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Municipal Buildings, West Street, Boston, Lincolnshire, PE21 8QR

PINS RECEIVED

10 JUL 2018

Friday 6th July 2018

Tel: 01205 314319

Mr Mark Breslaw
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

e-m: stuart.thomsett@boston.gov.uk
Your Ref: I&BPB6934-RH002R001F01
Our Ref: PRE/18/0001/ESCO

Dear Mr Breslaw

**TRANSPORT AND WORKS ACT 1992 ("TWA")
TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006 ("the Applications Rules")
PROPOSED ALTERNATIVE ENERGY FACILITY – SCOPE OF ENVIRONMENTAL
STATEMENT**

Thank you for your consultation report '*Boston Alternative Energy Facility*' dated 30th May 2018.

Overall the Borough Council is satisfied with this scoping report, however, the Environmental Health Department wishes to raise concerns and would therefore, prior to making comment, require more information regarding: -

2.1 Site Location

Detailed map of residential receptors within 500m of BAEF and proposed wharf
Detailed map of sensitive commercial receptors within industrial estate within 500m of BAEF and proposed wharf

3.0 Assessment of Alternatives

Justification for the location of the proposed wharf so close to residential properties across the river. Why is the wharf not located towards the mouth of the river away from residential properties.

6.4 Noise and vibration

Need to define the hours of operation including the delivery and handling of feedstock by river and road.
Further background noise monitoring over an extended period is required.
Low frequency noise assessment is required for BAEF and potentially feedstock /aggregate handling.
All feedstock and aggregate handling and storage activities need to be assessed.
Traffic noise assessment for feedstock delivery via Marsh Lane.



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6.8 Air Quality

Detailed feedstock odour assessment for wharf handling and storage

Detailed odour assessment for BAEF

Detailed feedstock and aggregate dust assessment for wharf handling and storage

6.12 Transport

Air quality assessment for feedstock HGV deliveries including routing.

6.15 Waste

Detailed definition of all waste types proposed is required including any leachate

7.6 Lighting

Environmental lighting assessment for BAEF and wharf should be provided.

John Chapman

Principal Environmental Health Officer

We received the following consultation response from the Environment Agency and I have reproduced the response in full for your consideration: -

The Environment Agency

We have reviewed the Report, undertaken by Royal Haskoning DHV, dated 30 May 2018 (ref: I&BPB6934-RH002R001F01) and have the following comments to make on it, which cover issues that fall within our remit.

6.4 Noise and Vibration

The noise and vibration assessment needs to include, with the receptors, the complete range of species present on site; for freshwater fauna this needs to include resident and migratory fish species. Both adult and juvenile life stages that may be moving in different directions within the Witham at the time of the proposed works.

6.5 Contaminated Land, Land Use and Hydrogeology

A preliminary risk assessment (PRA) has been completed, which has revealed the site to be historically farmland and on unproductive strata (Non-Aquifer).

Consequently, we consider this to be a low risk site in respect of groundwater.

Furthermore, investigations are proposed in the Environmental Impact Assessment (EIA) with the aim to refine the environmental setting of the site but these will be predominantly for geotechnical and human health risks. I can, therefore, confirm that we are satisfied with the findings of the PRA and EIA scope of works in this respect.



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6.6 Ecology

Updated protected species surveys may need to be undertaken by suitably qualified ecologists at appropriate times of year to account for the dynamic nature of some species and the suitable habitat that exist within the boundary of the proposed development and in the surrounding area. It is also feasible the presence may change between now and construction starting.

Where possible, suitable habitat should be integrated within the project to deliver net gains for Biodiversity in line with current environmental policy. The integration of mitigation measures under the Water Framework Directive (WFD) may also have wider ecological and biodiversity gains, further than preventing deterioration of water status.

Section 6.6.54 – The applicant expects the proposed project will result in loss of saltmarsh and intertidal mudflat habitats, and proposes early liaison with the Borough and County Councils regarding potential mitigation measures. The applicant should also liaise with us at an early stage on this issue. These are WFD biological quality elements in the Witham and potential impacts would need to be considered as part of their WFD Assessment. We are the competent authority for the WFD, we have a national policy on encroachment (see link under chapter 6.10 comments below), and we are monitoring the saltmarsh in the Haven due to the construction of the Boston Barrier.

The final designs of the wharf should look to integrate environmental improvements and delivery of mitigation measures wherever possible. We will review the development against the WFD and the Natural Environment and Rural Communities (NERC) Act requirements, to ensure no loss or detriment in environmental quality results from the proposal.

