



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES  
2010

**Thanet Extension Offshore Windfarm**

Planning Inspector Reference: EN010084

**Natural England's Comments on Responses from Other Relevant Interested Parties to the Examining Authority's Second Round of Written Questions.**

28<sup>th</sup> May 2019

## Thanet Extension - Natural England's Comments on Responses by all Other Parties to Examining Authority's Second Round of Written Questions.

Following submission of Natural England's and other consultees responses to the Examining Authority's second written questions regarding the construction and operation of Thanet Extension Offshore Wind Farm, Natural England has reviewed other consultees responses and commented on the major issues within the remit of Natural England. We have not commented on questions which we deem to be outside of our remit or did not answer originally. Relevant responses from other consultees are provided in the table below, together with Natural England's position on the comments.

**Green Comments** – Natural England have no further comments, comments support/agree with Natural England position or does not impact on Natural England concerns.

**Amber Comments** – Natural England comments may be in contradiction, further advice needed, or potential new issue not included in Natural England comments.

**Red Comments** – Comments in direct contradiction with Natural England position or represents a significant issue not mentioned in Natural England's comments.

**Grey Comments** – Comments that are not relevant to Natural England.

Reference	Question to	Questions	Natural England's Original Answers	Applicants or other stakeholders answers	Natural England Comments on other stakeholder answers.
2.0	<b>General and Cross-topic Questions</b>				
	No relevant questions for NE.				
2.1	<b>Biodiversity, Ecology and Natural Environment (including HRA)</b>				
2.1.5	The Applicant and the Marine Management Organisation	<p><b>Schedule of Monitoring: Geophysical and Benthic Monitoring</b></p> <p>Section 3.2 of Natural England's [REP4-033] sets out comments in relation to the Applicant's Schedule of Monitoring [REP3-067] and as a consequence, the Biogenic Reef Mitigation Plan and geophysical and benthic monitoring provisions for Goodwin Sands pMCZ.</p> <p>a) Please could the Applicant respond to the points raised by Natural England?</p> <p>b) Could the Applicant please provide an updated version of</p>	No comment was provided by NE originally.	<p><b>Applicant's Response</b></p> <p>a) The Applicant has provided full responses to Natural England's submission (PINs Ref REP4-033) in Appendix 7 of the Applicant's Deadline 4C Submission (PINS Ref REP4C-007). In summary, the Applicant can confirm that these commitments are made explicitly within both the dML(s), and the same reference can be made in the final schedule of mitigation. Specifically, with regards the biogenic reef mitigation plan it is not considered necessary to explicitly make reference to ground truthing being undertaken in the BRMP as both the BRMP and dMLs make reference to pre-construction surveys, as per Condition 15 and 13 of the Generation and Export Cable System dMLs respectively, being designed to identify the presence and absence of reef within the</p>	<p><b>Comments on Applicant's Responses</b></p> <p>a) In line with Natural England's response at Deadline 5A, there is no reference to post-construction monitoring associated with the BRMP within the dML(s), unlike there is for pre-construction. Furthermore, and as stated at Deadline 5A, the commitment for post-construction surveys is already made within the BRMP and schedule of monitoring. Therefore, like for pre-construction surveys associated with the BRMP, the post-construction</p>

