



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

Boston Alternative Energy Facility

Appendix J4 to Natural England's Deadline 9 Submission

**Natural England's Comments on Report on the Implication for European Sites (RIES)
[PD-014]**

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 Report on the Implication for European Sites (RIES)
[PD-014]**

Introduction

Natural England have reviewed the Report on the Implication for European Sites (RIES) [PD-014] for Boston Alternative Energy Facility.

Summary

Natural England remains concerned how the implications for European Sites can be determined when there is many issues outstanding at the end of examination, including insufficient clarity on some elements of the project design and evidence gaps remain. Especially, with necessary data still being gathered.

Table 1. Detailed Comments on Report on the Implications for European Sites

No.	Pg.	Section	NE Comments	RAG status
1.	2	1.1.3 and 1.1.5	Natural England notes that the RIES will not be updated beyond Deadline 6 and are concerned that the consultation on the RIES is considered sufficient in relation to consultation on the full HRA by Secretary of State.	
2.	3	1.2.6	Natural England confirms that the Applicant has identified all of the relevant designated sites and features.	
3.	15	3.0.3, 3.0.4	Natural England queries why the Operation and Maintenance for Lincs and Race Bank Offshore windfarms hasn't been included. In terms of harbour seal, other windfarm licences will need to be taken into account. It is not clear of the impact pathway for Hunstanton beach.	
4.	16	3.0.6	Natural England advises that although the loss of foraging and roost site at the development site occurs during the construction phase it is not temporary and is perpetuated into operation. Therefore, it should also feature at 3.0.8.	
5.	16	3.0.8	See above.	
6.	22	4.2.1	Natural England notes that there is no mention of the physical loss of the development site roost for which mitigation is being proposed at Site B. The habitat at the development is being physically lost (rather than as a consequence of disturbance). However, habitat loss is then identified in 4.2.2. We therefore advise that concerns remain in relation to wash/erosion impacts to supporting habitats.	
7.	22	4.2.5	Natural England advises Enhancement of Site B for habitat mitigation for changes to supporting habitat along the Haven is insufficient on it's own. Please see Deadline 8 and 9 responses on derogations	
8.	23	4.2.6 and 4.2.7	Natural England refers the ExA to our Deadline REP8-025 response in relation to marine mammals. We remain concerned in relation to the lack of secured vessel speed restrictions. With the decline in the Harbour seal population, it is imperative that no further impacts occur which could further reduce the population.	
9.	24	4.2.11	Natural England advises that we are having difficulty in agreeing SoCG as issues are not resolved or at a	

			place where we feel confident that an AEol will be satisfactorily addressed.	
10.	25	4.2.16	Natural England advises that the HMA is compensation. Mitigation is something that reduces/minimises the severity of an action/impact. The mitigation hierarchy is to avoid, reduce, mitigate. What the Applicant is proposing at site B is in NE's view compensation to offset impacts and therefore incorrectly termed 'HMA'.	
11.	29	4.2.38	Natural England remains concerned about the increased boat disturbance.	
12.	30	4.2.42	Natural England advises that the NMP should be considered as part of the consenting phase to provide the Secretary of State with the necessary confidence that AEol will be managed.	
13.	44	4.2.108	Natural England advises this statement applies to Site A (development site) but if dependence on Site B was increased the Status Quo level of disturbance will increase, potentially significantly, especially if there is no proximate alternate roost available.	
14.	45	4.2.110	Natural England advises that unless very carefully managed, shallow lagoons are likely to provide less quality than intertidal mud as foraging habitat, even if of higher value than saltmarsh.	
15.	60/61	4.2.197 Table 1	<p>Natural England does not agree with No AEol for the Waterbird Assemblage as a whole, with regard to the loss of functional roost areas, and not just with reference to the specific component species identified.</p> <p>We are also concerned (especially since receivership of information post D6 and therefore outwith the scope of this document) on impacts on lapwing and golden plover from repeated disturbance impacting energy budgets (identified for Ramsar but also applicable to SPA).</p> <p>We advise that Turnstone should also be listed for the Ramsar and that a single list will suffice for the two sites; or one list should only be SPA and the other only Ramsar.</p>	
16.	64	5.0.19	Natural England highlights that this is an alternative energy project of 80MW. However, there is likely to be alternative energy projects that provide a greater megawatt capacity.	

17.	70	5.0.41	In previous similar applications with (renewable energy developments with significant uncertainty over the outcome of planning) the developers have agreed 'Heads of Terms' with landowners before granting of consent. i.e. agreed that if permission was granted they could undertake required works but if permission was not granted they would be under no obligation. Something similar for this project would significantly increase reassurance.	
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Other relevant matters

Although saltmarsh is not a SAC feature of concern at the site, Natural England do have some comments of concern.

- Natural England advises that the HMA should really be referred to as compensation not mitigation, as it is providing compensation for loss of Functionally Linked Land to The Wash SPA. Natural England have requested more information in the OLEMS regarding the proposed habitat mitigation works (as these in themselves could cause further damage/ loss to NERC Act 2006 priority saltmarsh *i.e.* the pools and scrapes creation), and that the reprofiling/ lowering of the old bank needs further clarification with volumes of sediment and methods required. The reprofiling/ lowering of the bank could also increase visual and noise disturbance to birds.
- Natural England's preference would be some created saltmarsh or saltmarsh enhancement to replace what is being lost. But, the focus seems to all be on the foraging and roosting bird habitat and that does not necessarily need to be saltmarsh.

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>	