THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES 2010

Boston Alternative Energy Facility

Appendix C3 to Natural England's Deadline 2 Submission

Natural England's Comments on the Applicant's Deadline 1 Submissions in Relation to Marine Mammals [REP1-025, REP1-027]

For:

The construction and operation of Boston Alternative Energy Facility (AEF) that would generate approximately 102 MW of renewable energy and is located immediately south of Boston town, Lincolnshire.

Planning Inspectorate Reference: EN010095

11th November 2021

Appendix C3 Natural England's Comments on Applicant's Deadline 1 Submissions in Relation to Marine Mammals

Introduction

This document provides Natural England's response in relation to the following documents:

- 9.14 Addendum to Environmental Statement Chapter 17 and Appendix 17.1 - Marine Mammals [REP1-27]
- 9.12 Outline Marine Mammal Mitigation Protocol (MMMP) [REP1-025]

Summary

Natural England's Relevant/Written Representations [RR – 021] raised concerns in relation to the following:

1) Decline in Harbour seal numbers nationally including within The Wash and North Norfolk Coast SAC
2) Use of at sea harbour seal density numbers from Russell et al. 2017
3) The suitability of marine mammal mitigation measures
4) Potential Impacts to seals within the anchorage area

The focus of our review was on whether our concerns had been addressed by the Applicant. Unfortunately, most of our concerns remain outstanding. Our detailed advice is as set out below.

1. Decline in Harbour seal numbers nationally (including within The Wash and North Norfolk Coast SAC)

Natural England welcomes the consideration by the Applicant of the most recent Sea Mammal Research Unit report (SMRU 2020). However, the significance of the impacts has increased due to the decline in numbers of The Wash harbour seal colony. There is currently no evidence to suggest that the decline has plateaued. Therefore, Natural England is in the process of updating our conservation advice package to change the conservation objective for this feature to 'restore'. Therefore, we advise that a more precautionary approach must be taken and impacts which could further hinder the restore objective to the site should be avoided, reduced or mitigated. Please see our advice under point 3 in relation to the effectiveness of the proposed mitigations measures

2. Use of at sea harbour seal density numbers from Russell et al. 2017

Natural England advised in our relevant/written representations that reference to Russell et al. 2017 was now incorrect. However, we note that throughout both the addendum and MMMP

the density estimate used is from Russell et al. 2017 rather than Carter et al. 2020. Natural England advises that the impact assessment is therefore updated accordingly.

3. Suitability of marine mammal mitigation measures

i) Soft Start (Section 3.1.2 and 3.2.5)

Natural England advises that the JNCC 2010 guidance was developed to mitigate the impacts from undertaking large scale piling operations associated with monopile foundations at offshore windfarm arrays. The diameter of the foundations to be piled at an offshore windfarm array is >5m which is significantly larger than the pin piles proposed for this project. Therefore, a) the pile is likely to be installed before the completion of 20mins of soft start set out in the guidance, and b) the maximum hammer energy is likely to be reach almost immediately for the pin piles with no ability to ramp up. Therefore, we do not consider this to be appropriate mitigation for this project

ii) Marine Mammal Observers (MMOs) at the wharf location (Section 3.2.4)

Natural England advises that whilst the JNCC 2010 guidance hasn't been updated the advice on using MMOs as mitigation has. The Statutory Nature Conservations Advisers are in agreement that project specific underwater noise modelling should be undertaken to determine the Permanent Threshold Shift (PTS) Zone for this project rather than adopting the 500m observational zone. We note that the Applicant highlights that, due to a bend in the river, observations to the North will only be at a distance of 110m and state because it is greater than the Permanent Threshold Shift range for seals (90m) this is unlikely to cause concern. Natural England is unable to support this conclusion and advises that further modelling and evidence is presented

iii) Use of Passive Acoustic Modelling (PAMs) (Section 3.2.3)

Natural England is unable to support the use of PAMs on this project as mitigation during times of poor visibility. PAMs are used to detect clicks and vocalisations of cetaceans. Pinnipeds and in particular Harbour Seals don't not vocalise the same as cetaceans and therefore the use of PAMs are not suitable for mitigation measures for this species. Therefore, Natural England advises that in times of poor visibility piling is not undertaken

iv) Use of non-dedicated MMO (section 3.3.8 and 3.3.9)

Whilst, Natural England acknowledges that crew members have the necessary training to be a Marine Mammal Observer (MMO); we are unable to support having a non-dedicated MMO as a mitigation measure for the following reasons:

- They are to undertake this duty when not undertaking other work

- Due to the size of the vessel, they will not be able to have 360-degree views looking away from the vessel and vertical views downwards checking adjacent to the vessel
- The cargo is likely to be in the way to scan across the vessel

Therefore, checks prior to restarting the vessel engines anchorage areas is unlikely to be accurate and the same will be true whilst in transit, especially if only one MMO.

This also, puts into question the ability to detect seals in front of the vessels to slightly alter course as suggested in the documents. It should also be noted that there would be insufficient space in the Haven to do anything other than keep on a direct route along the deepest part of the river.

v) Vessel speeds (section 3.3.8)

Natural England advises that further justification is presented to ensure that no further mitigation can be provided in the form of reducing vessel speeds. Presently there is no evidence to demonstrate committing to vessel speeds of 6 knots is in fact mitigation, or merely the agreed vessel speed limit within The Haven.

4. Potential Impacts to seals within the anchorage area

Natural England agrees that there is unlikely to be a significant effect if Dynamic Positioning is not used in favour of anchorage. Therefore, we advise that there is a condition that only permits the use of anchors within the Boston Anchorage Area whilst waiting for optimum tidal windows to enter The Haven. Any use of DP will require ducted propellers.

Whilst the Applicant has quoted Onoufrious et al. 2016 (section 4.5.20) to demonstrate that seals are not attracted to vessels in open seas, Natural England staff have observed seals and seal pups approaching several vessels associated with the Lincs OWF cable installation within The Wash. In addition, fishing vessels often have regular interactions with seals. Therefore, it would be helpful if further evidence from The Wash colony could be presented to demonstrate if seals do avoid interactions with vessels within this designated site, thus reducing collision risk.

5. Further Advice

i) Natural England advises that further consideration of none impact piling as considered as mitigation such as vibro piling

ii) Natural England queries how many days of piling will occur as part of the proposals and what is considered a ‘day’ e.g. just during daylight hours or 24hr

iii) Natural England queries if piling can be restricted to low tide only negating the need for MMOs

iv) Natural England queries how the ‘Lincs Coast population’ of Harbour Seals has been determined/defined