Appendix 15: Applicant’s position on Dogger Bank SCI site integrity, paragraph 28 (REP-406)). NE explains that in line with Article 6 (2) of the Habitats Directive, there are proposed fisheries management measures to help protect the Dogger Bank SCI from damaging activities, including the closure of one third of the UK SCI site to all damaging gear under management measures. The definition of damaging gear is not agreed, but essentially means no bottom towed gear (i.e. beam, dredge, and otter trawling), but static gear is allowed. There is also some debate over which category seine nets come into and it looks as though the UK will allow seine nets to be used in the management zone. This would be a statutory closure. NE states that

these management measures are currently with the European Commission for consideration and hopefully confirmed (timescale currently unavailable), as part of the CFP (Deadline VI - Annex A: NE's summary of fishing in relation to the Dogger Bank SCI, paragraphs 2, 3 and 4 (REP-416)). However, NE and JNCC note that it is not certain, exactly what would represent favourable condition for the site and even the implementation of management measures for fisheries may not result in the achievement of favourable condition and further adaptive fisheries management may be required (Deadline IV: NE's response to ExA's second written questions, Appendix C, paragraph 1.3.3 (REP-333)). The proposed fisheries management measures are not proposed to be secured as mitigation through the DCO or DMLs.

NE also highlighted that in the event that advice remains that NE cannot ascertain no adverse effect (in combination) on the SCI, NE would not expect the ExA to go straight into IROPI. NE advised that in discussion with the Applicant (Deadline IV: NE's response to ExA's second written questions, Appendix C (REP-333)) they have provided their position on SCI alone and in combination. In-combination with fisheries, NE does not believe its position will change, but recognises that the impact of fisheries is considerably greater than the other components of the in-combination scenario. This raises the question as to whether a move to IROPI/alternatives/compensation for the Application may be seen as a disproportionate application of the Habitats Directive. NE advised that an alternative approach may be possible to ensure that appropriate mitigation measures are in place, such that the impacts could be considered 'temporary long-term' in nature, NE considers this to be a risk based approach to inform what happens at the time of decommissioning and therefore the SoS could adopt a risk based approach recognising adaptive management (NE response to Deadline V, paragraph 36 (REP-340)). In the third HRA ISH on 1 July 2014, NE explained that under IROPI there would be a need to either: (a) recreate habitat, which given the size, form and function, and geological formation of the sandbanks is considered impossible; or (b) designate another site, which NE feels would be an inappropriate route. NE stated that it considers that no other mitigation is necessary or possible. The Applicant also reiterated that the agreement to remove infrastructure at the time of decommissioning ensures that there are no 'long term' impacts to the site. When fishing is considered, it is also agreed that the impacts would not be discernible unless fishing were to stop on the site entirely (Deadline VI: NE's written summary of oral case put by NE at the HRA ISH on 1 July 2014, paragraphs 24 and 25 (REP-416)).

## Stage 2 Matrix 2: Farne Islands SPA<sup>5</sup>

Site Code: UK9006021

Distance to offshore project element: 205 km

Distance to export cable route: 190 km

European site feature(s)	Adverse effect on integrity														
	Habitat Loss / Alteration (prey resource)			Disturbance / Displacement			Habitat Loss (Barrier Effect)			Physical Damage (Collision)			In-combination Effects		
	C	O	D	C	O	D	C	O	D	C	O	D	C	O	D
<i>4.2 Breeding species – Common guillemot</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>e</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>i</sub>	N/A	x <sub>l,m</sub> <sub>n</sub>	x <sub>l,m</sub> <sub>n</sub>	x <sub>l,m</sub> <sub>n,c</sub>
<i>4.2 Breeding species – Atlantic puffin</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>f</sub>	x <sub>f</sub>	x <sub>f</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>i</sub>	N/A	x <sub>l,m</sub> <sub>,o</sub>	x <sub>l,m</sub> <sub>,o</sub>	x <sub>l,m</sub> <sub>,o,c</sub>
<i>4.2 Breeding assemblage species</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>g</sub>	x <sub>g</sub>	x <sub>c</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>j,k</sub>	N/A	x <sub>l,m</sub> <sub>,p</sub>	x <sub>l,m</sub> <sub>,p</sub>	x <sub>l,m</sub> <sub>,p,c</sub>

<sup>5</sup> Paragraph 69 of the NE Supplementary Ornithological Expert Report (updated) (REP-416) states that Razorbill may have been referred to as a qualifying feature of the Farne Islands SPA in error. NE state that this will be confirmed by an ornithologist and any updates required will be undertaken and provided by Deadline IX, 5th August 2014.

- black-legged kittiwake															
4.2 Breeding Assemblage species - Atlantic puffin	x a,d	x b,d	x c,d	x f	x f	x f	N/A	x h	N/A	N/A	x i	N/A	x l,m ,o	x l,m ,o	x l,m ,o,c
4.2 Breeding Assemblage species - Common guillemot	x a,d	x b,d	x c,d	x e	x e	x e	N/A	x h	N/A	N/A	x i	N/A	x l,m n	x l,m n	x l,m n,c

Evidence:

- a. The Applicant considers various effects of the project on the prey resources available to all seabird species during the construction phase of the Application in Section 6.5 (paragraphs 6.5.2-6.5.32) of the IfAA Report (APP-046). The Applicant’s conclusions in terms of effect on integrity have not been disputed during the examination.
- b. The Applicant presents effects of the operational phase of the Application on prey resources and habitat utilisation by all species of seabirds in Section 6.6 (paragraphs 6.6.2-6.6.39) of the IfAA Report (APP-046). The Applicant’s conclusions in terms of effect on integrity have not been disputed during the examination.
- c. For the purposes of their assessment the Applicant has assumed that the same effects that would arise during construction would also manifest during decommissioning of the Application (paragraph 2.3.26 of the IfAA Report (APP-046)). The Applicant’s approach to the decommissioning assessment has not been disputed during the examination (although it is noted that where construction effects have been identified in terms of particular species, these are effectively carried forwards in terms of relevance to decommissioning).
- d. In Annex F of their Written Representation (REP-156), NE did not raise the effects of habitat loss / alteration on the prey species of seabirds as a specific issue requiring any further information or investigation (see paragraphs 2.1-2.9).

- e. Precautionary displacement rates of 50% and a mortality rate of 5% have been defined for common guillemot, as discussed in Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.38a, A9.38b and A9.38c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for common guillemot at this SPA is set out in Section 6.6 (paragraphs 6.6.49 – 6.6.55) and Tables 6.21 and 6.22 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE raise the Applicant's conclusions on common guillemot displacement as an area of disagreement (in particular methods used to assess displacement within the site). In part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

In NE's Supplementary Ornithological Expert Report (updated), which summarises their final position on ornithological matters (REP-416), NE conclude at paragraph 53 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site for the project alone and in-combination under all scenarios' for displacement of guillemot at the Farne Islands SPA.

- f. The Applicant has also applied a precautionary displacement rate of 50% and mortality rate of 5% for Atlantic puffin (see paragraphs 6.3.26-6.3.57 in the IfAA Report (APP-046)). Assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046), and quantitative data specific to the Farne Islands SPA in Tables A9.44a – A9.44c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for Atlantic puffin at this SPA is set out in Section 6.6, paragraphs 6.6.63-6.6.67 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE and RSPB do not raise the Applicant's conclusions on Atlantic puffin displacement as an area of disagreement.

However, in part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

NE's final position in terms of HRA is reflected in table 7 of Annex 1 to NE's Supplementary Ornithological Expert Report (updated) (REP-416), where NE agree to the conclusion of no adverse effect on integrity in terms of displacement alone and in-combination for puffin at the Farne Islands SPA.

NE also clarified their position in their written summary of the oral case put at the third HRA ISH on 1 July 2014 (REP-416), where it is stated (at paragraph 17) that *"impacts to puffin are of minor significance and we [NE] are not pursuing any further work/mitigation from the Applicant. Natural England agreed with the Applicant that the effect is not discernible at a project level and there is therefore nothing more the project can do and that this should be recognised by the SoS as a matter of proportionality"*.

- g.** The Applicant has predicted no displacement impacts for black-legged kittiwake during construction and operation. This is discussed in Section 6.3, paragraphs 6.3.26-6.3.57 in the IfAA Report (APP-046). The conclusion has not been disputed during the examination. NE did not raise displacement impact on black-legged kittiwake as a specific issue requiring any further information or investigation (see paragraphs 2.1-2.9 in Annex F of REP-156).
- h.** Barrier effects are discussed in Section 6.6, paragraphs 6.6.69-6.6.94 in the IfAA Report (APP-046) and summarised in Appendix D of the IfAA Report (APP-046).

In the Statement of Common Ground (SoCG) between the Applicant and NE (version 6.1, submitted at Deadline I) (REP-127), it is stated that agreement on barrier effects is still being sought (SoCG ID's 4-E-11 – 4-E-14), and that agreement is subject to agreeing matters at paragraphs 4.2.8 and 4.2.11 of the SoCG (in relation to predicted mortality against appropriate population scales (4.2.8) and assessing the likely cumulative barrier effects (4.2.11)). The Applicant submitted an update to the SoCG (in response to the ExA's second written questions, Question 86 (REP-317), and referred to an updated position statement in response to the ExA's second written questions, Question 22 (REP-284) although this document does not refer to any revised position on barrier effects).

NE do not provide any comments in relation to barrier effects assessment as part of their Supplementary Ornithological Expert Report (updated) submission (REP-416), and the Applicant does not raise the topic of barrier effects in their Summary of final ornithological position submitted at Deadline VI (REP-392).

However, in Table 7 of Annex 1 to NE's Supplementary Ornithological Expert Report, NE state that barrier effects for all species are not considered as an issue of ornithological significance, and reference is made to Annex F - Section 6.5 of NE's Written Representation (REP-156) in support of this.

- i. The Applicant does not predict significant collision losses to common guillemot or Atlantic puffin as a result of the Application (see Section 6.6, paragraphs 6.6.101-6.6.107 of the IfAA report (APP-046)). The conclusions in relation to collision risk of these species for this SPA have not been disputed, and NE did not raise this as a specific issue requiring any further information or investigation (see paragraphs 2.1-2.9 in Annex F of REP-156).
- j. The Applicant identifies that the Application is within the maximum foraging range of black-legged kittiwake that could derive from the Farne Islands SPA. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 3 adults representing 0.04% of the SPA population. For non-breeding birds (summer and winter), <2 birds lost through collision are attributed to this SPA, representing 0.01% of the designated SPA population (Table 6.32 of the IfAA Report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 0.96%.

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE disagreed with some of the parameters used and the use of the Extended Band Model (Option 3) causing uncertainty in the reported outcomes in terms of collision risk effects from the project. In their view, the Applicant has underestimated the likely mortality from collisions for black-legged kittiwake. RSPB's view is reflected in their response to the ExA's second written questions (REP-328), which states that "*on the information currently available it is unlikely there will be an adverse effect on the integrity of the Farne Islands SPA*". The Applicant responds to the concerns of NE, in the Applicant's updated ornithological position statement in response to the ExA's second written Question no. 22 (REP-284), and in paragraphs 9-12 of the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI.

- k. At the second HRA ISH on 3 June 2014, the ExA noted that NE was waiting for a response as to why the Applicant does not consider the Option 1 Band model to be appropriate for considering collision risk; and asked why NE

considers the current proposed changes to avoidance rate to be insufficiently justified. In response, NE stated that the Applicant had provided further justification as to why Option 2 was the preferred basic Band model option (in response to ExA's second written Question 22, Appendix 1 (REP-297)). This centred on the discrepancy between the flight height bands in which bird data were collected and the worst case scenario turbine specifications. NE was able to accept these arguments and the justification provided by the Applicant, and advised that Option 2 is the basic Band model output upon which attention should be focused (NE's written summary of the oral case that was put by NE at the HRA specific hearing on 3 June 2014 (REP-340, paragraphs 38 to 40).

The Applicant's primary position is that Option 3 of the Band model is suitable for use and should be applied in the assessment of impacts for this Application. The Applicant seeks further justification from NE as to why the Applicant's current evidence base, is still considered to be insufficient for NE to justify an increase in the default 98% avoidance rate (which the Applicant feels is over precautionary) (REP-284). This view is carried forward in the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI where it states that "*a number of areas of disagreement remain in relation to the methodologies being proposed by Forewind and NE*" and that "*the NE approach contains significantly too much precaution leading to unrealistic outcomes in a number of areas. It remains Forewind's view that these areas of over-precaution should be acknowledged and as a result, agreed levels of impact should be adjusted downward*". The principal areas of disagreement in relation to collision risk methodologies are outlined in Table 2 of the Applicant's Summary of final ornithology position (REP-392).

In NE's Supplementary Ornithological Expert Report which summarises their final position on ornithological matters (REP-416), NE conclude at paragraph 29 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site alone and in-combination under all scenarios' for kittiwake at the Farne Islands SPA (i.e. under basic and extended Band Model options).

- I. The Applicant discusses in-combination impacts in Section 7.7 of the IfAA report (APP-046). Specific assessment of in combination impacts for the species screened for the Farne Islands SPA is provided in Appendix D of the IfAA report (APP-050). Section 3.3 of the Consolidated Ornithological Addendum (COA) also provides updated information on the in-combination assessment to include, among other aspects, updated information in relation to the Hornsea Project One and East Anglia One offshore wind farms (REP-067).

