

# REPORT

## **Boston Alternative Energy Facility**

The Applicant's Responses to the Examining Authority's Second Written Questions

Client: Alternative Use Boston Projects Limited.

Planning Inspectorate EN010095

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## Glossary of Acronyms

Term	Definition
AEOI	Adverse Effect on Integrity
APCr	Air Pollution Control Residues
AQMAU	Air Quality Assessment & Management Unit
AUBP	Alternative Use Boston Projects Limited
BBC	Boston Borough Council
BFFS	Boston and Fosdyke Fishing Society
CTMP	Construction Traffic Management Plan
COLREGS	Convention on the International Regulations for Preventing Collisions at Sea
CoP	Code of Practice
D	Deadline
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DoW	Definition of Waste
EA	Environment Agency
EP	Environmental Permit
ES	Environmental Statement
ExA	Examining Authority
FBA	Furnace Bottom Ash
FRA	Flood Risk Assessment
HGV	Heavy Goods Vehicle
HRA	Habitats Regulations Assessment
IP	Interested Party
IRMP	Integrated Risk Management Plan
ISH	Issue Specific Hearing
LCC	Lincolnshire County Council
LSE	Likely Significant Effect
LWA	Lightweight Aggregate
LWT	Lincolnshire Wildlife Trust
MCA	Maritime and Coastguard Agency
MMMP	Marine Management Mitigation Protocol
MMO	Marine Management Organisation

Term	Definition
NE	Natural England
NMP	Navigational Management Plan
NPS	National Policy Statement
NRA	Navigation Risk Assessment
OLEMS	Outline Landscape and Ecological Mitigation Strategy
RDF	Refused Derived Fuel
RR	Relevant Representation
RSPB	Royal Society for the Protection of Birds
SoCG	Statement of Common Ground
SOLAS	Safety of Life at Sea
SPA	Special Protection Area
UKHSA	UK Health Security Agency (formerly Public Health England)
UKWIN	United Kingdom Without Incineration Network

## 1 Comments on Examining Authority's Written Questions

- 1.1.1 This 'Comments on Examining Authority's Second 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).
- 1.1.2 **Table 1-1** set out each of the Examining Authority's (ExA's) Written Questions issued on 11<sup>th</sup> January 2022 (ExQ2) along with the Applicant's response. Only the questions directed the Applicant (in full or part) are answered.

Table 1-1 Responses to ExA’s Second Written Questions

ExQ2	Question is addressed to	Question	Applicant Response
<b>1. General and Cross-topic questions</b>			
Q2.1.0.3	The Applicant	<p>With reference to LCC’s response to Q1.0.3 [REP2-039], please answer LCC’s point regarding gasification technology being higher up the waste hierarchy than just waste incineration:</p> <p><i>‘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.’</i></p>	<p>The Applicant recognises that the proposed Facility does not provide for recycling materials at the site that could have contributed to improving Lincolnshire County Council’s (LCC) recycling rate. The proposed Facility will recover metals from the residue from the process and will convert the ash residue into aggregates.</p> <p>The Applicant took the decision to move away from gasification due to the proposed supplier of the technology removing themselves from the market. Alternative providers of this technology at this scale were not subsequently identified and a decision to use thermal technology was taken due to the lack of proven gasification technology that would be available at the required scale. The thermal treatment technology to be used at the proposed Facility is tried and tested at the required scale, giving confidence of performance, emissions, reliability and outputs. The Applicant recognises that this solution may be lower on the waste hierarchy but is a proven technology.</p>
Q2.1.0.4	The Applicant	<p>Regarding funding, please provide a response to the RSPB’s comment concerning the ability to secure, deliver and maintain in perpetuity the appropriate mitigation and compensation measures to address any adverse effects on The Wash SPA/Ramsar [REP3-033].</p>	<p>We note the comments made by the Royal Society for the Protection of Birds (RSPB) in Q1.0.4 of their Comments on Responses to the Examining Authority’s First Written Questions (document reference 2.1(2), REP3-033) where they note that, <i>“funding has direct relevance of the ability of Applicant to secure, deliver and maintain in perpetuity the appropriate mitigation</i></p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p><i>and compensation measures....”.</i></p> <p>A number of locations are currently being considered for the provision of compensation measures (if required) by the Applicant that would, when taken as a whole, provide the required level of compensation. Consideration and budgetary provision has been made in relation to both purchase cost for any land requirements, and costs to deliver the required measures and to ensure such measures are maintained throughout the required lifetime of the Facility to the end of decommissioning. If the SoS determines the wharf site is a functionally linked habitat to the SPA, the measures to provide habitat for birds using the wharf site will be maintained following decommissioning of the wharf unless the intertidal habitat is reinstated to an acceptable condition to enable waterbirds to return to use this area for roosting.</p> <p>The Applicant’s consultants have assisted the Applicant in identifying the costs that may be required to construct and maintain such compensation and the Applicant has made provision so that funding will be available at the required time to ensure the establishment and success of such measures. Notably, this includes ensuring that compensatory measures are in place and available before the operational phase when the potential impacts that may require compensation would take effect. No issues in relation of funding of any required compensation are therefore present from the Applicant’s standpoint, and such costs are considered</p>



