

REPORT

Boston Alternative Energy Facility

The Applicant's Overall Summary of Case

Client: Alternative Use Boston Projects Ltd.

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1 Introduction

- 1.1.1 This document has been prepared by Alternative Use Boston Projects Limited (the Applicant) in relation to the Boston Alternative Energy Facility (the Facility) Development Consent Order (DCO) application (the Application).
- 1.1.2 This document sets out a summary of the Applicant's overall case for seeking development consent for the Facility, in the light of the evidence submitted and the Examination that has taken place.
- 1.1.3 The purpose of this document is to provide final position statements on key matters arising from the Examination. It does not seek to introduce new material or to raise any new issues. It signposts and reflects the material that has already been submitted to the Examination.
- 1.1.4 The document is structured as follows:
- Section 2: compliance with relevant National Policy Statements (NPSs);
 - Section 3: a summary of the need for and benefits of the Facility;
 - Section 4: a summary of the residual adverse impacts of the Facility;
 - Section 5: compulsory acquisition;
 - Section 6: funding;
 - Section 7: representations by interested parties; and
 - Section 8: the planning balance in respect of the Facility.
- 1.1.5 This document concludes that having full regard to the relevant policies, the submissions set out below and the evidence submitted to the Examination, the benefits of the Facility strongly outweigh its residual adverse impacts and consent should be granted.

2 National Policy Statements

- 2.1.1 Section 104(2)(a) of the Planning Act 2008 (PA 2008) provides that the Secretary of State must have regard to any National Policy Statement which has effect in relation to the proposed development. Further, section 104(3) states the Secretary of State must determine the application in accordance with relevant National Policy Statements.
- 2.1.2 Government policy, and in particular the NPSs for energy (NPS EN-1 and NPS EN-3) are unequivocal in highlighting the scale and urgency of need that exists

for nationally significant energy infrastructure, particularly low carbon, renewable energy generation, including plant powered by the combustion of biomass and waste.

- 2.1.3 EN-1 states (Paragraph 2.1.2) that “energy is vital to economic prosperity and social well-being. Therefore, it is important to ensure that the UK has secure and affordable energy. Producing the energy that the UK requires necessitates a significant amount of infrastructure, both large and small scale”.
- 2.1.4 With respect to the security of energy supplies, EN-1 states “It is critical that the UK continues to have secure and reliable supplies of electricity as we make the transition to a low carbon economy. To manage the risks to achieving security of supply we need: sufficient electricity capacity (including a greater proportion of low carbon generation) to meet demand at all times.”
- 2.1.5 Part 3 of EN-1 addresses the need for new nationally significant energy infrastructure. It explains the 'need' that exists for nationally significant energy infrastructure, stating (Paragraph 3.1.1) the UK needs all the types of energy infrastructure covered by EN-1 (this covers a range of electricity generating capacity, including renewable energy) to achieve energy security. It further states (Paragraph 3.1.2) that “it is for industry to propose new energy infrastructure and that the Government does not consider it appropriate for planning policy to set targets for, or limits on, different technologies.”
- 2.1.6 Part 3 of EN-1 identifies that the Secretary of State should assess applications for development consent for the types of infrastructure covered by the energy NPSs “...on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need...” is as described for each of them. The Secretary of State should give substantial weight to the contribution that all proposed developments would make toward satisfying this need when considering applications.
- 2.1.7 The UK is committed to generate at least 15% of energy demand from renewable energy sources by 2020 and by 2050 to further reduce carbon emissions to net zero. The proposed Facility would provide a sustainable and renewable (as defined in NPS-1) form of energy recovery, to contribute towards meeting renewable energy targets and reducing carbon emissions and is in line with the requirements of NPS EN-1 and EN-3 (DECC, 2011a; 2011b).
- 2.1.8 EN-1 (Paragraph 3.3.10) further states “As part of the UK’s need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity... increasingly it may

include plant powered by the combustion of biomass and waste”.

- 2.1.9 Section 3.4 of EN-1 includes assessments of the need for new major renewable energy infrastructure (DECC, 2011a). In the light of this, the need for infrastructure covered by EN-3 has been demonstrated and the Facility can help meet this need.
- 2.1.10 EN-1 (Paragraph 4.1.2) confirms that given the level and urgency of need for infrastructure of the types covered by the energy NPSs, there is a presumption in favour of granting consent to applications for energy Nationally Significant Infrastructure Projects (NSIPs).
- 2.1.11 EN-1 clarifies that Development Plan Documents or other documents in Local Development Frameworks may be both important and relevant considerations to the Secretary of State’s decision making, although it notes that the NPS ‘prevails’ for the purpose of decision making given the national significance of the infrastructure. The proposed Facility is supported by both Local Development Frameworks and the NPS, which are aligned in highlighting the need for energy facilities and the minimisation of waste to landfill. As detailed in the Planning Statement, particularly paragraph 6.40 onwards (document reference 5.2, APP-031), the Facility is entirely supported by Boston Borough Council (BBC) and Lincolnshire County Council’s (LCC’s) local policy. Both Councils have specified in local policy a desire for an increase in energy recovery facilities.
- 2.1.12 Development that includes energy from biomass and/or waste with power generation of >50 megawatts (MW) is covered by EN-3 (Paragraph 1.8.1) (DECC, 2011b). The policies set out in EN-3 are additional to those on generic impacts set out in EN-1 and do not replace them and should be considered together with EN-1 policies.
- 2.1.13 Section 2.5.2 of EN-3 (DECC, 2011b) states that “The recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will play an increasingly important role in meeting the UK’s energy needs. Where the waste burned is deemed renewable, this can also contribute to meeting the UK’s renewable energy targets. Further, the recovery of energy from the combustion of waste forms an important element of waste management strategies in both England and Wales.”
- 2.1.14 The presumption of support for the Facility, as a means to provide secure, reliable and renewable energy infrastructure, is undeniable. This presumption should be given significant weight.

2.2 Good Design

- 2.2.1 Section 4.5 of NPS EN-1 sets out the priorities of the NPSs in relation to the good design of energy infrastructure. The Facility's design process has been iterative and has evolved considerably during the pre-application stage and throughout the Examination. The design process has been shaped by stakeholder input, consultation events (refer to the Consultation Report, document reference 5.1, APP-022) and the changes in technology from gasification to conventional combustion-based thermal treatment Energy from Waste. This process would continue following development consent being granted and detailed design is finalised. The Applicant has submitted a Design and Access Statement (document reference 5.3, APP-032) which details the design process and evolution that has been carried out in respect of the Facility.
- 2.2.2 In accordance with NPS EN-1, climate change has been considered throughout the design stage of the Facility. The Facility incorporates key design features that will help reduce the amount of greenhouse gas (GHG) emissions associated with its operation compared to the alternatives for the refuse derived fuel (RDF) – export abroad to northern Europe for energy recovery in incineration facilities; or disposal via landfill. Further details of GHG emissions from road compared to marine vessel transport is assessed within document reference 9.7, REP1-020, which notes that marine vessels will result in an overall reduction in GHG emissions compared to delivery by road. The Facility includes the connection of two of the three thermal treatment lines to CO₂ recovery plants; to allow carbon to be captured and utilised for industrial purposes.
- 2.2.3 The Facility has been designed so that waste is transported to the Principal Application Site via sea going vessel rather than by road, thereby reducing emissions, whilst expanding multi-modal transport potential. The decision to locate the Facility at the Riverside Industrial Estate was based on development plan allocation, land availability and its location in proximity to The Haven. Location next to The Haven enables RDF to be transported to the site by ship and allows aggregate material generated by the power generation process to be transported from site by ship. The ability to transport materials by water will significantly reduce the potential impact of the facility upon the local road network, and thereby reduce impacts on noise and air quality to local residents, businesses and visitors. Section 2.5.25 of NPS EN-3 sets out government policy encouraging multi-modal transport and the transport of fuel and residual materials by water or rail routes where possible, thus supporting the waterside location and use of vessels as the bulk transport solution.
- 2.2.4 The design of the Facility also incorporates flood resilient design measures. The

wharf at the Facility will have a flood defence line of 7.2 m AOD, which will integrate into the flood defence regime for Boston formed by the new Boston Barrier and the Haven Banks Project. The Facility therefore accords with EN-1 paragraph 5.7.18 and 5.7.24 in that the satisfactorily flood risk management measures will be in place to manage surface water with respect to impact of the natural water cycle on people and property. The Applicant notes that the Environment Agency's only outstanding concern with regards to flooding relates to the disapplication of legislation in Article 40(1) of the DCO, which will be resolved once a legal agreement on the ongoing maintenance of the flood defence is agreed. It is anticipated that this agreement will be completed shortly after the close of Examination.