NE confirmed in their oral submission at the first ISH on biodiversity and habitats regulations assessment (REP-211) that the Applicant has included within the in-combination assessment, all of the relevant 'other plans and projects' which may have a potential in-combination effect with the proposed development.

For assessment of in-combination effects for all qualifying features of the Farne Islands SPA, NE has (at Table 7 of Annex 1 to their Supplementary Ornithological Expert Report (REP-416)), agreed to the conclusion of no adverse effect on integrity for all species in combination with other plans and projects.

- m.** NE requested the Applicant to give further consideration to the 'tiered approach'. In response to ExA's second written Question 22 (Appendix 1, REP-297), the Applicant updated the position. A tiered table was produced showing the NE view of in-combination impacts (i.e. using a 'common currency') as Deadline III Appendix 26 (REP-248). Both Deadline III Appendix 25 and Deadline III Appendix 26 have been updated following discussion with NE and are provided as Question 22 Appendix 13 (REP-295) and Question 22 Appendix 12 (REP-296) respectively. The approach was well received by NE who noted that this presented an appropriate approach given the evidence base. Subject to some additional clarifications, the approach may be acceptable to NE.

NE maintains that the operational projects should be included as part of the in-combination assessment. The Applicant does not agree with this position but values have been provided to allow NE to form a position which takes accounts of the impacts of these projects. The Applicant maintains that it is inappropriate to include these projects within the in-combination assessment (particularly given that most had been operational for over 5 years at the time that the Dogger Bank surveys were undertaken) (i.e. that the impacts of these schemes are already taken into account as part of the baseline conditions).

In their oral submission at the second HRA ISH on 3 June 2014, NE advised that to fully consider all plans and projects, tier 5 projects should be included, however it may be appropriate to reserve judgment of that tier as often figures describing impacts may be subject to change, but that presentation of these figures so that the ExA can consider any implications of future project developments is helpful (as the Applicant has done). This position is also reflected in the Supplementary Ornithological Expert Report submitted to summarise NE's final position on ornithological matters (REP-416).

- n. For the reasons set out in **footnote (e) above**, NE agrees to the conclusion of no adverse effects on integrity from displacement of common guillemot during construction and operation of the project alone and in combination with other plans and projects.

At paragraph 53 and Table 7 of Annex 1 to NE's Supplementary Ornithological Expert Report (REP-416) NE states that no adverse effect on integrity is agreed in terms of guillemot under all displacement and mortality rates considered, both alone and in combination for the Farne Islands SPA.

The Applicant provided an updated in-combination displacement assessment for guillemot at Deadline VI (REP-398 and REP-399) upon which the agreement of in-combination effects with NE is reached.

- o. NE's position is reflected in table 7 of Annex 1 to their Supplementary Ornithological Expert Report ( REP-416), where they agree to the conclusion of no adverse effect on integrity in terms of displacement alone and in-combination for puffin at the Farne Islands SPA.

In their Summary of final ornithology position (REP-392), the Applicant states that "*The view of NE on the conclusions associated with other species of concern (i.e. lesser black-backed gull, great black-backed gull and Atlantic puffin) as presented in their submission at Deadline VI is acknowledged and welcomed*".

- p. For the reasons set out in **footnotes (j) and (k)**, NE agrees with the conclusion of no adverse effects on integrity to black-legged kittiwake for the Application alone and in combination with other plans and projects (paragraph 29 of NE's Supplementary Ornithological Expert Report (REP-416) concludes NE are 'able to agree to a conclusion of no adverse effect on integrity of the site alone and in-combination under all scenarios' for kittiwake at the Farne Islands SPA (i.e. under basic and extended Band Model options).

The Applicant provided an updated in-combination assessment for black legged kittiwake at Deadline VI (REP-396) and provided an update on apportioning of the kittiwake populations (REP-393), upon which the agreement of in-combination effects with NE is reached.

## Stage 2 Matrix 3: Flamborough Head and Bempton Cliffs SPA<sup>6</sup>

Site Code: UK9006101

Distance to offshore project element: 120 km

Distance to export cable route: 5 km

European site feature(s)	Adverse effect on integrity														
	Habitat Loss / Alteration (prey resource)			Disturbance / Displacement			Habitat Loss (Barrier Effect)			Physical Damage (Collision)			In-combination Effects		
	C	O	D	C	O	D	C	O	D	C	O	D	C	O	D
4.2 Breeding Species - Black-legged kittiwake	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>c</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>k,l</sub>	N/A	x <sub>o</sub>	x <sub>o,q</sub> , <sub>p</sub>	x <sub>o,c</sub>

<sup>6</sup> At Appendix 3 of ES Appendix 11A: Ornithology Technical Report (APP-091), the Applicant presents consultee comments from NE with regard to the recent review of the site boundary, interest features and reference populations of the Flamborough Head & Bempton Cliffs SPA:  
*"It is likely that in the near future Natural England will propose the re-classification of the SPA following a formal consultation process, and that this reclassification will propose changes to the SPA boundary so that additional seabirds breeding on the cliffs at Filey Brigg are incorporated within the SPA".* NE advised that for the purposes of the ES and HRA for the Application, these potential changes should be reflected in the assessment of the Application's impacts on the SPA, and NE provide population data, which include seabirds from the proposed terrestrial extension at Filey Brigg, as the most up-to-date population estimates for the Flamborough Head & Bempton Cliffs SPA, which the Applicant uses for the purposes of their assessments. Paragraph 1.4.4 of the Applicant's COA (APP-068) states that it *"assesses impacts upon the Flamborough & Filey Coast pSPA. As the Flamborough Head & Bempton Cliffs SPA boundary is contained within the area covered by the pSPA, there is no need to also consider the impacts upon the classified site area"*.

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<i>4.2 Breeding Assemblage Species - Northern gannet</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>f</sub>	x <sub>f</sub>	x <sub>f,c</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>m,l</sub>	N/A	x <sub>o,f</sub>	x <sub>o,r</sub> <sub>f,p</sub>	x <sub>o</sub> <sub>c,f</sub>
<i>4.2 Breeding Assemblage Species - Atlantic puffin</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>g</sub>	x <sub>g</sub>	x <sub>g</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>n</sub>	N/A	x <sub>o,g</sub> <sub>s</sub>	x <sub>o,g</sub> <sub>s</sub>	x <sub>o</sub> <sub>c</sub>
<i>4.2 Breeding Assemblage Species - Razorbill</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>h</sub>	x <sub>h</sub>	x <sub>h</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>n</sub>	N/A	x <sub>o,t</sub>	x <sub>o,t</sub>	x <sub>o,t</sub>
<i>4.2 Breeding Assemblage Species - Common Guillemot</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>i</sub>	x <sub>i</sub>	x <sub>i</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>n</sub>	N/A	x <sub>o,u</sub>	x <sub>o,u</sub>	x <sub>o,u</sub>
<i>4.2 Breeding Assemblage Species - Black-legged Kittiwake</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>c</sub>	N/A	x <sub>j</sub>	N/A	N/A	x <sub>k,l</sub>	N/A	x <sub>o</sub>	x <sub>o,q</sub> <sub>p</sub>	x <sub>o</sub> <sub>c</sub>

Evidence:

- a. The Applicant considers various effects of the project on the prey resources available to all seabird species during the construction phase of the Application in Section 6.5 (paragraphs 6.5.2-6.5.32) of the IfAA Report (APP-046). The Applicant's conclusions in terms of effect on integrity have not been disputed during the examination.

- b.** The Applicant presents effects of the operational phase of the Application on prey resources and habitat utilisation by all species of seabirds in Section 6.6 (paragraphs 6.6.2-6.6.39) of the IfAA Report (APP-046). The Applicant's conclusions in terms of effect on integrity have not been disputed during the examination.
- c.** For the purposes of their assessment, the Applicant has assumed that the same effects that would arise during construction would also manifest during decommissioning of the Application (paragraph 2.3.26 of the IfAA Report (APP-046)). The Applicant's approach to the decommissioning assessment has not been disputed during the examination (although noted that where construction effects have been identified in terms of particular species, these are effectively carried forwards in terms of relevance to decommissioning).
- d.** In Annex F of their Written Representation NE did not raise the effects of habitat loss / alteration on the prey species of seabirds as a specific issue requiring any further information or investigation (see paragraphs 2.1-2.9, REP-156).
- e.** The Applicant has predicted no displacement impacts for black-legged kittiwake during construction and operation of the Application. This is discussed in Section 6.3, paragraphs 6.3.26-6.3.57 in the IfAA Report (APP-046). The conclusion has not been disputed during the examination. NE did not raise displacement impact on black-legged kittiwake as a specific issue requiring any further information or investigation (see paragraphs 2.1-2.9 in Annex F of REP-156).
- f.** No displacement impact has been predicted by the Applicant (for the Application alone) for northern gannet, as discussed in section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (in particular paragraphs 6.3.53 – 6.3.54 (APP-046)). However, in NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE confirmed with the Applicant that northern gannet should be assessed in terms of combined collision and displacement effects. This was also reflected at Matter G, item 3 of the second HRA ISH on 3 July 2014 (REP-340).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated Tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE and RSPB do not raise the Applicant's conclusions on northern gannet displacement as an area of disagreement.

As part of the Applicant's updated ornithological position statement in response to the ExA's second written questions, Question 22 (REP-284), NE's position is that the Applicant should consider potential site specific rates of mortality as a result of displacement for species including gannet. The Applicant provided additional clarification to NE (REP-300)

in order to facilitate the consideration of what rates NE might consider appropriate for the Application and NE continue to work towards an agreed position on appropriate mortality rates. This is also reflected in NE's ornithological position statement, submitted in response to ExA second questions (REP-333).

NE in their Supplementary Ornithological Expert Report (updated), which summarises NE's final position on ornithological matters (REP-416), NE conclude at paragraph 7 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site alone under all scenarios' for northern gannet at the Flamborough & Filey Coast pSPA (i.e. under basic and extended Band Model options). This statement is made in relation to collision risk.

The Applicant states in their Deadline VI Updated HRA Integrity Matrices (Matrix A55b) (REP-401) that "*Natural England reaches a conclusion of no AEOI for displacement impact alone or when combined with predicted mortalities from collision*" in relation to northern gannet at the Flamborough Head and Bempton Cliffs SPA. In paragraph 9 of their Supplementary Ornithological Expert Report (REP-416), NE seem to support this conclusion in that "*the additional worst case mortality from displacement does not alter the conclusion of no adverse effect on site integrity as the PBR threshold will not be exceeded*". It is assumed, but not stated within NE's Supplementary Ornithological Expert Report, that these views also apply to northern gannet at the Flamborough Head and Bempton Cliffs SPA, as the aforementioned paragraphs of NE's report only refer to the Flamborough & Filey Coast pSPA.

- g.** The Applicant has applied a precautionary displacement rate of 50% and mortality rate of 5% for Atlantic puffin (see paragraphs 6.3.26-6.3.57 in the IfAA Report (APP-046)). Assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046), and quantitative data specific to the Flamborough Head and Bempton Cliffs SPA in Tables A9.44a – A9.44c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for Atlantic puffin at this SPA is set out in Section 6.6, paragraphs 6.6.63-6.6.67 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE and RSPB do not raise the Applicant's conclusions on Atlantic puffin displacement as an area of disagreement.

However, in part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying

declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; 1-2km, 25% of the displacement rate.

NE's position in terms of HRA is reflected in table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report (updated) (REP-416), where they agree to the conclusion of no adverse effect on integrity in terms of puffin displacement for the Application alone and in-combination at the Flamborough Head and Bempton Cliffs SPA.

NE clarified their position in their written summary of the oral case put at the third HRA ISH on 1 July 2014 (REP-416), where it is stated (at paragraph 17), that "*impacts to puffin are of minor significance and we [NE] are not pursuing any further work/mitigation from the Applicant. Natural England agreed with the Applicant that the effect is not discernible at a project level and there is therefore nothing more the project can do and that this should be recognised by the SoS as a matter of proportionality*".

- h.** Precautionary displacement rates of 50% and a mortality rate of 5% have also been defined by the Applicant for razorbill, as discussed in Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.41a, A9.41b and A9.41c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for razorbill at this SPA is set out in Section 6.6 (paragraph 6.6.56 – 6.6.62) and Tables 6.23 and 6.24 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283), NE raise the Applicant's conclusions on razorbill displacement as an area of disagreement (in particular methods used to assess displacement within the site). In part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

In their Supplementary Ornithological Expert Report summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 66 that they are '*able to agree to a conclusion of no adverse effect on integrity of the site for the project alone and in-combination under all scenarios*' for displacement of razorbill at the Flamborough &

Filey Coast pSPA. It is assumed, but not stated within this Supplementary Ornithological Expert Report that this view also applies to razorbill at the Flamborough Head and Bempton Cliffs SPA.

- i. Precautionary displacement rates of 50% and a mortality rate of 5% have been defined for common guillemot, as discussed in see Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.39a, A9.39b and A9.39c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for common guillemot at this SPA is set out in Section 6.6 (paragraphs 6.6.49 – 6.6.55) and Tables 6.21 and 6.22 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE raise the Applicant's conclusions on common guillemot displacement as an area of disagreement (in particular methods used to assess displacement within the site). In part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

In NE's Supplementary Ornithological Expert Report, summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 50 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site for the project alone and in-combination under all scenarios' for displacement of guillemot at the Flamborough & Filey Coast pSPA. It is assumed, but not stated within this Supplementary Ornithological Expert Report that this view also applies to guillemot at the Flamborough Head and Bempton Cliffs SPA.