ExQ2	Question is addressed to	Question	Applicant Response
			<p>to be financially feasible.</p> <p>In relation to the mechanism to secure funds to deliver the compensation measures, the Applicant has explained in its submitted Funding Statement (document reference 3.2, APP-009) that funding for the capital cost of construction of the Proposed Development, will be secured following the grant of the DCO, and such funding will be sourced from a combination of commercial debt and additional equity. Once the funding has been secured a final investment decision will be taken to irrevocably commit the necessary funding for the project. Should funding be required for any habitat compensatory measures then those project costs will be taken into account in any final investment decision.</p> <p>As set out in The Applicant's Response to the Examining Authority's Commentary on the Draft DCO (document reference 9.58) also submitted at Deadline 5, the Applicant proposes to secure any compensation (if required) via a schedule to the DCO. A draft of that schedule is included as Appendix 1 to that document and requires the compensation measures to be in place prior to the operation of the development. If considered necessary the Applicant would be content to enter into an appropriate security mechanism around the time of the implementation of the compensatory measures (if any) to provide reassurance that the measures will be retained and maintained during the operation of the</p>

ExQ2	Question is addressed to	Question	Applicant Response
			facility.
Q2.1.0.5	The Applicant	<p>With reference to the Applicant’s response to Q1.0.5 regarding fire prevention [REP2-008], please provide an update regarding the following statements:</p> <p><i>‘At this stage the legal boundary of the Facility relating to the EP has not been agreed by the EA.’</i>, and</p> <p><i>‘The Applicant will discuss with the MCA whether a specific fire prevention plan for vessels is needed’.</i></p>	<p>In their Enhanced Pre-Application letter to The Applicant (Ref: EA/EPR/NP3705MX/A001) the EA state that, “the installation boundary for the permit would need to cover the quay to ensure loading/handling is covered but not the water beyond.”</p> <p>Regarding vessel fire prevention plans, the Applicant held a meeting with the Maritime and Coastguard Agency (MCA) and Lincolnshire Fire and Rescue on 16<sup>th</sup> December 2021. The minutes for this meeting are provided as Appendix A to this document.</p> <p>The MCA stated that all vessels will require the appropriate firefighting capability, i.e. needing to conform to the Safety of Life at Sea (SOLAS) Regulations. They identified that the Refuse Derived Fuel (RDF) would need to be checked to see if it conforms to the definition of dangerous goods and that all cargo requires the relevant safety data sheet with declarations made in advance of sailing. All of this is the responsibility of the ship’s Master. No specific concerns relating to a fire plan outside of these regulations was identified by the MCA.</p> <p>Lincolnshire Fire and Rescue identified that if a vessel fire occurred within The Haven an Integrated Risk Management Plan (IRMP) would be put in place with a multi-agency response, and liaison with the Port of</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>Boston taking place to determine the best course of action.</p> <p>No parties voiced any specific concerns in relation to fire planning on vessels with the above established protocols in place and no additional firefighting plans were identified. The stakeholders welcomed the opportunity to discuss this aspect at a pre-consent stage.</p>
Q2.1.0.6	The Applicant	<p>Please provide responses to the following:</p> <ul style="list-style-type: none"> <li>• Kevin Blanchard. Deadline 2 Submission - Comments on Written Representations [REP2-056];</li> <li>• Please provide a response to any unanswered points raised by IPs in DL2, 3 and 4 submissions.</li> </ul>	<p>These responses have been provided in Report on Outstanding Deadline 2, 3 and 4 Submissions (document reference 9.63).</p>
Q2.1.0.7	The Applicant	<p>Please provide a single response to all the points raised in the various submissions by the United Kingdom Without Incineration Network (UKWIN). It would assist the ExA if this document also contained a summary section stating each main issue raised by UKWIN, along with the Applicant's position on that issue, highlighting conformance with the NPSs, or other relevant policies, where applicable.</p>	<p>Responses to UKWIN's comments have been provided in the Applicant's response to UKWIN's comments (document reference 9.64).</p>
Q2.1.0.8	The Applicant	<p>Further to NE's request [REP4-023], please would the Applicant confirm what specific documents they will be submitting and when.</p>	<p>The following ecology/ ornithology related documents are to be submitted at Deadline 6:</p> <ul style="list-style-type: none"> <li>• Bird survey data (Change in Waterbird Behaviour Report);</li> </ul>

ExQ2	Question is addressed to	Question	Applicant Response
			<ul style="list-style-type: none"> <li>• Updated Outline Marine Mammal Mitigation Protocol;</li> <li>• A technical note outlining the process for managing the risk to ornithology from vessel management along with a Pilotage Statement which will provide further information on navigation matters;</li> <li>• An updated Compensation Measures document (document reference 9.30, REP2-013);</li> <li>• A technical note to address alternative locations and associated financial and technical considerations set out within the Assessment of Alternative Solutions (document reference 9.28, REP2-011); and</li> <li>• Responses to any unanswered marine ecology and ornithology related comments.</li> </ul> <p>The Applicant will endeavour to inform Natural England (NE) of any changes to the above and details of the documents to be submitted at subsequent deadlines.</p>
<b>2. Air Quality and Emissions</b>			
Q2.2.0.4	The Applicant	Please would the Applicant provide further details regarding the number and locations for monitoring effects of deposition on the saltmarsh and designated sites. The Air Quality Deposition Monitoring Plan states that the aim is for one monitoring point within each area, but it is not clear from Figure 1, how many discrete areas of saltmarsh and designated sites there are and therefore how many monitoring points there will	Figure 1 and the text within the Air Quality Deposition Monitoring Plan (document reference 9.51, REP4-016) have been amended to itemise the proposed locations within saltmarsh and designated sites where monitoring will be carried out prior to construction commencing, during construction and during operation of the proposed Facility. There are now nine proposed monitoring locations for nitrogen oxides and ammonia in the areas of saltmarsh and other designated sites in the

