



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

Boston Alternative Energy Facility

Appendix F6 to Natural England's Deadline 9 Submission

**Natural England's Comments on draft DCO [REP8-003] and Schedule of Changes to
dDCO [REP8-016]**

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

24th March 2022

Natural England's Comments on draft DCO [REP8-003] and Schedule of Changes to dDCO [REP8-016]

Introduction

In the production of this response Natural England have reviewed the following documents:

- Draft Development Consent Order [REP8-003]
- Schedule of Changes to the draft Development Consent Order [REP8-016]

No.	Pg.	Section	NE Comments	RAG status
1.	Page 3 Point 8	Schedule 2 Requirement 6	<p>Natural England notes the changes here and that a similar condition has been added to the Deemed Marine Licence (see also page 17 Point 39 of the schedule of changes). We assume this is due to the regulatory overlap within the intertidal area, although we understand the need for this, we do wish to highlight that duplication of this condition may lead to duplication of effort from those involved with the sign off. Our advice is that, wherever possible duplication of effort should be avoided and that the post consent sign off processes should be run collaboratively or at least in parallel, to avoid unnecessary repeated effort.</p> <p>Additionally, it should be noted that we have outstanding concerns with the content of the OLEMS as per our advice on REP5-017.</p>	
2.	Page 4 Point 10	Schedule 2 Requirement 22	<p>Natural England notes the additional text at the end of this condition. However, as we are not in agreement with the draft OLEMS, we do not agree that the ongoing maintenance and aftercare should end.</p>	
4.	Page 14-15 Point 34	Schedule 9 Deemed Marine Licence Condition 13	<p>Natural England notes the changes here and welcomes the addition of point (e) which prevents simultaneous piling.</p>	
5.	Page 17 Point39	Schedule 9 Deemed Marine Licence	<p>As noted in our comments above on Schedule 2 requirement 6, this condition is effectively a copy of requirement 6 with changes to note the MMO's role in the plans applies only to areas below Mean High Water Springs (MHWS). Please see our comments on requirement 6 regarding the potential duplication of effort.</p>	
6.	Page 26 Point 52	Schedule 11 Interpretations	<p>Natural England notes the new definition and that the timing of the compensation requirement will be linked to 'hot commissioning'. Please see our comments below on the timing.</p> <p>As we have had no discussion on this definition and have had very limited time to consider the implications we cannot fully endorse or rebut the inclusion. The impact being compensated for is largely the disturbance caused by vessel movements bringing the material for combustion and the therefore seems some logic in the</p>	

			definition. However, at this moment we cannot confirm or deny if the definition above identifies the point at which the impact becomes such that it requires compensation. If possible we will advise further at deadline 10.	
7.	Page 28 Point 58	Schedule 11 Para 2	Natural England notes the changes proposed here and considers that these changes are adequate to address the concerns raised in point 1 of our response to the ExA written questions on draft compensation schedule REP7-028.	
8.	Pages 28-30 Points 59-62	Schedule 11 Paras 3-6	<p>Natural England notes that these changes are in response to our comments on previous conditions 3 and 4 in Appendix F4 of our response to the ExA written questions at Deadline 7. It is noted the new 3 and 4 are largely additional conditions or caused through splitting conditions and we have no comments on these.</p> <p>With regard to condition 5 and 6 our concerns are largely around the timing of the compensation condition which is largely covered in condition 5 (d) and 6.</p> <p>The proposals submitted by the applicant effectively produce two timing requirements, one linked to dredge works which is prior to works and the other linked to operation which is 2 years prior to 'hot operation'. Natural England had originally advised a period of 4 years would be required. However, subsequent to the review of the RIES and the updated compensation proposals we consider that a period of 2 years is sufficient. However, as detailed above in response to para 1 of the compensation schedule, we have concerns on the adequacy of the definition of 'hot operation' to identify the correct point at which to mark the end of the 2 year period.</p> <p>Further, we note the complication that has been added by including a dual timing requirement with the compensation for dredging being required simply prior to the impact. Given the compensation required for both is the same and will no doubt be completed as part of one works package, we consider that, for the avoidance of confusion, it would be best to use 2 years prior to operation or 'hot operation' alone. Given the timing this will also mean the compensation will have been in place a minimum of around 18 months prior to the dredging works and as the</p>	

			dredge works only form a small part of the impact Natural England considers this sufficient security for this aspect of the works.	
9.	Page 30 Point 63	Schedule 11 Para 8	Natural England notes the updates to the proposed condition and that they address the concerns we raised in Point 4 of Appendix F4 our response to the ExA written questions on deadline 7 [REP7-028].	

Natural England's key to RAG status	Risk
<p>Purple</p> <p>Note for Examiners and/or competent authority. May relate to DCO/DML.</p>	
<p>Red</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"> new baseline data; significant design changes; and/or significant mitigation; <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>Amber</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>Yellow</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>Green</p> <p>Natural England supports the Applicant's approach.</p>	