



THE PLANNING ACT 2008

THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES
2010

Morecambe Offshore Wind Farm: Generation Assets

Appendix J to Natural England's Deadline 5 submission.

**Natural England's responses to the Examining Authority's further written questions
and requests for information (ExQ2)**

For:

The construction and operation of the Morecambe Generation Offshore Wind Farm located
approximately 30 km off the Northwest English Coast in the Irish Sea.

Planning Inspectorate Reference EN010121

13 March 2025

Table 1. Natural England's comments on the Examining Authority's written questions

Ref.	Question to:	Question	Natural England Response
2BEM1.	The applicant MMO NE	<p>Outline Underwater Sound Management Strategy</p> <p>The Outline Underwater Sound Management Strategy [REP4-049] in paragraph 34 states that the applicant is committed to deploying a NAS for its worst-case scenario (i.e. maximum strike rate with maximum hammer energy).</p> <p>To the applicant</p> <p>a) can the applicant explain why there is a commitment only for the worst-case scenario and thus any other scenarios which may require NAS are not so committed?</p> <p>b) in order to future proof the document, could the applicant consider including reference to potential future piling noise limits which may be imposed?</p> <p>To MMO and NE</p> <p>c) are there any other scenarios in which the applicant should be committed to applying NAS through the Outline Underwater Sound Management Strategy? If so, please identify which ones setting out the rationale. Alternatively, could the NE and MMO set out and explain any other criteria upon which the applicant should be committed to applying NAS. To the applicant, MMO and NE</p> <p>d) should there be different scenarios based on different sensitivities, species and times of year? For example, would it</p>	<p>c) Please refer to Appendix D2 of our Deadline 5 submission.</p> <p>d) Please refer to Appendix D2 of our Deadline 5 submission.</p> <p>It is NE's view that NAS should be in operation for all impact piling activity.</p>

		be appropriate for different criteria during the cod spawning season as opposed to at other times of year? (See also ExQ2BEM3.).	
Fish and shellfish ecology			
2BEM2.	NE MMO	<p>Site specific fish/shellfish surveys</p> <p>In light of NFFO comments on the need for site specific fish and shellfish surveys (as set out in the SoCG between the NFFO and the applicant [REP4-034]), can NE and the MMO explain why they are satisfied with the level of detail as indicated in their D3 and D4 submissions and why further detailed surveys are not necessary.</p>	Natural England's remit on these receptors concerns the potential for the project to affect designated sites, for which the level of detail supplied is adequate, rather than for commercial fisheries. We therefore have no further comments.
Schedule 6 – Deemed Marine Licence			
2DCO4.	The applicant MMO NE	<p>Determination under DML - timings</p> <p>The ExA has read and understood NE's comments in its 'Comments on Rule 17 letter to Natural England and the Marine Management Organisation' [REP4-065] at point R17.1.16 "The necessity for the increased consultation time to 6 months is to avoid delays to the start of construction and is mainly due to; a) the quantity of pre-construction condition discharge consultations we are now receiving per project (compared with OWF NSIPs consented 10 years ago), and b) the potential requirement for multiple consultations in relation to each marine licence condition. It is Natural England's view that the additional rounds of consultations have become common place due to the complexity of the issues included within the licence discharge process and in many cases the necessity to address unresolved issues from consent, before the discharge of the condition can</p>	Natural England's view remains that 6 months is the most appropriate period for pre-construction marine licence discharge consultations for the reasons in our response referenced. This is now the standard going forwards for OWF dMLs and is to provide adequate opportunity for the resolution of any issues at this stage, which will reduce the likelihood of delays to the Applicants construction schedule. This will also allow for multiple rounds of consultation should the MMO refuse an initial submission or ask the Applicant for more information before re-consulting NE. Proposals around changes to the determination period are a matter for MMO comment as the regulator.

		progress". However, this presupposes that the MMO is not willing to refuse matters where an inappropriate proposal is put forward. The ExA has also noted the MMO's response to the same question at [REP4-064]. The ExA is considering recommending a 56 day determination period for all consents within the DML. The applicant, MMO and NE are asked for comments.	
Schedule 7 – Without prejudice compensation measures			
2DCO5.	The applicant NE MMO	Notification procedures In paragraph 2(1) of both Parts 1 and 2 of Schedule 7 there is a time period of six months set in a square bracket. Could the applicant, NE and NRW (A) please confirm this provision, removing the square bracket.	NE confirms that a notification period of six months is adequate.
HRA Issues			
2HRA1.	NE	<p>Lesser black backed gull (LBBG)</p> <p>The ExA notes the applicant's 'Comments on Deadline 3 Submissions by Interested Parties' [REP4-058] in relation to the progression of proposed compensation at Steep Holm to enable commencement of delivery in 2025 with the options of Banks Marsh and South Walney being retained. NE [REP4-066] identifies that the assessments have been updated by the applicant and is waiting for these to be incorporated into the application documentation for a potential solution.</p> <p>a) Can NE confirm:</p> <ul style="list-style-type: none"> • whether these updates would enable it to make a conclusion of no AEol alone or in combination for LBBG at Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA; or 	<p>a) Natural England can confirm that following the incorporation of the updated assessments into the RIAA, we continue to advise that AEOL cannot be ruled out due to the project contributing in-combination collision impacts on the lesser black-backed gull features of Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA. In light of the modest contributions the project makes to the in-combination total, we are confident that the proposed derogations case will be capable of delivering sufficient compensation for these impacts.</p> <p>b) We consider that the potential underestimate of impact levels should be managed through</p>