ExQ2	Question is addressed to	Question	Applicant Response
		be.	vicinity of the Facility. This amended document and Figure are submitted at Deadline 6.
Q2.2.0.5	The Applicant	It is noted that within the Outline Air Quality and Dust Management Plan [REP3-015] Table 2 suggests a variety of example mitigation measures which could be used to reduce adverse effects on air quality. Can the Applicant provide clarification on which of these measures will be required and therefore how they will be secured? This relates specifically to the issue of significant adverse effects identified at Receptor 37.	<p>The impact at Receptor 37 arises from temporary increases in road traffic flows on the A52 Liquorpond Street, associated with the peak construction phase of the Facility. The key mitigation measures for this impact are minimising the additional road traffic movements, especially Heavy Goods Vehicles (HGV), along this section of road during the construction phase and ensuring that, as far as is practicable, HGVs are compliant with the current most stringent exhaust emission standards (Euro VI). The mechanism by which this mitigation will be secured is through Requirement 13 of the DCO (document reference 2.1(2), REP3-003), Construction Traffic Management Plan (CTMP), and this mechanism will be translated into the construction contract documentation. The current Outline CTMP (document reference 7.2, APP-121) identifies the A52 Liquorpond Street in Appendix C as a Restricted Route and Paragraph 4.2.3 of the Plan states, <b>“HGVs will not be permitted to route through the A52 – Liquorpond Street at any time during construction and will need to be diverted to the A17 and A16 to the south.”</b> This will significantly reduce the presented air quality impact upon Receptor R37 as emissions from HGV are substantially greater than those from light vehicles.</p> <p>As set out in Requirement 13 of the DCO, the CTMP must be substantially in accordance with the outline CTMP. No part of the authorised development may</p>

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			commence until the CTMP has been submitted to and approved by the relevant planning authority, following the required consultation.
<b>3. Environmental Statement (ES)</b>			
Q2.3.0.2	The Applicant	Please would the Applicant provide an update regarding discussions with Anglian Water to resolve the issue regarding the new route for the diverted high pressure potable water main.	The proposed Anglian Water diversion sits outside the scope of the DCO and is being progressed directly between the parties. On the basis of past discussions, the Applicant's team are confident that an agreement on the diversion can be reached.
Q2.3.0.5	The Applicant	Please would the Applicant provide an update on the potential need for scour protection to be used for the Proposed Development, and associated assessments? In addition, please address the RSPB's comments [REP3-033].	<p>The Applicant maintains their position from their Comments on Examining Authority's First Written Questions (document reference 9.24, REP2-008) which stated that scour protection would not be the preferred solution but that detailed design may identify the requirement for such protection. Until detailed design has been progressed it is not therefore possible to confirm if scour protection will or will not be required. However as stated in REP2-008, a key design principle will be the minimisation of habitat loss.</p> <p>The RSPB commented in REP3-033 that to understand the impacts on habitat loss a worst-case scenario including scour protection would seem appropriate. Given that scour protection may be required the Applicant agrees with this view.</p> <p>The assessment of habitat loss <b>with</b> the incorporation of scour protection is set out in the Outline Landscape and Ecology Mitigation Strategy (OLEMS) (document reference 7.4(1), REP3-007). Paragraph A1.7.1 states</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>that, “<i>Within the Principal Application Site there is approximately 1.54 ha of mudflat and 1 ha of saltmarsh which would be lost due to the direct loss within the footprint of the wharf and the dredge footprint, <b>potential loss due to scour protection (which is a worst-case scenario)</b> and some potential loss which could occur as a result of hydrodynamic changes following dredging.</i>”</p> <p>Paragraph A1.7.3 states that the area of saltmarsh to be lost in the Principal Application Area is a narrow strip (approximately 15m wide) of higher marsh with very limited zonation. The saltmarsh that may be lost is characterised as being of poor quality. The loss of saltmarsh resulting from the worst-case scenario including scour protection equates to less than 0.02% of the saltmarsh resource within Lincolnshire. In recognition that any loss of saltmarsh habitat is not desirable however small an area, the Applicant has undertaken a search for potential areas for habitat creation/restoration. This search has identified that there are no realistic opportunities for the creation of new inter-tidal habitat and therefore, debris clearance and restoration of existing saltmarsh is more appropriate.</p>
Q2.3.0.6	The Applicant and EA	Please would the EA provide an update on what progress has been made regarding concerns about the Lightweight Aggregate Plant? Please would the Applicant confirm what implications could this mean for number of vessel movements?	The Applicant has provided a note on the Lightweight Aggregate Facility at Deadline 4 to demonstrate that there are similar plants operating under an Environmental Permit in the UK (document reference 9.53, REP4-018). This was provided in order to demonstrate the lightweight aggregate (LWA) plant is not new or novel technology and the Applicant does not