		<p>the Schedule of Monitoring to take account of these points, and those raised at paragraph 3.4.3 of the Marine Management Organisation's [REP4-031]?</p> <p>c) Could the Marine Management Organisation please comment as to whether the new pre- and post-construction monitoring provisions in respect of Goodwin Sands pMCZ included at DML Conditions 13(2)(b) and 15(5) of [REP4- 003] address its concerns about the certainty of the MCZ assessment?</p>		<p>survey area in line and will utilise industry practises/ methodologies in consultation with Natural England and MMO as appropriate. There is therefore provision for the most appropriate survey format being agreed at that time, which will include ground truthing. With regards monitoring of sandwaves within the Goodwin Sands MCZ the relevant dML (export systems) makes explicit reference to interpreted geophysical monitoring to monitor changes in sediment type, in the event that sandwave clearance is required within the Goodwin Sands rMCZ. It is not considered appropriate or necessary to commit to drop down video at these locations, instead the Applicant is proposing to adopt the same approach utilised by the Walney Extension project which also monitored potential changes in sediment type.</p> <p>b) A revised Schedule of Monitoring has been submitted as Appendix 6 to this Deadline 5 Submission which reflects the commitments to undertaken monitoring in consultation with Natural England and the MMO.</p> <p>c) The Applicant is content that the wording in the draft DCO adequately addresses the concerns raised by both the Marine Management Organisation and Natural</p>	<p>surveys should also be added to the DCO.</p> <p>b) It is clearer within the schedule of monitoring that ground truthing will take place if cable protection and sandwave clearance is undertaken in the Goodwin Sands pMCZ. However, referring back to our Deadline 5A response there is no reference to post-construction monitoring associated with the BRMP and condition 15 (2) (b) (ii) still lacks any mention of ground truthing any pre-construction data.</p> <p>c) Natural England welcomes the progress that has been made on securing the current conditions on the DCO / DML. However, we require the items raised in our Deadline 5A response to be addressed.</p>
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				<p>England in respect to monitoring within the Goodwin Sands pMCZ.</p> <p><b>MMO's Response</b></p> <p>c) The MMO welcomes securing the pre- and post-construction monitoring provisions for Goodwin Sands pMCZ on the DML, however suggests the following amendments:</p> <ul style="list-style-type: none"> <li>• At 13(2)(b) – “certain works” should be revised to say “licensed activities”.</li> <li>• At 13(2)(i) – the MMO questions whether reference to “sub-paragraph (2)(c)” in this section is correct given this refers to a different set of surveys related to saltmarsh.</li> <li>• At 13(2)(b)(i) and (ii) – the current wording only provides for surveys to be undertaken post-construction – i.e. after cable protection has been installed. This wording needs to be amended to make it clear that surveys will also be undertaken preconstruction – i.e. where it is anticipated cable protection will be installed and prior to such works being carried out.</li> <li>• At 13(2)(b)(i) – the current wording should also be amended to provide for surveys taken out pre-construction and post-construction for sandwave</li> </ul>	<p><b>Comments on MMO's Response</b></p> <p>c) Natural England agrees with the points raised by the MMO. Regarding bullet point 3, although the surveys highlighted under 15(2)(b)(i) and (ii) are clearly listed under the pre-construction monitoring and surveys header the wording does suggest that these surveys will be carried out after the works have taken place. For example, “...to be focussed on the areas where cable protection <b>has</b> been installed to monitor epifaunal communities and inundation by sand.” This should porbably state “...to be focussed on the areas where cable protection <b>will be</b> installed.”</p>
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				clearance and post-construction, in order to be able to fully assess the potential impact if sandwave clearance were undertaken in the pMCZ.	
2.1.7	Natural England, Marine Management Organisation and other relevant IPs	<p><b>Revised Biogenic Reef Mitigation Plan</b></p> <p>The Applicant submitted Revision C of its Biogenic Reef Mitigation Plan [REP4-025] at D4 which sought to address comments from IPs.</p> <ul style="list-style-type: none"> <li>• Could Natural England, the Marine Management Organisation and any other IPs with an interest in this topic please provide their comments on the revised document? Are there any further specific amendments sought, and if so, to what end? The ExA would encourage parties to address this question through the updated SoCGs invited at D5 if possible.</li> </ul>	<p>Natural England have provided comment on the BRMP within our Deadline 5 response (section 3.1).</p> <p>In short, Natural England require further reassurances that post-construction geophysical surveys will be ground truthed to fully determine the success of any required micro-siting around areas of core reef. The applicant has made clear references with regards to pre-construction data and this should be mirrored at the post-construction stage.</p>	<p><b>Applicant Response</b></p> <p>The Applicant considers that all relevant IP responses have been adequately addressed. The Applicant considers there to be two points of clarification that have been requested. The first of relevance to the MMO is the request to state that the survey design (post-construction) should be as agreed with the MMO. It is the Applicant's position that as all pre-and post-construction surveys are required by the conditions in the dML to be agreed with the MMO it is not necessary to state this to be the case in the BRMP.</p> <p>The other remaining reference is to Natural England who request explicit reference be made in the BRMP to ground truthing using grabs and dropdown video. It is the Applicant's position that it is not necessary to make further reference to this as the BRMP makes explicit reference to all surveys being undertaken in line with industry best practice and in consultation with Natural England and MMO. It is the Applicant's experience that preferences for biogenic reef surveying methodologies, and the guidance</p>	<p><b>Comments on Applicant's Responses</b></p> <p>With regard to the Applicant's response following our queries at Deadline 5 on the BRMP, we point again to our Deadline 5A response and row 6. Here it states "From Natural England's perspective the commitment for post-construction surveys is already made within the BRMP and schedule of monitoring. Therefore, like for pre-construction surveys associated with the BRMP, the post-construction surveys should also be added to the DCO."</p>