		<ul style="list-style-type: none"> • whether these updates are to be made to the derogations case to enable NE to agree the without prejudice derogations case for the conclusion of AEol in-combination for the LBBG qualifying feature of Morecambe Bay and Duddon Estuary SPA and Ribble and Alt Estuary SPA? <p>b) In light of NE's comment regarding baseline surveys for LBBG and what it considers to be underestimates of impacts, would NE comment as to whether additional compensation may be necessary in respect of LBBG.</p>	<p>compensation quantum calculations, which we will provide further advice on at Deadline 6. We consider that the proposed measure can be readily scaled to provide confidence that the potential underestimate of impact levels can be compensated for.</p>
2HRA2.	NE	<p>Red-throated diver conservation objective</p> <p>The conservation objectives for the red-throated diver in respect of Liverpool Bay SPA in respect of 'distribution' are: "Restore the distribution of the feature; preventing further deterioration, and where possible, reduce any existing anthropogenic influences impacting feature distribution". Footnote 16 (after the word 'restore') states: <i>"Restore" is used here because existing evidence shows the feature to have been displaced from previously used areas of the site. Therefore, we have set the target to prevent further displacement, while recognising current impacts to the feature, and where possible existing influences should be addressed.</i>"</p> <p>The Explanatory information indicates that <i>"there are detectable displacement effects from the Burbo Bank extension windfarm in Liverpool Bay/Bae Lerpwl SPA (HiDef, 2020). As a result of wind farm development, red-throated divers in Liverpool Bay SPA have experienced a reduction in available supporting habitat. Although the physical supporting habitat may still be present,</i></p>	<p>The conservation objectives are set to ensure that the obligations of the Habitats Regulations are met by ensuring the integrity of the SPA is maintained, or where necessary restored. As such, the "Restore" target is an overarching target encompassing all aspects of activity within the protected site. As set out in the footnote quoted, achieving this target necessarily includes attempting to prevent further displacement impacts compared to their current level. In other words, a "Restore" target for a given feature inherently includes all the requirements that a "Maintain" target would, along with additional aims to improve the condition of the site, when possible.</p> <p>Our advice regarding the potential impact of the proposal on the red-throated diver feature of the SPA is intended to minimise further displacement beyond current levels, which is in line with the "Restore" target as set out in the conservation advice.</p>

		<p><i>disturbance and displacement from wind farms has meant that some areas are no longer accessible for red-throated diver”.</i></p> <p>NE is asked to explain how preventing the proposed development from being constructed within 10km of the original (2010) boundary of the SPA would ‘restore’ the distribution of red-throated divers, as ‘restore’, by definition, can only be a putting back of a previously existing something (in this case location) which has been lost.</p> <p>In light of this, should the objective for the purposes of the consideration of the proposed development be that of ‘maintain’ only? If not, could NE explain why ‘restore’ is suitable.</p>	
2HRA3.	The applicant NE	<p>Red-throated diver</p> <p>The ExA has noted the representations put forward by the applicant and IPs in relation to the conclusions of incombination AEol for the red-throated diver qualifying feature of the Liverpool Bay SPA, noting the distribution objective and effect on supporting habitat. It remains a matter of disagreement. The applicant has provided two further technical notes [REP1-082] [REP4-054] in relation to this matter. [REP1-082] includes Figure 2.1 which shows an area of the original Liverpool Bay SPA boundary which the applicant states that it and NE have agreed as being the area potentially impacted.</p> <p>The applicant has explored a number of factors [REP1-082] [REP4-054] which in its view should be considered and which enable a conclusion of no AEol in-combination. These include (but are not limited to):</p>	<p>a) The Applicant has provided a technical note at Deadline 4 which provides some of the data on which the original designation of the site was based and argued that as densities of divers in that dataset were not sufficiently high for the area within the Project’s 10km buffer to have been designated for red-throated diver alone, there could not be an adverse effect on the site. We highlight that the Applicant’s technical note does not present the complete dataset on which the designation was based, nor the Maximum Curvature Analysis results that were actually used for boundary setting (which resulted in more extensive areas of importance for both species being identified than those presented). Nevertheless it is accurate to state that the region of the SPA under consideration was originally designated for its</p>

