

REPORT

Boston Alternative Energy Facility

Report on Outstanding Deadline 2, 3 and 4 Submissions

Client: Alternative Use Boston Projects Limited

Planning Inspectorate EN010095

Reference:

Document Reference: 9.63

Pursuant to: N/A

Reference: PB6934-ZZ-XX-RP-Z-4094

Status: Final/0.0

Date: 25 January 2022



HASKONINGDHV UK LTD.

Westpoint
Lynch Wood Business Park
Peterborough
PE26FZ
Industry & Buildings
VAT registration number: 792428892

01733334455 T
consultation@bostonaef.co.uk E
royalhaskoningdhv.com W

Document title: Boston Alternative Energy Facility

Document short title: Report on Outstanding Deadline 2, 3 and 4 Submissions

Reference: PB6934-ZZ-XX-RP-Z-4094

Status: 0.0/Final

Date: 25 January 2022

Project name: Boston Alternative Energy Facility

Project number: PB6934

Author(s): Project Team

Drafted by: Project Team

Checked by: Abbie Garry

Date: 25/01/22

Approved by: Paul Salmon

Date: 25/01/22

Classification

Project related

Unless otherwise agreed with the Client, no part of this document may be reproduced or made public or used for any purpose other than that for which the document was produced. HaskoningDHV UK Ltd. accepts no responsibility or liability whatsoever for this document other than towards the Client.

Please note: this document contains personal data of employees of HaskoningDHV UK Ltd.. Before publication or any other way of disclosing, this report needs to be anonymized.

Table of Contents

1	Introduction	1
2	Responses to Unanswered Points	9
2.1	Kevin Blanchard	9
2.2	Boston Borough Council (BBC)	12
2.3	Lincolnshire County Council (LCC)	16
2.4	Natural England	18
2.5	Lincolnshire Wildlife Trust	35
2.6	RSPB	40
2.7	References	49

Table of Tables

Table 1-1	Deadline 2 Submissions	1
Table 1-2	Deadline 3 Submissions	4
Table 1-3	Deadline 4 Submissions	7
Table 2-1	Response to Deadline 2 Submission - Comments on Written Representations (REP2-056)	9
Table 2-2	Response to BBC's response on the Indicative Construction Programme (REP2-035)	12
Table 2-3	Response to Deadline 3 Submission - Comments on DCO (REP3-024).	14
Table 2-4	Response to Deadline 3 Submission - Post hearing submissions including written summaries of oral case – Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) – 23 November 2021 (REP3-026)	16
Table 2-5	Responses to Natural England's Comments on 9.15: Addendum to Chapter 17 and Appendix 17.1 - Benthic, Ecology, Fish and Habitats (REP2-046)	18
Table 2-6	Response to Natural England's Comments on the Applicant's Deadline 1 Submissions in Relation to Air Quality (Deadline 2 Submission) (REP2-042)	24
Table 2-7	Natural England's Advice on BAEP Derogation Case – Alternatives (Deadline 3 Submission) (REP3-031)	29
Table 2-8	Response to A Summary of Natural England's Position on the Potential Impacts to The Wash SPA (Deadline 4 Submission)	30
Table 2-9	Response to Deadline 4 Submission - Comments on draft in-principle Habitats Regulations derogation case (REP4-021)	35
Table 2-10	Responses to Comments on the Outline Surface Water Drainage Strategy (REP2-052)	40
Table 2-11	Response to Comments on the Applicant's 'Without Prejudice' Derogation Case – Alternatives (REP4-028)	46

Glossary of Acronyms

Term	Definition
AEOI	Adverse Effect on Integrity
AUBP	Alternative Use Boston Projects Limited
BBC	Boston Borough Council
DCO	Development Consent Order
dDCO	Draft Development Consent Order
DML	Deemed Marine Licence
EA	Environment Agency
EfW	Energy from Waste
EMS	Environmental Management System
ES	Environmental Statement
ExA	Examining Authority
HGV	Heavy Goods Vehicle
HRA	Habitats Regulations Assessment
IDB	Internal Drainage Board
LCC	Lincolnshire County Council
LLFA	Lead Local Flood Authority
LWA	Lightweight Aggregate
LWT	Lincolnshire Wildlife Trust
MMO	Marine Management Organisation
NE	Natural England
NPS	National Policy Statement
OLEMS	Outline Landscape and Ecological Mitigation Strategy
PCBs	polychlorinated biphenyls
RDF	Refused Derived Fuel
RSPB	Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SCR	Selective Catalytic Reduction
SPA	Special Protection Area
SSSI	Special Scientific Interest
UKWIN	United Kingdom Without Incineration Network

1 Introduction

- 1.1.1 This ‘Report on outstanding Deadline 2, 3 and 4 Submissions’ is for the Boston Alternative Energy Facility (the Facility). This report is on behalf of Alternative Use Boston Projects Limited (the Applicant), to support 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).
- 1.1.2 This report is in response to question 2.1.0.6 of the Examining Authority’s Second Round of Written Questions (PD-010) which is as follows:
- 1.1.3 “Please provide responses to the following:
- Kevin Blanchard. Deadline 2 Submission - Comments on Written Representations [REP2-056];
 - Please provide a response to any unanswered points raised by IPs in DL2, 3 and 4 submissions.”
- 1.1.4 In order to assist the Examining Authority, we have provided a summary of all the documents submitted by Interested Parties at Deadlines 2, 3 and 4 and whether a response is considered required and if so where it is provided (see **Tables 1-1 and 1-3**).

Table 1-1 Deadline 2 Submissions

Stakeholder	Document	Response Status
Boston Borough Council (BBC)	Comments on Local Impact Reports (REP2-034)	This document does not require a response from the Applicant.
	Boston Borough Council’s response on the Indicative Construction Programme (REP2-035)	Response provided in Table 2-2 below.
	Comments on Draft DCO and other Submitted Documents (REP2-036)	This document does not require a response from the Applicant.
	Boston Borough Council’s response to the RSPB’s comment on Boston Borough Council’s Relevant Representation (REP2-037)	This document does not require a response from the Applicant.
Councillor Austin	A Borough Councillor’s comments on Lincolnshire County Council’s Local Impact Report (REP2-055)	This document does not require a response from the Applicant.
Environment Agency	Comments on Written Representations (WRs) (REP2-038)	The Environment Agency’s queries have been responded to within the Deadline 3 Response to Environment Agency’s queries on Estuarine Processes (document reference 9.44 REP3-020) and Response to

Stakeholder	Document	Response Status
		Environment Agency's queries on Critical Infrastructure and Levels across the Application Site (document reference 9.40, REP3-016).
Kevin Blanchard	Comments on Written Representations (WRs) (REP2-056)	Response provided in Table 2-1 below.
Lincolnshire County Council (LCC)	Responses to ExA's Written Questions (REP2-039)	This was responded to in the Comments on Responses to the Examining Authority's Written Questions (document reference 9.36, REP3-012). The ExA has also asked a further question in relation to this (Q 2.1.0.3.) and a response has been provided in the Applicant's Responses to the Examining Authority's Second Written Questions (document reference 9.57).
Marine Management Organisation (MMO)	Deadline 2 Submission (REP2-040)	This was responded to in: <ul style="list-style-type: none"> • Response to the Marine Management Organisation and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014); • Comments on responses to ExA's Written Questions (ExQ1) (document reference 9.36, REP3-012); and • Written Summary of the Applicant's Oral Case at Issue Specific Hearing on draft Development Consent Order (pages 14-20) (document reference 9.35, REP3-011).
Natural England	Cover letter (REP2-041)	This was responded to in the Comments on Responses to the Examining Authority's Written Questions (document reference 9.36, REP3-012).
	Natural England's Comments on 9.15: Addendum to Chapter 17 and Appendix 17.1 - Benthic, Ecology, Fish and Habitats (REP2-046)	Response provided in Table 2-5 below.
	Natural England's Comments on Habitats Regulations Assessment - Ornithology Addendum (REP2-045)	Responses to comments related to disturbance and energy usage by birds are included in Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59)

Stakeholder	Document	Response Status
		submitted at Deadline 5. Further responses to outstanding comments will be provided at Deadline 6.
	Natural England's Comments on the Draft DCO and Schedule of Changes to Draft DCO (REP2-044)	<p>Comments on DCO matters were addressed by the Applicant's Written Summary of the Applicant's Oral Case at Issue Specific Hearing on draft Development Consent Order (pages 4, 10, 16, 17, 18, 19) (document reference 9.35, REP3-011).</p> <p>Comments regarding dynamic positioning were addressed within Written Summary of the Applicant's Oral Case at Issue Specific Hearing on Environmental Matters (Part 1) at (pages 12-13) (document reference 9.47, REP3-023) and Response to the Marine Management Organisation and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014).</p>
	Natural England's Comments on the Applicant's Deadline 1 Submissions in Relation to Air Quality (REP2-042)	Response provided in Table 2-6 below.
	Natural England's Comments on the Applicant's Deadline 1 Submissions in Relation to Marine Mammals (REP2-043)	This was responded to in the Response to the Marine Management Organisation and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014).
	Further Natural England Advice in Relation to the Alignment of the England Coast Path (ECP) (REP2-047)	Natural England's alternative option for the England Coast Path was considered by the Applicant and rationale was provided at the second Issue Specific Hearing as to why the option was discounted. This is described in the Written Summary of the Applicant's Oral Case at Issue Specific Hearing on Environmental Matters (Part 1) at (pages 22-25) (document reference 9.47, REP3-023).
	Natural England's Risk and Issues Log (REP2-048)	This document does not require a response from the Applicant. The Applicant is liaising with Natural England on this document.
RSPB	Deadline 2 Submission - additional information about Unaccompanied Site	This document does not require a response from the Applicant.

Stakeholder	Document	Response Status
	Inspection (USI) at Mouth of the Haven (REP2-049)	
	RSPB attendance at November Issue Specific Hearings for the Royal Society for the Protection of Birds (REP2-050)	This document does not require a response from the Applicant.
	Comments on the Applicant's response to the RSPB's Relevant Representation (REP2-051)	Responses to comments related to breeding redshank, common terns and lighting are included in Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59) submitted at Deadline 5. Further responses to outstanding comments will be provided at Deadline 6.
	Comments on the Outline Surface Water Drainage Strategy (REP2-052)	Response provided in Table 2-10 below.
	Initial comments on the Ornithology Addendum (REP2-053)	A revised version of the note was provided at Deadline 4, as shown in Table 1-3 .
	Comments on the Statement of Commonality (REP2-054)	The Applicant is working with RSPB on a Statement of Common Ground.
UKWIN	Comments on Applicant's Deadline 1 Climate Change Document 9.6 (REP2-057)	A response to this submission is provided in The Applicant's Response to UKWIN's Comments (document reference 9.64) submitted at Deadline 5.
	Comment on Applicant's Deadline 1 Waste Submissions (REP2-058)	A response to this submission is provided in The Applicant's Response to UKWIN's Comments (document reference 9.64) submitted at Deadline 5.

