



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES  
2010

AQUIND Interconnector  
Relevant Representations of Natural England

For:

The construction and operation of a 2000 MW subsea and underground High Voltage Direct Current (HVDC) bi-directional electric power transmission link between the south coast of England and Normandy in France.

Planning Inspectorate Reference: EN020022

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19 February 2020

## NATURAL ENGLAND'S RELEVANT REPRESENTATIONS IN RESPECT OF AQUIND INTERCONNECTOR

Planning Inspectorate Reference: EN020022

### 1. Legislative and policy framework

- 1.1. Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 (“NERC Act”). Natural England is the statutory advisor to Government on nature conservation in England and promotes the conservation of England’s wildlife and natural features.<sup>1</sup> Natural England’s remit extends to the territorial sea adjacent to England, up to the 12 nautical mile limit from the coastline.<sup>2</sup>
- 1.2. Natural England is a statutory consultee:
  - 1.2.1. in respect of environmental information submitted pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regs”);<sup>3</sup>
  - 1.2.2. in respect of plans or projects that are subject to the requirements of the Conservation of Habitats and Species Regulations 2017 (the “Habitats Regulations”) which are likely to have a significant effect on European protected sites – that is, sites designated as Special Areas of Conservation (“SACs”) and Special Protection Areas (“SPAs”) for the purposes of the EU Habitats and Birds Directives;<sup>4</sup>
  - 1.2.3. in respect of proposals likely to damage any of the flora, fauna or geological or physiological features for which a Site of Special Scientific Interest (“SSSI”) has been notified pursuant to the Wildlife and Countryside Act 1981 (the “1981 Act”);<sup>5</sup> and
  - 1.2.4. in respect of all applications for consent for Nationally Significant Infrastructure Projects which are likely to affect land in England.<sup>6</sup>
- 1.3. Pursuant to The Conservation of Offshore Marine Habitats and Species Regulations 2017 (the “2017 Regulations”). Under Regulation 28(4) (a) of the 2017 Regulations, where the assessment relates to a European offshore marine site, the competent authority must consult the JNCC (Joint Nature Conservation Committee). Where the assessment relates to a European site (including a European marine site), then the competent authority must consult Natural England, in accordance with regulation 28(4) (b) of the 2017 Regulations.
- 1.4. It is also the Government’s policy to consult Natural England in respect of sites listed for the purposes of the Convention on Wetlands of International Importance especially as Waterfowl

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<sup>1</sup> NERC Act ss. 1(2), (2) and 4

<sup>2</sup> NERC Act, s.1(3)

<sup>3</sup> Regs. 3(1), 10(6), 9(1), 11(1), 20(3)(g), 22(3)(f), 24(5)(f) of the EIA Regs

<sup>4</sup> Regulation 61 of the Habitats Regulations

<sup>5</sup> Section 281 of the 1981 Act

<sup>6</sup> Planning Act s.42; Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, reg. 3 and sch.

Habitat signed at Ramsar on 2nd January 1971 (“Ramsar sites”) as if they were European protected sites.<sup>7</sup>

- 1.5. In determining this application, the Secretary of State will be acting as the competent authority for the purposes of the Habitats Regulations and the 2017 Regulations. The Secretary of State is also a section 28G authority with specific duties under the 1981 Wildlife and Countryside Act in respect of SSSI.

#### **Executive Summary of Natural England’s Advice**

**The following comments are key points in Natural England’s advice and further details on them can be found in the Relevant Representation below and/or will be provided in the Written Representation.**

**Further information is requested to ensure that the Solent Waders and Brent Goose sites are returned to appropriate condition and available for use by the birds prior to the start of the overwintering period. Low Use and candidate sites should also be considered.**

**Mitigation for noise and visual disturbance to SPA and supporting habitat should be agreed.**

**Cumulative impacts of the Onshore HVDC Route Construction/Cable Installation in Portsmouth 19/01368/FUL Flood and Coastal Erosion Management Scheme Phase 4B should be assessed.**

**Further information is requested to inform the mitigation and compensation measures in relation to loss of lowland meadow habitat at Denmead and King’s Pond SINC to include a long term management strategy.**

**Natural England has concerns that the development proposal has not set out how it will address all residual biodiversity losses. The scale and extent of the development proposal will lead to a loss of lowland meadow, broadleaf trees and woodland, species-rich hedgerow, loss of semi-improved and calcareous grassland and potential impacts to protected species.**

**The Landscape and Biodiversity Strategy should be prepared to include measures for mitigating impacts to protected species and habitats and to include biodiversity compensation measures for any residual biodiversity losses that cannot be fully mitigated on site. If this cannot be secured within the land ownership boundary, consideration could be given to setting up a fund to secure wider ecological enhancements through projects in each district area.**

**Given impacts to landscape character and setting of South Downs National Park, further consideration should be given to opportunities for landscape enhancements within the South Downs National Park to compensate for these adverse effects.**

**Natural England supports the MMO’s position on arbitration. Please see the written representations submitted on the Hornsea 3, Vanguard and Thanet Ext project PINS applications. Further information is requested in the DCO and DML.**

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<sup>7</sup> National Planning Policy Framework (July 2018), para 176; PINS Advice Note 10: Habitats Regulation Assessment for nationally significant infrastructure projects, p.3.