- j. Barrier effects are discussed in Section 6.6, paragraphs 6.6.69-6.6.94 in the IfAA Report (APP-046) and summarised in Appendix D of the IfAA Report (APP-046).

In the Statement of Common Ground (SoCG) between the Applicant and NE (version 6.1, submitted at Deadline I) (REP-127), it is stated that agreement on barrier effects is still being sought (SoCG ID's 4-E-11 – 4-E-14), and that agreement is subject to agreeing matters at paragraphs 4.2.8 and 4.2.11 of the SoCG (in relation to predicted mortality against appropriate population scales (4.2.8) and assessing the likely cumulative barrier effects (4.2.11)).

The Applicant submitted an update to the SoCG (in response to the ExA's second written questions, Question 86 (REP-317), and referred to an updated position statement in response to the ExA's second written questions, Question 22 (REP-284), although this document does not refer to any revised position on barrier effects).

NE do not provide any comments in relation to barrier effects assessment as part of their Supplementary Ornithological Expert Report submission (REP-416). However, in Table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report, NE state that barrier effects for all species are not considered as an issue of ornithological significance, and reference is made to Annex F - Section 6.5 of NE's Written Representation (REP-156) in support of this.

- k.** The Applicant identifies that the Application is within the maximum foraging range of black-legged kittiwake that could derive from the Flamborough Head and Bempton Cliffs SPA. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 90 adults representing 0.1% of the SPA population. For non-breeding birds (summer and winter), 19 birds lost through collision are attributed to this SPA, representing 0.01% of the designated SPA population (Table 6.32 of the IfAA Report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 2.17%. A PBR of 381 adult birds has been calculated for this species (see paragraphs 6.6.127-6.6.129 of the IfAA Report (APP-046)).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE disagreed over some of the parameters used and the use of the Extended Band Model (Option 3) causing uncertainty in the effects of collision from the project. In their view, the Applicant has underestimated the likely mortality from collisions for black-legged kittiwake. This view is shared by the RSPB, as reflected in their response to the ExA's second written questions (REP-328). The Applicant responds to these concerns in an updated ornithological position statement, provided in response to the ExA's second written questions, Question 22 (REP-284) and in paragraphs 9-12 of the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI.

- l.** At the second HRA ISH on 3 June 2014, the ExA noted that NE was waiting for a response as to why the Applicant does not consider the Option 1 Band model to be appropriate for considering collision risk; and asked why NE considers the current proposed changes to avoidance rate to be insufficiently justified. In response, NE stated that the Applicant had provided further justification as to why Option 2 was the preferred basic Band model option (in response to ExA's second written Question 22, Appendix 1 (REP-297)). This centred on the discrepancy between the flight

height bands, in which bird data were collected and the worst case scenario turbine specifications. NE was able to accept these arguments and the justification provided by the Applicant, and advised that Option 2 is the basic Band model output upon which attention should be focused (NE's written summary of the oral case that was put by NE at the HRA specific hearing on 3 June 2014 (REP-340, paragraphs 38 to 40).

The Applicant's primary position is that Option 3 of the Band model is suitable for use and should be applied in the assessment of impacts of the Application. The Applicant seeks further justification from NE as to why the Applicant's current evidence base, is still considered to be insufficient for NE to justify an increase in the default 98% avoidance rate (which the Applicant feels is over precautionary) (REP-284). This view is carried forward in the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI where it states that "*a number of areas of disagreement remain in relation to the methodologies being proposed by Forewind and NE*" and that "*the NE approach contains significantly too much precaution leading to unrealistic outcomes in a number of areas. It remains Forewind's view that these areas of over-precaution should be acknowledged and as a result, agreed levels of impact should be adjusted downward*". The principal areas of disagreement in relation to collision risk methodologies are outlined in Table 2 of the Applicant's Summary of final ornithology position (REP-392).

However, in their Supplementary Ornithological Expert Report submitted to summarise NE's final position on ornithological matters (REP-416), NE conclude at paragraph 26 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site alone and in-combination under all scenarios' for kittiwake at the Flamborough Head and Bempton Cliffs SPA (i.e. under basic and extended Band Model options).

- m.** The Applicant identifies that the Application is within the mean maximum foraging range of northern gannet that could derive from the Flamborough Head and Bempton Cliffs SPA. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 5.3 adults representing 0.03% of the SPA population. For non-breeding birds (summer and winter), 3.2 birds lost through collision are attributed to this SPA, representing 0.01% of the designated SPA population (Table 6.31 of the IfAA report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 0.65%. A Potential Biological Removal (PBR) value of between 286 to 393 birds has been established for this species at Flamborough Head (Section 6.6, paragraphs 6.6.112-6.6.118 of the IfAA report (APP-046)).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE disagree over some of the parameters used and the

use of the Extended Band Model (Option 3) causing uncertainty in the modelling outcomes of effects of collision on northern gannet from the project. This view is shared by RSPB, as reflected in their response to the ExA's second written questions (REP-328). The Applicant addresses these concerns in its updated ornithological position statement, provided in response to the ExA's second written questions, Question 22 (REP-284) and in paragraphs 9-12 of the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI, where that "*a number of areas of disagreement remain in relation to the methodologies being proposed by Forewind and NE*" and that "*the NE approach contains significantly too much precaution leading to unrealistic outcomes in a number of areas. It remains Forewind's view that these areas of over-precaution should be acknowledged and as a result, agreed levels of impact should be adjusted downward*".

In NE's Supplementary Ornithological Expert Report, summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 7 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site for the project alone under all scenarios' for northern gannet at the Flamborough & Filey Coast pSPA (i.e. under basic and extended Band Model options). It is assumed, but not stated within this Supplementary Ornithological Expert Report, that this view also applies to northern gannet at the Flamborough Head and Bempton Cliffs SPA.

- n. The Applicant does not predict significant collision losses from the project to common guillemot, razorbill or Atlantic puffin (see Section 6.6, paragraphs 6.6.101-6.6.107 of the IfAA report (APP-046). The conclusions in relation to collision risk of these species for this SPA have not been disputed. This is reflected in table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report (REP-416).
- o. The Applicant discusses in-combination impacts in Section 7.7 of the IfAA report (APP-046). Specific assessment of in combination impacts for the species screened for Flamborough Head and Bempton Cliffs SPA is provided in Appendix D of the IfAA report (APP-050). Section 3.3 of the Consolidated Ornithological Addendum (COA) also provides updated information on the in-combination assessment to include, among other aspects, updated information in relation to the Hornsea Project One and East Anglia One offshore wind farms (REP-067).

NE confirmed in their oral submission at the first HRA ISH on 4 April 2014, that the Applicant has included within the in-combination assessment, all of the relevant 'other plans and projects' which may have a potential in-combination effect with the proposed development (REP-211).

- p.** NE requested the Applicant to give further consideration to the 'tiered approach'. In response to ExA's second written Question 22 (Appendix 1) (REP-297), the Applicant updated the position. A tiered table was produced showing the NE view of in-combination impacts (i.e. using a 'common currency') as Deadline III Appendix 26 (REP-248). Both Deadline III Appendix 25 and Deadline III Appendix 26 have been updated following discussion with NE and are provided as Question 22 Appendix 13 (REP-295) and Question 22 Appendix 12 (REP-296) respectively. The approach was well received by NE who noted that this presented an appropriate approach given the evidence base. Subject to some additional clarifications, the approach may be acceptable to NE.

NE maintains that the operational projects should be included as part of the in-combination assessment. The Applicant does not agree with this position but values have been provided to allow NE to form a position which takes accounts of the impacts of these projects. The Applicant maintains that it is inappropriate to include these projects within the in-combination assessment (particularly given that most had been operational for over 5 years at the time that the Dogger Bank surveys were undertaken) (i.e. that the impacts of these schemes are already taken into account as part of the baseline conditions).

In their oral submission at the second HRA ISH on 3 June 2014, NE advised that to fully consider all plans and projects, tier 5 projects should be included, however it may be appropriate to reserve judgment of that tier as often figures describing impacts may be subject to change, but that presentation of these figures so that the ExA can consider any implications of future project developments is helpful (as the Applicant has done). This position is also reflected in NE's Supplementary Ornithological Expert Report submitted to summarise NE's final position on ornithological matters (REP-416).

- q.** For the reasons set out in **footnotes (k) and (l)**, NE agrees with the conclusion of no adverse effects on integrity to black-legged kittiwake during operation of the Application alone and in combination with other plans and projects.

The Applicant provided an updated in-combination assessment for black legged kittiwake at Deadline VI (REP-395) and provided an update on apportioning of the kittiwake populations (REP-393), upon which the agreement of in-combination effects with NE is reached.

- r.** For the reasons set out in **footnote (m)**, NE supports the conclusion of no adverse effects on integrity from collision to northern gannet during operation of the project alone and in-combination with other plans and projects under most modelling scenarios (paragraph 7 of NE's Supplementary Ornithological Expert Report (REP-416)).

NE have concluded that it is not possible to rule out a significant impact using a basic Band model and a 98% avoidance rate according to either PBR or PVA outputs. Using a basic model and a 99% or 99.5% avoidance rate would not result in a significant impact according to PBR, but may according to the level of risk considered acceptable within PVA outputs.

NE in paragraph 13 of their written summary of the oral case put at the third HRA ISH on 1 July 2014 (REP-416) clarifies their position on what is meant by 'most modelling scenarios'. NE explained that the conclusion of effect on integrity is dependent upon the avoidance rates used as set out in NE's supplementary expert report and the accompanying Annex (REP-416) which demonstrate that under the most precautionary scenario (98% avoidance) there might be a cause for concern. The Applicant stated that previously the Secretary of State has concluded that a 99% avoidance rate is appropriate for gannet. NE stated that whilst their standard advice cannot change from advising that 98% should be used, they acknowledge the previous decisions made by the SoS.

The Applicant provided an updated in-combination assessment for gannets at Deadline VI (REP-395) and provided an update on apportioning of gannet populations (REP-394) upon which the agreement of in-combination effects with NE is based (to the extent that agreement has been reached as described above).

- s. NE's position is reflected in table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report (REP-416), where NE agree to the conclusion of no adverse effect on integrity in terms of puffin displacement alone and in-combination.
- t. For the reasons set out in **footnote (h)**, NE agrees to the conclusion of no adverse effects on integrity from displacement of razorbill during construction and operation of the project alone and in combination with other plans and projects.

NE advises that there are some uncertainties surrounding impacts to razorbills at the North Sea scale from the cumulative predicted impact of mortality from displacement which do not appear sustainable in terms of mortality increases, as shown by PBR models (paragraph 83 of the Supplementary Ornithological Expert Report (REP-416)).

It was clarified by NE in their written summary of the oral case put at the third HRA ISH on 1 July 2014 (REP-416), that they recognize the use of best available evidence, but that there was the possibility for these figures to be further refined, thus reducing uncertainty. This could be done by looking at the East Coast population rather than the wider North Sea population. The Applicant explained that having considered the further work carried out and looking at the

revised figures with the PBR, they consider this would result in a sustainable impact and would not expect any further work to be necessary.

The Applicant provided an updated in-combination assessment for razorbill at Deadline VI (REP-398), upon which the agreement of in-combination effects with NE is reached.

- u.** For the reasons set out in **footnote (i)**, (and as referred to in table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report (REP-416)), NE agrees to the conclusion of no adverse effects on integrity from displacement of common guillemot during construction and operation of the project alone and in combination with other plans and projects.

The Applicant provided an updated in-combination assessment for guillemot at Deadline VI (REP-398), upon which the agreement of in-combination effects with NE is reached.

## Stage 2 Matrix 4: Flamborough and Filey Coast pSPA<sup>7</sup>

Site Code: N/A

Distance to offshore project element: 120 km

Distance to export cable route: 5 km

European site feature(s)	Adverse effect on integrity														
	Habitat Loss / Alteration (prey resource)			Disturbance / Displacement			Habitat Loss (Barrier Effect)			Physical Damage (Collision)			In-combination Effects		
	C	O	D	C	O	D	C	O	D	C	O	D	C	O	D
<i>4.2 Breeding Species - Black-legged kittiwake</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>c</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>j,k</sub>	N/A	x <sub>n</sub>	x <sub>n,p</sub>	x <sub>n,c</sub>

<sup>7</sup> At Appendix 3 of ES Appendix 11A: Ornithology Technical Report (APP-091), the Applicant presents consultee comments from NE with regard to the recent review of the site boundary, interest features and reference populations of the Flamborough Head & Bempton Cliffs SPA: "It is likely that in the near future Natural England will propose the re-classification of the SPA following a formal consultation process, and that this reclassification will propose changes to the SPA boundary so that additional seabirds breeding on the cliffs at Filey Brigg are incorporated within the SPA". NE advised that for the purposes of the ES and HRA for the Application, these potential changes should be reflected in the assessment of the Application's impacts on the SPA, and NE provide population data, which include seabirds from the proposed terrestrial extension at Filey Brigg, as the most up-to-date population estimates for the Flamborough Head & Bempton Cliffs SPA, which the Applicant uses for the purposes of their assessments. Paragraph 1.4.4 of the Applicant's COA (APP-068) states that it "assesses impacts upon the Flamborough & Filey Coast pSPA. As the Flamborough Head & Bempton Cliffs SPA boundary is contained within the area covered by the pSPA, there is no need to also consider the impacts upon the classified site area".