ExQ2	Question is addressed to	Question	Applicant Response
			<p>have concern regarding its permissibility.</p> <p>The Environment Agency (EA) have set out in their Enhanced Pre-Application letter to The Applicant (Ref: EA/EPR/NP3705MX/A001) that they can consider the mixing of the two ash residues if it can be demonstrated that (i) the mixing of hazardous and non-hazardous waste is not for 'dilution' of the hazardous waste (the Applicant considers it is not dilution, the mixing is required to create the proposed lightweight aggregate product) and (ii) enough is understood about the process and the control measures to ensure that the operation will not result in risks to the environment. The Applicant is confident of providing this information to the EA.</p> <p>A meeting with the EA is scheduled for 25<sup>th</sup> January 2022.</p> <p>The Port of Boston are satisfied that the vessel numbers predicted by the scheme would not adversely impact on the safety of navigation, subject only to the need to develop a Navigation Management Plan to ensure that appropriate risk mitigation measures are implemented both during construction and during operation of the Facility. This agreement is set out in the SoCG with the Port of Boston (document reference 8.4, REP2-003).</p> <p>If the Lightweight Aggregate Facility were not included as part of the Facility vessels would not be required to</p>



ExQ2	Question is addressed to	Question	Applicant Response
			<p>import any clay binding material or export the lightweight aggregate product. The ash and Air Pollution Control residues however would still need to be exported. This would result in approximately 28 fewer vessels per year attending the Facility with maximum vessel numbers (associated with the Lightweight Aggregate Facility) reducing from 100 to 72. marketable, useful product for the construction sector. This fundamentally conserves virgin resources and gives an economic advantage to UK constructors. It also helps UK government to meet its legal net zero obligations by reducing the amount of steel reinforcements required and reduces the amount of cement required on concrete structures, both of which reduce carbon footprints. It converts a large amount of clay excavated by UK construction sector and other quarry and tunnelling sectors into new but increasingly in demand new light weight aggregates, as part of the circular economy.</p>
Q2.3.0.9	The Applicant and EA	Please would the Applicant and the EA provide an update regarding progress of Environmental Permits required for the Proposed Development? Please include details of the timeline for agreeing what permits are required, as well the consultation period(s).	<p>The Applicant has not yet submitted an application for an Environmental Permit. Pre-application discussions commenced in October 2021 and a site meeting, walk-over inspection and discussions were held between the Applicant and the EA on 7<sup>th</sup> December 2021. As a result of these discussions and this meeting the following items were agreed:</p> <ul style="list-style-type: none"> <li>• A single, integrated operational Environmental Permit would be required for the Facility as a whole, covering both the EfW and the LWA plants.</li> </ul>

ExQ2	Question is addressed to	Question	Applicant Response
			<ul style="list-style-type: none"> <li>• The EA would consider which Activity the LWA plant would fall under within the Environmental Permitting Regulations 2016 as amended, and would also seek policy advice on the mixing of the furnace bottom ash (FBA) and air pollution control residues (APCr) streams prior to processing.</li> <li>• The EA's Air Quality Assessment &amp; Management Unit (AQMAU) would undertake an initial technical review of the air quality impact assessment submitted for the DCO.</li> </ul> <p>In relation to the last bullet point above, the documents technically reviewed by the EA included:</p> <ul style="list-style-type: none"> <li>• ES Chapter 14 Air Quality and associated technical Appendices and Figures (document references 6.2.14, REP1-006; 6.4.15 REP1-008; 6.4.16 REP1-010).</li> <li>• the Human Health Risk Assessment report (submitted at Deadline 1) document reference 9.9 REP1-022.</li> <li>• the Abnormal Emissions Assessment report (also submitted at Deadline 1) document reference 9.10 REP1-023.</li> <li>• a series of photomontages of visible plumes emanating from the EfW and LWA stacks (submitted at Deadline 2) document reference 6.3.7 (1) REP2-017.</li> </ul>

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			<p>Some minor observations were received from the EA on the technical content of the air quality assessment, and it was agreed that these would be dealt with during the operational Permit application process.</p> <p>Additional to the single integrated Environmental Permit, through subsequent correspondence with the EA, it was agreed that Permits covering work on flood defences/ within the flood plain, waste and discharges to water would be required for the construction phase.</p> <p>Therefore, the Applicant has identified that the following permits will be required to construct and operate the Facility:</p> <ul style="list-style-type: none"> <li>• CLAIRE Definition of Waste (DoW) Code of Practice (COP) for the re-use of site sourced material.</li> <li>• Disposal for Recovery (DfR) Permit for the recovery of waste materials to raise site levels.</li> <li>• Integrated Environmental Permit for the operation of the EfW, LWA and associated activities.</li> <li>• An End of Waste Determination and Quality Protocol for the LWA plant end product.</li> </ul> <p>Additionally, Permits may be required for:</p> <ul style="list-style-type: none"> <li>• Discharges to surface or groundwater/ de watering activities.</li> </ul>