## 2. Relevant Representations

- 2.1. Natural England's advice in these relevant representations is based on information submitted by AQUIND Limited in support of its application for a Development Consent Order ('DCO') in relation to AQUIND Interconnector ('the project'). The project refers to the construction and operation of a 2000 MW subsea and underground High Voltage Direct Current (HVDC) bi-directional electric power transmission link between the south coast of England and Normandy in France. The interconnector makes landfall at Eastney, Portsmouth, and the grid connection at the existing National Grid substation at Lovedean, Hampshire.
- 2.2. Natural England has been working closely with AQUIND Limited to provide advice and guidance on the AQUIND Interconnector since 2018. Natural England has also been working with the Marine Management Organisation (MMO) and the Joint Nature Conservation Committee (JNCC) to provide coordinated advice in relation to each of our remits. Natural England has also held discussions with the developer to develop statements of common ground as part of the examination process and to try and resolve outstanding issues.
- 2.3. These relevant representations contain a summary of what Natural England considers the main nature conservation, landscape and related issues<sup>8</sup> to be in relation to the DCO application as well as the Deemed Marine Licence (DML) contained therein, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.
- 2.4. Section 3 of these representations identifies the natural features potentially affected by this application. Section 4 and 5 summarises Natural England's overall view of the application and the main issues which it considers need to be addressed by the Secretary of State.
- 2.5. Section 4 and 5 of these representations sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by AQUIND Limited and the Examining Authority as part of the examination process in order to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority to undertake its task or where further work is required to determine the effects of the project and to develop and agree mitigation proposals.
- 2.6. Natural England will continue discussions with AQUIND Limited to seek to resolve these concerns and agree outstanding matters in a statement of common ground. Failing satisfactory agreement, Natural England advises that the matters set out in sections 3 to 5 will require consideration by the Examining Authority as part of the examination process.
- 2.7. The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

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<sup>8</sup> PINS NSIP Advice Note 11 Annex C sets out Natural England's role in infrastructure planning.  
[https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11\\_AnnexC\\_20150928.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/10/PINS-Advice-Note-11_AnnexC_20150928.pdf)

2.8. Further information to support Natural England’s Relevant Representation, where more detailed explanation of issues has been considered relevant may be found in the Appendices:

- Appendix 1: Natural England’s draft paper on Cable protection

### 3. The natural features potentially affected by this application

3.1. The project redline boundary extends from the UK/France Exclusive Economic Zone (EEZ) boundary line to the landfall location at Eastney Portsmouth, continuing onshore to the National Grid substation at Lovedean, Hampshire.

3.2. The designated sites and interest features included within Tables 2.1 and 2.2 are those which may be affected by the proposed project. Links have been provided to the citation or conservation objectives of designated sites. We have provided links, rather than hard copies, as these are large and live documents which are updated on a regular basis to incorporate the most up to date evidence. In order to avoid potentially out of date or inaccurate documents being referred to during the examination we recommend that these links are utilised. If the examiner would also like hard copies please let us know at the earliest opportunity.

**Table 2.1: European Sites that may be affected by the proposed project**

Site Name	Citation	Features for which outstanding concerns remain
Chichester and Langstone Harbours SPA	<a href="#">Chichester and Langstone Harbours SPA – UK9011011</a>	Bar-tailed godwit ( <i>Limosa lapponica</i> ) – Non-breeding; Curlew ( <i>Numenius arquata</i> ) – Non-breeding; Dark-bellied brent goose ( <i>Branta bernicla</i> ) – Non-breeding; Dunlin ( <i>Calidris enelo</i> ) – Non-breeding; Grey plover ( <i>Pluvialis squatarola</i> ) – Non-breeding; Pintail ( <i>Anas acuta</i> ) – Non-breeding; Red-breasted merganser ( <i>Mergus serrator</i> ) – Non-breeding; Redshank ( <i>Tringa enelop</i> ) – Non-breeding; Ringed plover ( <i>Charadrius hiaticula</i> ) – Non-breeding; Sanderling ( <i>Calidris alba</i> ) – Non-breeding; Shelduck ( <i>Tadorna tadorna</i> ) – Non-breeding; Shoveler ( <i>Spatula clypeata</i> ) – Non-breeding; Teal ( <i>Anas crecca</i> ) – Non-breeding; Turnstone ( <i>Arenaria interpres</i> ) – Non-breeding; Wigeon ( <i>Mareca enelope</i> ) – Non-breeding; Waterbird assemblage – Non-breeding.
Portsmouth Harbour SPA	<a href="#">Portsmouth Harbour SPA – UK9011051</a>	Black-tailed godwit ( <i>Limosa limosa islandica</i> ), Non-breeding; Dark-bellied brent goose ( <i>Branta bernicla bernicla</i> ), Non-breeding; Dunlin ( <i>Calidris enelo enelo</i> ), Non-breeding; Red-breasted merganser ( <i>Mergus serrator</i> ), Non-breeding