Table 1-2 Deadline 3 Submissions

Stakeholder	Document	Response Status
Boston Borough Council	Deadline 3 Submission - Comments on DCO, Comments on responses to ExA's written questions (ExQ1) and other comments following hearing sessions (REP3-024).	<p>A response to Boston Borough Council's comments on the DCO is provided in Table 2-3 below.</p> <p>In response to Boston Borough Council's comments on the ExA's written questions, this is covered within the Applicant's Comments on Examining Authority's Second Written Questions, Question 2.9.0.2 (document reference 9.57).</p>

Stakeholder	Document	Response Status
Environment Agency	Post hearing submissions including written summaries of oral case (REP3-025)	<p>These topics were responded to and discussed within the hearings as outlined in:</p> <ul style="list-style-type: none"> • Written Summary of the Applicant's Oral Case at Issue Specific Hearing on draft Development Consent Order (document reference 9.35, REP3-011); and • Written Summary of the Applicant's Oral Case at Issue Specific Hearing on Environmental Matters (Part 1) at (document reference 9.47, REP3-023). <p>There is one outstanding point from the Environment Agency's submission which requires resolving, the following: "request for monitoring of impacts on saltmarsh and mudflats beyond the immediate development". The Applicant has provided a technical note submitted at Deadline 3: Response to Environment Agency's queries on Estuarine Processes (document reference 9.44, REP3-020), which concluded "Erosion of the saltmarsh could increase due to increased ship wash, but the effect of this increase is negligible. Hence, the saltmarsh in The Haven will continue to provide the same level of protection to the flood defence with the wharf in place as it does today". The Applicant will discuss the requirement for monitoring with the Environment Agency at a meeting scheduled for 27th January 2022.</p>
LCC	Post hearing submissions including written summaries of oral case - Specific Hearing 1 (ISH1) DCO – 23 November 2021 (REP3-026)	Response provided in Table 2-4 below.
MMO	Deadline 3 Submission (REP3-027)	The only unresolved comment in this submission is with regards to the wording of the sediment sampling condition within the deemed marine licence (DML). The Applicant will discuss this with the Environment Agency and MMO following Deadline 5

Stakeholder	Document	Response Status
		<p>submissions and has meetings scheduled with both interested parties on 27th January 2022.</p> <p>Further information on fisheries were addressed in the Response to the Marine Management Organisation and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014) submitted at Deadline 4.</p>
Natural England	Cover letter (REP3-028)	This document does not require a response from the Applicant.
	Natural England's Advice on BAEP Derogation Case - Alternatives and Compensation Measures (REP3-031)	<p>A response to Natural England's comments on the Assessment of Alternative Solutions is provided below in Table 2-7.</p> <p>The comments on Compensation measures will be addressed with the updated Compensation Measures report at Deadline 6.</p>
	Natural England's Risk and Issues Log (REP3-029)	This document does not require a response from the Applicant. The Applicant is liaising with Natural England on this document.
	Natural England's Written Summary of Oral Representations made at Issue Specific Hearing 2: Environmental Matters (REP3-030)	This document does not require a response from the Applicant.
RSPB	Response to Examining Authorities queries on the Unaccompanied Site Investigation (REP3-032)	This document does not require a response from the Applicant.
	Comments on Responses to the Examining Authority's First Written Questions (REP3-033)	A response to anything unanswered will be provided at Deadline 6.
	Note on breeding redshanks on The Wash (REP3-034)	This note provided information used to inform the Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59) submitted at Deadline 5. This note does not require a direct response.
	Summary of Comments on Issue Specific Hearing 2 (ISH2) (REP3-035)	Responses to comments related to common tern are included in Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59) submitted at Deadline

Stakeholder	Document	Response Status
		5. Further responses to outstanding comments will be provided at Deadline 6.
UKWIN	UKWIN's D3 Comments on Applicant's Response to the ExA's Written Question Q12.0.7. (REP3-036)	A response to this submission is provided in The Applicant's Response to UKWIN's Comments (document reference 9.64) submitted at Deadline 5.
	UKWIN's D3 Comments on Applicant's D2 Comments on UKWIN's D1 WR (REP3-037)	A response to this submission is provided in The Applicant's Response to UKWIN's Comments (document reference 9.64) submitted at Deadline 5.
	UKWIN's D3 Comments on Applicant's Assessment of Alternative Solutions (REP3-038)	A response to this submission is provided in The Applicant's Response to UKWIN's Comments (document reference 9.64) submitted at Deadline 5.
	Written Summary of Oral Case - UKWIN ISH2 Item 6 Comments on Environmental Matters (REP3-039)	The Applicant has provided a response to this in The Applicant's Response to UKWIN's Oral Submission at Issue Specific Hearing on Environmental Matters (Part 1) (document reference 9.55, REP4-020).

Table 1-3 Deadline 4 Submissions

Stakeholder	Document	Response Status
Lincolnshire Wildlife Trust	Comments on draft in-principle HRA derogation case (REP4-021)	Response provided in Table 2-9 below.
Marine Management Organisation	MMO's Deadline 4 Submission (REP4-022)	The only unresolved comment in this submission is with regards to the wording of the sediment sampling condition within the deemed marine licence (DML). The Applicant will discuss this with the Environment Agency and MMO following Deadline 5 submissions and has meetings planned with both interested parties on 27 th January 2022.
Natural England	NE's Deadline 4 Submission (REP4-023)	This document does not require a response from the Applicant.
	A Summary of Natural England's Position on the Potential Impacts to The Wash SPA Annex I passage and Overwintering Birds	Response provided in Table 2-8 below.
RSPB	Cover letter (REP4-024)	This document does not require a response from the Applicant.

Stakeholder	Document	Response Status
	Response to the Applicant's Comments on our Written Representations submitted at Deadline 1 (REP4-025)	A response to anything unanswered will be provided at Deadline 6.
	Final comments on the Ornithology Addendum (REP4-026/ REP4-027)	Responses to comments related to common tern, impacts on the waterbird assemblage, lighting and disturbance and energy usage by birds are included in Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59) submitted at Deadline 5. Further responses to outstanding comments will be provided at Deadline 6.
	Comments on the Applicant's 'Without Prejudice' Derogation Case (REP4-028)	<p>Responses to comments on the Assessment of Alternative Solutions is provided below in Table 2-11.</p> <p>The comments on Compensation measures will be addressed with the updated Compensation Measures report at Deadline 6.</p>

2 Responses to Unanswered Points

2.1 Kevin Blanchard

2.1.1 This response was in relation Table 1-20 in the Comments on Relevant Representation document (document reference 9.2, REP1-035).

Table 2-1 Response to Deadline 2 Submission - Comments on Written Representations (REP2-056)

No.	Comment	The Applicant's Response
1	<p>No 3 air quality. You admit that there will be some emissions of fine particles. These are the ones that are particularly dangerous and there are articles stating that these cannot be continuously monitored as the technology required has yet to be created. Why has the crop land effect not been assessed before now, seeing as the area provides much of the countries vegetables.</p>	<p>There will be some small emission of fine particulates from the Energy from Waste (EfW) and Lightweight Aggregate (LWA) stacks but these will be in compliance with the strict limits set by the Industrial Emissions Directive and the EU Best Available Techniques Reference Document. These limits will be set out in the Environmental Permit for the Facility and enforced by the Environment Agency during operation of the Facility. Continuous monitoring of particulates will be required and carried out as a part of this Environmental Permit, on a particulate mass basis. The limits have been set, taking into account medical and epidemiological advice, to protect human health from the effects of fine particulates.</p> <p>The assessment of effects of emissions from the Facility upon cropland has been carried out and the report submitted at Deadline 1 (Document</p>

No.	Comment	The Applicant's Response
		Reference 9.9, REP1-022) in relation to human health, so this is available to the Examination. No significant adverse effects are predicted to human uptake of dioxins, furans, dioxin-like polychlorinated biphenyls (PCBs) and trace metals.
2	No5 climate change/project need. I totally disagree with your opinions and figures	Noted.
3	No 6 project need. I do not think their [sic] is a UK need as we already have overcapacity	The <i>Addendum to Fuel Availability and Waste Hierarchy Assessment</i> (document reference 9.5, REP1-018) identifies the availability of combustible residual waste and factors in new facilities that are in construction or commissioning phases. The report confirms the availability of fuel for the proposed Facility from wastes going to landfill or from refuse derived fuel (RDF) being exported overseas.
4	No7 air quality/dust. What are these good practise working methods to contain the dust	Good practice working methods that will be adhered to are described in the Outline Air Quality and Dust Management Plan, which was submitted at Deadline 3 (Document Reference REP3 – 015, 9.39).
5	No 8 house prices. This information is outdated 2013 .Since then the property market has changed considerably with peoples opinions on environmental issues taking greater importance. It was done by an energy related organisation and is not fit for purpose. Perhaps the applicant could do a more relevant survey of the Boston property market to support this as in my opinion property values could reduce by up to 20%.	The paper referred to in the response ('Assessing the perception and reality of arguments against thermal waste treatment plants in terms of property prices', Phillips, Longhurst and Wagland (2013)) is an academic study and is considered to represent a robust assessment of the impact of EfW development on property prices. Whilst it is accepted that the document was published in

No.	Comment	The Applicant's Response
		<p>2013, the Applicant is not aware of any more recent research on the topic. The research considered a sample of locations where EfW proposals have been developed and assessed property prices in the period before and after their development. It is not considered that such an approach could be replicated in Boston at present. Furthermore, it is considered unlikely that a survey of the local property market would provide any further clarity regarding the potential future impact of the proposed development.</p>
6	<p>No16 project need. Lincolnshire county council meeting 26 July confirmed the proposed scheme was contrary to the policies of the Minerals and waste local plan. No information has been provided on the need for this facility other than your assumption there is a national need.</p>	<p>With regards to project need, please see the Applicant's comments in Row 4, Table 1- 18, of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035).</p> <p>In addition, since the council meeting on the 26 July, Lincolnshire County Council have noted in their Local Impact Report (REP1-053) that "...there is a national need for such facilities and Lincolnshire County Council accepts that the proposal does not compromise the policies of the Minerals and Waste Local Plan in terms of need and location."</p>
7	<p>No 24 general. Regarding decommissioning, will the required money be set aside now and ring fenced, and held by an independent party for use in 25 years time.</p>	<p>The Applicant has factored in decommissioning costs as part of its overall assessment of the costs associated with the project. Decommissioning will be the responsibility of the project operator, who will be required to comply</p>

No.	Comment	The Applicant's Response
		with the relevant requirements in the made DCO at the time of decommissioning once the facility has reached the end of its operational period.

