

# REPORT

## **Boston Alternative Energy Facility**

### Comments on Responses to the Examining Authority's Written Questions

Client: Alternative Use Boston Projects Ltd

Planning Inspectorate  
Reference: EN010095

Document Reference: 9.36

Pursuant to: APFP Regulation: N/A

Reference: PB6934-RHD-ZZ-XX-NT-Z-4077

Status: Final/0.0

Date: 06 December 2021



## Note / Memo

HaskoningDHV UK Ltd.  
Industry & Buildings

To: National Infrastructure Planning  
From: Alternative Use Boston Projects Limited  
Date: 06 December 2021  
Our reference: PB6934-ZZ-XX-NT-Z-4077  
Our reference: 9.36  
Planning Inspectorate: EN010095  
Reference:  
Classification: Project related  
Checked by: BDB Pitmans  
Approved by: Paul Salmon

**Subject:** Boston Alternative Energy Facility Examination: Deadline 3 Comments on responses to Examining Authority's (ExA's) Written Questions

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## 1 Introduction

This 'Comments on Responses to Examining Authority's (ExA's) Written Questions' document for the Boston Alternative Energy Facility (the Facility) supports the application for a Development Consent Order (DCO) (the DCO application) that has been made to the Planning Inspectorate under Section 37 of the Planning Act 2008 (the Act) by Alternative Use Boston Projects Limited (AUBP) (the Applicant).

**Table 1-1** below sets out each of the ExA's Written Questions issued on 14<sup>th</sup> October 2021 (ExQ1) addressed to Interested Parties, their response, and the Applicant's comments on their response.

**Table 1-1 The Applicant's Comments on Responses to ExA's First Written Questions**

First Written Examining Authority Question	Interested Party's (IP) Response	The Applicant's Comments on the IP's Response
<b>Lincolnshire County Council's Responses to ExA's Written Questions (REP2- 039).</b>		
<p>Q1.0.3 - 'LCC have queried the s42 consultation on the revised technology for the plant. Please detail the differences between the processes; gasification (the original proposal) and thermal treatment; and any mitigation proposed.'</p>	<p>Alternative Use Boston Projects undertook a statutory consultation pursuant to Section 42 of the Planning Act 2008 at Phase 3 of the consultation as set out in the consultation report. At this stage a Preliminary Environmental Impact Report (PEIR) was submitted to help consultees understand the likely significant effects of the proposed development on the environment. Lincolnshire County Council (LCC) was invited to respond to the consultation which took place in summer 2019. The County Council provided a response in August 2019. Following this consultation period, several meetings were held jointly with the applicant, LCC and Boston Borough Council to bring to the applicant's attention concerns with the specific topic chapters contained in the PEIR. Following on from these meetings it was anticipated that updated topic chapters would be provided addressing the inadequacies/concerns which were raised in these meetings. All meetings and communication were with the understanding that the development would use gasification technology, not incineration.</p> <p>The project was then put on pause until summer 2020 when a Phase 4 consultation was undertaken. In advance of the Phase 4 consultation a further meeting was held with LCC and Boston Borough Council when the developer outlined several changes to the scheme including a change in</p>	<p>The Consultation Report (document reference 5.1, APP-022) summarises the consultation undertaken during Phase 4. Consultation materials are also available on the project website for public viewing.</p> <p>Through Phase 4 consultation the changes in technology were summarised. However, it was noted that the Preliminary Environmental Impact Report (PEIR) would not be updated as the effects were minor.</p> <p>Table 4-1 of ES Chapter 4 Site Selection and Alternatives (document reference 6.2.4, APP-042) provides a comprehensive list of the design optimisation changes that took place and assessed in the PEIR and in the ES.</p> <p>Changes which have resulted in additional mitigation are noted in the Applicant's Response to the Examining Authority's Written Questions, see Q1.0.3 (document reference 9.24, REP2-008).</p>

