

SCHEDULE 19

Compensation to protect the coherence of the national site network

PART 2

Alde-Ore Estuary Special Protection Area: Delivery of measures to compensate for the loss of lesser black-backed gull

12. In this Part—

“AOE” means the site designated as the Alde-Ore Estuary Special Protection Area;

“LBBGIMP” means the lesser black-backed gull implementation and monitoring plan for the delivery of measures to compensate for the predicted loss of adult lesser black-backed gull from the AOE as a result of the authorised development;

“LBBGSG” means the Lesser Black-Backed Gull Steering Group; and

“lesser black-backed gull compensation plan” means the document certified as the In Principle Habitats Regulations Derogation, Provision of Evidence, Appendix 2 Alde-Ore Estuary SPA In Principle Compensation by the Secretary of State for the purposes of this Order under article 37 (Certification of plans etc).

13. The authorised development may not be commenced until a plan for the work of the LBBGSG has been submitted to and approved by the Secretary of State. Such plan must include:

- (a) terms of reference of the LBBGSG;
- (b) details of the membership of the LBBGSG;
- (c) details of the schedule of meetings, timetable for preparation of the LBBGIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.

14. Following consultation with the LBBGSG, the LBBGIMP must be submitted to and approved by the Secretary of State, in consultation with the local planning authority or authorities for the land containing the predator control fencing, and the relevant statutory nature conservation body. The LBBGSG must be consulted further as required during the approval process.

15. The LBBGIMP must include measures to increase the number of adult lesser black-backed gulls available to recruit to the AOE in accordance with the principles contained in the lesser black-backed gull compensation plan, must contain the relevant matters identified in section 4.6.2 of the lesser black-backed gull compensation plan and must include in particular:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures (including why the location is appropriate ecologically and likely to support successful compensation);
- (b) details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the LBBGIMP;
- (c) details of the design of the predator control fencing including the type of fencing, the area and location of enclosure, and details of any other habitat management measures;
- (d) an implementation timetable for the delivery of the predator control fencing and any other habitat management measures that ensures all compensation measures are in place to allow four full lesser black-backed gull breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) a fencing maintenance schedule;

Status: This is the original version (as it was originally made).

- (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures; and
- (g) minutes from all consultations with LBBGSG.

16. The undertaker must implement the measures as set out in the LBBGIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until four full breeding seasons following the implementation of the measures set out in the LBBGIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.

17. The undertaker shall notify the Secretary of State of completion of implementation of the measures set out in the LBBGIMP.

18. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. This must include details of any finding that the measures have been ineffective in securing an increase in the number of adult lesser black-backed gulls available to recruit to the AOE and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.

19. Unless otherwise agreed in writing by the Secretary of State or unless the measures set out in the LBBGIMP have already been delivered, the undertaker must not commence construction of Work No.1 until it has first—

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either—
 - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
 - (ii) an alternative form of security for that purpose,
that has been approved by the Secretary of State.

20. The predator control fencing installed under this Part must not be decommissioned without the written approval of the Secretary of State, in consultation with the relevant statutory nature conservation body. The predator control fencing shall be maintained beyond the operational lifetime of the authorised development if the site is colonised. The routine and adaptive management measures, and monitoring should continue whilst the fencing is in place.

21. The approved LBBGIMP includes any amendments that may subsequently be agreed in writing by the Secretary of State, in consultation with the relevant statutory nature conservation body. Any amendments to or variations of the approved LBBGIMP must be in accordance with the principles set out in the lesser black-backed gull compensation plan and may only be approved where it has been demonstrated to the satisfaction of the Secretary of State that it is unlikely to give rise to any new or materially different environmental effects from those considered in the LBBGIMP.

22. In the event of any conflict or inconsistency between the terms of the lesser black-backed gull compensation plan and the provisions of this Order, the provisions of this Order shall prevail.