2.2 Boston Borough Council (BBC)

Table 2-2 Response to BBC's response on the Indicative Construction Programme (REP2-035)

No.	Comment	The Applicant's Response
1	<p>Chapter 5, Project Description, of the Environmental Statement submitted on the 20th April 2021 refers in paragraphs 5.5.8 to 5.5.11 to diverting a water main, providing a foul sewer connection, grading the site and preparing lay down areas and fencing.</p> <p>It then says in paragraph 5.5.12: <i>"Delivery of raw materials to the Principal Application Site will be via both ship and road. The first phase of the wharf construction will be undertaken to allow a proportion of the raw materials to be delivered by ship rather than transportation by local roads. It is estimated that it will take approximately six months to construct the first section of the wharf to allow raw materials to be received by ship. The remaining section of the wharf will take a further 12 months (approximately) to complete."</i></p> <p>The Indicative Construction Programme submitted as document 9.18 at submission deadline 1 shows preconstruction enabling works as item 3 in the table. The schedule for this work is November 2022 to August 2023.</p>	<p>The Applicant can confirm that installation of a temporary mooring for vessels delivering materials for the initial wharf construction works would be part of the pre-construction enabling works. No other physical marine structure (e.g. temporary wharf) will be required with materials unloaded using a long reach crane from landward of the current sea defence.</p> <p>The installation of a mooring is exempt from requiring a marine licence where the harbour authority has given its consent and the required notice is given to the MMO. In the event the exemption is not used, Schedule 9 of the Development Consent Order (deemed Marine Licence), Part 2 (4) allows for construction of moorings within The Haven as part of the authorised development.</p>

No.	Comment	The Applicant's Response
	<p>This obviously relates to paragraphs 5.5.8 to 5.5.11 in the project description submitted on 20 April 2021.</p> <p>It is assumed it may also include the first stages of the wharf construction as referenced in paragraph 5.5.12 but that is not clear. The wharf construction is shown to commence in June 2023 along with other site activity. This does not support the contention that the construction phase will have a reduced impact by using the partially constructed wharf because the wharf is shown to be completed in April 2025 after other items of construction are already completed.</p> <p>We question whether it is proposed to create temporary berthing arrangements, or simply move straight to the final wharf solution. If it is the former, then this could come in as part of pre-construction enabling works.</p> <p>Assuming the previous paragraph is correct, item 3 "Pre-construction enabling works" needs amending to "Preconstruction enabling works including the first phase of the wharf" to make this clear.</p> <p>Alternatively, if our assumption is wrong, the Indicative Construction Programme submitted as document 9.18 requires amendment to explain this issue more clearly.</p> <p>The Applicant is requested to provide greater clarity on this. It is imperative that wharf facilities are provided as early as possible to manage construction impacts.</p>	<p>The Applicant considers that the definition of 'pre-construction enabling works' in the Indicative Construction Programme (document reference 9.18, REP1-031) is consistent with the delivery of materials to site and the placement of a mooring to facilitate this activity.</p> <p>The Applicant confirms that the use of the temporary mooring plus the construction of the wharf as early in the construction programme as practicable are both programmed to ensure impacts are in line with those set out in the Environmental Statement (ES), notably the minimisation of Heavy Goods Vehicles (HGVs) on the road network and associated noise and air quality impacts.</p>

Table 2-3 Response to Deadline 3 Submission - Comments on DCO (REP3-024).

No.	Comment	The Applicant's Response
1	<p>Comments on Draft DCO As outlined in the hearing sessions, the Council has limited comments to make on the emerging draft of the DCO, many of the changes proposed are tidying up or consequential amendments.</p> <p>However, we are particularly concerned that the definition of “relevant planning authority” has changed to LCC without discussion with ourselves. Based on other NSIPs, it is seemingly more common-place that the following definition is used:</p> <p>“relevant planning authority”, in relation to any land, means the district planning authority for the area in which the land is situated;</p> <p>Clearly therefore there is precedent for the district being the discharging authority for the requirements, in this case this should rest with Boston Borough Council. Most recently this was the case with regard to Triton Knoll and its on – shore electrical system, and the Council considers itself best placed to discharge any necessary requirements – including consultation with any identified parties/bodies.</p> <p>We appreciate why LCC may wish to retain some level of interest in matters pertinent to them, such as Waste Hierarchy (as they are the Waste Planning Authority), but most of the effects which the Requirements seek to address relate to issues and impacts which will be felt most pertinently by local communities (ie the people of Boston Borough) and are issues/impacts which would typically be handled by Boston Borough Council as local planning authority both at consenting stage, and monitoring/compliance during the development.</p>	<p>The Applicant has been in discussions with BBC and LCC following the Issue Specific Hearing on the Draft DCO to discuss the definition of relevant planning authority in the requirements and who will be the discharging authority. The Applicant proposes to split the responsibility for discharging the requirements between the two local authorities and will set out its proposed approach in the draft DCO to be submitted at Deadline 6.</p>

Project related



No.	Comment	The Applicant's Response
	<p>Our first preference would be for Boston Borough Council to be the discharging authority as defined based on the example above.</p> <p>We do accept that some of the requirements will have cross-over with colleagues at LCC. Therefore our second preference would be for the requirements to be split between BBC and LCC (with mutual consultation embedded).</p> <p>As set out in the hearing session, Boston Borough Council considers that the following requirements are of particular interest and should be discharged by it as relevant planning authority: 3,5-6,9-10,12,14-17,19-24, and 26 (if added for PROW/footpaths).</p> <p>Therefore it is our recommendation that this should be changed. We would note that this matter is under discussion between the Applicants team, the Borough Council and LCC. We would also support LCCs suggestion that a requirement in relation to carbon capture could be included, but appreciate this may go in the S106</p>	
2	<p>We have no other significant comments on the Draft DCO, however we note that there are elements such as the PROW, Archaeology, and Ecological mitigation which remain under discussion and therefore we reserve the right to make further comments on the Draft DCO</p>	Noted.

2.3 Lincolnshire County Council (LCC)

Table 2-4 Response to Deadline 3 Submission - Post hearing submissions including written summaries of oral case – Issue Specific Hearing 1 (ISH1) into the draft Development Consent Order (dDCO) – 23 November 2021 (REP3-026)

No.	Comment	The Applicant's Response
1	<p>Definition of Local Planning Authority - Lincolnshire County Council (LCC) confirms agreement to the definition of "relevant planning authority" as set out in Part 1 PRELIMINARY of the draft Development Consent Order.</p> <p>LCC draws attention to the decision made by the Secretary of State for Business Energy and Industrial Strategy on 19th February 2021 Wheelabrator Kemsley North Waste to Energy Facility in Kent (Ref EN010083) which includes the same definition for relevant planning authority as is set out in the current draft Order and would therefore submit that a precedent has been established for this definition in the Kent decision.</p>	<p>The Applicant has been in discussions with BBC and LCC following the Issue Specific Hearing on the Draft Development Consent Order to discuss the definition of relevant planning authority in the requirements and who will be the discharging authority. The Applicant proposes to split the responsibility for discharging the requirements between the two local authorities and will set out its proposed approach in the draft DCO to be submitted at Deadline 6.</p>
2	<p>Requirement 6 – confirm that discussions are still ongoing with the applicant around the extent of investigation through trial trenching that should be undertaken prior to a decision on the application being made. Notwithstanding the outcome of these discussions would recommend that further wording is added to Requirement 6 as follows:-</p> <p>(2) The scheme shall identify areas where field work and/or a watching brief are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found. The scheme should also detail measures for post-field work processing, assessment analysis and reporting of the results of archaeological work and the deposition of the archive.</p>	<p>The Applicant agrees to update Requirement 7 (previously 6) to include the wording requested by Lincolnshire County Council subject to making a few minor drafting amendments for consistency with DCO drafting practices.</p>
3	<p>Requirement 17 - LCC welcome the insertion of sub paragraph (1) and (2) to restrict vehicle movements to and from the site in respect of waste feedstock and light weight aggregate product. However LCC consider that</p>	<p>The Applicant agrees to specify the maximum number of daily operational heavy commercial vehicle movements in Requirement 18 (previously</p>

No.	Comment	The Applicant's Response
	<p>there are other circumstances that HCVs could visit and leave the site and request that additional wording is included to capture these vehicle movements as well. LCC welcome the opportunity to discuss the wording of this requirement further with the applicant.</p>	<p>17) and will include the following wording in the version of the draft DCO to be submitted at Deadline 6: "Save in the event of a wharf outage, the number of two-way heavy commercial vehicle movements must not exceed a maximum of 30 two-way vehicle movements per day save in circumstances where, following consultation by the undertaker with the relevant highway authority, the relevant planning authority is satisfied that additional vehicle movements would not give rise to any materially new or materially different highway safety impacts or environmental effects in comparison with those reported in the environmental statement."</p>
4	<p>Requirement 24 and 25 – request that further wording is added to both these conditions to set out a requirement that records are kept to demonstrate compliance with the limits imposed by these requirements and a mechanism that such records are made available to the relevant planning authority when requested. An additional sub paragraph to be added to both requirements as follows:-</p> <p>Records must be kept for the purposes of demonstrating compliance with 24 (1) and 25 (a) – (c) and must be submitted to the relevant planning authority on an annual basis. On receipt of a written request to view these records by the relevant planning authority these records must be made available within seven days of such a request. Arrangements must be in place allowing for inspection of such records by the relevant planning authority within 7 days of a written request.</p>	<p>The Applicant added wording to the version of the draft DCO submitted at Deadline 3 (document reference 2.1(2), REP3-003) relating to record keeping, to demonstrate compliance with the requirements. The Applicant will amend this wording at Deadline 6 to more closely align with the wording in LCC's Deadline 3 submission (REP3-026).</p>

No.	Comment	The Applicant's Response
5	Additional Requirement for Carbon Capture Storage – similar wording to requirement 21 Combined heat and power for investigation into carbon capture.	The Applicant has considered LCC's request for a new requirement in the dDCO in relation to the maximisation of captured carbon, similar to Requirement 22 for combined heat and power. It is the Applicant's view that such would be more appropriately dealt with as a section 106 planning obligation. Such a provision has been added to the draft s.106 since the Issue Specific Hearing.

2.4 Natural England

Table 2-5 Responses to Natural England's Comments on 9.15: Addendum to Chapter 17 and Appendix 17.1 - Benthic, Ecology, Fish and Habitats (REP2-046)

No.	Comment	The Applicant's Response
1	<p>1. Paragraph 1.1.5 states <i>"The updated impact assessment relating to habitat loss of saltmarsh demonstrates no change to the impact magnitude, and therefore no change to the impact significances as reported within the original application documents."</i> Natural England advises that further clarification on:</p> <p>a) this relates to the development site i.e., where the wharf is positioned?; And b) if loss of saltmarsh been ruled out at the proposed Habitat Mitigation Area or elsewhere along the channel from wave erosion caused boat wash?</p> <p>This question also relates to other ship wash comments that were raised by Natural England previously. <i>"No. 8 RR. Natural England notes that</i></p>	<p>a) The saltmarsh loss that has been included within the calculations relates to the construction of the wharf and potential areas of loss related to scour protection around the proposed wharf. It included saltmarsh in the dredge pocket, saltmarsh at risk of indirect impact and saltmarsh under scour protection (and assumed a worst case for scour protection).</p> <p>b) The Applicant was able to locate Houser (2010) and Currin et al. (2017) but was unable to find Ellis et al. (2002) and Baldwin (2008). The two references found are: Currin, C.A. Davis, J.</p>

No.	Comment	The Applicant's Response
	<p><i>under operation, change in vessel traffic on intertidal habitats (increased ship wash) it appears to include text on dredging, but limited information included.</i></p> <p><i>Consultation, actions, progression. Natural England awaits an updated HRA. NE note the Applicant has reported to have addressed this issue in section 4.2 of REP1-028 however this issue remains outstanding.</i></p> <p><i>No. 28 RR. We advise that the increased vessel movements (17.8.155) are likely to increase erosion of mud and saltmarsh along the channel edge resulting in cliffed saltmarsh. This could occur from the mouth of the Haven i.e. at SSSI Unit 9, 10 all the way to the proposed site. Both the Port of Boston and the project will undertake dredging of the channel to maintain navigation (est to be 24,000m³ + 8000m³) which will also be lost from the system. Natural England queries if this has been accounted for? There is evidence that links boat wake energy to elevated turbidity and shoreline erosion, particularly in narrow waterways (Ellis et al., 2002; Baldwin, 2008; Houser, 2010; Currin et al., 2017). Due to the vastly different nature of boat waves and wind waves, there is at present no widely accepted method for making fair comparisons between boat- and wind waves with regard to shoreline erosion potential. To compare the two for the purpose of the environmental statement is not based on any robust science.</i></p> <p><i>Consultation, actions, progression. Natural England has expressed concern about potential changes to coastal processes from the proposed works and awaits a more in-depth assessment is provided."</i></p>	<p>and Malhotra, A. 2017. Response of Salt Marshes to Wave Energy Provides Guidance for Successful Living Shoreline Implementation. In Living Shorelines: The Science and Management of Nature-Based Coastal Protection, and Houser, C. 2010. Relative Importance of Vessel-Generated and Wind Waves to Salt Marsh Erosion in a Restricted Fetch Environment. Journal of Coastal Research, 26, 230-240.</p> <p>Currin et al (2017) summarised the relationship between shoreline wave energy and marsh erosion rates but did not differentiate vessel-generated and wind-generated waves. Indeed, ship wash was not investigated. However, Houser (2010) studied erosion of a salt marsh scarp between October 2007 and February 2008 in the North Channel of the Savannah River, the main shipping channel for the Port of Savannah, Georgia, USA and the relative importance of wind-generated and vessel-generated waves to its retreat. The paper concluded that the waves generated by large container ships (14 per day) accounted for about 5% of the cumulative wave energy, but because of their large height and long period, they accounted for almost 25% of the cumulative wave force. He showed that locally generated wind waves accounted for most of the wave force acting on the saltmarsh and are largely responsible for the observed erosion. He</p>

