

Boston Alternative Energy Facility



Statement of Common Ground between Alternative Use Boston Projects Limited and RSPB

Planning Inspectorate Reference Number: EN010095

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1 Introduction

1.1 Purpose of the Statement of Common Ground

1.1.1 The purpose of this Statement of Common Ground (SoCG) is to set out the position of the parties, so far as they relate to the matters of agreement (“common ground” and matters of concern (“uncommon ground”) for the Royal Society for the Protection of Birds (RSPB), arising from the application for development consent for the construction and operation of the Boston Alternative Energy Facility and the proposed associated development (hereafter referred to as ‘the Facility’).

1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application Documents. All documents are available on the Planning Inspectorate website.

1.1.3 The aim of this SoCG is to inform the Examining Authority and provide a clear position of the state and extent of discussions, agreement and concerns between the Applicant and the RSPB on matters relating to the Facility. The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties named in **Section 1.3**, and where agreement has not ~~(yet)~~ been reached. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the examination.

~~1.1.4 It may be subject to further updates and revisions during the examination process.~~

1.2 Description of the Proposed Development

1.2.1 A description of the proposed development, including the main elements of the Facility are provided in Chapter 5 Project Description of the Environmental Statement (ES) (document reference 6.2.5, APP-043).

1.3 Parties to this Statement of Common Ground

1.3.1 This SoCG has been prepared in respect of the Facility by (1) AUBP, and (2) the RSPB, together the Parties.

1.3.2 **AUBP** is a privately-owned company, established for the purpose of securing development consent for the Facility and then developing and operating the Facility. The company team has been involved in industrial development at the site in Boston, Lincolnshire since 2004.

1.3.3 The **RSPB** was set up in 1889. It is a registered charity incorporated by Royal Charter and is Europe’s largest wildlife conservation organisation, with a

membership of more than 1.1 million. The RSPB manages 220 nature reserves in the UK covering an area of over 158,725 hectares. The Society attaches great importance to the conservation of the National Sites Network (made up of Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) and due to Government Policy Ramsar sites), and the national network of Sites of Special Scientific Interest (SSSIs) notified by Natural England.

1.4 Terminology

1.4.1 In **Table 3-1** in the Issues section of this SoCG:

- a) “Agreed” indicates area(s) of agreement; and
- ~~b)a) “Under discussion” indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue to determine whether they can reach agreement by the end of the examination; and~~
- e)b) “Not agreed” indicates a final position for area(s) of disagreement where the resolution of divergent positions will not be possible, and parties agree on this point.

1.4.2 Any area, topic, subject etc not covered should not be taken as the RSPB being in agreement with it and having no concerns. Due to limited resources the RSPB are focusing on their key areas of concern and are unable to review every aspect.

1.4.3 Both parties note the disagreement with the terminology used for the ‘Habitat Mitigation Area’ with the RSPB, while also questioning the effectiveness of measures proposed, considering this area of land to be part of the compensation package (i.e. not ‘mitigation’). For the purposes of this Statement of Common Ground the phrase ‘Habitat Mitigation Area’ is used to reference this area in line with the terminology used in the Application documents, with the reader directed to row 1.5 of Table 3-1 to note the RSPB’s disagreement on the terminology.’

2 Overview of Previous Engagement

2.1.1 A summary of the meetings and correspondence undertaken between the Parties in relation to the Facility is outlined in **Table 2-1** below, ~~where possible, this correspondence is shown in **Appendix A**[‡].~~

[‡] ~~Note for this version of the draft SoCG the content of Appendix A has not been included as it has not been agreed between the parties.~~

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between the Parties in relation to the issues addressed in this SoCG.