ExQ2	Question is addressed to	Question	Applicant Response
			<ul style="list-style-type: none"> <li>• Management of soil (waste) on site.</li> </ul> <p>The following Waste Exemptions will also be required for the construction phase:</p> <ul style="list-style-type: none"> <li>• U1 – use of waste in construction.</li> <li>• D1 – depositing waste from dredging inland waters.</li> <li>• T5 – screening and blending waste.</li> </ul> <p>Permits required for the use of mobile plant will be the responsibility of the Operator of the equipment.</p> <p>It is the Applicant’s intention to submit construction phase Permit applications during 2022. The Determination period for DfR Permits can take up to four months.</p> <p>The operational Permit application process is anticipated to take between 18 and 24 months following the completion of the Detailed Engineering Design phase. This includes:</p> <ul style="list-style-type: none"> <li>• The Submission and Determination of an End of Waste Review.</li> <li>• The Preparation of a Permit application.</li> <li>• The Environment Agency agreeing that the Application is ‘duly-made’ , typically up to ten days.</li> <li>• A 30-day consultation communication period</li> </ul>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>starting the day the Regulator receives the duly-made application and which will remain open for 20 days.</p> <ul style="list-style-type: none"> <li>• A 16-week determination period, unless otherwise agreed between the Applicant and the EA.</li> </ul> <p>However, should the EA, under Part 1, Schedule 5 of the Environmental Permitting Regulations 2016 as amended, request further information from the Applicant, then the timeline for the application may be extended.</p> <p>Applications for Waste Exemptions are completed via the EA’s website and are typically granted within 24 hours following the receipt of an application.</p> <p>The next permitting meeting with the Environment Agency is scheduled for the 25th January 2022.</p>
Q2.3.0.13	The Applicant	Please would the Applicant confirm if there have been any outcomes from discussions with BBC and LCC regarding potential future use of local waste as part of the Facility’s feedstock?	<p>The Applicant continues to discuss the potential future use of local waste as part of the Facility’s feedstock with BBC and LCC. As noted in the draft Statement of Common Ground (SoCG) with BBC (document reference 8.7(1), REP4-011) (see row BBC 5.1), the Applicant and BBC mutually agree this is not a deliverable at this stage in the process.</p> <p>However, both the Applicant and BBC are committed to exploring this further and the Applicant has given a reasonable endeavours commitment in the draft section 106 agreement to explore opportunities to accept and treat local waste at the operational Facility, subject to</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>such waste meeting the requisite specification and that such does not give rise to any new or different environmental effects compared to those reported in the ES. Such opportunities would be subject to commercial contract.</p>
Q2.3.0.19	The Applicant and MMO	Please update the Examination regarding agreement with the IPs regarding a maximum vessel speed.	<p>Agreement has not yet been reached with the IPs regarding a maximum vessel speed limit. However, further evidence and justification was provided at Deadline 4 on the use of the 6 knot vessel speed limit in response to the Marine Management Organisation (MMO) and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014).</p> <p>The Port of Boston relies on the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) safe speed, and in the case of large shipping, safe speed is set by the onboard pilot and is based on the prevailing circumstances, conditions and proximity of other vessels. The vessels associated with the Facility would therefore conform to current practice in The Haven.</p> <p>Discussions with the Port of Boston have identified that they would not agree to a speed limit within The Haven that compromised vessel safety and the existing situation with regard to safe speed needs to be maintained to ensure vessel safety.</p>

ExQ2	Question is addressed to	Question	Applicant Response
<b>3.1 Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))</b>			
Q2.3.1.1	The Applicant	Please respond to the RSPB's suggestions regarding the beneficial use that could be made of arisings from dredging operations [REP3-033].	<p>The Applicant notes the RSPB's comments in relation to beneficial use of arisings from dredging operations (Q3.1.1 in REP3-033).</p> <p>Any dredging arisings removed during the construction and operational phase will be used within the Lightweight Aggregate Plant as a binding agent. See paragraphs 5.6.75 to 5.6.80 in ES Chapter 5 Project Description (document reference 6.2.5, APP-043) for a description of the Lightweight Aggregate Plant. This process will use 100% of any dredged material from the berthing pocket and will partially offset the import of clay for use as a binding agent to the Facility, thus removing a small number of vessels entering The Haven every year. The lightweight aggregate product takes two otherwise waste streams (ash residues) and produces a product contributing to sustainability within the construction industry. Given the use of the dredged material within the process no sediment will be available for any other usage.</p>
Q2.3.1.21	The Applicant, NE, RSPB, LWT	Please can the Applicant and IPs provide an update on progress with the respective SoCGs, particularly in relation to HRA matters, and indicate when draft SoCGs will be submitted.	The Applicant is liaising with NE, RSPB and Lincolnshire Wildlife Trust (LWT) with the aim of submitting draft SoCGs at Deadline 6.
Q2.3.1.24	The Applicant	Please can the Applicant indicate whether it intends to submit an updated HRA derogation case to address the concerns of NE, the RSPB and LWT and if so, when it is likely to be submitted.	The without prejudice HRA derogation case is currently being updated with the Applicant intending to submit the following at Deadline 6 (8 <sup>th</sup> February 2022):

ExQ2	Question is addressed to	Question	Applicant Response
			<ul style="list-style-type: none"> <li>- An updated Compensation Measures document (document reference 9.30, REP2-013); and</li> <li>- A technical note to provide further clarity on financial and technical considerations set out within the Assessment of Alternative Solutions (document reference 9.28, REP2-011).</li> </ul> <p>These documents will address the concerns of RSPB, NE and LWT as far as possible as well as providing further information which may be of use for these Interested Parties and the ExA.</p>
Q2.3.1.25	The Applicant	Although it is stated in the preamble to the updated screening and integrity matrices submitted at D3 [REP3-018] that tracked changes are shown, they are not. Please can the Applicant provide a tracked changes version of the document.	A tracked change version of the HRA Screening and Integrity Matrices (document reference 9.42(1)) has been submitted to the examination at Deadline 5.
Q2.3.1.27	The Applicant	Please confirm whether winter bird surveys commenced in November 2021 and whether any further ornithological surveys are planned during the Examination, and if so when the results will be submitted.	The Applicant confirms that winter bird surveys commenced in November 2021 with eight survey visits planned between December and March (i.e., an average of two per calendar month). These surveys aim to address comments made earlier in Examination concerning potential gaps in coverage or knowledge of the baseline scenario and will collect data relating to the intervening length of The Haven, connectivity between the SPA/Ramsar/SSSI and the Principal Application Site, and the precise locations of additional high tide roost sites. Results have been requested within a working week of the last survey visit.



