



# BEACON FEN ENERGY PARK

Planning Inspectorate Reference: EN010151

Appendix 7.1 Legislation  
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## Quality information

Prepared by	Checked by	Verified by	Approved by
KS	TB	SR	TB

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LEGISLATIVE CONTEXT FOR BIODIVERSITY	
Legislation	Implications
The Environment Act 2021	The Environment Act (November 2021) makes it mandatory for most non NSIP planning applications to deliver a 10% Biodiversity Net Gain (BNG). Further secondary legislation is required to apply the BNG requirement to NSIP developments. Previous consultation has set the expectation that a BNG requirement will be imposed on NSIP projects submitted from November 2025, with the level of the requirement detailed within a BNG Statement(s) (subject to prior publication) but presently expected to be set at the same 10% level. A <b>BNG Strategy (Document ref: 7.3)</b> has been prepared for the Proposed Development to describe the expected biodiversity change post-development.
Conservation of Habitats and Species Regulations 2017 (“the Habitats Regulations”)¹ as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019	These regulations transposed Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna (‘the Habitats Directive’) into domestic law. They also transpose elements of Council Directive 2009/147/EC on the conservation of wild birds (‘the Birds Directive’) into domestic law. The Habitats Regulations provide the framework for the protection of Natura 2000 sites (now referred to as the national site network following the amendments that came into force on 31 December 2020), and for certain flora and fauna (known as European Protected Species (EPS)). The regulations set out the process with regard to the assessment of development.  The Proposed Development will result in effects on species which are qualifying features of the national site network, and EPS which require assessment in line with the Habitats Regulations. This has been completed and mitigation outlined in the <b>Shadow Habitat Regulations Assessment (Document Ref: 5.2)</b> .
Natural Environment and Rural Communities Act 2006 (‘the NERC Act’)²	The NERC Act (amongst other matters) places a duty to conserve biodiversity on public authorities in England. This requires local authorities and government departments to have regard to the purposes of conserving biodiversity in a manner that is consistent with the exercise of their normal functions. The NERC Act also places a duty on the Secretary of State to maintain lists of species and habitats which are regarded as being of principal importance for the conservation of biodiversity in England. These Habitats of Principal Importance (HPI) and Species of Principal Importance (SPI) are used to guide decision makers in implementing their duties to have regard to the conservation of biodiversity in England when carrying out their normal functions.  The Proposed Development will result in effects on HPI and SPI in England. Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7)</b> .
Countryside and Rights of Way Act 2000 (‘the CRoW Act’)³	The CroW Act, amongst other elements, details further measures for the management and protection of Sites of Special Scientific Interest (SSSI) and strengthens wildlife enforcement legislation.  The Proposed Development will result in effects on protected flora and fauna. Mitigation for these has been identified in

¹ The Conservation of Habitats and Species Regulations 2017 (No. 1012).

² Natural Environment and Rural Communities Act 2006, c.16.

³ Countryside and Rights of Way Act 2000, c.37.

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	Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7).</b>
The Hedgerows Regulations 1997 ('the Hedgerow Regulations') <sup>4</sup>	<p>The Hedgerows Regulations facilitate the protection of hedgerows growing in or adjacent to common land, protected land or land used for agriculture, forestry or the breeding and keeping of horses, ponies, or donkeys.</p> <p>The Proposed Development will result in effects on hedgerows deemed important by the Hedgerows Regulations. Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7).</b></p>
Protection of Badgers Act 1992 ("the Protection of Badgers Act") <sup>5</sup>	<p>The Protection of Badgers Act consolidated and improved protection for badgers. It specifically makes it an offence to kill, injure or take a badger, or damage or interfere with a sett unless a licence has been obtained from a statutory authority.</p> <p>The Proposed Development will result in effects on badgers and their setts. Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7).</b></p>
Wildlife and Countryside Act 1981 (as amended) (WCA) <sup>6</sup>	<p>The WCA consolidates and amends existing national legislation to implement the Convention on the Conservation of European Wildlife and Natural Habitats ('the Bern Convention') and Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive).</p> <p>Amongst other matters it provides protection for wild birds, certain flora and fauna and sets the framework for the protection and management of SSSIs.</p> <p>The Proposed Development will result in effects on protected flora and fauna Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7).</b></p>
The European Union (EU) Water Framework Directive (2000/60/EC) (WFD) as enacted into domestic law by the Water Environment (Water Framework Directive (England and Wales) Regulations 2017 (as amended)	<p>A fundamental requirement of the WFD is to attain 'Good Ecological Status', or 'Good Ecological Potential' within each defined water body by December 2027 at the latest and to ensure that any deterioration in status is prevented.</p> <p>The Proposed Development lies within the <i>Black Sluice Internal Drainage Board (IDB) draining to the South Forty Foot Drain Water Body</i>.</p> <p>A WFD Compliance Assessment as part of <b>Appendix 11.6 Water Framework Directive Assessment (Document Ref: 6.3 ES Vol 2, 6.3.86)</b> concluded the Proposed development is unlikely to include activities that are likely to cause deterioration in WFD status for the water bodies within the DCO Order Limits Site boundary or prevent the water body from achieving its WFD objectives, provided that best practice and established guidance are adhered to.</p>

<sup>4</sup> The Hedgerows Regulations 1997 (No.1160).

<sup>5</sup> Badger Act 1992, c.51.

<sup>6</sup> Wildlife and Countryside Act 1981.



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Salmon and Freshwater Fisheries Act 1975 <sup>7</sup>	<p>An Act to consolidate the Salmon and Freshwater Fisheries Act 1923 and certain other enactments relating to salmon and freshwater fisheries, and to repeal certain obsolete enactments relating to such fisheries. The Act covers the fishing implements which are prohibited for use, the obstruction of the passage of fish, timing and selling of fish, fishing licences and authorisations and administration/ enforcement.</p> <p>The Proposed Development will result in temporary obstruction of the passage of fish. Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7)</b>.</p>
Eels (England and Wales) Regulations 2009 <sup>8</sup>	<p>The Eels (England and Wales) Regulations 2009 (the Eel Regulations) aimed to halt and reverse the decline in the European Eel (<i>Anguilla anguilla</i>) stocks through control of harvesting eels, protection of habitats and in particular prevention of obstructions in water course which may impede eel passage. The regulations cover topics such as eel licenses, close seasons, reduction of fishing effort, and the passage of eels around obstructions.</p> <p>These regulations empower the Environment Agency to implement measures for eel stock recovery, impacting operators of abstractions and discharges.</p> <p>The Proposed Development will result in temporary obstruction of the passage of eels. Mitigation for these has been identified in Sections 7.6 and 7.7 of <b>Chapter 7 Ecology (Document Ref: 6.2 ES Vol 1, 6.3.7)</b>.</p>

<sup>7</sup> Salmon and Freshwater Fisheries Act 1975

<sup>8</sup> Eels (England and Wales) Regulations 2009