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<i>4.2 Breeding species – Northern gannet</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>f</sub>	x <sub>f</sub>	x <sub>f</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>l</sub>	N/A	x <sub>n</sub>	x <sub>n,r</sub>	x <sub>n,c</sub>
<i>4.2 Breeding species – Razorbill</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>g</sub>	x <sub>g</sub>	x <sub>g</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>m</sub>	N/A	x <sub>n,q</sub>	x <sub>n,q</sub>	x <sub>n,q</sub>
<i>4.2 Breeding species – Common guillemot</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>h</sub>	x <sub>h</sub>	x <sub>h</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>m</sub>	N/A	x <sub>n,t</sub>	x <sub>n,t</sub>	x <sub>n,t</sub>
<i>4.2 Breeding assemblage species – Northern fulmar</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>c</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>m</sub>	N/A	x <sub>n,s</sub>	x <sub>n,s</sub>	x <sub>n,s</sub>
<i>4.2 Breeding assemblage species – Black-legged kittiwake</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>e</sub>	x <sub>e</sub>	x <sub>c</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>j,k</sub>	N/A	x <sub>n,p</sub>	x <sub>n,p</sub>	x <sub>n,p</sub>
<i>4.2 Breeding assemblage species – Northern gannet</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>f</sub>	x <sub>f</sub>	x <sub>f</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>l</sub>	N/A	x <sub>n</sub>	x <sub>n,r</sub>	x <sub>n,c</sub>
<i>4.2 Breeding assemblage species – Common guillemot</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>h</sub>	x <sub>h</sub>	x <sub>h</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>m</sub>	N/A	x <sub>n,t</sub>	x <sub>n,t</sub>	x <sub>n,t</sub>
<i>4.2 Breeding</i>	x <sub>a,d</sub>	x <sub>b,d</sub>	x <sub>c,d</sub>	x <sub>g</sub>	x <sub>g</sub>	x <sub>g</sub>	N/A	x <sub>h</sub>	N/A	N/A	x <sub>m</sub>	N/A	x <sub>n,q</sub>	x <sub>n,q</sub>	x <sub>n,q</sub>



and displacement effects. This was also reflected at Matter G, item 3 of the second HRA ISH on 3 June 2014 (REP-340).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE and RSPB do not raise the Applicant's conclusions on northern gannet displacement as an area of disagreement.

As part of the Applicant's updated ornithological position statement in response to the ExA's second written questions, Question 22 (REP-284), NE's position is that the Applicant should consider potential site specific rates of mortality as a result of displacement for species including gannet. The Applicant has provided additional clarification to NE (REP-300) in order to facilitate the consideration of what rates NE might consider appropriate for the Application and NE continue to work towards an agreed position on appropriate mortality rates. This is also reflected in NE's ornithological position statement, submitted in response to ExA second written questions (REP-333).

In NE's Supplementary Ornithological Expert Report, summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 7 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site alone under all scenarios' for northern gannet at the Flamborough & Filey Coast pSPA (i.e. under basic and extended Band Model options). This statement is made in relation to collision risk.

The Applicant stated in their Deadline VI Updated HRA Integrity Matrices (Matrix A55a) (REP-416) that "*Natural England reaches a conclusion of no AEOI for displacement impact alone or when combined with predicted mortalities from collision*" in relation to northern gannet at the Flamborough & Filey Coast SPA. In paragraph 9 of NE's Supplementary Ornithological Expert (REP-416), NE seem to support this conclusion in that "*the additional worst case mortality from displacement does not alter the conclusion of no adverse effect on site integrity as the PBR threshold will not be exceeded*".

- g.** Precautionary displacement rates of 50% and a mortality rate of 5% have been defined by the Applicant for razorbill, as discussed in Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction of the Application is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.41a, A9.41b and A9.41c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for razorbill at this SPA is set out in Section 6.6 (paragraph 6.6.56 – 6.6.62) and Tables 6.23 and 6.24 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE raise the Applicant's conclusions on razorbill displacement as an area of disagreement (in particular methods used to assess displacement within the site). In part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

In NE's Supplementary Ornithological Expert Report, summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 66 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site for the project alone and in-combination under all scenarios' for displacement of razorbill at the Flamborough & Filey Coast pSPA (including 70% displacement and 10% mortality rates).

- h.** Precautionary displacement rates of 50% and a mortality rate of 5% have been defined for common guillemot, as discussed in see Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction of the Application is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.44a, A9.44b and A9.44c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for common guillemot at this SPA is set out in Section 6.6 (paragraphs 6.6.49 – 6.6.55) and Tables 6.21 and 6.22 of the IfAA Report (APP-046).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE raise the Applicant's conclusions on common guillemot displacement as an area of disagreement (in particular methods used to assess displacement within the site). In part b(iii) of NE's ornithological position statement submitted in response to the ExA's second written questions (REP-333), NE's position remains that a fixed rate of displacement across all buffers out to 2 km should be applied for auk species. Paragraph 6.3.38 of the IfAA Report (APP-046) outlines the Applicant's approach in applying declining displacement rates with increasing distance from the wind farm in two bands: 0-1km, 75% of the displacement rate; and 1-2km, 25% of the displacement rate.

In NE's Supplementary Ornithological Expert Report summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 50 that they are 'able to agree to a conclusion of no adverse effect on integrity of the

site for the project alone and in-combination under all scenarios' for displacement of guillemot at the Flamborough & Filey Coast pSPA (including 70% displacement and 10% mortality rates).

- i. Barrier effects are discussed in Section 6.6, paragraphs 6.6.69-6.6.94 in the IfAA Report (APP-046) and summarised in Appendix D of the IfAA Report (APP-046).

In the Statement of Common Ground (SoCG) between the Applicant and NE (version 6.1, submitted at Deadline I, (REP-127)), it is stated that agreement on barrier effects is still being sought (SoCG ID's 4-E-11 – 4-E-14), and that agreement is subject to agreeing matters at paragraphs 4.2.8 and 4.2.11 of the SoCG (in relation to predicted mortality against appropriate population scales (4.2.8) and assessing the likely cumulative barrier effects (4.2.11)). The Applicant submitted an update to the SoCG (response to the ExA's second written questions, Question 86 (REP-317), and referred to an updated position statement in response to the ExA's second written questions, Question 22 (REP-284) although this document does not refer to any revised position on barrier effects).

NE do not provide any comments in relation to barrier effects assessment as part of their Supplementary Ornithological Expert Report submission (REP-416). However, in Table 6 of Annex 1 to NE's Supplementary Ornithological Expert Report, NE state that barrier effects for all species are not considered as an issue of ornithological significance, and reference is made to Annex F - Section 6.5 of NE's Written Representation (REP-156) in supporting this.

- j. The Applicant identifies that the Application is within the maximum foraging range of black-legged kittiwake that could derive from the Flamborough & Filey Coast pSPA. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 90 adults representing 0.1% of the SPA population. For non-breeding birds (summer and winter), 19 birds lost through collision are attributed this SPA, representing 0.01% of the designated SPA population (Table 6.32 of the IfAA Report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 2.17%. A PBR of 381 adult birds has been calculated for this species (see paragraphs 6.6.127-6.6.129 of the IfAA Report (APP-046)).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE disagreed over some of the parameters used and the use of the Extended Band Model (Option 3) causing uncertainty in the effects of collision from the project. In their view, the Applicant has underestimated the likely mortality from collisions for black-legged kittiwake. This view is

shared by RSPB, as reflected in their response to the ExA's second written questions (REP-328). The Applicant responds to these concerns in updated ornithological position statement in response to the ExA's second written questions, Question 22 (REP-284), and in paragraphs 9-12 of the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI.

- k. At the second HRA ISH on 3 June 2014, the ExA noted that NE was waiting for a response as to why the Applicant does not consider the Option 1 Band model to be appropriate for considering collision risk; and asked why NE considers the current proposed changes to avoidance rate to be insufficiently justified. In response, NE stated that the Applicant had provided further justification as to why Option 2 was the preferred basic Band model option (in response to ExA's second written Question 22, Appendix 1 (REP-297)). This centred on the discrepancy between the flight height bands, in which bird data were collected and the worst case scenario turbine specifications. NE was able to accept these arguments and the justification provided by the Applicant, and advised that Option 2 is the basic Band model output upon which attention should be focused (NE's written summary of the oral case that was put by NE at the HRA specific hearing on 3 June 2014 (REP-340, paragraphs 38 to 40).

The Applicant's primary position is that Option 3 of the Band model is suitable for use and should be applied in the assessment of impacts of the Application. The Applicant seeks further justification from NE as to why the Applicant's current evidence base, is still considered to be insufficient for NE to justify an increase in the default 98% avoidance rate (which the Applicant feels is over precautionary) (REP-284). This view is carried forward in the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI where it states that "*a number of areas of disagreement remain in relation to the methodologies being proposed by Forewind and NE*" and that "*the NE approach contains significantly too much precaution leading to unrealistic outcomes in a number of areas. It remains Forewind's view that these areas of over-precaution should be acknowledged and as a result, agreed levels of impact should be adjusted downward*". The principal areas of disagreement in relation to collision risk methodologies are outlined in Table 2 of the Applicant's Summary of final ornithology position (REP-392).

In NE's Supplementary Ornithological Expert Report, summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 25 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site alone and in-combination under all scenarios' for kittiwake at the Flamborough & Filey Coast pSPA (i.e. under basic and extended Band Model options).

- i.** The Applicant identifies that the Application is within the mean maximum foraging range of northern gannet that could derive from the Flamborough & Filey Coast pSPA. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 5.3 adults representing 0.03% of the SPA population. For non-breeding birds (summer and winter), 3.2 birds lost through collision are attributed this SPA, representing 0.01% of the designated SPA population (Table 6.31 of the IfAA report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 0.65%. A Potential Biological Removal (PBR) value of between 286 to 393 birds has been established for this species at Flamborough Head (Section 6.6, paragraphs 6.6.112-6.6.118 of the IfAA report (APP-046)).

In the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)), NE disagree over some of the parameters used and the use of the Extended Band Model (Option 3) causing uncertainty in the effects of collision on northern gannet from the project. This view is shared by RSPB, as reflected in their response to the ExA's second written questions (REP-328). The Applicant responds to these concerns in the Applicant's updated ornithological position statement, provided in response to the ExA's second written questions, Question 22 (REP-284), and in paragraphs 9-12 of the Applicant's Summary of final ornithology position (REP-392) submitted at Deadline VI.

However, in their Supplementary Ornithological Expert Report summarising NE's final position on ornithological matters (REP-416), NE conclude at paragraph 7 that they are 'able to agree to a conclusion of no adverse effect on integrity of the site for the project alone under all scenarios' for northern gannet at the Flamborough & Filey Coast pSPA (i.e. under basic and extended Band Model options).

- m.** The Applicant does not predict significant collision losses to common guillemot, razorbill, northern fulmar or Atlantic puffin due to the Application (see Section 6.6, paragraphs 6.6.101-6.6.107 of the IfAA report (APP-046)). The conclusions in relation to collision risk of these species for this SPA have not been disputed during the examination.
- n.** The Applicant discusses in-combination impacts in Section 7.7 of the IfAA report (APP-046). Specific assessment of in-combination impacts for the species screened for Flamborough Head and Bempton Cliffs SPA is provided in Appendix D of the IfAA report (APP-050) (see paragraphs 1.10 - 1.13 of the RIES for discussion of the Flamborough Head and Bempton Cliffs SPA and the Flamborough & Filey Coast pSPA). Section 3.3 of the Consolidated Ornithological Addendum (COA) also provides updated information on the in-combination assessment to include, among other

aspects, updated information in relation to the Hornsea Project One and East Anglia One offshore wind farms (REP-067).

NE confirmed in their oral submission at the first HRA ISH on 4 April 2014, that the Applicant has included within the in-combination assessment, all of the relevant 'other plans and projects' which may have a potential in-combination effect with the proposed development (REP-211).

- o. NE requested the Applicant to give further consideration to the 'tiered approach'. In response to ExA's second written Question 22 (Appendix 1) (REP-297), the Applicant updated the position. A tiered table was produced showing the NE view of in-combination impacts (i.e. using a 'common currency') as Deadline III Appendix 26 (REP-248). Both Deadline III Appendix 25 and Deadline III Appendix 26 have been updated following discussion with NE and are provided as Question 22 Appendix 13 (REP-295) and Question 22 Appendix 12 (REP-296) respectively. The approach was well received by NE who noted that this presented an appropriate approach given the evidence base. Subject to some additional clarifications, the approach may be acceptable to NE.

NE maintains that the operational projects should be included as part of the in-combination assessment. The Applicant does not agree with this position but values have been provided to allow NE to form a position which takes accounts of the impacts of these projects. The Applicant maintains that it is inappropriate to include these projects within the in-combination assessment (particularly given that most had been operational for over 5 years at the time that the Dogger Bank surveys were undertaken) (i.e. that the impacts of these schemes are already taken into account as part of the baseline conditions).

In their oral submission at the second HRA ISH on 3 June 2014, NE advised that to fully consider all plans and projects, tier 5 projects should be included, however it may be appropriate to reserve judgment of that tier as often figures describing impacts may be subject to change, but that presentation of these figures is helpful so that the ExA can consider any implications of future project developments (as the Applicant has done). This position is also reflected in the Supplementary Ornithological Expert Report summarising NE's final position on ornithological matters (REP-416).

- p. For the reasons set out in **footnotes (j) and (k)**, NE agrees with the conclusion of no adverse effects on integrity to black-legged kittiwake during operation of the Application alone and in combination with other plans and projects.

