

From: [REDACTED]
Cc: [REDACTED]
Subject: BOS0104-0004 Boston Alternative Energy Facility - re Third Written Questions [ROYT-LIVE.FID23399]
Date: 23 February 2022 12:40:37
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[FW FW Port of Boston Ltd Ref Roythomes LimitedMABOS0104-0004.msg](#)

Sent on behalf of Shruti Trivedi. Replies to this email will be directed to [REDACTED]

Dear Sirs

We act for the Boston & Fosdyke Fishing Society ("BFFS") in relation to this matter.

We note that the Examiner has requested written responses to the Third Written Questions by 1 March 2022. This approach has been in substitution of the previously proposed hearings that were to be conducted in the week commencing 28 February 2022.

Our clients continue to have grave concerns with the proposed scheme being promoted by the Applicant. These concerns primarily relate to the navigational safety impacts of vessels sailing to and from the proposed facility and also relate to our client's livelihoods being put in jeopardy from the proposed scheme due to its impacts. We do not believe that the applicants have demonstrated that there is sufficient or adequately effective mitigation that can be secured to protect against these significantly adverse impacts.

Despite continued efforts, there has been no meaningful dialogue with the applicant in relation to these safety issues. As highlighted by the Port of Boston's Harbour Master in correspondence with ourselves (please see attached for reference), some areas of the draft Navigational Risk Assessment ("NRA") produced by the applicant's consultants, Anatec, are "incomplete, incorrect or may not yet fully reflect BFFS concerns". Due to some of the conclusions drawn in the NRA, and in order to address the incomplete and incorrect nature of some areas of the NRA, our clients have had to commission, at their own expense, an entire audit of Anatec's NRA by an independent body. They have accordingly instructed marine experts, Marico, who are currently undertaking this work. We understand that the Harbour Master, in correspondence with Marico, re-iterated his view that the NRA contained inaccurate and unclear comments.

As you will appreciate, Marico were instructed relatively recently as it was previously indicated by the applicant that they would be able to resolve our clients' concerns but such resolution has not been forthcoming. The Report from Marico is commissioned as an independent audit and was expected on 21 February 2022. However, the volume of work that Marico have had to undertake in establishing a baseline for the review on this complex piece of work, as well as having to take account of revised versions of the NRA submitted by the applicant, has increased the work required. In addition, the lead consultant at Marico leading on the Report has also been taken unexpectedly ill. We are therefore advised that the document is unlikely to be issued before 24/25 February 2022. While we will, of course, do our utmost to review the document and respond to the Third Written Questions by 1 March 2022, we wish to highlight that our full responses may be slightly delayed. As I am sure you will appreciate, the issue of navigational safety is of paramount importance to our clients, and we will need to consider Marico's conclusions carefully in order to provide meaningful responses to the Third Written Questions. We trust this will be acceptable but if you have any further queries or concerns please do not hesitate to contact us.

Yours faithfully

[REDACTED]

Roythomes Limited

[REDACTED]

Lisa Bee

Legal Secretary
Roythomes Limited

[REDACTED]

[REDACTED]

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From:



Subject:

FW: FW: Port of Boston Ltd Ref Roythornes Limited:MA:BOS0104-0004

Date:

23 February 2022 09:08:24

Dear Mr Arrowsmith,

The Port acknowledges your letter of the 16th December 2021 regarding the BFFS and the proposed BAEF Wharf.

Before going into detailed responses to your points, I will make it very clear that the Port of Boston Ltd as the Statutory Harbour Authority has an obligation to manage the safety of navigation within its jurisdiction waters. As with any decision made by the Harbour Authority to meet these obligations and responsibilities, at no time will this be influenced by any potential for pecuniary benefit. Should the Harbour Authority be convinced that there are legitimate concerns over the safety of navigation caused by plans or projects, that cannot be suitably and reasonably mitigated, it will use its powers to require the developer to alter their plan or project or to increase mitigation measures to reduce the additional risk to an acceptable level, ALARP.

As Harbour Authority we take the concerns of all river users into consideration when making decisions. We accept that some areas of the NRA are incomplete, incorrect or may not yet fully reflect BFFS concerns, but the status of the current document is 'draft', and we will be seeking appropriate changes. It will be for the Harbour Authority to agree and approve the NRA and subsequent NMP, however we accept the importance of consulting with river users on this.