	<ul style="list-style-type: none"> • consideration of current uses of the area in and around Liverpool Bay SPA which exert a displacement effect on red-throated diver • consideration of removal of these uses in future years • application of the Crown Estate Round 4 Plan level HRA conclusions • size of the area being in its view, inconsequential to the in-combination assessment • presence of red-throated diver within the area. <p>The applicant notes [REP4-054] that due to the distance of 6.5km supporting habitat would not be impacted. NE reaffirms in [REP4-066] that, to enable a conclusion of no AEoI for red-throated diver at Liverpool Bay SPA, a change in boundary for which wind turbines are located is required. The applicant [REP3-064] has set out that a reduction in boundary would make the proposed development unviable.</p> <p>To NE</p> <p>a) Could NE please confirm its position in light of the latest position from the applicant.</p> <p>b) The ExA notes that NE's D4 response suggests that minimising overlap with the 10km buffer could resolve the issue. Can NE confirm whether there is a specific change in the level of displacement between 10km and 7km that might be used to inform the choice of a slightly smaller buffer than 10km whilst still enabling a conclusion of no AEoI.</p> <p>To the applicant</p>	<p>high densities of common scoter rather than red-throated diver. However, we highlight that:</p> <ul style="list-style-type: none"> • While the boundary of the SPA was drawn based on densities of common scoter in some areas and red-throated diver in others, ultimately the entire site was designated to protect both features. There was no species-specific boundary incorporated into the designation. • The data on which the designation was based were collected in the early 2000s. Survey methodology has improved since then and more recent data are available, so it is not appropriate to base assessment conclusions solely on the data presented in the technical note. • Based on more recent data, we acknowledge that wintering diver densities are lower in the area under consideration than other parts of the SPA, however, densities are nonetheless higher than in most other regions along the west coast of England and Wales. In other words, a less important part of the most important area for non-breeding red-throated diver on the west coast is still important for red-throated diver. • The habitat in the area is appropriate for red-throated diver in terms of water depth. • In the technical note submitted by the Applicant at Deadline 1, the Applicant identified
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		<p>c) Can the applicant set out the reasons why the same power output cannot be achieved without this area (for example amending the proposed turbine spacing, size, or other criteria within the assessed parameters) (see also question ExQ2HRA5.).</p>	<p>that the region of overlap is currently subject to relatively high levels of disturbance from vessel and helicopter movement. We consider it possible, therefore, that diver densities have been generally lower than might be expected in the area for some years and that if levels of disturbance due to vessel and helicopter traffic were to reduce (for example due to the decommissioning of oil and gas platforms in the Irish Sea), then it might be expected that greater densities of divers would be able to use the area. Ensuring that this is possible would be in line with the site's "restore" target for diver distribution and supporting habitat availability.</p> <ul style="list-style-type: none"> • TCE's plan-level Habitats Regulations Assessment (HRA) concluded no AEOL on the Liverpool Bay SPA despite Natural England advising that AEOL could not be ruled out. We provide excerpts from our advice below: <p><u><i>Liverpool Bay SPA</i></u></p> <p><i>Natural England's advice remains that an AEOL on Liverpool Bay SPA cannot currently be ruled out as a result of Preferred Project 5, due to the potential to reduce the availability of supporting habitat that</i></p> <p><i>would otherwise be used by red-throated diver within the site...Given the site abuts the SPA, it seems highly probable that a 10 km buffer</i></p>
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			<p><i>around Preferred Project 5 will interact with areas used by red-throated diver. Without a detailed analysis of the implications of displacement for the availability of red-throated diver supporting habitat with the SPA, we consider a conclusion of no AEOL to be unjustified.</i></p> <p><i>We highlight that as currently drafted the HRA does not identify any potential need for any mitigation relating to 'operational displacement' from Preferred Project 5 [Morecambe OWF]. Natural England considers this approach unsatisfactory, given the potential to design the array in ways that could avoid or reduce the impacts on SPA red-throated diver through reductions in the developable area, should impact assessments reveal that to be an appropriate approach to take. Further, no requirements relating to 'operational displacement' from Preferred Project 5 are proposed for the relevant Agreement for Lease.'</i></p> <p>More generally, it is far from unusual for a plan-level assessment to rule out AEOL only for the project-level assessment to be unable to rule out AEOL. For example, the Round 3 plan-level assessment ruled out AEOL on all SPAs and SACs. Subsequent to that plan-level assessment concluding no adverse effects,</p>
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			<p>Secretaries of State have been unable to rule out adverse effects on integrity from the following Round 3 windfarms: Hornsea Three, Norfolk Vanguard, Norfolk Boreas, East Anglia One North, East Anglia Two, Hornsea Four. The inability to conclude no adverse effects related to three Special Protection Areas, including an SPA classified for RTD, and three Special Areas of Conservation.</p> <p>It therefore remains Natural England's position that AEOL cannot be ruled out for this feature. However, given the evidence regarding the value of the impacted area presented by the Applicant, we consider that the AEOL is better considered as a contribution to the in-combination adverse effect, rather than an alone AEOL. We continue to advise that avoidance/mitigation measures be brought forward to reduce that contribution, ideally to a level where an in-combination AEOL can be ruled out. However, if the project is unable to increase the buffer distance without rendering the project unviable, we consider that the proposed compensatory measures, subject to further development and refinement, could provide sufficient offsetting of the impacts.</p> <p>b) While we consider it likely that an alternative turbine arrangement that minimises the overlap with the (pre-2017) SPA boundary</p>
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			<p>without requiring a 10km buffer can reduce the impact sufficiently to allow AEOI to be ruled out, to advise on whether a 9km, 8km or even a 7km buffer might be sufficient to avoid AEOI we would require the Applicant to present a possible scenario or scenarios into the Examination, along with an assessment of the residual impact within the remaining overlap, to enable us to reach a conclusion regarding this.</p>
2HRA4.	NE	<p>Vessel effects on red-throated diver</p> <p>NE has referenced seasonal restrictions on vessel movements, which the applicant considers to be not necessary. Could NE explain what seasonal restrictions it considers could be imposed on vessel movements to reduce impacts on red-throated diver in light of the applicant's proposals to use existing vessel channels and to avoid transiting through the SPA where possible.</p>	<p>The seasonal restrictions that we would consider appropriate would depend on the location of the port used for construction and operations and maintenance ('O&M') work. If a port is selected where it is possible to avoid transiting through the SPA entirely during the winter season then, provided this should be committed to, effects would be avoided. Alternatively, where a busy shipping lane extends from a port out to the boundary of the SPA, this should be used until vessels are 2km beyond the SPA. In the absence of clarity regarding the likely construction and O&M ports, , Natural England advise that the Applicant should strengthen the wording of the commitment such that, during the sensitive winter period, the Applicant commits exclusively to using existing vessel channels and avoids transiting through other parts of the SPA unless under exceptional circumstances.</p>