No.	Comment	The Applicant's Response
		<p>argued that an increase in vessel traffic and/or the use of larger, post-Panamax ships would not significantly accelerate the retreat of the saltmarsh.</p> <p>As set out in row 8 of Table 1-13 of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035) the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible. Given the very small predicted increases the Applicant considers that a more in-depth assessment is not required to underpin the conclusions set out in the ES. Hence, the Applicant's view has not changed since its response to Relevant Representations.</p> <p>The assessment of ship wash starts from the premise that erosion due to ship wash already occurs in The Haven and will continue to occur once the numbers of vessels increase (Paragraph 16.7.52 of Chapter 16 Estuarine Processes (document reference 6.2.16, APP-054)). The important element of the assessment is whether the increase in erosion induced by extra vessels is significant. The evidence for a negligible effect due to ship wash on erosion is presented in Chapter 16 Estuarine Processes (document</p>

No.	Comment	The Applicant's Response
		<p>reference 6.2.16, APP-054), Paragraphs 16.7.46 to 16.7.58. The key evidence supporting this conclusion is that the increase in time that ship wash would be active on the intertidal mudflats (from 0.15 % of a year pre the Facility to 0.37 % of a year post the Facility) will still be very small compared to the relatively large amount of time that natural wind-waves are active (greater than 99.6% of a year both pre- and post-Facility). So, even though the percentage of time that ship wash is active would be doubled, the relative amount of time it is active compared to natural wind-waves is still small. Hence, the annual effect of erosion by wind-waves (and tidal currents) would continue to significantly exceed the erosion caused by ship wash, and the increase in erosion from such ship wash is considered to be negligible.</p>
2	<p>2. Paragraph 1.1.6 states “offsets for habitat loss... will be reported in an updated Outline Landscape and Ecological Mitigation Strategy (OLEMS)”. Natural England advises that until this document is received, we are unable provide further nature conservation advice in relation to habitat loss.</p>	<p>An updated Outline Landscape and Ecological Mitigation Strategy (OLEMS) document was submitted at Deadline 3 (document reference 7.4(1), REP3-007). The offsets for habitat loss are on ongoing process. An updated ‘without prejudice’ compensation document will be submitted at Deadline 6. This will contain measures for compensation and also measures for net gain.</p>
3	<p>3. Table 2.1 – Natural England remains unsure as to why ship wash and impacts on saltmarsh have been raised in Section 4.2?</p>	<p>This reference was added in error. The response to the relevant representation was provided in Table 1-13 Row 67 of the Comments on Relevant</p>

No.	Comment	The Applicant's Response
		Representations (document reference 9.2, REP1-035).
4	<p>4. Paragraph 4.2.2 states <i>“The impact significance is reduced to minor adverse with the proposed mitigation and net gain measures in place.”</i> However, the details of the proposed mitigation and net gain measures in relation to saltmarsh loss has yet to be presented.</p> <p>The focus of mitigation measures to date have been on saltmarsh as supporting habitat for bird resource rather than as a priority habitat in its own right.</p>	<p>The impact on saltmarsh in its own right was not considered to be of significance. This was in context of the amount of loss (1ha), and the fact that the loss was not in any designated areas and with the affected saltmarsh being described in three separate survey reports as being of poor quality. The saltmarsh along The Haven is affected by debris and it is proposed that, as a net gain measure, the debris is removed to restore an area of saltmarsh currently affected by the debris. In terms of priority habitat, the Lincolnshire Biodiversity Plan calculates the area of saltmarsh for Lincolnshire but does not include the saltmarsh that occurs outside of Special Protection Areas (SPAs).</p>
5	<p>5. Paragraph 4.2.3 states the <i>“condition assessment has been taken from monitoring reports undertaken for the Environment Agency where the saltmarshes in this area were repeatedly described as in poor condition (Holden, 2017)”</i> Natural England advises that there are no recent project specific surveys presented as part of this Application. However, Natural England went out on site on 7th September 2021 and, although there was limited access, our observations identified that the saltmarsh wasn't dissimilar to the saltmarsh found throughout the designated saltmarsh within The Wash and North Norfolk Coast SAC. NE continue to disagree with classification of poor saltmarsh quality (acknowledged by the Applicant in Section 4.2.3 of REP1-028). Natural England doesn't support the condition assessment undertaken by the EA in 2017.</p>	<p>The condition assessment undertaken for the Environment Agency (EA) in 2017 confirmed the condition assessments undertaken, by different companies, in 2011 and 2014, as of poor quality. The Applicant does not consider that there is any reason for a condition change since 2017 and all three surveys have identified the saltmarsh as being of poor quality thereby giving confidence this is the case.</p> <p>It is acknowledged that the saltmarsh in the area adjacent to the Principal Application Area is a wider strip and shows more zonation but the strip</p>

No.	Comment	The Applicant's Response
		<p>of saltmarsh within the Principal Application Area is narrow with very limited zonation. The issue with debris on the saltmarsh occurs throughout The Haven and removal of such could help to improve some of the areas of saltmarsh along this stretch. However, the saltmarsh is a narrow strip, confined by coastal squeeze and was not included in any designations.</p>
6	<p>6. Paragraph 4.2.3 - As noted above, until the OLEMs is submitted into examination we are unable provide further nature conservation advice in relation to habitat loss. Also, it is not clear that the Applicant is going to reassess their condition of saltmarsh following NE advice.</p>	<p>The updated OLEMS document was submitted at Deadline 3 (document reference 7.4(1), REP3-007). This document outlines the reasoning behind the saltmarsh assessment which the Applicant has considered but is in agreement with the three previous surveys (2011, 2014 and 2017) including those set out in EA documents in classifying the saltmarsh in the Principal Application Area as being in poor condition.</p>
7	<p>7. Paragraph 4.2.4 states <i>"The amount of saltmarsh in Lincolnshire is estimated at around 4,223 ha (page 102, Boorman, 2003) and the proposed wharf will result in the loss of 1ha of saltmarsh. This results in a loss of 0.02% of the saltmarsh from the Lincolnshire coast"</i>. Natural England queries why the EA layers were not used to calculate saltmarsh area? Also, the reference to the % of loss from all the saltmarsh on the Lincolnshire Coast is not appropriate; saltmarsh is a priority habitat under NERC, avoiding the loss of this habitat should be a priority.</p>	<p>The use of the document cited was just to provide context for the overall loss of saltmarsh for Lincolnshire.</p> <p>Minimisation of loss of saltmarsh has been considered as far as possible. The open structure of the wharf may allow some very limited growth of marsh around the edges of the wharf area. The scour protection measures are also to be designed to minimise saltmarsh loss as much as is possible and will only be included if absolutely required following detailed design. The net gain measures proposed (removal of debris) would</p>

No.	Comment	The Applicant's Response
		also restore areas of saltmarsh along The Haven that are currently affected by smothering from debris (which occurs all along The Haven) as set out in the OLEMS with the final LEMS secured by the DCO.
8	8. Paragraph 4.3.6 - Natural England welcomes that the habitat mitigation area has been considered. Please see Appendix D2 at Deadline 2 for further comments on Air Quality matters.	Air quality matters have been responded to in detail in the responses to specific questions as shown in Table 2-6 .
9	9. Paragraphs 4.3.7 to 4.3.16 – comments on these sections have been included in Appendix D2 at Deadline 2.	Air quality matters have been responded to in detail in the responses to specific questions Table 2-6 . An Air Quality Deposition Monitoring Plan was also submitted at Deadline 4 (document reference 9.51, REP4-016).

Table 2-6 Response to Natural England's Comments on the Applicant's Deadline 1 Submissions in Relation to Air Quality (Deadline 2 Submission) (REP2-042)

No.	Comment	The Applicant's Response
1	<p>Relevant Representation comment: Whilst dust impacts during construction considered at Havenside LNR; what about on the area of saltmarsh being used for the Habitat Mitigation Area? Natural England advises that all areas relevant to the proposals are thoroughly considered.</p> <p>Deadline 2 comment: Natural England notes that dust impacts during construction is mentioned in REP1-028 (Marine and Coastal Ecology Appendix 17.1). However, mitigation measures will be</p>	An Outline Air Quality and Dust Management Plan was submitted to the examination at Deadline 3 (document reference 9.39, REP3-015). This is in addition to the Outline Code of Construction Practice (document reference 7.1, APP-120) which was submitted with the DCO application.

No.	Comment	The Applicant's Response
	<p>secured in the Code of Construction Practice. We will review this document once it has been submitted into examination.</p>	
2	<p>Relevant Representation comment: We note that the construction phase of the assessment does not consider emissions from ammonia. This suggests that ammonia from vehicle and vessel emissions were not considered. We query if the justification for this can be provided and the rationale as to why ammonia would not be a significant contributor? Especially given that nitrogen deposition exceeds the 1% threshold. Natural England advises that all areas relevant to the proposals are thoroughly considered.</p> <p>Deadline 2 comment: Natural England notes that Paragraph REP1-028 4.3.19 states that older vessels (constructed before 1st Jan 2021) would only produce negligible levels of ammonia as they don't use SCR therefore limited effect on designated sites; but over the operation of the project (i.e. 25 years) presumably vessels will be modernised/ new so therefore there is likely to be an increase in ammonia from this source over time. Therefore, Natural England advises that the impacts over the lifetime of the project require further consideration.</p>	<p>The comment from Natural England originally was concerned with the construction phase of the proposed Facility and a response was provided by the Applicant in row 107 of Table 1-13 of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035). Natural England's further comments on the Applicant's response then extended the substance of the original comment into the operational phase of the facility and potential emissions of ammonia from vessels and road traffic. As noted in the Applicant's response, increases in traffic flows associated with the construction and operation of the facility were below the screening criteria but NOx emissions were included in the assessment. On that basis, ammonia emissions from road traffic were deemed to be insignificant. With regard to ammonia emissions from future operational phase Selective Catalytic Reduction (SCR) equipped vessel movements, it is considered that these would be insignificant, for a number of reasons. Firstly, the number of vessel movements is projected to be approximately 1.5/day, on average over the year and, whilst at berth, the vessels' engines would not be running, as shoreside electrical power will be supplied. Secondly, the average age of cargo vessels world-wide is of the order 20 years and general cargo vessels have an average age of 26 years. Over the 25-year life of the Facility, it is unlikely that, even by Year 25, all vessels would be SCR-equipped and liable to emit small</p>

