

MORGAN AND MORECAMBE OFFSHORE WIND FARMS: TRANSMISSION ASSETS

Clarification note on the current position with Natural England (regarding Adverse Effect on Integrity) and the Fairhaven saltmarsh mitigation area



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Glossary

Term	Meaning
Morecambe Offshore Windfarm: Generation Assets	The offshore generation assets and associated activities for the Morecambe Offshore Windfarm.
Morecambe Offshore Windfarm: Transmission Assets	The offshore export cables, landfall, and onshore infrastructure required to connect the Morecambe Offshore Windfarm to the National Grid.
Morecambe OWL	Morecambe Offshore Windfarm Limited is owned by Copenhagen Infrastructure Partners' (CIP) fifth flagship fund, Copenhagen Infrastructure V (CI V).
Morgan and Morecambe Offshore Wind Farms: Transmission Assets	<p>The offshore export cables, landfall, and onshore infrastructure for the Morgan Offshore Wind Project and the Morecambe Offshore Windfarm. This includes the offshore export cables, landfall site, onshore export cables, onshore substations, 400 kV grid connection cables and associated grid connection infrastructure such as circuit breaker compounds.</p> <p>Also referred to in this report as the Transmission Assets, for ease of reading.</p>
Morgan Offshore Wind Project: Generation Assets	The offshore generation assets and associated activities for the Morgan Offshore Wind Project.
Morgan Offshore Wind Project: Transmission Assets	The offshore export cables, landfall and onshore infrastructure required to connect the Morgan Offshore Wind Project to the National Grid.
Morgan OWL	Morgan Offshore Wind Limited is a joint venture between JERA Nex bp (JNbp) and Energie Baden-Württemberg AG (EnBW).
Transmission Assets Order Limits: Offshore	<p>The area within which all components of the Transmission Assets seaward of Mean Low Water Springs will be located, including areas required on a temporary basis during construction and/or decommissioning.</p> <p>Also referred to in this report as the Offshore Order Limits, for ease of reading.</p>
Transmission Assets Order Limits: Onshore	<p>The area within which all components of the Transmission Assets landward of Mean High Water Springs will be located, including areas required on a temporary basis during construction and/or decommissioning (such as construction compounds).</p> <p>Also referred to in this report as the Onshore Order Limits, for ease of reading.</p>

Acronyms

Acronym	Meaning
AEOI	Adverse Effect on Integrity

1 Introduction

- 1.1.1.1 This note has been provided in response to Hearing Action Point 12 raised at Issue Specific Hearing 2 which states :

Submit a note clarifying the current position with Natural England (re Adverse Effect On Integrity) for the Ribble and Alt Estuary SPA and the Fairhaven saltmarsh mitigation area.

2 Applicant Position on adverse effects on integrity

- 2.1.1.1 The Applicants' position is that the construction activities at the landfall do not represent an adverse effect on integrity (AEOI) on the Ribble and Alt Estuaries SPA and Ramsar site, which is designated for overwintering and passing birds. Throughout the pre-application phase, the Applicants sought to avoid and reduce potential impacts and to develop appropriate mitigation in order to rule out an AEOI from the works at the landfall (see Table 1.94 of the Information to Support Appropriate Assessment; ISAA; document reference E.23, APP-017). Since the application for Development Consent was made, the Applicants have made further commitments; most notably to a restriction on works during November to March inclusive to entirely avoid any impacts on wintering SPA species (CoT129), which Natural England have confirmed rules out AEOI on over-wintering SPA/Ramsar site waterbirds using the intertidal zone (AS-078 and REP3-094).
- 2.1.1.2 As such and as set out during ISH2, significant progress has been made with Natural England on this issue and the Applicants have made further commitments to reduce effects during the passage period to address Natural England's outstanding concerns. This includes consideration of a possible high tide working restriction (currently under discussion with Natural England), employment of an Ecological Clerk of Works (ECoW) and screening of compounds on the beach to reduce visual disturbance. These measures will further reduce the potential for interaction with passage species and are set out in detail in the outline Ecological Management Plan (oEMP) submitted at Deadline 4 (J6/F04).
- 2.1.1.3 The Applicants note that while these commitments aim to minimise interactions with species during the passage period (i.e. dunlin, ringed plover, redshank, sanderling), the test of whether there is an AEOI is not whether there is any effect, but whether the activity represents a risk to the achievement of the relevant conservation objectives.
- 2.1.1.4 During the passage period (key months October and April, as per Natural England's latest submission; AS-078) any potential disturbance effects will be limited to four qualifying species which have the potential to be present at the landfall. All effects will be temporary, with birds returning to the affected area following the disturbance. This can already be evidenced by the ongoing recreational disturbance at this location (i.e. birds are frequently observed returning to areas (Fairhaven Saltmarsh) from which they have been disturbed by beach users) and therefore any disturbance would not be a lasting effect. As set out in the ISAA (APP-017) and the technical note on Passage birds at the landfall

submitted at Deadline 4 (S_D4_18), dunlin and sanderling were the species present in the highest numbers during the site-specific surveys, with sanderling being the only species that were frequently present in high numbers. Sanderling have a higher tolerance to disturbance compared to other wader species, with birds responding to disturbance only within 50 m of a disturbance source (Cutts et al., 2013). Although Redshank were present in surveys undertaken at Lytham St Annes beach, the vast majority of these were located in the northernmost extent of the survey area in a known high tide roost (see section 4.1.7.4 and Figure 22 of the technical note Passage birds at the landfall submitted at Deadline 4 (S_D4_18)) which is a large distance from the cable installation activities on the beach and therefore are highly unlikely to be affected by works at the landfall.

