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The Boston Alternative Energy Facility
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MMO Reference: DCO/2019/00006
Planning Inspectorate Reference: EN010095
Identification Number: 20028136

8 February 2022

Dear Sir or Madam,

Planning Act 2008 – Application by Alternative Use Boston Projects, for an Order Granting Development Consent for the Boston Alternative Energy Facility

Deadline 6 Submission

On 20 April 2021, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Alternative Use Boston Projects Limited (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Boston Alternative Energy Facility (BAEF) (the “DCO Application”) (MMO ref: DCO/2019/00006; PINS ref: EN010095).

The Applicant seeks authorisation for the construction, operation and maintenance of an ‘Energy from Waste’ (EfW) plant which will have a generating capacity of approximately 102 megawatts electric (MWe) delivering 80 MWe to the National Grid, including an electrical connection, a new site access, and other associated development (together the Proposed Development) on land at or near Riverside Industrial Estate, Bittern Road, Boston, Lincolnshire (Application Site).

The MMO received a Rule 8 letter on 14 October 2021. In response to this letter, the MMO submits the following:

- 1. Comments on responses to Second Written Questions**
- 2. Comments to any information submitted by the Applicant or Interested Parties at Deadline 5**
- 3. Notification of wish to have future correspondence electronically**

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on

any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully

[Redacted signature]

Emma Shore
Marine Licensing Case Officer

[Redacted contact information]

Copies to:

Christie Powell (MMO) – Case Manager:

[Redacted contact information]

Joseph Wilson (MMO) – Senior Case Manager:

[Redacted contact information]

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1. Comments on responses to Second Written Questions

Deadline 5 Submission – 9.57 The Applicant’s Response to the Examining Authority’s Second Written Questions (ExQ2) – REP5-004

- 1.1. The MMO have reviewed the applicant’s response regarding a maximum vessel speed limit and are content to take steer from the Port of Boston as Harbour authority on the determination of a maximum speed based on vessel safety.
- 1.2. The MMO agree with the applicant’s approach to meet with Boston and Fosdyke Fishing Society (BFFS) and will action a review of the outcomes of this meeting. The MMO maintain a watching brief on the BFFS response to the Navigation Risk Assessment. The MMO also wish to highlight that the Navigation Management Plan requires written sign off from ourselves before being actioned.

Environment Agency Deadline 5 Submission – Responses to Second Written Questions (ExQ2) – REP5-010

- 1.3. The MMO have reviewed and supports the Environment Agency’s (EA) Deadline 5 submission. The MMO will maintain a watching brief on future EA submissions and will again provide comment in future where necessary.

2. Comments on any information submitted by the Applicant or Interested Parties

Deadline 5 Submission – 9.42(1) Habitats Regulations Assessment Screening and Integrity Matrices

- 2.1. The MMO have reviewed the updated Screening and Integrity Matrices and have no comments to make at this time. The MMO defer to Natural England’s expert opinion as Statutory Nature Conservation Body regarding the impacts to internationally designated sites and the HRA for the project.
- 2.2. The MMO would like to remind the applicant that any mitigation secured through the HRA will need to be included within the conditions on the deemed marine licence (DML).

Natural England Deadline 5 Submission – Appendix F3 Natural England’s Comments on draft Development Consent Order (dDCO) [REP3-004] and Schedule of Changes [REP3-022] – REP5-016

- 2.3. The MMO have reviewed Natural England’s comments on the dDCO and has no comments other than the points raised below.
- 2.4. The MMO note Natural England has requested an ornithological mitigation and monitoring plan (OMP) to be submitted into examination as early as possible. The MMO will review this document when provided and will provide any comments where necessary. The MMO support the inclusion of a condition to secure the OMP. The MMO await confirmation if submission of this document as

a post consent review will be included within the DCO or the DML. If it is to be condition within the DML, the MMO will expect further discussion around the wording of this condition.

- 2.5. Natural England have requested the inclusion of a construction window as a separate DCO/DML condition outside of the Outline Landscape and Ecological Mitigation Strategy. The MMO agree with this approach.
- 2.6. The MMO note that in point 1 of the “*Detailed Comments Table*”, Natural England have queried whether the MMO have any comments on the acceptability of the limits of deviation and if the DML could accommodate lateral changes. The MMO will provide further comment surrounding this at Deadline 7.
- 2.7. Regarding point 6 of the “*Detailed Comments Table*”, the MMO are content with the inclusion of Schedule 9 condition 25 of the dDCO relating to decommissioning works.

3. Comments on upcoming submission of Statement of Common Ground (SOCG)

- 3.1. The MMO has discussed the SOCG with the applicant, and following further information submitted by themselves, have updated comments regarding piling restrictions requested within the DML.
- 3.2. The applicant requested the removal of the piling restriction, preventing impact piling works from July – September. The MMO has reviewed the further justifications submitted by the applicant, and would be happy with the removal of the condition if the following mitigation measures were secured:
 - Piling works are sched to be undertaken from 1st June to 30th September inclusive.
Reason: To reduce the impact on migrating and spawning smelt.
 - Piling works must be undertaken between the hours of 8am and 8pm.
Reason: To provide an extended period of quiet ‘downtime’ for fish movement and migration, particularly for those species with nocturnal habits.
 - No simultaneous piling to be carried out.
Reason: To reduce the risk of cumulative impacts from noise on migrating fish.
 - No dredging should be undertaken from 1st March to 30th June inclusive.
Reason: To protect juvenile smelt and sea trout, and adult smelt during the most sensitive migratory and spawning periods.
 - Soft start / ramp up procedures should be undertaken for all piling taking place below the water line.
Reason: To enable fishes within the affected area to move away from the noise source and source of impact.
- 3.3. In addition, where possible, the MMO recommend that the Applicant undertakes piling at low tide whenever possible/practicable. If piling is undertaken in the ‘dry’, then soft-start procedures will not be necessary. These measures may help to reduce the total number of dangerous exposures to fishes in terms of auditory injury.

- 3.4. The recommended¹ soft-start period on commencement of piling is no less than 20 minutes. However, the Applicant has advised that this may not be feasible in all circumstances. Therefore, we ask the Applicant to endeavour to undertake some form of gradual ramping up of power each time piling is carried out. If piling ceases for a period exceeding 10 minutes then a soft-start/ramp up should commence again.

4. Notification of wish to have future correspondence electronically

- 4.1. The MMO wishes to receive all future correspondence electronically. Please can all correspondence be sent to the following:
- Joseph Wilson, Marine Licensing Senior Case Manager -
[REDACTED]
 - Christie Powell, Marine Licensing Case Manager -
[REDACTED]
 - Emma Shore, Marine Licensing Case Officer –
[REDACTED]

¹ Joint Nature Conservation Committee guidelines for minimising the risk of injury to marine mammals from geophysical surveys, August 2010.