



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

Boston Alternative Energy Facility

Secretary of State Additional Information Request

**Natural England's updated advice on Harbour seals**

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

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8<sup>th</sup> December 2022

## Natural England's updated advice on Harbour seals

This response has regard to:

- Applicant's response to the Secretary of State's letter of 14 October 2022

### **Summary**

While Natural England recognises the wider ecological benefits of reducing vessels speeds i.e. reducing vessel wash; this alone is unlikely to provide sufficient mitigation measures for all of the potential impacts to marine mammals to be sufficiently reduced. With concerns also remaining in relation to under water noise. Thereby, Natural England's advice remains unchanged from that provided into examination.

Should the Secretary of State be minded to grant consent for the proposal then there will need to be assurance that appropriate mitigation measures can be put in place that will provide sufficient reassurance that impacts to SAC features can be reduced to avoid an AEol.

**Detailed Comments**

Point	Section	Comment	Suggestions for resolution	RAG
2.3	Response to Question 3.2 - Clarification on the Harbour Seal Assessment and Requirement for an Updated Assessment			
1.	General	Natural England concerns with the ES remain unchanged		
2.4	Response to Question 3.2 - Without-Prejudice Additional Mitigation Measures and / or Enhancements			
2.	2.4.2	Natural England comments during examination predominantly related to the contents of the Outline Marine Mammal <u>Mitigation</u> Plan and the ability of the proposals to provide effective and sufficient mitigation for uncertain impacts where more precaution is required due to limited supporting evidence. For which the onus is on the Applicant to demonstrate and we are now at a place where we agree to disagree with the Applicant. We also highlight that there is still a risk from underwater noise impact from piling that hasn't been fully addressed		
3.	2.4.5	Natural England emphasises the purpose of the OMMMP as set out above		
4.	2.4.6	Natural England understands that the vessel speed reduction to 10 knots for an unknown proportion of the vessels transiting down The Haven, is a suggestion to reduce risks to Harbour seals allowing more leeway with development associated impacts. While this is helpful and would have wider environmental benefits from reduced wash; we advise that there is only limited evidence presented to demonstrate that 10 knots is sufficient to mitigate boat disturbance/collision		

2.5 Response to Question 3.3 - Effectiveness of Marine Mammal Observers				
5.	General	Natural England highlights that there are still outstanding concerns in relation to the effective use of MMO to mitigate underwater noise impacts from piling		
6.	2.5.2	While Natural England welcomes clarification that <u>piloted</u> vessels will maintain a speed below 10 knots; it remains unclear a) how many of the additional vessel movements associated with the development this mitigation will apply to and b) no evidence has been provided to demonstrate that a 10 knots restriction on some of the vessels will sufficiently reduce the disturbance/impact to seals from ecological perspective.	Further detail	
7.	2.5.2	The Applicant has stated that <i>'Additionally, AUBP vessels will also follow the same vessel collision speed restrictions while transiting through The Wash, to the anchorage area.'</i> However, it would be good to quantify what this means. For Example, how many more vessels with the speed restriction apply too?	Further detail	
8.	2.5.3	The Applicant highlights that they are adopting best practice protocols rather than mitigation measures. However, whilst reducing vessel speeds is welcomed due to wider ecological benefits, these are not currently recognised as best practice mitigation measures for Harbour Seal		
9.	2.5.4	Natural England highlights that the OMMMP is yet to be agreed with Natural England		
2.7 Response to Question 3.5 - Without-Prejudice Compensation Measures with Regard to Harbour Seals				
10.	2.7.4	While Natural England agrees that the decline in Harbour seal numbers is not likely to be as a result of vessel movements, the cumulative impacts to that ecological receptor from all the different pressures need to be		

		considered and further negative pressures avoided, reduced, and mitigated.		
11.	2.7.5.	Natural England doesn't agree that a sufficiently precautionary approach has been take and is in doubt over the effectiveness of the proposals to avoid, reduce and mitigate impacts		
12.	2.7.6	As set out during examination it is difficult for a none-dedicated and trained MMO to observe seals which spend a large proportion of their time under water. We would welcome the Applicant's sharing the results of the questionnaires as we believe that it is unlikely the Pilots who have filled in the questionnaires have been acting as dedicated trained MMOs.	Further information	
13.	2.7.7.	As above how would they know there has been no collisions?	Further information	
Appendix A Responses with particular regard to concerns raised by Natural England in [REP10-036] and [REP10-038]				
14.	General	The point raised in the main body of the response are also relevant for sections of Annex A and therefore we have not raised them a second time		
15.	Applicant's second point	Natural England advises that there is an LSE that requires avoidance, reduction, mitigation. We do not believe that the mitigation is fully in place. We advise that with appropriate mitigation AEoI can be avoided. Also see previous points about vessel speeds remain		
16.	Applicants 4 point	Natural England notes that the approach to the EIA assessment is proposed to align with Offshore Windfarm NSIPs. This matrix approach has been used throughout ESs to date to support the assessment of the magnitude and significance of impacts. Natural England notes numerous instances where significance has been presented as a range (i.e., slight, or moderate, or large) and it is nearly		

		always the lower value that has been taken forward. In the absence of evidence to support the use of the lower value in a range, Natural England's view is that the higher value should always be assessed in order to ensure that impacts on features are not incorrectly screened out of further assessment.		
17.	Furthermore at 12 knots mitigation measures as presented by the Applicant couldn't be relied upon to suitably minimise impacts.	Natural England advises that the SCANs surveys are undertaken by dedicated and trained MMO and different vessels to the operational activities associated with BAEP and therefore not comparable.		
18.		The relevance of the area-based approach and links to mitigation measures remains unclear. Natural England advises that mitigation measures and how that may reduce impacts is the requirement and the assessment of significance should take that into account.		