No information on aquatic species is currently included; it has been noted that a data request has been sent to us requesting information. This may need to be supplanted with additional surveys to provide evidence on the potential impacts and suitable mitigation as part of the proposed development.

6.7 Surface Water, Flood Risk and Drainage Strategy

The Report correctly identifies that the proposed development is at a high risk of flooding and located in flood zone 3. Flood zone 3 is where land has been assessed as having a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year, ignoring the presence of defences.

As such, the EIA will need to include a detailed flood risk assessment (FRA), which complies with the requirements of section 5.7 of the National Policy Statement for Energy (EN-1). This will need to take into account the potential impacts of climate change using the latest UK Climate Projections available at the time the EIA is prepared (see EN1, paragraphs 4.8.5 – 4.8.13). In accordance with this, all critical



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elements should be set above an appropriate level, based on the high emissions scenario (high impact, low likelihood).

We note that the proposal includes the construction of a new wharf through which waste will be delivered by vessels; approximately 560 ships per year. This will need to be appropriately designed to ensure that there is no increased flood risk to others. The town of Boston suffered extensive flooding in the tidal surge of December 2013, with 688 residential properties and 115 commercial properties being inundated by tidal waters. Most relevant to this proposal is that the areas of the proposed development, identified under the Indicative Site Boundary as 2 – Gasification Plant and 3 – Lightweight Aggregate Plant, were subjected to tidal inundation during the December 2013 tidal surge.

The potential consequence of flooding from tidal inundation on the floodplain is shown on our hazard breach mapping. This shows the hazard rating based on depths and velocity of flood waters should a breach occur to a defence in base year 2006 and future year of 2115. The proposed development location could be subject to a range of depths of 1m-1.6m for a tide with a 0.1% chance of occurring in any one year following a breach in the defences for the 2006 scenario. In the climate change scenario for 2115 depths in excess of 1.6m could be expected.

This data should be used in the initial assessment of flood risk and the Scoping Report has correctly identified the need to obtain a flood Product 8 package from us for this purpose.

As well as addressing the issues included in section 5.7 of EN-1, we would request that the FRA also includes the following:

- The creation of a new wharf may alter physical characteristics and behaviours of the tidal Witham Haven waters. This will need to be evidenced and mitigation proposed if/where negative impacts are identified.
- We currently have a scheme ongoing to raise the flood embankment heights to 6.5m by 2021 in this location. The wharf will, as a minimum, need to be in-line with this. However, details will be required in respect of the proposed wharf crest, how this will tie into the defence height as currently exists, and when raised in the future.
- What will be the arrangement for maintenance of the wharf/defences post construction.
- We require information on whether or not any land raising is proposed and if it is, whether there is any risk posed to third parties as a result of it. This may require hydraulic modelling to demonstrate no increase in risk to existing developments.
- At this location there is a secondary defence line, and the applicant will need to consider if the development will impact this.
- Please advise if the applicant's intention is to apply to become a harbour authority in order to establish permissive rights and protection under Schedule 22 of the Water Resources Act.



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Flood risk is a significant factor for any development in Boston, especially when the proposal involves changes to flood risk management infrastructure. As the proposal is developed, there may be additional aspects, relevant to flood risk (such as to the need for Protective Provisions and/or entering into a legal agreement with us regarding the construction of the wharf), that will need to be addressed and we would, therefore, welcome the opportunity for early discussions with the applicant on this matter.

Sediment management and the application of SUDS needs to be considered in regard to fine sediment input and scour and deposition within the Witham/South Footy Foot Drain from all elements of the development that could change the baseline. This could be an opportunity for environmental benefit habitat creation.

With regards to the supply of fine sediments during operation, there is the potential for additional mobilisation of fines within the Witham as a result of scour due to the presence of the wharf along with potential propeller scour and anchor drag. We request that these issues are also given consideration.

Section 6.7.31 – refers to sources of WFD guidance documents. The applicant correctly refers to the Clearing the Waters For All guidance which is available via the internet at: <https://www.gov.uk/guidance/water-framework-directive-assessment-estuarine-and-coastal-waters>

6.8 Air Quality

Section 6.8.13 of the report refers to compliance with the requirements of the Industrial Emissions Directive (IED) and revised Best Available Techniques (BAT) Conclusions for power generation plant. From an IED/Environmental Permitting Regulations (EPR) point of view the proposed facility would be undertaking a waste incineration activity and therefore would need to comply with the IED/BAT requirements for waste incineration, including consideration/assessment of all relevant pollutants and emissions associated with "abnormal operation".

As part of the air quality assessment we would want the applicant to undertake a stack height assessment (i.e. to demonstrate that the proposed stack height is BAT in terms of preventing/minimising pollution). This would need to be undertaken as part of (or at the same time as) the EIA, as stack height is likely to be subject to planning Requirements/conditions etc.