2.3 Draft Energy National Policy Statements (ENPSs)

2.3.1 The Applicant has also considered the recently consulted draft ENPSs (document reference 9.25, REP2-009). Many of the proposed changes to the ENPSs are designed to prioritise climate change targets and build more flexibility into the policy framework to reflect the fact that the future energy generation mix will be more complex with energy coming from a wider range of sources. The Applicant acknowledges that the draft ENPSs are not in force yet and as such compliance is not mandatory. However, the Applicant considers that the Facility's compliance with the draft ENPSs further strengthens the case for the consent of the Facility as the ENPSs are reflective of the government's position and attitude to new energy infrastructure.

3 Need for the Facility and Benefits

3.1 Need for the Facility

3.1.1 There is undoubtedly a strong need for the project. The need for the Facility has been clearly established by the Applicant and accords with government policy which recognises the urgent and substantial need for new energy generation infrastructure, with the desire for it to be renewable or low carbon, to achieve climate change targets established and made legally-binding under the Climate Change Act 2008. The Applicant has submitted details of the policy and legislation that is relevant to the Facility at Chapter 3 of the Environmental Statement (ES) (document reference 6.2.3, APP-041).

3.1.2 NPS EN-1 is unequivocal in highlighting the scale and urgency of need that exists for nationally significant energy infrastructure, particularly low carbon, renewable energy generation, including plant powered by the combustion of biomass and waste. It is clear from reporting prepared by the Department of Business, Energy

and Industrial Strategy, the National Infrastructure Commission and the National Grid of the urgency for the development of new renewable low carbon energy generating capacity to meet national need. The Facility would contribute to meeting this urgent need. This need should be accorded significant weight in the decision process of the Application.

- 3.1.3 NPS EN-1 also states, at paragraph 2.1.2, that “Producing the energy the UK requires and getting it to where it is needed necessitates a significant amount of infrastructure, both large and small scale. The energy NPSs consider the large-scale infrastructure that play a vital role in ensuring we have the secure energy supplies we need.” The Facility has met the threshold needed to be considered a nationally significant infrastructure project and as such the NPSs are relevant to its consent. The Applicant notes that NPS EN-1 makes clear that there is a need for energy infrastructure of various scales. As the diversification of energy supply within the UK also strengthens the resilience of the energy market.
- 3.1.4 The need for the Facility, as a method in which to increase resilience in the UK, has recently become undeniably apparent through the ongoing energy crisis and global geopolitical issues. The reason for increasing resilience is to ensure that the UK is prepared for any unforeseen systematic global shocks. The current drop in global supply and unprecedented rise in global energy prices has put severe strain on energy markets and energy consumers in the UK and around the world.
- 3.1.5 It is important that the UK should have the capability and capacity to support itself in energy generation and supply terms during emergencies. The Facility would help provide resilience to the UK’s supply lines and could well prove vital in future years. The Applicant supports government policy which recommends the UK taking a pro-active approach to decision making in order to effectively safeguard the energy industry. The consequences of a lack of resilience are far reaching and damaging to public health and wellbeing (including economic wellbeing). Paragraph 1.7.6 of NPS EN-1 highlights the relationship between energy costs and health, “A low cost of energy would...have beneficial effects on the economy and indirectly on human health and well-being.” This is one of the reasons why there is such an emphasis on ensuring the energy market is economic and efficient and why the Government is keen to promote effective competition where possible with the aim of securing “affordable supplies of energy and minimising fuel poverty”.
- 3.1.6 The Applicant submits that the UK’s energy resilience should be considered a priority. The UK is facing unprecedented levels of uncertainty as it navigates the international energy marketplace as an independent nation for the first time in decades and does so with the ambition of realising a Global Britain. This

emphasises the need to build resilience into major energy infrastructure to withstand not only physical challenges (such as extreme weather and spikes in demand) but also at times of political turbulence and change. This position is entrenched in wider, strategic government policy as seen by the July 2021 consultation on the National Resilience Strategy.

- 3.1.7 The Facility would aid the development of a more resilient energy sector going forward, able to withstand potential continued energy price volatility, and provide a firm foundation for the energy market transformation to net zero. The provision of the Facility would ensure that the UK supply chain is developing in order that it can play a full part in putting the UK in a position to be able to meet its longer-term climate change aspirations. The Facility would contribute to energy security by providing reliable electricity generation to the national electricity grid over a period of at least 25 years.

3.2 Benefits

- 3.2.1 The major benefits of the project are:
- 3.2.2 Fulfilling government policy to meet the urgent need that exists for nationally significant energy infrastructure, particularly low carbon, renewable energy generation, including plant powered by the combustion of biomass and waste.
- 3.2.3 Contributing to increase the resilience of the UK energy system. As set out in the section on need, the importance of this cannot be overlooked given the current UK energy crisis. The Facility would contribute to energy security by providing reliable electricity generation to the national electricity grid over a period of at least 25 years.
- 3.2.4 The ‘Proximity Principle’ as established in the revised Waste Framework Directive, 2008/98/EC), requires waste to be disposed of, or recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies. The Facility, would provide further energy generating capacity within the UK using waste as fuel, providing greater national self-sufficiency in managing such waste and reducing the amount of RDF exported to Europe. The Facility complies with the proximity principle, as detailed in Row 6, Table 1- 18 of the Applicant’s Comments on Relevant Representations (document reference 9.2, REP1-035) and agreed with LCC, the Applicant also provides further details on compliance with the proximity principle within The Applicant’s Response to United Kingdom Without Incineration Network (UKWIN) Deadline 6 Submission (document reference 9.79, REP7-011).
- 3.2.5 In addition, recovery of energy from residual waste at the Facility is a preferential

option on the waste hierarchy compared to landfill and is consistent with the aims of the UK's Circular Economy Package (Defra, 2020). Furthermore, the on-site manufacture of aggregate by recycling the thermal treatment residues and air pollution control residues promotes the waste hierarchy. The Applicant's Fuel Availability (document reference 5.8, APP-037) and Addendum to the Waste Hierarchy Assessment (document reference 9.5, REP1-018) concluded that large quantities of residual waste from which energy could be recovered are either being landfilled in the UK or are being exported to the continent. The Facility will therefore contribute to national self-sufficiency in energy recovery capacity, and the achievement of targets to reduce the landfilling of waste from which energy could be recovered.

3.2.6 The Facility will give rise to a valuable increase in the number of jobs in a deprived part of the country. The Facility, at its peak, will create approximately 250 to 300 direct construction jobs. As discussed in Chapter 20 Socio-economics (document reference 6.2.20, APP-058) it is estimated that approximately 81 to 131 of the 250 to 300 direct construction jobs to be created will be filled by local residents. During operation, the Facility is expected to create 108 direct full time equivalent job opportunities, with 47 jobs filled by local residents. In the section 106 agreement, the Applicant has committed to provide apprenticeships and maximise direct employment opportunities for the residents of the Borough and surrounding areas and to support local businesses, as appropriate, which has the full support of BBC.

