



THE PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES
2010

Boston Alternative Energy Facility

Appendix F2 to Natural England's Deadline 2 Submission

**Natural England's Comments on the Draft DCO [REP1-002] and Schedule of Changes
to Draft DCO [REP1-033]**

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 F2 Natural England's Comments on the Draft DCO [REP1-002] and Schedule of Changes to Draft DCO [REP1-033]

Introduction

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

- 2.1 Draft Development Consent Order Version 2.1 (Tracked) [REP1-002]
- 9.20 Schedule of changes to the Draft Development Consent Order [REP1-033]

Summary

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.

REP1-033 No.	DCO Article/ paragraph	Comment	Recommendation	RAG status
1	Article 2	This article has been updated to include reference to archaeological investigations. NE also note that ecological mitigation and environmental surveys and monitoring are excluded from the definition of commence. This addresses a point we have raised previously, and the issue is resolved.	Natural England notes and accepts the changes proposed to this article.	
6	Article 2	NE note the inclusion of new definition for Outline Marine Mammal Mitigation Protocol. The definition is appropriate.	Natural England notes and accepts the definition of Outline Marine Mammal Mitigation Protocol (OMMMP). However, notes that our comments on the draft OMMMP need to be addressed see Appendix C3 at Deadline 2.	

REP1-033 No.	DCO Article/ paragraph	Comment	Recommendation	RAG status
9	Article 2	The Applicant has added the definition of statutory nature conservation body in response to our comments. We are content with the wording use.	Natural England notes and accepts the definition of Statutory Nature Conservation Body within the DCO. This addresses the issue we raised in RR-021.	
11	Article 7	The Applicant has amended the Limits of deviation Article to include a requirement for the Applicant to consult the statutory nature conservation body and the Environment Agency on any deviation beyond the maximum limits. However, the limits under the article are the extent that the undertaker considers necessary or convenient. The wording is unclear.	Natural England notes that changes that have been proposed. We welcome the inclusion that the relevant statutory nature conservation body will be consulted by the Applicant on any deviation beyond the maximum limitation. However, with the exception of works detailed under Article 7 (1) (c), the article provides no maximum extent for the limit of deviation. Could clarification be provided on what these maximum extents are? Are they located on the works plans referenced within the condition?	
20	Article 50	The Applicant has updated this article to reflect the wording used in OWF DCOs excluding the SoS and MMO from arbitration. This is the change NE requested.	Natural England notes the changes and considers that the Applicant has addressed the concerns we raised regarding this article in RR-021. We have no further comments on this article.	
26	Schedule 2 Requirement 5 (1)	Natural England have been included as consultees on the Landscape and Ecological Management Plan as requested.	Natural England notes and accepts the change proposed here.	
32	Schedule 2 Requirement 10 (1)	Natural England have been included as consultees as requested.	Natural England notes and accepts the changes proposed here.	
N/A	Schedule 2 Requirement 12	Natural England notes this condition has a requirement to provide proposals for temporary diversions for public rights of way.	We also note that within this requirement is a requirement to provide proposals for temporary diversions for Public Rights of Way. Given our concerns	

REP1-033 No.	DCO Article/ paragraph	Comment	Recommendation	RAG status
		We advise this condition is amended so it is clear NE will be consulted on plans (as well as the relevant planning authority). This will ensure we can feed in at the appropriate stage.	we request that we be included within this requirement for consultation on Requirement 12 (d) only. Please note that inclusion of consultation does not resolve issues raised regarding the sufficiency of assessment on the impacts detailed in RR—021.	
49	Schedule 9 Part 1 Para 1	Natural England notes that the Applicant has included a definition for maintenance dredging. Whilst Natural England has no issues with the proposed wording, we defer to the regulator i.e., the MMO on its acceptability.	NE defers to the regulator.	
59	Schedule 9 Part 4 Para 12	This condition relates to the approval of the dredge methodology. The wording has been updated following comments by the MMO. NE welcome the changes. However, we note that Natural England is not named as a consultee on this condition. Natural England is named on other conditions as consultees therefore not being included here may result in us not being consulted on this plan.	Natural England notes the changes here. However, we request the statutory nature conservation body be named as consultees on this plan to ensure the works are within the assessment methodology and that the environmental mitigation proposed within any plan is fit for purpose.	
60	Schedule 9 Part 4 Para 13	This condition requires provision of a piling method statement. Natural England is concerned that the Applicant has removed the requirement for marine mammal observers from this condition. This might be due to the inclusion of a Marine Mammal Mitigation protocol.	Please can the Applicant provide justification as to why the requirement for marine mammal observers has been removed?	

REP1-033 No.	DCO Article/ paragraph	Comment	Recommendation	RAG status
63	Schedule 9 Part 4 Para 16	This is a new condition for a Marine Pollution Contingency Plan. However, only the Environment Agency is named as consultee. Natural England should also be consulted on this plan.	Natural England notes and welcomes the addition of this condition. However, we consider that the statutory nature conservation body should also be consulted on the Marine Pollution Contingency Plan and would note that we are consulted on these documents regularly as part of our statutory function. We request, therefore, to be named as consultee within this condition.	
NA	Schedule 9 Part 4	Natural England advise there is a condition within the DML to secure that vessels will use anchors rather than dynamic positioning whilst awaiting an appropriate tide window to enter the Haven. This reflects the comments in Deadline 2 Appendix C3.	As noted in our response at Appendix C3 at Deadline 2, Natural England has some concerns with regard to the potential impact from the use of dynamic positioning (DP) systems within the anchorage areas. We consider that a condition may be needed to ensure that the use of DP systems within the anchorage area is kept to a minimum and would welcome discussion with the Applicant, MMO and the navigational bodies on this issue.	