Table 2-1 Engagement activities between AUBP and RSPB

Date	Form of contact/correspondence	Key topics discussed and key outcomes
19 June 2019	Meeting	Meeting with the RSPB at Frampton Marsh to introduce the project and discuss potential community benefits and potential suggestions for habitat creation/restoration. It was noted that there is a no survey data upriver of the Application site.
6 August 2019	Letter	Non-section 42 organisation response received from the RSPB. Reiterated need for ornithological data to be collected to assess impacts.
11 September 2019	Meeting	Meeting at the RSPB's Lincolnshire Wash Reserves office to provide a project update to discuss Section 42 response and go through the RSPB's comments. The importance for ornithological surveys to be completed to address data gaps was discussed.
1 October 2019	Letter (by email)	The Applicant responded to the RSPB's PEIR comments.
16 June 2020	Meeting	Project update meeting with Natural England, Environment Agency, Lincolnshire Wildlife Trust and the RSPB to discuss changes to the project and provide information on upcoming consultation proposals. Also, an overview only of findings, from recent overwintering bird surveys and breeding bird surveys was provided.
19 June 2020	Letter (by email)	The RSPB provided the Applicant with high-level suggestions to help develop thinking on mitigation and compensation measures.
27 July 2020	Letter (by email)	The RSPB wrote to the Applicant setting out concerns regarding the scope and timing of continued consultation, the availability of ornithological data for review, and the lack of robust environmental assessment.
7 September 2020	Email	Email sent to Natural England, Environment Agency, Lincolnshire Wildlife Trust and the RSPB with attached copies of bird count reports and the overwintering and breeding bird numbers. It was noted in the email that an analysis of data was being undertaken.

Date	Form of contact/correspondence	Key topics discussed and key outcomes
30 September 2020	Email	Email sent to Natural England, Environment Agency, Lincolnshire Wildlife Trust and the RSPB with the Breeding Bird Survey Report and an update on the assessment.
1 October 2020	Letter (by email)	The RSPB wrote to the Applicant setting out concerns regarding the outstanding data gaps and provided criteria for provision of measures to address impacts from the proposed Application.
13 October 2020	Meeting	Meeting with the RSPB to discuss the feasibility of mitigation options for marine ornithology.
22 October 2020	Meeting	Meeting with the RSPB and Natural England to give a summary of the mitigation options discussed at the meeting on 13 th October, and discussion on terrestrial ecology mitigation measures.
24 November 2020	Email	Email sent to Natural England and the RSPB with the Marine Ecology Chapter and HRA sent for information only.
27 November 2020	Email	The RSPB emailed the Applicant confirming that due diligence checks were still being progressed regarding the ability for mitigation and compensation measures to be developed at either Freiston Shore or Frampton Marsh.
1 December 2020	Email	email Email sent to Natural England and the RSPB with Final submitted Marine Ecology chapter and HRA sent for information alongside breeding bird survey report.
8 February 2021	Meeting	Meeting held to present the findings of the HRA with Natural England, the RSPB and Lincolnshire Wildlife Trust. Concerns noted by interested parties regarding outstanding work and re-submission timetable. A robust stakeholder engagement plan was requested by all interested parties. The RSPB highlighted the lack of capacity for specialist colleagues to provide their input and requested sufficient time for meaningful feedback.
12 February 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and the RSPB. The latest draft of the HRA was circulated for 'red flag review'. The HRA was updated to provide more clarity and detail on stand-alone and cumulative effects. Additional information relating to species specific effects with regard to vessel

Date	Form of contact/correspondence	Key topics discussed and key outcomes
		disturbance at mouth of The Haven was incorporated.
17 February 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and the RSPB. As requested at the meeting on the 8th February 2021, an ornithology and marine stakeholder engagement plan was produced by the Applicant's consultants and circulated for review.
26 February 2021	Letter (by email)	Email received with red flag review comments on the revised HRA. Comments included the unresolved issues around data gaps, HRA conclusions and the timeline set out in the Stakeholder Engagement Plan.
26 February 2021	Meeting	Meeting to provide a chance for Natural England, the RSPB and Lincolnshire Wildlife Trust to present and discuss key points from their "red flag reviews" on the HRA. Comments by all interested parties included the unresolved issues around data gaps, HRA conclusions and the timeline set out in the Stakeholder Engagement Plan
5 March 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and the RSPB. Following the 'red flag' review and subsequent meeting a supplementary HRA information document was circulated by the Applicant's consultants. This document set out additional information that had been gathered for incorporation in to the HRA in direct response to the comments in the red flag review and meeting of 26th February. This included details of a newly introduced Habitat Mitigation Area, primarily for redshank, 250 m south of the wharf development.
5 March 2021	Email	The RSPB emailed the Applicant approving the minutes of the 8 February 2021 meeting, but highlighting some amendments for the 26 February 2021 meeting minutes. Clarity was sort regarding timelines for re-submission, the Stakeholder Engagement Plan and ensuring interested parties provided comments on the most up to date information.
8 March 2021	Email	Final minutes of meetings on 8 th and 26 th February were issued taking on board interested parties' comments.

