

Boston Alternative Energy Facility



Statement of Common Ground between Alternative Use Boston Projects Limited and Natural England

Planning Inspectorate Reference Number: EN010095

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1 Introduction

1.1 Purpose of the Statement of Common Ground

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the Development Consent Order (DCO) application for the proposed Boston Alternative Energy Facility (the Facility) made by Alternative Use Boston Projects Limited (AUBP) to the Planning Inspectorate under section 37 of the Planning Act 2008 (Planning Act).
- 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 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 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.

1.2 Description of the Proposed Development

- 1.2.1 The Facility covers 26.8 hectares (ha) and is split in to two components: the area containing operational infrastructure for the Facility (the 'Principal Application Site'); and an area containing habitat mitigation works for wading birds (the 'Habitat Mitigation Area'). The Facility will generate power from Refuse Derived Fuel (RDF) with the 'thermal treatment' process for generating power converting the solid fuel into steam, which is then used to generate power using steam turbine generators. It will have a total gross generating capacity of 102 megawatts electric (MWe) and it will deliver approximately 80 MWe to the National Grid. The Facility will be designed to operate for at least 25 years, after which it may be decommissioned.
- 1.2.2 The Principal Application Site covers 25.3 ha and is located at the Riverside Industrial Estate, Boston, Lincolnshire. This site is next to the tidal River Witham (known as The Haven) and down-river from the Port of Boston. The Habitat Mitigation Area covers 1.5 ha and is located approximately 170 m to the south east of the Principal Application Site, encompassing an area of saltmarsh and small creeks at the margins of The Haven.

1.2.3 The main elements of the Facility will be:

- Wharf and associated infrastructure (including re-baling facility, workshop, transformer pen and welfare facilities);
- RDF bale storage area, including sealed drainage with automated crane system for transferring bales;
- Conveyor system between the RDF storage area and the RDF bale shredding plant, part of which is open and part of which is under cover;
- Bale shredding plant;
- RDF bunker building;
- Thermal Treatment Plant comprising three separate 34 MWe combustion lines and three stacks;
- Turbine plant comprising three steam turbine generators and make-up water facility;
- Air-cooled condenser structure, transformer pen and associated piping and ductwork;
- Lightweight aggregate (LWA) manufacturing plant comprising four kiln lines, two filter banks with stacks, storage silos, a dedicated berthing point at the wharf, and storage (and drainage) facilities for silt and clay;
- Electrical export infrastructure;
- Two carbon dioxide (CO₂) recovery plants and associated infrastructure;
- Associated site infrastructure, including site roads and car parking, site workshop and storage, security gate, and control room with visitor centre; and
- Habitat mitigation works for Redshank and other bird species comprising of improvements to the existing habitat through the creation of small features such as pools/scrapes and introduction of small boulders within the Habitat Mitigation Area.

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) Natural England, 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 **Natural England** was established by an Act of Parliament in 2006. Natural England is a statutory consultee under the Planning Act, 2008 (the 2008 Act) and advises the government on the natural environment in England. Natural England's purpose is to help conserve, enhance and manage the natural

environment for the benefit of present and future generations, thereby contributing to sustainable development. Natural England is an executive non-departmental public body, sponsored by the Department for Environment, Food and Rural Affairs.

1.4 Terminology

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

- a) “Agreed” indicates area(s) of agreement;
- b) “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; and
- c) “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 It can be assumed that any matters not specifically referred to in the Issues section of this SoCG are not of material interest or relevance to the Natural England and therefore have not been the subject of any discussions between the Parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Natural England.

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, this is also shown in **Appendix A**.

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 Natural England

Date	Form of contact/correspondence	Key topics discussed and key outcomes
11 February 2019	Meeting	Project update meeting with presentation on project developments and next steps. Focus on terrestrial and marine ecology issues and the HRA.
6 August 2019	Letter	S42 response received from Natural England.
23 September 2019	Meeting	Meeting to discuss comments raised by Natural England following submission of the PEIR.

Date	Form of contact/correspondence	Key topics discussed and key outcomes
16 June 2020	Meeting	Project update meeting with Natural England, Environment Agency, Lincolnshire Wildlife Trust and RSPB to discuss changes to the project and provide information on upcoming consultation proposals. Also, an overview of findings from recent overwintering bird surveys and breeding bird surveys was provided.
7 September 2020	Email	Email sent to Natural England, Environment Agency, Lincolnshire Wildlife Trust and RSPB with attached copies of bird count reports for the overwintering and breeding bird numbers.
30 September 2020	Email	Email sent to Natural England, Environment Agency, Lincolnshire Wildlife Trust and RSPB with Breeding Bird Survey Report and update on the assessment.
22 October 2020	Meeting	Meeting with Natural England and RSPB to give a summary of the mitigation options discussed at the meeting on the 13 th October (attended only by RSPB, and discussion on terrestrial ecology mitigation measures).
24 November 2020	Email	Email sent to RSPB and Natural England with Marine Ecology Chapter and HRA sent for information.
1 December 2020	Email	Email sent to RSPB and Natural England with final submitted Marine Ecology Chapter and HRA sent for information alongside Breeding Bird Survey Report.
8 February 2021	Meeting	Meeting with Natural England, RSPB and Lincolnshire Wildlife Trust to present the findings of the HRA.
12 February 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and RSPB with the latest draft of the HRA 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 disturbance at mouth of The Haven was incorporated.
17 February 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and RSPB following meeting on 8 th February, an ornithology and marine stakeholder engagement plan was produced by the Applicant's consultants and circulated for review.

Date	Form of contact/correspondence	Key topics discussed and key outcomes
25 February 2021	Email	Email received from Natural England with 'red flag' review comments on the revised HRA.
26 February 2021	Meeting	Meeting with Natural England, Lincolnshire Wildlife Trust and RSPB to provide a chance for consultees to present and discuss key points from their "red flag' reviews on the HRA.
5 March 2021	Email	Email sent to Natural England, Lincolnshire Wildlife Trust and 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 26 th February. This included details of a newly introduced Habitat Mitigation Area, primarily for redshank, 250 m south of the wharf development.
12 March 2021	Email	Natural England's response to the Supplementary HRA Document sent to them on 5 th March 2021.
19 August 2021	Meeting	Meeting with Natural England, Lincolnshire Wildlife Trust and RSPB regarding marine ecology and ornithology.
1 September 2021	Meeting	Meeting with Lincolnshire County Council and Natural England to discuss Public Rights of Way.
23 September 2021	Meeting	Meeting with RSPB, Lincolnshire Wildlife Trust and Natural England to discuss marine ecology and ornithology.
26 January 2022	Email	Email from Natural England answering some of the Applicant's questions relating to: <ul style="list-style-type: none"> • Clarification regarding the maximum limits of deviation • NE request to be a consultee in relation to Requirement 12 (now Requirement 13) • NE request to be a consultee on the dML condition to submit details of the licensed activities

3 Issues

3.1 Introduction and General Matters

- 3.1.1 This document sets out the matters which are agreed, not agreed, or are under discussion between Natural England and AUBP. Although this is the final copy of the SoCG some items are left under discussion as described in the tables below.
- 3.1.2 On 17 August 2021, the Examining Authority issued a letter under Section 88 of the Planning Act and Rules 4 and 6 of The Infrastructure Planning (Examination Procedure) Rules 2010 (known as the 'Rule 6 Letter'). Annex E of the Rule 6 Letter set out a request for SoCGs between AUBP and various parties, including Natural England. For Natural England the Rule 6 Letter advises that the following issues should be in the SoCG:
- a) Generic issues
 - b) Ornithology
 - c) Intertidal and Marine Ecology (noting this is split in to (i) benthic, fish and habitats and (ii) marine mammals)
 - d) Air quality
 - e) Terrestrial Ecology
 - f) Development Consent Order, Deemed Marine Licences and related certified documentation
- 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, Table 3-2, Table 3-3, Table 3-4, Table 3-5 and Table 3-6** detail the matters which are agreed, not agreed and under discussion between the Parties, including a reference number for each matter.
- 3.1.5 Both parties recognise that Natural England have opted to submit a Risk and Issues tracker to the Examination where more detailed information on their position is provided submitted (RR-021). It is noted that this is a Natural England document.

Table 3-1 Ornithology

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 Environmental Impact Assessment Ornithology					
1.1.1	Existing Environment	Sufficient survey data has been collected to inform the EIA assessment.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: NE advises for birds, a minimum of two years site specific data is collected to allow for variation in bird use between years. Applicants are still collecting data. Assessment will not be fully informed until after examination is complete. We do not agree with the Applicant that there is sufficient information in relation to peak times</p> <p>NE queries the outcome of the data within the Ornithology Addendum. Please see NE's responses AS-002, REP2-045, REP7-027, REP8-023, REP8-024 and Deadline 10.</p> <p><u>The Applicant's Position</u> The Applicant has collected sufficient survey data to inform the assessment this includes two years' worth of survey data at peak times for waterbirds (i.e. overwinter). The baseline data is supported by the WeBS data obtained predominantly for count sectors at the Mouth of the Haven.</p> <p>The Applicant has summarised the baseline surveys undertaken within the</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					Final Waterbird Survey Report Summary of Data submitted at Deadline 8 (document reference 9.91).
1.1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the Project.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: Reliant on having appropriate characterisation surveys. Please see REP2-046 Comments on 9.15: Addendum to Chapter 17 and Appendix 17.1 -Benthic, Ecology, Fish and Habitats [REP1-028]</p> <p><u>The Applicant's Position</u></p> <p>The impact assessment methodology is appropriate as set out in the ES (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)).</p>
1.1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NE do not currently agree with Worst Case Scenarios presented and conclusions. In particular (but not exclusively) this concern relates to cumulative/in-combination assessments and/or in direct consequences of the proposal. A full data set is required to assess the worst case scenarios. Whilst numbers may be over all lower in Autumn passage compared to overwintering,</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>some species have peak numbers in Autumn. In addition, further clarity on the impact pathways and the potential impacts.</p> <p><u>The Applicant's Position</u> Worst case scenarios are defined in relation to many of the impacts, where relevant, in the Environmental Statement (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)) and further within the Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum (document reference 9.13, REP1-026). Cumulative effects are discussed below in row 1.1.5.</p> <p>The only data missing from the two years' worth of survey data is for autumn passage data. The number of birds during Autumn passage will be lower than overwintering numbers, and therefore the worst case period for birds has been provided.</p> <p>The Application does not include for any relocation of fishing vessels or their wharf from Boston town centre.</p>
1.1.4	Assessment Conclusions	The conclusions of the assessment of impacts	Not Agreed	Not Agreed	<u>NE's Position</u>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
		for construction; operation and decommissioning- are agreed.			<p>NOT AGREED: NE's position on the EIA assessment for ornithology is provided in REP2-045, Comments on the HRA Ornithology Addendum, REP5-013 Appendix B3 Natural England's Advice on Ornithology Documents Submitted at Deadline 3 and 4 and REP5-021 Appendix H4 Natural England's Risk and Issues Log.</p> <p><u>The Applicant's Position</u> The Applicant's position on the conclusions of the assessment of impacts are set out in Chapter 17 Marine and Coastal Ecology and Appendix 17.1 HRA update submitted at Deadline 5 (document reference 9.59, REP5-006) This document includes information relating to NE's main outstanding concern regarding disturbance events and energy usage by birds (see Section 7).</p> <p>With regard to disturbance due to changes in management of vessels within the Haven, the Applicant has submitted at Deadline 6 a document which sets out the process for ensuring the ongoing management takes regard of SPA bird species (document reference 9.70, REP6-033).</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1.1.5	Assessment Conclusions	The conclusions of the assessment of cumulative impacts are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: NE note in their Relevant and Written Representation "Natural England advises that the projects to be considered cumulatively/in-combination is not a full list. Taking into account projects in the full foraging range of interest features."</p> <p>At Deadline 5, NE note that overall, due to outstanding issues with the assessment it remains unclear if all of the in-combination impacts have been identified and/or appropriately assessed (REP5-012).</p> <p><u>The Applicant's Position</u> The Applicant responded to NE's initial comment with regards to cumulative schemes at row 93 of Table 1-13 of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035). The Applicant maintains its position from this document that there is not predicted to be any likely cause for effect outside the localised environment around The Haven and no other plans and projects require cumulative consideration.</p>
1.1.6	Mitigation	Appropriate mitigation is provided	Not Agreed	Not Agreed	<p><u>NE's Position</u></p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>NOT AGREED: NE would like further clarity on the implementation and impacts of the proposed mitigation works for redshank on the saltmarsh habitat.</p> <p>NE have outstanding comments on the OLEMS to be addressed. And currently we are unable to agree that the mitigation measures will be fit for purpose to suitably minimise the impacts from the proposals for both priority habitats and protected species.</p> <p>Monitoring during and after construction need to be established (including increased vigilance zone during piling works) and an adaptive response in the event that mitigation at the development site is ineffective. If mitigation at the development site proves ineffective there remains a risk that impacts here become a matter of compensation due to functional linkage.</p> <p><u>The Applicant's Position</u> The Applicant considers that mitigation set out in the application is appropriate and sufficient to the potential effect identified. The Applicant submitted an</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					updated OLEMS document at Deadline 7 (document reference 7.4(2), REP7-037).
2 Habitats Regulations Assessment Ornithology (ES Appendix 17.1 Habitats Regulations Assessment, Addendums and Additional Submissions)					
1.2.1	Existing Environment	Sufficient survey data has been collected to inform the assessment.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: NE's position is set out in AS – 002 and Deadline 8 submissions</p> <p><u>The Applicant's Position</u> The Applicant has collected sufficient survey data to inform the assessment this includes two years' worth of survey data at peak times for waterbirds (i.e. overwinter). The baseline data is supported by the WeBS data obtained predominantly for count sectors at the Mouth of the Haven. In summary, the Applicant has summarised the baseline surveys undertaken within the Final Waterbird Survey Report Summary of Data submitted at Deadline 8 (document reference 9.91).</p> <p>Further assessment was provided in the Chapter 17 update (document reference 9.59, REP5-006) submitted at Deadline 5.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1.2.2	Assessment Methodology	The assessment methodologies used for the HRA provide an appropriate approach to assessing potential impacts of the Project.	Not agreed	Not agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: Whilst Natural England can agree with the use of HRA matrices the significance of the impacts can't be concluded due to incomplete survey data.</p> <p><u>The Applicant's Position</u></p> <p>The assessment methodologies used for the HRA are sufficient.</p>
1.2.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Not agreed	Not agreed	Please see point 1.1.3.
1.2.4	Assessment Conclusions	The Information to Support Appropriate Assessment Report Adequately characterises the baseline environment in terms of Onshore Ornithology.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: Natural England advises that, for redshank in particular, there will need to be an updated 'in-combination' HRA assessment on impacts at the development site and Mouth of Haven roosts as both areas of impact affect this species.</p> <p>Please see Natural England's Position on the Potential Impacts to The Wash SPA</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>Annex I passage and Overwintering Birds (AS – 002).</p> <p>NE advises that each impact needs to be considered alone and, especially given uncertainty about efficacy of the mitigation, the two need considering in-combination.</p> <p>At the individual level if redshank using either the MOTH of Haven or development site roosts are disturbed and go to the other then impacts on the individual are felt multiple times. Magnifying local impacts. This may have further consequence at the site level.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant considers that assessment of impacts at the Principal Application Site and the MOTH, in turn, was the correct approach to Appropriate Assessment of redshank as a feature of protected sites.</p> <p>The Applicant submitted Chapter 17 and HRA update at Deadline 5 (document reference 9.59, REP5-006) which showed the redshank using the development site were unlikely to be connected to the SPA populations.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1.2.5	Assessment Conclusions	The conclusions of the assessment of impacts for construction; operation and decommissioning- are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: Please see NE comments on the HRA in REP7-027.</p> <p><u>The Applicant's Position</u> The conclusions of the HRA assessment are appropriate. Further information was provided in the Chapter 17 Marine and Coastal Ecology and Appendix 17.1 Habitats Regulations Assessment Update (document reference - 9.59, REP5-006).</p>
1.2.6	Assessment Conclusions	The conclusions of the assessment of in combination effects are agreed.	This point is covered above in row 1.1.5.		
1.2.7	Compensation	Appropriate compensation is provided.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: Appendix J1 –Natural England's Advice on BAEP Derogation Case - Alternatives and Compensation Measures (REP3-031) states NE's position on this matter. Please see REP8-023. It is noted that compensation is not provided, it is only without prejudice suggested with 'developer confidence' of actual delivery.</p> <p>Given impacts at the Mouth of the Haven (MOTH), NE considers that compensation will be necessary. The most recently</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>received documents are material to pinning this down and will not be reviewed completely till mid-March.</p> <p>Surveys to fully characterise risk are ongoing. Worst case scenario is that a significant roost, both in its own right, and as a component of the Wash roost network, is lost and displaced birds suffer significant energetic impacts.</p> <p>Our position is set out in REP8-023.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant submitted an updated without prejudice Compensation Measures report at Deadline 8 (document reference 9.30(2)). The Applicant's surveys are completed, the Final Waterbird Survey Report Summary of Data was submitted at Deadline 8 (document reference 9.91), with the full report submitted at Deadline 9 (document reference 9.98, REP9-032).</p>

Table 3-2 Benthic Ecology, Fish and Habitats

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 Environmental Impact Assessment (ES Chapter 17 Marine and Coastal Ecology, Addendums and Additional Submissions)					
2.1.1	Existing Environment	Sufficient data has been collected to inform the assessment.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: The applicant has not completed up-to-date botanical surveys (NVC level) of the saltmarsh that would be lost by the construction of the wharf area (0.99 ha) or a baseline survey of the Habitat Mitigation Area. Rather the applicant has relied on data collected by the EA from 2011, 2014 and 2017 (Holden, 2017). National specialists have reviewed the EA data and have advised that project/site specific ground truthing is still required to limitations of surveys undertaken.</p> <p>NE specialist undertook a site visit themselves on 7th September 2021 to do said ground truthing and collected quadrat data due to a concern about the level of information collected. This information has been shared by NE to the applicant and supports NE's position.</p> <p><u>The Applicant's Position</u> Environment Agency (EA) in 2017 confirmed the condition assessments undertaken, by different companies, in 2011 and 2014, as of</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					poor quality. The Applicant does not consider that there is any reason for a condition change since 2017 and all three surveys have identified the saltmarsh as being of poor quality thereby giving confidence this is the case.
2.1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the Project.	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: NE disagree with classification of poor saltmarsh quality. NE undertook a saltmarsh survey on the 07/09/21 and concluded the condition of the saltmarsh to be moderate classification</p> <p>We have provided a summary of our survey visit and compared the habitat data collected (in terms of NVC rarity/ extent) with that from the wider Site Condition Assessment completed on The Wash during the summer/autumn of 2020 – that condition assessment was completed by Sarah Lambert (who is a botanical consultant with thirty-six years of experience in ecological survey assessment and has high level botanical identification skills, being the Botanical Society of Britain and Ireland's (BSBI) County Recorder for South Lincolnshire).</p> <p><u>The Applicant's Position</u></p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					The impact assessment methodology is appropriate as set out in the ES.
2.1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE do not currently agree with Worst Case Scenarios presented and conclusions. In particular (but not exclusively) this concern relates to cumulative/in-combination assessments and/or in direct consequences of the proposal e.g. increased dredging, vessel movements and erosion. Further comments are provided in RR – 021, REP2 – 042, REP2 – 046, REP5-014, REP5-017.</p> <p>NE consider a maximum volume of maintenance dredging and frequency should be confirmed.</p> <p><u>The Applicant's Position</u></p> <p>Worst case scenarios are defined in relation to many of the impacts, where relevant, in the Environmental Statement (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)) and further within the Chapter 17 Marine and Coastal Ecology and Appendix 17.1 - Habitats Regulations Assessment - Ornithology Addendum (document reference 9.13,</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>REP1-026) and the Addendum to Chapter 17 and Appendix 17.1 - Benthic Ecology, Fish and Habitats (document reference 9.15, REP1-028).</p> <p>It is anticipated that the annual volume of material from maintenance dredging of the berthing pocket would be approximately 8,000 m³ / year. This is based on a predicted 0.5 m accretion per year. The details of the maintenance dredging, including the volume to be dredged will be approved by the MMO, following consultation with the relevant statutory nature conservation body under Condition 12 of the DML. The Applicant has not amended the draft DML to include a maximum volume of maintenance dredging or specify frequency as the inclusion of these details is not consistent with the approach to maintenance dredging on other DMLs. Bathymetric surveys will be undertaken during the operation of the wharf to determine actual levels of accretion. The MMO has agreed to this approach.</p>
2.1.4	Assessment Conclusions	The conclusions of the assessment of impacts for construction, operation and	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE have various concerns with the conclusions of the assessment including the following points:</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
		decommissioning are agreed.			<ul style="list-style-type: none"> • NE have concerns with vessel movements and dredging increasing erosion of mud and saltmarsh (Particularly at the wharf location and immediately downstream; and at the mouth of the Haven). • NE have concerns over smothering of saltmarsh vegetation due to release of sediment. • NE have concerns with the vessel berth area layer of gravel/ chalk resulting in a change in habitat and potential scouring of riverbed in the surrounding areas. • Potential Air Quality concerns <p><u>The Applicant's Position</u></p> <p>At Deadline 3 the Applicant provided "Response to Environment Agency's queries on Estuarine Processes (document reference 9.44, REP3-020)", and is updated at Deadline 9 to take account of vessel speed changes. The EA have requested that due to the residual low risk of significance in erosion that erosion monitoring is included. The Applicant has included this within the OLEMS submitted at Deadline 7 (document reference 7.4(2), REP7-037).</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					Other points on smothering of saltmarsh and the gravel/ chalk berthing area have previously been responded to in row 79 and row 85 (respectively) of Table 1-13 of the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035). Air quality is addressed in Table 3-4 .
2.1.5	Assessment Conclusions	The conclusions of the assessment of cumulative impacts are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: At Deadline 5, NE note that overall, due to outstanding issues with the assessment it remains unclear if all of the in-combination impacts have been identified and/or appropriately assessed (REP5-012).</p> <p><u>The Applicant's Position</u></p> <p>With regards to Benthic Ecology, Fish and Habitat's the Applicant considers all cumulative and in-combination effect have been assessed.</p>
2.1.6	Mitigation	Appropriate mitigation is provided	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE provided advice on the OLEMS at REP5-017. NE advises that there needs to be sufficient comfort in the assessment at this stage to give the SoS comfort that effective mitigation measures can be adopted to suitably minimise the impacts and where that is not possible appropriate compensation measures are</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>secured to offset the impacts. Given the scale and significance of the impacts is not known and we disagree with the applicant conclusions of no AEoI this is unlikely there will be agreement.</p> <p>In addition we have several outstanding points in the OLEMS in relation to the mitigation measures REP5 – 017 which have not been addressed in a revised OLEMS.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant submitted an updated OLEMS document at Deadline 7 (document reference 7.4(2), REP7-037). Responses to NE's comments on the OLEMS were provided in the Second Report on Outstanding Submissions (document reference 9.68, REP6-032).</p>
2 Appendix 17.1 Habitats Regulations Assessment and associated Addendums					
2.2.1	LSE to Habitat and Fish Designated Features	The Habitats Regulations Assessment is appropriate for assessing likely significant effects on Benthic Ecology, Fish and Habitats.	Agreed	Agreed	<p><u>NE's Position</u></p> <p>Natural England can confirm that there are no designated site fish species likely to be impacted, again there is unlikely to be impacts to Annex I habitats from the proposals unless as part of delivering mitigation and/or compensation measures.</p> <p><u>The Applicant's Position</u></p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					The Habitats Regulations Assessment is appropriate for assessing likely significant effects on Benthic Ecology, Fish and Habitats. There are no likely significant effects within the designated sites.

Table 3-3 Marine Mammals

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 Environmental Impact Assessment (ES Chapter 17 Marine and Coastal Ecology, Addendums and Additional Submissions)					
3.1.1	Existing Environment	Sufficient data has been collected to inform the assessment.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE considers Carter et al. 2020 should be used instead of Russell et al. 2017.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has provided a full response to this point at "Response to the Marine Management Organisation (MMO) and Natural England's queries regarding Marine Mammals and Fish" (document reference 9.49, REP4-014).</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					It is not currently possible to obtain absolute density data from the Carter et al., 2020 report for seals. This is due to the updated seal density shapefiles being based on relative density estimates, not absolute density, as previous versions (e.g. Russell et al., 2017).
3.1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the Project.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE is in the process of updating our conservation advice package to change the conservation objective for The Wash harbour seal to 'restore'. This is based on the results of the latest SMRU Wash seal survey. This report can be provided to the applicant if required. Therefore, we advise that a more precautionary approach must be taken and impacts which could further hinder the restore objective to the site should be avoided, reduced or mitigated.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has provided a full response to this point at "Response to the Marine Management Organisation</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					(MMO) and Natural England's queries regarding Marine Mammals and Fish" (document reference 9.49, REP4-014). The Applicant confirms as there is no publicly available information on this change, and all relevant documents have the current target to 'maintain' as was assessed against in the Habitats Regulation Assessment Environmental Statement - Appendix 17.1 – Habitats Regulations Assessment (document reference 6.4.18, APP-111).
3.1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Agreed in part	Agreed in part	<p><u>NE's Position</u></p> <p>AGREED IN PART: Natural England agrees that the Applicant has considered all of the potential worst case scenario, though we might not agree with the outcomes of the assessments. We welcome the commitment to undertake mitigation measures. But again we do not agree that those mitigation measures are sufficient to suitably minimise the impacts. Please see REP8-025.</p> <p><u>The Applicant's Position</u></p> <p>Worst case scenarios are defined in relation to many of the impacts, where</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					relevant, in the Environmental Statement (Chapter 17 Marine and Coastal Ecology, (document reference 6.2.17, APP-055)).
3.1.4	Assessment Conclusions	The conclusions of the assessment of impacts for construction, operation and decommissioning are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: NE notes further evidence could be presented to demonstrate if seals avoid interactions with vessels within The Wash.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has provided a response to NE's concern within Response to the Marine Management Organisation (MMO) and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014). An extensive review of the literature on harbour seal and vessel co-existence has not found any information or evidence to support seals being attracted to vessels (or not) specifically within The Wash.</p>
3.1.5	Assessment Conclusions	The conclusions of the assessment of	Not agreed	Not agreed	<u>NE's Position</u>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
		cumulative impacts are agreed.			<p>NOT AGREED: NE agreed that all plans and projects in relation to MM have been considered. However, we do not agree with the conclusions as have outstanding concerns with the mitigation measures.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has considered all plans and project in relation to mammals. The conclusions of the cumulative impact assessment are appropriate.</p>
3.1.6	Mitigation	Appropriate mitigation is provided	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: Concerns raised at REP8-025 remain.</p> <p>NE advises that further consideration of non-impact piling is considered as mitigation such as vibro piling.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant has provided responses to NE's comments within Response to the Marine Management Organisation (MMO) and Natural England's queries regarding Marine Mammals and Fish (document reference 9.49, REP4-014). Further comments raised at</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>Deadline 8 have been addressed at Deadline 9.</p> <p>Piling options will be confirmed in the final MMMP, to be completed in consultation with Natural England (in accordance with the DML 17.1).</p>
2 Appendix 17.1 Habitats Regulations Assessment and associated Addendums					
3.2.1	Existing Environment	Sufficient data has been collected to inform the assessment.	This is covered above in row 3.1.1.		
3.2.2	Assessment Methodology	The impact assessment methodologies used for the HRA provide an appropriate approach to assessing potential impacts of the Project.	This is covered above in row 3.1.2.		
3.2.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	This is covered above in row 3.1.3.		
3.2.4	Assessment Conclusions	The conclusions of the assessment of impacts for construction, operation and decommissioning are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NE have continued concerns that not all the risks related to the proposal have been fully considered which means that, following the precautionary principle, we are unable to exclude, beyond all reasonable</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>scientific doubt, no Adverse Effect on Integrity of The Wash & North Norfolk Coast SAC.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant considers there is no AEol on the Wash & North Norfolk Coast SAC and has provided information within Appendix 17.1 HRA (document reference 6.4.18, APP-111) and the Marine Mammals Addendum (document reference 9.14, REP1-027) as well as responses to NE's questions throughout examination.</p>
3.2.5	Assessment Conclusions	The conclusions of the assessment of cumulative impacts (in terms of onshore ecology) are agreed.	This is covered above in row 3.1.5.		
3.2.6	Compensation	Appropriate compensation is provided.	Not agreed	Not agreed	<p><u>NE's position</u></p> <p>NOT AGREED: NE has not provided specific comments on compensation in relation to marine mammals as we believe that appropriate mitigation measures can and should be adopted. However, we are not agreement that impacts will be suitably avoided, reduced and mitigated.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p><u>The Applicant's Position</u> The Applicant considers there is no AEoI on the Wash & North Norfolk Coast SAC.</p>