ExQ2	Question is addressed to	Question	Applicant Response
Q2.3.1.28	The Applicant	Please provide your proposed timeline for agreeing each of the main outstanding environmental and HRA issues with the environmental bodies.	<p><b>HRA/ Ornithology</b></p> <p>The Applicant maintains the position that there is no adverse effect on integrity (AEOI) and is challenging some points with the IPs (such as connectivity between habitat at the Principal Application Site and The Wash SPA).</p> <p>The position of the IPs is that AEOI cannot be shown beyond reasonable scientific doubt. The Applicant continues to submit information to the IPs in order to evidence its case. Additionally, the Applicant is progressing the without prejudice HRA derogation documents for the IPs to review and comment.</p> <p>As discussed in the response to question 2.1.0.8, the Applicant will submit further documentation at Deadline 6 as well as the draft SoCGs in order to narrow the outstanding issues.</p> <p>In order to help NE identify the Applicant's position on outstanding matters, the Applicant has provided an updated version of their Risk and Issues tracker back to NE on 12 January 2022.</p> <p><b>General environmental matters</b></p> <p>Good progress is being made with several IPs on various environmental matters which will be shown through updated SoCGs submitted at Deadline 6. Matters are being discussed through meetings planned with the following IPs:</p> <ul style="list-style-type: none"> <li>Heritage stakeholders (Historic England, LCC</li> </ul>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>and BBC) (meeting complete, 20 January 2022);</p> <ul style="list-style-type: none"> <li>• Black Sluice Drainage Board (24 January 2022);</li> <li>• Environment Agency (27 January 2022);</li> <li>• MMO (27 January 2022);</li> <li>• LCC (28 January 2022);</li> <li>• BBC (31 January 2022); and</li> <li>• Inland Waterways Association (w/c 31 January 2022).</li> </ul> <p>A meeting with Boston and Fosdyke Fishing Society (BFFS) is being arranged. There is ongoing and positive discussion with the Port of Boston on a weekly basis.</p>
<p><b>4. Compulsory Acquisition, Temporary Possession and Other Land or Rights Considerations</b></p>			
<p><b>5. Draft Development Consent Order (dDCO)</b></p>			
Q2.5.0.2	The Applicant	With reference to the Response to the ExA's First Written Questions (Q5.0.2) regarding Protective Provisions [REP2-016] please provide an update, including outstanding matters still requiring agreement, on the Protective Provisions included in Schedule 8 of the draft DCO (dDCO) for statutory undertakers affected by the proposal.	<p><u>Western Power Distribution (WPD)</u></p> <p>The Applicant and WPD are currently in discussions regarding an Asset Protection Agreement. These discussions are ongoing and the Applicant is hopeful that the Agreement can be concluded soon. That Agreement is likely to include references to amended Protective Provisions to be read as if they were in the draft DCO but will not be incorporated into the draft DCO.</p> <p><u>Anglian Water</u></p> <p>Draft protective provisions for the benefit of Anglian Water were included at Part 6 to Schedule 8 to the draft</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>DCO, submitted at Deadline 3 (REP3-003). The Applicant can confirm that these protective provisions have been agreed.</p> <p>Following a request from Anglian Water, the Applicant has now amended Requirement 9 so that Anglian Water are consulted on the surface and foul water drainage strategy. This will be included in the version of the draft DCO submitted at Deadline 6.</p> <p><u>Environment Agency</u> Since the ExA's First Written Questions, the EA has provided comments on the protective provisions and the Applicant has responded to those comments. The Applicant and the EA met to discuss the protective provisions on 19 January 2022. The Applicant and the EA agreed to work towards submitting agreed protective provisions at Deadline 6.</p>
Q2.5.0.3	The Applicant	Please can the Applicant provide a further update on consultation with the EA regarding protective provisions and legal agreement in relation to the disapplication of the requirement to obtain a flood risk activity permit, as well as disapplication of parts of the Water Resources Act 1991.	Please see the response to Q2.5.0.2 above in relation to the protective provisions. In relation to the legal agreement, since the ExA's First Written Questions, the EA has provided initial comments on the legal agreement and the Applicant has responded to those comments. The Applicant and the EA met on 19 January 2022 to discuss the EAs comments on the legal agreement. While there are still matters to resolve, there is nothing to indicate that an agreement will not be able to be reached prior to the close of examination.
<b>6. Contaminated Land and Waste</b>			
<b>7. Health</b>			