				<p>provided by advisers to the MMO, fluctuate over time with for example the request for grab sampling sometimes being considered appropriate and other times not being considered appropriate. It is not therefore considered appropriate to commit to specific methodologies at this stage, instead a commitment has been made to undertake geophysical survey and ground truth this using the preferred approach at that time, in consultation with the relevant authorities. In turn this commitment is then carried through to the dML in conditions which require all pre- and post-construction surveys to be agreed with the MMO. Given there is therefore a commitment to consult with Natural England and MMO, and for the surveys to then be subsequently agreed with MMO (in consultation with Natural England) it is not considered necessary to further update the BRMP.</p>	
2.1.9	The Applicant, Natural England and all IPs	<p><b>Southern North Sea Special Area of Conservation (SAC)</b></p> <p>The ExA notes that the Southern North Sea SAC was formally designated in February 2019. Since prior to</p>	Natural England does not consider there to be any material effects for this Examination of the Southern North Sea SAC being formally designated in February 2019.	<p><b>Applicant's Response</b></p> <p>The SNS SAC was formally designated in February 2019, with the Conservation Objectives and Advice on Operations re-issued in March 2019. Key points for the purposes of the Thanet Extension RIAA are summarised as follows:</p>	No further comments from Natural England regarding all other interested parties responses.

		<p>that date, the site was afforded protection under the Habitats Regulations as a cSAC/SCI, there do not appear to be any material effects for this examination as a result of the site's designation.</p> <ul style="list-style-type: none"> <li>For the avoidance of doubt, do any of the parties consider there to be any implications of the formal designation of the SAC for the examination of this application? If so, please explain.</li> </ul>		<ul style="list-style-type: none"> <li>The extent of the SNS SAC boundary (including seasonal extents) – no change between the SNS cSAC/SCI as assessed and the SNS SAC as designated;</li> <li>The first conservation objective - Harbour porpoise is a viable component of the site. Slight change to the objective, now focused solely on mortality and injury with disturbance considered solely under the second conservation objective. Fully assessed in the RIAA (noted under paragraph 9.6.12 of the RIAA) – no change to the assessment method applied and therefore no change to the conclusions drawn;</li> <li>The second conservation objective - There is no significant disturbance of the species. Confirms the approach taken in the RIAA, namely the threshold approach of 20% in a day/10% across a season (noted under paragraph 9.6.14 of the RIAA) – no change to the assessment method applied and therefore no change to the conclusions drawn;</li> <li>The third conservation objective - The condition of supporting habitats and processes, and the availability of prey is maintained. Focus on prey. Fully assessed in the RIAA (noted under paragraph 9.6.17 of the RIAA) – no change to the assessment</li> </ul>	
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				<p>method applied and therefore no change to the conclusions drawn;</p> <ul style="list-style-type: none"> <li>• Advice on operations (Table 2 of the JNCC's Advice on Operations). No additional activities identified for in-combination assessment, no change in the screening range for noisy activities noted – no change to the assessment method applied and therefore no change to the conclusions drawn.</li> </ul> <p>Therefore the formal designation of the SNS SAC does not affect the existing conclusions of the RIAA (specifically no AEol alone and incombination).</p> <p><b>Dover District Council</b></p> <p>DDC can confirm it does not consider there to be any implications on the Southern North Sea Special Area of Conservation.</p> <p><b>Kent County Council</b></p> <p>The Southern North Sea Special Area of Conservation is not within the County Council's land holdings. The County Council defers to Natural England on this matter.</p>	
<b>2.2</b>	<b>Construction</b>				
	No relevant questions for NE.				

