

**WALNEY  
EXTENSION  
OFFSHORE  
WIND FARM**



# **Walney Extension Offshore Wind Farm**

**Update to Statement of Common Ground**

**Between:**

- 1. DONG Energy Walney Extension (UK) Limited**
- 2. Natural England**

**In relation to the proposed Walney Extension Offshore Wind Farm**

## Walney Extension Offshore Wind Farm

### Update to Statement of Common Ground



DONG Energy Walney Extension (UK) Ltd.

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### Revision history

Version	Date	Author	History
1	19 <sup>th</sup> February 2014	Sally Holroyd, Allen Risby	1 <sup>st</sup> DRAFT for Natural England review
2	20 <sup>th</sup> February 2014	Andrew Prior, Source Low Carbon, LLP	Amended draft (text in section 4 of this SoCG updated) following discussion with Natural England. For review by Natural England.
3	3 <sup>rd</sup> March 2014	Allen Risby	Updated with comments from Natural England
4	24 <sup>th</sup> March 2014	Allen Risby	Updated following call with Natural England
5	25 <sup>th</sup> March 2014	James Bussell	Update of draft by Natural England

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Position	Principal Advisor
On behalf of	Natural England
Date	25/03/14

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On behalf of	DONG Energy Walney Extension (UK) Limited
Date	

## 1 Introduction

- 1.1 Following submission of the Statement of Common Ground (SOCG) between the Applicant and Natural England (Appendix 4.16 of the Applicant's Deadline I Submission, 16<sup>th</sup> December 2013) further discussions on the outstanding issues have taken place. These discussions are summarised in Table 1.

**Table 1: DONG Energy and Natural England discussions**

Date	Topic
15 <sup>th</sup> January 2014	Update discussion on progress on herring gull in-combination assessment, collision risk modelling (option 1), cumulative impacts on pink-footed goose and whooper swan, intertidal cable installation monitoring.
27 <sup>th</sup> January 2014	Informal meeting following DCO hearing. Discussion of DML monitoring requirements.
4 <sup>th</sup> February 2014	Clarification Notes (submitted for Deadline III) on regional population collision risk, and gannet and kittiwake CRM option 1 results were provided to Natural England.
20 <sup>th</sup> February 2014	Update call with Natural England.
26 <sup>th</sup> February 2014	Meeting between DONG Energy (& HDD consultant) and Natural England to review details of the HDD methodology and proposed mitigation measures (Middleton Sands saltmarsh habitat)
13 <sup>th</sup> March 2014	Update call with Natural England
24 <sup>th</sup> March 2014	Call with Natural England (and MMO)

- 1.2 The outcome of these discussions is summarised below.
- 1.3 Unless otherwise stated references in this document are to the original paragraph numbers in the SOCG submitted on 16th December 2013.

## 2 Areas of discussion

- 2.1 Discussion between the Applicant and the Natural England has taken place as detailed further in the tables in the following section of this document.

### 3 Details of outstanding issues

Ref	Issue	Previous status	Update to status
10.1 to 10.3	In-combination assessment of collision risk to pink-footed goose	Natural England identified (Expert Report, within Written Representation submitted for Deadline I of 16 <sup>th</sup> December 2013) that it is not requesting any further work from the Applicant at this stage but that it currently does not have sufficient certainty to agree a conclusion of no adverse effect from the Project alone or in-combination.	Agreed.  Natural England has now had time to consider this issue fully and is able to agree with the conclusions reached by the Applicant of no LSE on the pink-footed geese population associated with the SPAs. Further detail is provided in Natural England's Advice Regarding Offshore Ornithology Issues – Supplementary Expert Report by Dr Alex Banks (submitted 4 <sup>th</sup> March 2014).
10.4 to 10.5	In-combination assessment of collision risk to whooper swan	Natural England identified (Expert Report within Written Representation submitted for Deadline I of 16 <sup>th</sup> December 2013) that "whilst we do not request any further work from the Applicant at this stage we are also not yet in a position to agree that effects are not significant. Further effort will be made to arrive at this and communicate with both the Applicant and the ExA".	Agreed.  As with pink footed geese, Natural England now agrees with the Applicant's conclusion of no LSE on the whooper swan population associated with the SPAs. Further detail is provided in Natural England's Advice Regarding Offshore Ornithology Issues – Supplementary Expert Report by Dr Alex Banks (submitted 4 <sup>th</sup> March 2014).
Expert Report: Ornithology. Paragraph 17	HRA for SPA birds in the non-breeding season. Revisiting the collision impact using options 1 and 2, as appropriate	As agreed the scope for this work was agreed between the Applicant and Natural England prior to Deadline III (5 <sup>th</sup> February).	Agreed.  The Applicant provided a clarification note based on the agreed scope for Deadline IV (4 <sup>th</sup> March). The Applicant discussed this clarification note with Natural England on the 24 <sup>th</sup> March Natural England considered the information provided and made its own calculations of predicted impacts. As a screening tool, the aim was to identify any features of any SPAs at