3.2.7 There are additional benefits including, in particular:

- The Applicant has committed to undertake a programme of activities to secure a Biodiversity Net Gain, despite this not being a statutory requirement at present for NSIPs. These activities are detailed, and secured, via the outline landscape and ecological mitigation strategy (document reference 7.4(2), REP7-037) and detailed in the Section 106 agreement with BBC and LCC (document reference 9.100(1));
- The Facility incorporates two carbon dioxide (CO₂) recovery plants, despite there being currently no statutory requirement for Carbon Capture, Utilisation and Storage for Energy from Waste facilities. The captured carbon will be stored in liquefied form for use in the food, agriculture/horticulture industries (i.e. of 'food grade'); this compares with facilities such as the Cory Riverside EfW development where it is proposed captured carbon would be stored rather than used for other valuable industrial purposes. A national shortage of food grade CO₂ in 2021 highlights the need for additional production in the UK;
- GHG emissions associated with provision of the Facility would be lower or similar when compared to existing waste treatment streams. Therefore, GHG emissions arising from the Facility, accounting for the offset of savings elsewhere in the UK energy generation sector, will not impact the UK's ability to meet its 2050 carbon

reduction targets. Whilst it is not required to do so, the Facility provides for carbon capture;

- The use of water borne transport as detailed in paragraph 2.2.3, the Planning Statement (document reference 5.2, APP-031) and section 5 of the Imperative Reasons of Overriding Public Interest (IROPI) case (document reference 9.29, REP2-012);
- The use of an appropriate site location. The development plan allocates land for Waste Management uses including energy recovery. The Facility is predominantly located within this area;
- Additionally, the Facility would not affect the implementation of the relevant Waste Plans and it is sited in accordance with the locational considerations in NPS EN-3, The National Planning Policy for Waste, the Lincolnshire Minerals and Waste Local Plan and the South East Lincolnshire Local Plan 2011 – 2036; and
- Limited compulsory acquisition is required.

4 Adverse Effects

4.1.1 The following sections summarise the key residual effects as a result of the Facility including key points raised by interested parties through the examination and how these points were resolved.

4.2 Cultural Heritage

4.2.1 There are no designated assets within the Application Site. There are six Listed Buildings within 1 km. A further four Scheduled Monuments and 22 Grade II* and I Listed structures are found within 3 km. Non-designated assets within 1 km of the Application Site are predominantly medieval to modern in date, mostly in the form of buried deposits associated with farmsteads. The most notable non-designated asset is the 'Roman Bank'. This earthwork passes through the centre of the Principal Application Site and is an approximately two metre high (above surrounding ground level) earthen flood bank. A Public Right of Way follows the length of the bank through the Principal Application Site.

4.2.2 Within the ES, overall effects upon heritage assets by the Facility are identified as negligible or minor following mitigation. These impacts are mostly in the form of changes of setting (the surroundings in which an asset is experienced). There would be a direct impact upon a short section of the 'Roman Bank', and upon any potential buried archaeological and palaeoenvironmental remains within the central Application Site and within / adjacent to The Haven.

4.2.3 The results of a geophysical survey conducted in August 2020 indicated the

presence of a probable palaeochannel, a possible medieval earthwork or natural slight rise in topography, a possible enclosure ditch, and two locations of possible burning or production activity. Whilst the overall conclusion was that the results do not suggest the presence of significant or extensive archaeological features, there are areas of potential interest. LCC's relevant representation (RR-014) noted that *"it would be expected that the geophysical survey be followed by a programme of trial trenching including those parts of the site not covered by the survey."* However, the Applicant's approach is to undertake the targeted geoarchaeological investigation post consent.

- 4.2.4 Following a cultural heritage meeting with LCC, BBC and Historic England on 9 August 2021 a programme of geoarchaeological investigation, targeted on features identified in the geophysical survey, was undertaken in order to further inform the understanding of sub-surface deposits and the potential for buried archaeological and paleoenvironmental remains. The results of the borehole survey and subsequent deposit modelling are set out in the Geoarchaeological Borehole Survey (document reference 9.52(1), REP8-009).
- 4.2.5 The results of the borehole survey and subsequent deposit modelling resulted in an improved understanding of the distribution and geoarchaeological potential of the superficial deposits across the Principal Application Site. No archaeological remains were encountered in any of the hand dug inspection pits or boreholes during the geoarchaeological survey undertaken in October 2021.
- 4.2.6 Given the depths of alluvium overlying deposits with archaeological potential (to c. 6m below ground level), the scope of any further archaeological evaluation and mitigation works will need to be considered when the below-ground impact of proposed development is known. This will follow the planned, scheme wide geotechnical survey, which will incorporate geoarchaeological objectives, post-consent.
- 4.2.7 An objection still remains from LCC with regards to a programme of trial trenching being undertaken post consent, however they are in agreement with the phased approach proposed which is detailed in the Outline Written Scheme of Investigation (WSI), which was updated and submitted at Deadline 9 (APP-122). The Applicant considers the approach of post-consent trial trenching accords with paragraph 194 of the National Planning Policy Framework (NPPF) which requires that 'the level of detail should be proportionate to the assets importance'. This paragraph also states that this level of detail should be 'no more than is sufficient to understand the potential impact of the proposal on their significance'. The results of the desk-based assessment and field evaluation in the form of a geophysical survey and targeted borehole investigation have not demonstrated

significant potential for archaeological remains to be present and remains of the highest, national importance have not been identified.

- 4.2.8 Both LCC's and the Applicant's position on this matter are set out within the Final Statement of Common Ground (SoCG) submitted at Deadline 9 (document reference 8.1(3), REP9-049). This point is also "not agreed" within the BBC SoCG submitted at Deadline 10 (document reference 8.7(4)), however it is noted that there is an understanding of respective positions.
- 4.2.9 With regards to Historic England, from the SoCG at Deadline 1 the points regarding the DCO were agreed (document reference 8.3, REP1-042). Historic England included some changes for the Outline WSI which were incorporated in the version submitted at Deadline 1 (document reference 7.3(1), REP1-012), this was agreed within the SoCG at Deadline 4 (document reference 8.3(1), REP4-007). The final open point on piling methodology was agreed within the SoCG submitted at Deadline 6 (document reference 8.3(2), REP6-010). Overall, all points are agreed with Historic England.

4.3 Landscape and Visual Impact

- 4.3.1 The proposed Facility is an extensive development and includes several large-scale industrial buildings, structures, stacks and a riverside wharf. The Lightweight Aggregate (LWA) plant is the tallest proposed building (excluding the stacks). No built structures are proposed at the Habitat Mitigation Area and construction works are minor in that location, therefore the assessment focussed on the construction, operation and decommissioning at the Principal Application Site.
- 4.3.2 The Facility would be seen in context of the existing, adjacent Biomass UK No. 3 Ltd facility; a facility which also comprises tall buildings and an emissions stack. Given the existing industrial nature of the Principal Application Site and surrounding area the Facility will not cause significant effects to landscape character. Effects are predicted to be minor adverse during construction and operation. There will be no significant physical landscape effects.
- 4.3.3 Effects to views are predicted to be the worst during the construction stage. Views from footpaths along the eastern bank of The Haven will be most affected with close range, open views to construction of the wharf and LWA plant being most prominent and with moderate/ major adverse effects. Views from certain residential properties to the west of the site are predicted to be moderate adverse. Visual effects during operation will be slightly less adverse, although close range views of the Facility from The Haven corridor to the east will remain moderate adverse. These residual visual effects are significant in EIA terms.

- 4.3.4 The Environment Agency noted in their relevant representation (RR-013) that further information was required in terms of visible plumes from the stacks. Therefore, further information was provided within documents submitted at Deadlines 1 and 2 including an updated Chapter 9 Landscape and Visual Impact Assessment (LVIA) (document reference 6.2.9(1), REP1-004) and Chapter 14 Air Quality (document reference 6.2.14, REP1-006) and updated photomontages (document reference 6.3.7(1), REP2-017 and document reference 6.3.9(1), REP2-019). Following provision of this further information the Environment Agency confirmed their agreement of the Landscape and Visual Impact Assessment within the SoCG submitted at Deadline 4 (document reference 8.2(1), REP4-005).
- 4.3.5 An Outline Landscape and Ecological Mitigation Strategy (OLEMS) has been provided (document reference 7.4(3)) which sets out the objectives behind mitigation and landscape proposals for the Application Site and outlines implementation techniques for landscape planting. The approval and implementation of the final Landscape and Ecological Mitigation Plan (which must be substantially in accordance with the OLEMS) is secured by Requirement 6 of the DCO (document reference 2.1(5), REP9-004).