No.	Comment	The Applicant's Response
		quantities of ammonia to atmosphere. Finally, whilst there would be some small level of ammonia emissions from SCR-equipped vessels (referred to as "ammonia slip"), SCR will achieve an 80% reduction in vessel NOx emissions which, in terms of overall nitrogen emissions and deposition from vessels, would outweigh the small increments associated with ammonia emissions.
3	<p>Relevant Representation comment: The assessment states that the minor adverse impact identified will be dealt with by monitoring. However, Natural England advises that this is not mitigating the adverse impact and does not negate the impact to sensitive features. What will monitoring be looking to identify? If a significant change occurs, what actions will be taken?</p> <p>Natural England requests that the purpose and outcome of the monitoring be expanded to explain how this will mitigate an adverse impact to the designated features? A minor adverse impact is acknowledged, but no mitigation proposed.</p> <p>Deadline 2 comment: Natural advises that REP1-028 4.3.3 - doesn't answer our questions. Whilst a minor adverse impact is acknowledged, there is no mitigation proposed.</p> <p>Natural England notes that REP1-028 4.3.2 doesn't address our concerns in relation to monitoring. Therefore, this matter remains outstanding.</p>	As noted in section 4.3.3 of the Benthic Ecology, Fish and Habitats Addendum (document reference 9.15, REP1-028), mitigation measures are not proposed as the worst-case assessment concluded that impacts would be of minor adverse significance, which is not considered to be significant in EIA terms and therefore mitigation measures were not required. The figures from the Tolvik report provided in section 4.3.3 (document reference 9.15, REP1-028) show that the actual emissions from the Facility would be substantially lower than those which were considered in the assessment, and therefore a scheme of monitoring of NOx and ammonia concentrations within the designated sites and saltmarsh habitats in the vicinity of the Facility has been proposed to confirm this (REP4-016 which will be updated at Deadline 6 to address queries from the Examiner). This is in addition to the continuous emissions monitoring programme which will be required at the Facility as part of the Environmental Permit.
4	Relevant Representation comment: Natural England queries how precautionary are the emissions which have been calculated?	The word "conservative" in section 4.3.8 of the Benthic Ecology, Fish and Habitats Addendum (document reference 9.15, REP1-028) was used to imply a cautious approach and a worst-case stance rather than an under-

No.	Comment	The Applicant's Response
	<p>Was this based on a worst-case scenario e.g. worst-case MET data for Daily NOx and maximum run-times? This would be useful if made clearer.</p> <p>Natural England advises that it would be useful if these assumptions could be made clearer as it can influence the approach taken to the minor adverse impact i.e. if it's a highly conservative estimate.</p> <p>Deadline 2 comment: Natural England notes that Section 4.3.8 of REP1-028 explains how emissions were calculated. The Applicant sets out the use of five years of meteorological data, and the reported results are the maxima of all annual datasets at the point of maximum impact within each site.</p> <p>Therefore, this implies this is a Worst Case Scenario (WCS) for emissions in terms of MET data; with the project calculations using the highest levels (noting likely to be below this when operating). However, the final line states the reported results are therefore considered to be conservative. Therefore, further clarity is needed on whether this is a low estimate and therefore not a WCS?</p>	<p>estimate. The assessment results, therefore, together with the evaluation of the impact as Minor Adverse, represents the output of a worst-case assumptions for all variables and parameters in the assessment.</p>
5	<p>Relevant Representation comment: Natural England notes that Table 14-30 presents values during operational phase for The Wash with in-combination contributions of all pollutants above 1% of the relevant annual mean Critical Loads/ Levels. Therefore, we query how impacts will be mitigated for?</p> <p>Natural England advises that further clarity on how impacts to designated sites will be mitigated and any measures secured.</p> <p>Deadline 2 comment: Natural England notes that further information on the proposed mitigation measures is required before we can provide further nature conservation advice; noting that: -</p>	<p>Table 14.30 of Chapter 14 Air Quality (document reference 6.2.14, REP1-006) contains the results of an assessment of the air quality impacts of emissions from the Facility upon habitats within The Wash SPA, Site of Special Scientific Interest (SSSI) and Ramsar site and The Wash and North Norfolk Coast Special Area of Conservation (SAC). The Process Contributions for annual averaging periods for the pollutants vary between 1.0% and 2.6% of the Critical Levels and lower Critical Load range. In comparison to the nominal 1% criterion, these cannot be regarded as Insignificant. However, on</p>

No.	Comment	The Applicant's Response
	<p>Chapter 12 Terrestrial Ecology and Chapter 17 Marine and Coastal Ecology- hasn't been updated.</p> <p>We don't agree with REP1-028 (4.3.9) that impacts above 1% are not necessarily significant impacts requiring mitigation measures.</p> <p>REP1-007 states mitigation measures will be secured in the Code of Construction Practice, which is yet to be submitted.</p>	<p>the basis that the Predicted Environmental Concentrations and Loads are well within the Critical Levels and lower Critical Load range (maximum 63% for nutrient nitrogen deposition), it is considered that these impacts are Not Significant and therefore do not require any mitigation measures.</p>
6	<p>Relevant Representation comment: Paragraph states - The Facility was not predicted to lead to any significant effects during its operation which would require mitigation measures. As the Facility would be required to operate under the conditions of its Environmental Permit, this is considered to be an adequate mechanism to ensure that significant impacts are not experienced.</p> <p>Natural England queries what mitigation is suggested for designated sites? Only mention monitoring of stacks.</p> <p>Natural England advises that further clarity on how impacts to designated sites will be mitigated and any measures secured.</p> <p>Deadline 2 comment: Natural England notes that REP1-007 states mitigation measures will be secured in the Code of Construction Practice. NE will review this document once it has been submitted into examination.</p> <p>However, we advise that the CoCP will need to consider in-combination the construction phase as we do not believe these to be insignificant.</p>	<p>A response to this question was provided in row 113 of Table 1-13 of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035). An Outline Air Quality and Dust Management Plan was submitted to the examination at Deadline 3 (document reference 9.39, REP3-015). This is in addition to the Outline Code of Construction Practice (document reference 7.1, APP-120) which was submitted with the DCO application.</p>

Table 2-7 Natural England’s Advice on BAEP Derogation Case – Alternatives (Deadline 3 Submission) (REP3-031)

No.	Interested Party’s Comment	The Applicant’s Response
1	Natural England assumes that transporting materials during construction and operation down the River Witham has been discounted by the Applicant for technical and logistical reasons such as the source location of waste? It would be helpful for this to be confirmed by the Applicant.	This option was not considered within the "long list" of options due to the maximum dimensions allowed down the River Witham being: length 20.2m, width 5.3m and draught 1.52m (Canal and River Trust, 2022). Given the design point of the Facility's vessels during construction and operation of a capacity of 2,500 tonnes with a length of 100m, width 15m and draught 4m it was considered this would not be technically feasible and therefore not considered an alternative option.
2	Natural England advises that the submission of addendums to the ES chapters have not addressed Natural England's concerns and therefore NE's advice remains unchanged.	This is noted. The assessment of alternative solutions was based on Natural England's comments prior to the preparation of the addendums.
3	Natural England continues to have doubts in relation to the suitability and effectiveness of the proposed mitigation measures in minimising impacts to acceptable levels, especially in relation to Marine Mammals.	A response to Natural England's Deadline 2 response on Marine Mammals (REP2-043) was provided at Deadline 4 (document reference 9.49, REP4-014).
4	Natural England advises that there may be other concerns (not yet identified) as the final project design is still being modified to take into account interested party feedback i.e., diversion of PROW.	The assessment of alternative solutions is based on the reasons given by Interested Parties (including Natural England) within their Relevant and Written Representations for the Facility as to why (in the view of the Interested Parties) that an Adverse Effect on Integrity (AEOI) of The Wash SPA, Ramsar site and The Wash and North Norfolk Coast SAC cannot be excluded. If there are other matters that Natural England feels are relevant to the assessment (or matters that emerge in the future), it is assumed that Natural England will raise these points.
5	Natural England seeks further clarity from the Applicant on the overland conveyor location, and associated impacts, especially in relation to 89 shipments.	As described in Chapter 5 Project Description (document reference 6.2.5, APP-043), a concrete batching plant is being installed during construction to reduce transport movements associated with concrete. Aggregate will be brought in by ship

No.	Interested Party's Comment	The Applicant's Response
		and transferred by an overland temporary conveyor. The location of the temporary conveyor is shown and labelled on Figure 5.1 (sheet 1) (document reference 6.3.2, APP-068). As this is part of the Project Description, an assessment of its potential impacts has been included in relevant assessments including Chapter 17 Marine and Coastal Ecology (document reference 6.2.17, APP-055).
6	There remain issues in relation to direct/indirect loss of supporting intertidal habitat through scouring and dredging.	Section 6.3 of the Assessment of Alternative Solutions (document reference 9.28, REP2-011) covers the aspects of the Facility the Interested Parties consider have the potential for harm. This includes the construction and presence of the wharf and vessel transit through The Haven which covers associated activities such as dredging and scouring. The options for alternative solutions are focussed around these aspects, such as removing the need for a wharf (by using road or rail movements) which would remove the requirement for dredging and the need for vessels and therefore ship wash.
7	Natural England agrees with the Applicant that the use of a larger vessel wouldn't sufficiently reduce the number of vessel transits to address our concerns. And in addition, other impacts e.g., vessel wash are likely to increase.	The Applicant welcomes this confirmation.

Table 2-8 Response to A Summary of Natural England's Position on the Potential Impacts to The Wash SPA (Deadline 4 Submission)

No.	Comment	The Applicant's Response
1	Wharf area within the Haven - mitigation	It is the Applicant's position, following further analysis, that the Principal Application Area does not qualify as functionally linked land to the SPA,

No.	Comment	The Applicant's Response
	<p>Natural England advises that if impacts to functionally linked land can be remedied within the existing functionally linked land then the Applicant will have mitigated risks to Annex I SPA features. However, if the mitigation doesn't satisfactorily minimise the impacts to SPA features then we advise this becomes an additional compensation issue</p>	<p>as set out in the Update to Chapter 17 and the Habitats Regulations Assessment (HRA) (submitted at Deadline 5) (document reference 9.59). However, the Applicant has proposed to undertake works to enhance the adjacent area to ensure that it is suitable for redshank (and other species that currently use this area) and provide net gain habitat in areas alongside The Haven to provide additional habitat for waterbirds that use The Haven.</p>
2	<p>Whilst we welcome the Applicant's provision of survey data for the wharf area along the Haven [REP3-019], this data has only served to further support the importance of this area as supporting habitat for Annex I SPA birds. Therefore, Natural England's advice in relation to the requirement for extensive mitigation measures for direct habitat loss from the construction of the facility remain unchanged.</p>	<p>It is the Applicant's position, following further analysis, that the Principal Application Area does not qualify as functionally linked land to the SPA, as set out in the Update to Chapter 17 and the HRA (submitted at Deadline 5) (document reference 9.59).</p> <p>The key species that were observed using the Principal Application Area were redshank, with small numbers of ruff (not a qualifying feature of the SPA). Whilst redshank is not an Annex 1 species, ruff is an Annex 1 species. However, earlier analysis (ES Chapter 17 Document Reference 9.59) discussed the potential for significant effect on ruff and the numbers within the area to be lost were very small (1 bird on one occasion) with 1 to 6 birds in the adjacent area on three occasions.</p>
3	<p>The level of data collected for the wider Haven area and assessment is insufficient to have certainty in the potential effectiveness of any mitigation measures proposed along the Haven. This is due to both land</p>	<p>Two years' worth of data have now been collected for the overwintering, breeding and spring passage birds which gives a good indication of</p>