Table 3-4 Air Quality

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 Environmental Impact Assessment (ES Chapter 14 Air Quality, Air Quality Deposition Monitoring Plan and Outline Air Quality and Dust Management Plan)					
4.1.1	Existing Environment	Sufficient data has been collected to inform the assessment.	Under discussion	Under discussion	<p><u>NE's Position</u> OUTSTANDING: Natural England position remains as per RR-021, REP2-042 and REP5- 014. This is because Natural England's has been unable to review Applicant's submissions beyond Deadline 4 due to no specialist availability</p> <p><u>The Applicant's Position</u> The Applicant considers sufficient baseline data has been included within Chapter 14 Air Quality of the ES (REP1-006).</p>
4.1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an	Under discussion	Under discussion	<p><u>NE's Position</u></p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
		appropriate approach to assessing potential impacts of the Project.			<p>NE's current position is within REP5-014. With regards to methodologies NE note:</p> <ul style="list-style-type: none"> • Assessment should explain the criteria applied to the in-combination search. • NE requests clarification on what is meant by 'permitted levels'. <p>Natural England has been unable to review Applicant's submissions beyond Deadline 4 due to no specialist availability</p> <p><u>The Applicant's Position</u> The Applicant considers the air quality impacts assessment methodology is sufficient. Responses to specific points have been addressed within the Second Report on Outstanding Submissions (document reference 9.68, REP6-032).</p>
4.1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Under discussion	Under discussion	<p><u>NE's Position</u> OUTSTANDING: NE's position on worst case scenarios is presented in REP2-042. Natural England has been unable to review Applicant's</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>submissions beyond Deadline 4 due to no specialist availability</p> <p><u>The Applicant's Position</u> The Applicant considers the worst case assumptions are appropriate. The Applicant has responded to NE's REP2-042 comment within the Report on Outstanding Deadline 2, 3 and 4 Submissions (document reference 9.63, REP5-008). The assessment results together with the evaluation of the impact as Minor Adverse represents the output of a worst-case assumptions for all variables and parameters in the assessment.</p>
4.1.4	Assessment Conclusions	The conclusions of the assessment of impacts for construction, operation and decommissioning are agreed.	Under discussion	Under discussion	<p><u>NE's Position</u> OUTSTANDING: NE's current position is within REP2-042 and REP5-014. Natural England has been unable to review Applicant's submissions beyond Deadline 4 due to no specialist availability</p> <p><u>The Applicant's Position</u> The Applicant considers the conclusions of the assessment of impacts for Air Quality are sufficient. The Report on Outstanding Deadline 2, 3 and 4 Submissions (document</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					reference 9.63, REP5-008) includes the Applicant's response provided at Deadline 5. The Second Report on Outstanding Submissions (document reference 9.68, REP6-032) responds to NE's Deadline 5 submission.
4.1.5	Assessment Conclusions	The conclusions of the assessment of cumulative impacts are agreed.	Under discussion	Under discussion	<p><u>NE's Position</u> OUTSTANDING: NE's current position is within REP5-014.</p> <p>As per the Risk and Issues Log submitted at Deadline 8 (REP8-027), with regards to the in-combination assessment – NE notes that no further projects have been identified by stakeholders for consideration within the assessment and that Natural England's SSSI Impact Risk Zone criteria, which were applied to all designated sites considered in the assessment. Therefore, we consider this matter resolved.</p> <p>However, NE have an outstanding comment in relation to mitigation for in-combination effects (REP5-014). Natural England has been unable to review Applicant's submissions beyond Deadline 4 due to no specialist availability</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p><u>The Applicant's Position</u></p> <p>Project alone and in-combination air quality impacts upon ecological receptors during the construction phase of the proposed Facility are presented in paragraphs 14.7.21 to 14.7.28 and Tables 14.22 to 14.25 of the updated ES Chapter 14 Air Quality (document reference 6.2.14 REP1-006). All of the in-combination Predicted Environmental Concentrations (PEC) would be below the Critical Levels/lower Critical Load ranges. It is concluded that these effects are not significant and, therefore, no additional mitigation is considered to be necessary. A technical note was issued at Deadline 6 to provide a comparison between effects at maximum emission limits and at realistic emission levels: "Comparison of Predicted Critical Load and Level Results Using Maximum Permissible Emissions Limits and Realistic Emission Scenarios" (document reference 9.72, REP6-035).</p>
4.1.6	Mitigation	Appropriate mitigation is provided	Under discussion	Under discussion	<p><u>NE's Position</u></p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>OUTSTANDING: NE's current position is within REP5-014. Which includes some key points on mitigation:</p> <ul style="list-style-type: none"> • Dust impact mitigation measures and monitoring; and Mitigation from impacts proposed in the Outline Air Quality and Dust Management Plan (document reference 9.39, REP3-015) and the Air Quality Deposition Monitoring Plan (document reference 9.51, REP4-016). <p>Natural England has been unable to review Applicant's submissions beyond Deadline 4 due to no specialist availability</p> <p><u>The Applicant's Position</u> The Applicant considers the mitigation provided is appropriate. The Second Report on Outstanding Submissions (document reference 9.68, REP6-032) responds to NE's Deadline 5 submission.</p> <p>An updated Air Quality Deposition Monitoring Plan (document reference 9.51(1), REP6-027) was submitted to the examination at Deadline 6. The</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p>updated Deposition Monitoring Plan includes a scheme of monitoring of NOx and ammonia concentrations within the designated sites and saltmarsh habitats in the vicinity of the Facility to confirm that the actual emissions from the Facility would be substantially lower than those which were considered in the assessment. This is in addition to the continuous emissions monitoring programme which will be required at the Facility as part of the Environmental Permit.</p> <p>Table 14.30 of updated Chapter 14 Air Quality (document reference 6.2.14(1), REP1-006) contains the results of an assessment of the air quality impacts of emissions from the Facility upon habitats within The Wash SPA, SSSI and Ramsar site and The Wash and North Norfolk Coast SAC. It is considered that these impacts are Not Significant and therefore do not require any mitigation measures.</p> <p>A response to the question on mitigation for designated sites was provided in row 113 of Table 1-13 of the Applicant's Comments on Relevant Representations (document</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					reference 9.2, REP1-035). The Applicant submitted an Outline Air Quality and Dust Management Plan at Deadline 3 (document reference 9.39, REP3-015). This is in addition to the Outline Code of Construction Practice (document reference 7.1, APP-120) which was submitted with the DCO application.

Table 3-5 Terrestrial Ecology

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 Environmental Impact Assessment (ES Chapter 12 Terrestrial Ecology)					
5.1.1	Existing Environment	Sufficient survey data has been collected to inform the assessment.	Agreed	Agreed	<p><u>NE's position</u></p> <p>AGREED: Given that the transect survey locations have been focused on the most suitable areas for bats, with the biggest impacts, i.e. the removal of the hedgerow, we can accept these and further transect surveys are not considered necessary. This has now been confirmed by NE's Wildlife Adviser.</p> <p>Natural England have advised that Preconstruction surveys would need to be carried out to verify presence or absence of badgers, otters and water voles.</p> <p><u>Applicant's position</u></p> <p>As noted in the Applicant's Comments on Relevant Representations (document reference 9.2, REP1-035), the Applicant has committed to undertaking pre-construction surveys for those species where no evidence of them was noted during the surveys undertaken to date. This is presented within the OLEMS (document</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					reference 7.4(2), REP7-037) which is secured within Requirement 6 of the DCO.
5.1.2	Assessment Methodology	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the Project.	Agreed	Agreed	
5.1.3	Assessment Methodology	The worst case scenario presented in the assessment is appropriate.	Agreed	Agreed	
5.1.4	Assessment Conclusions	The conclusions of the assessment of impacts for construction, operation and decommissioning are agreed.	Not agreed	Not agreed	<p><u>NE's position</u></p> <p>NOT AGREED: If vessels are arriving outside of daylight hours the light pollution sections need updating to include potential light pollution from vessels. Mitigation measures need to be secured and relevant ES chapters updated.</p> <p><u>Applicant's position</u></p> <p>The Applicant considers the conclusions of the assessment of impacts are appropriate.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					A response is provided within Row 118 of Table 1-13 of the Responses to Relevant Representations (document reference 9.2, REP1-035). A further response to this point was included in the Third Report on Outstanding Submissions (document reference 9.78, REP7-010).
5.1.5	Assessment Conclusions	The conclusions of the assessment of cumulative impacts (in terms of onshore ecology) are agreed.	Agreed	Agreed	
5.1.6	Mitigation	Appropriate mitigation is provided	Agreed	Agreed	<p><u>NE's position</u> NE acknowledge that an additional figure has been provided in the updated OLEMS submitted at Deadline 3 (appendix 2) which includes additional planting and bat box locations which is acceptable.</p> <p>NE agree with the reptile mitigation measures set out in the Outline Reptile Precautionary Method of Working (PMoW) [REP2-015].</p> <p>NE note mitigation measures should be considered for bats, birds and invertebrates during construction and operation.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p><u>Applicant's position</u> Appropriate mitigation is provided. An additional figure is provided in the OLEMS updated at Deadline 3 - see Appendix 2. This figure includes additional planting and bat box locations.</p> <p>As a principle of the Outline Lighting Strategy which will be secured through Requirement 17 of the DCO for an Operational Lighting Scheme motion sensors will be used to ensure lighting is only used when needed.</p>

Table 3-6 Other Matters

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
1 England Coast Path					
6.1.1	England Coast Path - Route	The alternative route for the proposed England Coast Path is suitable	Not Agreed	Not Agreed	<p><u>NE's Position</u> NOT AGREED: NE's latest position on the England Coast Path (ECP) is provided in Appendix E3 (REP5-015). NE maintains the alternative route suggested which directly follows the coast.</p>

SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p><u>The Applicant's Position</u></p> <p>The Applicant maintains the proposed route as set out in the Application and has provided a rationale for not being able to consider NE's proposed alternative route in REP3-023.</p>
6.1.2	England Coast Path - HRA	The proposed England Coast Path alignment does not affect SPA features.	Agreed	Agreed	<p><u>NE's Position</u></p> <p>NE are in agreement that there will be no effect on SPA features as noted in REP5-012.</p> <p><u>The Applicant's Position</u></p> <p>The Applicant's position is provided within the Habitats Regulations Assessment (HRA) Screening and Integrity Matrices (document reference 9.42, REP3-018) which concludes the ECP will not effect designated features of the Wash SPA/ Ramsar or The Wash and North Norfolk Coast SAC.</p>
2 Draft Development Consent Order (DCO)					
6.2.1	Articles, Requirements and Protective Provisions	The articles, requirements and protective provisions set out in the draft DCO (and deemed Marine Licence) are agreed.	Not Agreed	Not Agreed	<p><u>NE's Position</u></p> <p>NOT AGREED: Natural England most recent position can be found at REP9-061. However, we note that a further DCO/dML has been provided at Deadline 9 and are in the process of reviewing to advise the ExA at Deadline 10.</p>

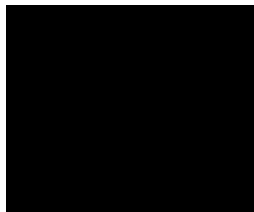
SoCG Reference	Topic	Statement	Natural England's Position	AUBP's Position	Notes
					<p><u>The Applicant's Position</u></p> <p>The Applicant has provided a response to REP9-061 in the Final Report on Outstanding Submissions (document reference 9.104) at Table 2-4. Additionally, with regard to the matters in NE's Deadline 9 Risks and Issues Log, the Applicant has provided a response to point 5 regarding the limits of deviation in the Second Report on Outstanding Submissions (document reference 9.68, REP6-032) and updated the draft DCO at Deadline 9 (document reference 2.1(5), REP 9-004) to address the comments in rows 8 and 9 of the Risks and Issues Log. The Applicant is unclear whether NE has any substantive outstanding concerns with regard to the drafting of the DCO.</p>

4 Agreement of this Statement of Common Ground

4.1 Statement of Common Ground

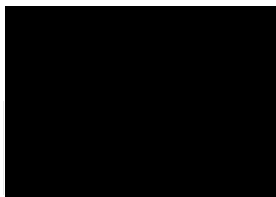
4.1.1 This Statement of Common Ground has been prepared and agreed by the Parties.

Signed



Paul Salmon
Project Manager for the Boston Alternative Energy Facility on behalf of Alternative
Use Boston Projects Limited
Date: 04/04/2022

Signed



Louise Burton
Marine Senior Adviser on behalf of Natural England
Date: 05/04/2022

Appendix A Previous Engagement

From: [REDACTED]
Subject: RE: Boston Alternative Energy Facility - Natural England meeting 11 Feb 2019
Date: 31 January 2020 14:40:26
Attachments: [image001.jpg](#)
[image002.jpg](#)

Hi Abbie
Below are the notes from the meeting with Natural England 11/2/2019
Kind regards
Gary
Gary Bower BSc (Hons), CRWM, MCIWM
Associate Director
Environment Group
Industry & Buildings – Europe



Royal HaskoningDHV is the only engineering consultancy with [REDACTED] since 2010

P Please consider the environment before printing this e-mail

From: Denning, Louise [REDACTED]
Sent: 20 February 2019 08:48
To: Claire Smith <[REDACTED]>
[REDACTED]
[REDACTED]
[REDACTED]

Subject: Re: Boston Alternative Energy Facility

Dear Claire,

Thank you for coming to Lincoln to meet with me and Ros Deeming on Monday the 11th Feb. I have had an initial discussion with my colleague Louise Burton earlier in the week about the project. Lou Burton will be the Senior Advisor on this case due to it being a NSIP project and also as the proposal could cause impacts on the marine environment in particular on The Wash SPA, and The Wash and North Norfolk Coast SAC.

The main concerns that Natural England wish to highlight to you that the PEIR and HRA should focus on are:

consideration of how you will be able to demonstrate that the works across the inland fields (where the main facility is based) and along the channel (where the wharf is situated) will not affect breeding or over-wintering/ passage birds that are qualifying features of The Wash SPA. Project specific evidence will be needed to show that this area is not used as a supporting feature. We are aware from discussions with the Environment Agency that data is not held for the Boston Barrier or Boston Haven projects. In our opinion bird surveys should be started immediately for breeding birds, showing likely nesting and feeding areas, and for passage/ over-wintering. We understand that with your proposed submission in September – the over-wintering bird data will need to be submitted during the examination process. Considering the importance of this data we would suggest ensuring the survey protocol is sufficiently robust *i.e.* with 2 monthly visits between now and the project examination. We would like to review the

survey protocol.

Further details on the number of boat movements along the Boston Haven and into The Wash are necessary for the assessment. During the presentation I recorded that the number of boat movements was around 570 per year. Can you confirm if this is return trips *i.e.* in/out of the channel or single journeys, and also whether there is any seasonal differences in the number of trips throughout the year. We would also like to understand if boat activity will be daily and if so how many trips per day are likely. If you could provide some indication of the size and type of the vessel. The number of boat trips may affect marine mammals in The Wash as you highlighted, but also may cause erosion damage to the channel through wave action. We are also concerned about the use of water from the channel as ballast as this could cause a dewatering of the channel and could also cause the spread of invasive species.

Considering the newly constructed wharf area will result in the dredging and loss of mudflat by ca. 40m you will need to demonstrate (by sediment modelling both during the construction and operation phase) that the modification of the shoreline with the construction of the wharf at this location will not have a knock on affect to the adjacent priority habitats *i.e.* saltmarsh and mudflats and also to the SPA and SAC further downstream. Also that changing the channel will not cause a change in the erosion/ deposition rates along the channel. I understand as a general policy on The Wash, sediments dredged from the system need to be returned to The Wash offshore so that sediment is not lost.

The provision of an up-to-date botanical survey of the saltmarsh (to National Vegetation Classification level and reference to the Common Standards Monitoring approach for saltmarsh) which will be lost within the footprint of the wharf as well as the adjacent downstream section. This is necessary to assess the impacts to the priority habitat. As I mentioned there is a small chance that the Boston Horsetail (*Equisetum ramosissimum*) may be along that stretch. This is a Schedule 8 Plant species. There is also Sea Wormwood (*Artemisia maritima*) which has a local distribution along the Boston Haven in The Wash.

Natural England's standing advice on protected species including Badgers, Bats, Otter, Water Vole is available [here](#). As I mentioned I would suggest repeating the Water Vole survey due to an exceptionally dry summer in 2018, and also to resurvey for Badgers as they are known in the local area (from the south along the sea defence) and have been recently.

I have not yet had a chance to consider options for off-site compensation and this would need to be discussed further with my colleagues as the options for the creation of mudflat/ saltmarsh habitat in The Wash is limited.

I have been in contact with the Environment Agency and I understand from them you have already been in contact with the key team members. For information I think the key individuals are Chris Walker (████████████████████ k) who is coordinating the response from FCRM, and Annette Hewitson (████████████████████) is coordinating overall responses through Sustainable Places for the EA as a whole. You may wish to also get in contact with Terry Wright (who works on the Boston Haven Embankment project in the EA NEAS team) – (████████████████████)

I mentioned in the meeting perhaps presenting at some point your project to the Boston Advisory Group – and I have forwarded details (from your webpage) to the Wash and North Norfolk Marine Partnership Project Manager Sam Lew - s (████████████████████) who will circulate the email to members of the group.

I will also in due course review, in light of your project, the standing advice we follow for working along The Haven – when I have this ready I will be able to share it with you.

As Ros noted you will need to consider the McMillian Way and the proposed English Coast Path. I hope this summary email assists with the direction of our thoughts specifically concerning The

Wash SPA and Ramsar and The Wash and North Norfolk Coast SAC. Considering the likely significant effect on the marine and coastal environment I would suggest organising a meeting with Lou Burton in due course, once you have answers to our concerns outlined above. Lou Burtons email is [REDACTED].

I will in touch again in due course.

Kind regards

Louise Denning

Dr Louise Denning

Lead Adviser

Historic, Coastal and Landscape Team

Natural England, Ceres House, 2 Searby Road, Lincoln, LN2 4DW

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

If your enquiry is about undertaking work on or near a [REDACTED] (SSSI; SPA; SAC;RAMSAR) please complete the [REDACTED] document and send your notice to [REDACTED]

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

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Date: 06 August 2019
Our ref: 286773
Your ref: none



Bethan Griffiths
Alternative Use Boston Projects Ltd

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

T 0300 060 3900

Dear Ms Griffiths

Planning consultation: Boston Alternative Energy Facility, Riverside Industrial Estate, Boston
Location: Statutory Consultation on a proposed application for a Development Consent Order section 42 of the Planning 2008 and Reg 13 of the Infrastructure Planning (EIA) regulations 2017

Thank you for your consultation on the above dated 19 June 2019 which was received by Natural England on 25 June 2019.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Planning Act 2008
Wildlife and Countryside Act (as amended) 1981
Countryside and Rights of Way Act 2000

Natural England has reviewed the Preliminary Environmental Information Report (PEIR) and has provided comments on each chapter as an annex to this letter. Our comments are on the basis of the information provided within the PEIR and the understanding gained during pre-application discussions with Royal Haskoning DHV.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Roslyn Deeming on 02080268500. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Roslyn Deeming
Lead Adviser
Sustainable Development Team
East Midlands Area

Annexe to letter response

Non- technical Summary

Please note the points listed in the table below and the accompanying colour coding.

Chapter 9 Landscape and Visual Impact Assessment

Natural England welcomes the landscape and visual impact assessment (LVIA) that has been undertaken and provided within this chapter. We support the use of the publication *Guidelines for Landscape and Visual Impact Assessment* (2013, 3rd edition) which has been followed in the chapter's methodology. We also welcome reference to the National Character Areas (NCA).

We note that the visual impact on Public Rights of Way and Access has been included including long distance and recreational footpaths (at 9.6.22). We note from (Chapter 19 Traffic & Transport) that the England Coast Path is to be diverted around the site but it is unclear from this chapter if the visual impact of this change has been considered.

Chapter 12 - Terrestrial Ecology

Natural England acknowledges that the assessment within this chapter has followed our advice at the scoping stage to consider impacts on statutory and non-statutory nature conservation designations, and protected and notable habitats and species and has been undertaken in accordance with published best practice guidance.

Phase 1 habitat surveys were undertaken in 2017, with additional survey work being carried out in October 2018 which appears in Appendix 12. The applicant has taken on board NEs comment made at the meeting of February 2019 regarding the dry summer in 2018 and will be repeating the Water Vole, Otter and Badger surveys.

Whilst there is no evidence of bat roosting within the site in 2017/18 we welcome the intention that further bats surveys will be undertaken during 2019 as the proposed Facility will result in the loss of potential foraging habitats. The further surveys should establish the current usage of foraging/commuting bats (numbers and species) and we will look forward to receiving the completed information for these. The recommendations in Appendix 12 for additional planting, the use of bat boxes and bricks and proposals to minimise lighting is welcome.

We acknowledge that the proposed precautionary methods of working during construction will reduce the impact on reptiles to minor adverse significance.

We consider that very limited information is provided on terrestrial use of the site by birds (page 36). It appears that a breeding bird survey has not been completed (as we requested in our February meeting) but instead assessment is relying on off-site BTO data (see comments below). We note however that nesting bird checks will be undertaken ahead of works starting. Natural England would be interested in seeing the bird survey report if one has been done and not fully included in the PEIR.

Some of the hedgerows at least towards Frampton/ Freiston support some interesting farmland birds. We would like to see some indication as to whether the inland fields where the development is based, will have any impact on SPA bird species using the site as part of the SPA supporting habitat (this is picked up in our consultation summary page 10 of Marine and Coastal Ecology report).

We note that there is low value habitat for terrestrial invertebrates but would like to see some explanation how this conclusion was reached.

The Cumulative Impacts table (12.8) includes the Boston Barrier which should have been finished by 2021 when construction for the Boston AEF starts but could overlap if there are project delays. The PEIR in the terrestrial section does not mention Boston Embankment works and this should have finished by the end of 2020 but there may be a slight chance of project overrun and so should

be included.

Chapter 14 Air Quality

We note that further survey work is to be carried out and that this information will also be included within the Habitat Regulations Assessment.

Chapter 15 – Marine Water and Sediment Quality

Please note the points listed in the table below and the accompanying colour coding.

Chapter 16 – Estuarine Processes

Please note the points listed in the table below and the accompanying colour coding.

Chapter 17 - Marine and Coastal Ecology

In our February meeting we raised a number of issues which have been included in the consultation summary table 17.2 (page 10-12).

One of our key messages at the meeting was the lack of bird data and the age of the historical data that is available (for Boston Barrier project i.e. from 2010). In table 17.2 it is stated that data from the BTO has been purchased to provide information on the birds. The Haven is covered by 4 BTO areas one further upstream South Forty Foot Drain (the urban side of Boston); one near to the site known as Slippery Gowt Pits and two at Frampton. It should be noted that the closest one (Slippery Gowt Pits) provides data between 2001 and 2006 (which is 13 years old) (page 39). It also shows a real reduction in bird numbers in 2005 and 2006 which is not explained. Natural England has concerns with the reliance on data which is 13 years old. At the meeting we did suggest that 2 visits per month between February until the submission of the ES should be undertaken. The data for Frampton is more recent 2012 to 2017 but is a distance from the site and may only be relevant to consider bird disturbance from increased vessel movements when the site is operational. One point to note is that the BTO bird surveys do not cover the same time window so it is difficult to understand bird usage.

We have recently received an Ecological Clerk of Works report from the Environment Agency (EA) focusing on the geotechnical works along the Haven in February-March this year which summarises bird activity during various samplings. The report notes, for example, bird hotspots (one is further to the south of the site and also one on the other side of the channel opposite the development). It also notes the activities that caused bird disturbance was people on the embankment and also large vessels moving up the channel. It may be possible for the Boston AEF to have access to this document from the EA.

We note that information on birds likely to use The Haven has been included in this chapter (page 37-38) i.e. Dark bellied Brent goose, Shelduck, Lapwing, Dunlin, Black-tailed Godwit, Redshank, Turnstone however there appears to be no actual survey data to support this. The 2010 Boston Barrier Bird report which was based on surveys between January and March 2010 is referenced which would not constitute a full winter-bird survey.

At paragraph 17.8.58 it is noted that noise disturbance under 50dBH is unlikely to cause a response but over 70dBH would be expected to result in disturbance to water birds. As yet we do not know how loud construction and operational noise will be but it is likely that it will exceed the 70dBH.

The terrestrial ecology section refers to 0.4ha of saltmarsh and 0.8ha of mudflats lost during construction – they have listed this as a minor adverse impact as it is only a BAP habitat at this location and not part of the designated area. It has been assessed as being in poor condition although it identified 18 species which is actually quite species-rich for The Wash. It is explained that once construction is finished there will be an opportunity for some saltmarsh/ mudflats to naturally re-establish but this is likely to be restricted in area. The report notes that the boats will be grounded on the mudflats during low tide until the tide floods when the vessels will be able to leave the Facility which will re-suspend sediments and also cause ongoing permanent damage so it would seem uncertain on how much natural post-construction recovery could be achieved. The loss of

saltmarsh / mudflat could potentially be an issue for bird feeding / resting areas. The report notes that the erosion of the saltmarsh along the channel is down to wind wave action rather than boat waves. This is recognised as a moderate adverse impact. However this is a permanent loss of habitat and (approx. 2%) which should be compensated for and we would like to discuss further the potential for mitigating for this loss of saltmarsh/mudflat habitat.

Harbour Seals are considered within the report and we note that the data from our 2017 aerial survey is used and the shipping channel in relation to Harbour Seal use is shown at Figures 17.1 and 17.2. The report notes that seals are unlikely to haul out in the vicinity of the facility, but also assesses likelihood of boat collisions which they note could be a worst case scenario of 5-10% increase in collision which represents 1.7-3.3 Seals. Boat numbers arriving and leaving on The Haven will increase from 400/year to approximately 1024/year due to the operation of the Facility. It is noted in conclusion, although the increased vessel activity will be significant, the operational phase is not considered to have a significant impact because seals using areas close to existing vessel routes are expected to be habituated to vessel presence. The magnitude of the impact is therefore considered to be low.

We acknowledge that issues relating to the freeing up of sediment from the dredging process both during construction and ongoing maintenance around the wharf have been assessed including the impacts associated with suspended sediments, increased turbidity, and potential mobilisation of heavy metals / contaminants including hydrocarbons.

We note that no impacts to SAC/ SPA from air pollution deposition from the actual plant are identified (chapter 14 page 42) it notes that the maximum predicted NO_x, SO₂, NH₃ and HF concentrations were below the relevant Critical Levels at The Wash and North Norfolk Coast SAC and The Wash SPA designated ecological sites. However PC values were predicted to be above the NO_x 24-hour and the HF weekly mean Critical Level values at the Havenside LNR. The PC values represent the maximum pollutant concentrations from the process stacks and marine vessels combined to provide a conservative scenario.

We consider that the mitigation measures given for much of the proposed works could be improved. We would like to discuss a list of measures that would need to be considered for when working on / near The Wash.

We note that underwater noise and the need for, and nature of, mitigation measures will be considered when the impact assessment is further progressed and the potential for underwater noise generation is better understood. We would like to see this additional information when it is provided and have also commented on this in our HRA comments.

Chapter 19 Traffic & Transport

We note that at paragraph 19.7.58 the diversion of the England Coast Path is covered which is described as a minor adverse effect. We would wish to confirm if the England Coast Path project team has been consulted or is aware of this diversion.

A17.1 - Habitat Regulations Assessment

Please note the points listed in the table below and the accompanying colour coding.

Net gain

The government has recently announced that it will mandate net gains for biodiversity on new developments in England to deliver an overall increase in biodiversity. Furthermore net gain is referenced in the new NPPF, and is included within the government's 25 year plan "A Green Future". Natural England therefore recommends that the applicants follow the net gain approach and take the opportunity within this proposal to demonstrate a net gain in biodiversity.