2HRA6.	The applicant NE	<p>Location of WTGs and OSPs</p> <p>To the applicant</p> <p>a) The applicant has indicated that preventing the location of WTGs within 10km of the originally designated Liverpool Bay SPA would mean that the proposed site would no longer be viable. Can the applicant respond to the proposition that if the siting of WTGs and OSPs were to be restricted to an area within, in each case, 9km, 8km and 7km of the originally designated Liverpool Bay SPA, particularly if the area in the northwestern part of the application site in the vicinity of the existing oil and gas equipment were to be made available for WTGs and OSPs following decommissioning.</p> <p>To NE</p> <p>b) NE is asked to set out its position were the proposal to be so restricted. It is asked specifically to respond to each of the three specified distances and whether in each case the proposed development would be likely to result in likely significant effects on integrity of the Liverpool Bay SPA in respect of the red-throated diver.</p>	<p>In the absence of an assessment of the residual impacts within the area of overlap, Natural England is unable to provide a position on whether we consider the impacts at each of the potential buffer distances to be reduced to a level where AEOI can be ruled out. We would be pleased to advise the Examination accordingly once that material is provided by the Applicant.</p>
Ørsted assets			
2OO12.	The applicant Ørsted Ips MMO NE	<p>Effect on nearby OWFs</p> <p>The Ørsted IPs ([REP4-077], paragraph 1.22) consider that any need to obtain or vary an existing marine licence is considered business-as-usual and would not impact on decision making regarding extending the lifetime of the assets. Having regard to the recent <i>C G Fry & Son Limited vs Secretary of State for Housing, Communities and Local Government [2024]</i> EWCA Civ</p>	<p>Either a new or varied marine licence would trigger the requirement for a Habitats Regulations Assessment unless an exemption was successfully sought. The likelihood of consent or approval would depend on the nature of the licence being sought. Beyond those points, we would defer to MMO on this matter.</p>

		730 judgment, could the Ørsted IPs, MMO, NE and the applicant respond to the proposition that any new marine licence would be likely to require a HRA to be carried out. As a result, parties are invited to comment on how certain the ExA/ SoS can be that any such consent/ approval would be forthcoming?	
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