Ref	Issue	Previous status	Update to status
			apparently increased risk of mortality from wind farm operation. Because predicted impacts resulted in only minor increases to background mortality, Natural England were able to advise a conclusion of no adverse effect was appropriate for all features of all SPAs considered. The parties agree that no further action was required.
8.1	Updated in-combination assessment for lesser black-backed gull to be provided.	It has been agreed between the Applicant and Natural England (following consideration of this issue as part of the Burbo Bank Extension Offshore Wind Farm examination) that a clarification note will be provided by the Applicant.	Agreed.  The Applicant provided a clarification note for Deadline IV (4 <sup>th</sup> March). The Applicant discussed this clarification note with Natural England on the 24 <sup>th</sup> March 2014. Natural England stated that as the approach followed that provided for the Burbo Bank Extension offshore wind farm, it was appropriate to agree a conclusion of no adverse effect on integrity of LBBGs at Morecambe Bay, Ribble & Alt Estuaries and Bowland Fells SPAs, at least up to Tier 4 of the assessment, which includes predicted impacts from the Walney Extension Offshore Wind Farm..
9.3	Updated in-combination assessment for herring gull at Morecambe Bay SPA	Natural England had requested further clarification to address the lack of quantitative data.	Agreed.  The Applicant and Natural England now agree that a conclusion of no adverse impact on site integrity is appropriate for the in combination effect on herring gulls at Morecambe Bay SPA. This is partly from early sight of the Applicant's clarification note "Herring gull feature of Morecambe Bay SPA collision risk apportioning", which suggests 17 collisions in the breeding season using Band Option 2 and 98% avoidance rate, and partly from Natural England's own investigations into gull usage of other offshore wind farms within foraging range of the SPA. These suggested very low densities of herring gulls at other OWFs and thus very low predictions of collision mortality.

Ref	Issue	Previous status	Update to status
11.3	Horizontal directional drilling (HDD) - impacts on Morecambe Bay SAC and population of belted beauty moth	It was agreed that the Applicant would produce a report on HDD feasibility.	<p>Agreed.</p> <p>A report "Update on environmental effects associated with horizontal directional drilling at the landfall" was provided by the Applicant for Deadline II (Appendix 6 of the Applicant's submission at Deadline II of 17<sup>th</sup> January 2014) together with an HDD feasibility report (Appendix 5 of the Applicant's Deadline II submission). The Applicant refined both the engineering detail and the approach to mitigation and a further update was provided ahead of the meeting with Natural England on the 26<sup>th</sup> February 2014.</p> <p>Following these discussions, the Applicant agreed to provide further clarification on geophysical and borehole surveys that would increase the accuracy of HDD prior to commencement of operations. The Applicant also agreed to add wording to the DCO to reflect concerns regarding breeding birds that now may be disturbed by necessary infrastructure and mitigation work.</p> <p>Natural England provided comments on the HDD method and mitigation and made recommendations on pre-commencement activities, HDD procedures and proposed mitigation. Natural England's advice to the Applicant on this issue is included with this submission. Natural England agrees that, providing the appropriate mitigation measures are enacted, HDD works will not have a likely significant effect on Morecambe Bay SAC. Additionally Natural England is satisfied that consideration of breeding birds can be provided in the DCO and that suitable mitigation can be included in the Ecological Mitigation and Monitoring Plan (EMMP) in consultation with Natural England.</p> <p>The Applicant has updated the draft DCO (Requirement 16) to secure the appropriate mitigation. Natural England's comments on whether the commitments in the draft DCO now address their concerns are awaited.</p> <p>Natural England agreed that finalising the proposed mitigation for the belted beauty moth population in the saltmarsh could be deferred to the EMMP as there will be more detailed information on the timing and risk from the HDD operations</p>

