



**Alternative Use Boston Projects
Boston Alternative Energy Facility Order**

Planning Inspectorate Reference: EN010095

**Deadline 9 Representations by
the Environment Agency
Unique Reference Number: 20028344**

24 March 2022

Submitted on behalf of the
Environment Agency by:
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1. Scope of these representations

- 1.1. This letter provides an update on the Environment Agency's position on issues which remain outstanding in relation to the application. References in the *subheadings* relate to the SoCG Reference in 'Table 3-1 Issues' of REP6-008 (Statement of Common Ground between Alternative Use Boston Projects Limited and the Environment Agency).
- 1.2. We have agreed with the applicant to prepare a final SoCG to be submitted at Deadline 10.

2. Outstanding Issues

Protective Provisions and Side Legal Agreement (EA 1.3, EA 11.1, EA 11.4, EA 11.5 and EA 12.1)

- 2.1. We have agreed final wording for the Protective Provisions set out in Schedule 8, Part 4 of the draft Development Consent Order. Subject to the agreed wording being submitted in the final DCO, we expect to be able to confirm our agreement by Deadline 10.
- 2.2. We also remain in discussions with the applicant regarding a side legal agreement in relation to works affecting flood defences.
- 2.3. Until both pieces of work are complete, we cannot approve the disapplication of the legislation as proposed in document ref REP8-003 (Draft Development Consent Order), Part 6, Article 40 (1) (d).

Flood Risk (EA 1.1)

- 2.4. The applicant has informed us changes are to be made to document ref REP7-009 (Worst Case Assessment for Land Raising) to address the concerns raised in our Deadline 8 submission (REP8-019). Subject to the changes they have proposed being made, we expect to be able to agree to the findings of this report by Deadline 10.
- 2.5. The applicant has also notified us of works that they may wish to undertake which will affect the Roman Bank sea defence. These include:
 - Clearing of vegetation to improve the accessibility of the public footpath along the line of the defence;
 - Construction of a footbridge along the line of the flood defence;
 - Installation of a conveyor line crossing the flood defence;
 - Construction of an access road crossing the flood defence; and
 - Construction of a drainage channel beneath the flood defence.
- 2.6. We have discussed these proposals with the applicant and it may be possible that the design of some these works will need amending to allow us to approve them at the detailed design stage in accordance with our Protective Provisions.

2.7. We do not consider that this needs addressing at this stage, but we wished to make the ExA aware that some aspects of the scheme may need to be altered to ensure that the functionality of the flood defence is in not in any way compromised by the proposed works.

2.8. In relation to the proposed drainage channel, we have acknowledged that this will be acceptable subject to detailed design, as long as the trigger for operation of the penstock is changed to the issue of a flood *alert*. The applicant has agreed to this, and we understand that document ref REP3-009 (Outline Surface Water and Foul Drainage Strategy) will be amended to this effect.

Effect of Ship Wash (EA 1.2 and EA 2.3)

2.9. We understand that the applicant is updating the evidence in document REP3-020 (Response to Environment Agency's Queries on Estuarine Processes) to address the increase in vessel speeds along the Haven. Once we have this updated evidence, we will endeavour to review it and provide a response before Deadline 10.

Habitat Mitigation (EA 3.1 and EA 7.1)

2.10. We maintain our objection to the loss of habitat from the development until such a time as Natural England confirm that the proposed scheme of mitigation/compensation is suitable.

Environmental Permit (EA 13.1)

2.11. No further evidence has been provided to overcome our concerns regarding the likelihood of an Environmental Permit being granted for the development as proposed.