Biodiversity net gain is a demonstrable gain in biodiversity assets as a result of a development project that may or may not cause biodiversity loss, but where the final output is an overall net gain. Net gain outcomes can be achieved both on and/or off the development site and should be embedded into the development process at the earliest stages.

New Metrics for calculating the amount of biodiversity required to achieve net gain have recently been issued by Defra including a calculating tool which you may wish to consider:

<http://nepubprod.appspot.com/publication/5850908674228224>

The advantage of using a recognised metric to deliver net gain is that it provides a clear, transparent and evidence-based approach to assessing a project's biodiversity impacts that can assist with "de-risking" a development through the planning process and contribute to wider place-making. Natural England would be happy to advise further on this approach.

Comments from NE Marine Team (noted above)

	Page/Section	Author	Comment	Risk
Non-Technical Summary				
1.	General Comment	LB	The applicant would need to supply the DCO/DML as soon as possible so that our DCO/DML Senior adviser can review	
2.	General Comment	LB	No evidence plan process to deal with issue upfront	
3.	General Comment	LB	Pollution Contingency plan is critical document that we need to see before we can agreed that pollution incidents are not an issue	
4.	General Comment	LB	25 years is given for operational impacts, but some elements are not going to be decommissioned so permanent habitat loss	
5.	General Comment	LB	There would be benefit in producing a mitigation plan that includes all mitigation measures. As it stands the proposed mitigation could be improved upon to further minimise the impacts	
6.	General Comment	LB	Coastal Processes didn't fully consider the impacts from coastal erosion of having the facility there changing habitats and water flow	
7.	General Comment	LB	The non-technical summary and HRA quote increase of 624 vessels but Chapter 15 and 16 state 560	
8.	General Comment	LB	Will any water abstraction or outfall be required from The Haven? It was not clear from technical summary	
9.	General Comment	LB	Many of the accompany plans and evidence missing so unable to fully provide advice on significance at this time	
10.	4.1.1	LB	Natural England welcomes the applicant's commitment to meet and exceed the requirements of the planning act. However, in order to do so further evidence and best practice mitigation needs to be provided to fully address the an issues upfront of the application submission	
11.	P38	LB	There is no mention of the duties in relation to the Wildlife and Countryside Act 1981 (as amended) and the NERC Act 2006	
Chapter 16 Estuarine Processes				
12.	General	LB	Why haven't impacts to functionally liked	

	Comments		land and duties under the Wildlife and Countryside Act 1981 (as amended) and the NERC Act 2006 been considered	
13.	General Comment	LB	There are lots of statements within this chapter with limited supporting evidence	
14.	General Comment	LB	The Wash group is more commonly known as The Wash European Marine Site (EMS)	
15.	P5	LB	Natural England disagrees that Suspended Sediment Concentrations and Bed levelling will have 'no impact' to the natural environment	
16.	P5	LB	Operational Impact – there is insufficient evidence provided to demonstrate that the presence of a fix structure will not change water flows and velocity and impact of surrounding habitats up and down stream. In addition additional ship wash effects is based on professional judgement and would be useful to have evidence to support that judgement	
17.	16.4.2	LB	NE advises that not only is bed level considered but also sediment supply to habitats of conservation importance	
18.	Table 16.3	LB	Information sources are not directly relevant to the specific works and the age of the data is greater than would be considered appropriate for an EIA assessment	
19.	16.5.3	LB	Due to the proximity of the tidal barrier the applicant doesn't believe that new surveys are required. However, it is Natural England view that insufficient evidence has been demonstrated to show that the data is fit for purpose for this project. Especially in an estuarine environment that is dynamic	
20.	16.5.5.	LB	Wash heights are important when considering wash. We would like to see the expert geomorphological assessment	
21.	16.6.23	LB	Would be helpful to see evidence supporting the assessment that the natural wave heights are 0.1m	
22.	16.7. 2	LB	As previously advised for the Boston Barrier works NE would welcome sediment staying within the system rather than being removed. Consideration there some be given to beneficial use of the sediment and/or disposal	
23.	16.7.3 – 16.7.13	LB	300 driven piles is likely to result in under water noise impacts unless undertaken at low tide and/or vibration installation is used as mitigation. This would need to be a condition of any Deemed Marine Licence (DML). This is due to noise to marine mammals so out of context here. The excavation of 140,000m3 is not a small amount and will result in permanent loss of habitat and cause indirect impacts to the surrounding habitats. This needs to be	

			considered further	
24.	16.7.14	LB	A 68% increase in the tidal prism is not insignificant the implications on coastal processes and erosion need further consideration. Any loss of supporting habitat for SPA features also needs to be reviewed	
25.	16.7.16	LB	32,850m ² dredge of the berth area is also not insignificant given the width of the Haven.	
26.	16.7.1.7	LB	150% increase in vessel movement in the Haven is also not insignificant and could lead to increased erosion.	
27.	16.7.20	LB	140,000m ³ is a large capital dredge especially in this area of the Haven	
28.	16.7.34	LB	There is insufficient evidence presented for NE to agree with this section that the impacts are not significant	
29.		LB	Impact 3: Ship Wash – it is stated that the annual wave effect exceeds ship wash. However, the point is that this is in addition to the natural wave impact. It is not sufficient to say the ship wash is less so not an issue.	
30.	16.8.2	LB	Need a DML condition for monitoring	
31.	16.8.3	LB	Alternatives require further explanation	
32.	16.9	LB	Missing EA maintenance work over the life time of the project as well as for construction. Boston Harbour dredge has not been included	
33.	16.9.7	LB	NE is concerned that two negligible have been found to be negligible without evidence present to demonstrate what is effectively professional judgement	
Chapter 15 Water Quality				
34.	General Comment	LB	Same text as used for Chapter 16 - so same errors have occurred	
35.	General Comment	LB	Natural England defers mainly to comments of CEFAS and EA on water quality issues.	
36.		LB	Whilst contaminant level do not reach level 2 there are still a lot of contaminates. What can be done to reduce them? Natural England would value a discussion with CEFAS and EA on this matter. Is there any risk to shellfisheries in the Wash or prey availability for designated site features? This is not considered here.	
37.	15.6.20	LB	Survey data from 2011 are 8 years old and therefore may not be true representatives of present day.	
38.	15.7..25	LB	Just because the site is classed as bad doesn't necessarily mean that adding more is okay. This needs to be discussed more.	
HRA A17.1				
39.	General Comments	LB	Contamination of prey for wader and ducks not considered	
40.	General Comment	LB	Unable to agree with some of the HRA conclusions because there is not an adequate baseline provided especially in	

			relation to Birds. The assessment only considered impacts from boat movements and not impacts to functionally linked land	
41.	General Comment	LB	Natural England is surprised that some bird species are scoped in when there is no record of them in this area e.g. Little Tern. Likewise there are some impact pathways identified that with more consideration of the impacts could have been scoped out for example boat traffic and reefs	
42.	A17.4.2	LB	No evidence provided to demonstrate that the project area is not functionally linked land used by designated features. Please note that features are protected outside of designated sites. Please note that Marine Mammals don't just get impacted by vessel movements but also piling and underwater noise. Even impact to one seal could result in either death or injury.	
43.	A17.4.3	LB	Impacts from loss of potentially functionally linked land not considered	
44.	A17.4.5	LB	624 vessels is inconsistent with the numbers quoted in chapters 15 and 16.	
45.	Table A17.5	LB	Discord between HRA and Chapters. Inconsistency with chapter that the port of Boston Dredge has been included in HRA but excluded from discussions in chapter. There is no evidence presented to support the conclusion about in-combination impacts	
46.	A17.6.8	LB	Do not agree with statement as habitat adjacent to site not considered	
47.	A17.6.21 Harbour Seals	LB	Natural England agrees that vessel disturbance can be minimised so that it is no AEOI. However, we advise that best practice is followed that we are happy to discuss further under DAS about	
48.		LB	Construction phase doesn't consider underwater noise	
49.	Screening matrices - SPA	LB	Loss of supporting habitat not considered. Impacts to prey not considered. Some species of bird screen in, but not justification provided as to why.	
50.	Screening matrices - SAC	LB	Why has same LSE for SPA as SAC been identified?	
51.				

Structure/Framework of/for Natural England advice in relation to attributing risk and potential to resolve

RED

NE considers these issues to be show stopper and unless

- new baseline data;
- significant design changes; and/or
- significant mitigation;

is provided then we advise that an adverse effect on integrity; significant adverse effect on landscape/seascape; and/or significant EIA issue can't be ruled out. NB: Unlikely to be resolved during examination

AMBER

NE considers that if these issues are not addressed/resolved by the end of examination then they would become a RED risk as set out above. Likely to relate to fundamental issues with assessment methodology which could be rectified; preferably before examination!

YELLOW

These will no longer be included in our RR and included in examination library.

These are issues/comments where NE doesn't agree with the Applicant's position and/approach. We would flag these at the PEI stage with the view that they would be addressed in the Application. But otherwise we are satisfied for this particular project that it will not make a material difference to our advice or the outcome of the decision making process. However, it should be noted that this may not be the case for other projects. Therefore it should be noted by interested parties that just because these issues/comments are not raised as part of our written submissions, it doesn't automatically infer there is agreement. Equally these may become issues should further evidence be presented and a file note of these points will be retained by NE to inform future advice on this or other projects.

GREEN – project team decision to include, (or not), in written submission, but default is no!

NE support for something the Applicant has done and we would possibly encourage others to do similar. May be include in PEI as a reference point for future written submissions

GREY – project team decision to include, (or not), in written submissions, but default is no!

Flagging issues that are outside of NE remit and/or NE has no further comment on unless further evidence is presented e.g. NGOs approach to MM assessment against a population. May include in PEI as a reference point. Only provided in written submissions to close down point.

Date: 15 October 2019
Our ref: 294592 / DAS 5085
Your ref: None



Gary Bower
Associate Director
Environment Group
Royal Haskoning DHV UK Ltd

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

0300 060 3900

Dear Gary

**Discretionary Advice Service (Charged Advice)
DAS 5085**

Development proposal and location: Boston Alternative Energy Facility Energy recovery power plant (gasification) includes a wharf storage & waste processing facility at Riverside Industrial Estate, Marsh Lane, Boston, PE21 7RP

I am writing to follow up our meeting held on 23rd September 2019, which was arranged as part of the advice being provided under the agreed Natural England's Discretionary Advice Service contract with Royal Haskoning DHV UK Ltd (ref: DAS 5085).

The object of the meeting was to discuss the comments raised by Natural England following the submission and review of the Preliminary Environmental Impact Report (PEIR) for the Boston Alternative Energy Facility.

I have summarised the main point of discussion below (set out under the Environmental Statement headings) and included the agreed points of action:

Chapter 9 - Landscape and Visual Impact Assessment

Regarding Natural England's request for clarification on the potential visual impact of the proposal on the England Coast Path it was confirmed that Royal Haskoning's sub-consultant would be updating the visual impact assessment on this matter.

Chapter 12 - Terrestrial Ecology

It was confirmed that additional surveys were currently being carried out on breeding birds, bats and water voles.

Natural England emphasised the importance of cohesive structured surveying and monitoring within the ecological information provided. In particular there should be greater clarity on the weighting of evidence and the age of data. It was advised to follow Natural England's standard guidance.

Chapter 14 – Air Quality

It was explained by Royal Haskoning that air quality monitoring would be completed with enhanced modelling.

Chapter 17 – Marine and Coastal Ecology

The lack of bird data and the age of the historical data (13 years) that had so far been used was discussed. It was agreed that it was important that project specific data should be included within the Environmental Statement. Natural England reiterated our standard advice that at least 2 years ornithological surveys are required. This is to reduce the project risk associated with potential abnormal peaks in bird observations in any given survey/month/season/year. If only one year of survey data is to be collected then supporting evidence will need to be presented to robustly demonstrate that this is sufficient. It was acknowledged by Natural England that the results of a winter survey would be dependent on weather conditions. Natural England advised that overwintering surveys should ideally begin in August when passage and overwintering birds arrive such as Knot and other waders.

There was evidence of a roosting area opposite the application site and Natural England had recent evidence for this and would provide further details (separate to this letter).

It was explained that Royal Haskoning would be able to use data provided by the RSPB and other local bird groups which would add to the evidence of bird use in this area.

The additional survey information would be added as technical addendum to the ES chapters.

Natural England would expect that the DCO/DML would include standardised conditions used for offshore windfarm such as Norfolk Vanguard, in relation to the collection of pre-construction ornithological survey data to ensure that the classification surveys remain fit for purpose and prove any null hypothesis that the construction and operation of the facility will not have an adverse effect on integrity of the Wash Special Protection Area.

Natural England had asked for clarification with respect to noise levels generated by construction and operational activities. It was confirmed that noise levels would be unlikely to exceed 55db. The noise generated by the air cool condenser which included 15 fans was discussed and it was explained that methods were being explored to reduce noise levels from this.

Mitigation options were also being looked at to reduce the construction noise particularly from piling.

The potential for compensating for the loss of saltmarsh and mudflat habitat as a result of the proposal was discussed. It was agreed that Natural England would explore areas where habitat compensation could be achieved and result in net gain in the right locations. This additional advice would be added to the current DAS contract. This exercise has subsequently been carried out, please see **Annexe A below**.

Consideration should also be given to Net Gain as this is likely to become a mandatory requirement. Therefore to future proof the project it is suggested that this is included now as part of the application. We would be happy to discuss this further with you under our DAS agreement.

It was agreed that the boat numbers included in the ES would be corrected to 624.

Detailed Comments - Potential impacts to The Wash and North Norfolk Coast SAC, Annex II features

a. Common seal *Phoca vitulina*

Although it appears that there is likely to be minimal disturbance to harbour seals from the impact of the proposed works, Natural England advises the following conditions are adopted as best practise mitigation to remove any adverse impacts:

i. Piling

If vibration piling is used then we do not propose any restrictions. However;

- Condition 1: All hammer piling must be undertaken at low tide, or;
- Condition 2: If construction takes place at higher states of tide in particular during sensitive pupping and moulting period between June and August (inclusive) then a qualified marine mammal observer should be present to ensure that no seals are present within 500m of

works 30 minutes prior to each individual pile event. NB: If a seal enters the area during the piling of its own volition then piling can continue.

Reason: Removes adverse effect on integrity on the Wash & North Norfolk Coast SAC Annex II feature, Harbour seal.

ii. Boat disturbance

Although there is no standard protocol for recreational vessel movement around harbour seal haul out sites, Natural England advises that best practise is to establish a voluntary code of conduct for commercial or recreational boat users to minimise potential disturbance to the seal at all times, but particularly during pupping/moulting periods. Natural England advises that appropriate guidance and signage is provided to educate all sea users

The voluntary code of conduct would include the following:

1. All known seal haul out sites will be identified, using a map provided by Natural England, and avoided by a distance of 100m, helping reduce potential visual and aural disturbance to seals.
2. If seals are encountered, particularly females and pups, or they appear to move away or enter the water, routes will be adjusted so that they are avoided.
3. Vessel speed will be limited to 20km/h, and will be reduced in the presence of seals, particularly when approaching the 100m buffer limit.

Natural England will provide the applicant with a map from the 2018 Sea Mammal Research Unit report showing the geographical location of seal haul out sites.

b. Otter *Lutra Lutra*

Natural England believes that the voluntary code of conduct would also be beneficial for protecting Otter which is also an Annex II feature of the Wash and North Norfolk Coast SAC.

Habitat Regulations Assessment

With respect to the table provided by the NE Marine team it was explained that the level of risk coded as red particularly addresses data issues that Natural England must have to ensure full consideration of the Habitat Regulations.

It was pointed out that the Little Tern is not a feature of the Wash SPA and can be scoped out.

With regard to vessel movement please note it is not appropriate to state that because the vessel wash is below that of natural wave height there is no negative impact. This is an additional anthropogenic impact to that of natural wave height which is likely to increase erosion within the site and may change hydrodynamics of the Haven and designated site both directly and possibly indirectly by changing the form and function of intertidal areas. This should be considered in more detail. Therefore ship wash traversing the river needs to be recorded in both number of trips, timing of those trips and speed restrictions implemented together with monitoring of habitats every 3-5 years. This will need to be a condition of the DCO/DML.

It was explained that following a meeting with the Environment Agency that the drainage ditches discharging surface water into the Boston Haven would be covered by an environmental permit and included as part of a pollution contingency plan in the Marine Ecology chapter 13 of the ES.

For any queries relating to the specific advice in this letter only please contact Roslyn Deeming on 02080268500. For any new consultations, or to provide further information on this consultation please send your correspondences to [REDACTED]

Yours Sincerely

Roslyn Deeming
Senior Adviser
Area Delivery Team
East Midlands Area

Cc commercialservices@naturalengland.org.uk

Annexe A

Enhancement option to offset the loss of Priority Saltmarsh Habitat

NE has had internal discussion regarding the permanent loss of priority habitat namely saltmarsh. Whilst this loss is not within a designated site every effort should be made to avoid loss of this habitat. Should the NSIP be granted then Boston Alternative Energy Facility as a statutory undertaker will have a duty to maintain and enhance priority habitats.

Therefore, we will be recommending to PINS that BAEF has a duty to ensure the enhancement of saltmarsh surrounding The Wash to offset the loss from the alternative energy NSIP project. We strongly suggest this could be through providing resources and support to the RSPBs Frampton Marsh & Freiston Shore management plan improvement works; which include the creation of lagoons, mudflats and saltmarsh. This would need to be secured by some form of agreement between the two parties and included in a DCO condition.

Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Ros Deeming, Louise Denning (Natural England (NE)), Annette Hewitson, Lee Walker, Helen Dale, Kevin Burton (Environment Agency (EA)), Amanda Jenkins (Lincolnshire Wildlife Trust), Sarah Mitchell (RSPB) Gary Bower (Royal HaskoningDHV (RHDHV), EIA Project Manager), Abbie Garry (RHDHV EIA Co-ordination), Claire Smith (Terrestrial Ecologist, RHDHV), Chris Adnitt (Marine and Coastal Ecology, RHDHV), Rachel Wild (Athene Communications)

Apologies: Gillian Fisher (NE), Phillip Pearson (RSPB)

From: Abbie Garry

Date: 16 June 2020

Location: Teleconference

Copy:

Our reference: PB6934-RHD-ZZ-XX-MI-Z-1056

Classification: Project related

Enclosures:

Subject: **Boston Alternative Energy Facility Update Meeting with Natural England, Environment Agency, Lincolnshire Wildlife Trust and RSPB**

No.	Details	Action
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1	Project Update	
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Following discussions with the relevant technology providers, the Applicant has decided to change the thermal treatment technology from gasification to Energy from Waste (EfW). One of the reasons behind this is that the proposed the gasification technology supplier made the decision to divest their business. This has positive outcomes in that are more large-scale reference plants for EfW compared to gasification plants. This is also beneficial from an investment perspective because EfW is proven bankable technology at this scale.

Construction

Previous Scheme Detail: very large amounts of concrete was needed for six large silos (used for storing processed RDF) which were to be constructed by slip-form concrete. This requires a high number of vehicle movements during construction, with more than 10 traffic movements per hour for 26 separate weeks over the construction process, with a peak of 42 traffic movements per hour.

Current Scheme Detail: There will be a concrete batching plant on site. The raw materials for making concrete can be transported in larger quantities, thus reducing vehicle movements. Furthermore, there will be aggregate delivery via ship during construction due to early construction of part of the wharf. This will result in only two separate weeks in the construction period with greater than 10 movements per hour with a peak of 15 movements per hour; and also noting that only 43% of movements will be outside the local area.

No. Details

Action

Outcome: Overall there will be a reduction in the volume of concrete necessary as silos are no longer required. There will be a significant reduction of construction vehicle movements associated with concrete supply. Although there will be ships arriving during the construction period, which is a change from previous, there will be an overall net reduction in anticipated number of shipments per year.

The overall construction timeline is the same as with the previous scheme detail, with a 4 year construction time period.

RDF Supply

Previous Scheme Detail: Main supplier was N&P however they changed their business priorities to 'subcoal' and SRF. Previously the RDF was coming from 3 UK ports.

Current Scheme Detail: The client has engaged with a company called Totus. These have a wider range of ports (11 UK ports) which will lead to a more widespread distribution of source material. Some suppliers will have different bale sizes which could impact on the number of bales per ship (but with the same overall gross tonnage approximately 2,500 tonnes). Due to these different sizes there will be consideration of the number of bales per stockpile stored on site to maintain compliance with the 450m³ limit in EA Fire Prevention Plan guidance.

Previous Scheme Detail: Gasification technology had a very specific RDF specification required, hence 1.5 million tonnes of RDF was needed as worst case to cope with potential variation in calorific value and quality and to ensure that sufficient material was available following processing in the RDF Processing building (see below).

Current Scheme Detail: Conventional Energy from Waste (EfW) facilities can cope with wider variances in calorific value and RDF quality, hence the worst case can be reduced to 1.2 million tonnes of RDF.

Therefore, the worst case quantity is reduced by 300,000 tones, leading to an annual reduction of up to approximately 120 less ships.

The RDF supply will still come from the UK only – not Europe or the Republic of Ireland.

RDF handling (wharf)

Previous Scheme Detail: One crane at each berth. Cranes offloaded bales and these were removed to the external bale storage area by trailer. Approximately four days of supply was anticipated to be stored at the wharf in an area of approximately one hectare (42 potential stockpiles of bales).

No. Details

Action

Current Scheme Detail:

- Two cranes per berth (still three berthing points along the wharf).
- Automated cranes offloading the ships.
- Bales directly loaded from ship onto the conveyors to be shredded and stored in the EfW bunker, with a contingency arrangement for outside storage at the wharf when the bunker is full.
- Bunker has 4 days of supply.
- External storage area has approximately 1-2 days of supply and which means less storage area is required (between 25 and 50% of previous storage requirements).
- Slope protection has been added to the berthing pocket.

GB to confirm offload timings of the ships.

Outcome: Reduction in the impacts associated with external storage of bales in a larger area. Increased efficiency in offloading the bales. Reduced health and safety and nuisance risks.

There will be no change to the dredging requirements.

HD asked the time taken to offload the ships – GB to confirm.

In addition the red line boundary (RLB) has been amended (by contracting the boundary) to exclude a main sewer line, as discussed with Anglian Water, in order to allow Anglian Water access to the sewer line without coming onto the Facility's secure site.

RDF Pre-Processing

Previous Scheme Detail: Large RDF processing facility involving eight shredding lines and automated segregation of ferrous metal, non-ferrous metal, fine inert material, hard plastic and medium to heavy density inert material. This was required due to the sensitivity of the gasification process. EfW does not require this level of pre-processing.

Current Scheme Detail:

- Increased space and less compact layout by removing this large building and the six 48,000 m³ silos required to store the processed RDF.
- Simplified layout works more efficiently and allows for construction flow to be optimised.
- No pre-processing or segregation, therefore no vehicle movements associated with removal of inert materials or metals off site from the RDF pre-thermal treatment.
- Has allowed for repositioning of the air cooled condenser (ACC) and turbine building to a central point to potentially reduce noise impact from the site.

No. Details

Action

Thermal Treatment

Previous Scheme Detail:

- Gasification technology, three line system.
- One combined stack with three cores within, one for each line – approximately 5m diameter.
- High level of screening and segregation of metals and inert materials prior to processing etc.

Current Scheme Detail:

- Energy from Waste technology (still three lines).
- Three lines but one individual stack per line, these stacks will be the same height but narrower than the combined stack in the previous design.
- Plant is slightly taller (approximately 4-6m taller)
- There will also be more cladding around this facility which could reduce the noise impact.
- Greater amount of ash and ash processing – ash will be ground and sent to the Lightweight Aggregate (LWA) Facility as previously. Around 10% more aggregate would be produced.
- Metal will be screened from the ash and sent for offsite recycling (but there will be a reduction in the number of lorries compared to previously).

Outcome: There will be an updated Landscape and Visual Impact Assessment with the Zone of Theoretical Visibility checked.

Emissions for the EfW will be required to comply with the new BAT Waste Incineration document issued in December 2019 – this would be the same for gasification – there are no different standards. The emissions of the three separate stacks as opposed to one would be modelled but are unlikely to exceed previous scheme levels.

Other Changes

The red line boundary has been reduced at the southern end, however there is still space for laydown associated with construction of the facility. The operational boundary will likely be reduced to exclude some of this area. This will be represented by the construction and parameter plans produced for the DCO application.

The power output will be the same as previous (80 MWe), as the agreement with Western Power has not changed.

Previous Scheme Detail:

- One carbon dioxide capture unit.
- The Roman Bank (also known as 'Sea Bank') embankment running through the site and a public footpath follows the route. There is a gap in it currently and the previous plan was to route pedestrians down across the gap, which be across a road leading from the main gasification plant

No.	Details	Action
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to the Lightweight Aggregates Plant and back up the bank (making sure to consider safe passage where this crosses the site road).

Current Scheme Detail:

- Adding another CO₂ capture unit, so two in total.
- Amended red line at the power generation area at the southern end of the site.
- Reduced site footprint with red line which fits the requirements of plant on site.
- Footbridge over the gap in the bank. As this bank has heritage significance the design of the footbridge will be discussed with the Lincolnshire County Council heritage team.

2 Consultation

The current general arrangement of the site now represents the frozen scheme design and we are not anticipating changes of plant within the boundary.

We have had a preliminary discussion with the Planning Inspectorate and with Boston Borough Council and Lincolnshire County Council. They were content that we didn't need to have a formal consultation process, however the Project team identified that there is a need to inform stakeholders.

For regulators and statutory stakeholders we will plan meetings, hold webinars and send information via email.

We will engage with the public but cannot hold public exhibitions.

We are proposing a four week consultation period where we notify members of the public. We propose to undertake a maildrop in the Boston Borough area with a summary of the proposed changes and an opportunity to provide comment with a 28 day consultation window and then a two week period where we will consider those comments.

We will also update the project website, hold webinars/ teleconference opportunities, public phone in sessions and will notify the local press.

As we have already undertaken formal consultation, we are not proposing to update the Statement of Community Consultation (SoCC), as this would significantly increase the timescales needed.

Some of the EIA chapters will not be updated but there will be changes such as for vehicle movements, air quality, landscape and visual impacts etc.

3 Timescales

Aiming for Q4 2020 submission.

No.	Details	Action
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It was noted that we should manage expectations by giving stakeholders an idea of timescales.

4 Ornithological Potential Impacts

For the PEIR, bird data was reviewed and habitats assessed for potential bird use. Bird data was collated from BTO (core count data was available) and was included in the initial analysis. Data from the Boston Barrier Scheme was looked at.

There was a previous site meeting with the RSPB at Frampton Marshes.

Have undertaken surveys for roosting birds and feeding birds. Overwintering bird counts commenced in October 2019 and ran monthly until March 2020. These were undertaken by Anthony Bentley who was recommended by the RSPB.

There were two counts each month, one at low tide and one at high tide.

These were undertaken for two sites Section A (the wharf area) and Section B, towards the Wash.

These surveys have shown the following:

- Overall, 49 bird species were recorded across both sections between October 2019 March 2020;
- 19 species appear on the amber list and 11 are on the red list. Most birds do not occur in significant numbers.
- However, both Redshank and Ruff were shown to occur in locally significant numbers.
- Redshank was recorded in all visits, with the peak count for section A being 162 roosting birds, 2.84% of the estimated winter Wash population.
- Ruff were recorded on eight visits, with a peak count of six roosting birds, estimated to be 8.1% of The Wash population.
- Both counts are significant when the size of the site is taken into consideration and compared to the size of The Wash.

At the entrance to the Haven the following bird survey data was found:

- Counts were undertaken to establish the actual impact of vessel movement in through the mouth of The Haven
- There were high numbers of birds taking flight as larger vessels, or smaller vessels that are moving fast, move past the entrance
- Some of the birds fly around and settle again but many fly off to different roost sites
- It appears that once a certain number of disturbance episodes have been made, the birds have all moved off to alternative sites.

Breeding bird surveys are also ongoing with monthly counts being undertaken by Anthony Bentley covering April to June with two counts per month. These are

No. Details

Action

being done following BTO Common Bird Census Instructions. The initial results showed no breeding birds in large quantities. Redshank was not found to be breeding in the area. There has been standard breeding of expected terrestrial species in terrestrial areas.

