



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES
2010

Thanet Extension Offshore Windfarm

Planning Inspector Reference: EN010084

Annex D: Natural England's Summary of Relevant Representations

15th January 2018

1. Introduction

- 1.1.** Natural England (NE) submitted relevant representations on the 12 September 2018. This document is a summary of those representations.
- 1.2.** The Relevant Representations focused primarily on the potential nature conservation issues, but also on the quality of the data and approach that had been used to determine many of the conclusions presented within the Development Consent Order (“DCO”) application.
- 1.3.** Section 2 of the Relevant Representations provides an overview of the protected sites and associated designated features in respect of which NE has outstanding concerns. In total, NE highlighted 10 sites: 2 Special Protection Areas (“SPAs”) and 1 potential SPA (“pSPA”), 2 Special Areas of Conservation (“SACs”) and 1 candidate Special Area of Conservation (“cSAC”), 1 Ramsar site, 1 Site of Special Scientific Interest (SSSI), 1 Marine Conservation Zone (“MCZs”) and 1 proposed Marine Conservation Zone (“pMCZ”). The various features of these sites in relation to which NE has outstanding concerns are also listed. The European protected species (EPS) Harbour Porpoise is also listed as a feature which may be impacted.
- 1.4.** Section 3 sets out NE’s overall position, which states that whilst we do consider the documents presented to the Planning Inspectorate in support of the DCO application for Thanet Extension Offshore Windfarm to be of sufficient quality and detail to enable a considered assessment of the impacts on nature conservation issues in line with the relevant legislation, NE does have outstanding concerns regarding a number of designated sites. NE is therefore, not satisfied that the information provided can conclude that the project would not impact a number of designated sites and associated features. NE’s primary concerns are stated as the potential loss of a large areas of saltmarsh and the lack of clarity and information as to the site selection process.
- 1.5.** Section 4 contains NE’s fundamental overarching concerns and issues in relation to the application, which need to be addressed for a robust assessment to be undertaken. If these concerns are not addressed we will be unable to advise beyond all reasonable scientific doubt that there will no adverse effect on integrity for the relevant SACs and SPAs, or that the conservation objectives of the relevant MCZs will not be hindered.
- 1.6.** Section 5 highlights issues that require further consideration and provides detailed comments on individual chapters within the DCO application.

2. Overarching concerns – Section 4 within the relevant representations

2.1. Site Selection and Alternatives

- 2.1.1.** NE has major concerns with the rationale behind site selection. Whilst both options Sandwich Bay Option (SBO) & Pegwell Bay Option (PBO) have positive and negative aspects, NE believe the SBO has been discounted without a proper investigation into how potential impacts could be minimised and habitats within the SBO have been given a greater weight as to their priority than NE would give them.

- 2.1.2. Engineering solutions such as horizontal directional drilling have been dismissed for the SBO, even though the method has been successfully used in other applications bypassing sensitive habitats.
- 2.1.3. NE believe that the PBO would result in a greater degree of environmental degradation due to permanent loss of saltmarsh. Impacts within the SBO are more likely to be of a temporary nature and short term.
- 2.1.4. Further technical information is required regarding the SBO option and further site investigation works within Pegwell Bay to determine the likelihood of HDD should be carried out by the applicant.

2.2. Proposed Loss of Saltmarsh Habitat

- 2.2.1. NE do not support Landfall option 2 as this would result in a permanent loss of saltmarsh. NE do not agree with the applicant's conclusion of no adverse effect on integrity or the reasoning behind this as the data provided contradicts the conclusions made.
- 2.2.2. The saltmarsh is part of the Sandwich Bay and Hacklinge Marshes SSSI and as such should have been considered under the National Planning Policy Framework principles. These do not appear to have been followed.
- 2.2.3. The impact to Ramsar invertebrate species has not been properly addressed. The habitats should be used as a proxy to assess likely impact to invertebrate species.
- 2.2.4. NE encouraged the applicant to pursue alternative, less damaging landfall options, particularly option 1 utilising HDD to bypass saltmarsh.

MCZ Assessment

- 2.2.5. NE do not consider sufficient information or detail has been provided in the assessment of Goodwin Sands pMCZ and can therefore not agree with the conclusions reached.
- 2.2.6. Lessons should be learnt from NEMO in regard to ensuring sufficient cable burial to limit the amount of post construction rock protection that may be required within the pMCZ.
- 2.2.7. NE encourage the applicant to pursue cable laying routes that avoid the pMCZ.

2.3. Offshore Ornithology

- 2.3.1. NE has identified a variety of data and methodological issues relating to the information underpinning the ornithological assessment.

2.4. Marine Mammals

- 2.4.1. NE feels that Tier 2 projects should be included in the in-combination assessment.

2.4.2. In learning from other projects, NE are investigating the effectiveness of the inclusion of soft start piling for mitigation purposes.

3. Issues requiring further consideration

This section summarises the principal concerns that NE has with the application and that require further work or clarification from the Applicant. This is not an exhaustive list, and the full Relevant Representations from NE should also be reviewed alongside any advice published since then.

3.1. DCO and DML

- 3.1.1. There are inconsistencies between the disposal volumes stated in the DMLs compared to volumes provided for within the disposal site characterisation report and provided for within the DCO.
- 3.1.2. The impact of cable protection - It is important to note the impact should be assessed based on both the volume of material and the area of impact of the volume.
- 3.1.3. NE does not believe the provision made for arbitration within this DCO is appropriate.
- 3.1.4. NE has suggested changes to the current wording for condition 16 in relation to noise measurements.
- 3.1.5. NE is concerned with lack of In Principle Monitoring Plans submitted and proposed within the ES and draft DCO respectively.