Detailed air quality modelling will need to be undertaken to support your application under the EPR and further details on this are available from our website at: www.gov.uk/guidance/environmental-permitting-air-dispersion-modelling-reports

6.9 Marine Ecology and Fisheries

Paragraph 6.9.7 - The EIA must consider and address risks to resident fish species within the tidal Witham as well as the listed migratory species and where possible



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net gains and adequate mitigation included for at all stages of the proposed development.

Paragraph 6.9.14 - Noise and vibration operating levels need to be agreed to minimise impact upon resident and migratory species that are known to be present.

Paragraph 6.9.18 - The new wharf should be designed to minimise future maintenance needs at the Wharf and within the wider Witham in regards to upstream and downstream sediment transport, erosion and bank stability.

Paragraph 6.9.23 - More information may be required to inform the final EIA for this proposed development as the Boston Barrier may not have considered any in combination impacts or information within the immediate area of this proposed development.

Section 6.9 and final summary – We disagree with the conclusion that the impact of the project's operational phase on marine ecology and fisheries can be scoped out of the EIA. This is because the impacts of the operational phase on estuarine and geomorphological processes during the operational phase is scoped in. Estuarine processes and ecology are intrinsically linked. The applicant will need to determine the impacts on geomorphology and estuarine processes before concluding whether or not there is a risk of impacts to ecological elements.

6.10 Estuarine and Geomorphology Processes

The EIA will need to include further information surrounding the tidal regime i.e. the tidal range and tidal symmetry. According to the UK Estuaries database the Witham is flood dominant; understanding this will help to address sedimentation issues.

Sub-section 6.10.3 states incorrect information; according to both our Catchment Data Explorer and Catchment Planning System the Haven (Witham Transitional) waterbody is currently classed as having bad ecological potential (this represents the 2016 classification – the 2015 classification was moderate). The project should consider if there is any scope to offer better mitigation to help achieve good ecological potential?

6.10.8 Refers to a high level pre-scoping document that looked into the potential environmental effects. It would be helpful to have this document appended or summarised to the EIA. There are many potential impacts; loss of tidal prism and sediment storage due to the wharf along with scour due to navigation, vessel movements and anchoring etc. Given the proposals to dredge a significant area of the bank we have a concern that the application may have underestimated how frequently they will need to dredge the frontage of the wharf to maintain a viable depth – this should be covered in detail in the EIA.

We note that there is no mention in these sections (or within the ecology section) of providing mitigation for the direct loss of habitat. This conflicts with our National Encroachment Policy for Tidal Rivers and Estuaries, which will need to be considered.



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Environmental Permitting Regulations 2010

The proposed development will require a bespoke permit under Schedule 5.1 Part A(1) of the Environmental Permitting Regulations 2010. We do not currently have enough information to know if the proposed development can meet our requirements to prevent, minimise and/or control pollution.

We therefore strongly advise the applicant to consider parallel tracking of the planning and permit applications to allow these issues to be resolved if possible. Parallel tracking planning and environmental permit applications offers the best option for ensuring that all issues can be identified and resolved, where possible, at the earliest possible stages. This will avoid the potential need for amendments to the planning application post-permission.

Further guidance for developments requiring planning permission and environmental permits is available on the .gov.uk website.

Further pre-application consultation

Should the applicant wish us to review any technical documents or want further advice to address the environmental issues, we can do this as part of our charged for service.

Further engagement at the pre-application stage will speed up our formal response to their application and provide them with certainty as to what our response to the Development Consent Order application will be. It should also result in a better quality and more environmentally sensitive development. As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. The terms and conditions of our charged for service are available [here](#).

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Yours sincerely

Annette Hewitson

Principal Planning Adviser

Direct dial 02030 254924

Direct e-mail annette.hewitson@environment-agency.gov.uk

During the consultation process the Council also received a response from the Black Sluice Internal Drainage Board. Andrew Scott, Planning & Byelaws Officer, has assessed the document and considers that the report covers all that the Board would require, as a lot of work has already taken place in the immediate vicinity. It appears that the developers have taken on board lessons learnt from the previous developments.



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Boston Borough Council did not receive consultation responses from the following bodies prior to 6th July 2018, however, these will be forwarded in the event that they are received after this date: -

External

Witham Fourth District Internal Drainage Board
Lincolnshire County Council Highways & SUDs
Fishtoft and Wyberton Parish Councils

Internal

Consultant Architect

Yours sincerely

Lisa Hughes
Development Manager



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