ExQ2	Question is addressed to	Question	Applicant Response
<b>8. Historic Environment</b>			
<b>9. Landscape and Visual</b>			
Q2.9.0.2	The Applicant	I note BBC's comments with regard to their residual concerns regarding the prominence of the facility within views of St Botolph's church, and '... that there are mechanisms to ensure that the wider direct and in-direct residual effects. ... Boston Borough Council has proposed through its Relevant Representation how this could be achieved, ...' [REP3-024]. Please update the Examination on progress with this matter.	<p>The current position regarding the visual impact of the Facility in relation to St Botolph's (the Stump) remains as set out in the SoCG between the Applicant and BBC, the latest version was submitted at Deadline 4 (see row BBC1.4, document reference 8.7(1), REP4-011).</p> <p>The Applicant understands that BBC's reference to '<i>there are mechanisms to ensure that the wider direct and in-direct residual effects</i>' is referring to BBC's request for a Community Benefit Fund. The Applicant is confident that the mitigation measures as set out in the ES are adequate to reduce the adverse environmental effects to acceptable levels.</p>
<b>10. Navigation/fishing issues</b>			
Q2.10.0.1	The Applicant	I note that the NMP could contain detailed information that could have implications for the HRA. Please advise when a draft of the NMP will be submitted to the Examination for IPs to review, as well as informing the ExA's Report on Implications for European Sites due for publication 22 February 2022.	<p>The Navigational Management Plan (NMP) is a post-consent document that will be produced once a principal contractor is selected for construction and the detailed design of the facility is progressed to a sufficient level to allow detailed planning of the NMP to be progressed. The NMP is secured by Condition 14 of the Deemed Marine Licence (DML) in Article 9 to the draft DCO (document reference 2.1(1), REP1-003).</p> <p>There is established precedent for a NMP within The Haven in relation to the Boston Barrier scheme. The plan is to be prepared in conjunction with the Port (who will approve it for use) and the Applicant has discussed</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>with the Port (as the statutory body responsible for navigation in The Haven) the benefit of preparing an outline NMP at this stage in the project, noting that the Port has previous experience with the Boston Barrier NMP. Both the Applicant and the Port are of the view that an outline NMP would not at this stage contain sufficient detail to provide clarity on potential impacts from an HRA perspective.</p> <p>The Applicant therefore proposes the following:</p> <ul style="list-style-type: none"> <li>- a technical note is produced setting out an explanation of the process to be followed (and topics covered) in developing the NMP (and supporting NRA), including ongoing consultation with Interested Parties.</li> <li>- Information relevant to navigation and the management of vessels serving the Facility will also be included in a 'Pilotage Statement' which is being drawn up by the Port. This statement will contain further information (inter alia) on how the Port manages existing vessel traffic, and how it would manage the additional vessel traffic arising from the Facility.</li> <li>- NE will be invited to be a consultee on the NMP in relation to ecology matters (birds and marine mammals) and this will be secured within the DCO.</li> <li>-</li> </ul> <p>These items will be progressed in conjunction with the Port of Boston and will be submitted to the Examination at Deadline 6.</p>

ExQ2	Question is addressed to	Question	Applicant Response
Q2.10.0.5	The Applicant	I note the Applicant's response to Q1.10.0.5 [REP2-008] regarding Boston and Fosdyke Fishing Society's, and the Inland Water Association's concerns regarding increased shipping and safety. Please update the Examination on progress with gaining agreement with these parties.	<p><u>Boston and Fosdyke Fishing Society (BFFS)</u> Following the Deadline 2 submission, on the 15<sup>th</sup> November 2021 the Applicant shared the Navigation Risk Assessment (NRA) (document reference 9.27, REP2-010) by email and requested a meeting should be set up with BFFS and their legal advisors in December to discuss the content and findings of the NRA and whether items within the SoCG (document reference 8.9, REP2-005) could be agreed. However, BFFS responded on the 29<sup>th</sup> November 2021, stating that they have "misgivings about what is being proposed as mitigation and in particular, what is now articulated as part of [the] recently commissioned Navigation Risk Assessment". BFFS were concerned that the Applicant had failed address their points on the timing of vessel movements and the effect of this on the fishermen. There is no reference to shipping/safety concerns in the latest correspondence, but this is addressed in the NRA. The Applicant's view is that the mitigation measures set out in the NRA are proportionate, sufficient and robust.</p> <p>On the 29<sup>th</sup> November 2021 BFFS also made clear that due to time, resource and cost required to review the NRA it would not be possible to meet before the Christmas break and would be in touch in the New Year. As of the 25th January 2022 no further written correspondence from BFFS or their representatives has been received. As such there has been no progress on agreeing any common ground with BFFS.</p>

ExQ2	Question is addressed to	Question	Applicant Response
			<p>The Applicant awaits a formal response on the NRA, including details of any concern relating to the timing of vessel movements, from BFFS. The Applicant understands that BFFS are undertaking the necessary work to respond in detail to the NRA, which the Applicant welcomes. Discussions with BFFS’s legal representative are taking place to arrange a further meeting between the parties as soon as practicable.</p> <p><u>Inland Waterways Association (IWA)</u> As stated in the SoCG with the Port of Boston (document reference 8.4(1), REP2-003) the development of a Navigation Management Plan (prepared by the Applicant and approved by the Harbour Authority), that is supported by an NRA (document reference 9.27, REP2-010 ), will ensure that the safety of navigation can be maintained for all Haven stakeholders.</p> <p>A meeting with the IWA is scheduled for the beginning of February 2022.</p>
Q2.10.0.7	The Applicant	I note the Applicant’s response to Q1.10.0.7 [REP2-008] regarding Boston and Fosdyke Fishing Society’s non-agreement on the timings of fishing vessel movements. Please update the Examination on progress regarding agreeing timings.	Please see response to Q2.10.0.5
Q2.10.0.15	The Applicant	Please provide a summary of the outstanding issues of disagreement with the Boston and Fosdyke Fishing Society along with proposals	As stated in Q2.10.0.5 agreement with BFFS on issues of disagreement, as set out in the SoCG with BFFS ( document reference 8.9, REP2-005) have not been