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	<p>technology from the original proposed gasification plant to an Energy from Waste facility. The developer contended that the changes were not significant in nature and therefore undertook a 'light touch' consultation at Phase 4.</p> <p>The original gasification technology was favourable to the County Council given its recycling opportunities and was perceived to be higher up the waste hierarchy than just waste incineration. The change to 'energy from waste' technology was disappointing as incineration is lower down the waste hierarchy. The Gasification proposal would have allowed material suitable for recycling to be removed from the feedstock and recycled contributing to improving the County's recycling rates. The County Council felt that this change in technology is the core of the project and therefore should have been given a further round of statutory consultation with an updated PEIR to reflect this significant change to the energy recovery process.</p> <p>Detailed discussions had taken place regarding the possibility of transferring the residual waste collected at the Council's adjoining waste transfer station which would have enabled recycled materials to be removed prior to gasification.</p> <p>Lincolnshire County Council therefore submit that the approach to consultation undertaken at Phase 4 was not adequate given the significance of the change in technology and impact on the proposed feedstock which the original PEIR had</p>	

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	<p>been based on. LCC are of the view that a further statutory consultation with an updated PEIR should have taken place at Phase 4 to allow interested parties to understand the consequences of the changes to the technology from both an environment and operational perspective.</p>	
<p>Q9.0.2 – ‘The South-East Lincolnshire Local Plan states that development must “not obstruct a public view of St Botolph’s church, Boston or challenge the visual dominance of the church”. Are the stack heights proposed acceptable to LCC.’</p>	<p>LCC are not greatly concerned from a heritage setting perspective regarding the proposed stack height. It is noted, and accepted, that there will be some obstruction from some view points to the view of St Botolph’s Church. However, it is felt that the applicant has given adequate weight and mitigation to this and given the industrial landscape including electricity pylons the stack heights are acceptable.</p> <p>The County Council do feel that this question should also be directed to Boston Borough Council to provide a response.</p>	<p>The Applicant welcomes and notes this response.</p>
<p><b>Natural England’s Responses to the Examiner’s First Round of Written Questions (REP2-041)</b></p>		
<p>Q2.0.4 Environmental Statement (ES) Chapter 14: Air Quality [APP-052] paragraph 14.4.61 states the nitrogen deposition was quantified at all habitats in locally designated sites within the study area (Table 14.10), “however, only the deposition at the Havenside Local Nature Reserve (LNR) was compared to a Critical Load value. Similar to The Wash, the saltmarsh was only considered in relation to nitrogen deposition, as the habitat is not sensitive to acid</p>	<p>Natural England advises that the saltmarsh where the deposition is likely to occur is outside of the designated sites boundaries. However, saltmarsh is a priority habitat and afforded protection under Section 40 of the NERC Act 2006.</p> <p>Therefore all impacts should be avoided, reduced and mitigated to this habitat. Natural England advises that this is not agreed as many of our outstanding concerns remain under discussion and further information/evidence is required from the Applicant.</p>	<p>The Applicant notes that Natural England’s response to the ExA’s question does not directly confirm agreement with the Applicant’s earlier statement regarding the sensitivity (or otherwise) of saltmarsh to acid deposition.</p> <p>In response to the ExA’s question, the Applicant provides the following technical response, dealing with acid deposition and saltmarsh.</p> <p>No Critical Load function for saltmarsh is specified on the Air Pollution Information System (APIS) website and this seems logical, since there would be significant alkaline buffering capacity available to counteract any acidic inputs to the saltmarsh habitat. In fact, on the APIS web site, in the section entitled “Acid Deposition: Coastal Saltmarsh”, it is stated,</p>