The Applicant provided an updated in-combination assessment for black-legged kittiwake at Deadline VI (REP-395) and provided an update on apportioning of the kittiwake populations (REP-393), upon which the agreement of in-combination effects with NE is reached.

- q.** For the reasons set out in **footnote (g)**, NE agrees to the conclusion of no adverse effects on integrity from displacement of razorbill during construction and operation of the Application alone and in combination with other plans and projects (paragraph 66 and table 6 of Annex 1 in NE's Supplementary Ornithological Expert Report (REP-416)),

NE advises that there are some uncertainties surrounding impacts to razorbills at the North Sea scale from the cumulative predicted impact of mortality from displacement which do not appear sustainable in terms of mortality increases, as shown by PBR models (paragraph 83 of the Supplementary Ornithological Expert Report (REP-416)).

It was clarified by NE in their written summary of the oral case put at the third HRA ISH on 1 July 2014 (REP-416), that they recognize the use of best available evidence, but that there was the possibility for these figures to be further refined, thus reducing uncertainty. This could be done by looking at the East Coast population rather than the wider North Sea population. The Applicant explained that having considered the further work carried out and looking at the revised figures with the PBR, they consider this would result in a 'sustainable impact' and would not expect any further work to be necessary.

The Applicant provided an updated in-combination assessment for razorbill at Deadline VI (REP-398), upon which the agreement of in-combination effects with NE is reached.

- r.** For the reasons set out in **footnote (l)**, NE supports the conclusion of no adverse effects on integrity from collision to northern gannet during operation of the Application alone in-combination with other plans and projects under most modelling scenarios (paragraph 7 of NE's Supplementary Ornithological Expert Report (REP-416)).

NE concludes that it is not possible to rule out a significant impact using a basic Band model and a 98% avoidance rate according to either PBR or PVA outputs. Using a basic model and a 99% or 99.5% avoidance rate would not result in a significant impact according to PBR, but may according to the level of risk considered acceptable within PVA outputs.

Paragraph 13 of their written summary of the oral case put at the third HRA ISH on 1 July 2014, clarifies NE's position on what is meant by 'most modelling scenarios' (REP-416). NE explained that the conclusion of effect on integrity is

dependent upon the avoidance rates used as set out in NE's supplementary expert report and the accompanying Annex (REP-416) which demonstrate that under the most precautionary scenario (98% avoidance) there might be a cause for concern. The Applicant stated that previously the Secretary of State has concluded that 99% avoidance rate is appropriate for gannet. NE stated that whilst their standard advice cannot change from advising that 98% should be used, they acknowledge the conclusion reached in previous decisions made by the Secretary of State.

The Applicant provided an updated in-combination assessment for gannets at Deadline VI (REP-395) and provided an update on apportioning of gannet populations (REP-394), upon which the agreement of in-combination effects with NE is reached.

- s.** For the reasons set out in **footnotes (e) and (m)**, the Applicant does not predict significant effects in terms of collision or displacement of northern fulmar during construction or operation of the Application. The conclusions in terms of the in-combination effects have not been disputed as part of the examination, although NE do not specifically refer to agreement of the Applicant's conclusions in relation to northern fulmar at the Flamborough & Filey Coast pSPA (REP-416). Northern Fulmar are also not referenced as part of NE's Written Representation (REP-156) as a specific issue requiring any further information or investigation, nor as part of NE's Supplementary Ornithological Expert Report (REP-416).
- t.** For the reasons set out in **footnote (h)** (and as referred to in table 5 of Annex 1 to NE's Supplementary Ornithological Expert Report (REP-416)), NE agrees to the conclusion of no adverse effects on integrity from displacement of common guillemot during construction and operation of the Application alone and in combination with other plans and projects.

The Applicant provided an updated in-combination assessment for guillemot at Deadline VI (REP-398), upon which the agreement of in-combination effects with NE is reached.

## Stage 2 Matrix 5: Forth Islands SPA<sup>8</sup>

Site Code: UK9004171

Distance to offshore project element: 280 km

Distance to export cable route: 265 km

European site feature(s) <sup>9</sup>	Adverse effect on integrity				
	Habitat Loss / Alteration (prey resource)	Disturbance / Displacement	Habitat Loss (Barrier Effect)	Physical Damage (Collision)	In-combination Effects

<sup>8</sup> In the third HRA ISH on 1 July 2014, the ExA raised within the Interested Parties, that in relation to the Forth Islands SPA site, whilst on the JNCC website the Natura 2000 data form for this site refers to it as the 'Forth Islands SPA', on the UK SPA Network (also referred to as the UK SPA Review), also published on the JNCC website, this site is referred to as 'Firth of Forth Islands SPA' (not to be confused with the Firth of Forth SPA (Ref: UK 9004411)). Both the Forth Islands SPA and the Firth of Forth Islands SPA have the same reference number (UK9004171). It was agreed by the parties that when referring to this site, it would be referred to as the 'Forth Islands SPA' (see NE's oral statement of case put at the ISH on 1 July 2014, paragraph 20 (REP-416)).

In NE's Deadline V response (REP-340) at paragraphs 21-23, an update on the position of Scottish Natural Heritage (SNH) is provided. A summary of SNH's position is also set out in Appendix 48 of the Applicant's response to their Deadline III submission (REP-271), which contains an email chain between the Applicant and SNH dated between 25 March 2014 – 14 April 2014. NE are satisfied that SNH are aware of the issues raised, but SNH have not confirmed either way whether there was an objection with regards to any Scottish sites. NE maintains its position that it is not the remit of NE to provide advice on Scottish SPAs. NE advised that SNH are happy to follow NE's advice on in-combination effects and that SNH have advised they will add nothing further to the advice of NE. SNH have not expressed any issue and have confirmed that they will place no additional requirements on Applicant in this regard.

<sup>9</sup> There was a general error in species miss-labelling of the footnotes (b) – (e) of the Applicant's stage 2 matrix A56 in relation to the Forth Islands SPA (REP-068), as noted in footnote 27 in Table 4B in the Report. This matrix has been completed in accordance with the ExA's understanding as set out in footnote 27 in Table 4B.

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	C	O	D	C	O	D	C	O	D	C	O	D	C	O	D
<i>4.2 Breeding Species - Northern gannet</i>	xa	xb	xc	xd	xd	xd,c	N/A	xj	N/A	N/A	xk	N/A	xo	xq	xo
<i>4.2 Breeding Species - Atlantic puffin</i>	xa	xb	xc	xe,f	xe,f	xe,f	N/A	xj	N/A	N/A	xl	N/A	xp	xp	xc,p
<i>4.2 Breeding Assemblage Species - Black-legged kittiwake</i>	xa	xb	xc	xg	xg	xg,c	N/A	xj	N/A	N/A	xm	N/A	xo	xq	xo
<i>4.2 Breeding Species Assemblage - Common guillemot</i>	xa	xb	xc	xi,f	xi,f	xi,f	N/A	xj	N/A	N/A	xl	N/A	xp	xp	xc,p
<i>4.2 Breeding Assemblage Species - Northern fulmar</i>	xa	xb	xc	xg	xg	xg,c	N/A	xj	N/A	N/A	xl	N/A	xo	xo	xo
<i>4.2 Breeding Assemblage Species - Razorbill</i>	xa	xb	xc	xh,f	xh,f	xh,f	N/A	xj	N/A	N/A	xl	N/A	xp	xp	xc,p
<i>4.2 Breeding</i>	xa	xb	xc	xg	xg	xg,c	N/A	xj	N/A	N/A	xn	N/A	xr	xr	xr,c

<i>Species - Lesser Black-backed gull</i>															
<i>4.2 Breeding Assemblage Species - Atlantic puffin</i>	x a	x b	x c	x e,f	x e,f	x e,f	N/A	x j	N/A	N/A	x l	N/A	x p	x p	x c,p
<i>4.2 Breeding Assemblage Species - Northern gannet</i>	x a	x b	x c	x d	x d	x d,c	N/A	x j	N/A	N/A	x k	N/A	x o	x q	x o
<i>4.2 Breeding Assemblage Species - Lesser Black-backed gull</i>	x a	x b	x c	x g	x g	x g,c	N/A	x j	N/A	N/A	x n	N/A	x r	x r	x r,c

Evidence:

- a. The Applicant considers various effects of the Application on the prey resources available to all seabird species during the construction phase in Section 6.5 (paragraphs 6.5.2-6.5.32) of the IfAA Report (APP-046). The conclusion has not been disputed during the examination.
- b. The Applicant presents effects of the operational phase of the Application on prey resources and habitat utilisation by all species of seabirds in Section 6.6 (paragraphs 6.6.2-6.6.39) of the IfAA Report (APP-046). The conclusion has not been disputed during the examination.
- c. For the purposes of their assessment, the Applicant has assumed that the same effects that would arise during construction would also manifest during decommissioning of the Application (paragraph 2.3.26 of the IfAA Report (APP-046)). This approach has not been disputed during the examination.

- d.** No displacement impact has been predicted by the Applicant (for the Application alone) for northern gannet, as discussed in section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046).
- e.** Precautionary displacement rates of 50% and a mortality rate of 5% have been defined for Atlantic puffin by the Applicant, as presented in Section 6.3, paragraphs 6.3.26-6.3.57 in the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data provided in A9.44a – A9.44c and A9.45a - A9.45c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). Operational impacts of displacement for Atlantic puffin at this SPA are set out in Section 6.6, paragraphs 6.6.63-6.6.67 of the IfAA Report (APP-046).
- f.** RSPB considers that the Applicant has not provided sufficient evidence to conclude no risk of harm from displacement of Atlantic puffin, guillemot and razorbill during the construction and operation of the wind farm. This is outlined in section 6 (paragraphs 6.1 – 6.3) of their written representation (REP-166) and as part of their response to Question 10 of the ExA’s second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA) (REP-283)).

RSPB’s view is based on the need to present increases in proportions of birds displaced (0-100%) and proportions of displaced birds that may die (0-100%), thereby allowing consideration of the sensitivity to variations in displacement and mortality (REP-166). This information is presented as part of Appendix A10 of Technical Appendix A to ES Chapter 11 (APP-091), but has not been carried forward to their HRA (where only limited scenarios are carried forward. RSPB consider a range of % mortality all the more appropriate.

In response to Q10 of the ExA’s second written questions (REP-328), RSPB did not provide further comments on any aspect of the Forth Islands SPA.

- g.** The Applicant has predicted no displacement impacts for black-legged kittiwake, lesser black backed gull or northern fulmar during construction and operation of the Application. This is discussed in Section 6.3, paragraphs 6.3.26-6.3.36 and table 6.4 in the IfAA Report (APP-046). The conclusion has not been disputed during the examination.
- h.** Precautionary displacement rates of 50% and a mortality rate of 5% have been defined by the Applicant for razorbill, as discussed in Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.47a, A9.47b and A9.47c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the

ES (APP-091). The operational impact of displacement for razorbill at this SPA is set out in Section 6.6 (paragraph 6.6.56 – 6.6.62) and Tables 6.23 and 6.24 of the IfAA Report (APP-046).

- i. Precautionary displacement rates of 50% and a mortality rate of 5% have been defined for common guillemot, as discussed in Section 6.3, paragraphs 6.3.26-6.3.57 of the IfAA Report (APP-046). An assessment of the displacement impact during construction is provided in Section 6.5 of the IfAA Report (APP-046) and quantitative data for this SPA in Tables A9.44a, A9.44b and A9.44c in Appendix 9 of Appendix 11A: Ornithology Technical Report of the ES (APP-091). The operational impact of displacement for common guillemot at this SPA is set out in Section 6.6 (paragraphs 6.6.49 – 6.6.55) and Tables 6.21 and 6.22 of the IfAA Report (APP-046).
- j. Barrier effects are discussed in Section 6.6, paragraphs 6.6.69-6.6.94 in the IfAA Report (APP-046) and summarised in Appendix D of the IfAA Report (APP-046). The conclusion has not been disputed during the examination in relation to the Forth Islands SPA.
- k. The Applicant states that the Application is not within the mean maximum foraging range of northern gannet that could derive from the Forth Islands SPA. However they do consider it is possible that birds from this SPA may forage in Dogger Bank (paragraph 6.3.10 of the IfAA Report (APP-046)).

Collision risk for northern gannet is considered at paragraphs 5.3.54 – 5.3.62 of the Ornithology Technical Report (Technical Appendix 1 to ES Chapter 11 (APP-091)) and paragraphs 6.6.108 – 6.6.120 of the IfAA Report (APP-046), with paragraphs 6.6.119 and 6.6.120 specifically relating to the Forth Islands SPA).

Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 7 adults representing 0.01% of the SPA population. For non-breeding birds (summer and winter), 21 birds lost through collision are attributed this SPA, representing 0.01% of the designated SPA population. Apportioning of the annual collision estimate during the breeding season attributes a collision loss of 21 adults representing 0.03% of the SPA population (Table 6.31, in the IfAA Report (APP-046)). In total the loss of adult birds through collision at this SPA would represent an increase in the background mortality of 0.3%. A threshold mortality of 2,000 birds that could be sustained for the Bass Rock gannet colony (part of the Forth Islands SPA) was calculated as part of the WWT (2012) PVA analysis for this species.

RSPB are of the view that the Applicant has underestimated the likely mortality from collisions for northern gannet (REP-166), and that the extended Band CRM, Option 3, alone, is not an appropriate basis for assessment in the

absence of any validation (therefore it is not possible to state a definitive CRM Avoidance Rate). RSPB do not consider that available evidence justifies 99% as an appropriate correction factor/ Avoidance Rate to apply for gannet, notably so for gannets during the breeding season.