4.4 Noise and Vibration

- 4.4.1 An assessment of on-site construction phase noise indicates minor effects at all receptors for daytime construction works. A moderate adverse effect was predicted at one of the nearby noise sensitive receptor locations during the evenings and weekends, but more detailed analysis identified that covering piles with a full-length shroud will reduce the predicted effect to minor adverse and therefore not significant. Vibration impacts from construction works were not considered because the distance between piling activities and the nearest receptors indicate that these will not be significant.
- 4.4.2 Operational noise levels at nearby receptors due to the Facility were initially predicted to be significant at some receptors, leading to mitigation measures being incorporated into the design. Impacts from noise levels at nearby receptors due to operation of the Facility are predicted to be minor adverse. Embedded mitigation in the design prevents any significant sources of vibration and therefore vibration impacts are considered to be non-significant.
- 4.4.3 Vehicle movements generated by transportation of materials to and from the Facility during the operational phase were assessed in the context of the site and surrounding road network and residual effects were considered to be minor adverse and therefore not significant. Utilisation of vessels for bulk delivery of

construction materials is a significant benefit of the proposals assisting to reduce noise from construction traffic.

- 4.4.4 An assessment on the noise associated with vessel movements during the operational phase are predicted to be minor adverse at worst.
- 4.4.5 At Deadline 1 of the examination, the Applicant submitted an Updated Piling Noise Assessment (document reference 9.16, REP1-029) following refinement of the construction programme associated with avoiding sensitive periods, where effects were predicted to be negligible to minor adverse.
- 4.4.6 Details of the Outline Construction Noise and Vibration Monitoring and Management Plan are included in Section 8 of the Outline Code of Construction Practice (OCoCP) (document reference 7.1, APP-120). This is secured within Requirement 11 of the DCO (document reference 2.1(5), REP9-004) for a Code of Construction Practice and will be approved by the relevant planning authority.

4.5 Contaminated Land, Land Use and Hydrogeology

- 4.5.1 All impacts during construction and operation were assessed as being not significant (negligible to minor adverse).
- 4.5.2 The Environment Agency raised in their relevant representation (RR-013) that landfill gas risk should be considered and adequately addressed in the proposed development, and requested within the SoCG an update to the relevant requirement within the DCO to include reference to the need to investigate potential landfill gas intrusion. Following this, Requirement 10 of the DCO was updated to specifically refer to ground gases. Therefore, this point was agreed with the Environment Agency within the SoCG submitted at Deadline 1 (document reference 8.2, REP1-044).
- 4.5.3 United Kingdom Health Security Agency (UKHSA) (formerly Public Health England) raised comments on contaminated land within their relevant representation (RR-023), requesting the local authority contaminated land officer is consulted on the future site investigation strategy. Consultation with the relevant planning authority was included within Requirement 9 of the Draft DCO submitted at Deadline 1 (document reference 2.1(1), REP1-003) (now numbered as Requirement 10). This point was agreed with UKHSA within the SoCG submitted at Deadline 1 (document reference 8.5, REP1-043).

4.6 Terrestrial Ecology

- 4.6.1 All residual impacts during construction and operation were assessed as being

not significant (negligible to minor adverse).

- 4.6.2 Several embedded and additional mitigation measures are included, including a commitment for pre-construction surveys for certain protected species. This commitment, as well as other management measures are covered within the OLEMS has been provided (document reference 7.4(3)). The approval and implementation of the final Landscape and Ecological Mitigation Plan (which must be substantially in accordance with the OLEMS) is secured by Requirement 6 of the DCO (document reference 2.1(6)).
- 4.6.3 Natural England's relevant representation requested that walked transects for bat surveys be provided and further detail of mitigation measures for bats. In response these plans were included in the updated OLEMS submitted at Deadline 3 (document reference 7.4(1), REP3-007). Natural England also requested mitigation measures for reptiles to be provided in principle. In response an Outline Reptile Precautionary Method of Working (PMoW) (document reference 9.32, REP2-015) was provided at Deadline 2.
- 4.6.4 The Applicant has also responded to Natural England's other comments with regards to terrestrial ecology including updating text within the OLEMS, however despite responses to all points it is unclear on why Natural England's position has not changed on several matters.
- 4.6.5 At Deadline 6 Natural England included further questions within their Risk and Issues Log (REP6-039) including a query on light pollution affecting bat behaviour, the Applicant responded within the Third Report on Outstanding Submissions (document reference 9.78, REP7-010) noting that *"Based on the transitory nature of the vessels navigating The Haven, the low number of predicted vessels during the hours of darkness, and the main use of directional lights for navigational safety with minimal lighting to spill over to the opposite bank the potential impact to foraging/commuting bats is predicted not to be significant"*.
- 4.6.6 In addition, the Applicant included a version of Natural England's Risk and Issues Log at Deadline 7 (document reference 9.76, REP7-008) which included signposting to where responses had been provided.

4.7 Surface Water, Flood Risk and Drainage Strategy

- 4.7.1 Within the ES, the following key potential impacts were identified for the construction stage:
- Direct impacts on drainage systems;

- Increased sediment supply;
 - Accidental release of contaminants; and
 - Changes to surface water runoff and flood risk.
- 4.7.2 A Code of Construction Practice (CoCP) will be developed post-consent to mitigate the construction activities and this will be substantially in accordance with the Outline CoCP (document reference 7.1, APP-122).
- 4.7.3 In addition, the following impacts are described for the operation stage:
- Changes to surface water runoff and flood risk; and
 - Supply of fine sediment and other contaminants.
- 4.7.4 These will be managed by the conditions of the Environmental Permit that will be required to operate the Facility.
- 4.7.5 Following the consideration of mitigation measures to manage sediment, pollution and drainage, these potential effects have been determined as not significant during construction and operation.
- 4.7.6 The Facility is also compliant with the Water Framework Directive requirements; and would not result in increased flood risk on or off the Principal Application Site.
- 4.7.7 An outline Surface and Foul Water Drainage Strategy has been submitted and following comments from the Environment Agency and Black Sluice Drainage Board this document was finalised at Deadline 10 (document reference 9.4(2)). A final drainage strategy will be produced post-consent based on the outline.
- 4.7.8 In their relevant representation the Environment Agency raised an objection with regards to flood risk, and in response to their requests for further information the Applicant has provided the following:
- Wharf Construction Outline Methodology (document reference 9.17, REP1-030);
 - Response to Environment Agency queries on Critical Infrastructure and Levels across the Application Site (document reference 9.40, REP3-016);
 - Worst Case Assessment for Land Raising (document reference 9.77(1), AS-008);
 - Erosion monitoring added to the OLEMS submitted at Deadline 7 (document reference 7.4(2), REP7-037);
 - Agreed Protective Provisions (document reference 2.1(6)); and
 - Work towards an agreement with the EA to enable the disapplication of the requirement to obtain an environmental permit for a flood risk activity.

- 4.7.9 The SoCG with the Environment Agency submitted at Deadline 10 confirms that the Environment Agency are in agreement with the evidence presented in the Worst Case Assessment for Land Raising and other information provided with regards to flood risk. However, there are ongoing discussions to finalise the flood risk legal agreement which needs to be agreed before the EA can fully agree the flood risk assessment.
- 4.7.10 With regards to Compliance with Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 (“WFD Regulations”), the Environment Agency also raised there should be further assessment of potential marine ecology impacts to the Witham transitional water body and noted an outstanding concern with regards to the direct loss of habitat at the Application Site. The direct loss of habitat at the Application Site is mitigated by the Habitat Mitigation Area which is detailed within Chapter 17 Marine and Coastal Ecology (document reference 6.2.17(1), REP9-011) and the Outline Landscape and Ecological Mitigation Strategy (OLEMS) (document reference 7.4(2), REP7-037). The Environment Agency defer to Natural England on this matter.