We are still looking at the data and the peak and average numbers. We will look to see if there is a particular habitat which is specific to this site or if there is a similar habitat adjacent. We will also identify whether these areas are important to Frampton Marshes or whether capacity can increase at Frampton Marshes.

Questions

Q. Will there be a change in feedstock coming from a greater number of sources?

A. The type of feedstock (RDF) is not anticipated to change. This is the residual waste element out of materials recycling facilities.

Q. Will there be an issue with odour from this plant?

A. The sealed bunker will reduce odour as the air will be in a controlled air feed into the thermal process and be treated at 850°C.

Q. Can bales be accessed from the covered conveyor?

A. There will be flap access to lift the cover off if needed.

Q. What is the risk of wind blown debris?

A. Bales will be wrapped and if any are damaged they will be re-wrapped on site. There is also a bale quarantine zone for any damaged bales.

Q. How long will bales be stored in the external storage area?

A. Working on a maximum of five days which will remain. There will be a first in, first out principle.

Q. Could two ships be unloaded at once?

A. Yes this could happen, ships will come in at high tide.

Q. How will you know how long a bale has been baled? Will there be contractual requirements in terms of the quality of bales?

A. Bales will be labelled when they are first baled, so we will know when they were baled and where they came from. Time between transfer will be kept at a minimum. It will be within the contract that bales will only be accepted under a specific amount of time since baling.

Q. Will each individual line have CEMS monitoring?

A. Yes each line will be continually monitored.

Q. Has net gain been considered? Are there any additional thoughts with regards to Freiston Shore?

No.	Details	Action
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A. Once we have all of the data available we will look at the assessment of impacts and consider mitigation. We would look for like to like net gain. If there are any net gain initiatives, opportunities, drivers etc, please can we be advised of these.

Q. RSPB is keen to be involved with the discussions around mitigation and compensation – is there a timeline for this?

A. This will probably around late summer around August / September time.

Q. Will there be any noise bunds or landscaping?

A. We will need to re-do the construction and operational noise assessment. Where there is a need for noise reducing structures these will be implemented.

Q. Will ports where the ships are coming from be assessed?

A. As the main impacts is a local level impact of vessels all coming to the Haven, this is assessed but from the individual ports this is unlikely to be significant.

4 AOB

There are some reports which might be useful to our assessments:

- SMRU Wash Report – new haul out sites within the Wash for Harbour Seals.
- Flyover Report for 2017/18 of Frampton Marsh June/ July time. (the 2019 and 2020 reports are not available).

CA to check reports and data used.

Chris Adnitt to check which reports have been included, if we have not used the SMRU report Amanda Jenkins will send the link.

From: [REDACTED]
Subject: Bird Count data
Date: 07 September 2020 11:46:57
Attachments: [PBS Haven Boston Mar2020.pdf](#)
[Waterbird behaviour changes due to River Traffic.pdf](#)
[BAEF Breeding Bird Report Draft One.pdf](#)
[image001.jpg](#)

Dear All

Further to our ongoing discussions with respect to the Boston Alternative Energy Facility project, please find attached copies of the bird count reports for the overwintering and breeding bird numbers to inform the assessment process for the project. These surveys were discussed at the last meeting where we had the results for the overwintering bird data and the behaviour changes at the mouth of the Haven, but not, at the time, the data for the breeding bird surveys. Please note that the breeding bird report is still only a draft so is not for wider circulation but we hope to have a final report soon that we will pass on to you all.

We are currently assessing the implications of the data and will be in touch with you all as soon as possible to either to have individual meetings for specific points or for a wider meeting to discuss the overall results and proposed mitigation.

Please do not hesitate to contact us if you have any questions in the meantime

Kind regards

Chris Adnitt

Christine Adnitt
Technical Director – Renewables and Marine Development

[REDACTED]
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Registered Office: Rightwell House, Bretton, Peterborough PE3 8DW | Registered in England 1336844



From:



Subject:

RE: Impact assessment phase

Date:

30 September 2020 17:32:24

Attachments:

[BAEF Breeding Bird Report Final.pdf](#)
[image006.jpg](#)

Dear All

We just wanted to give an update on where we are with the Boston AEF and the impact assessment phase.

As you are aware we circulated the three bird reports to yourselves earlier but one of those was not finalised at the time. We now have the final version for the breeding bird report from the sub-consultant, which is now attached.

We also have the updated figures for the number of vessels during the construction and operation phases of the proposed facility. During construction the updated figures are 89 vessels visiting the site. This will be over a period of approximately 24 months, with a peak rate of 5 vessels visiting per week. During operation the figure is 580 vessels per year.

We are now investigating the potential impacts based on these figures and any updated information we have since the PEIR. One of the aspects is to look at potential mitigation for the habitat loss and disturbance impacts on birds. We are currently planning to have a meeting with the RSPB in early October to discuss specific opportunities for mitigation of impacts, focussing just on the RSPB reserves and the potential they may provide. We would then like to try and arrange a wider meeting with you all to discuss the potential impacts and the findings of the RSPB meeting together with wider mitigation plans, including the best practice measures that would apply for vessels within the Wash.

If you would be happy to dial into this wider meeting please could you send details for your availability preferably during the second half of October, but also (just in case) for early November?

Many thanks for your patience in this process.

Kind regards

Chris

Christine Adnitt
Technical Director – Renewables and Marine Development

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Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Sarah Mitchell (RSPB), Roslyn Deeming (Natural England) Gary Bower, Abbie Garry, Chris Adnitt and Claire Smith (RHDHV)

Apologies: Amanda Jenkins (Lincolnshire Wildlife Trust)

From: Abbie Garry

Date: 22 October 2020

Location: Teleconference

Copy:

Our reference: PB6934-RHD-ZZ-XX-MI-Z-1063

Classification: Project related

Enclosures:

Subject: Boston Alternative Energy Facility Meeting with NE and RSPB

No.	Details	Action
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1	Marine Ecology	
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CA gave a summary of the discussion with the RSPB (on the 13th October) regarding the potential options for habitat creation. This included the potential for improvement of island habitat at Freiston and maintenance at Frampton Marshes developing these options further. The most likely option being for lagoon creation and maintenance work at Frampton Marshes.

It was agreed that RHDHV would work with RSPB to develop the mitigation and to keep Natural England informed.

RHDHV

RHDHV will be looking at a net gain calculation – RD mentioned she would be happy to review this.

**RHDHV
and RD**

More details on the assessment of impacts on seals have been added into the Environmental Statement which includes noise and disturbance. The conclusion of the assessment has been a minor impact with best practice measures in place.

RD mentioned the 'Natural England the Wash Marine Mammals' good practice which she could send to us.

RD

2	Terrestrial Ecology	
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Water vole

In response to previous comments from Natural England and RSPB, a re-survey effort of all ditches within the Site for water voles has been undertaken in 2019. No evidence of water voles had been noted and therefore this species remains to be considered absent. However, CS advised that a pre-construction survey for water voles of all previously surveyed ditches will be undertaken. Natural England and RSPB agreed to this conclusion and approach.

Bats

No. Details

Action

CS advised that no potential bat roosting habitat had been recorded within the Site. However, the linear features such as hedgerows and the river had been assessed as suitable to support foraging and commuting bats. Therefore, a suite of monthly activity transect surveys were undertaken between June and September 2019, the findings of which have been used to inform the ecological impact assessment of the ES chapter.

The monthly activity transect surveys recorded a number of foraging/commuting bats, albeit in low numbers. The highest number of bat passes was 10 and this was recorded during the July survey visit. The foraging/commuting bats recorded during the surveys were concentrated along the hedgerow and flood bank adjacent to the river, with the key species being common and soprano pipistrelles.

There will be a requirement to remove hedgerows, however the landscape mitigation planting proposals includes the replacement of removed hedgerows and/or enhancement of retained hedgerows (i.e. through in-filling of gaps and/or increasing species composition). All proposed mitigation planting will be within the order limits.

Landscape planting for shrubs will be proposed to be species which would be suitable for species of bird and bat, such as berries and nectar, and to encourage invertebrates.

Birds

The breeding bird survey was undertaken and concentrated on the landside of the development this year (2020) between April and June. There were three visits which ranged between 19 – 28 species.

There were no schedule 1 species or schedule 1 habitats recorded.

There were birds of conservation concern in terms of the amber and red listed species but these were noted as using the site for foraging/loafing rather than as a nesting site.

There were no birds nesting within the site but the site was used for foraging, loafing and singing.

Similar to bats there will be a requirement to remove habitat and scattered and dense scrub.

Embedded mitigation measures will include removal of vegetation outside of the core breeding bird season over winter. If this is not possible, there will be pre-clearance checks 24 hrs before.

No.	Details	Action
	<p>There are some opportunities for replacement bird habitat through the implementation of the landscape mitigation planting proposals.</p> <p>SM noted that this approach was sensible. Mentioned that improving existing areas is a good idea.</p> <p>Requested any plans to where the mitigation planting might be.</p> <p>CS – the ecological mitigation will be linked in with the landscaping work.</p> <p>Bird and bat boxes will be considered but also we don't want to increase future maintenance licencing.</p> <p>SM mentioned that of the species mentioned she didn't think bird boxes would be a must, but that she would go over the surveys and check.</p>	<p>SM</p>
<p>3</p>	<p>AOB</p> <p>Once we have finalised the legal comments on the chapters and HRA we would be able to send them back. We would not be looking for comments on these chapters.</p> <p>RSPB team are going through due diligence checks. Sarah or another RSPB team member will ask any questions.</p> <p>We suggested we should arrange another meeting with RSPB.</p> <p>The net gain document may also be provided.</p>	<p>Send all ecology chapters and HRA when legal comments are addressed.</p>

From: [REDACTED]
Subject: Boston AEF Ecology Minutes and Chapters
Date: 24 November 2020 17:41:00
Attachments: [image001.jpg](#)
[PB6934-RHD-01-ZZ-MI-E-1062 RSPB Meeting 13.10.20 draft.docx](#)
[PB6934-RHD-01-ZZ-MI-E-1063 NE and RSPB Meeting 22.10.20 draft.docx](#)
[Ecology Chapters and HRA.zip](#)
[image003.jpg](#)
Importance: High

Hi Sarah and Ros

Thank you for joining meetings with us last month. Apologies for the delay but we attach the meeting minutes from the meeting we had just with RSPB on 13th October and with NE and RSPB on 22nd October.

Please can you confirm if you have any changes to make to the attached minutes? We are submitting the DCO application at the end of this week and so we would appreciate if you could get back to us by **lunchtime on Thursday** if possible?

In addition, I've attached the Marine Ecology chapter, HRA and Terrestrial ecology chapters (will send figures separately as too large). Although we are not looking for comments at this stage as explained during the meetings we would appreciate RSPB's review post submission in order for us to continue to work towards finalising mitigation requirements. We have noted that NE have confirmed they won't be reviewing our documents at this stage.

In addition, we would like to continue engagement with you and would look at arranging a further meeting regarding the mitigation measures as soon as possible, although we appreciate it may be in early January before this can be arranged. Therefore, please could Sarah and John please send through available dates? This would be to discuss the more detailed requirements for mitigation at Frampton Marsh and how the mitigation could be put in place and secured before the consent is determined.

Kind regards

Abbie

Abbie Garry MSci (Hons)
Environmental Consultant
Environment Group
Industry & Buildings - Europe

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From: [REDACTED]
Subject: RE: Boston AEF Ecology Minutes and Chapters
Date: 01 December 2020 14:18:00
Attachments: [image001.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[6.4.11. Appendix 12.1 Extended Phase 1 Habitat Report \(1\).pdf](#)
[6.4.19. Appendix 17.2 Breeding Bird Survey Report.pdf](#)
[6.4.18. Appendix 17.1 Habitats Regulations Assessment.pdf](#)
[6.2.17. Chapter 17 Marine and Coastal Ecology.pdf](#)
[6.2.12. Chapter 12 Terrestrial Ecology.pdf](#)
[image002.jpg](#)

Hi Sarah

We just wanted to let you know that though the final reviews to the chapters there were some updates to the Terrestrial Ecology chapter and its appendix. So we just wanted to send you the final copies of everything as they were submitted. We submitted the application to PINS yesterday.

Kind regards

Abbie

Abbie Garry MSci (Hons)
Environmental Consultant
Environment Group
Industry & Buildings - Europe

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From: Sarah Mitchell <Sarah.Mitchell@rspb.org.uk>
Sent: Friday, November 27, 2020 11:49
To: Abbie Garry <Abbie.Garry@rhdhv.com>; Deeming, Roslyn <Roslyn.Deeming@naturalengland.org.uk>
Cc: Philip Pearson <Philip.Pearson@rspb.org.uk>; John Badley <John.Badley@rspb.org.uk>; Chris Adnitt <Christine.Adnitt@rhdhv.com>; Claire Smith <claire.smith@rhdhv.com>; Gary Bower <gary.bower@rhdhv.com>
Subject: Re: Boston AEF Ecology Minutes and Chapters

Thank you for sending these through, Abbie. We're still going through our internal due diligence process which should be complete within the next week or so. I'll get back to you then with an update.

Best wishes, Sarah.

From: Abbie Garry <[REDACTED]>

Sent: 24 November 2020 17:41

To: Sarah Mitchell [REDACTED]

Subject: Boston AEF Ecology Minutes and Chapters

Hi Sarah and Ros

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Kind regards

Abbie

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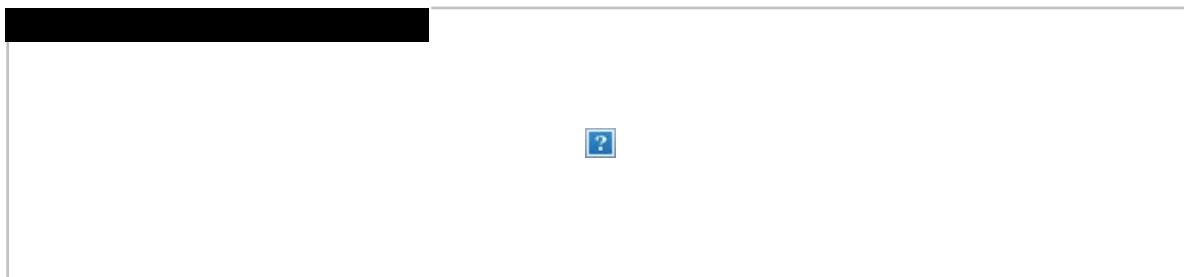
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Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Chris Adnitt (CA), Paul Salmon (PS), Abbie Garry (AG) and Ben Hughes (BH) (RHDHV), Sam Williams (SW), Richard Woosnam (RW) (AUBP), Richard Marsh (RM) and Sophie Reese (SR) (BDB Pitmans), Roslyn Deeming (RD), Louise Denning (LD), Louise Burton (LB), Robert Gornall (RG) and Daisy Durden (DD) (Natural England), Philip Pearson (PP), John Badley (JB), Andrew Dodd (AD) (RSPB), Suzanne Fysh (SF) (Lincolnshire Wildlife Trust).

Apologies:

From: Abbie Garry

Date: 08 February 2021

Location: Teams

Copy: All attendees

Our reference: PB6934-RHD-ZZ-XX-MI-Z-1069

Classification: Project related

Enclosures:

Subject: Boston Alternative Energy Facility RSPB, NE and LWT Meeting

Number	Details	Action
1	<p>Description of the Boston Alternative Energy Facility</p> <p>PS gave a brief overview of the scheme, key points below:</p> <ul style="list-style-type: none"> • Energy from Waste development with generating capacity of 102 megawatts electric (MWe) delivering 80 MWe to the National Grid; • Refuse Derived Fuel (RDF) dispatched from UK ports; • RDF bales (wrapped in plastic) will arrive via The Haven and are unloaded directly onto a conveyor for transfer to the bale shredding facility. There is also a temporary external storage area for contingency when the bunker is at capacity; • Bales are split open in the bale shredding facility and RDF is transferred to a bunker; • The feedstock is converted into energy using thermal treatment; • There are two carbon dioxide (CO₂) recovery plants which will recover a proportion of the CO₂ to be used offsite in a range of industries such as food grade CO₂; • 80 MWe will be exported to the National Grid via an onsite grid connection and substation; • Ash and air pollution control residues are produced as a by-product of the thermal treatment process and will be transferred to the Lightweight Aggregate plant where it will produce aggregate, using dredged river sediment as a binder, or clay where this is not available; and • The lightweight aggregate product will be removed by ship. 	

It was noted that the Applicant has been in consultation with the Port of Boston on navigational arrangements.

2

DCO Process Summary

A DCO application was made on 30th November 2020. Feedback was received from the Planning Inspectorate (PINS) that noted a few areas of the application needed strengthening. This included the compensation/ mitigation and consultation aspects of the Habitats Regulations Assessment (HRA). In addition PINS noted the funding statement and The Crown Estate consultation as other key areas. PS confirmed these latter points have been addressed.

It was noted that the aim for DCO re-application was w/c 15th February with continued consultation through the pre-examination period and into examination.

Post meeting note: the deadline for DCO re-application has been extended to the 1st March.

PP would have expected more meetings to look at data and survey information including technical groups looking at this information to inform on future/ additional surveys. PP also mentioned quick turnaround between the meeting and submission date and noted that there was outstanding information to be provided and reviewed and that more time would be more useful.

LB also surprised on submission next week and would have anticipated draft documents to review prior to the meeting and would have found it helpful to see the Planning Inspectorate's (PINS) concerns and had them chairing the meeting. Feedback from PINS on other projects have been that if there is still debate on whether there is an adverse effect on integrity they will not accept applications without a compensation package. Information needs to be shared as part of consultation.

PS noted these comments would be taken on board. CA confirmed that the meeting would cover these points such as the survey work and the additional work which has been done through further interpretation of the data previously supplied to the attendees. CA also noted that we have had a number of previous meetings to provide updates on the data which has been collected over time, to discuss the data and provide the survey reports.

HRA Update

The need for the HRA update was to:

- Discuss ornithological input to clarify the potential effects and the role of the habitat proposals including where they fall within the mitigation hierarchy; and
- Uncertainty on how the mechanisms would be delivered.

Since the DCO has been withdrawn the Applicant has:

- Looked at the individual sources of effects on birds within the HRA (had previously linked them together) pulling out the potential effects individually and cumulatively; and
- Reviewed potential effects on a species specific level for SPA species and as the SPA assemblage .

Bird Surveys

Originally used WeBS counts, previous data for example for the Boston Barrier Project and collating the view of local ornithologists. Through discussions with RSPB/NE/LWT it was noted that more data was required. Therefore both overwintering and breeding bird surveys were undertaken for 2019/2020.

Through discussions with the RSPB it was noted that there could be disturbance at the mouth of the Haven, surveys were therefore also commissioned to monitor behavioural responses of birds to disturbance in this area. Results were provided to RSPB/NE/LWT and were summarised in the Environmental Statement. A presentation of the survey results was also provided to RSPB/NE/LWT on the results of the bird data.

AD had a query on whether surveys had been carried out on disturbance events at a high tide roost in the vicinity of the development. CA noted that counts were done at high tide and low tide to see roosting and feeding birds and that notes were made of disturbance events.

Construction and Operational Phase Effects on Birds

The HRA splits out potential effects on birds:

- Disturbance on site due to construction noise;
- Habitat loss due to wharf development;
- Lighting during construction and operational phases; and
- Vessel presence during construction and operation.

Summary of potential for effects on SPA populations during the construction phase

Construction Phase – Disturbance

- Potential for disturbance at the construction site due to noisy activities;
- Overwintering birds associated with the SPA do use the site for feeding and roosting;
- The breeding bird survey did not find breeding SPA species in this area;
- The disturbance due to construction works on SPA populations can be mitigated through avoidance of overwintering periods for noisy activities such as piling works, which could be scheduled to take place during the summer months;
- Additional measures, such as mitigation and monitoring that was undertaken by the Environment Agency during Groundwork Investigations (in 2019) concluded that they would not undertake noisy activities if more than an agreed number of birds were present within an agreed distance of the works. They started off with an area of 500m and reduced this to 250m as there was very little disturbance. This measure could also be used to mitigate any effect if necessary

PP asked how comparable the EA works would be to the Facility. CA noted that the mitigation used by the EA could be undertaken either for the whole of the construction period or just the noisy periods, but that it is noted in the ES that this should be agreed in more detail. Noted that the piling would be the most disturbing activity, which would not have an impact due to seasonal restrictions but would have to look into detail for the lesser noisy activities.

With the mitigation proposed, there would not be expected to be any effects on SPA birds using the site; and

- Concluded no adverse effect on integrity

AD noted in the comments that they would expect that detail to be provided on mitigation up front so can be fully discussed.

Construction phase – Habitat Loss – low water counts

- For the development of the wharf there is loss of saltmarsh (0.85ha) and mudflat (1.36ha) outside the SPA through creation of the wharf facilities
- For low tide counts, for feeding populations, most birds using the two count sectors were present in low numbers <1% of SPA population
- Redshank and ruff were present in higher numbers for the area >1%

- Redshank (a named SPA species) occurred in <1% of the latest WeBS 5 year average (2013/14 to 2017/18) on count sector A (proposed wharf area) but reached 1.01% in Area B (adjacent area, not area of habitat loss)
- Ruff (not a named component of the SPA but within the assemblage) were present in the sectors at low tide but only one individual was recorded in Area A and between 1 and 6 (6 representing 8.1% of The Wash Population) for Area B
- Area B would still be available for feeding birds at low tide, also note that counts were inclusive for both sides of the river so the opposite side would not be affected by habitat loss.

Construction Phase Habitat Loss – high water counts

- For high tide counts, the peak count (on one occasion) of redshank in Area A was 162 which represented 2.8% and in Area B 1.6%, of the latest WeBS data 5 year summary for The Wash population. It was noted that the 162 count was an anomaly, however JB suggested that due to the limited number of counts it wouldn't be considered an anomaly.
- The remainder of the counts (5) for redshank in Area A were between 13 and 29 individuals (between 0.23 and 0.51% of the latest WeBS population).
- In Area B the counts for redshank were >1% but <2% for 3 out of 6 counts
- Ruff were counted as 1 bird in Area A and 1 to 4 in Area B. When counted as part of the assemblage the numbers were very low
- Area B saltmarsh would still be available to provide roosting habitat and the opposite side of The Haven in Areas A and B would still provide roosting habitat

CA noted that there is a difference between Area A and B, Area A is a thin strip of saltmarsh which is the area which is being removed and has been looked at for the monitoring of the Boston Barrier and in both occasions has been concluded to be in poor condition, but it is being used by some of the bird species. Area B is much larger roosting habitat for the birds, which will not be removed. Both areas are affected by the presence of debris and a footpath that runs along the back of the site.

AD stated that birds will go where they want to go and don't always take notice of the habitat quality. Therefore looks like they are exhibiting a preference for Area A. Understanding the importance of Area A and B as a habitat roost for species that is

site faithful will be very important. And noted the importance of peak counts.

CA mentioned that looking at type of habitat which is there is important and what the adjoining habitat is.

CA to discuss with JB area A and B size and habitat quality.

PP noted we need to understand why there is a high tide roost in this area and if birds are displaced, are they moving into suboptimal areas? Need to consider what it is which is making this site important.

In general, higher numbers of birds use area B, which is a wider area of saltmarsh. CA mentioned it would be useful to have a conversation with JB on this in terms of the area and size of habitat/ quality.

JB mentioned that species may find an area of importance even if the quality is low and noted that more counts there would be enlightening. As it is not used as much at low tide but is at high tide. JB suggested it could be used as a high tide roost area and suggested it could be disproportionately important for the redshank which are very site faithful and would question if it is the most important roost site in the area.

CA mentioned it is something that has been looked at which is supported by the monthly counts that have been, and are being, undertaken. Could work with the ornithologist who undertakes the survey work to look at a comparison between Area A and B and the area on the opposite site of the Haven. The count data shows the difference between Area A and B for bird usage which is summarised above. *Post meeting note: The HRA also looks in more detail at roosting behaviour in The Wash and movement between roosts, this is included in the HRA update. Redshank appear to move between roost sites within given areas.*

PP stated they would have expected more of a review of the data and if there is any additional data required. CA noted the data that has been re-assessed was presented previously and relevant reports sent in September 2020. PP noted there should have been time to comment on HRA and ES chapters.

Loss of habitat during construction phase – conclusion

- Bird numbers seem to fluctuate widely with the same bird species using Area A and B;
- Very similar habitat all along The Haven which is expected to support the same species – mudflats are narrow along The Haven;

- The saltmarsh in Area A is considered to be in poor condition, as concluded by surveys undertaken for the Environment Agency;
- Area B much larger area of saltmarsh;
- It is concluded that although the mudflat and saltmarsh habitat does seem to provide a functionally connected habitat for some SPA species the loss of this small area would not constitute an adverse effect on the integrity for the species associated with the SPA/Ramsar site. The adjacent habitat in the wider area (such as Area B and in the opposite area across the Haven) would be able to support feeding and roosting birds affected by the proposed Facility, with no negative effect on the supporting function that habitats within The Haven contribute to the structure and function of the SPA and Ramsar site.

CA to discuss bird usage of area A and B with bird surveyor.

AD noted the statement that there is plenty of available habitat along The Haven but will rely on information to demonstrate that the birds are making use of other areas for example for high tide roosting, this is particularly important for the redshank as they are site faithful and this topic would require further discussion. CA noted that redshank are using Area B as much as if not more generally than they use Area A, but CA will speak to the bird surveyor to see his opinion. *Post meeting note: Results of research on redshank roosting behaviour in The Wash has also been added to the HRA to show that redshank do move between roost sites within certain areas.*

LB noted that an engagement plan from the Applicant going forward would be useful to understand the process and what is expected.

Lighting during construction and operation

CA explained that the lighting would be localised and focussed and only used when needed e.g. if a vessel requires unloading at night. Therefore there is not likely to be much of an impact.

Research has shown some water birds may feed nocturnally and take advantage of artificial light sources.

Therefore, this is not considered to be an adverse effect on integrity and potentially could be beneficial to some birds.

Vessel Disturbance during construction and operation

As the construction phase has a much lower number of vessels, the operational phase was looked at. An additional 580 vessels per year for the project. Three scales have been considered:

- The Wash
- The navigation channel that approaches The Haven
- Within and at the mouth of The Haven

Within The Wash and the navigation channel to the mouth of The Haven the increase in vessels is very small (0.75% and maximum of 5%) as there is estimated to be 77,441 vessels per year (MMO data) in The Wash and estimated at a minimum of 11,000 vessels using the navigation channel (tracking data) that approaches The Haven.

Within The Haven approximately 420 vessels transit per year currently with an extra 580 vessels predicted once the Facility is operational, but vessel disturbance would only occur at high water as the large vessels can only move into The Haven at and around high water, so not disturbing during feeding periods.

Through the HRA process, RHDHV has investigated the potential for increased disturbance due to vessel numbers at the mouth of The Haven around high water using the data available from the survey work undertaken during winter of 2019/20.

Bird count analysis for disturbance at the mouth of The Haven

- Further detail has been analysed for this data which looks at every disturbance event and recurring events for each high tide period for baseline conditions.
- Recorded vessel type, number of each species disturbed and what the behavioural response was for each species.
- 24 species altered their behaviour due to the vessels
- This was mostly small numbers but some were > 1% of The Wash population based on the WeBS 5 year average between 2013/14 and 2017/18.
- Results showed that most species fly to an alternative roost site after one disturbance event.
- Tables showing effect on behaviour show that for the SPA and Ramsar species there were initial disturbances that affected >1% of the SPA population for that species, but that the birds then flew to an alternative roost site and were not subsequently disturbed again that day.
- Other species that make up the assemblage, but are not named SPA species, were disturbed on recurrent occasions in one day, including golden plover and lapwing who appear to return to the same roosting site even after 3 disturbance events. The numbers affected

in terms of the total for the SPA assemblage were <1%. RHDHV have looked at energy usage calculations for these two species.

CA presented survey result analysis including where >1% of SPA species were affected:

- November 2019 – no significant (>1%) disturbance.
- December 2019 - Lapwing and golden plover returned to same area after disturbance. Lapwing was disturbed three times and then eventually displaced after the repeated flight. Black tailed godwit had a high disturbance number but they flew off to a separate roost and were not disturbed again that day.
- January 2019 - Black tailed godwit twice in one event but only five individuals had been disturbed at the earlier event against 200 at the second event.
- Feb/March – no repeat disturbances of >1%.