Date	Form of contact/correspondence	Key topics discussed and key outcomes
22 April 2021	Letter (by email)	The RSPB provided comments to the Applicant on the latest HRA, HRA Supplementary Information and the Environmental Statement chapters.
4 May 2021	Email	Updated Stakeholder Engagement Plan sent to the RSPB, Natural England and the Lincolnshire Wildlife Trust. Concerns expressed about the timelines proposed for meetings in parallel with the DCO Examination.
23 June 2021	Meeting	Meeting with the RSPB, Lincolnshire Wildlife Trust, Natural England and the Environment Agency to provide an update to the project and discuss HRA mitigation/compensation and ornithology. Reiteration by the RSPB and interested parties of further work needed to understand bird usage of The Haven.
14 July 2021	Email	The Applicant circulated the minutes of the HRA technical meeting to the RSPB, Natural England and the Lincolnshire Wildlife Trust, with a request to set up the first Technical Panel meeting.
19 August 2021	Meeting	Meeting with the RSPB, Lincolnshire Wildlife Trust and Natural England to discuss marine ecology and ornithology. The draft minutes of this show that RSPB cannot commit to anything on the reserves for a host of reasons.
22 September 2021	Meeting	Meeting with the RSPB to discuss the potential for habitat creation initiatives outside of the RSPB reserves, as the RSPB have now secured funding for their habitat creation initiatives and opportunities no longer exist within the reserves.
23 September 2021	Meeting	Meeting with the RSPB, Lincolnshire Wildlife Trust and Natural England to discuss HRA mitigation/compensation and ornithology.
12 January 2022	Meeting	Meeting with the RSPB to discuss technicalities of habitat creation for birds based on their experience at the RSPB reserves. No meeting minutes available.
14 January 2022	Email	The RSPB provided comments on the revised template for the SoCG.
7 February 2022	Email	The RSPB provided list of key issues for the draft SoCG.

3 Issues

3.1 Introduction and General Matters

3.1.1 This document sets out the matters which are agreed, or not agreed, ~~or are under discussion~~ between the RSPB and AUBP.

3.1.2 This SoCG covers the following issues, which include items of both common and uncommon ground:

~~a) Stakeholder engagement;~~

~~b)a) Marine and coastal ecology (including ornithology);~~ and

~~c) Habitats Regulations Assessment (HRA);~~ and

~~d)b) Terrestrial Ecology.~~

3.1.3 The Rule 6 Letter also advises that all of the SoCGs should cover the Articles and Requirements in the draft Development Consent Order and that any Interested Party seeking that an Article or Requirement is reworded should provide the form of words which are being sought in the SoCG.

3.1.4 **Table 3-1** details the matters which are agreed, or not agreed ~~and under discussion~~ between the Parties, including a reference number for each matter.

3.1.5 **Table 3-1** ~~uses a Red Amber Green (RAG) approach to help identify~~ any areas of agreement, or disagreement ~~or items still under discussion~~ between the Parties as follows:

- Red = Not agreed (i.e. Uncommon Ground)
- ~~• Amber = Under Discussion~~
- Green = Agreed (i.e. Common Ground)