4.8 Air Quality

- 4.8.1 Within the ES, impacts associated with dust, plant, vehicle and vessel exhaust emissions and odour from capital dredging during construction were assessed and were found to be not significant. Air quality modelling was undertaken to predict effects on human and ecological receptors as a result of emissions from construction-generated traffic and vessel movements. These effects were also found to be not significant at human and ecological receptors.
- 4.8.2 Emissions from the Facility’s stacks, water vessel activities and road traffic exhausts during the operational phase were assessed, together with emissions from the adjacent Biomass UK No. 3 Ltd facility.
- 4.8.3 Dispersion modelling has been undertaken to predict pollutant concentrations at sensitive human and ecological receptors in the vicinity of the Application Site. Effects at human and ecological receptors were assessed to be not significant overall.
- 4.8.4 An assessment of odour impacts as a result of refuse derived fuel processing has been undertaken and, because of the control measures built into the design and proposed operation of the Facility, the potential for impacts was considered to be low and any effects would be insignificant.
- 4.8.5 Within their relevant representations the Environment Agency provided several comments on the air quality assessment and requested for further information

within paragraphs 8.4 – 8.10 of their relevant representation (RR-013). The Applicant submitted further information at Deadline 1 of the examination in order to address the Environment Agency’s comments including:

- Chapter 14 Air Quality of the ES (document reference 6.2.14(1), REP1-006) including additional analysis of visible plumes, resubmitted at Deadline 1; and
- Appendix 14.3 (document reference 6.4.16(1), REP1-010) resubmitted at Deadline 1.

4.8.6 Air quality was agreed with the Environment Agency within the SoCG at Deadline 4 (document reference 8.2(1), REP4-005).

4.8.7 UKHSA raised comments on air quality within their relevant representation (RR-023). The Applicant submitted further information at Deadline 1 of the examination in order to address the UKHSA’s comments including:

- Appendix 14.5 Human Health Risk Assessment (document reference 9.9, REP1-022); and
- Appendix 14.6 Abnormal Emissions Assessment (document reference 9.10, REP1-023).

4.8.8 Following receipt of this information Air Quality was agreed with UKHSA at Deadline 4 (document reference 8.5(1), REP4-009) and further points were included by UKHSA for consideration for the Environmental Permit.

4.8.9 Within their relevant representation and through further submissions through examination Natural England have made some comments on Air Quality. The Applicant submitted further information to the examination in order to address the Natural England’s comments including:

- Appendix 14.4 Analysis of SO₂ and O₃ Concentrations to Justify Adoption of the Less Stringent Daily Mean NO_x Critical Level for Protection of Vegetation (document reference 9.8, REP1-021).
- Comparison of Predicted Critical Load and Level Results Using Maximum Permissible Emissions Limits and Realistic Emission Scenarios (document reference 9.72, REP6-035); and
- Air Quality Deposition Monitoring Plan (document reference 9.51(1), REP6-027).

4.8.10 The Applicant has also provided responses to Natural England’s queries within the various response documents. The Applicant is still unclear on Natural England’s position on the outstanding points as, noted in the SoCG, *“Natural England’s has been unable to review Applicant’s submissions beyond Deadline 4 due to no specialist availability”*.

4.9 Marine Water and Sediment Quality

- 4.9.1 The ES assessment concluded that all effects are predicted be minor adverse on water and sediment quality for both the construction and operational phase. There were no subsequent questions directly related to this ES chapter during Examination.
- 4.9.2 The deemed Marine Licence (Schedule 9 of the DCO) requires the Applicant to submit a Construction Environment Management Plan to the Marine Management Organisation (MMO) for approval, following consultation with the Port of Boston, Natural England (as the relevant statutory nature conservation body) and the Environment Agency. This will include a detailed methodology for the excavation and subsequent management of any dredged material removed in the construction and maintenance of the berthing pocket. A sediment sampling plan must also be approved by the MMO, following consultation with the Environment Agency. The sediment sampling condition within the DML was agreed with the MMO within the SoCG submitted at Deadline 6 (document reference 8.10(1), REP6-006). To address a point raised by the Environment Agency the protective provisions were amended at Deadline 9 to cover dredging and in particular desilting. The protective provisions are fully agreed with the Environment Agency as confirmed in the Deadline 10 SoCG (document reference 8.2(3)).

4.10 Estuarine Processes

- 4.10.1 Within the ES, in all cases for construction and operation, the effect of the reasonable, worst-case scenario for the Facility on estuarine processes on the identified receptor groups is either no or negligible effect.
- 4.10.2 The Environment Agency, in its relevant representation (RR-013), noted comments on estuarine process including relating to erosion impacts associated with ship wash, this was also one of the key points noted within the SoCG. Following these comments, a further technical note was supplied to the Environment Agency and to the examination: Response to Environment Agency's queries on Estuarine Processes (document reference 9.44(1), REP9-024) and erosion monitoring has been added to the Outline Landscape and Ecological Mitigation Strategy (OLEMS) submitted at Deadline 7 (document reference 7.4(2), REP7-037). Following this additional information Estuarine Processes was agreed with the EA at Deadline 10 within the SoCG (document reference 8.2(3)).
- 4.10.3 Natural England have also noted certain concerns including comments on erosion of mud and saltmarsh associated with vessel movements and smothering of saltmarsh vegetation due to release of sediment. The Applicant has responded to

these comments within responses to relevant representations (document reference 9.2, REP1-035) and subsequent responses (including the Applicant's version of the Risk Log submitted at Deadline 7 (document reference 9.76, REP7-008)) and has addressed the point on erosion within the documents outlined above in relation to the Environment Agency. However, Natural England has not confirmed whether it has remaining concerns on these matters following the Applicant's responses.

4.11 Marine and Coastal Ecology

4.11.1 The main potential impacts arising from the construction period are habitat loss/alteration, increased suspended sediment concentrations and increased noise and vibration caused by piling and ship movements. For the operational phase, the key potential impacts are changes in vessel traffic and movement leading to increased ship wash, underwater noise, visual disturbance to birds and collision risk with marine mammals. Within the ES, residual effects for both construction and operation are considered to be negligible to minor adverse.

4.11.2 Natural England, the Royal Society for the Protection of Birds (RSPB) and Lincolnshire Wildlife Trust have raised various concerns with regard to marine and coastal ecology throughout examination. The Applicant has responded to all comments within the response documents and through provision of further assessments and outline plans including:

- Outline Marine Mammal Mitigation Protocol (document reference 9.12(2), REP7-003);
- Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum (document reference 9.13, REP1-026);
- Addendum to Environmental Statement Chapter 17 and Appendix 17.1 - Marine Mammals (document reference 9.14, REP1-027);
- Addendum to Chapter 17 and Appendix 17.1 - Benthic Ecology, Fish and Habitats (document reference 9.15, REP1-028);
- Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference 9.59, REP5-006); and
- Updated OLEMS (document reference 7.4(2), REP7-037).

4.11.3 In addition, Natural England and RSPB have raised concerns regarding the provision of sufficient ornithological survey data. Two years' worth of survey data has been provided for the overwintering counts, spring passage, breeding season

and disturbance behavioural responses and one year of data for autumn passage (document references 6.4.19, APP-112; appendices of 9.13, REP1-026; 9.43, REP3-019; 9.71, REP6-034; 9.82, REP7-014; 9.83, REP7-015; 9.91, REP8-018). Together with the Wetland Bird Survey (WeBS) data, this information provides extensive data for count sectors within The Wash Special Protection Area and at Slippery Gowt pits and along The Haven. The Applicant considers that this represents the best available evidence, sufficient to support the assessment with two years' data provided for the overwintering period when the greatest adverse effects would occur in relation to designated species.

