

Date: 15 March 2022
Our ref: Case: 14030 Consultation: 386105
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 8 Submissions

Natural England has reviewed the relevant documents submitted by the Applicant at Deadline 6 and 7. 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 – NE Comments on HRA Assessment Update [REP5-006] (updated)
- Appendix B5 – NE Comments on Without Prejudice Habitats Regulations Assessment Derogation Case – Compensation Measures [REP6-026]
- Appendix B6 – NE Comments on Change in Waterbird Behaviour Report [REP6-034] and Technical Note for Navigation Management and Ornithology [REP6-033]
- Appendix C4 – NE Comments on Outline Marine Mammal Mitigation Protocol [REP7-004]
- Appendix F5 – NE Comments on Development Consent Order and Schedule of

Changes [REP6-003,REP6-031]

- Appendix H7 – NE Risk and Issues Log Deadline 8

2. Appendix B4 - Natural England's Comments on Habitats Regulations Assessment (HRA) Assessment Update [REP5-006] (updated)

Natural England is submitting a new version of Appendix B4 at Deadline 8. A version was submitted at Deadline 7 which was incomplete, please note no new comments have been added to this document but some comments have been removed as they related to a different document.

3. Outline Ornithology Implementation and Monitoring Plan [REP7-013]

Natural England is concerned that this document is too high level and therefore doesn't provide the necessary certainty that any DCO/dML requirements will be delivered and/or if they are to a level that would address our substantial ornithological concerns. Rather than providing a framework of how a plan post-consent will be developed, Natural England advises that any in principle plan at the consenting phase must set out the aims and objectives of the plan (including answering hypothesis and demonstrating predictions) and any commitments/requirements to address residual nature conservation concerns.

4. Natural England's Comments on Summary of Breeding Bird Survey Counts (April to June 2020-2021) [REP7-014] and Breeding Bird Survey Monitoring Report (April – June 2021) [REP7-015]

Natural England welcome these survey reports. NE accepts that there is no evidence that the site provides breeding bird support for the SPA beyond foraging avocet. We note that there are a number of species using the site and that a number are amber and red listed, the highest conservation value is likely to be supported by wetland areas and presence of scrub, this should be retained, enhanced and maintained as part of site management.

5. Air Quality Deposition Monitoring Plan [REP6-027] and Comparison of Predicted Critical Load and Level Results Using Maximum Permissible Emissions Limits and Realistic Emission Scenarios

Due to COVID, resources to provide input on air quality issues are currently not available , we hope that this position will change before the end of examination in order to provide further comment.

6. Outstanding answers to ExQ3

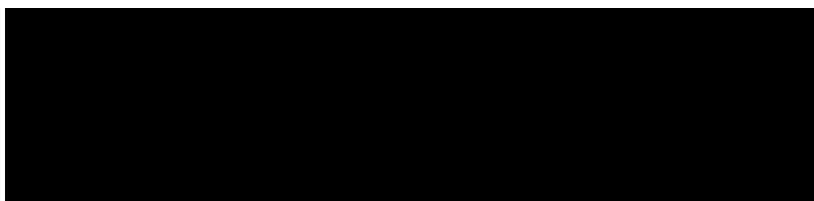
| ExQ2 | Question to: | Question: | NE Response |
|-----------|--------------------------|--|--|
| Q3.1.0.1 | The Applicant, NE and EA | <p>Have the final numbers and locations of deposition monitoring locations been agreed with Natural England and the Environment Agency? If not, when is it expected 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> | Due to COVID, resources to provide input on air quality issues are currently not available , we hope that this position will change before the end of examination in order to provide further comment. |
| 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> | Due to COVID, resources to provide input on air quality issues are currently not available , we hope that this position will change before the end of examination in order to provide further comment. |
| Q3.2.2.1 | NE, RSPB, LWT | <p>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.</p> | Please see Annex 1 of this document. |

| ExQ2 | Question to: | Question: | NE Response |
|----------|-----------------|---|---|
| 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. | Please see Appendix B5 at Deadline 8. |
| 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? | We cannot conclude the proposed mitigation measures are sufficient enough to avoid impacts to harbour seal. Please see Appendix C4 at Deadline 8. |

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



Annex 1.