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<p>deposition." Can NE confirm that they agree with the statement by the Applicant that the saltmarsh at The Wash is not sensitive to acid deposition?</p>		<p>"Effects are likely to be small as these habitats are inter-tidal and experience large influxes of nutrients"<sup>1</sup>.</p> <p>In relation to mitigating impacts of nitrogen deposition on saltmarsh, the analysis conducted is reported in the updated Environmental Statement Chapter 14 (document reference 6.2.14, REP1-006), Table 14.35 on page 68. This indicates that, whilst the contribution from the Facility emissions to nitrogen deposition on saltmarsh are greater than the 1% of Critical Load insignificance level, none of the lower Critical Load ranges is exceeded, even under worst case assessment conditions. Real world emissions from the facility would be lower than those assumed in the assessment, with corresponding lower nitrogen deposition levels at saltmarsh.</p> <p>Discussions will continue between the Applicant and Natural England to resolve this matter.</p>
<p>Q2.0.7 ES Chapter 17: Marine and Coastal Ecology [APP-055] paragraphs 17.8.240 – 17.8.246 provide a dialogue on the effects of deposition on saltmarsh habitats and concludes that the overall effect is minor adverse. Can NE confirm if it is satisfied with the conclusion regarding deposition on designated sites?</p>	<p>Please see answer to Q2.0.4. Currently Natural England is unable to support the Applicant's 'minor adverse' conclusion.</p>	<p>Pertinent discussions between the Applicant and Natural England are continuing towards reaching an agreed position on this matter.</p>
<p><b>MMO Responses to the ExA's Written Questions (REP2-040)</b></p>		
<p>Q10.0.3 Do the Port of Boston and The MMO have any</p>	<p>The MMO currently has no comments on the wording in the dDCO Schedule 2 Requirement</p>	<p>The Applicant welcomes and notes this response.</p>

<sup>1</sup> Air Pollution Information System, Acid Deposition: Coastal saltmarsh.

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<p>comments on the wording in the dDCO Schedule 2 Requirement (R)14 'Navigation Management Plan'?</p>	<p>(R)14 'Navigation Management Plan'. The MMO have requested that this requirement is moved to section 5 of the DML, and to be included as a condition. This ensures the enforcement of the plan falls within the MMO's powers and allows the MMO to undertake any relevant consultation on the document.</p>	
<p>Q10.0.6 Is the MMO satisfied that the Proposed Development complies with the provisions and requirements of the UK Marine Policy Statement and East Marine Plan with regard to impacts of increase in shipping activity due to the Proposed Development, in particular East Marine Plan Policy PS3?</p>	<p>The MMO has reviewed the East Marine Plan Policy Checklist submitted by the Applicant for Deadline 1 (Examination Library reference REP1-032).</p> <p>The MMO considers that the proposed development complies with the provisions and requirements of the UK Marine Policy Statement and East Marine Plan with regard to impacts of increase in shipping activity due to the Proposed Development. The provision of a Navigational Risk Assessment by the Applicant at Deadline 2 will aid in ensuring that navigational safety is maintained on The Haven. As stated above, this will be secured by a condition on the DML in Schedule 9 to the draft DCO.</p> <p>The MMO reserves the right to provide further comment on the East Marine Plan checklist provided by the Applicant.</p>	<p>The Applicant welcomes and notes this response.</p>
<p>Q15.0.2 Please provide details of proposals for dredging and maintaining the berthing pocket that forms part of the Proposed Development including sampling of the dredged product.</p>	<p>The MMO defer to the Applicant to provide comment on the dredging and maintenance of the berthing pocket, including sampling of the dredged product.</p> <p>The MMO note that details of dredging activities have been included within the Wharf Construction Outline Methodology - REP1-030 and the Applicants Responses to Relevant</p>	<p>The Applicant provided details on proposals for dredging and maintaining the berthing pocket that forms part of the Proposed Development in its Comments on Examining Authority's First Written Questions (document reference 9.24, REP2-008).</p> <p>In relation to sampling, the Applicant has amended the draft Deemed Marine Licence (DML) in Schedule 9 to the draft DCO (document reference 2.1(2)) to include a new</p>

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	<p>Representations - REP1-035. The submission of a detailed dredging method statement prior to commencement has now been included within section 5 of the DML.</p> <p>The MMO submitted information about the sampling undertaken for the project at deadline 1. Sampling may be required throughout the lifetime of the project, and the MMO will provide suggested condition wording for this at following deadlines.</p>	<p>Construction Environmental Management Plan (CEMP) condition in the place of previous condition 12. This condition requires the CEMP to include "the detailed methodology for the excavation and subsequent management of any dredged material removed including (a) a sampling plan for assessing the level of contaminants in any dredged material and a monitoring and action plan in relation to the potential release of contaminants into the watercourse;"</p>