PP – “no behavioural responses in significant numbers” – would be useful to see these numbers. CA mentioned that the tables sent out with the agenda included all of the data and that the original survey data had been supplied in September 2020.

JB noted that we are looking at the right area of The Haven mouth. If birds are being disturbed and not coming back this might be negative if we consider the loss of roosting area. If they are disturbed more frequently they may be less likely to come back or roost there in the first place. JB has had a look through the data and every large ship movement (except one 20 mins after another) caused disturbance to >1% of the SPA species count for the latest WeBS five year summary data for at least one but up to five species in The Wash. With regards to the 1% level, out of 15 species impacted, 8 were above 3%, including 23% of the black tailed godwit population for The Wash disturbed in one event. Need to clarify if 580 is in each direction or in total and must note a pilot boat for each ship. This would be an 138% increase in the Haven.

JB to provide feedback on 2% energy usage.

PS noted the vessels would be clarified – but that it would be 580 vessels into and out of the Haven.

CA mentioned that the energy usage calculation for the assemblage birds that were repeatedly disturbed showed less than 2% energy usage for four subsequent disturbance events. JB noted he would look to see if there is comparable data elsewhere and how significant that data would be.

CA mentioned it would be useful if JB could look through and feedback on this.

JB noted that the proximity of the larger vessels is the impact rather than ship wash. Therefore slowing vessels down might not be a useful measure and may not be possible due to minimum speeds required.

CA confirmed most disturbance is by the presence of the vessels rather than their wash but not all i.e. pilot boats.

JB noted that if increasing vessels will increase the number of pilot boats, reducing the speed limit could be useful. CA stated that the baseline data shows that the first vessel disturbance displaces the majority of birds such that subsequent events do not seem to be disturbing the majority of species. This level of disturbance does not appear to be having an effect on numbers of birds in the SPA. The subsequent disturbance to golden plover and lapwing who do repeatedly return to the same roost site will be using energy reserves. However, the energy usage from even four subsequent disturbances was quite low, most probably due to the short flight distances that these birds undergo after any disturbance. Therefore we could conclude no adverse effect on integrity to SPA birds and the assemblage of birds using the area.

Net Gain Measures

There are mitigation measures built into some of the potential effects, including the avoidance of particularly noisy activities during overwintering periods. If no adverse effect is concluded the project is still looking at measures of net gain for the habitat loss, but these would be under the biodiversity net gain feature. These measures would also provide a benefit to the SPA birds as well as providing the net gain for the habitat loss at the proposed development site.

LB mentioned we need to fully understand whether there is an adverse effect on integrity before defining mitigation measures. Also, a discussion on alternatives is required, a discussion on IROPI and compensation if that route is necessary. If there is not an effect on integrity there are still residual concerns, such as loss of supporting areas which are priority habitats and should be ensuring there are sufficient habitats to provide a function of these areas which the specific species of birds have a preference for. Need to ensure there is no loss of priority habitat/ supporting habitat which allows the birds to function.

CA mentioned that the HRA update has specifically considered these areas and will feed in the bird surveyor's feedback on whether he thinks Area A is of particular importance to these features.

JB mentioned that the previous HRA came to very different conclusions.

CA – The work completed on the update to the HRA has looked in much more detail at the individual responses of the birds to vessel disturbance and the roosting areas for redshank. The tables that were provided with the meeting agenda (providing detailed analysis of the survey data supplied to all attendees organisations in September 2020) with regards to disturbance look in detail as to whether birds were disturbed by the baseline levels of disturbance and flew off to alternative roost sites or whether they were returning and undergoing subsequent disturbance events. It appears that the majority of birds (and all SPA named species) are disturbed to alternative roosting areas nearby after just one vessel movement and therefore the additional impact on top of baseline is much less than previously thought.

Cumulative / In-combination Projects and Plans

CA requested feedback on how far out into The Wash to consider cumulative projects, as the increase in the number of vessels is small within The Wash. LB noted that if the ships are sticking to navigational routes in The Wash, there wouldn't be a concern in the wider Wash area.

Survey Work Update

It was noted that additional bird counts were completed in January and CA asked for any requirements for further survey work.

AD – energy usage information would need feedback from scientist to see if 2% would be significant. Also, could a survey can be progressed in The Haven to see how redshank respond to when the vessels move through. CA noted this would be fed onto the survey works. The previous survey did note any disturbance events. *Post meeting note: the high and low counts are being continued for February and March, together with surveys of disturbance behaviour at the mouth of The Haven and at the proposed development site in the Haven.*

PP – noted that their previous comments should have been “surveys for 1 year and then confirm if any further surveys are needed.”

Conclusions

CA noted that a further meeting could be planned once information has been reviewed.

LB mentioned that clarity was needed on next steps in terms of an engagement strategy.

PS noted we would get back on the next steps in terms of on an engagement plan.

PS (RHDHV) to provide an engagement strategy.

PP noted lots of DCO projects going on at the moment and pressure on time and so need sufficient time for meaningful feedback.

Additional Comments

SF noted that: "Lincs Wildlife Trust will also need more information about the noise impact on Harbour Seals and haul out sites in The Wash and how this has been considered." CA responded that this is detailed within the HRA document.

LD: "We would recommend at least 2 years survey data. When we originally highlighted missing data we said even 1 year would be valuable but missed several opportunities"

From: [REDACTED]
Subject: RE: Boston AEF - HRA Review
Date: 12 February 2021 15:24:00
Attachments: [image002.jpg](#)
[image005.jpg](#)
[6.4.18. Appendix 17.1 Habitats Regulations Assessment_DRAFT.docx](#)
[6.4.19. Appendix 17.2 Breeding Bird Survey Report.pdf](#)
[6.2.17. Chapter 17 Marine and Coastal Ecology_DRAFT.docx](#)
[6.2.5. Chapter 5 Project Description.docx](#)
[image001.jpg](#)

Hi Ros

Following on from Chris's email below please see attached the relevant documents for your review. I've also attached the Project Description for your reference.

The figures are too large to send via email so I'll send these by We Transfer, please let me know that you've received everything OK.

Chris will continue to be our main contact point for the HRA so please continue liaising with her and we very much appreciate any response you may be able to provide as requested in Chris' email below.

Kind regards

Abbie

Abbie Garry MSci (Hons)
Environmental Consultant
Environment Group
Industry & Buildings - Europe

[REDACTED]
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From: Chris Adnitt <[REDACTED]>
Sent: Friday, February 12, 2021 12:50
To: Deeming, Roslyn <[REDACTED]>

[REDACTED]
[REDACTED]
[REDACTED]
Subject: RE: Boston AEF - HRA Review

Hi Ros

Thank you for your message. We are working hard to get the HRA update and the updated Environmental Statement section out to you later today. With respect to the biodiversity net gain document for the baseline, this will follow next week as we have been prioritising the ES and HRA documents this week.

In relation to the process ongoing from here, we would like to thank you for your engagement in the DCO process to date, including your attendance at the meeting earlier this week. During the meeting an engagement plan was requested and we are very happy to draft a plan and get this agreed with yourselves, RSPB and LWT in order to move forward the HRA and wider ecology aspects of the Boston AEF. We are currently drafting something for your attention and comment and will issue this next week to you. We have a very tight timescale in operation here driven by our client and Boston Alternative Energy Limited (Boston AEL) will be resubmitting the DCO application on 1st March. This will include the updated HRA which I presented during the call on Monday (8th Feb).

Given the new application date we would therefore request that, in parallel with us setting out an engagement plan and agreeing it, that you provide comments on the HRA from the perspective of identifying any 'red flags' i.e. anything that gives concerns about the process that has been followed or the resulting document which may cause you to consider the document unfit for DCO submission. Getting the DCO application approved by PINS is our current focus and we would be happy to progress the engagement plan in parallel with your red flag review. Boston AEL wish to reiterate their commitment to engaging with you (through an agreed engagement plan) and ensuring that the ecology and natural environment is given appropriate attention through the pre-examination period, and in to examination.

We will also communicate this to RSPB and Lincolnshire Wildlife Trust and ensure the plan incorporates all parties.

Considering the nature of the review we are currently requesting (i.e. red flag) we would hope to receive high level comments within by Thursday 25th February. More detailed comments could then be worked through with the process for this incorporated in to the engagement plan and with a Statement of Common Ground to be produced for the examination.

Can you drop me a line with your thoughts on the above and ability to undertake a red flag review as soon as practicable.

Kind regards
Chris

From: Deeming, Roslyn <[REDACTED]>

Sent: 12 February 2021 10:35

To: Chris Adnitt <[REDACTED]>
[REDACTED]
[REDACTED]

Subject: FW: Boston AEF - HRA Review

Hi Chris

I wondered if you had any updates on the progress of the revised HRA yet and if you have any timescales in mind yet?

Best wishes

Ros

From: Deeming, Roslyn

Sent: 09 February 2021 17:14

To: 'Chris Adnitt' <[REDACTED]>

Subject: Boston AEF - HRA Review

Hi Chris,

Further to our conversation this morning I have contacted my colleagues Lou Burton and Louise Denning regarding our capacity to comment on the revised HRA for the Boston AEF site.

We think that it is particularly important to have an engagement plan that is agreed across all interested parties with a clear set of steps to move the project forward and ensure that due process is followed. I understand that the RSPB are also keen to follow this approach.

We would also need clarification on the following points:

Would you be able to set out what you are particularly expecting from us and what you want to achieve from our review of the revised HRA? Before we can agree with the conclusions of the HRA we would also need to see the revised data and EIA/ES. I appreciate that we now have the latest survey results that were sent out with yesterday's presentation – will these results be incorporated within the revised HRA or other documents? It would also be useful to see the net gain assessment document if this is available? In other words it would be helpful to see all the relevant updated documents as a package so we can fully understand the evidence being presented.

When do you need a response by and how flexible is this? In general our standard response time under DAS is 20 working days however this would depend on when we receive the information, the size of it, and whether we need to consult wider than just the three of us, for example we may need to consult our national Ornithology team on some specific questions. We also have other commitments over the next few weeks so we are likely need a degree of flexibility built into any schedule.

I hope this is of assistance and will help towards formulating a plan that will address the issues that this case has raised. Please do give me a call if you need to discuss this further.

Kind regards

Ros

Roslyn Deeming
Senior Adviser
East Midlands Area



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From:



Subject: Boston Alternative Energy Facility - Engagement Plan

Date: 17 February 2021 11:45:31

Attachments: [BAEF Ornithology and Marine Stakeholder Engagement Plan.docx](#)
[PB6934-RHD-ZZ-XX-MI-Z-1069 BAEF RSPB, NE and LWT 08.02.21.docx](#)
[image003.jpg](#)

Hi all,

As requested at the meeting of 8th Feb, an ornithology and marine stakeholder engagement plan has been produced for your review (attached). Please can we have comments by 3rd March. Chris Adnitt will lead this activity from the Applicant side so please copy us both in on any response.

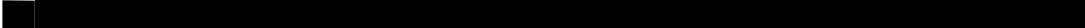
I've also attached the meeting minutes from 8th Feb, please can we also have any comments for finalisation by 3rd March.

As previously communicated we hope you are able to supply your red flag review comments on the HRA to us by 25th March and we would like to have a call on Friday 26th March to discuss the responses – you will see this is Action 2 on the Action Tracker (see Table 1). The next steps for the Applicant depends on your responses and a call would be very valuable on this day. Please can one person from each organisation confirm availability for a call on this date.

Many thanks and regards,

Paul.

Paul Salmon
Technical Director, Industry and Buildings


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Registered Office: Rightwell House, Bretton, Peterborough PE3 8DW | Registered in England 1336844

2019-06-06_19



From: [REDACTED]
Subject: RE: Boston AEF Revised HRA - "Red Flag" comments
Date: 26 February 2021 08:18:41

Hi Ros,

Many thanks for this – much appreciated. Catch you on the call later this morning.

Regards,

Paul.

From: Deeming, Roslyn [REDACTED]
Sent: 25 February 2021 19:04

[REDACTED]
[REDACTED]
[REDACTED]
Subject: Boston AEF Revised HRA - "Red Flag" comments

Hi Paul,

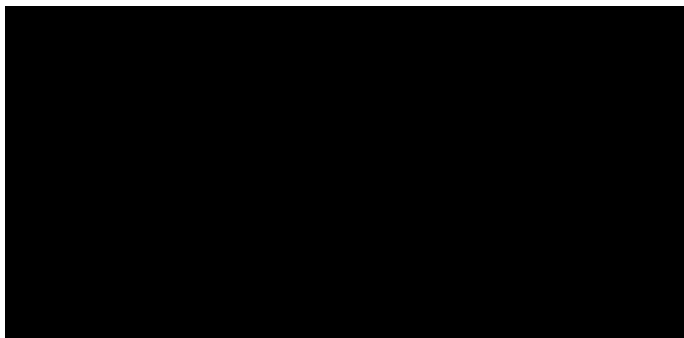
Please find attached Natural England's response to your request for a "red flag" review of the revised HRA for the Boston AEF site.

I look forward to discussing this matter further at tomorrow's meeting.

Kind regards

Ros

Roslyn Deeming
Senior Adviser



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Date: 25 February 2021
Our ref: DAS/14030/339948
Your ref: None



Paul Salmon
Technical Director, Industry and Buildings
Haskoning DHV UK Ltd
Rightwell House, Bretton,
Peterborough,
PE3 8DW

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

0300 060 3900

Dear Paul,

Discretionary Advice Service (Charged Advice)- 14030

Development proposal: Boston Alternative Energy Facility (BAEF) energy recovery power plant (gasification) includes a wharf storage & waste processing facility

Location: Riverside Industrial Estate, Marsh Lane, Boston

Thank you for your consultation on the above dated 14 January 2021, which was received on the same date.

This preliminary advice is being provided as part of Natural England's Discretionary Advice Service.

In providing this response Royal HaskoningDHV has asked Natural England to provide advice upon:

- *Advice and review of the impacts on designated sites/features, and associated mitigation, in particular advice on the Habitat Regulations Assessment and the Ecological Management Plan*
- "Red flag" issues raised by our review of the HRA to be received by 25th February. Noting that you have given the definition of "red flag" issues "as anything that gives concerns about the process that has been followed or the resulting document which may cause you to consider the document unfit for DCO submission."

Our advice is based upon the information within Boston Alternative Energy Facility – Environmental Statement Appendix 17.1 Habitat Regulations Assessment (Ref: PB6934-RHD-01-ZZ-RP-N-3017_A17.1.)

In addition Natural England acknowledges the receipt of the Ornithology and Marine Ecology Stakeholder Engagement Plan (dated 17th February 2021) which sets out a strategy for the key ornithology and marine ecology stakeholders involved in further discussions with Royal HaskoningDHV and the Applicant.

1. Overview

- We have considered the revised HRA and supporting evidence and we believe that there is insufficient ornithological data presented to exclude beyond all reasonable scientific doubt no Adverse Effect on Integrity of The Wash SPA. Our reasons for this conclusion are set out below in section 2.
- The latest steer from the Planning Inspectorate (PINS) is that where Adverse Effect on Integrity (AEoI) remains and/or there are differences in options on AEoI between the Applicant and any interested party, as a precautionary measure a detailed compensatory package must be provided with any application.
- As no further evidence has been provided to remove the scientific doubt and/or there is currently no compensatory package we believe there is a high likelihood of the Application being refused.
- Natural England advises that recently proposed higher level i.e. not defined and secured compensatory packages for other NSIP projects have not been supported by PINs. Therefore we advise that work is required to complete this before the application is submitted and this generally is not something that can be achieved in a couple of weeks and definitely not before 1st March which we understand is the proposed submission deadline.

2. Reasoning for our opinion

Natural England considers that there is insufficient ornithological data for the following reasons:

The Wash SPA

- Our standard best practice advice is that two years of non-breeding survey data is required to support all NSIP Applications.
- We consider that the proposed BAEF location would potentially result in significant effects on Redshank, which are a qualifying species of the Wash SPA, and would impact the following risk pathways:
 - Loss of foraging habitat on site through modification
 - Loss of roost on site through modification or disturbance
 - Loss of foraging habitat along the Haven which may be degraded through boat wash along the channel.
- There are significant concerns regarding the feeding/ roosting area at the mouth of The Haven which is within the Wash SPA. Significant numbers of the SPA/ Ramsar bird assemblage are using this area at low tide including up to 28% of the Black Tailed Godwit. There is clear evidence that most birds left the area following boat passage up the channel and did not return except for Lapwing and Golden Plover that tried to return to site but were re-disturbed by subsequent vessel movements. Repeated boat movements are likely to result in changes to bird use behaviours of this important area of The Wash. We also have further concerns regarding the usage of this area at High tide. It would seem from the data that it is boats themselves (visual/ noise disturbance) rather than the wake that is causing issues in this area.

Because the evidence presented is insufficient to determine the scale and significance of the impacts we therefore cannot conclude beyond all reasonable scientific doubt no Adverse

effect on Integrity for the Wash SPA and a precautionary approach must be taken

The Wash and North Norfolk Coast (W&NNC) SAC

In addition, we have concerns with potential impacts of additional vessel movements and anchorage on the W&NNC SAC harbour seal population. Therefore, we advise that there is a Likely Significant Effect from the proposals and if options to avoid, reduce and mitigate the impacts to acceptable levels can't be found/adopted then an Adverse Effect on Integrity cannot be excluded beyond all reasonable scientific at this time.

3. Suggested next steps for compensation packages

Redshank

We believe that it may be possible to compensate for the loss of functionally linked land for Annex I Redshank within the Boston Haven, such that impacts on the Wash SPA are neutral/net positive. However, in depth assessments of options will need to be undertaken and presented in detail at the time of Application. We need details of how these measures will be secured.

Please note that the required net gain proposals that have been put forward would address the loss of priority saltmarsh habitat, but this may not provide the required compensatory habitat for roosting and foraging Annex I Redshank. In order to achieve the most likelihood of successfully compensating for the impacts, compensation for that species would need to provide similar habitat to that which is being lost. Management of this area would need to be tailored to the needs of redshank (not just a community representative of saltmarsh). In this context please be advised that the primary feeding resource is in intertidal/brackish lagoons not on vegetated parts of saltmarsh community and roost requirements are dictated more by physical attributes than community condition.

Natural England provides the following criteria which would need to be met in order to provide compensation for redshank:

Key attributes of a Redshank roost are generally (1) that it provides some shelter; (2) that it is usable at high tide; (3) that it is removed from sources of disturbance; (4) it affords good visibility; (5) generally the nearest suitable roost to the foraging grounds is selected. Redshank roosts can include bare islands, rocky groynes, sea walls and embankments. When on saltmarsh roosts are often on the channel edge.

Haven Mouth

Natural England would need to see further analysis of the impact of the increased level of vessels in this area including the impact on low tide feeding grounds before the scale and the significance of the impacts can be determined including additional visual and physical disturbance and erosion of supporting habitats. Further analysis of relevant WeBS sectors could be undertaken to help determine the significance of the impacts. The information on the scale and significance of the impacts will then help determine the scope of any compensation package should an AEol remain.

Harbour Seals

Options to avoid, reduce and mitigate the impacts to acceptable levels need to be explored and adopted to ensure that Adverse Effect on Integrity can be excluded.

Statement of Common Ground (SoCG)

We note from the Engagement Plan that you have suggested that Natural England would be involved in the preparation of a SoCG. We would advise that it is not appropriate to engage with yourselves on this until we have fully reviewed the submitted application, which has been accepted and provided our relevant representations. Noting that the SoCG does not need to be provided to Examiner until after the start of examination and so our focus until that time would need to be with the preparation of the relevant representations.

The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours Sincerely

Roslyn Deeming
Senior Planning Adviser
East Midlands Area

Cc commercialservices@naturalengland.org.uk

Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Chris Adnitt (CA), Paul Salmon (PS), Abbie Garry (AG) (RHDHV), Richard Marsh (RM) (BDB Pitmans), Sam Williams (SW) (AUBP), Roslyn Deeming (RD), Louise Burton (LB) (Natural England), Philip Pearson (PP), John Badley (JB) (RSPB), Suzanne Fysh (SF) (Lincolnshire Wildlife Trust).

Apologies:

From: Abbie Garry

Date: 26 February 2021

Location: Teams

Copy:

Our reference: PB6934-RHD-ZZ-XX-MI-Z-1070

Classification: Project related

Enclosures:

Subject: **Boston Alternative Energy Facility RSPB NE LWT Meeting**

Number	Details	Action
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1

Natural England Response

RD summarised NE's response on the HRA (summarised from the letter attached to these minutes).

Currently revised HRA and supporting evidence doesn't present sufficient ornithological data to conclude beyond reasonable scientific doubt that there would be no Adverse Effect on Integrity of the Wash Special Protection Area (SPA). Although RD noted that we are working towards this.

Precautionary Compensation Package Process

LB noted that in recent DCO cases where there is a difference in opinion on the potential for Adverse Effect on Integrity, between the Applicant and the Regulator, that as a precautionary measure there should be a detailed compensatory package provided with the DCO application.

LB mentioned examples of the Thames Tidal Works and offshore wind farms in examination and determination phase. In the Hornsea Three decision letter it is clear that where there is doubt there should be a full compensation package provided up front submitted with the HRA to support the Appropriate Assessment decision. This should include:

- DCO and deemed Marine Licence (dML) conditions;
- agreements with landowners; and
- a design plan for any compensation.

Number	Details	Action
	<p>LB noted that if it wasn't provided then the next phase (examination) would not be entered into until compensation was provided.</p> <p>East Anglia ONE North and TWO are not going into determination phase until this compensation is agreed.</p> <p>LB confirmed that this is a process which has now been adopted by the Planning Inspectorate (PINS) which doesn't depend on the scale of the project.</p> <p>RM noted the position with the potential for using RSPB reserves for compensation and that it shouldn't take very long to come to a conclusion on the proposals.</p> <p>PP mentioned Lower Thames Crossing as another example. And noted that the scale of impact will reflect the scale of compensation which is required. Understanding the baseline in terms of the numbers of birds and the shipping impacts will help towards this.</p> <p><i>Further NE Response</i></p> <p>RD noted the redshank population at the proposed development site and the possible issues with regard to the loss of roosting site, and NE have included in their HRA red flag letter some points to look at further. She also noted potential for effect at the mouth of the Haven and the additional vessel movements and more information would be required on the baseline situation.</p> <p>RD noted the impact on seals, but that appropriate mitigation could be implemented.</p> <p>NE have provided suggestions for compensation within their HRA red flag letter. The previously proposed net gain at the RSPB reserves would provide saltmarsh habitat, but this might not address the compensation need specifically for redshank.</p> <p>CA noted this and has spoken to the bird surveyor in terms of improving habitat at Area B (south of the proposed wharf) which could provide additional roosting and feeding habitat for the birds already using this area. Data has also now been collected for the January and February bird survey counts, which will be provided week commencing 1st March.</p>	

Number	Details	Action
	<p data-bbox="383 403 1197 448"><i>RSPB Vessel Movement Concerns</i></p> <p data-bbox="383 470 1197 896">JB noted that at the mouth of the Haven it is the size and proximity of the vessels which produce the most disturbance, and highlighted that for every large ship movement there was disturbance of >1% of the Wash population of at least one species. There was particular disturbance of black tailed godwit and noted significant bird usage in that area. He also mentioned there wasn't evidence of birds finding alternative adequate roost sites and there was an impact of birds made to fly regularly as a result of the vessel movements. He noted that a RSPB conservation scientist will review the bird energy usage information in the draft HRA for golden plover and lapwing, the species that undergo repeated disturbance events.</p> <p data-bbox="383 918 1197 1411">CA mentioned that the baseline impact is what is causing the initial movement of >1% of the SPA populations and that this needs to be differentiated from the additional movements due to the proposed increase in vessel numbers. There is >1% of birds effected by the baseline situation and there was not a disturbance of >1% of named SPA species at subsequent events even with large vessels. There was subsequent disturbance for lapwing and golden plover so those species were explored in greater detail. CA noted it would therefore be useful if the RSPB scientist could look at whether 2% energy usage is an issue (which is the energy usage for a worst case of 4 vessels causing disturbance in one day). Low tide importance – noted that vessels will only use the high tide to move into the Haven.</p> <p data-bbox="383 1433 1197 1545">JB mentioned still unclear on vessels movements per day but it could reach a threshold point where birds no longer roost in the area.</p> <p data-bbox="383 1568 1197 1814">PP mentioned that more WeBS sectors could be impacted by the vessel movements which should be looked at. Although there are existing pressures it was noted that if declines are already occurring, adding additional pressures would make the situation worse and mentioned SPA objectives need to be achieved including the distribution of species and overall population numbers.</p> <p data-bbox="383 1836 1197 1962">CA – the bird surveyor did look for where they are flying off to and this information is included in the HRA. The bird surveyor recorded how far the birds were flying when disturbed.</p>	<p data-bbox="1197 1680 1414 1859">CA to update engagement plan with specific actions and timescales.</p>

Number	Details	Action
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PP noted that as more data is being collected it would be useful to know timescales for when they would be able to review the data, this should be included in the engagement plan. He noted that effort could be put into reviewing multiple sets of information and having to revise conclusions due to the additional data.

CA noted that January and February counts have now been taken and will be emailed as soon as possible. She also mentioned that the February counts had been low and therefore have not changed the assessment.

PS noted that the engagement plan would be updated with more detailed actions and timescales. And noted that a Statement of Common Ground wouldn't be appropriate at this stage.

NE Final Points – Passage Birds

LB mentioned that SPA features include over wintering, non-breeding birds and passage. Passage birds are classed and designated through to May, and it would be challenging not to have this data. Therefore, if the application did go forward, it would have to be a worst-case scenario approach including a compensatory package. IROPI would need to be included if putting together a derogation case. *Post meeting note: the breeding bird survey included counts in the proposed development area during April, May and June 2020 and that CA has spoken to the bird surveyor who says that he would have noted if any passage species were present at the site. The breeding bird data was supplied towards the end of 2020.*

Area B Mitigation Measures

CA asked if there were measures which could be undertaken at Area B to reduce the impact on roosting and foraging birds, would that be mitigation or compensation?

LB confirmed this could be mitigation, but noted that it would have to bring the impact down to an acceptable level. Although NE currently cannot confirm no adverse effect on integrity, further survey data and appropriate mitigation could shift this to confirmation of no adverse effect on integrity. It was noted that unless there was a full set of survey data there would be scientific doubt which would lead to a derogations case.

