



Marine Management Organisation

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MMO Reference: DCO/2019/00006
Planning Inspectorate Reference: EN010095
Identification Number: 20028136

15 March 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 8 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).

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 7, including responses to the Rule 17 letter dated 19 November 2021.

- 1. Comments on responses to Third Written Questions**
- 2. Comments on revised draft DCO**
- 3. Comments to any information submitted by the Applicant or Interested Parties at Deadline 7**
- 4. 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.

[Redacted]

Emma Shore
Marine Licensing Case Officer

[Redacted]

Copies to:

Christie Powell (MMO) – Case Manager: [Redacted]

Joseph Wilson (MMO) – Senior Case Manager:
[Redacted]

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1. Comments on responses to Third Written Questions

- 1.1. The MMO has reviewed the Applicant's and other Interested Parties' comments to the third written questions and has no substantial comments to make at this time.
- 1.2. The MMO has reviewed the Port of Boston's response to Q3.3.0.19 regarding vessel speed. The Applicant should update the draft Navigation Risk Assessment to correctly identify vessel speed and current practice and submit the information into examination so that we can review and provide further comment if necessary.

2. Comments on revised draft DCO

Table 1: MMO’s comments on the revised draft DCO submitted at Deadline 6

Provision	DCO Rev 2.1(3) Date 3 February 2022	MMO Deadline 8 Comments
	DCO	
Sch 2, 22(1)		Reference to a decommissioning plan approved under the deemed marine licence should be referred to as a decommissioning “ <i>scheme</i> ” for consistency with the deemed marine licence.
	PART 1	
1(1)	“Authorised development”	This should read as “paragraph 4” and not “condition 5”– the paragraph reference is incorrect, and all references should be to paragraphs except where there is a reference to the licence conditions contained within PART 3 CONDITIONS (Conditions 5 – 26).
	PART 2	
4(1)(k)	“materially new or materially different”	The MMO have previously stated that we do not agree with the wording of “materially new or materially different”.
4(1)(k)(iii)	“necessary or convenient”	As previously stated, the MMO do not agree with the phrase “necessary or convenient”.
4(1)(l)		The formatting of this provision should be checked.
	PART 3	
12(4)	“Unless otherwise agreed by the MMO”	After this phrase, “in writing” should be inserted for consistency throughout the document and with the other conditions.
13(1)		“operations consisting of piling” is “operations” the correct term? Should this refer to “licensed activities consisting of piling”? In addition, the remainder of the paragraph “and piling operations must not commence until written approval is provided by the MMO” should be deleted and instead a new sub-paragraph (3) should be inserted to read: -

		“The undertaker must not commence the licensed activities until the MMO has approved in writing the submitted piling method plan” - this provision would provide consistency with the other conditions within the DML.
14(4)		This should read “ <i>licensed</i> ” rather than “licenced”.
14(5)		“in writing” should be inserted after the first instance of “MMO”.
15(3)		For consistency with other provisions, “, <i>as approved by the MMO</i> ” should be inserted at the end of the paragraph.
16(4)		Insert “in writing” after the first instance of “MMO”. Insert “, <i>as approved by the MMO</i> ” at the end of the paragraph. Both for consistency with other provisions.
17(1)		On the first line, “in writing” should be inserted after “mammal mitigation protocol”.
17(4)		“in writing” should be inserted after the first instance of “MMO”.
22(3)		The MMO consider that “the MMO or” should be added in front of “the harbour authority may require obstructions to be removed”.
25(1)		The ‘scheme’ detailed in this paragraph is referred to at paragraph 27(g) as “ <i>a decommissioning scheme</i> ”, if this term is to be adopted for consistency it should be adopted in this condition. Insert “ <i>Decommissioning</i> ” before “scheme” at line 2. Insert “ <i>in writing</i> ” after “in situ” at line 3. Insert “ <i>in writing</i> ” after “ <i>approval</i> ” in the final line. These recommended amendments are for consistency with other provisions.
25(3)		Insert “in writing” after the first instance of “MMO”. Insert “, <i>as approved by the MMO</i> ” at the end of the paragraph. Both amendments are for consistency with other provisions.
26		As currently drafted, the obligation on the undertaker is not currently clear, therefore we recommend the insertion of “ <i>of completion of the licensed activities</i> ” after “ <i>Marine Licensing Team</i> ”.
	PART 4	
27(d)		Adopt defined terms from condition 15(1) “ <i>WSI</i> ” and “ <i>PAD</i> ”.
28(2)		The MMO are not content with the wording of this provision and the phrase “ <i>within 30 business days</i> ”. As previously stated within other responses, the MMO as a regulatory body, does not agree with being held to set

		timescales within the DML. The MMO would reserve the right to ask for further information at any point during the submission process.
29(1)(b)		Delete “ <i>condition</i> ” and reinstate “ <i>paragraph</i> ” see comment at 1(1) above. At Deadline 3, the MMO pushed back on this provision as a restatement of the Marine and Coastal Access Act and do not consider that this provision is wholly necessary.
30(2)		Delete “ <i>condition</i> ” and reinstate “ <i>paragraph</i> ” see comment at 1(1) above.
30(3)		As previously advised, the MMO will not commit to issuing a decision within 13 weeks. The MMO request that the inclusion of this timescale is removed from the DML in all instances.
31(2)		Insert “ <i>in writing</i> ” after “ <i>approved</i> ” at line 2.
31(3)		As previously advised, the MMO will not commit to issuing a decision within 13 weeks. The MMO request that the inclusion of this timescale is removed from the DML.
	PART 6	
32		We do not consider Article 32 to be necessary. There is provision within the terms of the DML for all relevant plans and protocols to be amended by agreement in writing. Article 32 would not add any clarity of certainty, instead it would introduce unnecessary duplication.
	Schedule 10	
		Article 49 is listed as arbitration within the DCO, however is listed above “Schedule 10 Documents and Plans to be Certified”. The MMO question whether Schedule 10 should read as Article 47 instead of Article 49.
		Schedule 10 should include all documents to be certified including those to be submitted in Schedule 9. Any documents, including their names and references, listed within Schedule 10 should be updated accordingly.
	Schedule 11	
	Ornithology Compensation Measures	Any ornithology compensation measures impacting areas below Mean High Water Springs need to be conditioned within the DML and any works related to compensation measures that are not secured within the DML may require a separate Marine Licence.

3. Comments on any information submitted by the Applicant or Interested Parties at Deadline 6

Deadline 7 Submission 9.78 Third Report on Outstanding Submissions – REP7-010

- 3.1. The MMO has reviewed the Applicant's third report on outstanding submissions and has no substantial comments at this time. The MMO thank the applicant for making the amendments to the DML and will review any updated reports submitted at further deadlines and provide additional comments if necessary.

Deadline 7 Submission 9.80 Navigation Management Plan Template

- 3.2. The MMO has reviewed the Navigation Management Plan Template and has no comments to make at this time. The MMO will review the completed navigation management plan when it is submitted to us post-consent, following consultation with the harbour authority, the relevant statutory nature conservation body and the Environment Agency.

Deadline 7 Submission Marine Management Organisation (MMO) – REP7-024

- 3.3. In point 3.8 of our Deadline 7 submission, we stated we would confirm our position regarding limits of deviation. Limits of deviation in relation to boundary areas does not apply to Work No. 4, which is the only Work No. relevant to the MMO. Therefore, in this instance, we are content that there is no concern about this issue in relation to the DML.

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]
[REDACTED]