In response to Q10 of the ExA's second written questions (REP-328), RSPB did not provide further comments on any aspect of the Forth Islands SPA.

- l.** The Applicant has not predicted significant collision losses of Atlantic puffin, razorbill, northern fulmar or common guillemot from the project (see Section 6.6, paragraphs 6.6.101-6.6.107 of the IfAA report (APP-046)). The conclusion has not been disputed during the examination.
- m.** The Applicant states that Application is outside the maximum foraging range of black-legged kittiwake that could derive from the Forth Islands SPA (paragraphs 6.3.8 – 6.3.11 and Tables 6.1 and 6.2 of the IfAA Report (APP-046)).

Collision risk for black legged kittiwake is considered at paragraphs 5.3.105 – 5.3.112 of the Ornithology Technical Report (Technical Appendix 1 to ES Chapter 11 (APP-091)) and paragraphs 6.6.121 – 6.6.126 of the IfAA Report (APP-046). Paragraph 6.6.123 does not include the Forth Islands SPA as being within the maximum foraging ranges and therefore no specific details in relation to the Forth Islands SPA are provided.

RSPB are of the view that the Applicant has underestimated the likely mortality from collisions for black legged kittiwake (REP-166), and that the extended Band CRM, Option 3, alone, is not an appropriate basis for assessment in the absence of any validation (therefore it is not possible to state a definitive CRM Avoidance Rate).

- n.** The Applicant states that, in relation to lesser black backed gull, the mean maximum foraging ranges are less than the distance to the Application from the nearest SPA designated breeding populations (paragraph 6.3.11 of the IfAA Report (APP-046)).

Collision risk for lesser black baked gull is considered at paragraphs 5.4.116 – 5.4.122 of the Ornithology Technical Report (Technical Appendix 1 to ES Chapter 11 (APP-091)) and paragraphs 6.8.31 – 6.8.32 of the IfAA Report (APP-046). The summary of appropriate assessment findings in Appendix D of the IfAA Report (APP-046) also states that predicted collision losses of lesser black-backed gull from SPAs screened into the assessment process would represent less than 0.01% of designated populations and less than a 0.1% increase in background mortality for this species.

NE and RSPB did not raise lesser black backed gull displacement or collision risk conclusions in the responses to Question 10 Appendix 1 of the ExA's second written questions (collated tables from NE and RSPB in relation to outstanding concerns related to HRA (REP-283)). Further, in NE's Supplementary Ornithological Expert Report, submitted to summarise NE's final position on ornithological matters (REP-416), no reference is made to lesser black backed gulls in terms of HRA, nor does it specifically refer to the Forth Islands SPA.

A summary of SNH's position is also set out in Appendix 48 of the Applicant's response to their Deadline III submission (REP-271), which contains an email chain between the Applicant and SNH between 25 March 2014–14 April 2014.

- o.** The Applicant presents in-combination impact assessments in Section 7.7 of the IfAA report (APP-046)), as updated by the Consolidated Ornithological Addendum (COA) (REP-067). The conclusions in relation to designated populations of Northern gannet in the Forth Islands SPA are not disputed in terms of construction or decommissioning (and operation in terms of northern fulmar).
- p.** For the reasons set out in **footnote (f)**, RSPB do not agree with the conclusions of the displacement effects on Atlantic puffin, guillemot and razorbill at the Forth Islands SPA during the construction and operation of the wind farm. It is therefore considered that RSPB do not agree to the same conclusion in-combination with other plans and projects, although not explicitly stated.
- q.** For the reasons set out in **footnotes (k) and (m)**, RSPB do not agree with the conclusions of the operational in-combination effects assessment in relation to northern gannet and black-legged kittiwake (paragraph 5.3.2 of REP-166). Additional assessments of in combination collision risk impacts to breeding populations of northern gannet were provided in Section 3.3 of the Applicant's COA (REP-067).
- r.** For the reasons set out in **footnote (o)**, the conclusions of the collision risk effects to lesser black backed gull during construction and operation of the Application have not been disputed in the examination.

## **Annex 1 – Table showing the UK European sites identified by the Applicant and considered during the examination**

**Dogger Bank Creyke Beck Offshore Wind Farm**  
Report on the Implications for European Sites

<b>Column 1: European Sites listed in the Applicant's HRA Report, which are located within the UK</b>	<b>Column 2: European Sites for which the Applicant concluded No LSE</b>	<b>Column 3: European Sites for which the Applicant concluded LSE</b>	<b>Column 4: European Sites for which the Applicant's conclusion of No AEOI was not disputed</b>	<b>Column 5: European Sites for which the Applicant's conclusion of No AEOI was disputed</b>
Abberton Reservoir SPA	-	Abberton Reservoir SPA	Abberton Reservoir SPA	-
Abberton Reservoir Ramsar	-	Abberton Reservoir Ramsar	Abberton Reservoir Ramsar	-
Alde-Ore Estuary SPA	-	Alde-Ore Estuary SPA	Alde-Ore Estuary SPA	-
Alde-Ore Estuary Ramsar	-	Alde-Ore Estuary Ramsar	Alde-Ore Estuary Ramsar	-
Arun Valley SPA	-	Arun Valley SPA	Arun Valley SPA	-
Arun Valley Ramsar	-	Arun Valley Ramsar	Arun Valley Ramsar	-
Auskerry SPA	Auskerry SPA	-	-	-
Avon Valley SPA	-	Avon Valley SPA	Avon Valley SPA	-
Avon Valley Ramsar	-	Avon Valley Ramsar	Avon Valley Ramsar	-
Beast Cliff – Whitby (Robin Hood's Bay) SAC	Beast Cliff – Whitby (Robin Hood's Bay) SAC	-	-	-
Benacre to Easton Bavents SPA	-	Benacre to Easton Bavents SPA	Benacre to Easton Bavents SPA	-
Benfleet and Southend Marshes SPA	-	Benfleet and Southend Marshes SPA	Benfleet and Southend Marshes SPA	-
Benfleet and Southend Marshes Ramsar	-	Benfleet and Southend Marshes Ramsar	Benfleet and Southend Marshes Ramsar	-
Berriedale and Langwell Waters SAC	Berriedale and Langwell Waters SAC	-	-	-
Berwickshire and North Northumberland Coast SAC	-	Berwickshire and North Northumberland Coast SAC	Berwickshire and North Northumberland Coast SAC	-
Blackwater Estuary (Mid-Essex Coast Phase 4) SPA	-	Blackwater Estuary (Mid-Essex Coast Phase 4) SPA	Blackwater Estuary (Mid-Essex Coast Phase 4) SPA	-
Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar	-	Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar	Blackwater Estuary (Mid-Essex Coast Phase 4) Ramsar	-
Breydon Water SPA	-	Breydon Water SPA	Breydon Water SPA	-

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Breydon Water Ramsar	-	Breydon Water Ramsar	Breydon Water Ramsar	-
Broadland SPA	-	Broadland SPA	Broadland SPA	-
Broadland Ramsar	-	Broadland Ramsar	Broadland Ramsar	-
Buchan Ness to Collieston Coast SPA	-	Buchan Ness to Collieston Coast SPA	Buchan Ness to Collieston Coast SPA	-
Caithness and Sutherland Peatlands SPA	Caithness and Sutherland Peatlands SPA	-	-	-
Caithness and Sutherland Peatlands Ramsar	Caithness and Sutherland Peatlands Ramsar	-	-	-
Caithness Lochs SPA	Caithness Lochs SPA	-	-	-
Caithness Lochs Ramsar	Caithness Lochs Ramsar	-	-	-
Calf of Eday SPA	-	Calf of Eday SPA	Calf of Eday SPA	-
Cape of Wrath SPA	-	Cape of Wrath SPA	Cape of Wrath SPA	-
Chesil Beach and the Fleet SPA	Chesil Beach and the Fleet SPA	-	-	-
Chesil Beach and the Fleet Ramsar	Chesil Beach and the Fleet Ramsar	-	-	-
Chichester and Langstone Harbours SPA	-	Chichester and Langstone Harbours SPA	Chichester and Langstone Harbours SPA	-
Chichester and Langstone Harbours Ramsar	-	Chichester and Langstone Harbours Ramsar	Chichester and Langstone Harbours Ramsar	-
Colne Estuary (Mid-Essex Coast Phase 2) SPA	-	Colne Estuary (Mid-Essex Coast Phase 2) SPA	Colne Estuary (Mid-Essex Coast Phase 2) SPA	-
Colne Estuary (Mid-Essex Coast Phase 2) Ramsar	-	Colne Estuary (Mid-Essex Coast Phase 2) Ramsar	Colne Estuary (Mid-Essex Coast Phase 2) Ramsar	-

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Copinsay SPA	-	Copinsay SPA	Copinsay SPA	-
Coquet Island SPA	-	Coquet Island SPA	Coquet Island SPA	-
Cromarty Firth SPA	-	Cromarty Firth SPA	Cromarty Firth SPA	-
Cromarty Firth Ramsar	-	Cromarty Firth Ramsar	Cromarty Firth Ramsar	-
Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) SPA	Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) SPA	-	-	-
Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) Ramsar	-	Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) Ramsar	Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) Ramsar	-
Deben Estuary SPA	Deben Estuary SPA	-	-	-
Deben Estuary Ramsar	Deben Estuary Ramsar	-	-	-
Dengie (Mid-Essex Coast Phase 1) SPA	-	Dengie (Mid-Essex Coast Phase 1) SPA	Dengie (Mid-Essex Coast Phase 1) SPA	-
Dengie (Mid-Essex Coast Phase 1) Ramsar	-	Dengie (Mid-Essex Coast Phase 1) Ramsar	Dengie (Mid-Essex Coast Phase 1) Ramsar	-
Dogger Bank cSAC/SCI	-	Dogger Bank cSAC/SCI	-	Dogger Bank cSAC/SCI <ul style="list-style-type: none"> <li>The Applicant concluded LSE for the one feature of this site (see Table 4B)</li> </ul>
Dornoch Firth and Lock Fleet SPA	-	Dornoch Firth and Lock Fleet SPA	Dornoch Firth and Lock Fleet SPA	-
Dornoch Firth and Lock Fleet Ramsar	-	Dornoch Firth and Lock Fleet Ramsar	Dornoch Firth and Lock Fleet Ramsar	-
Dorset Heathlands SPA	-	Dorset Heathlands SPA	Dorset Heathlands SPA	-
Dorset Heathlands Ramsar	Dorset Heathlands Ramsar	-	-	-
Duddon Estuary SPA	-	Duddon Estuary SPA	Duddon Estuary SPA	-
Duddon Estuary Ramsar	-	Duddon Estuary Ramsar	Duddon Estuary Ramsar	-
Dungeness to Pett Level SPA	-	Dungeness to Pett Level	Dungeness to Pett Level SPA	-

**Dogger Bank Creyke Beck Offshore Wind Farm**  
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		SPA		
Dungeness to Pett Level Ramsar	-	Dungeness to Pett Level Ramsar	Dungeness to Pett Level Ramsar	-
East Caithness Cliffs SPA	-	East Caithness Cliffs SPA	East Caithness Cliffs SPA	-
East Sanday Coast SPA	-	East Sanday Coast SPA	East Sanday Coast SPA	-
East Sanday Coast Ramsar	-	East Sanday Coast Ramsar	East Sanday Coast Ramsar	-
Exe Estuary SPA	-	Exe Estuary SPA	Exe Estuary SPA	-
Exe Estuary Ramsar	-	Exe Estuary Ramsar	Exe Estuary Ramsar	-
Fair Isle SPA	-	Fair Isle SPA	Fair Isle SPA	-
Faray and Holm of Faray SAC	-	Faray and Holm of Faray SAC	Faray and Holm of Faray SAC	-
Farne Islands SPA	-	Farne Islands SPA	-	Farne Islands SPA <ul style="list-style-type: none"> <li>• Features for which No LSE was concluded by the applicant (see Table 4A)</li> <li>• Features for which LSE was concluded by the applicant (see Table 4B)</li> </ul>
Fetlar SPA	-	Fetlar SPA	Fetlar SPA	-
Firth of Forth SPA	-	Firth of Forth SPA	Firth of Forth SPA	-
Firth of Forth Ramsar	-	Firth of Forth Ramsar	Firth of Forth Ramsar	-
Firth of Tay and Eden Estuary SPA	-	Firth of Tay and Eden Estuary SPA	Firth of Tay and Eden Estuary SPA	-
Firth of Tay and Eden Estuary SPA	-	Firth of Tay and Eden Estuary SPA	Firth of Tay and Eden Estuary SPA	-
Flamborough Head SAC	-	Flamborough Head SAC	Flamborough Head SAC	-
Flamborough Head and Bempton Cliffs SPA	-	Flamborough Head and Bempton Cliffs SPA	-	Flamborough Head and Bempton Cliffs SPA <ul style="list-style-type: none"> <li>• Features for which No</li> </ul>

**Dogger Bank Creyke Beck Offshore Wind Farm**  
Report on the Implications for European Sites

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				<p>LSE was concluded by the applicant (see Table 4A)</p> <ul style="list-style-type: none"> <li>• Features for which LSE was concluded by the applicant (see Table 4B)</li> </ul>
(Flamborough and Filey Coast pSPA) <sup>10</sup>	-	Flamborough and Filey Coast pSPA	-	<p>Flamborough and Filey Coast pSPA</p> <ul style="list-style-type: none"> <li>• Features for which No LSE was concluded by the applicant (see Table 4A)</li> <li>• Features for which LSE was concluded by the applicant (see Table 4B)</li> </ul>
Forth Islands SPA	-	Forth Islands SPA	-	<p>Forth Islands SPA</p> <ul style="list-style-type: none"> <li>• Features for which No LSE was concluded by the applicant (see Table</li> </ul>

<sup>10</sup> The Applicant's HRA screened and assessed the potential effects of the Project on Flamborough Head and Bempton Cliffs SPA (Appendix C of the Applicant's HRA Report (final LSE screening for all European sites) (APP-049)). However, NE and JNCC in their joint relevant representations, identified Flamborough and Filey Coast pSPA as one of the SPA sites for which NE/JNCC have outstanding concerns (REP-047 (NE) and REP-051 (JNCC), paragraph 2.2.1). In response to Question 43 of the ExA's first round questions (PD-008), NE explained that the Flamborough and Filey Coast pSPA, supersedes the Flamborough Head and Bempton Cliffs SPA, and was at the time that NE responded to the ExA's first round questions, under consultation for breeding gannets, kittiwakes, guillemots and razorbills, as well as seabird assemblage (REP-162, Annex G, response to question 43). NE subsequently confirmed in its written summary of its oral case during the first HRA ISH on 4 April 2014 that pSPAs are to be dealt with in exactly the same manner as SPAs and therefore NE did not feel it was necessary to consider both sites separately and hence NE only gave consideration to the pSPA (REP-212, paragraph 7). However, NE also stated that as and when the SPA and pSPA sites become one they would be treated as one site, but currently for the purpose of legal assessment they are two sites and therefore need to be treated separately (REP-212, paragraph 7). The RSPB also identified the need to bear in mind the distinction between the Flamborough Head and Bempton Cliffs SPA, which is designated, and the Flamborough and Filey Coast pSPA (REP-166, paragraph 2.7). The applicant provided separate screening and integrity matrices for the Flamborough Head and Bempton Cliffs SPA and the Flamborough and Filey Coast pSPA on 19 May 2014 (REP-282).