No.	Comment	The Applicant's Response
	<p>and water-based disturbance from existing activities and/or potential for in direct changes to these areas from increased erosion from the presence of the wharf and/or increased boat traffic.</p>	<p>the birds using the wharf area and the birds using the mouth of The Haven. It is acknowledged that there is a lack of data for the intervening area of The Haven but this area has never been included in any designated sites and is not included in the WeBS counts. Nevertheless, measures are being included within the net gain proposals to ensure that if waterbirds are using these areas that additional habitats would be provided for these individuals should they require additional roost sites. It is expected that birds using the intervening areas would continue to behave as they currently do when vessels pass along The Haven. This is acknowledged as an additional use of energy resources but the flight distances are small for these events.</p>
4	<p>The ongoing suitability of ornithological mitigation would need to be resolved before any construction activities could commence including, but not exclusively, long-term management of mitigation areas. Therefore, we advise that if the other ecological matters are resolved, and the Secretary of State is minded to consent this project, then the requirement for a full set of pre-construction survey data covering at least 12 months would be required to inform the discharge of any named mitigation plan within the DCO/dML in consultation with relevant SNCB prior to the commencement of construction to ensure it remains fit for purpose for the lifetime of the project.</p>	<p>Long term management of the mitigation areas has been addressed within the updated OLEMS document submitted at Deadline 3 (document reference 7.4(1), REP3-007). The Applicant has committed to ensure that the mitigation measures would be maintained for as long as the wharf structure is present. There are at least 12 months of survey for this area already collated to show the use of this area by roosting, breeding and passage birds. Surveys of the mitigation area would be undertaken as soon as the measures are in place, however the success of the measures would only really be known once construction has started as prior to this the</p>

No.	Comment	The Applicant's Response
		affected area will still be present and in use by the birds.
5	<p>Mouth of the Haven the Wash SPA – compensation</p> <p>Even if the required standard best practice project specific data sets are provided, our advice that an AEol can't be ruled out is unlikely to change due to the additional number of vessel movements adjacent to known roost sites for birds which are known to either:</p> <ul style="list-style-type: none"> • Be disturbed and leave roost locations with no return thus the distribution of species is not being maintained within the SPA as required by the conservation objectives; OR • Be repeatedly disturbed and returning resulting in potential impact to energy budgets which could affect abundance within the SPA in the long term. 	Noted. The Applicant maintains that an AEol will not occur as set out in application documents.
6	Whilst the focus of the compensation discussion has been on Annex I redshank, potentially 24 Annex I species/Assemblage features of The Wash SPA are exposed to the same risk at the mouth of the Haven and are likely to require similar compensation.	Redshank are not an Annex 1 species under the Birds Directive. The compensation measures that are being developed for the roosting areas around the mouth of The Haven are for all species that could require compensation should the decision be made by the Secretary of State that AEol cannot be ruled out.
7	Using the evidence that has been presented as a Worst-Case Scenario (WCS) we advise that the proposals will hinder the conservation objectives of The Wash SPA and therefore an adverse effect on integrity can't be excluded beyond all reasonable scientific doubt.	Appendix A1 of the Ornithology Addendum (Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment – Ornithology Addendum, document reference 9.13, REP1-026) details the assessment process for the potential disturbance impacts against the conservation objectives for the site, under a potential worst-case scenario. It is expected that the majority of species would

No.	Comment	The Applicant's Response
		<p>move to the alternative roosting sites that they currently use when vessels pass through The Haven. The remaining species (golden plover and lapwing) remain at the site during baseline conditions and would either remain at the site with the increase in vessel numbers or utilise alternative areas. The Applicant has therefore concluded that there would not be an AEol due to disturbance by the increased numbers of vessels. Golden Plover and Lapwing can also make use of fields and freshwater marsh areas. The net gain proposals would provide additional habitat for these species.</p>
8	<p>We advise that suitable compensation measures for roosting Annex I birds should be secured as part of the consenting process.</p>	<p>Should there be considered to be an AEol (by the Secretary of State) then the compensation measures would provide habitat for birds that may be displaced over and above the baseline situation.</p>
9	<p>Where there are uncertainties on the scale of the impact and potential deliverability of a proposed compensation measures, such is the case for this NSIP, a higher ratio of compensation is required.</p>	<p>This is acknowledged as a standard practice measure with regard to compensation.</p>
10	<p>Options for like for like roost creation within the SPA is the first consideration within the compensation hierarchy. However, we highlight that this is likely to be to the detriment of designated site features of The Wash and North Norfolk Coast SAC which has an overlapping boundary with The Wash SPA. Therefore, further compensation considerations may be required.</p>	<p>Compensation measures are being sought, through the 'without prejudice' Derogation case. The measures being investigated are all outside of the designated sites and would provide suitable habitat for birds that could potentially be displaced, if an AEol is determined.</p>
11	<p>Net Gain/Enhancement/Nature Recovery</p>	<p>The Applicant has committed to provide a net gain through a number of measures as outlined in the updated OLEMS document submitted at</p>

No.	Comment	The Applicant's Response
	Whilst not currently a mandatory requirement for NSIPs, Natural England encourages the Applicant to provide project level biodiversity Net Gain and/or invest in local Nature Recovery projects.	Deadline 3 (document reference 7.4(1), REP3-007).

2.5 Lincolnshire Wildlife Trust

Table 2-9 Response to Deadline 4 Submission - Comments on draft in-principle Habitats Regulations derogation case (REP4-021)

No.	Comment	The Applicant's Response
1	The Trust does not feel it can agree with the conclusion in paragraph 1.1.2 of document 9.30 - Without Prejudice Habitats Derogation case. We are still of the opinion that insufficient data is presented to demonstrate, beyond reasonable scientific doubt, that there is no Adverse Effect on Integrity (AEOI) of interest features of The Wash and North Norfolk Coast SAC, specifically harbour seal.	Noted. The Applicant maintains its position that AEOI is unlikely.
2	We note and support the representations of Natural England and the RSPB that insufficient information is presented to demonstrate beyond reasonable scientific doubt that there will be no AEOI on the interest features of The Wash SPA and Ramsar site.	Noted.
3	In our written representations (REP-1 055) dated 19 October 2021 Lincolnshire Wildlife Trust (The Trust) raised concern regarding impact to harbour seal resulting from piling, ship movements and anchorage associated with the BAEF application. The Trust is still concerned that these matters have not been addressed to date within the updated documents submitted at Deadline 2.	Responses to each point regarding harbour seal have been provided at Deadline 4 (document reference 9.49, REP4-014). The following responses to each point raised in the comments by the Lincolnshire Wildlife Trust provide signposting to where these detailed responses can be found.
4	Decline in harbour seal populations in The Wash & North Norfolk Coast SAC In 'Appendix C3 to Natural England's Deadline 2 Submission' (dated 11 November 2021) it was indicated that, in light of the recent	A response to this issue was provided at Deadline 4. See response to Point 1 raised by Natural England in REP2-043 (provided on page 12 of

No.	Comment	The Applicant's Response
	<p>decline in the harbour seal population nationally, and within The Wash & North Norfolk Coast population, Natural England, are in the process of updating their conservation advice package. This is likely to change the conservation objective for harbour seal to 'restore'. Therefore, a more precautionary approach must be taken to avoid or mitigate impacts which could further hinder the 'restore' objective.</p>	<p>Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).</p>
5	<p>Piling We believe that <u>specific</u> piling methodology and further underwater noise modelling for the proposed BAEF development, and assessed for the potential effect it may have on harbour seal, is still required for reasons outlined below. We also question if it would be possible to limit piling activity to low tide periods only, to further reduce potential harm.</p>	<p>A response to the issue of site specific underwater noise modelling was provided at Deadline 4. See response to Point 3 (ii) raised by Natural England in REP2-043 (page 6 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)). A response to the issue of limiting piling to low tides only was provided at Deadline 4. See response to Point 5 (iii) raised by Natural England in REP2-043 (page 9 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).</p>
6	<p>Soft Start Up Procedures In their deadline 2 submission relating to Marine Mammals [REP1-025, REP1-027], Natural England, at item three, questions whether soft start up procedures will be appropriate for the specific type of piling being used at the proposed wharf site. The applicant should provide information to support their use of this mitigation procedures relating to this specific site.</p>	<p>A response to this issue was provided at Deadline 4. See response to Points 1.10 and 1.11 raised by the MMO in REP2-040 (pages 4 and 5 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).</p>
7	<p>Marine Mammal Observers (MMOs) Wharf Site Natural England also states that updated guidance referring to the use of MMOs is available. Again, underwater noise modelling <u>specific</u> to the BAEF application should be undertaken to determine the Permanent Threshold Shift (PTS)</p>	<p>A response to this issue was provided at Deadline 4. See response to Point 3 (ii) raised by Natural England in REP2-043 (page 6 of Response to the MMO and Natural England's queries regarding</p>

No.	Comment	The Applicant's Response
	Zone, rather than solely adopting the 500m MMO observational zone. The applicant has noted that the 500m observational zone cannot be fully applied at the development site due to the geography of the Haven near the proposed wharf. The reasons for the PTS range for harbour seal being set at 90m should be qualified by the applicant.	Marine Mammals and Fish (document reference 9.49, REP4-014)).
8	Passive Acoustic Monitoring (PAM): PAM is generally used to detect cetaceans in low visibility conditions rather than pinnipeds like harbour seal. Therefore, this method of mitigation is not appropriate for this species. The Trust suggests that during low visibility piling operations are halted.	A response to this issue was provided at Deadline 4. See response to Point 3 (iii) raised by the Natural England in REP2-043 (page 6 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).
9	Ship Movements: Marine Mammal Observer on Board Ship: We seek clarification that an MMO would have full view of the whole area around a laden vessel and whether the vessel would be able to change course to avoid a marine mammal should any be observed. If using a marine mammal observer is considered appropriate for this operation, this should be a <u>dedicated</u> crew role for any vessel destined for, or leaving, the proposed application site, rather than a non-dedicated crew member who would only perform this task when not undertaking other duties.	A response to this issue was provided at Deadline 4. See response to Point 3 (iv) raised by Natural England in REP2-043 (page 7 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).
10	Anchorage During Issue Specific Hearing 2 on Environmental Matters (24 November 2021) the Applicant stated that the Port of Boston Authority considered that no vessel with dynamic positioning systems will be used in transport of materials to, or from, the proposed facility. LWT suggest that a condition is included in the DCO stating that only anchors are permitted to maintain position whilst awaiting entry to the Haven at the Boston Anchorage Area. Any ships fitted with dynamic positioning systems must also be fitted with ducted propellers.	A response to this issue was provided at Deadline 4. See response to Point 4 raised by Natural England in REP2-043 (page 13 of Response to the MMO and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014)).