Returning to your letter, regarding the meeting held with BFFS on the 7th December, it is the memory of all three of the Port attendees, and from my meeting notes, that the major outstanding concern of BFFS was relating to the potential delay of fishing vessel movements and the possibility of lost fishing days and therefore income. The Harbour Authority has supplied information to the developer and their NRA Consultant on the length of time it takes to swing a vessel in the river and information on other areas of potential delay, but any financial implications and matters of compensation are outside of the Authority's area of responsibility.

The Port accepts that the project will increase the number of commercial vessels that use the river, stated by the developer as up to 580 vessels per annum. However, my experience at Boston goes far enough back to remember times when the port used to regularly handle 900 vessels per year and in busy grain export years somewhat more. Significant number of these vessels were worked on the Ports riverside quays and the now removed privately owned riverside grain export berth at Witham Wharf, and these vessels had to swing in the river. The combined level of the new BAEF traffic and the existing traffic equates to around 1000 vessels per year and does not cause the Harbour Authority a safety of navigation concern.

There is no reason to believe that the BAEF vessels would be operating in the river outside of those hours that are currently used. The width of the river is such that commercial vessels will keep to the centre of the channel where the deepest water is and when passing other commercial, fishing or leisure boats approaching from the other direction, will adjust their speed and move slightly to the starboard side of the channel (where water depths allow) to give greater searoom to the other vessel. This is common practice and follows the Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs). It should be noted that Rule 9b states: "***A vessel of less than 20 metres in length or a sailing vessel shall not impede the passage of a vessel which can safely***

navigate only within a narrow channel or fairway” and Rule 1(b) states: “Nothing in these Rules shall interfere with the operation of special rules made by an appropriate authority for roadsteads, harbours, rivers, lakes or inland waterways connected with the high seas and navigable by seagoing vessels. Such special rules shall conform as closely as possible to these Rules”. An example of this would be occasions when vessels pass “green to green” or when vessels are leaving the existing lock and need to cross the channel to err on the starboard side of the channel. Any deviation from the COLREGs will be communicated and agreed between the vessels concerned. Vessels will currently be on the wrong side of the river when leaving the Ports riverside quays heading downriver and need to cross the channel, the situation at the BAEF Wharf does not give the Harbour Authority cause for concern as this is current practice.

With regards to vessels turning, it is fully accepted that all vessels will have to turn either on arrival or on departure. The swing may take place in the swinging hole or the dock basin. Which option is used will be at the discretion of the Port and the Pilot / Master on the vessel. Such decisions will take into consideration all relevant factors including manoeuvring and physical characteristics of the individual vessel, other vessels present in the river and the dock, weather, tidal and environmental conditions. Although there will be more commercial vessels in the river than present, the best and safest place to swing a vessel will always be chosen.

The Pilots have undergone a number of ship bridge simulation sessions at HR Wallingford for the Boston Barrier project, this coupled with their experience of swinging ships in the river allows them to be accurate in their estimation of time necessary to swing a vessel through 180 degrees. It is expected that a tug will be in attendance on all occasions that a vessel is swinging in the river to assist in case of need and to speed up the operation of the swing. Knowledge of where other vessels are in the river will assist greatly the Pilot in deciding where and when to swing, or when to time arrival at the swinging hole or wharf. Boston Port Control, the local LPS station is aware of all commercial ship movements and the positions of these vessels in the river. It is not currently made aware of the position of BFFS vessels.

Capital and maintenance dredging will be needed to construct the new wharf and maintain suitable depths during use. Over the last 2 years we have seen a large capital dredging project take place at the swinging hole and riverside berths on behalf of The Environment Agency and we have not been made aware of any adverse effect this has had on the cockle and mussel beds at the end of the river. It should be noted that the effects of a strong fluvial flow scouring out the river following a period of dry weather would appear, from experience, to have a much greater effect of moving recently accreted siltation to the river end. Regardless, the potential impact on fishing is for other statutory and regulatory bodies to consider.

In conclusion, the Harbour Authority want all river users to be satisfied with the proposed project and the mitigation put in place so that the continued safe use of the river is maintained. The Harbour Authority will act independently and will not be swayed by any potential financial gain. The Harbour Authority will work with all river users where necessary to get to this end, but the decisions made by the Harbour Authority will not be swayed by others who see a financial gain as a possibility. Concerns of all river users should therefore concentrate on safety of navigation and I’m afraid your letter does not clearly state the extent or reasons why safety cannot be maintained. For that reason, I invite you to set out further details of your concerns in writing to the Authority.

Best Regards

Richard

Captain Richard Walker

Harbour Master

Port of Boston Ltd

PORT OF BOSTON

EST 1884

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