

Date: 10 January 2025
Our ref: Case: 27347 Consultation: 497793
Your ref: EN010115



National Infrastructure Planning
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VIA WEBSITE ONLY

Dear Sir/Madam,

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Five Estuaries Offshore Wind Farm Limited for an order granting development consent for the Five Estuaries Offshore Wind Farm project

Request for Further information – Benthic Ecology

We write in respect of the following Rule 17 Letter issued on 23 December 2024 to both Natural England and the Applicant:

- Applicant and Natural England Rule 17 – Benthic Ecology.pdf [PD-023]

We note the request within this Rule 17 Letter for further information in relation to benthic ecology, as follows:

For Natural England

“1) The Applicant has provided a Technical Note – Methodology for Determining MDS (Offshore) Rev B [REP4-034]. Has the submission of [REP4-034] addressed your concerns, as stated under items E1 and E7 in [PD2-007]. If not, explain why that is the case?”

2) Provide an update on MLSSAC’s condition, building on evidence already submitted at [REP4-063].”

Natural England has considered this request for further information and below is our detailed advice.

1. The Applicant has provided a Technical Note – Methodology for Determining MDS (Offshore) Rev B [REP4-034]. Has the submission of [REP4-034] addressed your concerns, as stated under items E1 and E7 in [PD2-007]. If not, explain why that is the case?

Natural England welcomes the Technical Note – Methodology for Determining MDS (Offshore) Rev B [REP4-034], which provides further clarification on a number of topics including Maximum Design Scenario (MDS) values for cable crossings, MDS trapped sediment volume in cable protection, MDS boulder clearance and pre-lay grapnel; and the maximum length of cable protection within Margate and Long Sands Special Area of Conservation (MLS SAC).

The following issues (E1 and E7) have been extracted from Natural England's Appendix E to the Relevant Representations – Benthic and Intertidal Ecology (13 August 2024) and we have provided further advice within the Table 1 as to whether or not our concerns have been addressed.

Natural England highlights that further information/evidence, which we do not believe are directly relevant to responding to points E1 and E7, has been included e.g. 'MDS trapped sediment volume in cable protection', for which we have provided no further comment. Therefore, we advise that no comment, should not be taken as read that Natural England is in agreement with the Applicant on the assessment of trapped sediment, especially in light of evidence of exposed cable/scour protection at the London Array Windfarm also located within MLS SAC

Table 1. Summary of Key Issues – Benthic and Intertidal Ecology.

NE Ref	Summary of Key Concerns	Natural England's Recommendations to Resolve Issues.	Question from the ExA: Has the submission of [REP4-034] addressed your concerns? If not, explain why that is the case
E1	<u>Insufficient evidence</u> Natural England is concerned that the methods and information used to determine maximum length of cable protection within Margate and Long Sands Special Area of Conservation (MLS SAC) are not transparent and appear to be high level, and as such, it is not clear how realistic this Maximum Design Scenario (MDS) is. Natural England advises that due to	Natural England advises that further information is required to provide the necessary confidence in the MDS/Worst Case Scenario (WCS) for cable protection within the SAC.	Whilst Natural England welcomes the Applicant's updated Technical Note – Methodology for Determining MDS (Offshore) Rev B [REP4-034], we advise that the MDS/WCS for cable protection within the SAC remains unclear across all relevant documents.

	uncertainty (reasonable scientific doubt) we cannot advise the exclusion of an Adverse Effect on Integrity (AEol). Therefore, there is a need to further quantify the impact to inform the levels of compensation required.		We advise that this needs to be clarified and the relevant documents updated accordingly. Please also see our advice below.
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Table 2. Natural England's Detailed Advice and Recommendations – Benthic and Intertidal Ecology.

Natural England's Relevant and Written Representations	NE Ref	Section Ref	Comment	Recommendation	Question from the ExA: <i>Has the submission of [REP4-034] addressed your concerns? If not, explain why that is the case</i>
Natural England's Position on Worst Case Scenario or Scenarios	E7	APP-242 9.12 & APP-239 9.9	<p>It is not clear to Natural England what information has been used to determine the maximum length of cable protection required within MLS SAC (i.e. 900 m). It is also not clear whether the potential for the addition of further cable protection has been considered and included within the calculations for MDS/WCS for scour protection within the SAC.</p> <p>These documents are written from an engineering perspective rather than from an ecological one trying to understand the impacts from sub optimally buried cables and potential impacts to designated sites.</p>	In order that a meaningful assessment can be made, Natural England require the applicant to provide a transparent justification for the WCS quantification of benthic impacts within MLS SAC, drawing upon previous experience and available information about the ground type along the ECC route. The WCS should also include any possible post-construction measures such as the placement of additional scour replenishment.	No, Natural England concerns have not been addressed. The updated Technical Note ' <i>Methodology for Determining MDS [REP4-034]</i> ' does not clearly state either the total area, or volume of cable protection required within Margate and Long Sands SAC for both cables. Natural England reiterates that whilst these calculations continue to be ambiguously stated within the Applicant's documents, it is not clear how the regulator will be certain that the WCS within the SAC has not been exceeded.

				<p>Natural England would welcome additional information relating to the WCS volume of cable protection (as well as the total cable length) within Margate and Long Sands SAC so that it is clear to all parties what the thresholds are. Natural England queries how the regulator will be certain that the WCS within the SAC has not been exceeded? If the Secretary of State (SOS) is minded to consent the project, further DCO/dML restrictions may be appropriate.</p>	<p>For example, whilst an area of 5,400 m³ has been stated within the Technical note (Section 3.1.5 and 3.3.2), it is not clear that this figure refers to only one of two cables thus the estimated WCS is double the 5,400 m³. In addition, volume calculations remain absent from the updated Technical Note. Therefore, we advise that all relevant documents will need to be updated to clearly demonstrate the <u>total area and volume</u> of cable protection required within the SACt. And whether that will be one linear line of protection or multiple of a particular length and design.</p> <p>Natural England notes that the technical note [REP4-034] appears to deal with cable installation only and does not cover operation. Our outstanding concern raised in our Relevant Representations A15 [PD2-003] regarding the</p>
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					deployment of cable protection during operation remains. Therefore, we advise that any during operations cable protection deployment would be subject to further licensing requirements.
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2. Provide an update on MLSSAC's condition, building on evidence already submitted at [REP4-063].

Natural England aims to update the condition assessment and having it publicly viewable on their Designated Sites system by the end of January 2025.

3. Benthic Compensation

Whilst we note that there are actions for the Applicant in relation to benthic compensation measures, Natural England wish to draw your attention to our response to Examiners Question 1 (ME. 1.10) at Deadline 2 [REP2-059]. Currently it is understood that it is unlikely that the Applicant will be able to provide sufficient evidence and/or level of security within this examination that removal of telecommunication cables alone will sufficiently offset the impacts to Annex I sandbanks within Margate and Long Sands SAC. And whilst we have highlighted in our relevant and written representations [PD2-008] the limitations of each of the project level compensation measures to help inform decision making, we advise that the SNCB's and Applicant's preferred compensation measure remains that of strategic benthic compensation in the form of a new designated site or site extension, as we believe that this will have the greatest ecological merit and chance of delivery.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours faithfully,

Yolanda Foote
Marine Senior Officer – Sussex and Kent Area Team
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