2.3	<b>Compulsory Acquisition, Temporary Possession and other Land or Rights Considerations</b>				
	No Relevant questions for NE.				
2.4	<b>Draft Development Consent Order (DCO)</b>				
2.4.2.	The Applicant, Dover District Council, Thanet District Council, Kent County Council, Natural England, the Environment Agency	<p><b>R15: Approval of the Construction Environmental Management Plan (CEMP)</b></p> <p>R15 of the DCO provides that the connection works CEMP is to be approved by the relevant LPA. Should the approval process require consultation before approval with Natural England, the Environment Agency, Kent County Council and/ or any other body with relevant statutory functions for the affected area?</p>	<p>Natural England would expect the LPA to receive the CEMP in the first instance and then consult with ourselves, and any other relevant bodies, to determine if we had any comments to make.</p> <p>Therefore, for completeness it may be worth adding in the following to R15 of the DCO or something similar “...and approved by the relevant local planning authority in consultation with other statutory bodies”</p>	<p><b>Applicant’s Response</b></p> <p>As is entirely the norm in discharging requirements, the relevant planning authority will consult with the relevant statutory bodies as they see fit, as appropriate for the aspect of the CEMP in question. The relevant planning authority would not be comfortable discharging such a requirement without that consultation. It would not be appropriate, necessary or proportionate to list every possible statutory body on the face of the Order.</p> <p><b>Environment Agency Response</b></p> <p>We would expect to receive formal consultation(s) from the LPA on the matters within our remit. Only on our recommendation for approval should the LPA give their approval.</p> <p>The wording in the DCO doesn’t specifically require this, however most planning conditions are worded similarly and LPA do consult relevant organisations for their</p>	<p>Natural England broadly agree with the interested parties responses associated with this question. The applicant is correct that the relevant planning authority will consult with relevant statutory bodies for their expert advice. This is also correctly highlighted by the Environment Agency and Dover District council.</p>

				<p>expert opinion prior to making their formal decision.</p> <p><b>Dover District Council Response</b></p> <p>DDC can confirm the CEMP submitted for approval (R15) would require consultation with both internal and external organisations.</p> <p><b>Kent County Council Response</b></p> <p>The County Council requests that it is included within any consultation process prior to approval, given its statutory functions as Lead Local Flood Authority and Local Highway Authority.</p>	
2.4.3.	The Applicant, Dover District Council, Thanet District Council, Kent County Council, Natural England, the Environment Agency	<p><b>R15: CEMP content provisions</b></p> <p>R15 (2) provides a list of matters that the CEMP must contain. Most of the matters are similar in scope and nature to such matters in equivalent provisions in made Orders. However, are there any matters that do not require to be provided for or should additionally be provided for?</p>	As the Examining Authority states, some of the matters are similar in scope and covered within the other plans and therefore currently Natural England has no further comment to make.	<p><b>Applicant's Response</b></p> <p>The Applicant has reviewed the CEMP and CoCP provisions within recent made and draft Orders. Where matters are included within these provisions in other Orders that are not included within our CEMP requirement, this is because the Applicant has included them within a separate plan. For example, Norfolk Vanguard and East Anglia Three both include "noise and vibration" within their respective CoCP requirements. For Thanet Extension, this is dealt with through a separate plan secured by requirement 20 (Construction noise and vibration management plan). Additionally, the Applicant has amended requirement 15 in the revised draft DCO</p>	Natural England has no further comment to make regarding this question and other interested parties responses.