- 4.11.4 Overall, the Applicant considers the ES assessment, including additional submissions, is sufficient to demonstrate there will be no significant residual effect on marine and coastal ecology receptors.

4.12 Navigational Issues

- 4.12.1 The potential construction and operational impacts on navigation of all users affected by the Facility (notably, impacts within The Haven as a confined water space) were assessed and the findings presented in ES Chapter 18 Navigation Issues (document reference 6.2.18, APP-056). Impacts to commercial and recreational vessels were determined to not be of significance and manageable by the Port of Boston (PoB). Residual impacts to the fishing fleet (represented by the Boston and Fosdyke Fishing Society (BFFS)) were however identified and mitigation through the implementation of a Navigation Management Plan (NMP) was identified and committed to.
- 4.12.2 The PoB is the Statutory Harbour Authority (SHA) for The Haven and out to the harbour limits within The Wash and can therefore be considered a key Interested Party. In recognition of this the Applicant has sought the PoB's views on the ability to safely and efficiently manage the additional traffic that would arise as a result of the construction and operation of the Facility. Furthermore, the Applicant has ensured that key submissions align with the PoB's views in order to ensure that proposals are accurate, valid and benefit from the PoB's inputs before issue.
- 4.12.3 The Applicant has worked closely with the PoB to determine the timing and content of a draft Navigation Risk Assessment (NRA) (document reference 9.27(1), REP6-022) and a Navigation Management Plan (NMP), two key documents which, when considered with the Pilotage Statement (document reference 9.73, REP6-036) submitted identifies a clear and compelling case that navigational matters for all users of the Haven can be appropriately managed.

- 4.12.4 The BFFS is the only party which has sought to question the ability of the PoB to manage navigation within their jurisdiction in accordance with the above statement (including its SHA obligations), objecting to the Facility on the grounds that the increase in operational vessel traffic would have a “*considerable and significantly detrimental impact [...] upon the working fishermen*” (RR-010). Throughout the Examination the Applicant has provided evidence that demonstrates that the safety and navigational efficiency on the Haven can be maintained and that mechanisms will be put in place to ensure management measures are established post-consent to achieve this, as agreed with the PoB.
- 4.12.5 It should be noted that other users of The Haven, including recreational and commercial users, have not expressed any concerns regarding the increase in vessel movements and navigational safety.
- 4.12.6 The process to ensure relevant tasks are carried out has been defined within the NMP template (document reference 9.80(1), REP8-011), a DCO certified document, which will ensure the draft NRA (document reference 9.27(1), REP6-022) is further developed to include consideration of all users and management measures are put in place within the NMP to ensure safety of navigation is maintained. This will be achieved through a consultative process to include all interested parties, with approval of the final NRA by both the PoB and the MMO.
- 4.12.7 In conclusion, it is the Applicant’s considered opinion that the evidence supplied in relation to navigation within the ES and throughout the Examination (and summarised in the Navigation Summary (document reference 9.97, REP9-031) is comprehensive and sufficient, and clearly shows that navigational safety throughout the lifetime of the Facility will be maintained. This is supported by the evidence submitted by the PoB who have stated throughout the Examination that, with the implementation of an NMP that is supported by an NRA, the safety of navigation can be maintained for all Haven users.
- 4.12.8 The PoB’s Pilotage Statement (document reference 9.73, REP6-036) provides confidence and certainty that navigational safety on the Haven will be maintained on the Haven and concludes with this remark from the Harbour Master (who has over 20 years’ experience of piloting vessels in the Haven):

“The introduction of an additional 580 ships from our current number of 450/460 is a large increase and worthy of looking closely at how this will affect the daily movement of river traffic, but as similar numbers have been experienced in the past, the Harbour Authority are confident this can be managed in a safe and efficient manner with little adverse effect on the fishing fleet or other river traffic.”

4.13 Traffic and Transport

- 4.13.1 The ES considered transport effects including those associated with pedestrian severance, pedestrian amenity, road safety and driver delay. Where appropriate, mitigation has been proposed to reduce the significance of effects (most notably it is proposed to divert traffic away from the A52 Liquorpond Street during peak construction). Mitigation measures will be secured through commitments contained in a Construction Traffic Management Plan (CTMP). An outline CTMP is submitted with the application (document reference 7.2, APP-121). During construction and operation residual impacts are predicted to be not significant (between negligible to minor adverse significance).
- 4.13.2 Within LCC's relevant representation (RR-014) comments were provided on traffic and transport which noted *"It [the Transport Assessment] finds that the proposed development would not be expected to result in an unacceptable impact upon highway safety or a severe residual cumulative impact upon the capacity of the existing local highway network. The Highway Authority concurs with that conclusion and do not consider that any off-site highway improvements would be required, through Planning Obligations, to make the proposal acceptable in planning terms."*
- 4.13.3 In addition, LCC noted that as the assessment is reliant on using vessels to transport RDF there should be a "suitably worded requirement or planning obligation" to ensure this wouldn't be switched to road transport. Following further discussions, the Applicant agreed to specify the maximum number of daily operational heavy commercial vehicle movements in Requirement 17 of the draft DCO submitted at Deadline 6 (document reference 2.1(3), REP6-002). Following this, all points on traffic and transport were agreed in the SoCG with LCC submitted at Deadline 6 (document reference 8.1(2), REP6-005).

4.14 Socio-Economics

Socio-Economics

- 4.14.1 The socio-economic assessment considered a large number of factors including employment, housing market, community infrastructure (including primary and secondary education and health) and tourism during both the construction and operational phases of the Facility. It also considered potential impacts on energy security/reliability due to the operational Facility. All effects were predicted to be of either beneficial, negligible or minor adverse significance.
- 4.14.2 In BBC's relevant representation (RR-019) there were several requests for benefits with regards to socio-economics, for example it was requested that *"there*

is a need for clear, and unequivocal commitments to upskilling, education, and commitments to local labour and supply chains.”, in addition to requests for a Community Fund, town centre hub and support for local businesses.

- 4.14.3 The Applicant has been in ongoing discussions with BBC and LCC throughout the examination and have reached agreement on the terms of a Section 106 agreement (document reference 9.100(1)). The SoCG with BBC issued at Deadline 10 shows all items agreed in relation to socio-economics and Section 106 (document reference 8.7(4)).

Public Rights of Way

- 4.14.4 In addition to the comments mentioned above, BBC, LCC and Natural England submitted representations regarding the Public Right of Way diversions through the Application Site. Following these comments and discussions, an Outline Public Right of Way (PRoW) Design Guide and Stopping Up Plan was submitted at Deadline 3 and subsequently at Deadline 8 (document reference 9.41(1), REP8-007). This Plan provides outline guidance for measures to help mitigate the effects of proposed footpath stopping up and for the enhancement of the specific, retained sections of footpath that will provide the necessary diversion.
- 4.14.5 Following provision of this plan, this point was agreed within the SoCG with LCC at Deadline 4 (document reference 8.1(1), REP4-003). Following agreement of the Section 106 agreement, this point was also agreed by BBC within the SoCG submitted at Deadline 10 (document reference 8.7(4)).
- 4.14.6 Natural England has confirmed in its submissions (REP5-015 and REP9-060) that the diverted route is an appropriate replacement to the existing PRoW. However, they have proposed an alternative route for the proposed England Coast Path (noting this is not yet designated in this location) shown within Natural England's Deadline 2 submission (REP2-047). The Applicant has considered this alternative route and is of the opinion this is not a preferred route due to (i) minor removal of terrestrial Biodiversity Net Gain that would be required (ii) operational noise affecting potential users of this alternative route reducing its usage and (iii) security issues. These are all set out in the Written Summary of the Applicant's Oral Case at Issue Specific Hearing 2 (ISH2) on Environmental Matters (Part 1) (document reference 9.47, REP3-023). Therefore, the Applicant considers that the diversion along the Roman Bank is appropriate, as per the initial DCO application.