No.	Comment	The Applicant's Response
11	<p>Priority Habitat Under current proposals, there will be a permanent loss of 1 ha of saltmarsh and 1.4 ha mudflat, both are habitats of principal importance under Section 41 of the Natural Environment and Rural Communities (NERC) Act 2006. Options for compensation for this loss have yet to be presented by the applicant. No land has yet been assessed and secured. Functioning habitat must be established before construction begins. We would welcome an update from the applicant on this matter.</p>	<p>It is acknowledged that Section 41 of the NERC Act does list habitats and species which are of principal importance. Section 40 of the NERC Act sets out the duty under this Act with respect to such areas, which is for public authorities to have regard to the purpose of conserving biodiversity. Whilst it is acknowledged that there will be a loss of a narrow strip of (poor quality) saltmarsh and mudflat, the loss is not considered to be significant and has been minimised as far as possible through the open wharf structure and the use of specific scour protection measures only if absolutely required, that reduce the footprint. The Applicant has also committed to measures to improve biodiversity along The Haven. One such measure relates to saltmarsh. The description of the current and potential threats includes waste tipping. It has been observed that debris within the saltmarsh habitat is an issue along The Haven and the Applicant has included measures to clear up the debris in order to restore saltmarsh habitat in the local area.</p>
12	<p>Biodiversity Net Gain The Trust supports the applicants aim to deliver Biodiversity Net Gain on site. We would welcome a progress report on this and when assessment and calculations will be available to demonstrate delivery of BNG on and/or off site.</p>	<p>The updated OLEMS provided at Deadline 3 (document reference 7.4(1), REP3-007), provided more detail on the net gain measures. These are being further developed and further details will be included within updates for subsequent deadlines.</p>
13	<p>Impacts to The Wash SPA designated features Lincolnshire Wildlife Trust believe that an Adverse Effect on Integrity cannot be ruled out beyond reasonable scientific doubt for designated</p>	<p>It is the Applicant's position, following further analysis, that the Principal Application Area does not qualify as functionally linked land to the SPA,</p>

No.	Comment	The Applicant's Response
	SPA features at the proposed development site (redshank) and at the mouth of the Haven (SPA assemblages).	as set out in the Update to Chapter 17 and the HRA (submitted at Deadline 5) (document reference 9.59). However, the Applicant has proposed to undertake works to enhance the adjacent area to ensure that it is suitable for redshank (and other species that currently use this area) and provide net gain habitat in areas alongside The Haven to provide additional habitat for waterbirds that use The Haven. Detailed assessment of the potential for AEol at the mouth of The Haven was included in Appendix A1 of the Ornithology Addendum (document reference 9.13, REP1-026)
14	We defer to advice from Natural England and the RSPB on this matter. We have noted the following: To rule out Adverse Effect on Integrity The Trust believe that further data and assessment is required for SPA features. Options for areas of land that can be utilised as compensation for functionally linked land need to be assessed, secured and appropriate habitat created and functioning before construction on the proposed site begins.	Further assessment has been provided at Deadline 5 on ornithology issues within the Chapter 17 and HRA update (document reference 9.59) to provide more information. Further details on compensation measures will be provided within the 'without prejudice' derogation case, compensation document to be updated at Deadline 6.
15	In Issue Specific Hearing 2; 24 November 2021, Dr Digger Brown suggested that there was a substantial, unrecorded impact from existing large vessel movements on roosting birds at the mouth of the Haven. We would support taking a precautionary approach on assessment whilst this effect is assessed. Further impacts from vessels associated with the proposed development should be considered carefully in light of this new evidence. Additionally, Dr Brown suggests that there should be a minimum distance from vessel disturbance of at least 350m for any compensation site delivered.	Dr Digger Jackson (note, not as stated in the question Dr. Brown) has undertaken a detailed assessment of the potential for further impacts to occur at the mouth of The Haven as a result of the proposed Facility. This is included as Appendix A1 of the Ornithology Addendum (document reference 9.13, REP1-026). Sites being investigated as 'without prejudice' compensation sites are being sought to meet a

No.	Comment	The Applicant's Response
		number of objectives including distance from disturbance from vessels and people. The list of objectives for these sites will be included in the 'without prejudice' derogation case, compensation document to be updated at Deadline 6.

2.6 RSPB

2.6.1 It should be noted that the Surface Water Drainage Strategy (document reference 9.4, REP1-017) the RSPB commented on has been superseded by the Outline Surface and Foul Water Strategy (document reference 9.4(1), REP3-009). Where we refer to paragraphs in the table below these relate to the latest report (document reference 9.4(1), REP3-009).

Table 2-10 Responses to Comments on the Outline Surface Water Drainage Strategy (REP2-052)

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
1	The discharge rate is much higher than we understood would be released from the site. At 2.1m ³ /minute this equates to 18,396m ³ a year. That's quite a lot of additional, potentially polluted water, entering the drainage network. It would be good to know what the percentage is in relation to the total volume pumped out. I'm assuming this is about 1,500,000m ³ , which would make it just over 1% extra.	Provide clarity on the additional amount of water that would be discharged compared to the currently pumped total water volume from the drainage network. Ensure this has been assessed within the HRA.	The Applicant is unaware of the discharge rate the RSPB thought would be associated from the site and we query the derivation of the 18,396m ³ quoted. The discharge rate identified in the document is in line with the rate previously agreed with the Black Sluice Internal Drainage Board (IDB) of 35 l/s (see paragraph 3.1.2 of REP3-009). The allowable discharge rate will not change from the current (baseline) situation, in agreement with Black Sluice IDB.

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
			<p>The discharge rate quoted is a maximum that can be pumped out so it is not true to say that the discharge would approach the 1% additional pumped out figure quoted by RSPB is the 1,500,000m³ total volume pumped from the catchment is correct (noting that the Applicant has not identified if this figure is correct).</p> <p>None of the water discharging from the site will contain pollutants at a level which would cause concern with appropriate pollution control measures set out in Section 4.4 of the report (document reference 9.4(1), REP3-009).</p>
2	<p>Does this mean 49% of surface water is lost into the ground? That seems a lot. If this is polluted and by-passes intended filter/capture points and enters the drainage network anyway then this is a concern. We also assuming this represents an additional 18,000m³ . The full ecological consequences of this infiltration needs to be assessed.</p>	<p>Clarify the volume of water that is planned to be disposed off through infiltration. There also needs to be a monitoring plan available to assess water quality and address issues from contaminants entering the drainage network. Ensure this has been assessed within the HRA</p>	<p>This means that the calculations in the Surface Water Management Plan previously produced for the site considers that 51% of the total site area to be impermeable, this is the percentage of area that was then considered as contributing into the drainage network and is managed by the drainage systems. The remainder of the Facility's areas were to be softscape which mimics natural/undeveloped conditions. For clarity, undeveloped land, collects direct rainfall only.</p> <p>A water quality monitoring plan will be developed and this will include fulfilling the requirements of the Environmental Management System (EMS) which will be a component of the Environment Permit.</p>
3	<p>Whilst there is no direct discharge into the Haven, it does indirectly once water is discharged to the adjacent drainage</p>	<p>Clarify that discharge to The Haven does occur via the drainage network and Wyberton Marsh pumping station</p>	<p>The discharge location of surface water from the Facility will be to Bittern Way Drain (Drain 625). This connects into the existing surface water drainage network,</p>

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
	<p>network. The drainage network is operated via the IDB and water is automatically pumped into the Haven. This needs to be clarified in the drainage strategy.</p>		<p>downstream of which is Wyberton Marsh Pumping Station. Water is pumped from here into The Haven.</p> <p>Black Sluice IDB have been consulted (in full recognition of the discharge location) and no issues have been raised by them apart from ensuring the drainage system does not exceed the currently permitted amount (see answer to Q1 above). An email exchange with Black Sluice IDB on this matter is provided in Appendix A.</p> <p>The Applicant notes that the Environment Agency has no objections to the proposals for the management and disposal of surface and waste water. The Statement of Common Ground with the Environment Agency identifies that the Surface, Flood Risk and Drainage Strategy to be 'agreed' (document reference 8.2, REP1-044). The Detailed Surface and Foul Water Drainage Strategy requires agreement with the Environment Agency as specified in Schedule 2, Part 1, Requirement 8 of the draft DCO.</p>
4	<p>From this we infer that the extended or new ditches have an open connection to the IDB drainage network. This would mean that they don't play much of a role in filtering pollutants. This is aside from the concrete car parks, chemical and fuel areas, which do have oil interceptors and storage tanks. Is it possible to have a pollution incident away from these areas that would by-</p>	<p>More detail of impacts and consideration of oil separators throughout the site and the need to hydrologically isolate the site and/or create impermeable pools/reservoirs.</p>	<p>Paragraph 4.3.1 and Table 4-2 of the Outline Surface and Foul Water Drainage Strategy (document reference 9.4(1), REP3-009), describe how the attenuation volumes are managed within the different catchments in the site. Piped networks connecting the catchments to the attenuation features will include pollution control features to prevent pollution getting to these.</p> <p>As stated in Section 4.4, surface runoff generated on the site would be generally derived from low-risk areas such</p>

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
	<p>pass these controls and enter the drainage network in an unregulated fashion? If so, we are not convinced that enough measures are being proposed to ensure contaminants will be managed effectively to avoid entering the adjacent drainage network. This will need to be confirmed with the Environment Agency, Natural England and the Black Sluice IDB.</p>		<p>as roofs, roads and pavements, and would be treated as flows are conveyed through the network of open drainage ditches. The ditches will have a low gradient and high surface roughness to maximise the retention time of water in the system and facilitate the effective removal of fine sediment and contaminants through physical and chemical processes (e.g. sedimentation and adsorption). Runoff from higher risk areas such as car parks will pass through appropriate oil separators, and runoff from the wharf will be captured in a sealed drainage system. On this basis, the Applicant does not believe that there is a need to undertake any further treatment.</p> <p>However, as set out in Paragraphs 4.4.8 and 4.4.9, the drainage system will also incorporate a series of penstocks that can be used to isolate the drainage system and prevent the discharge of contaminated water into the wider surface drainage network. Although specifically designed to account for potentially contaminated fire water, these control structures could also be operated in the unlikely event of a pollution incident. Protocols for operating the penstocks will be set out in the site's EMS.</p>
5	<p>Whilst it is anticipated that there will be sedimentation in the ditches that will trap contaminants there are no measures outlined regarding maintenance. A clear</p>	<p>Provision of a maintenance plan for the drainage network to address siltation and contaminated waste.</p>	<p>Maintenance of the surface water management features will be included in the site's EMS. This will take into account Environment Agency guidance on owning and managing a watercourse (Environment Agency, 2018) and pollution prevention (Defra and Environment</p>

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
	strategy for de-silting that removes the contaminated sediment will be required.		Agency, 2019). The EMS will include measures for monitoring sediment accumulation and will set out procedures for appropriate chemical testing. Where required, sediment will be removed and taken off site for disposal.
6	Design is to a critical storm of 1 in 100 (also referenced elsewhere). Is this sufficient given the flood defence banks are I believe a minimum of 1 in 200 year of protection?	Discuss with the Environment Agency the need to increase the design parameters to account for a 1 in 200- year event.	<p>The Applicant is aware of the flood defences along The Haven and these have been discussed in detail within the Flood Risk Assessment (document reference 6.4.13, APP-106). However, these defences protect the site, and the wider area, from tidal flooding, i.e. flooding that may occur as a result of extreme tidal events along The Haven. This is a different source of flooding to that which informs the surface water drainage design. As such, tidal flood risk is considered independently from surface water flood risk.</p> <p>The surface water drainage system proposed for the Facility manages the rainfall that falls on the site collecting and attenuating the water arising from the impermeable surfaces. The design of the surface water drainage system has been developed to accommodate the 1 in 100 year rainfall event with an allowance of 40% for climate change (as set out in paragraph 4.2.2). This is in accordance with the national Environment Agency Flood risk assessments: climate change allowances guidance (October 2021) as well as local policy / guidance documents.</p> <p>The Environment Agency does not have a statutory role in the design and management of surface water</p>

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
			<p>drainage. This is within the remit of Lincolnshire County Council (as the Lead Local Flood Authority (LLFA)) and Black Sluice IDB (as the Facility is to be located within their Internal Drainage District).</p> <p>As such, the Applicant notes there is no requirement to engage with the Environment Agency regarding the design parameters for the surface water drainage system. Additionally, the Applicant notes that dialogue with the LLFA and Black Sluice IDB is ongoing with regard to this matter. A telecon with Black Sluice IDB of 24th January 2022 identified that in principle they had no issue with the Outline Surface and Foul Water Drainage Strategy.</p>
7	<p>The RSPB wants to be informed of any emergencies that could lead to an unregulated discharge into the drainage network as part of the emergency plan, so we can take measures to reduce the risk to our site ecology (i.e. stop abstracting for a while). We therefore request forming part of the stakeholder contacts</p>	<p>The RSPB to be listed as a contact for any incident plan.</p>	<p>The Applicant is happy to include the RSPB in the appropriate management procedures for managing pollution incidents arising from the Facility.</p>
8	<p>Monitoring of contamination levels from water entering the IDB network. This should be standard practice to inform the success of the design of the discharge operation and, if specified pollutants exceed certain levels, then this will trigger a response to contain</p>	<p>A draft water quality monitoring plan to be provided to demonstrate that appropriate data will be recorded to avoid deterioration in water quality within the drainage network. Monitoring data to be shared with the RSPB and other bodies.</p>	<p>Water quality monitoring will be in line with any Environment Agency requirements for the Permitted Site and form part of the Facility's EMS.</p>

No.	RSPB Comment	RSPB Recommendation	The Applicant's Response
	contaminants and poor-quality water. We have not seen any information regarding water quality monitoring. Where data are available, we request access to these to in ensure that we avoid pumping poor-quality water onto RSPB Frampton Marsh.		