**Table 2.2: National Sites that may be affected by the proposed project**

Site Name	Citation	Features for which outstanding concerns remain
Langstone Harbour SSSI	<a href="#">Langstone Harbour SSSI – 1001182</a>	Aggregations of non-breeding birds – Bar-tailed godwit ( <i>Limosa lapponica</i> ); Aggregations of non-breeding birds – Curlew ( <i>Numenius arquata</i> ); Aggregations of non-breeding birds – Dark-bellied brent goose ( <i>Branta bernicla</i> ); Aggregations of non-breeding birds – Dunlin ( <i>Calidris enelo</i> ); Aggregations of non-breeding birds – Grey plover ( <i>Pluvialis squatarola</i> ); Aggregations of non-breeding birds – Pintail ( <i>Anas acuta</i> ); Aggregations of non-breeding birds – Red-breasted merganser ( <i>Mergus serrator</i> ); Aggregations of non-breeding birds – Redshank ( <i>Tringa enelop</i> ); Aggregations of non-breeding birds – Ringed plover ( <i>Charadrius hiaticula</i> ); Aggregations of non-breeding birds – Sanderling ( <i>Calidris alba</i> ); Aggregations of non-breeding birds – Shelduck ( <i>Tadorna tadorna</i> ); Aggregations of non-breeding birds – Shoveler ( <i>Spatula clypeata</i> ); Aggregations of non-breeding birds – Teal ( <i>Anas crecca</i> ); Aggregations of non-breeding birds – Turnstone ( <i>Arenaria interpres</i> ); Aggregations of non-breeding birds – Wigeon ( <i>Mareca enelope</i> ).

3.3. An application for a wildlife licence may be required if the application will have impacts on European or nationally protected species. We advise the applicant to apply for a licence at the earliest opportunity for the following species:

- Badger (*Meles meles*)

3.4. The following areas of non-designated but valuable and sensitive habitat are affected:

- Denmead Meadows
- Kings Pond Meadow Sites of Importance for Nature Conservation (SINC)
- Milton Common SINC

- Unimproved neutral grassland
- Semi-improved neutral and calcareous grassland
- Lowland meadow (at Denmead Meadows)
- Broadleaf trees and woodland
- Species-rich hedgerow

#### 4. The overall position of Natural England

4.1. Natural England's headline points are that on the basis of the information submitted:

4.1.1. Natural England is satisfied that potential impacts on the following components (of relevance to Natural England's statutory remit) have been adequately characterised and assessed:

Chapter 6 – Physical Processes

Chapter 7 – Marine Water and Sediment Quality

Chapter 8 – Intertidal and Benthic Ecology

Chapter 9 – Fish and Shellfish

Chapter 10 – Marine Mammals and Basking Sharks

Chapter 11 – Marine Ornithology

Chapter 17 – Soils and Agricultural Land Use

Chapter 23 – Air quality

Environmental Statement – Volume 3 – Appendix 8.5 Marine Conservation Zone Assessment

4.1.2. Natural England is satisfied that it can be excluded beyond reasonable scientific doubt that the project would not have an adverse effect on the integrity of the following European Sites:

##### **SACs / SPAs / Ramsar sites**

Solent Maritime SAC

South Wight Maritime SAC

Solent and Isle of Wight Lagoons SAC

Wight-Barfleur Reef SAC

Studland to Portland SAC

River Itchen SAC

River Avon SAC

Solent and Dorset Coast pSPA (now Solent and Dorset Coast Special Protection Area)

Solent and Southampton Water SPA/Ramsar site

Pagham Harbour SPA/Ramsar site

Alderney West Coast and Burhou Islands Ramsar site

Plymouth Sound and Estuaries SAC

4.1.3. Natural England is satisfied that there is no significant risk of the project hindering the conservation objectives of the following Marine Conservation Zones:

Offshore Overfalls

Utopia

Bembridge

Selsey Bill and the Hounds

Offshore Brighton

4.1.4. Natural England considers that the project could have impacts to the conservation of the wildlife and beauty of the South Downs National Park.

4.1.5. Natural England welcomes the commitment to a Landscape and Biodiversity Strategy. We advise that the details are progressed in agreement with the district ecological and landscape officers to ensure a positive effect on the natural environment and to meet the



principles set out in paragraph 170 of the National Planning Policy Framework. Natural England notes that this commitment is reflected in proposed Requirement 7 of the draft DCO. Natural England therefore advises that this requirement should be secured by a suitably worded requirement in the DCO, if the project is approved.

4.1.6. Natural England advises that, if approved, the project must be subject to all necessary and appropriate requirements which ensure that unacceptable environmental impacts either do not occur or are sufficiently mitigated.

4.2. Natural England's advice is that there are a number of matters which have not been resolved satisfactorily as part of the pre-application process that must be addressed by AQUIND Limited and the Examining Authority as part of the examination and consenting process before development consent can be granted. Some of these matters, (as set out below 4.3 – 5.1) below are so significant that it would be inappropriate to permit the project to proceed unless they were adequately addressed. However, Natural England's advice is that all these matters are capable of being overcome.