3.2. Non-Technical Summary, Project Description, Site selection and Alternatives

- 3.2.1 NE reiterate that further landfall site investigation works need to be carried out as soon as possible to determine the potential effects from all three current landfall options.
- 3.2.1 The process of site selection through the evidence plan process.
- 3.2.1 NE's major concern at landfall option 2, and the associated loss of large areas of saltmarsh habitat.

3.3. Offshore Ornithology

There are a number of detailed comments regarding Offshore Ornithology which include:

- 3.3.1. The methodology for assessing displacement for red throated diver – the methodology does not follow agreed Statutory Nature Conservation Body (SNCB) guidance, and the recommended percentage of displacement and buffer distances are not used in the environmental statement.

- 3.3.2. The methodology for assessing displacement of auks and gannet – This methodology does not follow the advice given in the SNCB advice note on assessing displacement.
- 3.3.3. The Collision risk modelling predictions using Option 1 should be presented alongside Option 2 outputs - Only generic flight height data (Option 2) of the Band model has been presented in the main body of the ES. Wherever possible site specific flight data should be used.
- 3.3.4. The figures used in cumulative displacement and cumulative Collision Risk Modelling (CRM) assessments.
- 3.3.5. The lack of post construction ornithological monitoring.

3.4. Marine Mammals

- 3.4.1. Natural England does not agree with the applicant's approach of not including Tier 2 projects within the in-combination assessment.
- 3.4.2. The current effectiveness of soft start for mitigation purposes and the implication this has upon the modelling.
- 3.4.3. The potential number of UXO has been underestimated.
- 3.4.4. Concerns regarding Harbour seals and the potential for disturbance, especially if piling is carried out during the pupping / weaning season.

3.5. Benthic Ecology

- 3.5.1. From Natural England's perspective there is insufficient assessment on potential cable repairs and the deposition of material from sandwave clearance.
- 3.5.2. There is insufficient information to determine the impacts upon Goodwin Sands pMCZ.
- 3.5.3. Sufficient burial and engineering techniques need to be employed to ensure that cable burial is successful (particularly in rock outcroppings and drillstone reef) and unnecessary rock protection is not employed.
- 3.5.4. Natural England are happy to trial the use of the biogenic reef plan but only under the conditions highlighted within the relevant reps.

3.6. Marine Physical Processes

- 3.6.1. Impacts and locations of deposition material from sandwave clearance have not been fully assessed.
- 3.6.2. Sandwave clearance has not been defined well enough to be currently permitted.
- 3.6.3. If the sea wall is advanced (associated with landfall option 2) onto the saltmarsh there could be further impacts from erosion at the toe of the wall resulting in a further permanent loss of saltmarsh.

3.7. Fisheries

- 3.7.1. Further consideration is needed for the worst case scenario from construction disturbance and what should be included in the assessment.
- 3.7.2. The amount of sediment transferred to the water column during jetting needs to be clarified.

3.8. Marine Water and Sediment Quality

- 3.8.1. Deterioration of water quality during and post construction as a result of interactions with the landfill site.
- 3.8.2. Continued uncertainties around the total volume of material that is to be disposed and what this means for water quality.

3.9. Onshore Biodiversity

- 3.9.1. *RIAA* - With regards to onshore impacts on European designated sites Natural England concur with a number of the conclusions reached. However, we still have particular concerns around the implications of the permanent loss of saltmarsh under landfall option 2 and on the level of reliance on documents not yet produced in order to conclude no adverse effect on site integrity for several features.
- 3.9.2. *Onshore Biodiversity* – Natural England have reviewed the onshore biodiversity chapter with a particular focus on impacts to nationally and internationally designated nature conservation sites and legally protected species for which Natural England might be required to issue a licence. We can confirm we are satisfied that the proposed development is highly unlikely to impact on any legally protected species which would require a licence from us and that therefore there is no requirement for us to provide any Letters of No Impediment (LONI's) as part of the examination process. However, we encourage further pre – construction surveys to again determine the likelihood of needing any licences. While we accept a number of the conclusions drawn with regards to terrestrial designated site interest features we remain concerned about the potential impacts to some birds and invertebrates. For European site interest features there are significant amounts of text duplicated between this chapter and the *RIAA*. We also found it potentially misleading that the assessment of impacts on such interest features in this chapter did not use the correct HRA terminology, but instead stated that particular impact pathways would or would not have 'significant effects.'

3.10. Report to Inform Appropriate Assessment (RIAA) and MCZ Assessment

- 3.10.1. Natural England disagree with the conclusions that the permanent loss of saltmarsh (a supporting habitat of the SPA and Ramsar) should be screened out of the assessment.
- 3.10.2. The commitment by the applicant to microsite around identified designated chalk reef should also apply to subtidal chalk habitat in general.

3.10.3. The lack of information regarding pre-construction surveys, and what data will be collected to inform any potential impacts from works within the pMCZ.

3.10.4. Concerns regarding any potential rock protection within Goodwin Sands pMCZ.

3.11. Preliminary Monitoring and Maintenance Plan

3.11.1. There are currently insufficient commitments to monitoring.

3.11.2. There is a need to incorporate the lessons learnt from the NEMO interconnector cable into any future monitoring plans.

3.11.3. Further mitigation and management methodologies are needed.