**Dogger Bank Creyke Beck Offshore Wind Farm**  
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				4A) <ul style="list-style-type: none"> <li>Features for which LSE was concluded by the applicant (see Table 4B)</li> </ul>
Foula SPA	-	Foula SPA	Foula SPA	-
Foulness (Mid-Essex Coast Phase 5) SPA	-	Foulness (Mid-Essex Coast Phase 5) SPA	Foulness (Mid-Essex Coast Phase 5) SPA	-
Foulness (Mid-Essex Coast Phase 5) Ramsar	-	Foulness (Mid-Essex Coast Phase 5) Ramsar	Foulness (Mid-Essex Coast Phase 5) Ramsar	-
Fowlsheugh SPA	-	Fowlsheugh SPA	Fowlsheugh SPA	-
Gibraltar Point SPA	-	Gibraltar Point SPA	Gibraltar Point SPA	-
Gibraltar Point Ramsar	-	Gibraltar Point Ramsar	Gibraltar Point Ramsar	-
Great Yarmouth North Denes SPA	Great Yarmouth North Denes SPA	-	-	-
Haisborough, Hammond and Winterton cSAC	Haisborough, Hammond and Winterton cSAC	-	-	-
Hamford Water SPA	-	Hamford Water SPA	Hamford Water SPA	-
Hamford Water Ramsar	-	Hamford Water Ramsar	Hamford Water Ramsar	-
Hermaness, Saxa Vord and Valla Field SPA	-	Hermaness, Saxa Vord and Valla Field SPA	Hermaness, Saxa Vord and Valla Field SPA	-
Holburn Lake and Moss SPA	Holburn Lake and Moss SPA	-	-	-
Holburn Lake and Moss Ramsar	-	Holburn Lake and Moss Ramsar	Holburn Lake and Moss Ramsar	-
Hornsea Mere SPA	-	Hornsea Mere SPA	Hornsea Mere SPA	-
Hoy SPA	-	Hoy SPA	Hoy SPA	-
Humber Estuary SAC	-	Humber Estuary SAC	Humber Estuary SAC	-
Humber Estuary Ramsar	-	Humber Estuary Ramsar	Humber Estuary Ramsar	-
Humber Flats, Marshes and Coast SPA	-	Humber Flats, Marshes and Coast SPA	Humber Flats, Marshes and Coast SPA	-

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Inner Dowsing, Race Bank and North Ridge cSAC	Inner Dowsing, Race Bank and North Ridge cSAC	-	-	-
Inner Moray Firth SPA	-	Inner Moray Firth SPA	Inner Moray Firth SPA	-
Inner Moray Firth Ramsar	-	Inner Moray Firth Ramsar	Inner Moray Firth Ramsar	-
Isle of May SAC	-	Isle of May SAC	Isle of May SAC	-
Lee Valley SPA	-	Lee Valley SPA	Lee Valley SPA	-
Lee Valley Ramsar	-	Lee Valley Ramsar	Lee Valley Ramsar	-
Leighton Moss SPA	-	Leighton Moss SPA	Leighton Moss SPA	-
Leighton Moss Ramsar	-	Leighton Moss Ramsar	Leighton Moss Ramsar	-
Lindisfarne SPA	-	Lindisfarne SPA	Lindisfarne SPA	-
Lindisfarne Ramsar	-	Lindisfarne Ramsar	Lindisfarne Ramsar	-
Loch of Strathbeg SPA	-	Loch of Strathbeg SPA	Loch of Strathbeg SPA	-
Loch of Strathbeg Ramsar	-	Loch of Strathbeg Ramsar	Loch of Strathbeg Ramsar	-
Lower Derwent Valley SPA	-	Lower Derwent Valley SPA	Lower Derwent Valley SPA	-
Lower Derwent Valley Ramsar	-	Lower Derwent Valley Ramsar	Lower Derwent Valley Ramsar	-
Marazion Marsh SPA	-	Marazion Marsh SPA	Marazion Marsh SPA	-
Martin Mere SPA	-	Martin Mere SPA	Martin Mere SPA	-
Martin Mere Ramsar	-	Martin Mere Ramsar	Martin Mere Ramsar	-
Marwick Head SPA	-	Marwick Head SPA	Marwick Head SPA	-
Medway Estuary and Marshes SPA	-	Medway Estuary and Marshes SPA	Medway Estuary and Marshes SPA	-
Medway Estuary and Marshes Ramsar	-	Medway Estuary and Marshes Ramsar	Medway Estuary and Marshes Ramsar	-
Mersey Estuary SPA	-	Mersey Estuary SPA	Mersey Estuary SPA	-
Mersey Estuary Ramsar	-	Mersey Estuary Ramsar	Mersey Estuary Ramsar	-

**Dogger Bank Creyke Beck Offshore Wind Farm**  
Report on the Implications for European Sites

<b>Column 1: European Sites listed in the Applicant's HRA Report, which are located within the UK</b>	<b>Column 2: European Sites for which the Applicant concluded No LSE</b>	<b>Column 3: European Sites for which the Applicant concluded LSE</b>	<b>Column 4: European Sites for which the Applicant's conclusion of No AEOI was not disputed</b>	<b>Column 5: European Sites for which the Applicant's conclusion of No AEOI was disputed</b>
Mersey Narrows and North Wirral Foreshore pSPA	-	Mersey Narrows and North Wirral Foreshore pSPA	Mersey Narrows and North Wirral Foreshore pSPA	-
Mersey Narrows and North Wirral Foreshore pRamsar	-	Mersey Narrows and North Wirral Foreshore pRamsar	Mersey Narrows and North Wirral Foreshore pRamsar	-
Minsmere-Walberswick SPA	-	Minsmere-Walberswick SPA	Minsmere-Walberswick SPA	-
Minsmere-Walberswick Ramsar	-	Minsmere-Walberswick Ramsar	Minsmere-Walberswick Ramsar	-
Montrose Basin SPA	-	Montrose Basin SPA	Montrose Basin SPA	-
Montrose Basin Ramsar	-	Montrose Basin Ramsar	Montrose Basin Ramsar	-
Moray and Nairn Coast SPA	-	Moray and Nairn Coast SPA	Moray and Nairn Coast SPA	-
Moray and Nairn Coast Ramsar	-	Moray and Nairn Coast Ramsar	Moray and Nairn Coast Ramsar	-
Morecambe Bay SPA	-	Morecambe Bay SPA	Morecambe Bay SPA	-
Morecambe Bay Ramsar	-	Morecambe Bay Ramsar	Morecambe Bay Ramsar	-
Mousa SPA	Mousa SPA	-	-	-
Nene Washes SPA	-	Nene Washes SPA	Nene Washes SPA	-
Nene Washes Ramsar	-	Nene Washes Ramsar	Nene Washes Ramsar	-
New Forest SPA	-	New Forest SPA	New Forest SPA	-
North Caithness Cliffs SPA	-	North Caithness Cliffs SPA	North Caithness Cliffs SPA	-
North Norfolk Coast SAC	North Norfolk Coast SAC	-	-	-
North Norfolk Coast SPA	-	North Norfolk Coast SPA	North Norfolk Coast SPA	-
North Norfolk Coast Ramsar	-	North Norfolk Coast Ramsar	North Norfolk Coast Ramsar	-
North Norfolk Sandbanks and Saturn Reef cSAC	North Norfolk Sandbanks and Saturn	-	-	-

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	Reef cSAC			
Northumbria Coast SPA	-	Northumbria Coast SPA	Northumbria Coast SPA	-
Northumbria Coast Ramsar	-	Northumbria Coast Ramsar	Northumbria Coast Ramsar	-
Noss SPA	-	Noss SPA	Noss SPA	-
Orkney Mainland Moors SPA <sup>11</sup>	-	Orkney Mainland Moors SPA	Orkney Mainland Moors SPA	-
Otterswick and Graveland SPA	Otterswick and Graveland SPA	-	-	-
Ouse Washes SPA	-	Ouse Washes SPA	Ouse Washes SPA	-
Ouse Washes Ramsar	-	Ouse Washes Ramsar	Ouse Washes Ramsar	-
Outer Thames Estuary	Outer Thames Estuary	-	-	-
Pagham Harbour SPA	-	Pagham Harbour SPA	Pagham Harbour SPA	-
Pagham Harbour Ramsar	-	Pagham Harbour Ramsar	Pagham Harbour Ramsar	-
Papa Stour SPA	Papa Stour SPA	-	-	-
Papa Westray (North Hill and Holm SPA)	-	Papa Westray (North Hill and Holm SPA)	Papa Westray (North Hill and Holm SPA)	-
Pentland Firth Islands SPA	Pentland Firth Islands SPA	-	-	-
Poole Harbour SPA	-	Poole Harbour SPA	Poole Harbour SPA	-
Poole Harbour Ramsar	-	Poole Harbour Ramsar	Poole Harbour Ramsar	-
Ramna Stacks and Gruney SPA	Ramna Stacks and	-	-	-

<sup>11</sup> In the HRA ISH on 1 July 2014, the ExA noted an apparent inconsistency between Appendix C of the Applicant's HRA Report (final LSE screening for all European sites (APP-049)) and the screening matrices regarding short eared owl and hen harrier features of Orkney Mainland Moors SPA. Appendix C of the Applicant's HRA Report identified the following features for this site: hen harrier, short eared owl and red throated diver (breeding); and short eared owl (wintering). Appendix C records no LSE for these features of this site. However, the Applicant's screening matrix for this site lists at the features: hen harrier, short eared owl and red throated diver (breeding); and hen harrier (wintering) (APP-051). The screening matrix concludes LSE for wintering hen harrier. The Applicant later confirmed that short-eared owl (wintering) was a typo in the screening report and that the screening matrices are correct (Applicant's Deadline VI - Written Summary of HRA Hearing Oral Case, paragraph 5.2 (REP-391)). The correct features for this European site have been included within the Applicant's updated screening and integrity matrices submitted at Deadline VI (Deadline VI Appendix 10 - Updated HRA Integrity Matrices (REP-401) and Deadline VI Appendix 11 - Updated HRA Screening Matrices (REP-402)).