### **4.3. Unresolved Matters**

#### **4.3.4. Further information required to determine impact on designated sites**

##### ***Solent Waders and Brent Goose Strategy***

The route of the terrestrial onshore cable runs adjacent to designated sites and through sites identified as supporting habitat in the Solent Waders and Brent Goose Strategy (SWBGS).

The terrestrial Solent wader and Brent Goose sites are located on land that falls outside of the Solent SPAs boundaries (as listed in table 2.1). However, as this land is frequently used by SPA species (including qualifying features and assemblage species), it supports the functionality and integrity of the designated sites for these features. This land will contribute to the achievement of the SPAs' conservation objectives and is therefore protected in this context.

This land supports the ecological network by providing alternative roosting and foraging sites. The sites are classified in relation to the importance of the site within the ecological network and how these non-designated sites support the wider designated Solent SPA network. Sites are classified as Core Areas, Primary Support Areas, Secondary Support Areas, Low Use sites and Candidate sites. The preferred approach is for development to be located outside the network of sites.

Appendix 16.14 (Environmental Statement – Volume 3 – Appendix 16.14 Winter Working Restriction for Features of Chichester & Langstone Harbours SPA) sets out the winter working restrictions in relation to the Chichester and Langstone Harbours SPA and SWBGS sites. In order to determine the impact on designated sites, further information is requested in relation to the following principles that are referenced in Appendix 16.14.

##### ***PRINCIPLE 1***

Natural England welcomes the proposal to exclude construction works within the core, primary or secondary sites that overlap with the Proposed Developments Order Limits from 01 October to 31 March. It is noted that within P11, the gravel car park, boat yard linking roadway is a core site and an exception to the applicant's proposal. Provided a plan of this exclusion area is agreed with Natural

England prior to this phase of development and this is secured within the construction method statement, Natural England is content with this proposed exception.

Further information is required to ensure that the sites are returned to appropriate condition and available for use by the birds prior to the start of the overwintering period. Natural England recommends that the habitat at the site is recreated to the same, or enhanced, ecological function in advance of 01 October. Natural England request details of the habitat type to be recreated and confirmation that it will be reinstated by 01 October.

We advise that this approach is secured by condition with any planning permission.

## ***PRINCIPLE 2***

It is noted that no buffer zones are applied to SWBGS sites to limit works away from their boundaries. We recommend that further consideration is given to noise and visual disturbance from the proposed construction works on adjacent or nearby SWBGS sites during the overwintering period. We recommend the measures suggested for Principle 7 and 8 are secured in these cases.

It is also noted that those sites categorised as 'low use' are also not part of the working restrictions. All Low Use sites have the potential to be used by waders or brent geese and have records of use. These sites support the existing network and provide alternative options within the network for use by SPA birds.

Natural England therefore recommends that Candidate sites and Low Use sites are also included in the working restriction. It is not clear from the documentation if any of these sites are affected by the development works. Clarity on this is requested and if any sites are affected Natural England requests further consideration of offsetting and mitigation options for the additional loss of these sites during the construction period.

## ***PRINCIPLE 7 and 8***

Principle 7 currently applies to areas of Chichester and Langstone Harbour SPA identified as supporting this species. We advise that this restriction is amended to consider the nearest point of the SPA or any SPA supporting habitat during the over-wintering period.

The following condition is recommended:

Wherever possible, percussive piling or works with heavy machinery (i.e. plant resulting in a noise level in excess of 69dbAmax – measured at the sensitive receptor) should be avoided during the bird overwintering period (i.e. October to March inclusive).

Note: The sensitive receptor is the nearest point of the SPA or any SPA supporting habitat (e.g. high tide roosting site).

If such a condition is problematic to the applicant than Natural England will consider any implications of the proposals on the SPA bird interests on a case by case basis through our Discretionary Advice Service.

We advise that further consideration is given to the visual disturbance of SPA birds during the overwinter period. Consideration should be given to the use of visual screening of the construction works where necessary.

### **4.3.5. Non-designated sites – Denmead Meadows and King's Pond**

The route of the terrestrial onshore cable runs through sensitive lowland meadow habitats at Denmead. Natural England welcomes that the lowland meadow habitats at Denmead Meadow and King's Pond SINC have been recognised as of national importance in the assessment. It is Natural England's preference that these sensitive and important habitats are avoided in the first instance. Our earlier consultation responses raised our preference for the road route at Denmead Meadows.

Natural England welcomes the proposal to directional drill under part of Denmead Meadows and we note the technical constraints have limited the extent that this is possible.

However, Natural England is concerned that the location of the construction compound, jointing bay and section of cable to be trenched across these meadows will result in damage to this priority habitat and a residual loss of biodiversity. Further information is requested to inform the mitigation measures and compensation measures, as necessary.

During consultation at the pre-application stage, we advised that a comprehensive botanical survey of these fields is undertaken to include a detailed vegetation survey with population counts of green-winged orchids. However, we have concerns about the reliance on DAFOR values for many of the meadows and in particular Priority Habitat Meadow 3 worst affected. It is unclear why detailed botanical surveys were not undertaken of all of the affected fields and no population counts were completed.