2.1.1.5 The Applicants highlight that there is case law relating to temporary effects and AEoI. These are summarised in the DTA Publications HRA Handbook, which draws upon a paper produced by DTA and commissioned by NE (Chapman, C. and Tyldesley, D., 2016) to review the case law with regard to temporary effects and the integrity test. This paper noted that an effect which can be regarded as ‘transient’ or ‘strictly temporary’, and which is capable of being fully undone, or made good, would be unlikely to represent an AEoI of a European site. It concluded that, taking account of the scale of the effect and the ecological function or value of the area affected, a ‘lasting’ effect (i.e. one which may result in an AEoI) is one which might result in either:

- the permanent destruction of part of a qualifying habitat; or
- the ‘long term deterioration’ of a qualifying feature.

2.1.1.6 Given the works at the landfall are temporary in nature and following reinstatement there will be no change from the baseline environment. In addition, there is already ongoing daily recreational disturbance of SPA features. The Applicants’ position is that it is clear that any effect on SPA features, should they occur, would cease and be entirely reversible on cessation of the works at the landfall. Therefore there is no risk of a ‘lasting’ effect on passage species and no risk to the achievement of the conservation objectives of the Ribble and Alt Estuaries SPA (a summary of implications for each conservation objective is set out below for clarity). As such there is no requirement for a Habitats Regulations Assessment derogation case.

2.1.1.7 Notwithstanding the Applicants’ position that there is no risk of AEoI, the Applicants have taken on board Natural England’s advice to consider further mitigation (see AS-078). These are set out in the oEMP submitted at Deadline 4 (J6/F04).

2.2 Summary of effects on Conservation Objectives

2.2.1.1 The conservation objectives for the Ribble and Alt Estuaries SPA are fully set out in section 1.6.2.83 of the ISAA (APP-017). The following provides a brief summary of the implications to the conservation objectives of the outstanding concerns about effects of disturbance and displacement of qualifying species during the passage period.

- *maintain or restore the extent and distribution of the habitats of the qualifying features:* This does not apply to disturbance and displacement of species during the passage period. In any case, effects on habitats at the landfall are fully reversible given the above ground works are for construction only and the cables will then be buried and therefore will not undermine this conservation objective.
- *maintain or restore the structure and function of the habitats of the qualifying features:* As above, this does not apply for disturbance and displacement of species during the passage period and in any case, effects on habitats at the landfall will be fully reversible and therefore will not undermine this conservation objective.
- *maintain or restore the supporting processes on which the habitats of the qualifying features rely:* As above, effects on habitats (and the supporting processes on which they rely), will be fully reversible at the landfall and therefore will not undermine this conservation objective.
- *maintain or restore the population of each of the qualifying features:* any disturbance or displacement effects at the landfall will be temporary and short in duration, with birds returning to the affected area quickly following cessation of works. The works will not lead to any mortalities of passage species and therefore there will be no change to the population of qualifying passage features as a result of the works at the landfall and as such will not undermine this conservation objective.
- *maintain or restore the distribution of the qualifying features within the site:* There may be some limited disturbance or displacement of qualifying features where works at the landfall occur during the passage period, which will affect distribution of the relevant species for a short duration. Any effects will be temporary and fully reversible following cessation of the works (as demonstrated by recovery following recreational disturbance at the landfall) and therefore will not affect the distribution of qualifying features in the SPA and as such will not undermine this conservation objective.

2.3 Fairhaven saltmarsh mitigation area

2.3.1.1 The Applicants note that the mitigation at Fairhaven Saltmarsh was developed as part of a comprehensive package of measures to mitigate disturbance caused by cable installation at the landfall. As well as the mitigation at Fairhaven saltmarsh, additional measures to minimise disturbance at the landfall includes limiting activities in the intertidal area, as outlined in the application documents and now further restricted to cover the wintering period and passage period as set out above.

2.3.1.2 Given that the Applicants have now committed to the additional mitigation at the landfall which is designed to avoid and minimise any interaction between the SPA features and the works at the landfall, the

level of impact on SPA features is substantially reduced and therefore the potential risk of AEol is negligible. As such, the reliance on the Fairhaven saltmarsh as part of the mitigation package is also substantially reduced. Natural England stated at Deadline 3 (Q6.1.2, in REP3-095) that if disturbance effects at the landfall during the passage season can be reduced to acceptable levels through mitigation, the measures at Fairhaven saltmarsh could be considered as an enhancement measure.

3 References

Cutts, N., Hemingway, K., and Spencer, J. (2013). Waterbird Disturbance Mitigation Toolkit: Informing Estuarine Planning and Construction Projects. Institute of Estuarine & Coastal Studies, University of Hull.

Chapman, C. and Tyldesley, D. (2016) Temporary effects: How the longevity of effects has been considered in respect of plans and projects affecting European sites - a review of authoritative decisions. Natural England Commissioned Reports, Number 206.