



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

FIVE ESTUARIES OFFSHORE WIND FARM

Appendix M4 to the Natural England Deadline 4 Submission

Natural England's comments on the Examining Authority's Written Questions 2 [PD-014]

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

03 December 2024

	Question to:	Question	Natural England Response
Marine Ecology (ME)			
Benthic Ecology			
ME.2.02	Natural England	<p>Technical Note – Methodology for Determining Maximum Design Scenario</p> <p>The Applicant has provided a Technical Note – Methodology for Determining Maximum Design Scenario (Offshore) [REP2-027]. Is Natural England content with what is stated in that technical note? If not, by Examination Deadline 4 identify any outstanding concerns and explain why you have those concerns.</p>	<p>Please be advised that Technical Note – Methodology for Determining Maximum Design Scenario (Offshore) [REP2-027] doesn't allay our concerns. We hope the following explanation as to why is helpful to the ExA and the Applicant.</p> <p>Natural England advises that [REP2-027] Methodology for Determining MDS Technical Note still does not explicitly state whether the MDS area of cable protection within MLS SAC of 5,400m² includes any scour/cable protection which may be required as a result of cable repair and/or replacement during the O&M phase of the project. If the MDS value for scour/cable protection does include O&M requirements, any assumptions used in the determination of this MDS value should be provided.</p> <p>There are also inconsistencies between [REP2-027] Technical note - Methodology for Determining MDS (Offshore) and the [REP2-021] 9.13 Margate and Long Sands Special Area of Conservation Benthic Mitigation Plan - Revision B (Tracked) with regards to the MDS length of cable protection placed within MLS SAC i.e. 900 m per cable vs 900 m in total. We advise that this should be clarified.</p>

			<p>No additional detail has been included that adds certainty that the cables can be buried. Further detail should be provided to give more certainty or clarity on this issue.</p> <p>Natural England notes that, in the MDS Technical Note [REP2-027], Section 2.4.2, the Applicant states that a 50% sediment disturbance has been used for trial trenching (Table 1.6) which seems to contradict [REP1-051] in which the Applicant confirms use of the assumption that up to 100% of material will be fluidised and displaced from the trench. We advise that this needs to be clarified.</p> <p>We also note in the MDS Technical Note [REP2-027] that "only very minor changes are expected to the sediment transport regime at MLS SAC due to the presence of cable protection", this conclusion needs to be supported with more evidence, such as a detailed sediment transport modelling study, based on the prevailing conditions at the proposed cable protection site.</p>
ME.2.03	Natural England	<p>Margate and Long Sands Special Area of Conservation – conservation advice</p> <p>At E26 in [PD2-007] you have advised that the conservation advice package for MLS SAC was due to be updated as draft in autumn 2024. Can you provide an update on timescales for this forthcoming advice. Is there any relevant interim advice in its absence?</p>	<p>Natural England advises that it is unlikely that the Margate and Long Sands SAC conservation advice package will be updated in time to inform the Five Estuaries (VE) Examination. However, Natural England is hoping to publish an update to the MLS SAC condition assessment at the start of 2025. We will be able to provide a further update on this at Deadline 5.</p>

