



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (ENVIRONMENTAL PROCEDURE RULES) 2010

EAST ANGLIA THREE

Planning Inspectorate Reference: EN010056

Summary of Relevant Representations

27th July 2016

Summary of Relevant Representation content

1. Natural England submitted Relevant Representations on 23rd March 2016. This document presents a summary of those Representations.
2. The Representations contained a summary of what Natural England considered to be the main nature conservation and related issues in relation to the Development Consent Order (DCO) application, as well as the Deemed Marine Licenses (DMLs) contained therein, and indicated the principal submissions for consideration.
3. Section 2 provided an overview of the features potentially affected and Section 3 presented a summary of Natural England's advice at the time of the submission. Section 4 set out all the significant issues, which at the time of submission Natural England advised should be addressed by the Applicant and the Examining Authority as part of the examination process in order to ensure the project can be consented. Section 5 outlined other outstanding issues and Section 6 contained matters to be secured in the DCO.
4. Natural England's main concerns relate to the methodology used in the assessment of impacts to offshore ornithology and ensuring the Applicant has considered impacts to the harbour porpoise pSAC.
5. In Section 3 Natural England advised that concerns remained relating to the following Special Protection Areas (SPAs) and Special Areas of Conservation (SACs):
 - a) Flamborough and Filey Coast potential SPA (pSPA);
 - b) Flamborough Head and Bempton Cliffs SPA
 - c) Harbour Porpoise pSAC
6. In Section 3, Natural England also advised that concerns remained relating to a number of ornithological species in the context of Environmental Impact Assessment (EIA):
 - a) Black-legged kittiwake;
 - b) Great black-backed gull;
 - c) Common guillemot;
 - d) Razorbill; and;
 - e) Atlantic puffin.

Main Issues

Offshore ornithology

7. Natural England raised a number of methodological issues relevant to the offshore ornithological assessment:
 - a) Use of Potential Biological Removal vs. Population Viability Analysis
 - b) EIA impacts on guillemot, razorbill and puffin
 - c) EIA impacts on kittiwake

- d) EIA impacts on great black-backed gulls
 - e) Habitats Regulations impacts on kittiwake
8. As a result of the above, Natural England was unable to conclude beyond all reasonable scientific doubt that the project would not have an adverse effect on the integrity of the Flamborough and Filey Coast pSPA for the following feature populations: gannet, kittiwake, guillemot, and razorbill, as well as Atlantic puffin as a part of the seabird assemblage feature, either alone or in-combination with other plans or projects.
9. Natural England was unable to conclude with certainty that the project would not have a significant impact on a number of seabird populations at an EIA scale, in particular the North Sea populations of kittiwake, lesser black-backed gull, great black-backed gull, guillemot, razorbill and puffin.

Marine Mammals

10. Natural England is satisfied impacts to marine mammals have been thoroughly assessed in the Environmental Statement, and proposed mitigation to be secured within the Marine Mammal Mitigation Plan is appropriate.
11. Special Areas of Conservation for harbour porpoise: On 16th October 2014 the UK received formal correspondence (Reasoned Opinion) from the European Commission outlining its position regarding the number of SACs for harbour porpoise in the UK under the EU Habitats Directive. The Joint Nature Conservation Committee (JNCC) has undertaken a new analysis of the largest and most comprehensive set of data for harbour porpoise in UK waters and has identified a number of possible sites for SAC designation. Formal consultation of the possible sites was launched on 19th January 2016 and is due to close on 3rd May 2016. Now that the consultation has begun, the possible sites become a material consideration for projects such as East Anglia THREE. Therefore further work is likely to be required by the Applicant during the Examination process to assess the impacts of the project on the sites, particularly the harbour porpoise feature of the Southern North Sea pSAC.

Other Outstanding Matters requiring Attention

12. In addition to the above, a number of areas were highlighted where further information would improve the assessment for a number of topic areas:

Onshore Ornithology

13. Natural England's main concern for onshore ornithology involved wintering dark bellied Brent geese at the Deben Estuary SPA. However, the Applicant's commitment to seasonal construction restrictions has addressed our concerns.

Marine Mammals

14. Noise during construction. Natural England advised that the impacts of noise during construction to be the primary source of impacts on marine mammals from this project and advised various issues be considered by the Examining Authority:
- a) Consideration of the use of the DEPONS (Disturbance Effects on the Harbour Porpoise Population in the North Sea) model which was due to complete by the end of summer 2016.
 - b) The use of noise reduction at source at source to mitigate piling level noise impacts. Natural England are content that consideration of noise reduction measures can take place prior to construction.

Marine Processes

15. Export Cable Burial Depth. The Applicant states that the export cable, where possible, will be buried to a target depth of 0.5m to 5m. Natural England advises burial depths of greater than 1m wherever possible so as to avoid potential scour effects and future exposure of the export cable.

Benthic Subtidal and Intertidal Ecology

16. Natural England raised a number of points regarding benthic ecology:
- a) In the IPMP the Applicant proposed use of a Hamon grab if visibility prevents use of a drop-down camera. However, best efforts should be made to use drop-down photography because this is the best method to inform patchiness and avoids damage to the reef.
 - b) Natural England notes that elevated levels of arsenic were found to be present at sample station 30, which is within the offshore cable corridor. Should dredging be required in the vicinity of station 30, arsenic levels should be monitored in order to inform disposal.
 - c) Impacts to Marine Conservation Zones: Orford Inshore recommended Marine Conservation Zone (rMCZ) overlaps with the proposed export cable route. Recommended MCZs are a material consideration in the marine licencing process, but, weight given to the consideration is less than that given to proposed MCZs (pMCZs) as pMCZs have been put out for consultation. The site remains an rMCZ and it may be put forward for consultation in the future. Orford Inshore rMCZ contains a feature (subtidal mixed sediment) that may be affected by cable installation, operation and decommissioning. There are no pMCZs that are potentially affected by the project
 - d) Natural England advises that the assertion made by the Applicant that habitats across the Southern North Sea are ubiquitous and of low ecological sensitivity should be evidenced, removed or clarified.

- e) The assessment of cumulative impacts varies in context between the North Sea and the southern North Sea. Natural England would welcome consistency.

Fish and shellfish ecology

- 17. Natural England agrees with the Applicant's conclusion that there will be moderate adverse impacts to static gears and drift netting within the array. Natural England welcomes the Applicant's commitment to reducing these and other potential impacts to commercial fishing activities through the establishment of a Commercial Fisheries Working Group.

Terrestrial ecology

- 18. Natural England noted that the terrestrial ecology Statement of Common Ground for the East Anglia ONE offshore wind farm is entirely relevant to this project. All issues relating to the siting of the cable route, effects to National, European and International designated sites and protected species and appropriate mitigation have been considered previously.
- 19. Impacts to bats. Impacts to bats: Bats may still suffer a small effect during construction due to loss of commuting and foraging habitat, but this is not likely to constitute more than a low impact

Matters to be secured by requirements in the Development Consent Order

- 20. Natural England advises that the DCO defines the minimum cable burial depth to mitigate for electromagnetic field ("EMF") effects on sensitive fish species. The application document states that the cable will be buried to in a range of 0.5m to 5m, given the error range and the recommended depth to mitigate for EMF effects we advise that the burial depth should be a minimum of 1m.
- 21. Natural England is undertaking ongoing discussions with the Applicant with regards to the potential DCO requirements for ornithological and marine mammal impacts and will provide further details of any concerns within its written representations or agree wording directly with the Applicant through the statement of common ground process.