				<p>submitted at deadline 5 to make it clearer that a watercourse crossing method statement will be included within the CEMP for those watercourses not requiring further consent or environmental permits. The Applicant will consider any further suggestions from interested parties in due course.</p> <p><b>Environment Agency Response</b></p> <p>The CEMP scope covers those matters of interest to us. There are no additional matters we consider should be included or any that should be removed.</p> <p><b>Dover District Council Response</b></p> <p>The list of matters is acceptable to DDC and DDC do not consider additional matters need to be included.</p> <p><b>Kent County Council Response</b></p> <p>Requirement 15 includes provision for flood risk management. The County Council therefore considers that it would be more appropriate for the requirement to reference “flood risk and surface water management” so that it includes drainage for general operations/arrangements.</p>	
2.4.4.	The Applicant, Dover District Council, Thanet District Council,	<b>R15 and R16: Approval and content of the Code</b>	a) Natural England believe for the avoidance of doubt and to provide the relevant linkages between the	<p><b>Applicant’s Response</b></p> <p>a) The Applicant would like to highlight that the CoCP was</p>	Following the applicant’s and other interested parties responses Natural England have no

	<p>Kent County Council, Natural England, the Environment Agency</p>	<p><b>of Construction Practice (CoCP)</b></p> <p>By virtue of paragraph (1) of R15, the CEMP that is submitted for approval must accord with the CoCP. It is clear therefore that there must be a CoCP before there can be a CEMP submitted for approval for a given stage of connection works construction. However...</p> <p>a) It is not specified in R16 that the CEMP must accord with the 'approved' or the 'certified' CoCP. For the avoidance of doubt, should that be provided?</p> <p>b) Further, is there an argument that the drafting approach taken in R16 for the approval of the CoCP would be better and clearer if it was broadly similar to that in R15 for the approval of the CEMP?</p> <p>c) Would it assist for R16 to provide that '[N]o stage of the</p>	<p>conditions this should be provided.</p> <p>b) We believe it would be clearer if the drafting approach outlined for R15 was followed for R16.</p> <p>c) We agree it would assist the sign off process if this additional text was added in.</p> <p>d) As above at question 2.4.2 an additional "<i>...in consultation with other statutory bodies,</i>" may be useful to provide.</p> <p>e) It would be useful to list the matters that the COCP must contain.</p>	<p>submitted as a complete draft for approval as part of the application in June 2018 ([APP133]). Therefore, it would not be correct to refer to two different versions – 'draft' and 'approved' (or certified) - of the CoCP. The document is however certified and the Applicant is content that the Requirement can refer to the certified CoCP.</p> <p>b) As per the Applicant's response to (a), above, the CoCP has been drafted in full and submitted into the Examination process and as such there is complete certainty about what this document will contain. It is therefore not necessary to require specific matters to be addressed within the CoCP on the face of the DCO. Indeed, as the CoCP is a certified document, it does not need this Requirement to exist at all and its purpose was merely to assist and provide certainty to those, such as contractors, reviewing the DCO at a later date. The Applicant submits, given the Examining Authority's comments, it would be better to delete this requirement and instead simply make clear in Article 35 that all certified documents must be implemented as in their final and certified form.</p> <p>c) d) As per a), above, this document has been available in</p>	<p>further comments to make.</p>
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		<p>connection works may commence until...’ the relevant CoCP has been submitted to and approved by the relevant local planning authority?</p> <p>d) If so, should any additional bodies be consulted?</p> <p>e) Should there be any specification of the matters that the CoCP must contain?</p>		<p>full since the submission of the Application. Accordingly, throughout the consultation and Examination period, if any interested parties have comments on this document they need to be made as soon as possible through the Examination process. The CoCP will not be submitted for any approval again following the close of Examination and the Secretary of State's decision on the Application.</p> <p><b>Environment Agency Response</b></p> <p>Our main document of interest is the CEMP (R15). We have no strong opinion on R16 CoCP.</p> <p><b>Dover District Council Response</b></p> <p>A Code of Construction Practice (CoCP) was submitted with the DCO application (Ref: 8.1). R16 should ideally refer to this approved document. If there is an approved CoCP (that all parties agree to) there does not appear to be a need for further details to be submitted at each stage of the connection works or a re-drafting of the condition to this effect.</p>	
2.5	<b>Debris, Waste and Contamination</b>				
	No relevant questions for NE.				