ME.2.04	Natural England	<p>Seagrass habitat creation/restoration compensatory measure</p> <p>At F32 in [PD2-008] you have stated that you would submit further comment on the technical feasibility of the proposed seagrass habitat creation/restoration compensatory measure included within the Applicant's without prejudice derogations case at Deadline 1. This does not appear to have been provided to date. Natural England should therefore submit this information by Deadline 4.</p>	Please see our response in our Deadline 3 Cover Letter [REP3-031].
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Migratory Bats			
ME.2.10	Natural England	<p>Effects on migratory bats</p> <p>It is noted that Natural England's response to ExQ1 ME. 1.15 at [REP2-058] states that matters in relation to migrating bats are for Statutory Nature Conservation Body to consider. Nevertheless, as the Government's advisor, the ExA requires Natural England to clarify its own position in this regard so that the ExA can inform the Secretary of State when it submits its recommendation following the conclusion of the Examination. As such, can Natural England confirm whether or not it considers that the Proposed Development would result in any adverse effects on migratory bats. If not, why not? If so, what mitigation would be required?</p>	<p>Natural England notes that there is increasing concern in relation to OWF impacts on migrating and foraging bats. We are aware that there is evidence that Nathusius' pipistrelle <i>Pipistrellus nathusii</i> cross the sea between land mass in the foci area and mainland Europe. How significant this route is in terms of number of individuals cannot be confidently defined at this time.</p> <p>We have previously advised the Applicant during the pre-application process to consider migrating bats and surveys for Nathusius' pipistrelle which migrate across the North Sea. Furthermore, we advised that surveys needed to be carried out at the appropriate times and locations (e.g. PEIR response, May 2023). However, at present Natural England has insufficient evidence to allow us to quantify and confidently advise on the level of</p>

			<p>potential impacts on migrating Nathusius' pipistrelle and possibly <i>Nyctalus</i> bat species from the proposed VE windfarm arrays.</p> <p>Consequently, at this stage, our advice is that the Applicant needs to consider options to reduce impacts to migrating bats as much as possible, although there is a risk that these may not be sufficient to reduce impacts to acceptable levels.</p> <p>Clearly, there is a need to gain further insight into bat movement where the turbines are proposed. Therefore, we advise that acoustic monitoring (possibly radiotracking) within the proposed development zone may help to increase survey baseline knowledge. Ideally, data should inform the consenting process to give the level comfort to the Secretary of State as the decision maker, and where this is not possible a more precautionary approach to ensure adverse effects can be avoided should be followed.</p> <p>Should the Secretary of State (SoS) choose to grant consent to VE, then we would suggest that the DCO should secure a requirement to monitor migratory bats (pre, during and post construction) and would recommend that the In Principle Monitoring Plan and Deemed Marine Licence within the Development Consent Order should be updated to secure this monitoring. Further, if the monitoring provides clear evidence that a significant proportion of migratory bats are at risk</p>
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			<p>of collision from the new development, the new condition wording should require further mitigation.</p> <p>Natural England highlights that the only long-term mitigation at present known to reduce fatalities from collision is curtailing (slowing) blade rotation speed or further still stopping the blades all together. Curtailing turbines has been shown to reduce collision impact to bats in the United States (Whitby et al. 2024)¹. Bats are more likely to be volant at reduced wind speed, and this is when turbines produce less energy, having a reduced impact on overall energy generation.</p> <p>However, it is also worth noting the presence of two operational windfarms in this area of the Southern North Sea (i.e. Greater Gabbard and Galloper) may mean such a mitigation measure proves unlikely to be effective.</p> <p>We also highlight that if the same approach is applied to sea as to land, then it is probable that where there is a significant risk of disturbing, removing wildlife or damaging habitats, that a protected species licence would be required prior to construction.</p>
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¹ A decade of curtailment studies demonstrates a consistent and effective strategy to reduce bat fatalities at wind turbines in North America - Whitby - 2024 - Ecological Solutions and Evidence - Wiley Online Library)

Marine Mammals			
ME.2.15	Natural England	<p>Marine noise policy paper</p> <p>Issue H10 of Natural England’s risk and issues log [REP2-058] states that a marine noise policy paper is due to be published soon, to take effect from January 2025. Can Natural England update the ExA on the timescale for the publication of this document.</p>	<p>Natural England understands that the Defra Marine Noise Policy paper is currently due to be published in the next few weeks.</p> <p>The paper will <u>set out that from January 2025, all offshore wind pile driving in English waters will be required to demonstrate that they have utilised best endeavours to deliver noise reductions through the use of primary and/or secondary noise mitigation methods in the first instance. We strongly advise that the Applicant commit to the use of specific mitigation measures at this stage, which may be removed at a later date if the revised SIP demonstrates they are not required.</u></p>