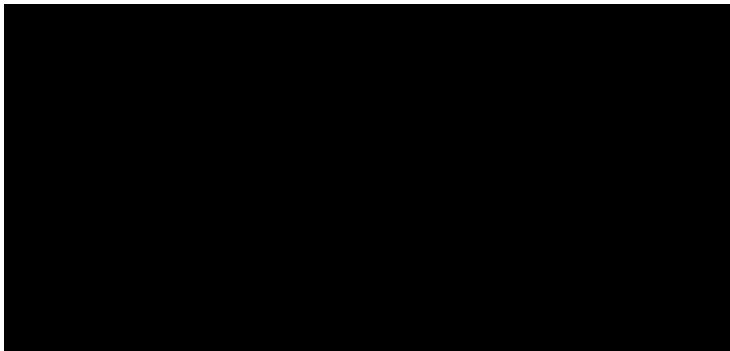
Number	Details	Action
2	<p data-bbox="395 412 612 443">RSPB Response</p> <p data-bbox="395 483 1161 651">JB noted the importance of assessing the first boat movement on the tide and subsequent boat movements. Would be good to confirm if there are large vessels on every tide as a baseline. Then could consider whether any further measures are necessary to form a compensatory package.</p> <p data-bbox="395 689 1161 891">PP noted that wintering redshank are resident birds and part of the breeding population and there are declines in the redshank breeding population which requires an increase in productivity or recruitment into the population. It is unclear that if the roost was lost there would be enough birds being added to the population to offset the impact.</p> <p data-bbox="395 929 1161 1066">Additional WeBS sectors should be included because the whole shipping route could be affected due to the presence of the ships and the ships' zone of influence. RSPB have included a map as part of the response including critical areas.</p> <p data-bbox="395 1104 1161 1240">PP also noted that although the England Coast Path runs along the site there is more disturbance on the opposite bank. The bank adjacent to the site is below the flood bank in a sheltered area, therefore aspect for roost sites are important.</p> <p data-bbox="395 1279 1161 1346">PP mentioned Slippery Gowt Pits could do with an investigation of what could be done there, close to the existing roost site.</p> <p data-bbox="395 1384 1161 1480">CA stated that BAEF's bird surveyor noted there is a bund around it so it might not be as good for redshank in terms of their vision.</p> <p data-bbox="395 1518 1161 1832">CA mentioned that a conversation with the bird surveyor had identified the potential to improve Area B by putting rocks from the frontage of Area A along the front of the saltmarsh in Area B. The redshank use these rocks for roosting and this would therefore provide additional roosting habitat in the same area. In addition, shallow pits could be implemented to provide additional feeding habitat in that area. She noted that BAEF's bird surveyor suggested that a few shallow pits could take the amount of birds feeding in Area A.</p> <p data-bbox="395 1870 1161 1928">PP agreed a suitable option close to the site would be good and would talk through it with CA once it has been worked up.</p>	<p data-bbox="1219 483 1417 620">CA to confirm the baseline for large vessels per day.</p> <p data-bbox="1219 1727 1417 1928">CA to discuss mitigation package with RSPB once details are worked out.</p>

Number	Details	Action
3	<p data-bbox="395 412 596 450">LWT Response</p> <p data-bbox="395 483 1150 651">Harbour seals are an 'amber flag' (in terms of piling) as there is a national decline in harbour seals. Are awaiting comments from the marine specialist including ensuring that the latest thresholds have been used for the underwater noise assessment.</p> <p data-bbox="395 689 1126 790">Query about seal haul out and pupping at Friskney Sand, are we using the latest data including close to the mouth of the Haven?</p> <p data-bbox="395 828 1150 963">In terms of shipping movements, seal pups can get sucked into the propellers of the vessels. Measures should be put in place to ensure that pups will not be killed, which links into the decline of harbour seals.</p>	LWT providing further response following comments from marine specialist.

From: [REDACTED]
Subject: RE: Boston Alternative Energy Facility - HRA
Date: 12 March 2021 15:25:13
Attachments: [339948 Supplementary HRA additional advice March 12 Final v 3.pdf](#)

Dear Paul and Chris,
Please find attached Natural England's written response to the Supplementary HRA document.
Kind regards
Ros

Roslyn Deeming
Senior Adviser



During the current coronavirus situation, Natural England staff are working remotely and from some offices to provide our services and support our customers and stakeholders. Although some offices and our Mail Hub are now open, please continue to send any documents by email or contact us by phone to let us know how we can help you. See the latest news on the coronavirus at <http://www.gov.uk/coronavirus> and Natural England's regularly updated operational update at <https://www.gov.uk/government/news/operational-update-covid-19>.

Wash hands. Cover face. Make space.



From: Paul Salmon [REDACTED] >
Sent: 05 March 2021 08:17
To: Deeming, Roslyn [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Cc: Abbie Garry [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Subject: RE: Boston Alternative Energy Facility - HRA

Dear All

Please find attached our response to the red flag issues raised at the meeting last Friday and in your various written submissions. I have also included the navigation chapter from the ES as this contains baseline vessel numbers which we refer to in our response.

The Applicant is committed to resolving the issues you have raised and, as you will see from the supplementary HRA document attached to this email we will be providing significant additional information and commitments in to the HRA. Following the raising of the concern regarding loss of the inter-tidal/salt marsh habitat where the wharf will be built the Applicant has agreed to the creation of shallow pits and improvements to roosting areas to be implemented on Area B (just south of the proposed wharf). These measures (set out in the attached document) will be secured in the DCO as we plan to include for them in the Landscape and Ecology Management Scheme which will be a condition of the DCO. This is all in addition to contributing to works at the RSPB reserves previously discussed. The Applicant is also committed to obtaining additional information, including WeBS counts and further survey data to assist with evidencing the HRA. We feel these measures appropriately respond to the concerns you have been telling us about.

Following our discussions with PINS we understand that they do not require a without prejudice compensation package to be presented in the DCO application but would like to see a level of commitment from the Applicant on resolving any areas of disagreement, and evidence of correspondence / communications with relevant stakeholders that provides a level of comfort that issues are resolvable in the required timeframes. We hope that the information provided in this email and attached document shows a willingness to resolve issues through appropriate updating of the HRA and provides additional benefits to redshank in close proximity to the area of habitat being lost at the facility.

We are happy to discuss this submission with you but, in order to achieve our timescales for Application we would be grateful for a written response by Wednesday 10th March close of business on whether you feel the additional information provided, and commitment to further works, provides the basis for an agreement which can be discussed through an agreed process to be set out in an updated consultation plan (which we have previously provided to you as a draft).

Many thanks for your time on this and please feel free to call Chris in the first instance, or myself, to discuss if required.

Regards,

Chris

From: Chris Adnitt <[REDACTED]>
Sent: 04 March 2021 22:37
To: Deeming, Roslyn <[REDACTED]>

[REDACTED]

Subject: Boston Alternative Energy Facility

Dear All

Apologies that we haven't been able to get the supplementary information out to you today, as promised. We are waiting for completion of reviews. I hope to be able to send out the document tomorrow morning for your review.

Kind regards

Chris

Christine Adnitt
Technical Director – Renewables and Marine Development

[REDACTED]
HaskoningDHV UK Ltd., a company of **Royal HaskoningDHV** | Rightwell House, Bretton, Peterborough PE3 8DW, United Kingdom
Registered Office: Rightwell House, Bretton, Peterborough PE3 8DW | Registered in England 1336844



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Date: 12 March 2021
Our ref: DAS/14030/339948
Your ref: None



Paul Salmon
Technical Director, Industry and Buildings
Haskoning DHV UK Ltd
Rightwell House, Bretton,
Peterborough,
PE3 8DW

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

BY EMAIL ONLY

0300 060 3900

Dear Paul,

Discretionary Advice Service (Charged Advice) - 14030

Development proposal: Boston Alternative Energy Facility (BAEF) energy recovery power plant (gasification) includes a wharf storage & waste processing facility

Location: Riverside Industrial Estate, Marsh Lane, Boston

This response concerns the document submitted by Royal HaskoningDHV on 5th March which provides supplementary information to the updated Habitats Regulations Assessment (HRA) issued on the 12th February 2021, covering the concerns raised in the red flag written responses and comments provided during the meeting on 26th February from Natural England, RSPB and the Lincolnshire Wildlife Trust.

This advice is being provided as part of Natural England's Discretionary Advice Service. Royal HaskoningDHV has asked Natural England to provide advice upon:
Advice and review of the impacts on designated sites/features, and associated mitigation, in particular advice on the Habitat Regulations Assessment and the Ecological Management Plan. This advice is provided in accordance with the Quotation and Agreement dated 24th February 2021.

Natural England acknowledges that the document has taken steps to address the concerns that we highlighted in our recent written response (25th February) which is welcomed.

However, we have continued concerns that not all the risks related to the proposal have been fully considered which means that, following the precautionary principle, we are unable to exclude, beyond all reasonable scientific doubt, no Adverse Effect on Integrity of the Wash SPA or the Wash & North Norfolk Coast SAC.

It should be recognised that this is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available,

including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice.

We have outlined our concerns below to make Natural England's position clear:

- The short timescale required to review the Supplementary HRA document has not allowed Natural England to provide a fully considered and robust response, with specialist adviser input, which we would have preferred and would be the normal best practice approach for both Statutory and Discretionary Advice Service consultations. The requirement for this advice within 3 working days does not meet the conditions within the DAS contract which states 21 days for the provision of advice.
- Due to timescales we have not been able to review and provide advice on all the potential impacts. Where we have made no comment, this should not be taken to mean that we do not have issues and concerns.
- We consider that the information that we have been provided does not meet the evidence plan process to address issues upfront during the pre-application process. With the provision of evidence and further information being piecemeal in its delivery we have not been able to gain a holistic view of the proposed application submission.
- The information we have received since the Application was not accepted by PINS, has raised considerably more questions than answers; which raises concerns about whether the impacts have been fully considered and as required worst case scenarios being presented and assessed.
- Therefore, we are concerned that the Application will not be presented in a fully completed ES format where the required evidence is provided and impacts are clearly set out and assessed at both an individual pressure and/or receptor level and at a wider ecosystem level with all the necessary cross-referencing. Without this there is a risk that a series of discrete documents will be submitted that creates ambiguity in relying on others to piece it all together.
- We consider that the DCO application needs to demonstrate more clearly that the proposal would not result in an Adverse Effect on Integrity (AoEI) and that there is certainty that appropriate mitigation can be provided.
- In addition, we also highlight that only a select few interested parties have been engaged in discussions on both the original application, potential amendments to that and discussions on the resolution of issues. Therefore, there is a risk that other stakeholder groups may have issues that need resolving for example Eastern Inshore Fisheries and Conservation Authority (EIFCA), The Wash and North Norfolk Marine Partnership and the Environment Agency (EA).

We therefore want our position, as outlined above, to be clear in the consideration of the following comments and advice.

1. Bird Count Areas A & B

We acknowledge that additional bird counts have been undertaken for January and February 2021 for Redshank numbers and these will be continued into June 2021. Once these counts have been carried out the colder winter months and the spring passage will be covered.

Overall, two years' worth of site-specific data will be provided together with the breeding data that has been collected previously.

The summarised information on Redshank numbers included in the report shows how variable the numbers of Redshank are at both Areas A and B. **We note particularly that Area B is regularly supporting over 1% of the Wash SPA numbers at High Tide and therefore impacts in this area are of significant concern to Natural England.** It would obviously have been preferable if all the data had been collected ahead of submission so impacts could be fully considered and assessed.

2. Potential Issues at the Development Site

Natural England had raised the concern that the proposed BAEF location would potentially result in significant effects on Redshank, which are a qualifying species of The Wash SPA. We therefore welcome the proposed enhancement of Area B. However, we would need clarity on the scale of the impact on SPA species i.e. the Adverse Effect on Integrity (AEoI) before it can be determined if Area B can provide an appropriate level of compensation. We consider that the proposed enhancement would not reduce the impacts, avoid the impacts or necessarily mitigate to an acceptable level in the area of the proposed development.

We have the following detailed comments regarding the feasibility enhancement to Area B:

- A question of ownership of Area B has been raised in the report. We agree that it is most likely owned by the Crown Estate, but this would need to be confirmed and assurance gained that the landowners are willing for the compensation work to be undertaken before it can proceed. There is therefore a lack of certainty that this can be implemented.
- The proposals for habitat enhancements would appear to involve flattening / removing the old bank along the front of the channel. We suggest that RHDHV speak to the EA about this as it is presumably part of the old sea defences and it may still provide a degree of flood protection. We would anticipate that the EA would need to authorise an Environment Permit for the bank works, we would require evidence that the EA would allow this before agreeing to the compensation work.
- Related to the EA bank repairs we checked that the work would not overlap with the translocated *Equisetum ramosissimum* (Boston Horsetail), which the EA moved under a Schedule 8 plant licence. Fortunately, it does not, please see Figure 1 attached.
- We also checked the route of the English Coast Path as we have concerns that there might be an increased visual disturbance to SPA species from the English Coast Path. We would emphasise that there would be no point in choosing to put compensation habitat in this location if it would not be used by the Redshank due to disturbance from other sources. Evidence would therefore need to be provided around this issue. From the looks of the maps (2h and 2i - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/675838/sutton-bridge-skegness-report-chapter-2.PDF) it appears that the sea wall extends behind the area of saltmarsh between Area B and the adjacent former landfill site. With the extra data on Redshank here we would need to update our English Coast Path team as to the potential disturbance increases.
- In addition, the path further to the north along Area A will need to be revised (this may have already been considered within the ES?)
- We would welcome an opportunity to discuss the proposed additional habitat within Area B adjacent to the proposed development site. Considering the proposed works

we would like to see an up-to-date botanical survey (i.e. a National Vegetation Classification survey, mapping vegetation communities with details on saltmarsh condition¹). This survey should be undertaken at a suitable time of year. The proposed areas of work i.e. along the foot of the old bank should be checked to ensure there are no Boston Horsetail plants growing in the locality. The EA's ecologists may have surveyed this area during the recent embankment works but you would need to follow that up with them. In addition, the survey should consider other local species such as *Artemisia maritima* (Sea Wormwood), an upper marsh species, important on The Wash because of its restricted distribution and also as it is the host plant for a rare Scarce Pug Moth (found at RSPB Frampton). In the first instance photos to see the lay of the land would also be helpful.

- A further consideration is that flattening / removing the old bank may increase tidal inundation of the saltmarsh behind, altering the zonation and species composition i.e. changing areas of mid or low-marsh to pioneer marsh. It may also result in erosion to the front of the marsh through increased boat wash (due to the proximity of the proposed wharf). The proposed scrapes and pools will also result in a saltmarsh loss. As you are aware while not within the designated area the saltmarsh is a priority habitat and potentially any changes or loss to the saltmarsh here may require further off-site enhancements.

3. Potential Issues at the Mouth of the Haven

Natural England raised concerns regarding the feeding/roosting area at the mouth of The Haven which is within The Wash SPA. We acknowledge that further analysis has been undertaken regarding the additional impact of vessels on the behaviour of SPA bird populations. We note particularly that the report demonstrates that there are alternative habitats in the area around the mouth of The Haven and that there are many areas of habitat that could still be available for roosting. However, we are unable to provide further detailed advice at this time and as previously identified there may be issues with these areas being suitable roost locations.

4. Potential Issues with regard to Marine Mammals

Natural England raised concerns with potential impacts of additional vessel movements and anchorage on the Wash & North Norfolk Coast SAC harbour seal population. We advised that there is a Likely Significant Effect from the proposals and if options to avoid, reduce and mitigate the impacts to acceptable levels can't be found/adopted then an Adverse Effect on Integrity cannot be excluded beyond all reasonable scientific at this time. We note that the report confirms that up to date evidence has been used within the Environmental Statement. We also welcome the confirmation that best practice measures will be followed. However, we cannot confirm without further specialist advice that an AEoI cannot be excluded.

If you have any queries relating to the advice in this letter please contact me on 02080268500.

Yours Sincerely

Roslyn Deeming
Senior Planning Adviser, East Midlands Area
Cc commercialservices@naturalengland.org.uk

¹ For example using the JNCCs <https://hub.jncc.gov.uk/assets/7607ac0b-f3d9-4660-9dda-0e538334ed86>

Figure 1 - showing location of proposed compensation area (Area B) in relation to known translocated population of *Equisetum ramosissimum* (Boston Horsetail).



Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Paul Salmon (RHDHV), Chris Adnitt (RHDHV), Lowell Mills (RHDHV), Ashleigh Holmes (RHDHV), Richard Marsh (BDB Pitmans), Roslyn Deeming (Natural England), John Badley (RSPB), Philip Pearson (RSPB), Jake Newby (Environment Agency) and Amanda Jenkins (Lincolnshire Wildlife Trust)

Apologies: Abbie Garry

From: Ashleigh Holmes

Date: 23 June 2021

Location: Teams Meeting

Copy:

Our reference: PB6934-RHD-ZZ-XX-MI-Z-1073

Classification: Project related

Enclosures: N/A

Subject: **Boston AEF Marine Ecology - HRA Technical Meeting 23.06.2021**

No. Details

Action

1 Introductions

Paul Salmon – Project Manager for EIA and HRA
Chris Adnitt – leading environmental side for marine ecology aspects
Lowell Mills – ornithology
Ashleigh Holmes – RHDHV project assistant
Richard Marsh – partner at BDB Pitmans lawyers and DCO advisers acting for the Applicant
Philip Pearson – Senior Conservation Officer at RSPB
John Badley – Senior Site Manager for RSPB (Frampton Marsh and Freiston shore)
Jake Newby – Sustainable Places team at Environment Agency (EA)
Roslyn Deeming – Planning Adviser for Natural England
Amanda Jenkins – Conservation Officer for Lincolnshire Wildlife Trust (LWT)

2 Agenda

PS mentioned the aim of this meeting is to update on the project rather than a provision of information.

PS summarised the contents of the presentation:

- Update to status of the project
- HRA – further work being undertaken to provide responses to comments raised since submission.
- Without prejudice derogation case – work being undertaken – will be available as soon as possible (no agreed date for deadline)
- Opportunity for discussion of relevant representations and Statements of Common Ground
- Next steps including possible site visit
- Close of meeting
- AOB

No. Details

Action

3 Project Update (PS presented this slide)

PS provided the project update below.

PS mentioned the application was accepted by PINS on 20th April 2021. The first application was withdrawn last year (December 2020) for a number of issues.

Deadline for interested parties to register for relevant representations (RRs) was 18th June 2021.

The Applicant hasn't received these representations from PINS yet and have requested that key stakeholders supply these directly to us if possible

PS requested LWT's RRs. AJ replied that she completed these online, so they are just a list of notes. AJ to provide.

JN said he sent a letter with the EA's RRs with supporting information, but he hasn't sent the actual RRs.

September 2021 to February 2022 – this is the Examination phase of the project.

RHDHV note the request for examination delay from various parties – that will be up to the ExA, not the Applicant

At present the Preliminary Meeting is scheduled to take place 7th September (TBC by PINS).

Examination is likely to be 6 months in duration. Largely virtual examination from one Open Floor Hearing (TBC) allowing those in the local area to appear at the examination. Examining Authority is one person – commensurate with size and complexity of the project

4 WeBS sectors analysed (CA presented this slide)

CA confirmed additional WeBS data has been received and has been circulated to NE, RSPB and LWT.

There is no data for Freiston 30 as this sector is no longer counted.

Data is being analysed – Mapping in terms of the monthly numbers for the Redshank (Dark-bellied brent goose, black tailed godwit, lapwing and golden plover) has been undertaken and will be circulated once completed.

Mapped the density per km² related to each of the sectors by month and colour coded these looking for trends or areas supporting a large number of birds.

No. Details

Action

5 WeBS sectors by month (CA presented this slide)

Conclusions:

- Frampton North sectors 22-27 (saltmarsh nearest to the Haven) and Witham 20 (foreshore north of Haven mouth) routinely hold highest redshank densities. Sector with peak density varies.
- Frampton North 23 and 26, and Witham 20, often hold counts >1% of SPA population of 4,331 redshank (Counts of 43 or more birds).
- Consistently low densities Frampton North 60 (on Haven, upstream) and 21 (deeper saltmarsh), plus sectors comprising pasture, or estuary with longer duration underwater.

Count summaries and densities also completed for: dark-bellied brent goose, black-tailed godwit, lapwing and golden plover.

6 Redshank mitigation/compensation/net gain (CA presented this slide)

Consideration of wintering redshank ecology to guide mitigation or compensation through analysis of ringing data.

Movement distances typical of redshank wintering on the Wash are up to 4km. This helps to understand the level of connectivity between the development site redshank population and the Wash SPA population. (Distance of approximately 3.5km from edge of SPA to proposed development site).

This guides how far away mitigation or compensation features need to be placed, to be within reach of 90% of redshank.

Factors to consider for compensation/mitigation:

- Type of habitat required for redshank (roosting and foraging)
- Sensitivity of redshank to specific activities

Finalising number, locations and design of additional features for redshank from the above.

7 Severe winters (CA presented this slide)

What are the numbers and movements of waterbirds associated with past severe winters on The Wash? (Question raised on presentation slide)

Initial findings have shown the eastern estuaries are more affected by severe winters with birds moving to the south west areas.

Are numbers in severe winters higher or lower than multi-year average?
Is there data showing birds moving in or out of The Wash in severe winters?

Moving out would suggest The Wash is not a refuge in severe winters.
How do birds' behaviour (site fidelity, disturbance distance) differ in severe winters? This is to focus on redshank.

No. Details

Action

RHDHV will produce a report and circulate this with findings and addressing the concerns relating to severe winters.

8 Energetics of disturbed birds (CA presented this slide)

Energy expended per disturbance flight in lapwing and golden plover is provided in HRA supplementary data. Stakeholder concern regarding significance of provided figures.

Lapwing and golden plover tend to stay on site, and they are more vulnerable to repeat disturbances.

Within the HRA RHDHV looked at what this would mean for these species – percentage of energy that would be used.

Questions raised surrounding how significant that (percentage of energy used) would be. CA recognised that RSPB have been looking at that as well. Any feedback from RSPB would be welcomed.

Looking at peer-reviewed reports to give more feedback. To be provided in the next set of documents sent out to those in the call (RSPB, NE, EA and LWT).

9 Disturbance distances (CA presented this slide)

Evidence-based determination of distances at which birds react to disturbance. For example:

- Alert distance
- Flight initiation distance
- Escape distance

This would be distinct from the observed maximum displacement distance of 800m (distance flown in response to a disturbance). PP asked if birds move further than 800m. CA replied that 800m was the greatest distance flown by the displaced birds, others were much shorter distances.

Distance ultimately recommended is largest value among species present:

- Development site: redshank
- Haven Mouth: all displaced key species

10 Current surveys

CA confirmed surveys are being undertaken for:

- High water counts at the proposed development
- Overwintering surveys done but waiting for reports
- Breeding bird surveys being done then RHDHV will have a 2 year suite of results
- Disturbance at the site and the mouth of the Haven and disturbance behaviour at the development site as vessels come past. As soon as RHDHV have the reports ready, **CA to send through report.**

**CA to send
bird survey**

No. Details

PP asked if there was any work being done to look at disturbance of the whole stretch or the navigation channel or are they discrete surveys. CA confirmed they are discrete surveys focusing on set sites but also looking at where the birds are moving to.

PP mentioned that for the navigation channel it will be important to see the impact of additional vessel movements and the pressure of this on the bird species. Onshore (recreational pressure) and the pressures from the navigation channel should be considered. CA replied that looking at the bird disturbance 'toolkit', humans and dogs have a significant impact on redshank disturbance.

- CA mentioned pulling together all questions (from Relevant Representations) into a spreadsheet and if there are any new questions they will be addressed separately. This will be provided to all those present as soon as available.

11 Artificial lighting effects on redshank (CA)

Studies available which have both field-observed and field-experimented the effects of artificial lighting on foraging waders including redshank.

Presentation slide questions shown below:

- Do redshank demonstrate greater predation success or food intake rate under artificial lighting?
- Do redshank demonstrate preference for foraging in artificially lit areas?

CA mentioned what work has been done will be added to the relevant representations spreadsheet that will be circulated to those in the call once complete.

12 Without prejudice derogation case – work being undertaken (CA)

CA set out the three parts of the work: Alternatives Assessment; IROPI; and compensatory measures. RHDHV is working to develop initiatives for habitat creation/restoration to either use as mitigation, compensation and/or net gain depending on outcome of Appropriate Assessment. RHDHV would welcome the chance to discuss further with RSPB with regard to possibilities available to provide additional foraging and roosting capabilities around the site and a site visit with JB from RSPB to look at what opportunities are available.

PP mentioned RSPB need to know the scale of impact before taking forward the measures. The scale of impact will help identify what habitat is needed – intertidal is going to be a focus and roosting areas. RSPB can't progress any further until they have that detail from RHDHV. There are some broad principles that RSPB and RHDHV can work through about habitat and what is needed and how to create suitable areas for the species affected. But this is also where RSPB would have had a specific topic group discussion about this much earlier on. This comes to the sequencing and the timing of these discussions and timetable.

Action

reports to NE,
LWT, EA and
RSPB.

CA/JB to
organise a site
visit.

No. Details

Action

PS replied RHDHV would like to get some agreement on the 'principles' – so that RHDHV can move to the detailed measures. PP replied RSPB are happy to have discussion and proceed in a constructive way. It is worth investing time and effort into the background initial work. Once those principles and clarity on scale have been agreed, then RSPB can look at next steps. PS acknowledged PP's comments. CA replied to PP that RHDHV will be looking at the number of birds being disturbed around the mouth of the Haven. If compensation is needed for X number of birds, RHDHV can look back at the density areas (calculated previously) to see how much area those birds need.

CA asked what RSPB will be looking at for what compensation is needed. PP replied that will also need to consider the conservation objectives – thinking about distribution and factoring in restoration targets. Could have consequences for what is needed compensation/mitigation wise and to seek guidance from RD (NE). Ensuring the full suite of conservation objectives is considered in working through what type/scale of options may need to be considered. CA replied that's why RHDHV have been looking at the distances roosting birds will move in a season which is important for the extent and distribution related to the conservation objective.

JB mentioned 800m is not far. The existing lagoon at Freiston shore is 2.9km away, so if we are saying those birds are only moving 800m that's not going to get them near the lagoon which is the nearest high tide wader roost. Therefore, we need more detail on whether that value is 800m or 800m + and in which direction.

PP mentioned the restoration targets – for some species restoration targets are decreasing (these are not wintering species). It will be important to understand the reasons for the decline as it may be in part linked to disturbance. This disturbance may come from vessel movements currently. Therefore, having the information to hand to really look at that in detail and to understand the impact currently (before you add on the additional pressures) is really important. Might be that some species aren't coping/impacted already, as we haven't had the data beforehand to see that. Need to find out the current baseline conditions and then apply that to the future situation (with the additional impact). CA replied that ships have been going in and out since before the SPA was designated. There are a lot more activities to consider than vessel movements alone. PP replied RSPB will need to see the information before the decision on mitigation/compensation can be made.

JB asked about harbour seals as a disturbed species. CA replied there is no information in this presentation about harbour seals but they are assessed in detail in the HRA. CA mentioned RHDHV will look through the RRs to see what has been raised concerning harbour seals.

No. Details

Action

AJ mentioned NE raised some questions about harbour seals in their RRs. AJ to send through RRs from LWT. Piling data and information related to the planned piling scheme, disturbance from vessels and at sensitive times of year and NE confirmed evidence to suggest population decline in harbour seals (therefore a more significant impact). PS replied to AJ regarding piling – the preference is avoidance of sensitive seasons in terms of ornithology, fish and seals. These measures were included in the ES and the HRA and the designer/lead engineer is aware of these seasonal restrictions.

AJ mentioned that moulting, pupping and breeding are sensitive times for seals.

PS and CA to check the signposting for seals and mitigation in the assessment (better signposting).

CA mentioned that once RHDHV have all the RRs, we will list out the key comments and signpost to they are in the document and signpost to where RHDHV are doing more work on them. One of the target groups will be for seals – Tanya from LWT to attend.

13 Relevant Representations and Statements of Common Ground (PS presented this slide)

Received representations from RSPB and NE – many thanks
RHDHV would appreciate LWT's RRs.

No detailed comments from the Application team yet.

RHDHV recognise that focus of resource has been on these from all parties.

PS mentioned we will need to agree a programme for responses and SoCGs. We will know the timetable for SoCGs following the Preliminary Meeting in September 2021. PS mentioned that we must be in a position to achieve any deadline. SoCG to be developed in agreement with each party separately. PS mentioned we need to ensure focus is on critical pre-examination tasks. RHDHV to provide a 1st draft SoCG at a mutually agreeable point that fits in to the Examination timetable.

14 Next steps including possible site visit (CA presented this slide)

Possible site visit suggested.

Continue to work on without prejudice derogation case

Address comments in representations, to agree a way forward if at all possible

Develop SoCGs

Schedule of priorities, data provision and meetings to be sent out in an updated Stakeholder Engagement Plan w/c 05/07/2021 to include target/topic groups and objectives for subsequent meetings.

CA to identify topic groups and provide a schedule.

JN mentioned the detailed schedule will be very useful for the EA, as the EA has technical specialists that will need to look at the data and the legal team (also factoring in holidays). JN asked if the intrinsic value of saltmarsh will be

No. Details

Action

considered as a headline/topic group. PS replied yes it will be. Other topic groups regarding water quality and flood risk.

RD mentioned NE also have concerns regarding saltmarsh therefore NE should also be involved in the saltmarsh topic group.

Date for SoCG – concerns regarding the date of the SoCG.

Any reports or information to inform the meetings to be sent out at least one week prior to the meetings.

PP mentioned RSPB have an interest in surface water and drainage because the RSPB take water from the drainage system into Frampton Marsh therefore RSPB would like to be part of that topic group. PS noted PP's request.

CA suggested if RHDHV send the titles of the topic groups and what they will cover, then those in the call can identify which ones they would be interested in.

15 Other areas of business

RSPB and NE's request for delayed start to examination. JN says the EA have also requested a delay as they need time to look at legislation in relation to flood defences. Also need to start discussions on the Environmental Permit. PS replied we need a DCO in place before the environment permit. RM happy to chat to EA regarding the environmental permit during the meeting next week (w/c 28/06/2021).