Ref	Issue	Previous status	Update to status
			at that time, allowing the Applicant, Natural England and Butterfly Conservation to reach more considered views.
15.3	Marine mammals - cumulative effect and simultaneous piling	Following a discussion with the Applicant on 5 <sup>th</sup> December 2013 Natural England and JNCC are considering the Deemed Marine Licence (DML) drafting provided by the Applicant.	Agreed.  Natural England and JNCC have confirmed that the DCO and DML drafting addresses their concerns in respect of potential cumulative effects on marine mammals



#### 4 Additional issues raised following issue of the SOCG

- 4.1 Further to the issues discussed and agreed in the original SOCG with Natural England, Natural England submitted further comments on the DCO by email on 22nd January 2014, and in their Deadline III submission (4th February). The comments made on 22nd January were also discussed at the DCO issue specific hearing on 27<sup>th</sup> January. These comments are discussed further in the table below.

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
4.1	Definition of "commence"	<p>The interpretation of "commence" does not include a reference to pre-construction surveys and monitoring, and instead infers that the starting point is construction. Natural England would suggest the addition of the following:</p> <p>"commence", in relation to the authorised project, means the first carrying out of any licensed marine activities referred to in the deemed marine licences, <u>save for pre-construction surveys and monitoring</u>, and means beginning to carry out any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the authorised project other than operations consisting of site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words</p>	<p>This was discussed at the DCO hearing and the Applicant agreed to update the DCO accordingly. The definition of "commence" in the revised draft DCO (submitted to the ExA at deadline IIIa of 14<sup>th</sup> February 2014) has been updated as follows:</p> <p><i>the first carrying out of any licensed marine activities referred to in the deemed marine licences, save for pre-construction surveys and/or monitoring; and (b) beginning to carry out any material operation (as defined in Section 56(4) of the 1990 Act) forming part of the authorised project other than operations consisting of pre-construction surveys and/or monitoring, site clearance, demolition work, archaeological investigations, environmental surveys, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the temporary display of site notices or advertisements and the words 'commencement' and 'commenced' shall be construed accordingly;</i></p>	Agreed.

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
		'commencement' and 'commenced' shall be construed accordingly;		
4.2	Construction and environmental management plan (CEMP)	<p>Natural England requests that they are also consulted on the CEMP, and would request rewording of the section as below. In addition we would request that we be consulted at least 4 months prior to the anticipated start of works in order to allow sufficient time to provide a fully considered response.</p> <p><i>(1) No stage of the connection works shall commence until a CEMP for that stage has been submitted to and approved by the relevant planning authority <u>in consultation with Natural England a minimum of four months prior to anticipated commencement of works.</u></i></p> <p><i>(2) The CEMP shall cover all the subject areas set out in the approved CoCP and any other matters the relevant planning authority <u>in consultation with Natural England</u> reasonably requires.</i></p>	<p>The Applicant agrees to update the DCO accordingly. Requirement 28 of the draft DCO submitted at deadline IVa 14<sup>th</sup> March 2014 (previously Requirement 38) has been updated as follows:</p> <p><i>28.-(1) No stage of the connection works shall commence until a CEMP for that stage has been submitted to and approved by the relevant planning authority, in consultation with Natural England.</i></p> <p><i>(2) The CEMP must be submitted to the relevant planning authority and Natural England at least four months prior to the commencement of the relevant stage of the connection works.</i></p> <p><i>(3) The CEMP must cover all the subject areas set out in the approved CoCP and any other matters the relevant planning authority, having consulted with Natural England, reasonably requires.</i></p> <p><i>(4) The CEMP must be implemented as approved.</i></p>	Agreed
4.3	European protected species (EPS)	It is stated that should an EPS be shown to be present, the developer will consult Natural England and the Secretary of State for Environment, Food and Rural Affairs with regards to a scheme of mitigation and protection, and will submit these plans to the LPA.	The Applicant agrees to update the DCO accordingly. Requirement 30(2) of the draft DCO submitted at deadline IVa 14 <sup>th</sup> March 2014 has been updated as follows:	Agreed

