



**Comments on the Statement of Commonality
for the
Royal Society for the Protection of Birds**

**Submitted for Deadline 2
11 November 2021**

Planning Act 2008 (as amended)

In the matter of:

**Application by Alternative Use Boston Projects Limited for an
Order Granting Development Consent for the
Boston Alternative Energy Facility**

**Planning Inspectorate Ref: EN010095
Registration Identification Ref: 20028367**

- 1.1 The RSPB is working with the Applicant to develop a Statement of Common Ground (SoCG). Whilst we note that there was not a direct request that we develop a Statement of Common Ground with the Applicant, we consider it would be helpful to the Examining Authority for us to identify the issues that we have identified with the Application and highlight where progress has been made to address these.
- 1.2 We agreed with the Applicant that we would review a draft SoCG with the Applicant and this was received on 15 October 2021.
- 1.3 Having reviewed the draft SoCG, we have significant concerns regarding the format of the document. Our headline concerns are:
- There is too much detail and much of the information in the introduction repeated from other DCO documents is not required.
 - There needs to be a section that sets out clearly the RSPB's interest in the case to ensure that the SoCG is tailored to our concerns.
 - The 'Habitats Mitigation Area' as proposed is an area of contention, as this should be correctly referred to as 'compensation'. We also have concerns about its viability to support displaced redshanks and other waterbirds of concern that are qualifying features of The Wash SPA or Annex 1 Species. This is an area of disagreement and is a good example of where too much detail in the introduction to the SoCG may cause difficulties in us being able to sign it off.
 - We do not agree with significant amounts of detail being left to discuss post-consent (the detailed design stage). This is an issue in its own right and should be best captured in the issues log.
 - Comments taken from the Relevant Representation contain multiple issues. It may be possible to summarise many of them to identify specific issues, but there will also be others that have not been captured. The individual issues need to be split out in order to address them separately and provide clarity to the Examining Authority what the issue is, the positions and the reason for positions being held. The issues log is therefore incomplete and requires significant re-working.
 - There have been items added that are not of relevance to the RSPB e.g. bats and water voles. This does not mean that they are not concerns, but that we are not best placed to provide advice and guidance and will look to colleagues in e.g. NE to address. These areas that are not specific to the RSPB's concerns must be removed.
 - We are also still reviewing the DCO and DML. We will continue to review and provide an update on our position. We are definitely not in a position to agree that these documents are acceptable and further discussion will be required. Having reviewed the proposed mitigation measures, deferral of significant amounts of detail to post-consent etc, we anticipate that the DCO and DML will need to be strengthened substantially.
 - We are concerned with a significant appendix being added to the SoCG without us seeing it to agree we are fully happy with its contents and how it is being applied to the SoCG. Anything that is to be submitted as part of the SoCG will need to be reviewed by us to give confidence that submissions are agreed fully.
- 1.4 As a consequence, we have not been able to agree a draft SoCG for submission at Deadline 2 with the Applicant.
- 1.5 Whilst our Relevant Representations provide a starting point for teasing out the issues that we have concerns about, the replication of the Applicant's responses to our Relevant Representations makes it difficult to show the specific issues of concern and determine what can or cannot be agreed. We have considered recent SoCGs we have signed and have recommended a format that could be used as a good template (see the SoCG provided for the East Anglia Offshore Wind Farms:

[https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010078/EN010078-004535-ExA.SoCG-1.D8.V3%20EA1N&EA2%20Statement%20of%20Common%20Ground%20with%20RSPB%20\(onshore\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010078/EN010078-004535-ExA.SoCG-1.D8.V3%20EA1N&EA2%20Statement%20of%20Common%20Ground%20with%20RSPB%20(onshore).pdf)). This template allows for a succinct statement of the issue, it identifies both our positions, and then provides a notes column to explain briefly the positions as required.

- 1.6 To assist the Examining Authority, we have also attempted to highlight areas of agreement and disagreement in our comments on the Ornithology Addendum. Unfortunately, our concerns with the HRA and addendum mean that there are no obvious areas of agreement with the Applicant at this time.
- 1.7 We will continue to work with the Applicant to develop a draft SoCG for submission to the Examination as soon as possible.