Table 3-1 Ornithology Issues

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
1.0 Chapter 17 Marine and Coastal Ecology and associated Addendums and Appendix 17.1 Habitats Regulations Assessment and associated Addendums					
1.1	Existing Environment	Sufficient data has been collected to inform the assessment.	Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u> Lack of data:</p> <ul style="list-style-type: none"> Waterbirds usage and effect of disturbance between <u>the</u> Application site and <u>the</u> mouth of <u>T</u>he Haven Waterbirds usage and effect of disturbance between mouth of the Haven and the Port of Boston anchorage area <p><u>The Applicant's Position</u> The Applicant has responded to these comments within the Second Report on Outstanding Submissions (document reference 9.68, REP6-032). In the Applicant's data collection exercise a number of data sources were reviewed to establish the presence of potentially sensitive locations for roosting birds. The intermediate area of The Haven was not identified as such in any of the reviewed data. <u>A Final Waterbird Survey Report Summary of Data (document reference 9.91) was submitted at</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<u>Deadline 8 with the full report submitted at Deadline 9.</u>
1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the Project.	Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u></p> <p>We do not agree for a number of reasons:</p> <ul style="list-style-type: none"> Concerns regarding the methodology of the ornithological surveys (e.g. lack of baseline night-time assessment, gaps in survey coverage, limited disturbance monitoring for areas other than the mouth of The Haven, the period over which surveys have been undertaken) and the limitations they have in drawing conclusions about the impact of the Application on The Wash. Averaging vessel movements to assess impacts fails to account for peak movements <u>through the year.</u> Failure to record appropriate baseline data on wider pressures affecting waterbirds using The Haven. <p><u>The Applicant's Position</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>The Applicant stresses that project-specific ornithological surveys for obtaining counts of birds at the Principal Application Site (and more recently downstream on The Haven for winter counts) have used established, seasonally-appropriate methodology. Respectively, for winter and breeding seasons, these were adopted from BTO (British Trust for Ornithology) WeBS (Wetland Bird Survey) and CBC (Common Birds Census).</p> <p>Project-specific 'Changes In Waterbird Behaviour...' surveys for documenting disturbance responses have (as necessity) been more bespoke in methodology and have covered the two key areas of potential disturbance impact - the Principal Application Site and the mouth of The Haven (MOTH) - during two non-breeding seasons for waterbirds. Overall the Applicant maintains that surveys have provided suitable geographic and temporal coverage and have used appropriate methodology.</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>The Applicant maintains that the ornithological baseline has been determined through suitable survey effort and methodology as outlined above, and that key potential areas or routes of impact, and key receptor species, have been successfully identified for the purpose of completing the EIA, HRA, mitigation, in-principle derogation, and Examination.</p> <p>The Applicant maintains that its worst-case scenario (WCS) for project-level vessel movements is correct as defined in the Ornithology Addendum at Deadline 1, with a shift to 100% of navigable (high) tides, and two (mean of 1.6) project-related vessels per tide.</p>
1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Under discussion Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u></p> <p>The RSPB considers that the information presented does not show the full suite of worst-case scenarios. Particularly, tThe RSPB have has concerns with maximum noise levels, vessel movements and particularly the impact of night-time operation, for which no ornithological assessment has been carried out.</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p><u>The Applicant's Position</u> The Application documents set out relevant information with regard to noise, vessel movements and operations. The Applicant has responded to these comments within the Second Report on Outstanding Submissions (document reference 9.68, REP6-032) (Table 2-1, Row 14).</p>
1.4	Assessment Conclusions	The construction, operation and decommissioning phase assessment conclusions are appropriate.	Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u> Overall the RSPB considers that:</p> <ul style="list-style-type: none"> • <u>Development at the Application site will result in the displacement of roosting redshank, with disturbance and displacement of foraging redshank, ruff and other waterbirds that are features of The Wash Special Protection Area (SPA) and Ramsar site.</u> • <u>Increased vessel disturbance at the mouth of The Haven will adversely affect a range of waterbirds that use the area for roosting, foraging, bathing and loafing, and exacerbate impacts from existing levels of disturbance.</u> • <u>Significant gaps in survey coverage mean there is significant uncertainty</u>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p><u>about bird usage for substantial sections of The Haven river and the navigation channel out to the anchorage area in The Wash (as summarised in Appendix 1 of our comments on response to Third Written Questions; REP8-029).</u></p> <p><u>It is therefore not possible to conclude that there will not be an adverse effect on integrity of The Wash SPA/Ramsar beyond reasonable scientific doubt. As such appropriate compensation measures must be set out in sufficient detail to demonstrate that adverse impacts will be addressed and the integrity of the National Sites Network maintained.</u></p> <p><u>Our concerns remain as set out in our Written Representation (Section 7; REP1-060) and our comments on the Ornithology Addendum (REP4-026) and in our comments on responses to the third written questions (notably Q3.3.1.31) at Deadline 8 (REP8-029).</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>The RSPB's key areas of concern relate to land take (habitat loss) from construction of the wharf:</p> <ul style="list-style-type: none"> • Loss of saltmarsh and intertidal mudflat • Displacement of redshank roost • Loss of foraging habitat for waders <p>Concerns regarding noise impacts during construction and operation on non-breeding waterbirds using the Haven.</p> <p>Concerns regarding lighting impact during construction and operation of the Facility.</p> <p>Concerns regarding visual disturbance impacts on birds from the proposed facility and vessels in transit through the Wash and the Haven (including lighting, machinery and vessels).</p> <p>Concerns regarding disturbance from vessel movements (visual, presence and noise) during construction and operation including the Habitat Compensation Area.</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>Concerns regarding the potential impacts on water.</p> <p>Overall, the RSPB does not consider that the Applicant has demonstrated that there will not be adverse effects on integrity of The Wash SPA and Ramsar site beyond reasonable scientific doubt.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has taken into account the RSPB's comments and has provided additional information into the examination to support the conclusions of the assessment including:</p> <ul style="list-style-type: none"> • Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum • Noise Modelling and Mapping Relating to Bird Disturbance at the Principal Application Site (document reference 9.50, REP4-015) • Chapter 17 Marine and Coastal Ecology and