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	Gruney SPA			
Ribble and Alt Estuaries SPA	-	Ribble and Alt Estuaries SPA	Ribble and Alt Estuaries SPA	-
Ribble and Alt Estuaries Ramsar	-	Ribble and Alt Estuaries Ramsar	Ribble and Alt Estuaries Ramsar	-
River Derwent SAC	River Derwent SAC	-	-	-
River Oykel SAC	River Oykel SAC	-	-	-
River South Esk SAC	River South Esk SAC	-	-	-
River Spey SAC	River Spey SAC	-	-	-
River Tay SAC	River Tay SAC	-	-	-
River Teith SAC	River Teith SAC	-	-	-
River Thurso SAC	River Thurso SAC	-	-	-
River Tweed SAC	River Tweed SAC	-	-	-
Ronas Hill – North Roe and Tingon SPA	Ronas Hill – North Roe and Tingon SPA	-	-	-
Ronas Hill – North Roe and Tingon Ramsar	Ronas Hill – North Roe and Tingon Ramsar	-	-	-
Rousay SPA	-	Rousay SPA	Rousay SPA	-
Rutland Water SPA	-	Rutland Water SPA	Rutland Water SPA	-
Rutland Water Ramsar	-	Rutland Water Ramsar	Rutland Water Ramsar	-
Sailsbury Plain SPA	-	Sailsbury Plain SPA	Sailsbury Plain SPA	-
Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC	Saltfleetby-Theddlethorpe Dunes and Gibraltar Point SAC	-	-	-
Severn Estuary SPA	-	Severn Estuary SPA	Severn Estuary SPA	-
Severn Estuary Ramsar	-	Severn Estuary Ramsar	Severn Estuary Ramsar	-
Solent and Southampton Water SPA	-	Solent and Southampton Water SPA	Solent and Southampton Water SPA	-
Solent and Southampton Water Ramsar	-	Solent and Southampton Water Ramsar	Solent and Southampton Water Ramsar	-
Somerset Levels and Moors	-	Somerset Levels and	Somerset Levels and Moors	-

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SPA		Moors SPA	SPA	
Somerset Levels and Moors Ramsar	-	Somerset Levels and Moors Ramsar	Somerset Levels and Moors Ramsar	-
South West London Waterbodies SPA	-	South West London Waterbodies SPA	South West London Waterbodies SPA	-
South West London Waterbodies Ramsar	-	South West London Waterbodies Ramsar	South West London Waterbodies Ramsar	-
St Abb's Head to Fast Castle SPA	-	St Abb's Head to Fast Castle SPA	St Abb's Head to Fast Castle SPA	-
Stodmarsh SPA	-	Stodmarsh SPA	Stodmarsh SPA	-
Stodmarsh Ramsar	-	Stodmarsh Ramsar	Stodmarsh Ramsar	-
Stour and Orwall Estuaries SPA	-	Stour and Orwall Estuaries SPA	Stour and Orwall Estuaries SPA	-
Stour and Orwall Estuaries Ramsar	-	Stour and Orwall Estuaries Ramsar	Stour and Orwall Estuaries Ramsar	-
Sule Skerry and Sule Stack SPA	-	Sule Skerry and Sule Stack SPA	Sule Skerry and Sule Stack SPA	-
Sumburgh Head SPA	-	Sumburgh Head SPA	Sumburgh Head SPA	-
Switha SPA	Switha SPA	-	-	-
Teesmouth and Cleveland Coast SPA	-	Teesmouth and Cleveland Coast SPA	Teesmouth and Cleveland Coast SPA	-
Teesmouth and Cleveland Coast Ramsar	-	Teesmouth and Cleveland Coast Ramsar	Teesmouth and Cleveland Coast Ramsar	-
Thames Estuary and Marshes SPA	-	Thames Estuary and Marshes SPA	Thames Estuary and Marshes SPA	-
Thames Estuary and Marshes Ramsar	-	Thames Estuary and Marshes Ramsar	Thames Estuary and Marshes Ramsar	-
Thanet Coast and Sandwich Bay SPA	-	Thanet Coast and Sandwich Bay SPA	Thanet Coast and Sandwich Bay SPA	-
Thanet Coast and Sandwich Bay Ramsar	-	Thanet Coast and Sandwich Bay Ramsar	Thanet Coast and Sandwich Bay Ramsar	-

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The Dee Estuary SPA	-	The Dee Estuary SPA	The Dee Estuary SPA	-
The Dee Estuary Ramsar	-	The Dee Estuary Ramsar	The Dee Estuary Ramsar	-
The River Dee SAC	The River Dee SAC	-	-	-
The Swale SPA	-	The Swale SPA	The Swale SPA	-
The Swale Ramsar	-	The Swale Ramsar	The Swale Ramsar	-
The Wash SPA	-	The Wash SPA	The Wash SPA	-
The Wash Ramsar	-	The Wash Ramsar	The Wash Ramsar	-
The Wash and North Norfolk Coast SAC	The Wash and North Norfolk Coast SAC	-	-	-
Troup, Pennan and Lion's Head SPA	-	Troup, Pennan and Lion's Head SPA	Troup, Pennan and Lion's Head SPA	-
Tweed Estuary SAC	Tweed Estuary SAC	-	-	-
Upper Solway Flats and Marshes SPA	-	Upper Solway Flats and Marshes SPA	Upper Solway Flats and Marshes SPA	-
Upper Solway Flats and Marshes Ramsar	-	Upper Solway Flats and Marshes Ramsar	Upper Solway Flats and Marshes Ramsar	-
West Westray SPA	-	West Westray SPA	West Westray SPA	-
Ythan Estuary, Sands of Forvie and Meikle Loch SPA	-	Ythan Estuary, Sands of Forvie and Meikle Loch SPA	Ythan Estuary, Sands of Forvie and Meikle Loch SPA	-
Ythan Estuary and Meikle Loch Ramsar	-	Ythan Estuary and Meikle Loch Ramsar	Ythan Estuary and Meikle Loch Ramsar	-

## Annex 2 – Table showing the projects included in the Applicant’s in-combination assessment

Project Type	Project Name
Aggregate Extraction	Area 400
	Area 439
	Area 441/1
	Area 441/2
	Area 441/3
	Area 448 (now Area 514/1)
	Area 449 (now Area 514/3)
	Area 454 (now Area 512)
	Area 466/1
	Area 483
	Area 484
	Area 485/1
	Area 485/2
	Area 490
	Area 491
	Area 492
	Area 493
	Area 494
	Area 495/1
	Area 495/2
	Area 496
	Area 506
	Area 400
	Area 439
	Area 441/1
	Area 441/2
	Area 441/3
	Area 448 (now Area 514/1)
	Area 449 (now Area 514/3)
	Area 454 (now Area 512)
	Area 466/1
	Area 483
	Area 484

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	Area 485/1
	Area 485/2
	Area 490
	Area 491
	Area 492
	Area 493
	Area 494
	Area 495/1
	Area 495/2
	Area 496
	Area 506
	Cables and Pipelines
Dudgeon R2 <sup>12</sup>	
Galloper <sup>12</sup>	
Greater Gabbard <sup>12</sup>	
Humber Gateway <sup>12</sup>	
Kentish Flats extension <sup>12</sup>	
Lincs <sup>12</sup>	
London Array II <sup>12</sup>	
R3 wind farm projects (east coast, phase 1) <sup>12</sup>	
Race Bank <sup>12</sup>	
Scottish Territorial water sites (east coast) <sup>12</sup>	
Teesside <sup>12</sup>	
Triton Knoll <sup>12</sup>	
Westermost Rough <sup>12</sup>	
Offshore Wind Farm	Beatrice
	Blyth Demonstration Site
	Breeveerten II
	Dogger Bank Teesside A & B
	Dudgeon
	East Anglia One
	European Offshore Wind Development Centre (EOWDC – offshore wind farm)
	Firth of Forth Alpha
	Firth of Forth Bravo
	Galloper

<sup>12</sup> This project is not listed in Table 3.7 in the Applicant's IfAA Report (APP-046), but is listed in Table 7.7 (projects screened in to the in-combination assessment for marine mammals (grey seal and harbour porpoise)), separately from the associated wind farm

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	Greater Gabbard
	Hornsea Project One
	Humber Gateway
	Inch Cape
	Kentish Flats Extension
	Lincs
	London Array II
	Moray Firth (Telford, Stevenson and MacColl – offshore wind farm)
	Neath na Gaoithe
	Bürger-windpark Butendiek
	Race Bank
	Sheringham Shoal
	Teesside
	Thanet
	Triton Knoll
	Westermost Rough
Oil and Gas	Gygnus Gas Field Development (Alpha and Bravo)
	Ensign
	Rochelle
Carbon Capture and Storage	National Grid Carbon Capture and Storage <sup>13</sup>
Tidal	Cantick Head
	Westray South
Wave Energy	Brough Head (Aquamarine Power)
	Costa Head
	Inner Sound

<sup>13</sup> This project is not listed in Table 3.7 in the Applicant's IfAA Report (APP-046), but is listed in Table 7.5 (potential in-combination effects of other projects on Flamborough Head SAC)

## Annex 3 – Conservation Objectives

### Dogger Bank cSAC and SCI

#### Interest Feature(s)

Sandbanks which are slightly covered by sea water all the time (Natura 2000 code **1110**)

Harbour porpoise (*Phocoena phocoena*), grey seal (*Halichoerus grypus*) and common seal (*Phoca vitulina*) are all non-qualifying features at the site.

#### Conservation Objectives

The Conservation Objective for the Dogger Bank sandbanks which are slightly covered by seawater all the time are:

*Subject to natural change, restore the sandbanks to favourable condition, such that:*

- *The natural environmental quality is restored;*
- *The natural environmental processes and the extent are maintained;*
- *The physical structure, diversity, community structure and typical species, representative of sandbanks which are slightly covered by seawater all the time, in the Southern North Sea, are restored.*

#### References

JNCC: <http://jncc.defra.gov.uk/page-6508> (accessed 24 June 2014)

JNCC (Natura 2000 standard data form):  
<http://jncc.defra.gov.uk/protectedsites/sacselection/n2kforms/UK0030352.pdf> (accessed 24 June 2014)

### Farne Islands SPA

#### Qualifying Features

This site qualifies under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive:

- Arctic Tern *Sterna paradisaea* (breeding)
- Common Tern *Sterna hirundo* (breeding)
- Roseate Tern *Sterna dougallii* (breeding)
- Sandwich Tern *Sterna sandvicensis* (breeding)

This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species:

- Guillemot *Uria aalge* (breeding)
- Atlantic Puffin *Fratercula arctica* (breeding)

The area qualifies under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 seabirds (a seabird assemblage of international importance).

### **Conservation Objectives**

*Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.*

*Subject to natural change, to maintain or restore:*

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The populations of the qualifying features;*
- *The distribution of the qualifying features within the site.*

### **References**

JNCC: <http://jncc.defra.gov.uk/page-1990-theme=default>  
(accessed 24 June 2014)

JNCC (Natura 2000 standard data form):  
<http://jncc.defra.gov.uk/pdf/SPA/UK9006021.pdf> (accessed 24 June 2014)

Natural England (Conservation objectives):  
[http://www.naturalengland.org.uk/Images/UK9006021-Farne-Islands-SPA\\_tcm6-32231.pdf](http://www.naturalengland.org.uk/Images/UK9006021-Farne-Islands-SPA_tcm6-32231.pdf) (accessed 24 June 2014)

## **Flamborough Head and Bempton Cliffs SPA**

### **Qualifying Features**

This site qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species:

- Black-legged Kittiwake *Rissa tridactyla* (breeding)

The area qualifies under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 seabirds (a seabird assemblage of international importance).

### **Conservation Objectives**

*Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.*

*Subject to natural change, to maintain or restore:*

- *The extent and distribution of the habitats of the qualifying features;*
- *The structure and function of the habitats of the qualifying features;*
- *The supporting processes on which the habitats of the qualifying features rely;*
- *The populations of the qualifying features;*
- *The distribution of the qualifying features within the site.*

### **References**

JNCC: <http://jncc.defra.gov.uk/default.aspx?page=1995> (accessed 24 June 2014)

JNCC (Natura 2000 standard data form):  
<http://jncc.defra.gov.uk/pdf/SPA/UK9006101.pdf> (accessed 24 June 2014)

Natural England (Conservation objectives):  
[http://www.naturalengland.org.uk/Images/UK9006101-Flamborough-Head-and-Bempton-Cliffs-SPA\\_tcm6-32299.pdf](http://www.naturalengland.org.uk/Images/UK9006101-Flamborough-Head-and-Bempton-Cliffs-SPA_tcm6-32299.pdf)  
(accessed 24 June 2014)

## **Forth Islands SPA**

### **Qualifying Features**

This site qualifies under Article 4.1 of the Directive (79/409/EEC) by supporting populations of European importance of the following species listed on Annex I of the Directive:

- Roseate tern *Sterna dougallii*
- Common tern *Sterna hirundo*
- Arctic tern *Sterna paradisaea*
- Sandwich tern *Sterna sandvicensis*

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This site also qualifies under Article 4.2 of the Directive (79/409/EEC) by supporting populations of European importance of the following migratory species:

- Puffin *Fratercula arctica*
- Lesser black-backed gull *Larus fuscus*
- Gannet *Morus bassanus*
- Shag *Phalacrocorax aristotelis*

The area qualifies under Article 4.2 of the Directive (79/409/EEC) by regularly supporting at least 20,000 seabirds (a seabird assemblage of international importance).

### **Conservation Objectives**

*To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and*

- *To ensure for the qualifying species that the following are maintained in the long term:*
- *Population of the species as a viable component of the site*
- *Distribution of the species within site*
- *Distribution and extent of habitats supporting the species*
- *Structure, function and supporting processes of habitats supporting the species*
- *No significant disturbance of the species*

### **References**

JNCC: <http://jncc.defra.gov.uk/page-1970> (accessed 24 June 2014)

SNH (SPA citation):

[http://gateway.snh.gov.uk/sitelink/documentview.jsp?p\\_pa\\_code=8500&p\\_Doc\\_Type\\_ID=16](http://gateway.snh.gov.uk/sitelink/documentview.jsp?p_pa_code=8500&p_Doc_Type_ID=16) (accessed 24 June 2014)

SNH (Conservation objectives)

[http://gateway.snh.gov.uk/sitelink/documentview.jsp;jsessionid=4044a31becac3846f12663cce4662e04f08dba7dad2bb10af6c3d41a5f1ab600.e38KahaMax4Rai0Oax8Sb3mMah50?p\\_pa\\_code=8500&p\\_Doc\\_Type\\_ID=29](http://gateway.snh.gov.uk/sitelink/documentview.jsp;jsessionid=4044a31becac3846f12663cce4662e04f08dba7dad2bb10af6c3d41a5f1ab600.e38KahaMax4Rai0Oax8Sb3mMah50?p_pa_code=8500&p_Doc_Type_ID=29) (accessed 24 June 2014)