4.15 Climate Change

- 4.15.1 The ES considers the contribution of the Facility to regional and national

greenhouse gas emissions, and its resilience to the projected effects of climate change. The results of the assessment show that net greenhouse gas emissions, accounting for the offset savings elsewhere in the UK energy generation sector, will not result in a significant effect on the UK's ability to meet its 2050 carbon reduction targets. The climate resilience assessment identified the Facility is not considered to be vulnerable to increased temperature, drought conditions, and surface and tidal flooding.

- 4.15.2 Comments on Climate Change were raised by LCC, BBC and UKWIN in their relevant representations (RR-014, RR-019 and RR-001, respectively) and further comments were submitted by UKWIN in subsequent submissions throughout the examination.
- 4.15.3 LCC raised that varying compositions of RDF could affect greenhouse gas emissions and therefore 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (document reference 9.6, REP1-019) was submitted at Deadline 1. LCC also requested details on the carbon capture system and the Applicant has provided a technical note regarding the carbon recovery technology submitted at Deadline 4 (document reference 9.54, REP4-019). Following further responses submitted separately to LCC on remaining concerns, all points on climate change and sustainability were agreed within the Final SoCG at Deadline 9 (document reference 8.1(3), REP9-049).
- 4.15.4 In response to a comment from UKWIN, further analysis in document Comparative Analysis of Greenhouse Gas Emissions from Road and Marine Vessel Transport Option to the Site (document reference 9.7, REP1-020), was submitted as part of Deadline 1 of the Examination, which compared greenhouse gas emissions from transporting the waste via road to marine vessels. In addition, throughout the examination the Applicant has responded to comments from UKWIN in relation to climate change and greenhouse gas emissions.
- 4.15.5 With regards to BBC, the Applicant has been in ongoing discussions with BBC throughout examination and has reached an agreed Section 106 agreement (document reference 9.100(1)). The SoCG with BBC issued at Deadline 10 shows agreements on the topic of climate change and Section 106 agreement (document reference 8.7(4)).

4.16 Health Impact Assessment

- 4.16.1 Within the ES, no significant impacts were predicted throughout the construction or operational phase of the Facility on health.
- 4.16.2 UKHSA raised some comments on health within their relevant representation

(RR-023) which were responded to within the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035) and a note on Electromagnetic Fields was provided (document reference 9.11, REP1-024). Following this, all points on health were agreed with UKHSA at Deadline 1 within the SoCG (document reference 8.5, REP1-043).

4.17 Waste

- 4.17.1 Although there were no comments from Interested Parties on the Waste ES chapter, there were comments on from a Project Need and Fuel Availability and Waste Hierarchy Assessment perspective. UKWIN noted within their relevant representation (RR-001) that, in their view, there was a lack of need for the proposed incineration capacity, and LCC noted within RR-014, that further information was required on the need for the Facility and noted a lack of need within the local area.
- 4.17.2 Following these comments an Addendum to Fuel Availability and Waste Hierarchy Assessment (document reference 9.5) was submitted to the Examination at Deadline 1 which provided additional UK data supporting the need for the Facility. Following further responses submitted separately to LCC on remaining concerns, all points on waste and project need were agreed within the Final SoCG at Deadline 9 (document reference 8.1(3), REP9-049).
- 4.17.3 UKWIN still maintains an objection on waste grounds however the Applicant considers that it has provided sufficient, adequate information in response to UKWIN's comments on waste and project need.

4.18 Major Accidents and Risk Management

- 4.18.1 The ES chapter noted that embedded mitigation measures and the Environmental Permit would manage any potential major accidents and risks. UKHSA raised within their relevant representation (RR-023) that it needed to be confirmed whether the fire prevention plan would cover ships transporting refuse derived fuel (RDF). The Applicant held a meeting with the Maritime and Coastguard Agency (MCA) and Lincolnshire Fire and Rescue on 16 December 2021. The MCA stated that all vessels will require the appropriate firefighting capability, i.e. needing to conform to the Safety of Life at Sea (SOLAS) Regulations. Lincolnshire Fire and Rescue identified that if a vessel fire occurred within The Haven an Integrated Risk Management Plan (IRMP) would be put in place with a multi-agency response, and liaison with the Port of Boston taking place to determine the best course of action. It was concluded that no specific fire prevention plan for vessels

would be needed. Therefore, this point was agreed within the SoCG with UKHSA at Deadline 6 (document reference 8.5(2), REP6-014).

4.19 Habitat Regulations Assessment

- 4.19.1 The Examining Authority published its Report on the Implications for European Sites (RIES Report) on 24th February 2022. The Applicant has responded to this report in The Applicant's Comments on the Report on the Implications for European Sites (document reference 9.93, REP9-027).
- 4.19.2 It is evident from the RIES that the approach of the Applicant to the without prejudice Habitats Regulations Assessment derogation case is thorough and robust. The Applicant has set out full justification for its conclusions, supported by survey data undertaken over winter 2019 until March 2022, which supports a conclusion that an Adverse Effect on Integrity (AEoI) of national network/Ramsar sites can be excluded, beyond reasonable scientific doubt.
- 4.19.3 If, however, the Secretary of State is minded to agree with Natural England that an AEoI cannot be excluded, the Applicant's view is that this is in large part due to the influence of bird disturbance from the existing (baseline) large commercial vessel movements, rather than being an effect of the Facility.
- 4.19.4 In light of the comments from the Interested Parties, and although the Applicant maintains the position that the Facility will not have an AEoI, the Applicant has produced a without prejudice HRA Derogation Case, consisting of: Assessment of Alternative Solutions (document reference 9.28, REP2-011); IROPI (document reference 9.29, REP2-012); and Compensation Measures (document reference 9.30(1), REP6-025). This last document has involved developing potential compensation sites that could be used should a decision be made that an AEoI cannot be ruled out. In this situation, the Applicant considers that sufficient and appropriate compensatory measures can be delivered and can be secured by the DCO to provide additional habitat for waterbirds that may be displaced from their roosting locations during periods of high tide when additional vessels would transit The Haven. The Applicant's Deadline 10 submission provides further support as to the ability secure appropriate locations for compensation measures by providing a letter of comfort for one of the proposed in principle compensation sites (document reference 9.106). The Applicant notes that discussions are ongoing with regard to an additional, potential compensation site.
- 4.19.5 The reader is directed to 'The Applicant's Comments on the Report on the Implications for European Sites (RIES)' (document reference 9.93, REP9-027) for a full understanding of the Applicant's position on this matter, with this document

also detailing areas of outstanding disagreement with Natural England.

5 Compulsory Acquisition

- 5.1.1 The Applicant is seeking limited compulsory acquisition powers (permanent acquisition) over four plots, being plots 19, 19b, 21 and 23. It would not be sufficient to only acquire rights over this land as there is no owner to enforce these rights against, and only full title acquisition will grant the Applicant sufficient control over the land in order to implement the Authorised Development. The Applicant is also seeking temporary possession over one plot, plot 3 (a drain). Despite the reasonable efforts taken by Applicant, such as the erection of site notices, the owners of these plots remain unknown. The steps taken by the Applicant have however identified one new potential interest holder in plot 3 whom the Applicant has included in its latest Book of Reference (document reference 3.3(2), REP9-007). However, as the land is unregistered, this new party has only been able to establish a potential riparian interest.
- 5.1.2 A voluntary agreement in respect of each of these plots is not possible given that the owners are unknown and there is no legal entity capable of giving the Applicant good title or licence. The Applicant is not aware of any objections to compulsory acquisition elements of the scheme.
- 5.1.3 The Applicant has concluded a voluntary agreement with Alchemy Farms Limited who own the land required for the Facility.
- 5.1.4 There is a compelling case in the public interest for the Facility to be opened. Section 122 of the Planning Act is satisfied in respect of the relatively limited area of land subject to compulsory acquisition powers.

