



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

Boston Alternative Energy Facility

Appendix C4 to Natural England's Deadline 8 Submission

Natural England's Comments on Outline Marine Mammal Mitigation Protocol (MMMP)
[REP7- 004]

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

15th March 2022

Natural England's Comments on Outline Marine Mammal Mitigation Protocol (MMMP) [REP7- 004]

Introduction

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

- 9.12 (2) Outline Marine Mammal Mitigation Protocol (MMMP) [REP7- 004]

Summary

Unfortunately, the majority of our concerns remain outstanding which were raised at RR-01 and REP2-043. Our detailed advice is as set out below.

Natural England also notes that there is likely to be wider implications of the text on uninhibited vessel speeds in section 3.3.5 - 3.3.9 of the MMMP on other nature conservation features. Therefore, we will raise these risks and issues in the relevant thematic responses.

1) Significance of Impacts (Table 2.1)

Natural England notes that the significance of the impacts have been determined using Environmental Impact Assessment (EIA) matrices which are for the wider marine environment rather than Habitat Regulations. We advise that a better more precautionary approach, given the restore conservation objectives and declining numbers of Harbour seals, is to acknowledge that there is a potential impact pathway to Annex II species i.e. Likely Significant Effect and adopt appropriate mitigation measures to remove an adverse effect on integrity.

2) Suitability of marine mammal mitigation measures

i) Soft Start (Section 3.1.)

Natural England reiterates that the JNCC 2010 guidance was developed to mitigate the impacts from undertaking large-scale piling operations associated with monopile foundations at offshore windfarm arrays. The diameter of the foundations to be piled at an offshore windfarm array is >5m which is significantly larger than the pin piles proposed for this project. Therefore, a) the pile is likely to be installed before the completion of 20mins of soft start set out in the guidance, and b) the maximum hammer energy is likely to be reached almost immediately for the pin piles with no ability to ramp up. Therefore, we do not consider this to be appropriate mitigation for this project.

ii) Marine Mammal Observations at the wharf location (Section 3.2.4)

Natural England advises that whilst the JNCC 2010 guidance hasn't been updated, the advice on using MMOs as mitigation has. Natural England welcomes that project specific underwater noise modelling will be undertaken to determine the Permanent Threshold Shift (PTS) Zone for this project rather than adopting the 500m observational zone. However, we note that the Applicant highlights that, due to a bend in the river observations to the North, it will only be at a distance of 150m. Natural England continues to have concerns with this mitigation measure until modelling and evidence is presented.

iii) Use of non-dedicated MMO (section 3.3.20 - 3.3.29)

Whilst, Natural England acknowledges that crew members have the necessary training to be an MMO; we are unable to support having a none dedicated MMO as a mitigation measure for the following reasons:-

- They are to undertake this duty when not undertaking other work
- Due to the size of the vessel they will not be able to have 360 degree views looking away from the vessel and vertical views downwards checking adjacent to the vessel
- The cargo is likely to be in the way to scan across the vessel
- Due to length of time marine mammals spend underwater it is unlikely that a singular non-dedicated individual will be able to detect signs of a marine mammal being present. This is especially true during times of poor visibility and high sea states.

Therefore, checks prior to restarting the vessel engines anchorage areas is unlikely to be accurate and the same will be true whilst in transit, especially if there is only one MMO.

This also, puts into question the ability to detect seals in front of the vessels to slightly alter course as suggested in the documents. It should also be noted that there would be insufficient space in the Haven to do anything other than keep on a direct route along the deepest part of the river.

iv) Vessel speeds (section 3.3.8)

Natural England note that vessel speed restrictions have now been removed from the MMMP, whilst highlighting that vessel speeds will be reduced where possible but still ensuring that operations can continue uninhibited. Therefore, we advise that this can't be relied upon as mitigation measure especially as vessel speed when entering The Haven is largely outside of the projects control.

v) Vessel mitigation (3.3.11)

Natural England advises that, due to the size of the vessel and potential grounding risks on sandbanks where seals haul out, an avoidance of these areas is a standard approach, but doesn't mitigate for those seals in the water.

Given our advice on non-dedicated MMOs above, it is unclear to Natural England how it will be possible to detect a seal 300m away if not in direct horizontal line of site, noting that there is a vertical element the closer to the vessel a seal may be.

It is also not clear what is meant by 'extra care' being taken during the seal sensitive period?

3) Monitoring (3.3.30 - 3.3.37)

Natural England advises that the monitoring methodologies used should enable the interactions to be successfully observed. Therefore, the fixed points/chosen locations will need to be evidenced to demonstrate that there is the most likelihood of monitoring vessel interactions and where that evidence is limited the Applicant should increase the number of observation points. Otherwise, there is a risk of a false negative i.e. animals may be interacting with vessels but they are being missed.

Again, with a camera system how are vessel movements going to be linked to seal observations and will a 360 degree view be possible around the vessel?

4) Further Advice

- i) Natural England continues to advise that further consideration is required of other mitigation measures such as none impact piling i.e. vibro piling to minimise under water noise impacts