<b>2.6</b>	<b>Electric and Magnetic Fields</b>
	The ExA has no questions to raise in relation to this issue at this time.
<b>2.7</b>	<b>Electricity Connections and Other Utility Infrastructure</b>
	No relevant questions for NE.
<b>2.8</b>	<b>Environmental Statement General</b>
	The ExA has no questions to raise in relation to this issue at this time.
<b>2.9</b>	<b>Fishing and Fisheries</b>
	No relevant questions for NE.
<b>2.10</b>	<b>Historic Environment</b>
	No relevant questions for NE.
<b>2.11</b>	<b>Marine and Coastal Physical Processes</b>
	The ExA has no questions to raise in relation to this issue at this time.
<b>2.12</b>	<b>Navigation: Maritime and Air</b>
	No relevant questions for NE.
<b>2.13</b>	<b>Noise and other Public Health Effects</b>

2.13.1	All IPs	<p>Onshore Noise and Vibration Effects Table 10 of [REP3-045] indicates that there is agreement between the Applicant and Thanet District Council that the onshore noise and vibration effects of the proposal have been adequately assessed and mitigated. The SoCG with Dover DC does not cover noise effects but there appear to be no sustained concerns from Dover DC in this respect. The latest submitted SoCG with Kent County Council [REP1-032] had unpopulated columns in relation to noise and vibration effects, leaving the position unclear.</p> <p>f) Having regard to the provisions of section 5.11 of National Policy Statement EN-1, do any IPs consider there to be any outstanding concerns in respect of</p>	<p>From Natural England's perspective, and in terms of designated sites Natural England does not have any outstanding concerns in relation to noise and vibration effects. We believe the seasonal restriction committed to by the developer during the overwintering bird period would mitigate many of the effects posed by construction activities, particularly in the intertidal area.</p>	<p><b>Applicant's Response</b></p> <p>The Applicant notes that this question is for IPs and will provide updated SoCGs where considered relevant to those IPs.</p> <p><b>Dover District Council Response</b></p> <p>DDC can confirm there are no outstanding concerns in respect of onshore noise and vibration effects arising from the construction or operational phases of the proposed development.</p> <p><b>Kent County Council Response</b></p> <p>KCC is satisfied to defer to Thanet District Council on this matter and does not raise any outstanding concerns.</p>	<p>Following the applicant's and other interested parties responses Natural England have no further comments to make.</p>
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		onshore noise and vibration effects arising from the construction or operational phases of the proposed development? If so, please provide specific details of the concern.			
<b>2.14</b>	<b>Other Strategic Projects and Proposals</b>				
	No relevant questions for NE.				
<b>2.15</b>	<b>Socio-Economic Effects</b>				
	The ExA has no questions to raise in relation to this issue at this time.				
<b>2.16</b>	<b>Townscape, Landscape, Seascape and Visual</b>				
	The ExA has no questions to raise in relation to this issue at this time.				
<b>2.17</b>	<b>Transportation and Traffic</b>				
	The ExA has no questions to raise in relation to this issue at this time.				
<b>2.18</b>	<b>Water Environment</b>				
2.18.1	All IPs	<b>Water Framework Directive Compliance</b>	Natural England has no further concerns regarding the	<b>Applicant's Response</b>	Natural England has no further concerns

		<p>A final signed version of the Applicant's Statement of Common Ground with the Environment Agency [REP3-036] was submitted at Deadline 3. Table 4 of that document indicates that there is agreement on all matters relating to the Water Framework Directive assessment.</p> <ul style="list-style-type: none"> <li>Do any IPs have any remaining concerns that the Applicant has not fulfilled its duties under the Water Framework Directive or the Water Environment Regulations 2017? If so, please provide specific details.</li> </ul>	<p>applicant's duties under the water framework directive.</p>	<p>The Applicant welcomed the final signed SoCG from the Environment Agency. The Applicant is not aware of any remaining concerns from IPs regarding fulfilling their duties under the Water Framework Directive or the Water Environment Regulations 2017.</p> <p><b>Dover District Council Response</b></p> <p>DDC have no remaining concerns on this matter.</p> <p><b>Kent County Council Response</b></p> <p>The County Council will defer to the Environment Agency on this matter.</p>	<p>regarding the applicant's duties under the water framework directive and aware of the signed SoCG between the Environment Agency and the Applicant.</p>
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