Natural England has concerns about the scale of the impact of the proposals on Priority Meadow 3 in relation to the construction compound. We also have concerns about the impact of the jointing bay and trenched section. It is our initial view that whilst poor management of some of the King's Pond area fields (heavy horse grazing) has led to signatures of improvement that capacity for restoration to MG5 remains.

Therefore, Natural England strongly recommends that additional information is requested in order to further inform a comprehensive mitigation, management and monitoring strategy to ensure that all residual impacts have been addressed.

Further details are requested as follows:

- A timeline of the schedule of works to take place on Meadow 3 (compound) including the pre translocation seed collection, removal of the turves and sub soil, preparation of the compound and proposed reinstatement of the turves and meadow following completion of construction works. The length of time that the turves are stored will influence the likely success of this strategy. We strongly recommend that the time and working footprint are minimised as far as possible.
- Location and methods for the storage and maintenance of the turves during this process. The storage of the turves may lead to further damage of sensitive habitat
- We advise that the detailed method statement is agreed and secured and an ecological clerk of works is present during this work.
- Further information on proposed long term management of the fields to ensure the success of the translocation. Case studies have shown that the likely success of this approach is linked to how the habitat is managed after translocation. We therefore advise that a long term management strategy for the wider Denmead meadows and King's Pond SINC is secured to ensure there is no residual loss.

#### **4.3.6. Other non-designated sites, priority habitats, protected species and biodiversity**

In the Department for Environment, Food and Rural Affairs (Defra) 25 Year Environment Plan, the Government has committed to making sure the existing requirements for net gain for biodiversity in national planning policy are strengthened and the current trend of biodiversity loss is halted. Net biodiversity gain ensures that all residual losses from a development are accounted for and addressed. Each scheme will then provide additional biodiversity gain over and above the residual loss. Natural England has concerns that the development proposal has not set out how it will address all residual losses.

The scale and extent of the development proposal will lead to a loss of lowland meadow (as discussed above), broadleaf trees and woodland, species-rich hedgerow, loss of semi-improved and calcareous grassland. In all cases, impacts should be avoided in the first instance through minimising the footprint of the works.

Whilst it is noted that replacement trees, hedgerows and grasslands will be replanted, further consideration is required to address the risk of this approach and time to reach maturity to ensure no residual loss. For sections of species-rich hedgerows, Natural England advises that consideration is given to coppicing hedgerows such that the hedgerow can be removed intact and replaced after the work has been completed.

Natural England welcomes the commitment to a Landscape and Biodiversity Strategy. This Strategy can be progressed in agreement with district ecologists to ensure residual losses are addressed by protecting and improving the local ecology. We advise that further consideration is given to strengthening ecological networks and wildlife corridors. The Landscape and Biodiversity Strategy should include measures for mitigating impacts on protected species and habitats and include biodiversity compensation measures for any residual biodiversity losses that cannot be fully mitigated on site. If this cannot be secured within the land ownership boundary, consideration could be given to setting up a fund to secure wider ecological enhancements through projects in each district area.

Natural England advises that the Landscape and Biodiversity Strategy includes detailed mitigation measures and enhancement strategies for bats, reptiles, badgers and hedgehogs for agreement with the district ecologists.

The biodiversity metric designed by Defra (the Defra metric) has been used as the basis for the assessment of biodiversity impact for a number of major developments. The Defra metric provides a methodology under which the biodiversity value of sites can be calculated transparently and consistently. A number of measures are applied to ensure any habitat lost as a result of development is adequately compensated for, for example multipliers based on distance, risk and time to reach maturity.

We recommend that industry [good practice principles](#) for biodiversity net gain published by Chartered Institute of Ecology and Environmental Management (CIEEM), Institute of Environmental Management and Assessment (IEMA) and Construction Industry Research and Information Association (CIRIA) are used.

### ***Protected Species***

Natural England has published [Standing Advice on protected species](#). Please note Standing Advice is a material consideration in the determination of applications in the same way as any individual response received from Natural England following consultation. If you have any specific questions not covered by our Standing Advice, or have difficulty in applying it to this application please contact us at [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

### ***Ancient Woodland, ancient and veteran trees***

You should consider any impacts on ancient woodland and ancient and veteran trees in line with paragraph 175 of the National Planning Policy Framework (NPPF). Natural England maintains the Ancient Woodland Inventory which can help identify ancient woodland. Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and ancient and veteran trees.

It is noted that a buffer of 15 metres will be retained between the ancient woodland and the proposed development. Standing advice refers to a minimum of 15 metres and it is Natural England preference that the buffer extends to at least 50 metres to ensure there will be no detrimental impact to this valuable habitat.

#### **4.3.7. Landscape and visual effects**

The proposed development is for a site within or close to a nationally designated landscape namely South Downs National Park. Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal. The policy and statutory framework to guide your decision and the role of local advice are explained below.

Your decision should be guided by paragraph 172 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of Areas Of Outstanding Natural Beauty (AONB) and National Parks. For major development proposals, paragraph 172 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Natural England advise that significant weight is given to the advice of the landscape advisor/planner for the National Park, as they will be best placed to provide you with detailed advice about this development proposal. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the park's management plan, will be a valuable contribution to the planning decision. Natural England strongly recommends that the Landscape Strategy for the convertor station is agreed with landscape officers at South Downs National Park. We advise that any landscape planting should be monitored and managed with replacement planting, as necessary, to ensure that the predicted medium to long term landscape improvements are realised.