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59, REP5-006)</p> <ul style="list-style-type: none"> Updated Outline Landscape and Ecological Mitigation Strategy (Clean) (document reference 7.4(42), REP7-037REP3-007) Without Prejudice Habitats Regulations Assessment Derogation Case: Compensation Measures (Clean) (document reference 9.30(42), REP8-006REP6-025). <p>Responses to the RSPB's submissions up to Deadline 5 have been provided within various documentation including the Report on Outstanding Deadline 2, 3 and 4 Submissions (document reference 9.63, REP5-008) and Second report on outstanding submissions (document reference 9.68, REP6-032). <u>Further responses have been provided in the Third and Fourth reports on outstanding submissions (document references 9.78, REP7-010, 9.90, REP8-017) and Deadline</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<u>8 responses provided at Deadline 9 (document reference 9.99).</u>
1.5	Mitigation	The proposed mitigation for the construction, operation and decommissioning phases is appropriate.	Under discussion <u>Not agreed</u>	Under discussion <u>Not agreed</u>	<p><u>The RSPB's Position</u> Disagreement over the phrase 'Habitat Mitigation Area'. <u>We continue to have serious concerns about the effectiveness of the measures proposed as "mitigation". We consider the lost roost and foraging habitat should more properly be considered as part of the compensation package set out in the Applicant's derogation case rather than as mitigation given the continued uncertainties regarding its effectiveness. Our full position on this has been outlined in our response to Written Question Q3.3.1.34 (REP7-030).</u></p> <p><u>The Applicant's Position</u> The applicant is of the view that this term is correct.</p> <p>See paragraph 1.4.3 for further information.</p> <p><u>The Applicant considers that mitigation set out in the application is</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<u>appropriate and sufficient to the potential effect identified.</u>
1.6	Compensation	The proposed compensation for the construction, operation and decommissioning phases is appropriate.	Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u></p> <p><u>Overall the RSPB considers that:</u></p> <ul style="list-style-type: none"> <u>• Development at the Application site will result in the displacement of roosting redshank, with disturbance and displacement of foraging redshank, ruff and other waterbirds that are features of The Wash Special Protection Area (SPA) and Ramsar site.</u> <u>• Increased vessel disturbance at the mouth of The Haven will adversely affect a range of waterbirds that use the area for roosting, foraging, bathing and loafing, and exacerbate impacts from existing levels of disturbance.</u> <u>• Significant gaps in survey coverage mean there is significant uncertainty about bird usage for substantial sections of The Haven river and the navigation channel out to the anchorage area in The Wash (as summarised in Appendix 1 of our comments on response to Third Written Questions; REP8-029).</u> <p><u>It is therefore not possible to conclude that there will not be an</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p><u>adverse effect on integrity of The Wash SPA/Ramsar beyond reasonable scientific doubt. As such appropriate compensation measures must be set out in sufficient detail to demonstrate that adverse impacts will be addressed and the integrity of the National Sites Network maintained.</u></p> <p><u>Our concerns remain as set out in our Written Representation (Section 7; REP1-060) and our comments on the Ornithology Addendum (REP4-026) and in our comments on responses to the third written questions (notably Q3.3.1.31) at Deadline 8 (REP8-029).</u></p> <p>The effectiveness of measures to compensate for redshank roost at the Application Site:</p> <ul style="list-style-type: none"> • Sufficient evidence has not been provided to demonstrate alternative roost would be ecologically effective; and • Would cause the loss of current feeding habitat within functionally linked land