Table 2-11 Response to Comments on the Applicant's 'Without Prejudice' Derogation Case – Alternatives (REP4-028)

No.	Comment	The Applicant's Response
1	Having reviewed the Applicant's long list of alternatives, we welcome the information provided. However, we question whether the proposed list fully captures all potential alternative options.	A technical note will be provided at Deadline 6 to address alternative locations and the associated financial and technical considerations set out within the Assessment of Alternative Solutions (document reference 9.28, REP2-011).
2	We consider that the Applicant has taken a very narrow perspective on the project's location (as set out in Table 5-1, pp.21-24; REP2-011). We consider that the focus should be on the wider public need for any such development and minimising the environmental impact from such a development. This will necessarily mean that consideration be made of alternative locations nationally that could deliver the project objectives. A wider review of suitable national locations could enable such a proposed development to be constructed in an area that "...is less damaging to the European site and does not have an adverse effect on the integrity of this or any other European site."	
3	In order to more fully consider the merits of the Applicant's case, a more detailed evaluation of the potential sites and solutions must be provided. This should set out a clear evaluation of why there are no other locations or solutions that could meet the Applicant's objectives set out in Table 5-1, in particular objective 1.	

No.	Comment	The Applicant's Response
4	<p>Whilst we note that objectives 4 and 5 make specific reference to Lincolnshire, we see no reason why the overarching topics they cover (local employment and skills) could not just as easily be considered more widely in terms of locations and solutions to contribute to renewable targets and reductions in carbon emissions. This does not mean that the Application site is not appropriate for development and employment, but that an appropriate level of scrutiny is needed to ensure that any such development is appropriate to the location and its environmental sensitivities, as is required under Habitats Regulations.</p>	
5	<p>We also note that this document makes reference to "Annex 1 redshank" (for example, paragraph 1.1.4, p.6 of document REP2-011). Whilst this species is a feature of The Wash SPA/ Ramsar/ SSSI (year-round) it is not a species listed on Annex 1 of the EU Birds Directive. Other species recorded using The Haven area such as bar-tailed godwit, common tern, golden plover, guillemot, little egret and ruff are Annex 1 species. We will seek to clarify our own position with respect to features of The Wash SPA/Ramsar/SSSI affected by the Application at Deadline 5 (25 January 2022) however, some revision of these documents will be needed by the Applicant to clarify the conservation status of the species using The Haven and its approaches.</p>	<p>This terminology was taken directly from Natural England's Relevant and Written Representation (RR-021) and is included in the Assessment of Alternative Solutions in the sections describing the reasons Natural England have that an AEoI cannot be excluded beyond all reasonable scientific doubt. The Applicant will confirm with Natural England what they mean by this statement.</p>
6	<p>With respect to golden plover, we have highlighted in our initial comments on the Ornithology Addendum that the UK SPA Review 2001 site account lists this species as a feature of The Wash SPA (section 3(I), pp. 28-31; REP2-045). It is also an Annex 1 species and requires special protection throughout its range year-round. We note that this has not been recognised by the Applicant in paragraph 6.3.6 where it is simply listed as being part of the waterbird assemblage feature (p.26; REP2-011).</p>	<p>Golden plover is not listed as a qualifying feature within The Wash SPA Conservation Objectives (Natural England, 2019) or Citation (Natural England, 2014).</p>
7	<p>We consider the Applicant's information set out in Section 6 (pp.25-29) regarding the proposed development and its potential impact on The Wash SPA/Ramsar is taken from additional documents that we have</p>	<p>This is noted.</p>

Project related



No.	Comment	The Applicant's Response
	<p>already provided comments. Our comments set out in our Written Representations (REP1-060) and initial comments on the Ornithology Addendum (REP2-045) address our concerns with the Applicant's assessment, data gaps and the reasons why we consider an adverse effect on integrity of The Wash SPA/Ramsar cannot be ruled out beyond reasonable scientific doubt. We therefore will not repeat any comments we have already made.</p>	

2.7 References

Canal & River Trust. 2022. River Witham.

Environment Agency. 2018. Owning a watercourse.

Environment Agency. 2019. Pollution prevention for businesses. Construction, inspection and maintenance.

Department for Environment, Food and Rural Affairs (Defra). 2021. Habitats regulations assessments: protecting a European site.

Natural England. 2014. The Wash SPA Citation. EC Directive 79/409 on the conservation of wild birds: Special Protection Area The Wash (Norfolk & Lincolnshire).

Natural England. 2019. European Site Conservation Objectives for The Wash Special Protection Area Site Code: UK9008021

Appendix A

Email Exchange with Black Sluice IDB

From: [REDACTED]
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Boston Alternative Energy Facility: Relevant Representation
Date: 08 December 2021 10:01:00
Attachments: [image001.jpg](#)
[image002.jpg](#)

Hi Andy,

By way of an update on the Boston Alternative Energy Facility DCO, an updated outline surface and foul water drainage strategy has been submitted to the Examination – a tracked change version is available on the PINS website [here](#). This version includes reference to foul and commercial waste water.

Can you let me and Rahil (cc'd above) have any comments on the protective provisions within the DCO (see email below with link) and/or any comments on the drainage strategy document.

If a call on the above would be useful please let me know as we'd like to update the Examination on progress on these matters.

Many thanks and regards,

Paul.

From: Paul Salmon
Sent: 18 November 2021 08:27
To: Andrew Scott [REDACTED]
Cc: Abbie Garry [REDACTED]; HAQ Rahil [REDACTED]; Royal HaskoningDHV PB6934 Boston EfW [REDACTED]
Subject: RE: Boston Alternative Energy Facility: Relevant Representation

Hi Andy

Following on from the earlier correspondence we had please find attached the Outline Drainage Strategy for the Boston Alternative Energy Facility which incorporates your wishes of not wanting the run-off rate to exceed that currently consented at the discharge location currently in operation from the lagoon serving the existing Boston Biomass No 3 site. This document has been provided to the DCO Examination.

The drainage strategy proposes a network of cascading SuDS features that collect and convey surface water to the outfall location. The strategy also proposes that these features connect with the existing SuDS pond which is to be retained. The figure in Appendix D identifies the layout of the proposed SuDS to achieve the required discharge requirement. The calculations were carried out to establish the critical storm for the 1 in 100 Year Return Period plus 40% Climate Change allowance in line with current guidance.

With regard to the Protective Provisions, we have carried out a review of the protective provisions Black Sluice IDB benefitted from on the Triton Knoll Electrical System Order 2016. The Applicant's view is that Black Sluice are receiving a similar level of protection on this scheme through the protective provisions already included within the draft Order. However, please do let us know if you have any specific concerns. Protective provisions for the benefit of drainage authorities are at Part 5 of Schedule 8 to the draft Order, available on the Planning

Inspectorate's website [here](#)

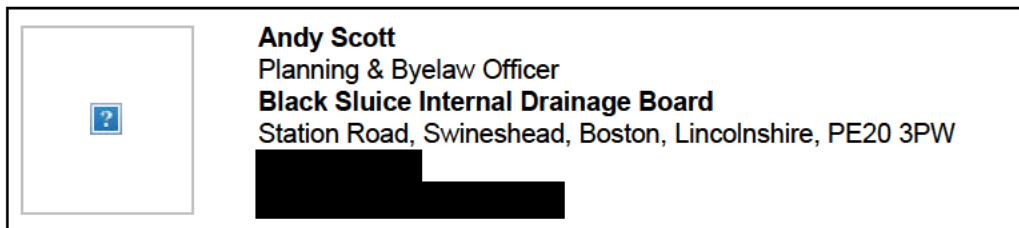
If you would like to discuss any of the above please let me know and Rahil Haq (cc'd) will lead on the protective provisions.

Many thanks and regards,

Paul.

From: Andrew Scott [REDACTED]
Sent: 05 July 2021 08:48
To: Paul Salmon <[REDACTED]>
Cc: Abbie Garry [REDACTED]; MARSH Richard <[REDACTED]>; REESE Sophie <[REDACTED]>; MARSH Richard <[REDACTED]>; Williams Sam <[REDACTED]>; Helena Wicks <[REDACTED]>
Subject: RE: Boston Alternative Energy Facility: Relevant Representation

Those two points will be fine, Paul.



From: Paul Salmon [REDACTED]
Sent: 02 July 2021 10:39
To: Andrew Scott [REDACTED]
Cc: Abbie Garry [REDACTED]; MARSH Richard <[REDACTED]>; REESE Sophie <[REDACTED]>; MARSH Richard <[REDACTED]>; Williams Sam <[REDACTED]>; Helena Wicks <[REDACTED]>
Subject: Boston Alternative Energy Facility: Relevant Representation

Hi Andrew,

I've looked at your relevant representation on the Boston Alternative Energy Facility on the PINS web site ([Boston Alternative Energy Facility \(BAEF\) | National Infrastructure Planning \(planninginspectorate.gov.uk\)](#)) and there is no mention of the points we discussed by phone, namely:

You wish to see drainage volumes to the wider drainage system not exceed the current permitted amount (noting that calculations need to incorporate up to date climate change factors); and

- You requested discussion regarding the Protective Provisions to ensure they were acceptable.

We note the Environment Agency's relevant representation on operational drainage, "*The Environment Agency has no objections to the proposals for the management and disposal of surface and waste water as set out in the Surface Water Flood Risk and Drainage Strategy (Document Ref 6.2.13). This is subject to the requirement for the Environment Agency to be a required consultee for the Detailed Surface and Foul Water Drainage Strategy as specified in Schedule 2, Part 1, Requirement 8 of the draft DCO.*"

Our intention is to provide you with the drainage calculations for the proposals (noting that detailed design is not in place and that provision of detailed drainage is a requirement of the DCO), and to discuss the Protective Provisions with you in the near future. If you could confirm that these two items would be satisfactory, or indeed if you are likely to request further information before or during Examination I'd be pleased to receive these soon.

Many thanks and regards,

Paul.

Paul Salmon
Technical Director, Industry and Buildings

HaskoningDHV UK Ltd., a company of Royal HaskoningDHV | Marlborough House, Marlborough Crescent, Newcastle upon Tyne, NE1 4EE, United Kingdom
Registered Office: Rightwell House, Bretton, Peterborough PE3 8DW | Registered in England 1336844

2019-06-06_19



This email and any attachments are intended solely for the use of the addressee(s); disclosure or copying by others than the intended person(s) is strictly prohibited. If you have received this email in error, please treat this email as confidential, notify the sender and delete all copies of the email immediately