5.2 Statutory Undertakers

- 5.2.1 No statutory undertakers object to the scheme.

5.3 Crown Land

- 5.3.1 The Applicant has held discussions with The Crown Estate and negotiations have been ongoing for the dredging and habitat mitigation area land since pre-application. Current discussions centre around agreeing commercial terms. Following recent correspondence from The Crown Estate's solicitors (30 March 2022), the Applicant has agreed to insert the Crown rights article in the latest version of the DCO (document reference 2.1(6)).
- 5.3.2 The Crown Estate have provided consent pursuant to s135(2) of the Planning Act

2008 by email to the Planning Inspectorate on 6 April 2022.

6 Funding

- 6.1.1 To date, the Applicant has spent considerable capital in progressing the DCO application and in acquiring the necessary land for the Project. Under the terms of the voluntary agreement with Alchemy Farms Limited, following the making of the DCO, the Applicant is compelled to take a lease of the land, based upon a commercial rent.
- 6.1.2 Compensation is payable for the limited compulsory acquisition of land under the DCO. Any owner who comes forward and proves title will be entitled to compensation. The DCO requires that compulsory acquisition powers cannot be exercised by the Applicant unless a suitable guarantee for compensation liability has been provided and approved in writing by the Secretary of State. There is a reasonable prospect of the requisite funds being available both to pay any compensation arising from the exercise of the compulsory acquisition and temporary use powers and, indeed, to construct the Authorised Development.
- 6.1.3 The Applicant intends to fund the Project via a combination of commercial debt and additional equity. The Applicant has assessed the Authorised Development and is, based on its experience in this sector and work on previous schemes, confident that it will be commercially viable, enabling it to be funded as required if development consent is granted.

7 Interested Parties

- 7.1.1 Where appropriate the views, comments and position of various interested parties are referred to in the previous sections of this report. The Statement of Commonality (document reference 9.3(4)) identifies that throughout the Examination a large number of issues have been agreed and identifies areas of disagreement with interested parties.
- 7.1.2 As requested within the Rule 4 and 6 letter (PD-005), the Applicant has reached SoCG with the following interested parties:
- Anglian Water;
 - BBC;
 - Environment Agency;
 - Historic England;
 - LCC;

- MMO;
- Natural England;
- United Kingdom Health Security Agency (UKHSA); and
- Western Power Distribution.

7.1.3 Although requested within the Rule 4 and 6 letter, unfortunately the Applicant was unable to submit a signed SoCG with Boston and Fosdyke Fishing Society, although an agreed copy was submitted at Deadline 2 (document reference 8.9, REP2-005). At Deadline 10, the Applicant has submitted a “not agreed” copy of the SoCG, with no items agreed.

7.1.4 In addition to the SoCGs noted above, the Applicant has also reached final SoCGs with the following interested parties:

- Port of Boston;
- Lincolnshire Wildlife Trust; and
- RSPB.

7.1.5 The SoCGs with Historic England, Port of Boston, UKHSA and Western Power Distribution are all agreed with no outstanding points. All other SoCGs include some areas of disagreement which are noted within the SoCGs and the Statement of Commonality. It is noted that for the Environment Agency and Natural England there are some points which are still under discussion and these points will be confirmed following the end of examination, as described within the SoCGs (document reference 8.2(3), and document reference 8.11(1), respectively).

7.1.6 It is also noted that the Application did not elicit many representations from members of the public and there is a lack of significant public concern regarding the proposals. This is notably in contrast to other Energy from Waste applications where there has been significant public opposition, and reinforces the ideal location for the Facility with little potential impact to local residents and businesses within Boston and its environs.

Natural England’s Review of Examination Submissions

7.1.7 The Applicant had noted that throughout examination Natural England stated within their cover letters “We would like to highlight to the Examining Authority, that only new documents (version 1) or revised versions of outline documents/plans where amendments have been formally made will be responded to by Natural England at each relevant Deadline”. The Applicant had noted this

text but had not realised this meant that responses to their comments had not been reviewed, as would be the expectation for a NSIP by a statutory body, especially one that maintains an objection to the proposals.

7.1.8 Within comments on the drafting of the SoCG, on 31 March 2022, when questioned on whether Natural England's position could be updated on a specific point within the SoCG, based on a document submitted to the Examination, Natural England noted "*Natural England's position is to only review updated chapters and plans.*". This comment is again surprising and disappointing to the Applicant as responses to many points had been addressed through responding directly to Natural England's comments through the examination. The Applicant considers Natural England should have made this position clearer at the beginning of examination to all parties formally.

7.1.9 If Natural England have not been reviewing submissions to the Examination (apart from updated chapters and plans) it is not surprising that their Risk and Issues Log shows a lack of understanding of many issues, the Applicant's position and submissions on such matters.

8 Planning Balance

8.1.1 Section 104(3) of the PA 2008 provides that the Secretary of State must decide the Application in accordance with any relevant NPS, except to the extent that one or more of the subsections in section 104 apply. These include, at sub-section (7), if the Secretary of State is satisfied that the adverse impact of the Facility would outweigh its benefits. In order to determine whether section 104(7) is engaged, and whether the Facility should be decided in accordance with the relevant NPS, the planning balance of the Facility therefore has to be considered.

8.1.2 The context for consideration of that planning balance is set out primarily in section 7 of the Planning Statement (document reference 5.2, APP-031) and in summary provides:

- NPSs EN-1 and EN-3 establish the urgent need for new renewable energy generation. Therefore, the need for the Facility has been demonstrated;
- NPS EN-1 requires that substantial weight be given to the contribution that the Facility would make towards satisfying the identified need;
- there is a presumption in favour of granting consent for the Facility; and
- the ExA and the Secretary of State then have to balance the Facility's residual adverse impacts against its benefits (as per EN-1 paragraph 4.1.3). The benefits

of the Facility include the substantial weight that must be given to its contribution to satisfying the identified urgent need.

- 8.1.3 The Applicant does not suggest that the NPSs establish an unassailable needs case for energy generation. Rather its position is that section 104(3) of the PA 2008 requires the Secretary of State to determine the application for development consent in accordance with the NPSs unless one of the exceptions in subsections (4) to (8) applies. Section 104(7) of the PA 2008 is one of those exceptions, where the Secretary of State finds that the adverse impacts of a development outweigh its benefits in which case the presumption in favour of granting development consent set out in NPS EN-1 does not apply. The Applicant considers that the potential adverse impacts of the Facility do not outweigh the benefits that have been identified. As such, section 104(7) of the PA 2008 is not engaged in respect of the Facility and therefore the Application must be determined in accordance with the relevant NPSs and the presumption in favour of granting development consent applies.

9 Conclusion

- 9.1.1 In conclusion, there is an overwhelming case in favour of the grant of development consent. Inevitably a major infrastructure project such as this will cause some potential adverse effects but those effects have been minimised and mitigated through careful design and a suite of control mechanisms secured through the DCO. The benefits of the project significantly outweigh its adverse effects and development consent should be granted.
- 9.1.2 The Applicant reiterates that the Facility makes no reliance on any public funding. It will constitute private, inward investment in UK infrastructure, consistent with the vision of an independent Global Britain. The entire risk relating to the success of the project is borne by the Applicant alone.

10 References

Department for Environment, Food and Rural Affairs (Defra), the Department of Agriculture, Environment and Rural Affairs (DAERA), the Welsh Government and the Scottish Government (2020). Circular Economy Package policy statement.

Department of Energy and Climate Change (DECC) (2011a). Overarching National Policy Statement for Energy (EN-1). London: HMSO.

Department of Energy and Climate Change (DECC) (2011b). National Policy Statement for Renewable Energy Infrastructure (EN-3). London: HMSO.

Lincolnshire County Council (2016). Lincolnshire Minerals and Waste Local Plan.

South-East Lincolnshire Joint Strategic Planning Committee (2019). South East Lincolnshire Local Plan 2011 – 2036.