

13 Dec 2021

The Planning Inspectorate

By email only

Boston Alternative Energy Facility – PINS reference: EN010095

Dear Mr Wiltshire

Lincolnshire Wildlife Trust's submission for deadline 4 of the above planning application. Comments provided relate to documents:

- **9.30 Without Prejudice Habitats Regulation Assessment. Derogation Case: Compensation Measures.**
- **9.12 Outline Marine Mammal Mitigation Protocol (MMMP).**
- **9.14 Addendum to Environmental Statement Chapter 17 and Appendix 17.1 - Marine Mammals**

The Trust does not feel it can agree with the conclusion in paragraph 1.1.2 of document 9.30 - Without Prejudice Habitats Derogation case. We are still of the opinion that insufficient data is presented to demonstrate, beyond reasonable scientific doubt, that there is no Adverse Effect on Integrity (AEOI) of interest features of The Wash and North Norfolk Coast SAC, specifically harbour seal.

We note and support the representations of Natural England and the RSPB that insufficient information is presented to demonstrate beyond reasonable scientific doubt that there will be no AEOI on the interest features of The Wash SPA and Ramsar site.

In our written representations (REP-1 055) dated 19 October 2021 Lincolnshire Wildlife Trust (The Trust) raised concern regarding impact to harbour seal resulting from piling, ship movements and anchorage associated with the BAEF application. The Trust is still concerned that these matters have not been addressed to date within the updated documents submitted at Deadline 2.

Decline in harbour seal populations in The Wash & North Norfolk Coast SAC

In 'Appendix C3 to Natural England's Deadline 2 Submission' (dated 11 November 2021) it was indicated that, in light of the recent decline in the harbour seal population nationally, and within The Wash & North Norfolk Coast population, Natural England, are in the process of updating their conservation advice package. This is likely to change the conservation objective for harbour seal to 'restore'. Therefore, a more precautionary approach must be taken to avoid or mitigate impacts which could further hinder the 'restore' objective.

Piling

We believe that specific piling methodology and further underwater noise modelling for the proposed BAEF development, and assessed for the potential effect it may have on harbour seal, is still required for reasons outlined below.

Banovallum House
Manor House Street
Horncastle
Lincolnshire
LN9 5HF

Tel: 01507 526667
Fax: 01507 525732

info@lincstrust.co.uk
www.lincstrust.org.uk



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Trust is a company
limited by guarantee
registered in
England, no. 461863
and is registered as a
charity, no. 218895
VAT no. 613 9067 44

We also question if it would be possible to limit piling activity to low tide periods only, to further reduce potential harm.

Soft Start Up Procedures

In their deadline 2 submission relating to Marine Mammals [REP1-025, REP1-027], Natural England, at item three, questions whether soft start up procedures will be appropriate for the specific type of piling being used at the proposed wharf site. The applicant should provide information to support their use of this mitigation procedures relating to this specific site.

Marine Mammal Observers (MMOs) Wharf Site

Natural England also states that updated guidance referring to the use of MMOs is available. Again, underwater noise modelling specific to the BAEF application should be undertaken to determine the Permanent Threshold Shift (PTS) Zone, rather than solely adopting the 500m MMO observational zone. The applicant has noted that the 500m observational zone cannot be fully applied at the development site due to the geography of the Haven near the proposed wharf. The reasons for the PTS range for harbour seal being set at 90m should be qualified by the applicant.

Passive Acoustic Monitoring (PAM):

PAM is generally used to detect cetaceans in low visibility conditions rather than pinnipeds like harbour seal. Therefore, this method of mitigation is not appropriate for this species. The Trust suggests that during low visibility piling operations are halted.

Ship Movements:

Marine Mammal Observer on Board Ship:

We seek clarification that an MMO would have full view of the whole area around a laden vessel and whether the vessel would be able to change course to avoid a marine mammal should any be observed.

If using a marine mammal observer is considered appropriate for this operation, this should be a dedicated crew role for any vessel destined for, or leaving, the proposed application site, rather than a non-dedicated crew member who would only perform this task when not undertaking other duties.

Anchorage

During Issue Specific Hearing 2 on Environmental Matters (24 November 2021) the Applicant stated that the Port of Boston Authority considered that no vessel with dynamic positioning systems will be used in transport of materials to, or from, the proposed facility. LWT suggest that a condition is included in the DCO stating that only anchors are permitted to maintain position whilst awaiting entry to the Haven at the Boston Anchorage Area. Any ships fitted with dynamic positioning systems must also be fitted with ducted propellers.

Priority Habitat

Under current proposals, there will be a permanent loss of 1 ha of saltmarsh and 1.4 ha mudflat, both are habitats of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006.

Options for compensation for this loss have yet to be presented by the applicant. No land has yet been assessed and secured. Functioning habitat must be established before construction begins. We would welcome an update from the applicant on this matter.

Biodiversity Net Gain

The Trust supports the applicants aim to deliver Biodiversity Net Gain on site. We would welcome a progress report on this and when assessment and calculations will be available to demonstrate delivery of BNG on and/or off site.

Impacts to The Wash SPA designated features

Lincolnshire Wildlife Trust believe that an Adverse Effect on Integrity cannot be ruled out beyond reasonable scientific doubt for designated SPA features at the proposed development site (redshank) and at the mouth of the Haven (SPA assemblages).

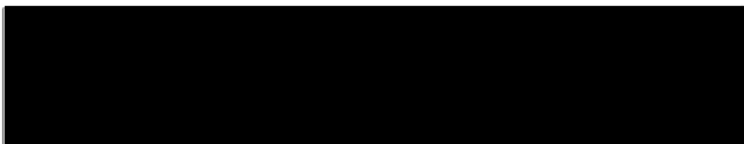
We defer to advice from Natural England and the RSPB on this matter. We have noted the following:

To rule out Adverse Effect on Integrity The Trust believe that further data and assessment is required for SPA features. Options for areas of land that can be utilised as compensation for functionally linked land need to be assessed, secured and appropriate habitat created and functioning before construction on the proposed site begins.

In Issue Specific Hearing 2; 24 November 2021, Dr Digger Brown suggested that there was a substantial, unrecorded impact from existing large vessel movements on roosting birds at the mouth of the Haven. We would support taking a precautionary approach on assessment whilst this effect is assessed. Further impacts from vessels associated with the proposed development should be considered carefully in light of this new evidence. Additionally, Dr Brown suggests that there should be a minimum distance from vessel disturbance of at least 350m for any compensation site delivered.

Please do not hesitate to contact me if you have any queries or need clarification regarding the comments provided.

Yours sincerely



Conservation Officer

*Banovallum House
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