It is noted that there is significant effects on the landscape character and setting of South Downs National Park. It is also noted that people using Monach's Way will be subject to adverse effects as a result of the development. Given these impacts, we advise that further consideration is given to opportunities for landscape enhancements within the South Downs National Park to compensate for these adverse effects. Projects to enhance the landscape by increase planting of trees of hedgerows would also deliver biodiversity gains, especially schemes to increase connectivity between ancient woodland areas and within ecological corridors. It is appreciated that this may fall outside of land ownership areas, however, enhancements could be secured via a landscape and biodiversity enhancement fund.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies. Where available, a local Landscape Character Assessment can also be a

helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purposes of the National Park are to conserve and enhance the natural beauty, wildlife and cultural heritage of the park; and to promote opportunities for the understanding and enjoyment of the special qualities of the park by the public. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm those statutory purposes. Relevant to this is the duty on public bodies to 'have regard' for those statutory purposes in carrying out their functions (section 11 A(2) of the National Parks and Access to the Countryside Act 1949 (as amended)). The Planning Practice Guidance confirms that this duty also applies to proposals outside the designated area but impacting on its natural beauty.

#### **4.3.8. Soil and Land Quality**

From the documents accompanying the consultation, Natural England considers this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' agricultural land (paragraph 170 and 171 of the National Planning Policy Framework).

For this reason Natural England does not propose to make any detailed comments in relation to agricultural land quality and soils, although more general guidance is available in Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend that this is followed. If, however, you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

#### **4.3.9. Cumulative effects**

The proposed timing of the works Onshore HVDC Route Construction/Cable Installation in Portsmouth are likely to coincide with 19/01368/FUL Flood and Coastal Erosion Management Scheme - North Portsea Island Phase 4B Coastline Between Milton Common And Kendalls Wharf Eastern Road Portsmouth. Further information is requested on the cumulative construction effects of both these schemes on the designated sites and supporting habitats.

Detailed working restrictions and mitigation measures have been agreed as part of the 19/01368/FUL scheme at Milton Common, including additional land secured as mitigation in relation to impacts to SPA supporting habitat. Further assessment is therefore required of the significance of the effects on sensitive habitats and species in the EIA and HRA.

A planning application has also recently been submitted for development at Fraser Range Fort Cumberland, Southsea (19/00420/FUL), we advise that any cumulative effects of these schemes are considered in the EIA and HRA assessment

#### **4.3.10. Decommissioning**

Limited information has been provided about the impacts at the decommissioning stage, although it is stated that many of the onshore cables will be left in situ. It is advised that this is considered further. If further planting and offsetting is required at this stage, we advise that this is undertaken at the earliest opportunity to allow the replacement habitats and species to establish and reach maturity.

#### **4.3.11. Construction Environmental Management Plan**

Natural England advises a Construction Environmental Management Plan (CEMP) should be submitted to and approved in writing by the district ecologist/biodiversity officer that identifies the steps and procedures that will be implemented to avoid or mitigate constructional impacts on species and habitats. The CEMP should address the following impacts

- Storage of construction materials/chemicals and equipment
- Dust suppression
- Chemical and/or fuel run-off from construction into nearby watercourse(s)
- Waste disposal
- Noise/visual/vibrational impacts
- Visual screening (for SPA birds)
- Lighting on sensitive receptors

#### **4.3.12. Other**

#### **SSSI**

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

#### ***Solent and Dorset Coast Special Protection Area***

Please note the Solent and Dorset Coast Special Protection Area is now a fully designated site.

### **5. Comments on the draft Development Consent Order (DCO) and Deemed Marine Licence (DML)**

To assist consideration of the issues raised within the comments below they have been colour coded. Please see the key below which explains the meaning of the colour coding.

Red Natural England considers that the following issues are high risk and must be changed for us to agree.

Amber Natural England considers that if these issues are not addressed or resolved by the end of examination then they would become a high risk as set out above:

## **5.1. Comments on DCO and DML**



Issue number	Condition number	Comment
DCO		
1	Part 1 1 (1)	No definition is provided for Statutory Nature Conservation Body.
2	Part 1 1 (1)	The definition of maintain appears appropriate, however, please also be aware NE do not consider cable protection to be part of operations and maintenance, or appropriate to be included for deployment over the lifetime of a project. Please see attached Natural England's draft paper on Cable protection as Annex 1.
3	Part 7 45	This article relates to arbitration. Natural England supports the MMO position on arbitration. Please see the written representations submitted on the Hornsea 3, Vanguard and Thanet Ext project PINS applications.  Natural England would note that in the Tilbury 2 determination the Secretary of State agreed to the changes recommended by the ExA to remove the Deemed Marine Licence from such provisions.
Schedule 1 Project description		
4	Point 2 works 6 and 7	Cable protection is one of the most significant environmental impacts. The full extent of impact assessed and permitted should be given within the project description in both units of volume and area.
Schedule 2 Requirements		
5	Requirement 7 &15	The relevant statutory nature conservation body is not listed as a consultee on the landscaping scheme or the Construction Environmental Monitoring Plan. As detailed in section 3.3.3 above Natural England considers the content of this plan to be important mitigation for sensitive ecological receptors and that the advice of the Statutory Nature Conservation Body should be sought prior to the discharge of this requirement.
Schedule 15 Deemed Marine Licence		
6	Part 2 1	Cable protection is detailed here as covering a maximum of 0.7km <sup>2</sup> . However, nowhere in the ES project description is an explanation provided or detail confirming exactly how much cable protection is assumed to be the worst case scenario or how this figure was reached. Can the applicant confirm if the area provided is for both cables or total? Does this figure include the cable protection required for cable crossings?
7	Part 2 Conditions 3&4	The pre-construction conditions do not include a requirement to provide details of micro-siting around biogenic or geogenic reef features identified as part of the pre-construction monitoring condition 3. A requirement to have all micro-siting approved by MMO in consultation with Natural England should be included under condition 4.

8	Part 3	NE supports the MMO position with regard to appeals.
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**NATURAL ENGLAND**  
**19<sup>th</sup> February 2020**



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES

2010

AQUIND Interconnector

Appendix 1 Natural England's draft paper on Cable Protection

For:

The construction and operation of a 2000 MW subsea and underground High Voltage Direct Current (HVDC) bi-directional electric power transmission link between the south coast of England and Normandy in France.

Planning Inspectorate Reference: EN020022

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## **Natural England advice on cable protection assessment for offshore windfarms and inclusion in marine licenses**

Natural England (NE) has drafted this note in order to provide clarity on how we consider cable protection to be covered in marine licences, and what information needs to be provided in an assessment to support those licences. The advice applies to all marine license applications for cable protection, at various stages of the project lifecycle, not just those considered under the NSIP consenting process. Much of the advice is also applicable to interconnector cables. This is intended to complement the Marine Management Organisation's (MMO) position on scour and cable protection licensing requirements during the Operation and Maintenance (O&M) phase.

### Section 1: Application stage

In the Environmental Statement (ES) for a project there must be a full assessment of the worst case scenario for cable protection to enable a decision to be made regarding the impacts of a project over the lifetime and in combination with other impacts and activities. In the case of European Marine sites (SACs and SPAs) the assessment must contain sufficient information to allow it to be ascertained (by the process of "appropriate assessment,"<sup>1</sup> and beyond reasonable scientific doubt) whether or not the project will have an adverse effect on the integrity of the site. If an absence of adverse effect on integrity cannot be demonstrated – see footnote 2.

It is acknowledged that the worst case scenario used for lifetime predictions is not the most desirable environmentally and, as more project specifics and environmental data emerge post-consent, the structure of plans and proposals can be amended to allow for the impacts to be reduced. This is in line with the avoid-reduce-mitigate hierarchy, which should be followed in relation to environmental impacts.

Not everything that is assessed in the Environmental Statement is permitted through the Deemed Marine Licence (DML) for the project, as some aspects require further updating and consultation (i.e. requirement to provide a scour and cable protection installation plan pre-construction, which sets out what is actually permitted). However, provision of the full project lifecycle information in the Environmental Statement at this stage is required to inform and support the decision making for the project and to provide a level of comfort that the lifetime impacts have been considered.

Where cable protection is proposed within an SAC or SPA it should be assumed that there will be a likely significant effect due to lasting habitat loss from the cable protection and an "appropriate assessment" would need to demonstrate that there would not be an adverse effect from the proposal. This is likely to be challenging in an SAC designated for its benthic habitats, therefore all alternatives will need to be fully explored. If it is not possible to avoid an adverse effect then the derogations route under Article 6(4) of the Habitats Directive<sup>2</sup>

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<sup>1</sup> Regulation 28 of the Conservation of Offshore Marine Habitats and Species Regulations 2017

<sup>2</sup> If, in spite of a negative assessment of the implications for the site and in the absence of alternative solutions, a plan or project must nevertheless be carried out for imperative reasons of overriding public interest, including those of a social or economic nature, the Member State shall take all

could be considered. Similarly a Marine Conservation Zone (MCZ) assessment would be requirement where cable protection was proposed in an MCZ. For clarity and to fit with subsequent marine licensing requirements, Natural England advise that this information should be presented separately for the following phases with the impacts assessed for each phase and together in total:

- Amount of cable protection to be laid during the construction phase<sup>3</sup> of the project.
- Amount of cable protection required for the maintenance of that laid during construction over the life time of the project.
- Amount of additional/ new cable protection that may be required to protect assets that become exposed during operation of the windfarm.
- Total amount of cable protection to be left in situ at the time of decommissioning (this may be the total of the above).

For cable protection to be laid during construction under the DML, an in principle scour and cable protection plan should be provided as part of the application. This should be updated and resubmitted pre-construction and should reflect up to date information informed by any new survey data, the cable burial risk assessment and additional information in relation to a navigation risk assessment and alternatives. Use of cable protection which leads to lasting habitat loss should be the final consideration after other alternatives have been exhausted and must be minimised as much as possible to reduce environmental impacts.

