



Five Estuaries Offshore Wind Farm Ltd
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Date: 7 February 2024
Our Ref: ESC Response – Stage 3 Consultation
Enquiries to: Grahame Stuteley
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FAO: James Eaton – Onshore Consent Manager

Re: East Suffolk Council's Response - Five Estuaries Offshore Wind Farm - Stage 3 Targeted Habitats Consultation.

Thank you for your email (5 December 2023) and letter (dated 4 December 2023) inviting East Suffolk Council (ESC) to comment on the Five Estuaries Offshore Wind Farm project habitat improvement proposals (Stage 3 Consultation) in accordance with Section 42 of the Planning Act 2008 ('the Act').

This letter provides ESC's response to the project's proposed habitat improvement measures for Lesser Black-Backed Gulls (LBBG) around Orford Ness in East Suffolk. We understand that in order to compensate for the anticipated potential impacts on LBBG, you are proposing habitat improvements within or close to the Alde-Ore Estuary Special Protection Area (SPA), and that the scope of the LBBG compensatory site proposals is limited to predator-proof fencing (approximately 2m high) with habitat management and maintenance.

It is understood that this proposal for LBBG compensation is associated with the Alde-Ore Estuary SPA, noting that LBBGs are a qualifying feature of this European designated site. We understand that where a protected site may be adversely affected, and that effect cannot be avoided, the Habitats Regulations require that the impacts are compensated for or offset by measures such as improving habitat and breeding success for those bird species affected.

You advise that habitat improvement measures would include fencing around the perimeter of the chosen site, managing vegetation to support nesting (i.e. the strimming of ground vegetation), and assessing and controlling predator effects (from species including rats or foxes). You are proposing these measures to make the area more attractive to breeding pairs of LBBG and to reduce the amount of predation. We note the initial works would take approximately three weeks to complete and would be carried out outside of nesting season.

In addition to these measures being implemented, it is understood that routine maintenance would also be carried out a few times each year to check the quality of the habitat and fencing, together with annual monitoring of the LBBG nesting to determine if the measures are working as intended throughout the operational lifetime of the Five Estuaries project (i.e. up to 40 years).

The Stage 3 consultation presents four potential site options for the improvements, with three located on the northern half of Orford Ness and one approximately 800m southwest of Orford on the mainland on the edge of the estuary.

ESC has reviewed the published consultation materials and plans and provide the following comments:

Coastal Processes

Flood risk should be fully assessed at the selected habitat improvement site(s) as this has the potential to directly impact the success of the compensation measures put in place. In terms of climate change, the possible risks introduced through rising sea levels and increased storminess should also be factored into site selection. However, ESC acknowledges that Orford Ness falls under the coastal management authority of the Environment Agency (EA) and so they should take the lead in commenting on any impacts arising from these proposed works.

The effects of habitat improvements (strimming back vegetation and mowing) should also be given due consideration regarding potential impacts on coastal erosion. However, it is considered unlikely that the trimming of surface vegetation on this shingle feature will have a significant negative impact on coastal erosion risk. With that being said, should the EA take a different view, then ESC would defer to them on this matter.

Onshore Archaeology & Cultural Heritage

The consultation materials state that there are a number of cultural heritage receptors within relatively close proximity of proposed sites VE1, VE2 and VE3, mainly taking the form of old military buildings (given the historic use of Orford Ness). However, the consultation materials conclude that the proposed fencing is unlikely to be visible from these receptors and would be unobtrusive in nature and as such, no likely significant effects related to cultural heritage are anticipated.

ESC's Principal Design and Heritage Officer consulted Historic England's mapping service in reference to designated heritage assets at Orford Ness (listed buildings and Scheduled Monuments) of which there are many. He advised that the proposed compensatory site locations are at some distance from these designated heritage assets and therefore does not envisage there being any adverse setting impacts arising from the predator exclusion fencing, despite its potential visual impact on that open landscape.

