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Our ref: 259970
Your ref: TR030001



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BY EMAIL ONLY

Dear sir/madam

NSIP Reference Name / Code: The Able Marine Energy Park Development Consent Order 2014 – S.I. 2014 No. 2935

1. a non-material change to amend the certified drawings set out in Requirement 6 of Schedule 11 (Requirements) of the DCO to remove reference to Area A and to introduce a new drawing which identifies the new site at Halton Marshes; and
2. a non-material change to Schedule 1 to confirm that the ecological mitigation will be provided in accordance with the environmental monitoring and management plans but to reflect that the re-siting of Area A to Halton Marshes will be outside of the Order limits.

Thank you for your consultation on the above dated 18 September 2018 which was received by Natural England on 20 September 2018.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Mitigation Area A was required to offset the loss of Functionally Linked Land (FLL) for the Humber Estuary Special Protection Area (SPA) associated with the development of Killingholme Marshes. Therefore the alternative site at Halton Marshes also needs to be able to offset the loss of FLL. The Secretary of State's (SoS's) decision letter dated 18 December 2013 states:

8. In relation to the terrestrial area of the AMEP development at North Killingholme, the Secretary of State has taken into account the mitigation measures proposed by the applicant that are relevant to the qualifying features and conservation objectives of the Special Protection Area (SPA). The measures, which would be secured by the Terrestrial Environmental Management and Monitoring Plan ("EMMP"), include the provision of two mitigation areas within the project site boundary to mitigate the loss of habitat as a result of the AMEP development. Mitigation Area A will provide wet grassland habitat for the use of feeding and roosting birds from the SPA assemblage (predominantly curlew) as well as for farmland birds.

9. The Secretary of State notes Natural England's opinion that Mitigation Area A, taken with the management and monitoring measures to be agreed under the Terrestrial EMMP, is sufficient to avoid an adverse effect on the site integrity of the SPA (PR 10.68).

Natural England notes that the proposed change of location to Halton Marshes for the mitigation for the loss of functionally linked land at Killingholme Marshes, alongside mitigation measures for other permissions, will create a larger, contiguous area of wet grassland habitat overall that will potentially have significant value for SPA birds.

The current location of Mitigation Area A is stated in paragraph 10.55 of the Examining Authority's ("the ExA") report on the DCO Examination: *"The mitigation measures would all be within the project site boundary and would be secured by one of the three Environmental Management and Monitoring Plans (EMMPs)."* It is further reflected in paragraphs 8 and 9 of the SoS' Habitat Regulations Assessment for the AMEP DCO, which states: *"The measures, which would be secured by the Terrestrial Environmental Management and Monitoring Plan ("EMMP"), include the provision of two mitigation areas within the project site boundary to mitigate the loss of habitat as a result of the AMEP development."*

However, in neither the SoS' Habitats Regulations Assessment nor the ExA's report is there any assessment of the relocation of Mitigation Area A. Natural England considers that the proposal constitutes a significant change to the mitigation set out in the original assessment. Therefore, whether or not this is considered a material amendment, it is imperative that the Habitats Regulations Assessment is updated and that the impacts of the relocation of the mitigation area are clearly defined.

In paragraph 9: *He notes also the Panel's view that the draft Terrestrial EMMP submitted at the end of the examination formed a firm basis for finalising measures that would fully mitigate the impacts on habitats and species of the AMEP development on land at North Killingholme (PR 10.76-78). Since the details of this and the other EMMPs have now been agreed between the applicant and Natural England, the Secretary of State is satisfied that the Terrestrial EMMP will ensure that the objectives of the mitigation measures relevant to the SPA (as well as other habitats and species) will be achieved.*

A series of Environmental Management and Monitoring Plans (EMMPs) were created (specifically marine, terrestrial and compensation) to ensure the ongoing management and monitoring of the land, together with any mitigation measures required to mitigate for the impacts of the development. The EMMPs were secured via a legal agreement between Natural England and Able UK dated 29 April 2013. The EMMPs have all been subsequently approved by Natural England. Natural England would like to highlight that an updated Terrestrial EMMP, that includes this updated mitigation scenario, will need to be submitted to and agreed by Natural England.

For any queries relating to the specific advice in this letter please contact Hannah Gooch at Hannah.Gooch@naturalengland.org.uk or 02082 258503. For any new consultations, or to provide further information on this consultation please send your correspondence to consultations@naturalengland.org.uk.

Yours sincerely

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