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
		Natural England would like to clarify that they are responsible for EPS licencing issues, and therefore consultation of the Secretary of State is not required in this instance.	<i>Where a European protected species is shown to be present the relevant stage of the connection works shall not begin until, after consultation with Natural England, a scheme of protection and mitigation measures has been submitted to and approved by the relevant planning authority. The relevant works must be carried out in accordance with the approved scheme.</i>	
4.4	Control of artificial light emissions	Natural England request to be consulted in addition to the LPA on a scheme of mitigation.	<p>The Applicant agrees to update the DCO accordingly. 37(1) of the draft DCO submitted at deadline IVa 14<sup>th</sup> March 2014 has been updated as follows:</p> <p><i>37.-(1) No stage of the connection works shall commence until a written scheme for the management and mitigation of artificial light emissions during the construction and/or operation of the relevant stage has been submitted to and approved by the relevant planning authority, in consultation with Natural England.</i></p>	Agreed
4.5	Offshore decommissioning	Natural England request to be consulted in addition to the MMO on a decommissioning plan, as already stated for requirement 49 "Onshore decommissioning".	<p>The Applicant agrees to update the DCO accordingly. Schedules 9 and 10 (DML) of the revised draft DCO submitted to the ExA at deadline IIIa of 14<sup>th</sup> February 2014) have been updated as follows:</p> <p><b>Schedule 9 – Generator Assets DML and Schedule 10 Transmission Assets:</b></p> <p>Conditions 15 and condition 12 (respectively) – to be amended to read as follows:</p>	Agreed

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
			<i>"No part of the authorised development seaward of MHWS shall commence until a written decommissioning programme in compliance with any notice served upon the undertaker by the Secretary of State pursuant to section 105(2) of the 2004 Act has been submitted to the Secretary of State for approval. The undertaker must consult the MMO, Natural England and the relevant planning authority on the proposed decommissioning activity no less than four months prior to submission of the proposed decommissioning programme to the Secretary of State."</i>	
4.6	Consultation on Pre-construction, construction and post-construction surveys and monitoring (Schedule 9 and 10)	<p>Natural England request additional text in Schedule 9 Conditions 12.1, 13.1 and 14.1 and Schedule 10 Condition 10.1, 11.1 to state MMO will review proposals in consultation with Natural England as below.</p> <p><i>12.1 The undertaker must, in discharging condition 9.1(a) submit details for approval by the MMO <u>in consultation with Natural England</u> of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report at least four months prior to surveys commencing.</i></p> <p><i>13.1 The undertaker must, in discharging condition 9.1(a), submit details for approval by the MMO <u>in consultation with Natural England</u> of any proposed</i></p>	<p>The Applicant agrees to update the DCO accordingly, and to add 'in consultation with Natural England' to new conditions agreed with the MMO.</p> <p>Schedules 9 and 10 (DML) of the revised draft DCO submitted to the ExA at deadline IVa of 14<sup>th</sup> March 2014) have been updated as follows:</p> <p><b>Schedule 9 – Generator Assets DML</b></p> <p>Condition 14.2 – to be amended to read as follows:</p> <p><i>"Following the completion of the authorised development, the undertaker must carry out the surveys agreed under condition 14.1 for three years, which may be non-consecutive years, and provide reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed with the MMO following consultation with Natural England".</i></p>	<p>Agreed.</p> <p>This has also been agreed with the MMO, in the updated SOCG, submitted by the Applicant at deadline IIIa of 14<sup>th</sup> February 2014 (refer to New Issue 2 (a)).</p>