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>No compensation has been proposed for foraging habitat for waders at the Application Site.</p> <p>The RSPB does not consider sufficient detail is provided in the Applicant's Without Prejudice Derogation Case Compensation Measures documents to demonstrate that either of the proposed fields the proposed compensation measures to address impacts at the Application site and mouth of The Haven to demonstrate that the proposed compensation measures to address impacts at the Application site and mouth of The Haven are appropriate to meet the different ecological functions relied on by the impacted SPA/Ramsar species. In addition, the documents do not demonstrate the proposed measures will be appropriately secured, deliverable at the point when harm will occur, or that they will be effective based on the currently available information. Our position on this has not changed since Deadline 4 (REP4-028).</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>There is no location information provided and no detailed plan provided of the habitat that would be created. Whilst the fields may offer potential to deliver a suitable scale of habitat, the RSPB considers substantial work is likely to be needed to secure planning permission and other consents based on our experience of delivering similar habitat creation in the area. There is also detail needed on whether and how water will be secured to deliver the habitat in these areas; this could be a significant issue given the challenge the RSPB has to bring water to Freiston Shore. We also have concerns about land only being secured on a 25-year lease. There is no draft management plan available to understand how the Applicant plans to manage the site in perpetuity. More detail is also needed on the delivery timetable to demonstrate that compensation measures will be functioning prior to construction starting.</p> <p><u>Leaving this detail until post-consent is not acceptable as it provides no certainty that compensation measures will be secured or</u></p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p><u>effective. Our full comments were submitted at Deadline 7 in our comments on the draft DCO commentary and critique of Schedule 11 (REP7-032).</u></p> <p><u>The Applicant's Position</u></p> <p>The Applicant has submitted an updated Without Prejudice Habitats Regulations Assessment Derogation Case: Compensation Measures (Clean) (document reference 9.30(42), REP6-025 REP8-006) at Deadline 68. The <u>agricultural</u> fields outlined within this document are the proposed compensation sites <u>for disturbance</u> which will provide suitable habitat for birds. There are drainage ditches around both sites. Further work on these sites would be undertaken once a decision is made on the requirement for the sites to act as compensation and/or biodiversity net gain. The information provided is appropriate and is consistent with precedent set on other DCOs.</p>
1.7	In combination assessment	The conclusions of the in combination assessment are agreed.	Under discussion Not agreed	Under discussion Not agreed	<p><u>The RSPB's Position</u></p> <p>The RSPB is concerned the Applicant has failed to assess wider activities that could cause in</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
					<p>combination disturbance and affect ecological effectiveness. <u>Our position remains as set out in our Written Representations (REP1-060), comments on the Ornithology Addendum (REP4-026) and summary of our position (REP5-018).</u></p> <p><u>The Applicant's Position</u></p> <p>The HRA has considered whether impacts either alone or in-combination with other projects/activities and plans would avoid an adverse effect on integrity. The Applicant considers the assessments provided in the application documents to be correct and appropriate.</p>
2.0 Draft Development Consent Order (DCO) (and deemed Marine Licence)					
2.1	Wording of DCO Requirements and Deemed Marine Licence (DML) Conditions	<p><u>The wording of the draft DCO and Deemed Marine Licence (DML) are appropriate and adequate for the proposed development</u></p> <p><u>The wording of the following conditions</u></p>	Under discussion Not agreed	Under discussion Not agreed	<p><u>The RSPB's position</u></p> <p>The revised draft DCO, including the deemed Marine Licence, is still being reviewed and this section will be updated following our review. Concerns about the wording of Schedule 11 in particular and suggested amendments have been submitted at Deadline 7 (1 March</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
		<p>and requirements pertaining to offshore ornithology are appropriate and adequate:</p> <p>Landscape and Ecological Mitigation Strategy</p> <p>6.—(1) No part of the authorised development may commence until a landscape and ecological mitigation strategy for that part has been submitted to and approved by the relevant planning authority, following consultation by the undertaker with the Environment Agency, the relevant statutory nature conservation body, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds.</p> <p>Piling</p>			<p>2022). Without prejudice to our position on mitigation and compensation measures set out in 1.5 and 1.6 above, we do not consider that the DCO is fit for purpose. The DCO highlights where significant detail is left to post-consent. This provides no confidence that the Application is appropriate or that impacts can and will be addressed such that the integrity of the National Sites Network will be maintained.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant considers the drafting of the draft DCO, including the draft DML is appropriate. The Applicant considers the drafting of the without prejudice draft Schedule 11 is appropriate and is consistent with precedent set on other DCOs. The Applicant will has reviewed RSPB's Deadline 7 comments on Schedule 11 to the draft DCO in due course and provided a response within the Fourth Report on Outstanding Submissions (document reference 9.90) and made some amendments to the draft DCO in response to RSBPRSPB's comments. The</p>