NE and RSPB – reasons for delay request related to volume of work required so that there is enough time to go through everything and ensuring what goes forward is helpful for the examining authority and in order to get to the best position possible before the examination begins.

PP mentions the points made by RSPB in the RRs regarding the in-combination assessment - only where there were project alone impacts then they would be taken forward to in-combination assessment - PP asked if this is a standard approach and have RSPB interpreted this correctly. CA replied no, we would look if those impacts were not enough to be significant, as even if they were combined with an impact from another project then they could be significant.

AJ asked if worst case scenarios have been defined. PS replied the definitions are being finalised based on the EIA, there are some consistency issues (speaking to the ES chapter leads about this currently).

RD queried if the MMO are involved. PS replied RHDHV have received the MMO's RRs – mostly regarding dML and the wording of the DCO (need Cefas advice).

Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Chris Adnitt (RHDHV), Lowell Mills (RHDHV), Ashleigh Holmes (RHDHV), Richard Woosnam (AUBP), Sophie Reese (BDB Pitmans), Louise Denning (Natural England), Bart Donato (NE), Roslyn Deeming (NE), Lydia Tabrizi (NE), Louise Burton (NE), Philip Pearson (RSPB), John Badley (RSPB), Amanda Jenkins (Lincolnshire Wildlife Trust).

Apologies: Paul Salmon (RHDHV), Abbie Garry (RHDHV), Jake Newby (Environment Agency)

From: Ashleigh Holmes

Date: 19 August 2021

Location: Microsoft Teams Meeting

Copy:

Our reference: PB6934-ZZ-XX-MI-Z-1080

Classification: Project related

Enclosures:

**Subject: Boston Alternative Energy Facility Marine Ecology Meeting (Ornithology)
19.08.2021 (DRAFT)**

No. Details

Action

1 Introductions

Chris Adnitt – leading environmental side for marine ecology aspects
Lowell Mills – Environmental consultant in Ornithology for RHDHV
Ashleigh Holmes – RHDHV project assistant
Richard Woosnam – Principal engineer for AUBP (the promoter of the project)
Sophie Reese – BDB Pitmans dealing with the legal side of application
Louise Denning – Senior Coastal Specialist for Natural England
Lydia Tabrizi – Case Officer for this project
Philip Pearson – Senior Conservation Officer for RSPB
John Badley – Senior Site Manager for RSPB (Frampton Marsh and Freiston shore Nature Reserves)
Roslyn Deeming – Senior Planning Advisor for Natural England
Amanda Jenkins – Conservation Officer for Lincolnshire Wildlife Trust (LWT)
Louise Burton – Marine Senior Advisor

2 Aims of the meeting (CA presented this slide)

CA outlined the aim of the meeting is to discuss the respondent comments and agree actions to take forward and discuss specific items in more detail.

Items for more details discussion include:

- Potential impact related to the increase in vessel numbers on birds and mammals
- Loss of intertidal area and how this has potential impacts on habitat type, birds and benthos together with potential for operational impacts on habitat

CA mentioned there is another HRA/Marine Ecology meeting scheduled for 23rd September 2021.

No. Details

Action

3 Examination Process – Rule 6 Letter (CA presented this slide)

CA outlined the examination process, mentioning:

- Preliminary examination meeting on 28th September 2021
- Another meeting if required on 7th October 2021
- Issue specific hearing on Wednesday 24th November 2021

4 Next Steps (CA presented this slide)

CA outlined that RHDHV are preparing an addendum to the HRA and ES Marine Ecology Chapter to address relevant representation comments and incorporate additional data.

CA to circulate addendum ASAP.

Also producing the Without Prejudice Derogation Case (assessment of alternatives, imperative reasons of overriding public interest, compensation plan).

Philip Pearson (PP) asked when the addendum will be ready for review. CA replied it will be ready and circulated as soon as possible.

5 The Facility (CA presented this slide)

CA outlined that the Facility would generate electricity using a thermal treatment process.

Map shown of the red line boundary/Order Limits and the proposed mitigation area (hatched area).

CA mentioned that the RDF will be brought to site via vessels and the lightweight aggregate product will be leading site by vessel. To allow vessel access, the berthing pocket will be constructed through dredging and excavation.

6 Respondent Comments

CA asked if anyone had anything to discuss.

PP said that RSPB have started their review of the relevant representation responses, but because of summer holidays and leave haven't managed to complete their review.

Amanda Jenkins (AJ) said she need to speak to Tania Davy about the relevant representation responses. AJ thanked RHDHV for the detail provided in the relevant representation responses. AJ mentioned she was unable to find the reference numbers for the document. CA replied RHDHV would be able to send a link with the document references.

Roslyn Deeming (RD) said that Natural England are still going through the relevant representation responses.

CA to circulate the presentation post meeting.

PP requested the PowerPoint presentation be circulated post-meeting. CA agreed that the presentation would be circulated.

7 Issue 1: Potential Impact Related to the Increase in Vessel Numbers on Birds and Mammals (CA presented this slide)

No. Details

Action

Port of Boston (PoB) shown in the blue circle at the top left of the map on slide 8. Hob's Hole S Bend - shown is the only place where vessels can pass in and out Tab's Head – area where the vessel navigation channels meet.

8 Current and Historic Vessel Numbers (CA presented this slide)

CA mentioned that current vessel numbers are quite low. During the late 1990s, vessel numbers were up at 800 vessels per year. Overtime, the PoB can vary the number of vessels, and there has been no restriction on the number of vessels that can arrive at the port. There is anecdotal evidence from the PoB that the numbers of vessels have been higher in the past.

Richard Woosnam (RW) mentioned that when the wharf is constructed, vessels will be able to pass the berth vessels alongside the wharf. And a fishing vessel will be able to pass between the berth vessels and the arriving vessels to PoB as well as at Hobs Hole.

9 Vessel Logistics (CA presented this slide)

Vessel movements can vary greatly per tide. Generally, 4-5 commercial vessels can sail the Haven per high tide. Restricted by the tidal nature of the Haven/draught of the vessels. Window of 3.5 hours around high tide.

Bart Donato (BD) queried the seasonality patters. CA replied that the vessel numbers do not vary seasonally.

PP said that given the shipping movements have decreased, and how the bird numbers have changed, this would have implications for conservation. CA replied bird patterns have a cyclical pattern.

10 Operational Vessel Movements (CA presented this slide)

CA summarised the key numbers for vessel movements:

- PoB currently handles 420 arrivals of large vessels per year
- 20-25% of tides currently have no large vessel movements, but this varies year to year
- The Facility will require 580 vessels per year
- 700 tides per annum
- 1.4 vessel arrivals and departures per tide

11 Port of Boston and Pilots (CA presented this slide)

Pilots are transported up and down the Haven by Pilot cutter. Cutters certified for 8 onboard – 2 crew and 6 pilots. Second cutter only required if there are more than 6 pilots. Not likely to increase the number of pilot vessels.

PP asked if this accounts for shift for all navigable tides, 20-25% increase in use of navigable tides. CA replied increase in number of days not the number of vessels per tide. PP replied still not clear. Increase in number of pilot vessels per year, but not the number of pilot vessels per day.

RW – Port of Boston pilot vessels will not be in our direct control. PP replied that from an HRA perspective, in combination effect, PoB and the Facility – potential impacts and how this relates to the assessment. CA replied it is the number of

No. Details

Action

extra tides that will be used, the Facility needs vessels on every tide, but currently only using 70% of tides.

LB asked how this data will be presented to the examining authority, something like an in principle vessel management plan. CA replied this info will be provided in the addendum to the HRA and in the Navigation chapter of the ES. RW replied this information will be required for the Navigation Management Plan and Navigation Risk Assessment where this information will be captured. SR added that there is a requirement of a Navigation Management Plan within the DCO, so the Navigation Risk Assessment feeds into that.

12 Proposed Wharf Site (CA presented this slide)

CA showed the proposed wharf site in blue. Bird survey Section A contains wharf footprint and Section B covers the Haven alongside south-east of the Order Limits footprint.

13 Proposed Wharf Site – Survey Summary Data (LM presented this slide)

LM outlined the updated wintering bird surveys. Assessment follows BTO and WeBS survey methodology.

Breeding birds – BTO common bird census approach – 4 hours for site footprint including the wharf site and the Haven. Low water counts only.

Changes in behaviour observation sessions, surveys done over high water and at Section A only.

14 Redshank counts (LM presented this slide)

Redshank counts from Sections A (blue) and B (orange) and totals (black). Dashed line is equivalent to 1% of The Wash SPA non-breeding redshank population of 4,331.

At low water, most counts sit generally below 1%. Adopted as a proxy for important bird numbers in the area.

LM stressed that the wharf site is not within The Wash SPA. There's an arguable function between The Wash SPA and the birds at the Application Site.

15 Wharf site vs WeBS sectors – densities of redshank (/km²) (LM presented this slide)

Divided the bird counts at the sector by the area of the WeBS sector.

Densities have been calculated for Sections A and B during high and low water during winter months.

Redshank densities at Wharf site sectors A and B were comparable to the middle/high range of redshank densities recorded on WeBS sectors. Sectors A and B are not completely comparable to the WeBS sectors as the methodologies by which the former and latter groups of areas were selected, and boundaries defined will be different.

16 Changes in bird behaviour (LM presented this slide)

Disturbance largely to roosting birds – largely a result of visual impact of large vessels (rather than the wake).

Max recorded displacement was 800m.

Few related to redshank (mainly gulls).

17 Mitigation measures (LM presented this slide)

No. Details

Action

LM mentioned we aim to improve resting rock in section B - increasing roost rock by removing equivalent rock armour in section A. The aim is for the roost on section A to move to section B. Works will involve decreasing the gradient of the bank, creating a slope that redshank can feed on.

Works will involve re-profiling some of the existing pools, flattening and removing the old bank.

Louise Denning (LD) asked where the silt will be spread out, she thought it was just over the saltmarsh. CA replied there will be a small reduction to the gradient of the bank. We have not looked around the site to give more detail on where exactly the silt will be moved to. There will be more information/detail provided on this at a later date.

PP asked how certain this mitigation is in terms of being a viable option. Have there been conversations with the EA and regulators to give certainty regarding the viability to take these forward. Need absolute certainty that these mitigation measures can be achieved.

RW mentioned that going to site would be easier than looking at an image.

CA mentioned there have been conversations with the EA and Landowners (the Crown Estate) regarding the mitigation measures. SR commented on unknown landowner (so we are seeking compulsory acquisition over that land) and The Crown Estate (who we are currently engaging with) and we have received no red flags from the Crown Estate on securing that land. EA, we have met with them and we will need to work with them on the works and terms of working near flood banks and those discussions are progressing.

PP mentioned that EA had concerns about the mitigation measures. SR no issues raised around habitat mitigation issues but will need to confirm. CA we will need to confirm. It is not the primary flood bank that would be lowered, EA weren't concerned about that as an issue.

CA/SR to confirm about the habitat mitigation issues raised by PP.

BD queried the security of deliverability and the certainty that redshank will be able to adopt the site and in long term, making sure there is provision for long term management of this area for redshank. CA replied that rocks will be in the same location as the existing rocks at site B. BD replied this needs to be agreed and clearly articulated that the outcome is mentioned.

PP not just about the navigation channel (as mentioned by BD) but also from the land. Has there been conversation with England coast path team given that the plans indicate a breach helping to reinstate the footpath access? Some of the recreational pressures that could occur behind that proposed area, that they will be effectively managed as well to ensure the area is protected (no dogs running around on the saltmarsh area which would greatly disturb the birds using that area. CA replied that the footpath isn't moving so the level of disturbance shouldn't change. PP mentioned the path hasn't been in the most accessible

No. Details

Action

state, so if it becomes more accessible then that would need to be considered in assessment.

RW replied that there is a 6-7m drop from the footpath down to the mitigation area, so access for humans is unlikely. Ongoing dialogue with coastal path stakeholders to provide separation from the footpath and the mitigation area.

CA to check conclusions of the NE footpath report.

LD asked if we have you looked at Strava data. Increasing usage going forward is possible if the footpath becomes more accessible and with a growing following of people doing the England coast path. CA replied that NE footpath access report that it wouldn't have disturbance. CA mentioned it shouldn't have any impact.

CA to check NE assessment.

BD needs to consider the England Coastal Path (ECP) status within the HRA. BD asked whether considering the England Coastal Path falls on NE or the RHDHV HRA. RD said that Darren Brain is the contact for ECP. CA to check NE assessment. SR mentioned meeting with DB on 24th August.

JB mentioned that fencing is an effective way to prevent access, for example, stop netting rather than barbed wire fencing.

PP mentioned that along with Darren Brain, a conversation will need to be had with LCC. As LCC have responsibility for management along that area, so will need to keep LCC updated on this. RW mentioned there is a Coastal Path meeting, LCC are an invitee at the meeting.

18 The Haven (LM presented this slide)

PP mentioned caveat to the Strava heat map, they will only show individuals who have got the app. There will be a minimal number of people using it, but it will be worth discussing with ECP for people counters to provide a better picture to provide an accurate reflection on the numbers of people using that stretch.

CA to pass on information to AG regarding people counters.

CA to pass this suggestion on to Abbie Garry for ECP meeting.

19 Mouth of the Haven – WeBS sectors (LM presented this slide)

PP queried if there is still no data between the site and the mouth of the Haven to understand potential issues/hotspots along the Haven that may be of concern. CA requested a site visit to walk down that strip between the site and the mouth of the Haven. LM replied, there is no specific data for the stretch between the Slippy Gowt and other WeBS sectors closer to the mouth.

PP - still think it's worth having data at Hob's Hole. CA noted this and said that Hob's Hole is close to WeBS sector Frampton North.

Frampton North and Witham counts well into hundreds.

Redshank, black-tailed godwit

* = important count for the species

No. Details

LM requested bird count data and methodology from RSPB for Frampton Marsh Nature Reserve. JB confirmed this would be acceptable. To note, there was a black-tailed godwit at Freiston Shore (10,000+ highest count in UK) and Frampton Marsh Nature Reserve (4000-6000 peak in Autumn each year, making it a significant site in the UK). LM asked if they are named as BTO WeBS sectors. JB confirmed they are and the data is all on WeBS. Witham 51 – high count area for black-tailed godwit.

CA requested data for densities for areas within the reserve. JB replied WeBS sub-sectors we know the area knowing the bird numbers. So we can work out the densities from bird numbers. PP mentioned data request form. JB mentioned WeBS request for the best and scientifically rigorous data.

If the 800m displacement distance is used by the WeBS methodology, it is arguably sufficient to look at the displaced areas that can receive displaced birds should they be displaced from the mouth.

20 Dark-bellied brent goose (LM presented this slide)

LM – possibly mitigate so that Dark-bellied brent geese can bathe within one of the reserve areas. 50% of peak counts is the carrying capacity.

JB mentioned there are alternatives for dark-bellied brent geese such as freshwater habitats at Frampton. Dark-bellied brent geese are quite mobile and seemingly adaptable (more so than redshank), there are freshwater alternatives. If there is going to be more disturbance through increased shipping to the freshwater bathing they do in the Haven, and whether they are going to simply jump across and use the alternatives.

PP – mitigation would be valid if you are trying to address the vessel movements, so this would actually be compensation. Make sure terminology is correct to address the means correctly.

21 Golden plover (LM presented this slide)

High peak counts for grassland, arable and saltmarsh habitats for golden plover.

22 Lapwing (LM presented this slide)

Numbers greatly exceed the numbers disturbed at the Haven mouth.

Species likely to remain at the Haven mouth rather than be displaced to other sectors.

23 Changes in behaviour (LM presented this slide)

Baseline disturbance at mouth of the Haven occurs as a result of large commercial vessels during high water.

Disturbance to birds roosting or resting. Most roosting takes place on the rock armour 'spits' at the Haven mouth, or highest areas of mud or saltmarsh.

The maximum recorded displacement distance was 800m. No disturbance events at the Haven mouth itself involved a displacement distance too great to be accurately recorded.

Action

No. Details

JB said he saw some birds fly from the Witham mouth (as a result of vessel disturbance) to the lagoon at Freiston shore which is 2.5km which didn't seem unique. PP looked at reports on May 1st and 25th June Oystercatcher flew to Freiston shore. Distance recorded as 3,300m. Report recorded that 125 Oystercatcher flew to Freiston shore on 25th June, so there are observations coming through that show that connection to Freiston Shore. These are spring/summer counts. No winter data showing similar behaviour. Small amount of data included in the report so not clear if there are different behaviours in different seasons. Question to look at and come back to. LM limited flight distance during winter.

BD mentioned characterising the risk - do we understand the threshold disturbance distance for each species in relation to shipping traffic (i.e. do the birds panic at 100m, 200m, 300m etc). Important to think about this with regards to mitigation/compensation sites and their proximity to the navigation/shipping channel. LM replied for some disturbance distances we will be able to infer even if the raw data/methodology did not capture those distances itself. We could work some of these disturbance events into a mapped format even if it's a minority. Priority for ornithology surveys was displacement distance. BD agreed displacement probabilities would be really useful. LM replied that bird behaviour analysis is being updated - far more in-depth quantitative analysis, vessel types, forms of disturbance (wake or visual) to provide a clearer picture.

24 Mouth of the Haven - WeBS conclusions (LM presented this slide)

Areas of waterbird habitat close to the Haven mouth are doing their best job at acting as refugia (that's not including the RSPB reserve areas). If we can proceed with an agreement on acquisition of data either via WeBS and/or supplementary data from RSPB.

Each species analysed has access to sites close to the Haven, capable of supporting numbers similar to the peak recorded numbers of birds taking flight in response to vessel movements. These sites are within the maximum recorded displacement distance of 800m.

LM mentioned previous point made by PP regarding the seasonality of behaviour.

25 Trend in waterbird numbers (LM presented this slide)

LM mentioned that RSPB requested a greater insight into the full Wash trends in waterbird numbers and the species of waterbirds present.

Cycle of waterbird assemblage total count for the Wash as defined by WeBS (not the SPA, this is the Wash taken in by WeBS full sight counts and sectors). Totals calculated from 1970-2010 by summing the species counts for the WeBS annual period. They are added together peak counts from different dates within the same year, so they aren't necessarily peak assemblage counts for a particular visit. They do follow the trend of the site totals given from 2010-2020 so they are comparable. They follow two 15 year cycles – two waves of similar numbers since 1990.

Action

CA/LM to look at winter/seasonality behaviour.

No. Details

BD confirmed WeBS data before 1990s is less reliable. Increase in left-hand side of the graph is due to poor data quality and observer effort.

WeBS data for the 'whole-Wash' available as annual peak counts from WeBS online. Allows us to compare trajectory and proportional ups and downs but not absolute values compared to trajectory.

- 3 out of 5 species annual peaks
- Dark-bellied brent decreased since 2000
- Golden plover numbers step down in trajectory

CA asked RSPB what were the specific actions raised in the restore objective. RSPB is currently doing work on their reserves. CA asked if this is linked to the restore objective.

PP replied that the restore objective has been set at the conversation advice for the Wash (so that comes back to the SPA populations). A lot of work on redshank being done by RSPB at the moment – breeding population on the saltmarsh is of serious concern. Given the lack of movement of resident birds therefore impacting wintering birds, which has the potential for a knock on impact on the breeding bird population as well.

JB mentioned that with brent geese and milder winters, you would expect lapwing and ringed plover to winter more regularly to the west. Lapwing and ringed plover have a lot more choice about where they go in the UK. Brent geese don't, so it is worrying to see a decline in the number of brent geese in the Wash because it should be one of the best places for brent geese. CA replied we have compared to the GB numbers to get a wider understanding of the trends. Redshank WeBS wintering counts are relatively stable but breeding redshank on the Wash is in free-fall – why is there this difference (this is something that RHDHV/RSPB will need to find out in assessment). LM replied this could be because of higher adult survival due to milder winters - good recruitment of adults. Maybe breeding population aren't staying and there is a migrant portion to the wintering numbers, and their over-winter survival to come back the following year. Maintaining their numbers in the winter while the local breeders are failing to secure territory or find food.

PP replied Lucy Mason (conservation scientist) is looking at this. PP and JB to get back to RHDHV with the results. LM replied the SPA is non-breeding redshank but the SSSI is breeding redshank.

PP replied that RSPB will take this one away. LM replied the SPA is non-breeding redshank but the SSSI is breeding redshank.

BD flagged the Wash is an important site for redshank nationally in comparing WeBS data with individual site data - some sites are so important that they drive the wider trend rather than responding to the wider trend (the Wash is such as critically important site for waterbirds). Redshank in the UK has 3 different populations here in the winter:

- Britannica - overall decreasing across the country

Action

CA/LM to look further into the wintering and breeding redshank numbers.

RSPB to get back to RHDHV with results once PP has had meeting with Lucy Mason.

No. Details

- Tarnas (Europe and Scandinavia) – most likely to be declining in the UK due to milder winters and ability to short-stop in Europe
- Robusta (Iceland) species – increasing numbers

BD would be interesting to get data from the Wash Ringing Group to see where the birds they catch in winter actually get traced back to.

PP said that based on the Wash Wader Ring Group we are likely to have contacts that we could give – Steven Dodd contact.

Action

PP to pass on Steven Dodd contact details.

26 Mouth of the Haven (LM presented this slide)

PP mentioned SPA features/SSSI citation – it is largely recognised there is a mismatch between those citations. Need to get those resolved. Marine conservation advice package which includes those features on the Wash and targets that are needed on the species as well. Need to include this information to understand the full impact and the key attributes that need to be included as part of the project. Make sure to address the comments made by consultees. CA replied we have been looking at targets for individual species.

LB mentioned on gov.uk you can get all information around the Wash, SPA and SSSI – condition assessment and conservation advice packages and advice on operations. Information is on the targets and also looking at the advice that NE has given in terms of the management of the site.

CA replied we haven't just been looking at the targets but also the operational issues.

27 Management (CA presented this slide)

CA mentioned putting forward the existing and new ideas, quantitative data – RSPB wanted us to say the type of habitats we think are needed, we are now in 2 weeks' time in a position to talk about the quantitative data. These discussions will be on these measures will be reducing the baseline impacts, difficult to tease out the baseline, and managing the baseline impact. PP replied that we can go away and will be looking at this once people off leave, points are useful so we can look at the information that has been provided in more detail.

PP mentioned that RSPB will be looking at this in a week or so's time, once we have got people back from leave. It is useful to have these points available so we can look at the information in more detail. CA asked if we could have a focussed meeting with RSPB (and others that might want to be involved) on the management to talk about the potential at the reserve and around the reserve.

PP said "reliance on our reserves is probably going to send people down a route that will be difficult and challenging, so looking at areas away from the reserves or adjacent to the reserves is likely to be more straightforward and easier for various reasons that we have explained in past meetings. I think John looked at some of the areas maybe around by the Prison area that's close to the mouth of the Haven – there might be opportunity to improve some of the habitat down

No. Details

there. Exploring those opportunities would be preferable, we certainly can't commit to anything on the reserves for a host of reasons".

CA replied "we took that message away from the last discussion we had. The measures on this side are looking at creating roosting sites around the mouth of the Haven outside of the reserves and looking at management of fields to provide safe havens and wetland areas which would also benefit the breeding redshank. So we are looking to put forward ideas outside of the reserve as well. It would be for RSPB to come back to us with comments on these areas".

JB replied "I agree with that and if I am doing my job properly there shouldn't be any areas for improvement on the RSPB nature reserves".

LD mentioned that if you are looking at land outside the RSPB ownership then you will have to go back to looking at how that will be undertaken and landowners around that area might be difficult to deal with. CA replied that any measures would be undertaken to minimise any impacts and we will have to look at those impacts as well.

BD mentioned you will need to consider what is ecologically the right answer and what is legally achievable and security of outcome. Legislation will be different inside and outside of the designated boundaries. BD asked if Frampton is designated. JB replied that Frampton is not designated on the terrestrial side, but it would meet the qualifying levels quite easily.

JB mentioned the NE comment about energy budgets for black-tailed godwit – there is a reference to a paper by Alvez in Ecology about black-tailed godwits being in negative energy budget loss in the winter. That relates to the potential 2% in energy demand from disturbance of roost sites and the use of those alternatives. As discussed earlier, depending on the species some go further, and some come back. JB wants to know more about this as this paper only reported black-tailed godwit but are there other species influenced by this (with a similar negative energy budget in winter). Not as many black-tailed godwit roosting at the mouth of the Haven relative to Golden Plover and Lapwing.

BD replied the paper is specific to black-tailed godwit. JB mentioned that PP has a meeting with conservation scientist (Lucy Wright). RW asked if the paper could be circulated to CA as well. BD agreed.

28 **Issue 2 - Loss of intertidal area and how this has potential impacts on habitat type. Birds and benthos together with potential for operational impacts on habitat (CA presented this slide)**

Slide showed photographs of the habitat that will be lost at the proposed wharf site. Thin strip of salt marsh habitat loss in Section A and a larger strip at Section B. Strip of rocks providing a good roosting habitat for the breeding redshank in front of the saltmarsh (at the upper level of the mudflat). We will not be losing that roosting habitat; we will be moving it further along to Section B.

Action

BD to send the Alvez paper to RSPB and RHDHV.

No. Details

Action

In terms of the salt marsh condition, there are several surveys by the EA including the areas we are looking at.

LD asked if removing the rock armour is going to allow scour of the saltmarsh behind. CA replied the rock armour will only be moved in the proposed wharf area so that area would be excavated for the berth and wharf area. This is all included in the habitat loss calculations. Discussions ongoing with the EA regarding the rock armour movement. LD thought rocks were being moved from Section B. CA confirmed not, rocks only being moved from Area A to Area B. RW mentioned we are also looking at the under-wharf areas to possibly put some boards to retain sediment and create marginal saltmarshes in that area, which will be available when we publish our mitigation report. CA mentioned that the loss of saltmarsh habitat is being calculated on a worst case scenario basis, under the wharf structure there will be more growth of saltmarsh once the construction is complete. LD replied there is research about growth under pontoons and wharf structures - limited in what will grow under the wharf.

RW mentioned that is why we are keen to get people to go to the site. Saltmarsh is not of the highest quality – generally described as ‘poor’. JB replied that the EA’s response says the saltmarsh quality is pretty good. CA replied that EA standard quality surveys – they have in all the reports on the poor quality generally in the Haven. There is debris in the saltmarsh that gets grown over in the saltmarsh growing season. JB mentioned tidal rack is a valuable habitat in its own right. JB defers to NE, but it doesn’t look like it’s poor quality. CA replied it is low diversity saltmarsh and is affected by the debris. JB mentioned there are quite a few plant species in terms of saltmarsh diversity relative to other saltmarsh communities. JB said RHDHV should have a look at C10. CA replied we will look at the C10 comment and go back to the reports that have qualified the saltmarsh as poor quality and see what led to this conclusion.

LD commented that suggested a survey yourself as the EA have a different objective for their survey. Compensation areas (and manipulating the habitats in those areas). The number of species present are higher than anticipated for a poor quality habitat. Missed opportunity to do a survey of this area. CA replied a botanical survey was done. LD replied that this survey was done in October which is late in the survey season for most species.

PP mentioned that regardless of whether the habitat is poor or high quality, it is still a priority habitat so still needs to be compensated for. CA replied there might be opportunity to improve saltmarsh quality further down. PP replied that this ties in to RSPB’s comments about understanding what compensation/management measures implemented adjacent to the Facility and to enhance habitat is not caused to deteriorate the habitat for species. RW replied this will be in environmental permit. PP replied it should also be in the DCO application though so that they are captured in the full suite of assessments. CA mentioned mitigation that will be maintained.

No. Details

PP asked if there are any other facilities like this adjacent to a river or watercourse similar like this. Photos of an existing operating facility would be useful. RW replied that the DCO mentions best available technology and practices.

LD mentioned the poor quality assessment – ‘poor quality’ was included in the biodiversity metrics, if you do go down biodiversity net gain (BNG) route, the OLEMS will need a reassessment of the calculations. OLEMS only have terrestrial habitat, but that doesn’t include anything for marine habitat included in the calculation. CA replied they are separate (as there is a separate methodology for intertidal) but will be included in the BNG calculation.