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
		<i>surveys or monitoring, including methodologies and timings, to be carried out during the construction of the authorised development</i>	<p>New Condition 14.3 – to read as follows:</p> <p><i>“If a major storm event occurs at any time between the completion of the authorised development and the completion of the third year of surveys required under condition 14.2, the undertaker must carry out a side scan sonar and bathymetry survey within the Order limits seaward of MHWS in which the construction works were carried out, in accordance with such timetable as may be agreed with the MMO following consultation with Natural England”.</i></p> <p><b>Schedule 10 – Transmission Assets DML</b></p> <p>Condition 11.2 – to be amended to read as follows:</p> <p><i>“Following the completion of the authorised development, the undertaker must carry out the surveys agreed under condition 14.1 for three years, which may be non-consecutive years, and provide reports in the agreed format in accordance with the agreed timetable, unless otherwise agreed with the MMO following consultation with Natural England”.</i></p> <p>New Condition 11.3 – to read as follows:</p> <p><i>“If a major storm event occurs at any time between the completion of the authorised development and the completion of the third year of surveys required under condition 11.2, the undertaker must carry out a side scan sonar and bathymetry survey within the Order limits seaward of MHWS in which the construction works were carried out, in accordance with such timetable as may be agreed with the MMO following</i></p>	

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
			<i>consultation with Natural England”.</i>	
4.7	Scope of Pre-construction, construction and post-construction surveys and monitoring (Schedule 9 and 10)	Natural England initially requested that the text in 14.1 (Schedule 9) and 11.1 (Schedule 10) for post-construction surveys be amended to include the phrase “but not limited to” to reflect the wording of 12.2 with regards to pre-construction surveys.	This issue was discussed at the DCO hearing on 27th January. Natural England has subsequently agreed that more precise drafting in respect of ornithological monitoring would be desirable.	<p>Not currently agreed.</p> <p>Discussions between Natural England and the Applicant are ongoing on the potential scope of ornithological monitoring and associated DML drafting. Natural England has provided the Applicant with a comprehensive discussion paper proposing potential ornithological monitoring schemes.</p> <p>The updated SOCG between the Applicant and the MMO, submitted by the Applicant at Deadline IIIa of 14<sup>th</sup> February 2014 (refer to New Issue 2 (b)), notes that the MMO defers to Natural England and supports further discussion on this matter.</p> <p>The Applicant has provided an Outline Ornithological Monitoring Program to Natural England (copied to MMO) that proposes a mechanism outside of the DCO for the Applicant to contribute to</p>

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
				<p>funding research projects based on bird species relevant to the Project environmental assessment, assessment, including, lesser black-backed gull, herring gull, pink footed geese and whooper swan.</p> <p>The approach to ornithological monitoring is still in discussion between the Applicant and Natural England, and further information on the parties' positions will be provided at the biodiversity hearing on 27<sup>th</sup> March 2014.</p>
4.8	Pre-construction, construction and post-construction surveys and monitoring (Schedule 9)	Natural England suggested that drafting from the EA One Project is incorporated into Schedule 9 Generation Assets DML conditions 12, 13 and 14 (pre-construction, construction and post construction monitoring and surveys).	The Applicant disagrees with the proposal to include the EA One drafting and believes it is desirable for monitoring conditions to be precise and targeted. Natural England has subsequently agreed that more precise drafting in respect of ornithological monitoring would be desirable.	<p>Not currently agreed.</p> <p>Discussions between Natural England and the Applicant are ongoing on the potential scope of ornithological monitoring and associated DML drafting. Natural England has provided the Applicant with a comprehensive discussion paper proposing potential ornithological monitoring schemes.</p> <p>The Applicant has provided an</p>

Ref	Issue	Comments of Natural England	Comments of Applicant	Status
				<p>Outline Ornithological Monitoring Program to Natural England (copied to MMO) that proposes a mechanism outside of the DCO for the Applicant to contribute to funding research projects based on bird species relevant to the Project environmental assessment, including, lesser black-backed gull, herring gull, pink footed geese and whooper swan.</p> <p>The approach to ornithological monitoring is still in discussion between the Applicant and Natural England, and further information on the parties' positions will be provided at the biodiversity hearing on 27<sup>th</sup> March 2014.</p>
4.9	Scope of pre-construction, construction and post-construction surveys and monitoring (Schedule 10)	Natural England has proposed that drafting from the DML for the EA ONE project be incorporated at Schedule 10 to the DCO, the DML relating to Transmission Assets	The Applicant and Natural England have subsequently agreed that ornithological monitoring of the transmission assets is not required.	Agreed