SoCG Reference	Topic	Matter	RSPB's Comment	AUBP's Position	Notes
		<p>13.—(1) The undertaker must submit a piling method statement in writing to the MMO for approval in accordance with the procedure in Part 5, following consultation with the Environment Agency, the relevant statutory nature conservation body, Lincolnshire Wildlife Trust and the Royal Society for the Protection of Birds, at least 13 weeks prior to the commencement of any operations consisting of piling and piling operations must not commence until written approval is provided by the MMO.</p>			<p><u>Applicant considers the drafting of the without prejudice draft Schedule 11 is appropriate and is consistent with precedent set on other DCOs.-</u></p>

4 Agreement of this Statement of Common Ground

4.1 Statement of Common Ground

- 4.1.1 This Statement of Common Ground has been prepared and agreed by the Parties.

Signed.....

[NAME]

[POSITION]

on behalf of Alternative Use Boston Projects Limited

Date: [DATE]

Signed.....

[NAME]

[POSITION]

on behalf of RSPB

Date: [DATE]

~~Appendix A Previous Correspondence [placeholder]~~

~~Correspondence to be supplied in the next updated SoCG.~~

Appendix ~~B~~A Glossary

Term	Abbreviation	Explanation
Alternative Use Boston Projects Limited	AUBP	The Applicant.
Development Consent Order	DCO	The means for obtaining permission for developments of Nationally Significant Infrastructure Projects (NSIP)
Habitats Regulations Assessment	HRA	A Habitats Regulations Assessment (HRA) refers to the several distinct stages of Assessment which must be undertaken in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) to determine if a plan or project may affect the protected features of a habitats site before deciding whether to undertake, permit or authorise it.
Lightweight Aggregate	LWA	Plant for the manufacture of lightweight aggregate used to produce lightweight concrete products such as concrete block, structural concrete and pavement.
National Site Network	-	Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) in the UK no longer form part of the EU's Natura 2000 ecological network. The 2019 Regulations have created a national site network on land and at sea, including both the inshore and offshore marine areas in the UK.
Principal Application Site	-	A 26.8 hectare site where the industrial infrastructure will be constructed and operated. It is neighboured to the west by the Riverside Industrial Estate and to the east by The Haven.
Refuse Derived Fuel	RDF	The fuel produced from various types of waste, such as paper, plastics and wood from the municipal or commercial waste stream.
Statement of Common Ground	SoCG	This document.
Special Protection Area	SPA	Part of the national site network (see above).