Where impacts are within a Marine Protected Area (MPA<sup>4</sup>), the assessment should consider the total amounts of cable protection proposed to be laid across the phases outlined above as an area and percentage of the MPA *feature* to be impacted. The significance of the proposal then needs to be considered against the Conservation Objectives for the site. Natural England's position paper on 'Small Scale Losses' sets out what is required by the Applicant to demonstrate that there are no Adverse Effects on site Integrity (AEol).

Natural England will advise that a condition should be applied to all DMLs with wording similar to that outlined below, which will require return of information in relation to the as-built scenario, including the location, volume, area and coordinates of the cable protection laid.

*Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant statutory nature conservation bodies with a report setting out details of the cable protection used for the authorised scheme.*

*(2) The report must include the following information—*

*(a) location of the cable protection;*

*(b) volume and area of cable protection; and*

*(c) any other information relating to the cable protection as agreed between the MMO and the undertaker.*

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compensatory measures necessary to ensure that the overall coherence of Natura 2000 is protected.  
<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:01992L0043-20130701&from=EN>

<sup>3</sup> The duration of the construction phase should be clearly defined. See Section 2

<sup>4</sup> the MPA network consists of Marine Conservation Zones (MCZs), European Marine Sites (Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) and Sites of Special Scientific Interest (SSSIs).

*(3) For any subsequent deployments of cable protection following the completion of construction, the undertaker will provide an updated report as defined in (1) and (2) not more than 4 months following deployment of the cable protection.*

## Section 2: Construction and maintenance

The period of construction finishes when developers notify the MMO of the end of construction. The cable protection laid during the period of construction is permitted under the DML and restricted to total volumes within the DML, although every effort should be made to minimise these volumes going into construction through the avoid-reduce-mitigate hierarchy.

As outlined above, the in principle scour and cable protection plan provided during the application phase should be updated and resubmitted pre-construction and should reflect up to date information informed by any new survey data, the cable burial risk assessment and additional information in relation to a navigation risk assessment and alternatives.

Natural England considers it is permissible to maintain cable protection that was placed at time of construction for the lifetime of the project through an Operations and Maintenance plan by adding additional cable protection to that which was laid during construction. We support the MMO's position that under an operations and maintenance plan submitted under the DCO maintenance material placement cannot exceed the seabed footprint of the cable protection laid during construction. As per the MMO's advice various timescales and information requirements will apply to these plans. A condition requiring return of information in relation to the as built scenario including the location, volume, area and coordinates of the cable protection laid should be secured as part of these plans.

## Section 3: Operational phase

Natural England considers that any new/additional cable protection to be laid during the operational lifetime of the windfarm is not permitted under the DML and requires a separate marine licence. We acknowledge that there is a desire for longer term licences and support the MMO's position that 10 year licences can be considered for laying of additional cable protected in areas outside MPAs.

This is not to say that cable protection will not be permitted over the lifetime of the project (outwith MPAs); but a separate marine licence process (to that of the DCO/DML) is advised to ensure that proposals can be adequately assessed using up to date information on which to base the assessment (which may be several years after the Environmental Statement data was collected), and enable sufficient transparency of decision making and stakeholder consultation. Data less than 5 years old will be required to support laying of additional cable protection along with descriptions of the seabed habitat and information regarding what cable protection has been laid to date. Justification will need to be made as to why cable protection is necessary considering risk and alternatives and every effort made to minimise amounts required to reduce environmental impact.

The amount of cable protection proposed in the new licence application should not be more than that assessed overall in the ES and should ideally be reduced to reflect the reduction in parameters from the Rochdale Envelope. Any reduction in design parameter should be

reflected in this licence e.g. decreased number of cables installed therefore proportionally less cable protection is permitted to reflect this.

Should the volumes proposed be greater than that assessed in the ES at the time of consenting then it will be necessary to redo the assessment for cable protection that was undertaken in the ES with up to date information and parameters to inform the licence application.

#### Section 4: Cable protection within MPA during the operational phase of a project

Natural England advises that a precautionary approach is taken to cable protection within MPAs with each campaign of cable protection requiring a new marine licence along with a full assessment. This is for a number of reasons including that our understanding of impacts, the habitat that is there and its condition evolves over time as well as changes in law. Therefore each time further new cable protection is to be laid it will require a new assessment and an Appropriate Assessment or Marine Conservation Zone assessment.

Where further cable protection is proposed within an SAC or SPA during the operational phase of a project, it should be assumed that there will be a likely significant effect due to lasting habitat loss from the cable protection and an "appropriate assessment" would need to demonstrate that there would not be an adverse effect from the proposal. This is likely to be challenging in an SAC designated for its benthic habitats, therefore all alternatives will need to be fully explored. If it is not possible to avoid an adverse effect then the derogations route under Article 6(4) of the Habitats Directive (see footnote 2) could be considered. Similarly a Marine Conservation Zone (MCZ) assessment would be requirement where cable protection was proposed in an MCZ.