

Date: 01 March 2022
Our ref: Case: 14030 Consultation: 384700
Your ref: EN010095



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BY EMAIL ONLY

Dear Max Wiltshire,

Boston Alternative Energy Facility (BAEF)

The following constitutes Natural England's formal statutory response for Examination Deadline 7.

1. Natural England Deadline 7 Submissions

Natural England has reviewed the relevant documents submitted by the Applicant at Deadline 6. We would like to highlight to the Examining Authority that only new documents (version 1) or revised versions of outline documents/plans where amendments have been formally made will be responded to by Natural England at each relevant Deadline. Natural England is submitting the following documents within the following thematic appendices:

- Appendix B4 - Natural England's Comments on HRA Assessment Update [REP5-006]
- Appendix F4 – Natural England's Comments on Schedule 11 of dDCO [REP6-003]
- Appendix H6 – Natural England's Risk and Issues Log (Ornithology section)

2. Risk and Issues Log – Deadline 7

Natural England have submitted the Ornithology section of the Risk and Issues Log at Deadline 7. Please see NE Appendix H6.

3. Answers to ExQ3

ExQ2	Question to:	Question:	NE Response
Q3.1.0.1	The Applicant, NE and EA	<p>Have the final numbers and locations of deposition monitoring locations been agreed with Natural England and the Environment Agency? If not, when is it expected that they will be agreed?</p> <p>If monitoring at these locations identifies significant effects, what measures will the Applicant use to reduce adverse effects and how would these measures be secured?</p> <p>Do NE/EA have any outstanding concerns regarding the Air Quality Deposition Monitoring Plan?</p>	Natural England will submit comments on Air Quality documents at Deadline 8. And in doing so respond to this question.
Q3.1.0.16	NE	<p>Do NE agree with the conclusions provided in the Applicant's document at D6 'Comparison of Predicted Critical Load and Level Results Using Maximum Permissible Emissions Limits and Realistic Emission Scenarios' [REP6-035] that although the in-combination NOx and ammonia concentrations remain above 1% of the respective Critical Levels at all sites; due to the total PEC values being well below (i.e., less than 75% of) the Critical Levels, it is considered unlikely that significant effects would occur?</p>	Natural England will submit comments on Air Quality documents at Deadline 8. And in doing so respond to this question.
Q3.2.0.1	Natural England	<p>Do NE have any outstanding concerns in relation to light spillage across the estuary during hours of darkness, and the impacts this may have on European smelt larvae?</p>	Natural England has not raised any concerns in relation to smelt larvae as smelt are not an designated site interest feature or one that interest features are reliant on as a prey resource.

ExQ2	Question to:	Question:	NE Response
Q3.2.2.1	NE, RSPB, LWT	In light of the additional information provided to the Examination to date on features of the designated sites that may be affected by the Proposed Development, please could NE, the RSPB and LWT specify the qualifying features of The Wash SPA, The Wash Ramsar site, The Wash SSSI, and The Wash and North Norfolk Coast SAC on which they consider there would be an adverse effect alone and those on which they consider that there would be an adverse effect in combination . Please identify the location at which those species may be affected, ie the application site, the mouth of The Haven or along The Haven. This could be presented in tabular form for ease.	Natural England intended to provide a table on this with comments on the RIES at Deadline 9, but given the ExA request this will be included in our Deadline 8 response.
Q3.2.1.2	NE and the RSPB	Please could NE and the RSPB respond to the Applicant's view that the application site ('Area A') and adjacent area ('Area B') are not functionally linked to the SPA and Ramsar site, notwithstanding that it has been assumed for the purposes of the derogation case that they are functionally linked.	Natural England considers that Area A and Area B are Functionally Linked Land. Please see Appendix B4 at Deadline 7.
Q3.2.1.3	NE and the RSPB	Please could NE and the RSPB confirm whether they consider that the Ornithology Compensation Measures set out in Schedule 11 of the dDCO adequately secure the proposed compensation measures.	Please see Appendix F4 at Deadline 7.
Q3.2.1.4	NE and the RSPB	In light of the Applicant's references in REP6-025 to the proposed Habitat Mitigation Area (HMA) and statement that options for compensation will be required in the event that it was determined that there would be an AeOI, please could NE and the RSPB confirm whether they consider the HMA would constitute a mitigation or a compensation measure according to the Habitats Regulations, and provide their view of its effectiveness accordingly.	Natural England has reservations in relation to the Habitat Mitigation Area which have been raised in all of Natural England's Ornithological and Coastal Ecology responses to date. But we will summarise at Deadline 8 when the derogations case will be considered in more detail.

ExQ2	Question to:	Question:	NE Response
Q3.2.1.5	NE and LWT	Do NE and LWT consider that the mitigation set out in the updated Outline Marine Mammal Mitigation Protocol [REP6-020] would be sufficient to avoid impacts on harbour seal?	Natural England will provide further detail at Deadline 8.
Q3.3.0.1	NE	Are NE satisfied with the Applicant's position regarding realignment of the England Coast Path as stated in their Comments on Interested Parties Responses to the Examining Authority's Second Written Questions [REP6-030], and if not please detail specific reasons?	Natural England is not satisfied with the Applicant's position regarding realignment of the England Coast Path. In [REP5-015] we have advised that the route replacement proposed for the England Coast Path would reduce coastal access for future users of the path. We therefore maintain our suggested alternative route which directly follows the coast.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely

Lydia Tabrizi
Norfolk and Suffolk Area Team

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