

**Response by the
Royal Society for the Protection of Birds
to the Applicant's Answers to the
Examining Authority's
Second Written Questions**

12 October 2012

Planning Act 2008

In the matter of:

**Planning Application for construction of the Able Marine Energy Park on the
South Bank of the River Humber at Immingham, North Lincolnshire**

**Planning Inspectorate Ref: TR030001
Registration Identification Ref: 10015550**



Please note that the RSPB has only responded to a few of the Applicant's Answers provided on 7 September 2012 to the Examining Authority's Second Written Questions, due to the further changes the Applicant is making to its proposed compensation and mitigation measures. Therefore the absence of a response from the RSPB should not be taken as the RSPB accepting the Applicant's answer, but due instead to there now being further information to consider.

Mitigation sites

Q.23 Paragraph 4.5.18 of Report EX44.1 in the Supplementary Environmental Information states that the DRAX Heron Renewable Energy Plant site overlaps with proposed Mitigation Site A and that if the DRAX project proceeds on its current basis then it may affect the viability of Site A. There is a suggestion in paragraph 4.5.19 that the impacts on Site A could be avoided by appropriate phasing of the AMEP project.

Please confirm:

(i) what point the discussions with DRAX have reached.

The Applicant's answer

- 1.1 *Potential phasing options include one that does not require any modification to the lay down area required by Drax, refer to Figure 1.1. Essentially the Applicant would not develop to the south of the proposed Station Road access until use of the laydown area was ended. This option has been agreed in principle with Natural England. This option does not need the agreement of Drax as it would not affect them.*
- 1.2 *At least two alternative options are also possible, depending upon further planning consents being obtained, viz.*
 - a) *Providing Drax with an alternative laydown area as shown in Figure 1.2 which would enable some development to the south of the station road access whilst Drax was being constructed. Drax has agreed to this option in principle.*
 - b) *Using land at Halton Marshes as an alternative mitigation area; this was considered an option during the design process as noted in the Applicant's response to Question 14 of the first set of Examiner's Questions; refer to Figure 1.3.*

The RSPB's response

The RSPB does not have specific proposals for any other mitigation sites except for Mitigation Area A therefore we cannot provide specific responses to the other proposals mentioned above.

Q.24 What progress has been made in discussion with Natural England about the specification and production of Ecological Monitoring and Mitigation Plans?

The Applicant's answer

- 2.1 *The draft DCO contains a requirement (Requirement 14) for the Ecological Monitoring and Mitigation Plans (EMMPs) to be submitted to and agreed by Natural England (NE) after consultation with the relevant planning authority.*
- 2.2 *NE advised the Applicant on 16 January 2012 that they were preparing skeleton EMMP's for the works that the Applicant would need to develop.*
- 2.3 *The Applicant received skeleton EMMP documents from Natural England concerning the Terrestrial and Marine mitigation proposals on 7 August 2012 and are included in Appendix 2.1.*

2.4 *The draft EMMP's received from NE require to be populated with baseline data, mitigation/compensation objectives and management proposals. NE has advised the Applicant of the degree of completion of these documents it requires by the end of the examination (i.e. substantially complete) and the Applicant is in the process of producing these documents. Accordingly, the Applicant anticipates substantial development of these documents over the next two months.*

The RSPB's response

The outline of the TEMMP contains many comments but virtually no prescriptions nor facts about what is specifically to be done. Without these details the Applicant's answer contains nothing further which can be commented upon. Any activities which can or should be foreseen occurring in the mitigation site should of course be included in the TEMMP together with mechanisms for their mitigation or avoidance such as through appropriate timing or frequency.

Compensation requirements

Q.2 *On the basis of the statement made in paragraph 10 of Annex 1 to RSPB's Written Representation, RSPB's view appears to be that compensation provision should be based on replacing the ecological function of habitat lost to development.*

.....

(d) Is there evidence of any successful compensation schemes based on such an approach?