| | | AEOI alone | AEOI in combination |
|---|--|-------------------|----------------------------|
| The Wash SPA features | Bar-tailed godwit (<i>Limosa lapponica</i>), Non-breeding | MOTH | x |
| | Bewick's swan (<i>Cygnus columbianus bewickii</i>), Non-breeding | MOTH | x |
| | Black-tailed godwit (<i>Limosa limosa islandica</i>), Non-breeding | MOTH | x |
| | Common scoter (<i>Melanitta nigra</i>), Non-breeding | MOTH | x |
| | Common tern (<i>Sterna hirundo</i>), Breeding | x | x |
| | Curlew (<i>Numenius arquata</i>), Non-breeding | MOTH | x |
| | Dark-bellied brent goose (<i>Branta bernicla bernicla</i>), Non-breeding | MOTH | x |
| | Dunlin (<i>Calidris alpina alpina</i>), Non-breeding | MOTH | x |
| | Gadwall (<i>Mareca strepera</i>), Non-breeding | MOTH | x |
| | Goldeneye (<i>Bucephala clangula</i>), Non-breeding | MOTH | x |
| | Grey plover (<i>Pluvialis squatarola</i>), Non-breeding | MOTH | x |
| | Knot (<i>Calidris canutus</i>), Non-breeding | MOTH | x |
| | Little tern (<i>Sternula albifrons</i>), Breeding | x | x |
| | Oystercatcher (<i>Haematopus ostralegus</i>), Non-breeding | MOTH | x |
| | Pink-footed goose (<i>Anser brachyrhynchus</i>), Non-breeding | MOTH | x |
| | Pintail (<i>Anas acuta</i>), Non-breeding | MOTH | x |
| | Redshank (<i>Tringa totanus</i>), Non-breeding | MOTH and site | x |
| | Sanderling (<i>Calidris alba</i>), Non-breeding | MOTH | x |
| | Shelduck (<i>Tadorna tadorna</i>), Non-breeding | MOTH | x |
| | Turnstone (<i>Arenaria interpres</i>), Non-breeding | MOTH | x |
| Waterbird assemblage, Non-breeding | MOTH | x | |
| Wigeon (<i>Mareca penelope</i>), Non-breeding | MOTH | x | |
| The Wash Ramsar Site Features | | AEOI alone | AEOI in combination |
| | Eurasian oystercatcher, <i>Haematopus ostralegus ostralegus</i> , | MOTH | x |
| | Grey plover, <i>Pluvialis squatarola</i> | MOTH | x |
| | Red knot, <i>Calidris canutus islandica</i> | x | x |
| | Sanderling, <i>Calidris alba</i> | MOTH | x |
| | Eurasian curlew, <i>Numenius arquata arquata</i> | MOTH | x |
| | Common redshank, <i>Tringa totanus totanus</i> | MOTH, site | x |
| | Ruddy turnstone, <i>Arenaria interpres interpres</i> | MOTH | x |
| | Pink-footed goose, <i>Anser brachyrhynchus</i> | x | x |
| | Dark-bellied brent goose, <i>Branta bernicla bernicla</i> | x | x |
| | Common shelduck <i>Tadorna tadorna</i> | MOTH | x |
| | Northern pintail, <i>Anas acuta</i> | MOTH | x |
| | Dunlin, <i>Calidris alpina alpina</i> | MOTH | x |
| | Bar-tailed godwit, <i>Limosa lapponica lapponica</i> | MOTH | x |
| | Ringed plover, <i>Charadrius hiaticula</i> | MOTH | x |
| | Black-tailed godwit, <i>Limosa limosa islandica</i> | MOTH | x |
| | European golden plover, <i>Pluvialis apricaria apricaria</i> | MOTH | x |

| | | | |
|---|---|---------------------------------|--|
| | Northern lapwing, <i>Vanellus vanellus</i> | MOTH | x |
| The Wash and North Norfolk Coast SAC Features | | AEOI alone | AEOI in combination |
| | Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) | x | x |
| | Coastal lagoons | x | x |
| | Large shallow inlets and bays | x | x |
| | Mediterranean and thermo-Atlantic halophilous scrubs (<i>Sarcocornetea fruticosi</i>). | x | x |
| | Mudflats and sandflats not covered by seawater at low tide. (Intertidal mudflats and sandflats) | x | x |
| | Reefs | x | x |
| | Salicornia and other annuals colonising mud and sand. (Glasswort and other annuals colonising mud and sand) | x | x |
| | Sandbanks which are slightly covered by sea water all the time. (Subtidal sandbanks) | x | x |
| | Common seal, <i>Phoca vitulina</i> | AEOI | Hornsea Project Three litter removal campaign |
| | Otter, <i>Lutra lutra</i> | x | x |
| The Wash SSSI Features | | Significant impact alone | In combination |
| | Coastal lagoons | x | x |
| | Atlantic salt meadows | x | x |
| | Mediterranean and thermo-Atlantic halophilous shrubs | x | x |
| | Salicornia and other annuals colonising mud and sand | x | x |
| | Mudflats and sandflats not covered by sea water at low tide | x | x |
| | Sandbanks which are slightly covered by sea water at all times | x | x |
| | Biogenic reefs | x | x |
| | Common Seal (<i>Phoca vitulina</i>) | x | Hornsea Project Three marine debris removal licence |
| | Coastal vegetated shingle | x | x |
| | Aggregations of non-breeding birds - internationally important populations of individual species: Pink-footed Goose, Dark-bellied Brent Goose, Shelduck, Pintail, Oystercatcher, Grey Plover, Knot, Dunlin, Bar-tailed Godwit, Curlew, Redshank, Turnstone, Sanderling. | MOTH and site | x |
| | Aggregations of non-breeding Annex 1 birds: Bewick's Swan, Whooper Swan, Bar-tailed Godwit | x | x |
| | Aggregations of non-breeding birds - >20,000 waterfowl | MOTH | x |
| | Aggregations of breeding Annex 1 birds: Common Tern, Little Tern | x | x |
| Aggregation of non-Annex 1 breeding birds: Redshank | MOTH and site | x | |