Landscape

In terms of landscape and visual impact assessment, the consultation materials state that there is no potential for likely significant effects to arise in respect of any of the landscape or visual receptors, either at the local or wider level of the proposed sites. The materials conclude that this is due chiefly to the relatively small-scale of the proposed fence, the localised nature of the potential effects and the extent of limited existing human influences in both the wider and local landscapes.

ESC's Principal Landscape Officer raised initial concerns over the prospect of additional fencing being introduced at Orford Ness noting the recent predator-proof fencing installed in that area for other offshore wind farm compensation measures (ESC application reference DC/22/3447/FUL). However, having reviewed the consultation materials, it was acknowledged that the described fencing is expected to have a relatively low visual impact if seen over a long distance. To assist the Applicant with site selection, the Officer ranked the proposed siting options in order of preference from best to least preferred as follows:

1. VE2 - representing the least visible from footpaths on west bank of River Ore;
2. VE3 – visually small in scale if seen from accessible areas of the Ness to the south, noting it would be seen against the existing fencing around the transmitter block;
3. VE1 - long lengths of fencing likely to be visible from River Ore footpath where none are currently seen;
4. VE4 – representing an unacceptable location, being too visually prominent where no similar fencing currently exists from a very well used riverbank footpath.

It is subsequently understood that site VE4 has potentially been dropped by the Applicant for similar reasons, with VE2 initially representing the preferred site for the proposed compensation measures. This fits with the Officer's above order of preference on landscape grounds.

Ecology and Biodiversity

ESC notes that the consultation materials conclude that due to the small nature of the works, it is predicted that there will be no significant effects upon the current fauna and flora assemblages within the sites.

ESC's Principal Ecologist reviewed the consultation materials and raised a number of questions for the Applicant's consideration and clarification. The materials are unclear on the precise area of land required to be fenced, noting the four site options vary in size resulting in potentially more than one being needed. Also, clarification is sought regarding which factors will define the final site selection.

It was also highlighted that from an ecological perspective, ESC has no specific preference on the site options presented, other than to recognise that site option VE4 is outside of the relevant designated site. ESC would defer to Natural England (NE) on the acceptability of an option outside of the designated site.

A Construction Environment Management Plan (CEMP) will be needed, particularly for any of the sites on Orford Ness, to control any potential impacts on designated sites/protected species during construction. This will either need to form part of the DCO documents or there be a requirement controlling the approval of such a document (by ESC as the LPA) prior to works commencing. A predator/undesirable species removal plan will also be required, both for the construction phase (to make sure no animals are trapped in the enclosure) and as part of the long-term management in case animals gain access to the site in the future.

As discussed later in this letter, ESC notes that the Applicant is proposing to set up an Offshore Ornithology Engagement Group (OOEG). However, clarification on whether there will be an Implementation and Monitoring Plan secured as part of the DCO should also be provided. If there is, it is requested that ESC is on the relevant Steering Group as part of this process.

Finally, given the existing, similar, compensation scheme already in place for Norfolk Projects (DC/22/3447/FUL), it is strongly recommended that monitoring efforts are co-ordinated, both with other development projects and the relevant local landowners (particularly National Trust and the RSPB). This will not only result in a better understanding of the LBBG population of the whole SPA but would also allow sharing of best management practices for the various compensation sites.

Air Quality, Noise and Vibration

ESC notes that the consultation materials conclude that given the isolated location of the proposed fencing combined with its restricted public access, as well as the limited scale of any earthworks, plant and machinery use, no likely significant effects related to air quality are anticipated. In terms of noise and vibration, it

concludes that there are no noise sensitive human receptors in proximity to the proposed sites (residential or other properties). The locations of the proposed fencing at sites VE1, VE2 and VE3 are close to a National Trust walking route, however, the works would be relatively brief (approximately three weeks) and would not be dissimilar to ongoing habitat management activities that take place throughout the National Trust owned land. It also concludes that site VE4 is surrounded by farmland, on this basis, no likely significant effects related to noise and human receptors are anticipated.