Ref	Issue	Comments of Natural England	Comments of Applicant	Status
4.10	Backfilling trenches and post construction monitoring	Natural England requested in their Written Representation that consideration be given to DML conditions relating to backfilling for cable trenches in the intertidal area; and post construction monitoring of intertidal recovery.	<p>The following updated DCO drafting has been agreed with Natural England (email of 22/01/14) and the Applicant will update the DCO accordingly.</p> <p><b>Schedule 10 Transmission Assets</b></p> <p>Condition 9.1 (c) (iii) to be amended as follows:</p> <p><i>"Cable installation, including cable protection, the method and specification for seabed reinstatement relating to open cut trenches excavated in the Inter-tidal Area, and the method and frequency of post-construction surveys required to monitor physical and biological recovery of the seabed following such reinstatement."</i></p> <p>A new condition to be added to 11.1 (condition 11.1 (c) to read as follows:</p> <p><i>"surveys of the Inter-tidal Area within the Order limits seaward of MHWS in which construction works were carried out, to determine the extent and success of physical and biological recovery following cable installation".</i></p>	<p>Agreed.</p> <p>This has also been agreed with the MMO, in the updated SOCG, submitted by the Applicant at Deadline IIIa of 14<sup>th</sup> February 2014 (refer to New Issue 2 (a)).</p>

## **Appendix 1**

**Natural England's comments to Dong Energy on: HDD feasibility review, Clarification note: HDD impacts on Morecambe Bay SAC and belted beauty moth, and Survey scope document**

## **Natural England's comments to Dong Energy on: HDD feasibility review, Clarification note: HDD impacts on Morecambe Bay SAC and belted beauty moth, and Survey scope document**

Natural England has reviewed and considered the HDD Feasibility Review report and the clarification note on HDD impacts to Morecambe Bay SAC and the belted beauty moth (both received 24<sup>th</sup> Feb 2014). We recognise the usefulness of the additional detail provided in both documents which has helped us to develop our understanding of the likely impacts to the saltmarsh features of Morecambe Bay SAC and Lune Estuary SSSI, and mitigation options available for this site. Additionally, further survey scoping information has also been provided by the Applicant in the technical note of possible Geophysical and Geotechnical Surveys (received 28<sup>th</sup> Feb 2014) and reviewed by Natural England.

Based on the current information available Natural England has the following comments with regards to impacts to saltmarsh features of Morecambe Bay SAC and Lune Estuary SSSI.

### **Saltmarsh impacts and mitigation**

Overall, the risk of HDD failure is defined as highly to extremely unlikely, with an increased chance of breakout towards the western half of the saltmarsh due to specific ground conditions. Additionally, the total (worst case) area impacted through ground subsidence, drilling mud breakout, and containment activities is estimated to be 6393.3m<sup>2</sup>, an estimated 0.033% of the total SAC saltmarsh feature area.

It is Natural England's opinion that the Applicant should apply the following recommendations which will reduce the risk of an adverse effect on the saltmarsh features:

#### **Pre-commencement of HDD works:**

- Further ground investigations prior to commencement of HDD would improve the accuracy of the geological model and refine the HDD design profile. Natural England is satisfied that the surveys proposed in the technical note are necessary to ensure that appropriate data is available to allow for better navigation of HDD through the glacial till layer, and therefore reduce the risk of breakouts. We are satisfied that the scale of impact to the saltmarsh from the geophysical surveys is likely to be minimal based on the information currently provided, and the geotechnical works are similar in scale to work approved last year on the site (Sept 2013). Dong Energy will need to consult Natural England prior to conducting these further investigations.

