



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

Boston Alternative Energy Facility

Appendix F4 to Natural England's Deadline 7 Submission

**Natural England's Comments on Schedule 11 of Draft Development Consent Order  
[REP6-003]**

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

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1<sup>st</sup> March 2022

## Introduction

This document provides comments on Schedule 11 of the Draft Development Consent Order [REP6-002, REO6-003]. This document informs the answer to examiner question Q3.1.0.1. A full review of the updated draft DCO and Schedule of Changes will be provided by Natural England at Deadline 8.

**Table 1. Natural England Comments on DCO Schedule 11**

No.	Pg.	Section	NE Comments	RAG status
1.	93	Schedule 11 condition 2	<p>Natural England has some concerns regarding this condition. It requires the Applicant to submit the membership of the Ornithology Engagement Group (OEG), terms of references for the group, dispute mechanism and timetables for the group. However, it does not secure the need to consult the members of the group on their membership or the contents of these key documents. It is noted that these conditions are similar to those used on the recent Boreas and Vanguard Offshore Wind Farm DCOs. However, we would note the Boreas DCO also has the following condition;</p> <p><i>“3. Following consultation with the KSG, the KIMP must be submitted to and approved by the Secretary of State, in consultation with the local planning authority or authorities for the land containing the artificial nest sites, and the relevant statutory nature conservation body. The KSG must be consulted further as required during the approval process.”</i></p> <p>The Vanguard DCO has similar requirement. Our preference would be for some changes to the Boreas wording to ensure that the Secretary of State (SoS) gets not just the draft documents but a copy of the OEG members comments on those documents to allow the SoS to make a fully informed decision on the sign off of condition 2.</p>	
2.	93	Schedule 11 Condition 3 and 4	<p>Natural England notes the condition links to the Ornithological compensation plan and advises that we will provide comments on the draft plan at <b>Deadline 8</b>, which may include further comment on this schedule. However, condition 3 (d) and condition 4 are contradictory. Condition 3 (d) requires compensation to be in place prior to impact, and Condition 4 requires the plan to be implemented prior to operation. The wording for 4 is very similar to those used in recent DCO compensation schedules for the ornithological impact of offshore wind farms. This is inappropriate for BAEF, however, as the impact offshore wind farms are compensating for in these schedules occurs during operation. The</p>	

			<p>impact of BAEF occurs both during construction and operation of the works. Furthermore, it should be noted that the requirements on the offshore wind farms require 4 full breeding seasons for the compensatory works to become effective. Given some of the proposed compensatory measures involve creation/enhancement of supporting habitat it is likely to take a similar period to be effective. Natural England will provide further comments on the period required to ensure the compensatory measures are effective in our response to the draft compensation plans.</p> <p>It should be noted that in the Hornsea 3, Boreas and Vanguard determinations the SoS has consistently determined that compensation must be in place prior to impact. Natural England supports securing that compensation will be in place and <b>functioning</b> prior to impact.</p>	
3.	94	Schedule 11 condition 10	<p>Natural England questions the purpose of this condition. If the requirements of the compensation plan are in conflict with requirements elsewhere in the DCO and the requirements of the DCO prevail, there appears to be a risk that the compensatory measures would not be in place or could be in some way diminished. Or is the condition intended to infer that any discrepancy between the compensation plan and the Compensation schedule would be resolved in favour of the wording of the schedule? Also, we note the condition refers to the waterbird compensation plan, which we assume is a drafting error and should be ornithology compensation plan as per condition 1.</p>	
4.	NA	NA	<p>Natural England notes that the drafting has not included the following condition which has been used in recent compensation schedules, the example below is from the Boreas DCO. This wording secures that the monitoring and reporting proposed under condition 3 (g) will be submitted annually. The wording at 3 (g) only requires submitting a plan to do so and does not require the applicant to provide details on the success of measures, or secure that any approved proposals to address the inadequacies of the compensation must be undertake, see quoted text in bold below.</p> <p><i>“7. Results from the monitoring scheme must be submitted at least annually to the Secretary of State and the relevant statutory nature conservation body. <b>This must include details of any finding that the measures have been ineffective in securing an increase in the number of adult kittiwakes available to recruit to the FFC and, in such case, proposals to address this. Any proposals to address effectiveness must thereafter be implemented by the undertaker as approved in writing by the Secretary of State in consultation with the relevant statutory nature conservation body.</b>”</i></p>	

			<p>While we would support the inclusion of a similar provision, we would note that we have concerns that appropriate measures taken to address failing compensation may need time to ensure compensation prior to impact. Consideration should be given into this in any amendments to condition 4 and within any new conditions securing the adaptations. Provision of an Adaptive Management Plan may also be needed to ensure that the compensation remains fit for purpose over the lifetime of the project.</p>	
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Natural England's key to RAG status	Risk
<p><b>Purple</b></p> <p>Note for Examiners and/or competent authority. May relate to DCO/DML.</p>	
<p><b>Red</b></p> <p>Natural England considers that unless these issues are resolved it will have to advise that (in relation to any one of them, and as appropriate) it is not possible to ascertain that the project will not affect the integrity of an SAC/SPA and/or comply fully with the Environmental Impact Assessment requirements and/or avoid significant adverse effect on landscape/seascape, unless the following are satisfactorily provided:</p> <ul style="list-style-type: none"> <li>new baseline data;</li> <li>significant design changes; and/or</li> <li>significant mitigation;</li> </ul> <p>Natural England feels that issues given Red status are so complex, or require the provision of so much outstanding information, that they are unlikely to be resolved during examination, and respectfully suggests that they be addressed beforehand.</p>	
<p><b>Amber</b></p> <p>Natural England considers that if these issues are not addressed or resolved by the end of examination then they would become a Red risk as set out above. Likely to relate to fundamental issues with assessment or methodology which could be rectified; preferably before examination.</p>	
<p><b>Yellow</b></p> <p>These are issues/comments where Natural England doesn't agree with the Applicant's position or approach. We would flag these at the PEI stage with the view that they would be addressed in the Application. But otherwise we are satisfied for <u>this particular project</u> that it will not make a material difference to our advice or the outcome of the decision-making process. However, it should be noted that this may not be the case for other projects. Therefore it should be noted by interested parties that just because these issues/comments are not raised as part of our Relevant Representations in this instance it should not be understood or inferred that in other cases or circumstances Natural England will take this approach. Furthermore, these may become issues should further evidence be presented.</p>	
<p><b>Green</b></p> <p>Natural England supports the Applicant's approach.</p>	