The Applicant's answer

23.4 *A recent 20 year review concluded that newly created intertidal habitat sites could provide important roosting and feeding sites for waterbirds (Scott et al, 2011⁽¹⁾). Most sites have developed suitable estuarine habitats for the purposes intended and have provided suitable habitat for passage, wintering and breeding birds. For example Allfleet Marsh was found to hold 12,000 birds within three years of its creation, and 7,000 within the first year of creation.*

⁽¹⁾ Scott C, Armstrong S, Townsend I, Dixon M & Everard M (2011). *Lessons learned from 20 years of Managed Realignment and Regulated Tidal Exchange in the UK.* ICE Conference Paper.

The RSPB's response

The progress on site capacity depends fundamentally on a large number of factors and it is critically important that information is not taken out of context. *Scott C. et al* refers to Allfleet Marsh (Wallasea) which is a managed realignment that was created in 2006 from land which was very much lower than is proposed at Cherry Cobb Sands and this has resulted in extensive and quite deep water inflowing onto it. The conditions there relate to a low sediment site and please note that that site was not designed for Black Tailed Godwits (BTG). The initial response of birds has been good (as the RSPB expected it would be because of the nature of the site) but a very large percentage of birds there have been roosting rather than feeding and also many birds came across from the continent to escape the recent very cold winters resulting in a large increase in ducks and Dunlin especially. It is worth noting that initial results were considered very positive on Paull Holme Strays too but that site has deteriorated over time as it silted up and saltmarsh developed extensively. There are no good examples of Regulated Tidal Exchange (RTE) in place over a substantial time to know whether that technique will deliver what is needed and nowhere has been tried the complicated multi-cell approach now being suggested by the Applicant. Thus great care needs to be taken when comparing sites and particularly with a completely novel design.

Killingholme Marshes

Q.16 The Panel notes the evidence from Dr Steve Percival submitted as part of AMEP's Comments on Written Representations (para 17.11 et seq).

(a) Is there more evidence on the extent to which Black Tailed Godwit flocks move around the estuary and display opportunistic behaviour as well as being loyal to particular sites?

The Applicant's answer

28.1 Whilst black-tailed godwits have favoured NKM during the October period, the monitoring findings from Paull Holme Strays and other managed re-alignment sites on the Humber indicates that they will make use of new and novel areas, although to date this has principally been for roosting and loafing rather than foraging. The islandica population of Black-Tailed Godwits has shown itself to be highly adaptable within Iceland, rapidly colonising new breeding areas in the north of Iceland allowing the rapid expansion of the population there, particularly over the last 20 years.

28.2 Similar responses have been observed in their Spanish and Portuguese wintering grounds, where the godwits have adapted to new food sources such as rice paddies. In Northern Ireland the RSPB distributed white millet to bring wildfowl closer to the hides at their Belfast Lough RSPB reserve, and "...many black-tailed godwit..." were attracted (see Figure 28.1 below and McGeehan, 2005⁽²⁾). This highly successful species therefore demonstrates considerable adaptability in the face of changing environments and resources.

⁽²⁾ McGeehan A (2005) Artificial feeding to attract wild birds close to a viewing area at Belfast Lough RSPB Reserve. *Conservation Evidence* 2 pp28-29.

The RSPB's response

The apparent adaptability in Iceland is not as indicated by comments in the Applicant's 28.1. It is an extension of existing sites due to the amelioration of climate enabling the standard farming to extend to additional areas in the country. Thus it is a habitat extension which enables them to breed not a novel expansion. Indeed the reference quoted also indicates they breed less well in these new areas than they did in the core range but it is just more pairs can breed.

In 28.2 the Applicant again misrepresents the information in both Iberia and Belfast Lough. In relation to Iberia the rice paddies are used by the Continental Black-tailed Godwit *Limosa limosa limosa*. Indeed they have always used these both there and in western Africa. It does not relate to the Islandic Black-tailed Godwit which is that which occurs at NKM. There is no regular use of any novel feeding areas by this race. However, it is true that Black-tailed Godwits did take white millet at Belfast Lough. However, the reliance on the short article referenced by the Applicant meant it did not realise that:-

- a) the godwits were feeding in winter on the grassland by the hide initially anyway;
- b) it took 3 years before they even started to take the food and 5 years before that was extensive; and
- c) it was tried elsewhere on RSPB reserves and failed to attract any godwits to feed on it. So, any conclusion of 'considerable adaptability' is baseless and should be rejected.