ExQ2	Question is addressed to	Question	Applicant Response
		for resolving these.	<p>progressed since the submission of the SoCG and NRA (REP2-003, document reference 8.4) at Deadline 2. The outstanding issues therefore remain as stated in the SoCG.</p> <p>Discussions with BFFS’s legal representative are taking place to arrange a further a meeting between the parties as soon as practicable to discuss any outstanding concerns. The Applicant is keen to address such concerns and commissioned the NRA to identify mitigation to resolve concerns from BFFS.</p>
<b>11. Noise and Vibration</b>			
<b>12. Planning Policy</b>			
<b>13. Socio-economic Effects</b>			
<b>14. Transportation and Traffic</b>			
<b>15. Water Environment</b>			
Q2.15.0.1	Applicant/EA	<p>I note the following contained in the Applicant’s response to Q1.15.01 [REP2-008]:  <i>‘The ongoing maintenance of the flood defences will be subject to an agreement with the EA. The Applicant is currently liaising with the EA as to the terms of this agreement.’</i></p> <p>Please would the parties update the Examination on progress with this agreement. In addition please also respond to the RSPB’s comment regarding compensation proposals [REP3-033].</p>	<p>Please refer to the response to Q2.5.0.3 in relation to the progress with the legal agreement with the Environment Agency.</p> <p>In relation to RSPB’s comment regarding the compensation proposals and the need to consider the impacts on flood defences as any offsite compensation measures will be outside of the Order limits, they would not be captured by the disapplication of the environmental permitting process for flood risk activities under Article 40 of the draft DCO and the associated legal agreement being negotiated with the Environment</p>



ExQ2	Question is addressed to	Question	Applicant Response
			<p>Agency. If any offsite compensation measures trigger the need to obtain an environmental permit for a flood risk activity, the Applicant would apply for that permit and the impacts on flood defences would be assessed at that time.</p>

## **Appendix A**

### **Meeting with Maritime and Coastguard Agency and Lincolnshire Fire and Rescue**

## Minutes

**HaskoningDHV UK Ltd.  
Industry & Buildings**

Present: SW - Sam Williams (Alternative Use Boston Projects Ltd.)  
 RW - Richard Woosnam (Alternative Use Boston Projects Ltd.)  
 BH - Bernie Higgins (advisor to Alternative Use Boston Projects Ltd.)  
 MH - Mark Housam (Manager Boston Fire Station)  
 KF - Karl Foxall (Lincolnshire Fire and Rescue)  
 GH - Gemma Harvey (Maritime and Coastguard Agency)  
 AL - Alan Love ((Maritime and Coastguard Agency)  
 PS - Paul Salmon (Royal HaskoningDHV)  
 SR - Sophie Reese (BDB Pitmans)

### Apologies:

From: Paul Salmon  
 Date: 16 December 2021  
 Location: Teams Meeting  
 Copy:  
 Our reference: PB6934-RHD-ZZ-XX-MI-Z-1092  
 Classification: Project related  
 Enclosures:

**Subject: Boston Alternative Energy Facility: Vessel Fire Meeting**

Ref	Item	Action
1	Welcome and Introductions	
2	Objective of the Meeting	
	<p>PS outlined that the Examiner for the Boston Alternative Energy Facility (BAEF) Development Consent Order had asked the Applicant (Alternative Use Boston Projects Ltd.) if a specific fire prevention plan was required for the vessels delivering the Refuse Derived Fuel (RDF) to the BAEF.</p> <p>The meeting was convened to discuss this point and to provide the opportunity for any additional associated concerns to be raised</p>	
3	Project Description	
	PS and RW provided a summary of the project, including predicted vessel movements, type, size etc.	
4	Fire on Vessels - discussion	
	<p>GH stated that the Refuse Derived Fuel (RDF) would need to be reviewed against the definition of dangerous goods (using the United Nations manual) and that a Safety Data Sheet would be required for all cargo. RW mentioned that similar RDF already travelled by vessel and this information could be gathered.</p> <p>The vessels used would require the appropriate firefighting capability (i.e. in compliance with Safety of Life at Sea (SOLAS) Regulations) and declarations of cargo would need to be made before departure. Safety was the responsibility of the ship's Master. No additional fire fighting plans were identified.</p>	
	MH stated that Lincolnshire Fire and Rescue would attend fires/incidents on vessels alongside (i.e. moored) and a Joint Agency Meeting would be convened if the vessel was still afloat but still in The Haven. Under an	

Ref	Item	Action
	Integrated Risk Management Plan (IRMP) Lincolnshire Fire and Rescue would work with the Port of Boston to identify how the incident would be dealt with.	
	KF identified that the Waste Industry Safety and Health (WISH) guidance (for the storage of RDF) would need to be complied with and BH confirmed that AUBP will be using this guidance in the design of the Facility.	
	AL stated that it would be worth AUBP liaising with the Coastguard Agency (contact: Matt Atkinson).	ACTION: AUBP to contact the Coastguard Agency.