ESC has considered potential effects associated with air quality, noise, and vibration. The ESC Environmental Protection Team were consulted, however at this early stage of the proposals, no specific comments or advice has been provided. It is therefore recommended that the Applicant reviews the recent planning permission (DC/22/3447/FUL) noting relevant matters which may equally be applicable for any additional proposed compensation scheme introduced for the Five Estuaries project. Notably, the previous planning application highlighted that fence posts would be pushed into the ground avoiding the need for piling or hammering and construction noise would therefore be limited. This approach should also be applied should the proposals progress. Additionally, any plant and construction vehicles could pose a risk of introducing potential contaminants through airborne pollution, accidental fuel spills and/or leaks. It is recommended that best practice measures should therefore be adopted by the Applicant to ensure no likely significant effects related to potential pollution and/or contamination are introduced.

Traffic and Transport

ESC notes the consultation materials state that given the small-scale of the fence installation works and future monitoring and maintenance, using standard construction vehicles, there is not anticipated to be any potential for traffic disruption to arise as a result of the installation of the proposed fencing at any of the sites. The materials conclude that no likely significant effects related to traffic and transport are anticipated.

It is understood that the proposed predator-proof fence installation would take approximately three weeks with up to six personnel on site. Construction vehicles would access Orford Ness by boat from Orford Quay, then using existing tracks to access the sites. Access to site VE4 would be via Gedgrave Road. Materials and machinery would be delivered to the site using standard low-loaders. Machinery is expected to be a small excavator and dump truck and any work would be carried out outside of the nesting season.

It is noted from the Five Estuaries Stage 3 consultation website that as of 22 January 2024, Five Estuaries has confirmed that it will not be including access to site(s) on Orford Ness from the north via Aldeburgh in its final design, following discussions with stakeholders. ESC supports this update and were due to advise the Applicant that it is understood that vehicular access from the northern (Slaughden) end of the Ness is no longer possible resulting in all construction materials/personnel needing to gain access via boat at Orford Quay.

Future Engagement

ESC notes the Applicant's proposed 'roadmap' for the development of habitat creation as a compensation measure at Orford Ness which states that site selection, stakeholder engagement and implementation planning will be continued to further ensure and evidence that the proposed measures are viable and can be appropriately secured within the project DCO. ESC looks forward to ongoing engagement in this regard.

It is understood that should consent of the project be granted, a steering group, to be termed the OOEG, will be convened by the Applicant to help steer the delivery of any compensation measure implementation and maintenance, monitoring, reporting, and any other relevant matters as determined by the Applicant in

discussion with the OOEG participants. You anticipate core members of the OOEG comprising the relevant Statutory Nature Conservation Bodies as well as the local planning authority, and owners and/or managers of the site(s) at which habitat creation is planned to be implemented. The Royal Society for the Protection of Birds (RSPB) and other relevant parties will also be invited to form part of the OOEG in an advisory capacity. ESC considers such engagement necessary and would welcome this approach.

We also understand that you are proposing to 'twin-track' a planning application under the Town and Country Planning Act 1990 alongside the DCO application for the LBBG compensation measures. Whilst an initial discussion was held between ESC and the Applicant on 8 November 2023, followed by this consultation, and more recently a project update on 31 January 2024, ESC awaits further details from the Applicant regarding the proposed planning application to ensure the LBBG compensation proposals will not introduce any negative planning impacts.

Finally, ESC acknowledges that officer time/cost recovery discussions relating to the DCO examination process are separate to any costs linked to a planning application covering the proposed LBBG compensation requirements at Orford Ness. Therefore, any planning related costs would be managed via the planning/Section 106 process as required. Full cost recovery would therefore be secured through this process covering all officer time spent securing matters related to any forthcoming planning application for LBBG compensation requirements at Orford Ness.

I trust the contents of this letter are helpful.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Philip Ridley', with a large, sweeping underline stroke.

Philip Ridley BSc (Hons) MRTPI | Head of Planning and Coastal Management
East Suffolk Council