#### **During HDD works:**

- An experienced, competent HDD drilling contractor is chosen
- Real time down hole pressure monitoring is proactively used to keep annular pressure within acceptable limits, and detect outbreaks of drilling mud through sudden drops in pressure
- A competent drilling fluid engineer is employed by the drilling contractor
- Larger or oversized pilot hole is used

- The northernmost HDD is drilled first as it traverses the shortest distance of saltmarsh and subsequent drill designs and procedures would be improved to further reduce risk of breakout

**Proposed mitigation:**

- Natural England agrees that the most effective form of containment would be the use of sandbags as described in the clarification note, including the use of pumps and lay flat hoses to remove the bentonite. These activities would need to be contained within a boundary so as not to add additional impact on the saltmarsh. The Applicant has provided an outline of how this plan of works would progress, and Natural England is satisfied that these can be further defined and secured through the DCO/Ecological Mitigation and Monitoring Plan (EMMP).
- Natural England agrees that placing the returns line immediately adjacent to the base of the sea wall will minimise impacts to the saltmarsh
- Natural England recommends that works commence during the summer months when saltmarsh plant species are in a growing phase. This would allow for faster recovery of impacted areas. However, we would stress that monitoring up to the point of recovery is required.

**Conclusion:** Natural England agrees that, providing the appropriate mitigation measures are enacted, HDD works will not have a likely significant effect on Morecambe Bay SAC.

**Breeding birds**

Natural England raised the need to consider impacts to breeding birds utilising Lune Estuary SSSI under the Wildlife and Countryside Act (1981).

- Under Section 1 of the Wildlife and Countryside Act 1981 (as amended), wild birds are protected from being killed, injured or captured, while their nests and eggs are protected from being damaged, destroyed or taken. In addition, certain species such as the barn owl are included in Schedule 1 of the Act and are protected against disturbance while nesting and when they have dependent young. Offences against birds listed on Schedule 1 of the Wildlife and Countryside Act (as amended) are subject to special penalties.
- Further information on wildlife legislation relating to birds can be found in the RSPB publication Wild birds and the law. A list of Schedule 1 species together with more information on distribution and habitats can be found on the RSPB website.
- It will be necessary to determine the use of the works area by breeding birds using best available evidence and additional walkover surveys to identify presence of breeding nests prior to commencement of works will be required. This will include pre-laying surveys of the returns pipe route.
- Appropriate mitigation should be considered:
  - use of bird scarers to discourage birds from nesting in the area of works
  - returns pipe route to be laid along the base of the sea wall
  - returns pipe route to be laid around nest sites
  - consideration of timing of works within permitted period

- Natural England refers the Applicant to our [standing advice](#) for protected species.

**Conclusion:** As discussed with the Applicant, Natural England is satisfied that consideration to protection for breeding birds will be considered in DCO, and suitable mitigation is able to be included within the Ecological Mitigation and Monitoring Plan (EMMP) in consultation with Natural England.

#### **Belted Beauty moth**

- The salt marsh supports a population of belted beauty moths. The area impacted represents 1.7% of the marsh used by the moth. Belted beauty moths are listed by the secretary of state under section 41 of the NERC Act (2006).
- Translocation of the Belted Beauty moth from the works area to alternative areas within the saltmarsh site has proposed as a means of reducing impacts from HDD to the population. Natural England acknowledges that this could be an appropriate method. Butterfly Conservation are best placed to advise on the ecology and suitable conservation measures for this species.
- Natural England refers to the recommendation to carry out HDD operations in the summer months in recognition that this would enable saltmarsh plant species to recover more quickly from any impacts during the remaining growing season. This would help to reduce any adverse impact on the integrity of the site, and improve the recovery of saltmarsh species which support the Belted Beauty moth population. This would also avoid any disturbance to the protected bird species of Morecambe Bay SPA during the over-wintering period.
- Natural England would agree that finalising the proposed mitigation could be deferred to the Ecological Mitigation and Monitoring Plan (EMMP) as there will be more detailed information around the timing and risk of bentonite breakout at that time.

**Conclusion:** Natural England suggests ongoing consultation between Butterfly Conservation and the Applicant and Natural England will improve understanding of the potential impacts to the Belted Beauty moth and identify the most suitable approach to minimise impacts on the overwintering bird features of the SPA, the Annex 1 salt marsh features of the SAC and the belted beauty moth listed under section 41 of the NERC Act.

14/03/14

Katherine Nisbet