AJ wanted to agree with LD and PP regarding saltmarsh importance and improving the quality should be an aim. Assessment of BNG of saltmarsh is really important. **CA will go back to the EA reports** (confirming the poor quality) and also arrange a site visit with those in attendance to see the status of the site.

JB if section B will be used for redshank mitigation, this will affect the quality of the saltmarsh negatively. CA mentioned those can be negotiated.

29 Benthos (CA presented this slide)

Benthos surveys have been undertaken by the EA in 2010, 2014 and 2017. We have recognised in previous work that those habitats provide food for birds and fish.

30 Operational Impacts (CA presented this slide)

- Habitat alternation due to hydrodynamic changes
- Changes in vessel traffic leading to increased ship wash and underwater noise and disturbance
- Increased suspended sediment concentrations due to maintenance dredging (localised, small-scale plume)
- Breaching of vessels at low tide - habitat loss of mudflat areas to be converted with gravel to beach the vessels
- Increased emissions to air and deposition on marine and estuarine habitats - new report just come out looking at air pollution (nitrate levels) they do fall underneath the critical loads for the pollutants described – this will be mentioned in the addendum to address the respondents comments.

AJ queried underwater noise – RR response to NE, suggestion of low tide dredging impact lessened to marine mammals – could piling be done only at low tide. CA replied this will be agreed at another time (another meeting and get back to AJ).

31 AOB

PP asked about the Solar Park (south of the Facility) near area B for proposed mitigation and how this project could impact the Facility.

Next meeting – 23rd September 2021.

Action

CA/RW to find out if there are any similar sites already in operation

CA to check EA reports regarding quality of saltmarsh

Mitigation measures for marine mammals regarding piling disturbance

CA to provide AJ/TD with more information on observer

No. Details

JB mentioned the speed of shipping – vessels doing 4 knots is really slow. CA replied that the Facility cannot control all speeds except those coming into the wharf.

AJ asked what an observer would do if they saw a marine mammal. CA mentioned this will be the area outside the Haven, where there are more marine mammals. AJ and JB asked if the vessel will change course. Covering the propellers discussed. AJ asked for more information on the above to give to Tania Davy.

Action

course of
action if
marine
mammals
are seen.

Minutes

**HaskoningDHV UK Ltd.
Industry & Buildings**

Present: Chris Adnitt (RHDHV), Lowell Mills (RHDHV), Richard Woosnam (AUBP), Philip Pearson (RSPB), John Badley (RSPB), Annette Hewitson (Natural England), Amanda Jenkins (Lincolnshire Wildlife Trust), Roslyn Deeming (Natural England), Sophie Reese (BDB Pitmans), Louise Burton (Natural England), Louise Denning (Natural England), Rachel Hudson (Environment Agency)

Apologies:

From: Ashleigh Holmes
Date: 23 September 2021
Location: Microsoft Teams Meeting
Copy:
Our reference: PB6934-RHD-ZZ-XX-MI-Z-1085
Classification: Project related
Enclosures:

Subject: Marine Ecology Meeting Minutes 23.09.21 (DRAFT MEETING MINUTES)

NumberDetails

Action

- 1 Chris Adnitt (CA) introduced the aims of the meeting** - to update the members of the meeting on progress with data analysis and discuss specific items in more detail.
 - Habitat loss at the proposed wharf site and potential mitigation measures (initial and ongoing)
 - Bird disturbance at the proposed wharf site and the proposed management measures
 - Water supply concerns regarding the impact of discharge, supply to Frampton, pollution control measures
- 2 CA gave a Recap on the Examination Process**
 - It is confirmed the Examination will be held by virtual methods, with the exception of an Accompanied Site Inspection and an Open Floor Hearing.
 - First Preliminary Meeting on 28th September 2021
 - Second Preliminary Meeting on 7th October 2021, if required.
 - 3 planned issue specific hearings including one on Environmental Matters on Wednesday 24th November 2021.
- 3 Next Steps (CA presented this slide)**

RHDHV currently working on the Addendum to the HRA and ES to address respondent comments and incorporate additional data to be submitted for Deadline 1 (19th October).

Still working on Without Prejudice Derogation Case – aim to be submitted at Deadline 2 (11th November) including:

 - Assessment of Alternatives
 - Imperative Reasons of Overriding Public Interest
 - Compensation Plan (ongoing discussions with regards to compensation sites)
- 3 CA provided a Recap on the Facility**

NumberDetails

Action

- The Facility will generate electricity using a thermal treatment process.
 Refuse Derived Fuel (RDF) will be brought to site using vessels.
 Lightweight Aggregate will leave the site by vessel
 A new wharf will be built early in the construction process. The wharf will include a berthing pocket to allow ships to safely dock without restricting the navigable channel within The Haven. The berthing pocket would be constructed by dredging and excavation.
- 4 CA thanked attendees for their additional comments**
 Additional comments following the issue of our responses are helpful in guiding the addendums being produced.
- Amanda Jenkins (AJ) queried detail surrounding harbour seals (i.e., type of piling method). **GS to call AJ regarding marine mammals.**
- CA to organise Gemma Starmore (Marine Mammal expert at RHDHV) to call AJ.
- 5 Mouth of The Haven – Changes in Bird Behaviour (Lowell Mills (LM) led this slide)**
 Baseline activity of vessels at the mouth of The Haven causes disturbance largely to roosting birds (88%). Disturbance is largely a result of visual impact of large vessels.
 Cargo vessels are the majority source of disturbance to feeding and land-roosting birds.
 Cargo and pilot boats are disproportionate sources of disturbance to birds on water/bathing.
- LM showed table with different vessel types and their influence on waterbird behaviour (see PowerPoint presentation slide 6).
- John Badley (JB) suggested the speed of the small fishing boats may also be a factor. The pilot vessel is a similar size but causes a lot more disturbance, presumably due to speed and wake (query on noise).
- Using counts at specific subsets of WeBS sectors to estimate relative importance of the Haven and Mouth of the Haven areas in a whole-Wash context
- The baseline and the WeBS sectors, as criticised by RSPB, the original number of WeBS sectors and initial use of that baseline data for the HRA and ES was insufficient. Since then, we have accessed all but one of the additional WeBS sectors (which RSPB and Natural England requested we source) – what is the importance, the frequency of occurrence and numbers involved in a whole Wash context for SPA, designated feature waterbirds and some of the bird assemblages of importance (Lapwing and Golden Plover).

NumberDetails

Spatial scales adopted take the conservation objectives to do with disturbance (which generally refer to the local area within the larger SPA).

We have taken all the WeBS sectors within 800 m of the Haven and around the mouth of the Haven. All but Freiston sector 50 (which is more offshore) included. Freiston sector 50 likely to decrease estimates for waders because it is an offshore sector.

15 WeBS sectors have been included – all 15 are regarded as the Haven local area.

4 WeBS sectors regarded as the Mouth of the Haven:

- Witham 20
- Witham 60
- Frampton North 27
- Frampton North 31

First table - Relative importance of the Haven local area to the species in a Wash context

Second table – Relative importance for these same species of the Mouth of the Haven sub-area in a whole Wash context.

Medium and short term trend and amber alert - Brent Goose (importance category 'very high').

Slide 8 (LM presented this slide)

Among non-breeding waterbirds, there is i) high relative importance of the Haven and Mouth areas in a Wash context, and ii) more routine and high density disturbance to:

- DB brent goose
- black-tailed godwit
- redshank
- oystercatcher
- turnstone
- lapwing
- golden plover

LM said Shelduck should be included (NE and RSPB in agreement).

PP mentioned it would be good to have waterbirds assemblage included in assessment, LM says this has been done already will be included.

JB queried the criteria for assessing very high to very low relative importance. LM shared the definitions to categorise the importance of the Mouth of the Haven site and The Haven local area to Wash SPA qualifying species, based on magnitude of seasonality valid WeBS counts made between 2014 and 2019.

LM to share the definitions to categorise the importance.

Action

LM to share the definitions to categorise the importance

NumberDetails

Action

6 **Proposed Wharf Site – Changes in Bird Behaviour (LM presented this slide) – Breakdown of vessels for the Wharf area**

Baseline activity of vessels at the wharf site causes disturbance largely to roosting birds. Disturbance is largely a result of visual impact of large and small commercial vessels.

Cargo vessels are majority cause of disturbance of foraging and land-roosting birds.

Pilot boats (rather than both Pilot and Cargo) are a disproportionate source of disturbance to birds on the water/bathing. Also a lot more disturbance to gulls at the wharf site than at the mouth of the Haven.

Wharf site has a smaller dataset in comparison to the mouth of the Haven.

PP said there is clearly a difference in impact at the Wharf area from the different vessels compared to the mouth of the Haven, which supports RSPB's concerns regarding understanding of vessel movements. Impact on foraging birds even from the small vessels. LM agreed. LM said there is a visual impact of fishing boats and acknowledges PP's comment.

BD queried why the proposed mitigation area has been identified as a suitable roost spot if there will be more vessel movement through that area. And why we anticipate that the mitigation/compensatory area won't be subject to disturbance. LM replied the reasoning is that we want the mitigation to be as close to the original roost site, where habitat will be lost, as possible. A mindedness to make any mitigation/provision for the roost to be as close as possible to ensure success. We are thinking about the scale and quality rather than proximity.

CA mentioned discussions with RSPB about what could happen and the worst case scenarios. BD replied that the closer the site the better, but it also needs to work/be successful.

PP mentioned looking at sites close to the Haven but not the saltmarsh, maybe farmland for additional area to be created and mentioned the impacts on priority habitats.

7 **Key Issue One – Habitat Loss at the Proposed Wharf Site and Potential Management Measures**

- Section A – where the proposed wharf will be
- Section B – Haven alongside south-east of the Order Limits footprint
- Bird surveys were split into Section A and B.
- Loss of mudflats and rock area – primarily where the redshank like to roost.
- One of the ideas (discussed with RSPB) need to look for mitigation for removing strip of rock. Mapped area of saltmarsh (pink area identified on slide 14).

Slide 15 – Intertidal Habitat Loss

Loss of habitat was inputted to the net gain calculation.

NumberDetails

Action

Intertidal habitat loss:

- 1 ha of saltmarsh (worst case as there is potential for limited saltmarsh to grow under the wharf structure)
- 1.4 ha of mudflat to be replaced by hard substrate within the intertidal area

Discussions about the saltmarsh:

- Surveys undertaken of the saltmarsh for the Environment Agency to NVC standards.
- Recent survey by Natural England confirming NVC communities.
- Survey in 2011 defined saltmarshes as of 'poor quality' due to the limited extent, low diversity and negligible zonation (Jacobs, 2011).
- Further confirmation poor quality of saltmarsh generally in the Haven – latest survey available from the EA undertaken in 2017 (Holden)
- NE request to consider marsh as 'moderate'
- CA requested comment from NE regarding the recent surveys they have undertaken.
- Louise Denning (LD) replied that NE did quadrat surveys first week in September 2021, previous EA ones done in October 2020. NE identified similar NVC communities to those identified previously. Main types and subcommunities, variation for a couple of subcommunities. The main issue is comparing it to the wider Wash and knowing what the NVC communities are for the wider Wash. NE had a condition assessment undertaken by Sarah Lambert (September – October 2020) focusing on upper saltmarsh communities. SL identified the same NVC communities as can be seen at the wharf site. A small area of SM16 (upper marsh) also identified. LE mentioned that NE would not consider the saltmarsh on the Wash as poor condition, because it is similar in species composition (*Artemisia carex* in the vicinity of the area).
- **CA asked for map of the area where NE surveyed. LD to provide GPS locations for quadrats.**
- PP asked if there are more rocks in front of the saltmarsh areas what impact will this have on the saltmarsh (potential deterioration). LD replied rocks are not causing localised erosion along wharf section or proposed mitigation/compensation area. LD said unlikely to influence the saltmarsh. Sea aster is flowering (70-75cm in height) on the saltmarsh, so roosting redshank unlikely to use as they are unlikely to have a clear view. In which case, rocks potentially better placed on the mudflat. Concerns regarding bund 300m within compensation mitigation area.
- CA replied the intention for the rocks would be on the mudflat area not the saltmarsh area. With regard to the spreading of material, due to the volume of material we will use it in another way.
- LD replied the area proposed is very dominated by sea couch in the upper section. Therefore, if you raise the topography you would end up with sea couch over the whole area which would not be favourable to any of the roosting birds.
- CA asked LD, when NE did the survey there were some scrapes and ponds already, did you feel there could be potential for management of

LD to provide GPS locations for quadrats from NE survey.

NumberDetails

Action

those areas. LD replied most of the scrapes/ponds NE saw were unvegetated (scattered Salicornia) or hypersaline pools (without vegetation). LD mentioned you could create new pools.

- JB agreed with LD and confirmed redshank would not roost on sea aster or sea couch. Information provided regarding disturbance from fishing vessels in that area and looking at the proximity to that area (as you are proposed to put compensation on the edge of the channel) - proximity of rocks near the channel means it is unlikely the compensation would be successful.
- PP mentioned the need to see a broader suite on options (tabulate with narrative), so we can identify preferred options and therefore allowing RSPB and other stakeholders to home in on suitable options. CA replied the options will be ready as soon as we can.
- PP mentioned that seeing the wharf data is good/helpful, more informed and a better baseline to understand the disturbance.

8 Benthos (CA presented this slide)

Mudflats are also important for the benthos. Surveys undertaken by the Environment Agency in 2010, 2014 and 2017. Surveys identified species typical of estuarine habitats, mostly polychaetes in terms of diversity. Habitats surveyed were homogenous with habitats within The Haven. Recognised that species provide food for birds and fish.

9 Operational Impacts (CA presented this slide)

There are some respondent comments that came back with regards to operational impacts:

- Habitat alteration due to hydrodynamic changes - assessed as negligible
- Changes in vessel traffic leading to increased ship wash – assessed as negligible
- Increased suspended sediment concentrations due to maintenance dredging – assessed as no effect
- Beaching of vessels at low tide- reduces intertidal area but already assessed as loss
- Increased emissions to air and deposition on marine and estuarine habitats – assessed as of minor significance based on conservative assumptions (based on emission limits rather than actual emissions).

LB queried if we will get anything in writing on this. CA replied this will be in the HRA addendum. LB several issues around birds which will come into the HRA, but what about the wider habitat/EIA issues. Will there be chapter updates - saltmarsh is priority saltmarsh and is not part of the SAC. CA replied there is also an addendum to the Marine and Coastal Ecology chapter which will cover those issues.

10 Habitat Restoration/Creation Initiatives (CA presented this slide)

Looking at a number of options for habitat restoration creation initiatives.

- Debris clearance from marsh areas along The Haven.
- Field margins along areas just behind the flood defence along The Haven
- Potential opportunities within:
 - Area owned by Boston Prison

NumberDetails

- Discussions with Boston Borough Council regarding Havenside Country Park (areas of grazing marsh/reedbed/fen/ponds with seasonally wet areas)
- Hobb's Hole Local Wildlife Site

Action

Debris clearance from marsh areas along The Haven

- LD – plastic material along the Haven, restricting to hand picking, not sure how much benefit as a mitigation measure. LD mentioned old fence lines in mitigation area, thoughts about grazing that area (dominated by sea couch). CA replied that this is something to consider.
- JB mentioned this is quite a small area to graze, low saltmarsh, with disturbance from humans and dogs.
- LD suggested possible removal of the bund to allow inundation of sea couch.
- BD queried mention of debris – are we referring to anthropogenic debris? CA confirmed.
- BD mentioned saltmarsh – if you are managing the saltmarsh for breeding birds, more potential for birds and depends on the objectives for the saltmarsh (whether it's just a habitat, or habitat and birds outcome). Grazing is a good way of achieving that although it could be logistically difficult in this situation. Potential mechanical methods (topping it in the summer) suppressing sea couch and allowing other species to develop in the sward over time. CA replied we will consider this as a potential option.
- JB mentioned this is focus on some small detail (particularly net gain on the saltmarsh). JB requested more discussion on the 2.4 ha loss of intertidal habitat.

Potential opportunities within Area owned by Boston Prison

- JB mentioned that creating saltmarsh is not difficult. For example, RSPB created 66 ha at Freiston a few years ago. The technique of creating saltmarsh is all about water levels, the seed source is already out there. Finding the right location and land ownership is likely to be challenging. CA replied that making sure the area to be flooded is a suitable level for saltmarsh is necessary. JB replied you can use LiDAR for that. Strongly suggest the area near the prison is suitable for saltmarsh (as it is similar to the land at Freiston).
- JB queried the width of the country park (linear and narrow).
- PP queried the scale of what habitat we are dealing with; mouth of the Haven need figures on worst case scenarios – this leads to what scale of habitats is needed – home in on the options. Need to see options soon.
- LD requested a map/site of the Prison area, provide a map of the area you are looking at. Mark Stuart at Lincoln University has done a lot of work with RSPB looking at managed realignment at Freiston.
- LD agreed with JB regarding the narrow nature of the Havenside Country Park. Although this site is close to the Facility, is there capacity for extra roosting at that location. JB replied Havenside Country Park is suitable for

NumberDetails

Action

- saltmarsh curation but not redshank. There are some tall hedgerows that may be of interest on their own.
- JB to send map to CA and LM of map of the mouth of the Haven.
 - LB queried when the addendums will be submitted into examination. Ashleigh Holmes replied in the chat function 'addendums will be submitted at Deadline 1 on 19th October'.
- 11 Issue 2 – Bird disturbance at the proposed wharf site and the proposed management measures.**
- Requirement for saltmarsh ponds as foraging areas
- Queried whether we need the ponds.
- Ongoing maintenance
- Debris clearance when necessary and only during periods when birds are not overwintering or roosting on site
 - Maintenance of saltmarsh ponds/scrapes to provide additional foraging areas.
- 12 Issue 3 – Water supply concerns regarding the impact of discharge, supply to Frampton, pollution control measures**
- Water Drainage and Supply**
- Work undertaken within the Surface Water Management System for the Riverside Industrial Estate
 - No discharge from the site into The Haven
 - SuDS solution to collect any runoff
 - No need to abstract any water for the Facility
 - The drainage requirement and discharge would be within the conditions of the existing surface water discharge agreements
 - Discharges would require permit from IDB
 - LD mentioned coma assessment (emergency at potentially polluting site) – concern how the water is dealt with in those situations. LD queried this has been picked up in other documentation. RW replied the water goes into own tanks.
- 13 Pollution Control**
- Inspection of all bales on vessel prior to being unloaded
 - Damaged bales not accepted
 - Sealed drainage in storage area (feeding into SuDS)
 - Wharf is graded to flow away from The Haven into the sealed drainage area
 - Underslung sheeting during offloading sloping back to vessel or wharf
 - Surface run-off into SuDS
 - Drainage ditches designed so that flow velocities are low enough for retention to remove fine sediment and enable adsorption
 - Interceptors to retain any potential contaminants and sediments
 - Penstocks in place in case of an emergency event

NumberDetails

Action

JB queried potential for offsite drainage into the existing IDB drainage network. RW mentioned 30 litres per minute that IDB want us to be within, and we are comfortably within that level of water offsite discharge. JB queried the water quality going offsite. RSPB requested more information on offsite drainage into the existing IDB drainage network. CA to send information.

PP mentioned providing more information on water quality monitoring programme.

JB mentioned if there is a pollution incident which impacts the quality of the water discharged into the drainage network, hopefully a management process will be in place to divert the water. RW we have incorporated a number of interceptors and penstock valves to enable diversion.

14

AOB

BD mentioned the derogation case and mitigation/compensation – the sooner we have concrete options to work through the better. CA replied the HRA addendum is our priority focus at the moment to meet deadline 1, then we can start working on the options.

JB queried slide 5 (location plan) – is the cross area RW clarified there is a series of conveyors that take the bales from the wharf area to the fuel store and pass through a narrow gap and climb 8 metres until reaching the fuel store. JB queried if this moves away from the wharf and the Haven. RW clarified

PP need to consider land (triangle brown shape on slide 5) in the updated HRA in combination assessment. It is right up against the roost area. AJ mentioned the EA Flood Management works to be considered. LD mentioned these works are nearly finished (in September 2021).

LD mentioned it would be useful to get the options and when they would be implemented. RW and SW had mentioned LD on site they were planning to get any mitigation/compensation in place ahead of the works so there is the ability for any disturbance to birds to have somewhere else to go. Timing and complexity of what putting forward. Land purchase would take more time etc. CA mentioned these will be mentioned in the updated HRA.

RW mentioned there is a 7 month period of enabling works and mitigation works is one of the first to do before beginning construction to enable adjustment of birds.

PP mentioned that if we are considering new habitats/lagoons there is the design that will need to be worked through on top of having had the negotiations to secure areas as well, including permissions. 7 months might be tight/limited for this process.

From:



Subject:

RE: Boston Alternative Energy - DCO

Date:

26 January 2022 11:50:43

Hi Paul,

I also have some answers to your questions below. I hope they are ok in this format!

1. *Relates to clarification regarding the maximum limits of deviation.* The Applicant submitted at Deadline 2 updated Works Plans [REP2-027], to show the maximum 20 metre lateral limit of deviation in respect of the boundary between two numbered works as set out in Article 7(1)(c) – see sheets 9-15. Please note there is no lateral limit of deviation for any boundary with Work No. 1A(iv) (Efw plant emissions stacks), any boundary with Work No. 2(d) (LWA Facility emissions stacks) and any boundary with Work No. 4 (Wharf).

This does not directly resolve Natural England's issues. However, it does confirm that our concerns are only to do with the three work items listed. Are the MMO content with the limits of deviation for the offshore wharf asset and that the DML is sufficiently robust to allow for the potential changes to location?

2. *Natural England requests to be a consultee in relation to Requirement 12 (Construction Traffic Management Plan) in relation to (d) "where practicable, proposals for temporary diversions of any public rights of way".* The Applicant agrees to this amendment and this has been updated the requirement in the version submitted at Deadline 3.

We accept this change. Though it is now requirement 13 not 12.

3. *Natural England requests to be a consultee on the DML condition to submit details of the licensed activities.* The Applicant has merged condition 12 with the proposed Construction Environmental Management Plan condition proposed by the MMO in its Deadline 2 submission [REP2-040]. The Applicant has agreed to add the relevant statutory nature conservation body as a consultee on this updated condition and has made the amendment in the version to be submitted at Deadline 3.

As noted above this change is accepted.

4. *Natural England requests justification for why the requirement for marine mammal observers has been removed from Condition 13 (piling).* The Applicant can confirm that all mitigation for marine mammals has been included in the Marine Mammal Mitigation Protocol including the requirement for marine mammal observers, which is secured by new condition 17. Therefore it was decided to

remove the specific mitigation from the conditions and instead include a requirement for the piling method statement to include measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under paragraph 17. This streamlines the drafting of the conditions by including the detail in the protocol rather than the condition itself.

We have reviewed the MMMP and MM chapters. We do not accept the MMMP as written. As a condition this is fit for purpose, however, the mitigation measures themselves are not fit for purpose.

5. *Natural England requests to be a consultee on the condition for the Marine Pollution Contingency Plan.* The Applicant is content to add the relevant statutory nature conservation body as a consultee for this condition and has done so in the version submitted at Deadline 3.

As noted above this has been added and addresses our concerns.

6. *Relates to a potential condition to ensure that the use of DP systems within the anchorage area is kept to a minimum and NE would welcome discussion with the Applicant, MMO and the navigational bodies on this issue.* The Applicant advised in the Issue Specific Hearing on Environmental Matters that Dynamic Positioning is an accurate method of maintaining and checking vessels' positions, and is used only on specialist vessels (e.g. cable and pipe layers, drill ships, rock dumping and some passenger vessels). Dynamic Positioning is used by these vessels in order to hold their position in carrying out their work; where the Dynamic Positioning system automatically maintains the vessel's position and heading using specialist propellers and thrusters to counter the forces of wind, tide and current. Dynamic Positioning systems are not generally fitted to cargo vessels. The harbour master for the Port of Boston has confirmed that and no vessels calling at the port have these systems onboard. This will continue to be the case for vessels going to the Facility. Therefore, there is no risk to seals as a result of cargo vessels using dynamic positioning being present in the anchorage area, and there is therefore no need to update the marine mammal addendum in this respect or add a condition to the DML.

This seems like a reasonable response. However, NE queries if this means the Applicant is confirming that they will not be using any DP vessels for the works? If so will this be secured and where?

[REDACTED]

From: Paul Salmon [REDACTED] >

Sent: 13 December 2021 09:02

To: Deeming, Roslyn <[REDACTED]>
[REDACTED]

Subject: Boston Alternative Energy - DCO

Dear Ros

We have reviewed Natural England's Comments on the Draft DCO and Schedule of Changes to Draft DCO submitted at Deadline 2 and thought it would be useful to provide a response to the points that are amber in writing. You'll note that we did make changes at Deadline 3 but I hope the email provides a useful explanation of our responses to your comments.

7. *Relates to clarification regarding the maximum limits of deviation.* The Applicant submitted at Deadline 2 updated Works Plans [REP2-027], to show the maximum 20 metre lateral limit of deviation in respect of the boundary between two numbered works as set out in Article 7(1)(c) – see sheets 9-15. Please note there is no lateral limit of deviation for any boundary with Work No. 1A(iv) (EfW plant emissions stacks), any boundary with Work No. 2(d) (LWA Facility emissions stacks) and any boundary with Work No. 4 (Wharf).
8. *Natural England requests to be a consultee in relation to Requirement 12 (Construction Traffic Management Plan) in relation to (d) "where practicable, proposals for temporary diversions of any public rights of way".* The Applicant agrees to this amendment and this has been updated the requirement in the version submitted at Deadline 3.
9. *Natural England requests to be a consultee on the DML condition to submit details of the licensed activities.* The Applicant has merged condition 12 with the proposed Construction Environmental Management Plan condition proposed by the MMO in its Deadline 2 submission [REP2-040]. The Applicant has agreed to add the relevant statutory nature conservation body as a consultee on this updated condition and has made the amendment in the version to be submitted at Deadline 3.
10. *Natural England requests justification for why the requirement for marine mammal observers has been removed from Condition 13 (piling).* The Applicant can confirm that all mitigation for marine mammals has been included in the Marine Mammal Mitigation Protocol including the requirement for marine mammal observers, which is secured by new condition 17. Therefore it was decided to remove the specific mitigation from the conditions and instead include a requirement for the piling method statement to include measures for managing potential risks to marine mammals in accordance with the marine mammal mitigation protocol approved under paragraph 17. This streamlines the drafting of the conditions by including the detail in the protocol rather than the condition itself.
11. *Natural England requests to be a consultee on the condition for the Marine Pollution Contingency Plan.* The Applicant is content to add the relevant statutory nature conservation body as a consultee for this condition and has done so in the version submitted at Deadline 3.

12. *Relates to a potential condition to ensure that the use of DP systems within the anchorage area is kept to a minimum and NE would welcome discussion with the Applicant, MMO and the navigational bodies on this issue.* The Applicant advised in the Issue Specific Hearing on Environmental Matters that Dynamic Positioning is an accurate method of maintaining and checking vessels' positions, and is used only on specialist vessels (e.g. cable and pipe layers, drill ships, rock dumping and some passenger vessels). Dynamic Positioning is used by these vessels in order to hold their position in carrying out their work; where the Dynamic Positioning system automatically maintains the vessel's position and heading using specialist propellers and thrusters to counter the forces of wind, tide and current. Dynamic Positioning systems are not generally fitted to cargo vessels. The harbour master for the Port of Boston has confirmed that and no vessels calling at the port have these systems onboard. This will continue to be the case for vessels going to the Facility. Therefore, there is no risk to seals as a result of cargo vessels using dynamic positioning being present in the anchorage area, and there is therefore no need to update the marine mammal addendum in this respect or add a condition to the DML.

Hopefully this provides sufficient clarification in relation to the above points and they can now be shown in green in your next iteration of the Issues and Risk Log. If you have any further questions with regards to the above please do not hesitate to get in touch.

Thanks,

Paul.

Paul Salmon

Technical Director
Environment Group
Industry & Buildings - Europe

[Redacted]

[Redacted]

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Appendix B 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)
Habitat Mitigation Area	-	A 1.5 ha located approximately 170 m to the south east of the Principal Application Site, encompassing an area of saltmarsh and small creeks at the margins of The Haven where habitat mitigation works will be provided.
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,

Term	Abbreviation	Explanation
		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.