



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

FIVE ESTUARIES OFFSHORE WIND FARM

Natural England's comments on Examining Authority's Written Questions (ExQ1) [PD-001]

For:

The construction and operation of Five Estuaries Offshore Wind Farm located approximately 57 km from the Essex Coast in the Southern North Sea.

Planning Inspectorate Reference EN010115

22 October 2024

	Question to:	Question	Natural England Response
General and Cross-topic questions (GC)			
GC. 1.08		<p>Site Selection and Alternatives (Onshore)</p> <p>Natural England (NE) in paragraph 5.10 of [RR-081] states <i>“where significant development of agricultural land is demonstrated to be necessary, applicants should seek to use areas of poorer quality land”</i>.</p> <p>Provide an explanation as to why the proposed onshore substation (OnSS) and export cable corridor (ECC) cannot be located in an area that is not Grades 1 to 3a best and most versatile (BMV) agricultural land?</p> <p>The ExA considers that it and the Secretary State need to understand the justification for locating the OnSS on Grade 1 BMV and the disturbance to Grade 2 and 3a BMV along the ECC. Paragraph 2.13.19 of NPS EN-5 states <i>“There may be exceptional circumstances where multiple coordinated solutions have been explored and all those solutions would lead to adverse impacts (for example adverse effects on an environmentally protected site and where these could be avoided through radial connections. In these circumstances radial connections may be more appropriate. Evidence of the co-ordinated solutions assessed and likely</i></p>	<p>Natural England notes that our advice is referenced in this question and that the target interested party for the question is unclear. However, from the context we assume this question is not aimed at Natural England and will not provide an answer unless further instructed to do so.</p>

	<p><i>adverse impacts would need to be provided by the applicant to clearly substantiate this. This includes demonstration of consideration of alternative co-ordination solutions which may not be in proximate locations”.</i></p>	
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Marine Ecology (ME)

General Questions			
Assessment Methodologies			
ME. 1.01	Applicant, Natural England, MMO and RSPB	<p>IP Methodological Concerns</p> <p>A number of methodological concerns have been raised by NE [RR-081], the Maritime Management Organisation (MMO) [RR-070] and the RSPB [RR-094]. An update should be provided explaining how the Applicant is addressing the IPs’ methodological concerns.</p> <p>The ExA notes the documents submitted by the Applicant, together with updates to the Environmental Statement, pursuant to addressing the methodological concerns of Interested Parties. This includes a Herring Seasonal Restriction Note [REP1-024], an Apportioning Note [REP1-020], Guillemot and Razorbill Survey Reports [REP1-054], Population Viability Analysis [REP1-022] and Marine Mammal Modelling [REP1-056].</p>	<p>Natural England notes that a significant volume of additional information has been submitted. We are unable to provide an answer with regard to the areas of disagreement until we have appropriately reviewed these documents. Given the substantial nature of the documents, the high workload highlighted in our Written Representations, and the overlap with North Falls Written Reps deadline, Natural England will aim to review and provide an update by Deadline 3.</p>

		Can the Parties identify areas of outstanding disagreement with regard to assessment methodologies, as well as provide an update in relation to how such concerns are being addressed.	
Compensatory Measures			
Benthic and Marine Mammal Ecology			
ME. 1.10	Applicant and Natural England	<p>New Question</p> <p>Benthic Ecology Without Prejudice Compensatory Measures</p> <p>The Applicant [REP1-051] confirmed that discussions were ongoing with Defra regarding the proposed use of strategic compensatory measures (if required) for adverse effects on integrity to the MLS SAC. The likely measure appears to be an extension to a designated site or a new designated site with Annex I sandbank features.</p> <p>NE's advice [PD2-008] is that this measure would have the greatest likelihood of maintaining the coherence of the National Site Network but it identified risks with timing, location and implementation given that the mechanism is not yet agreed and would be led by Defra. The ExA seeks further information as follows:</p>	<p>a.- c. Natural England is aware that Government (DEFRA) will be providing relevant guidance and assurances in relation to the delivery of strategic benthic compensation (including timings etc.) in the very near future, which can be submitted into the Five Estuary Examination.</p> <p>In the meantime, we advise that all queries on strategic compensation are directed to Mike Rowe, Director of Marine and Fisheries, DEFRA, email address [REDACTED]@defra.gov.uk</p> <p>d. Natural England highlights that the progression of strategic compensation has come about due to the extreme difficulties in delivering project specific benthic compensation. In this context and at this stage, we do not believe that there is merit in progressing and/or placing reliance upon</p>

		<ul style="list-style-type: none"> a. The Applicant and NE are requested to provide more information about the likely timeframe for delivery of the identified strategic compensatory measure. b. The Applicant and NE are requested to confirm if there is a contact at Defra through which the ExA might seek direct updates on the progress of strategic compensation during the Examination and, if so, provide contact details. c. NE is requested to clarify its advice in F5 [PD2-008] regarding delivery timescales for the strategic compensatory measure, specifically when in the project lifecycle the measure would need to be implemented to ensure an overall environmental net positive outcome for the feature over the Proposed Development's lifetime. d. The Applicant is requested to explain, with supporting evidence and reference to relevant guidance, what weight it considers that the ExA could give to each of the non-strategic compensatory measures still being progressed (as set out in [APP-047]), based on the information currently submitted to Examination. 	<p>project specific benthic compensation measures.</p>
ME. 1.12	Natural England	<p>New Question</p> <p>Benthic Mitigation</p>	<p>Natural England advises that the most impactful environmental mitigation measure to avoid direct impacts to MLS SAC would be through moving the</p>

		<p>With regard to its advice at E30 in [PD2-007], does NE consider that the Applicant should assess alternative cable routes through the MLS SAC? If so, does NE consider that this could result in a different assessment outcome or change in its advice?</p>	<p>cable corridor outside of the designated site. However, where this is not possible, we advise that every effort should be made to reduce, avoid mitigate impacts as much as possible, which includes limiting the length of cable route through the site, identifying a route which avoids interest features and reducing lasting impacts. Having discussed this with the Applicant during the pre-application phase we believe that the Applicant has taken into account our advice in selecting their cable route through the site. Therefore, we do not believe that there would be merit in the Applicant considering alternatives routes within the designated site as the environmental impacts will either be equal to, or greater than the proposed route.</p>
<p>Designated Sites</p>			
ME. 1.14	Natural England	<p>New Question</p> <p>Designated Sites</p> <p>Table 5.1 within NE’s Cover Letter to its Relevant Representations [PD2-002] identifies designated sites for which NE is not content that adverse effects on site integrity (as a result of the Proposed Development alone or in combination) can be excluded beyond reasonable scientific doubt.</p>	<p>Natural England defers providing our full response until Deadline 3. We draw your attention to our requests for further detailed information and assessments which until we have received and/or reviewed them, we may not be able to agree with the Applicant’s conclusions.</p>

		Are you content with the Applicant's conclusions in its Habitats Regulations Assessment in relation to other designated sites not listed in Table 5.1. If not, explain why that is the case?	
Protected Species			
ME. 1.15	Natural England	<p>New Question</p> <p>Migrating Bats</p> <p>Is NE content with the Applicant's assessment of the Proposed Development's effects on migrating bats within its updated Response to Relevant Representations [REP1-049] (including at BSH-RR01 and BSH-RR02). If not, explain why that is the case?</p>	Natural England notes that the migratory bat issue was raised by the German SNCB, therefore, we advise this is a matter for that SNCB.