



Department for
Business, Energy
& Industrial Strategy

1 Victoria Street
London
SW1H 0ET

Web: www.gov.uk/beis

To:

Our Ref: EN010095

The Applicant
Natural England

Date: 25 November 2022

Dear Sir or Madam,

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Alternative Use Boston Limited (“the Applicant”) for an Order granting Development Consent for the proposed Boston Alternative Energy Facility (“the Proposed Development”)

1. Following the completion of the Examination on 07 April 2022, the Examining Authority (“ExA”) submitted a Report and Recommendation in respect of its findings and conclusions on the application for the Proposed Development (the “Application”) to the Secretary of State for Business, Energy & Industrial Strategy (“the Secretary of State”) on 07 July 2022. The statutory deadline for determining the Application is 10 January 2023.
2. On 14 October 2022, the Secretary of State requested further information and updates (“the information request”) from the Applicant, Natural England and the Environment Agency. All responses to the information request are published on the Planning Inspectorate Project webpage¹.
3. The Secretary of State requests the parties identified in bold to provide further information or responses as appropriate.

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=overview>

4. The Applicant

- 4.1. In response to the information request, Natural England updated its air quality advice². In summary it stated that Natural England cannot advise that an Adverse Effect on Integrity (“AEoI”) resulting from changes in air quality can be excluded, as insufficient information has been provided on the air quality impacts on the protected sites. This applies to The Wash Special Protection Area (“SPA”) and Ramsar, and The Wash and North Norfolk Coast Special Area of Conservation (“SAC”).
- 4.2. Further, in response to the information request, Natural England confirmed its intention to publish updated conservation advice for the harbour seal feature of The Wash and North Norfolk Coast SAC at the next available opportunity, in March 2023³. Natural England provided a copy of the finalised draft updated conservation advice⁴.
- 4.3. The Applicant is invited to comment on Natural England’s responses to the information request.

5. Natural England

- 5.1. Is invited to comment on the Applicant’s response in Section 2.3⁵, specifically whether Natural England agrees that the assessment of impacts to the harbour seal feature of The Wash and North Norfolk Coast SAC accounts for an appropriate worst-case scenario. The Applicant’s responses to specific points raised by Natural England in [REP10-36] and [REP10-38] regarding vessel speeds are provided at Appendix A of the Applicant’s response.
- 5.2. Is invited to advise whether it considers, in light of the Applicant’s response in Sections 2.3, 2.4, 2.4 and 2.7⁵, that the further information and proposed measure to enforce vessel speed restrictions of 10 knots for all ships subject to compulsory pilotage when moving between the anchorage area and the dock at the Application site, when reasonably practicable to do so, as offered by the Port of Boston, is sufficient such that an AEoI of The Wash and North Norfolk Coast SAC due to collision impacts on harbour seal can be excluded.
- 5.3. Is invited to comment on the Applicant’s response⁵ in Section 2.2 to the request for additional and / or enhanced mitigation measures for disturbance effects to ornithological features of The Wash SPA at the Application site, along The Haven and at the Mouth of The Haven, specifically with regard to the sufficiency of the proposed mitigation in light of the Applicant’s response.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001395-NE-Updated-Air-Quality-Advice-Nov-2022.pdf>

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001397-SoS-14-October-Questions-to-NE.pdf>

⁴ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001396-NE-Updated-SACO-for-The-Wash-and-North-Norfolk-SAC-Harbour-Seals-Final-Draft-Nov-22.pdf>

⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001394-9.107-Applicants-Response-to-Secretary-of-States-Letter-of-14th-October-2022.pdf>

- 5.4. In response to Natural England's comment in [REP8-024] regarding the Technical Note for Navigation Management and Ornithology [REP6-033], that: "*Natural England advises that associated plans referenced in the technical note are not currently available and therefore we are unable to provide further advice*", the Applicant in Paragraph 2.2.30 of its response⁵ to the information request, states that it is unable to discern which plans Natural England is referring to, but offers to make such information available to Natural England. Natural England is invited to inform the Applicant of the information it seeks, to help resolve its outstanding concerns.
- 5.5. Is invited to advise on the extent to which the Applicant's response in Section 2.8⁵ to the request for further information regarding the without-prejudice proposed compensation for The Wash SPA resolves Natural England's outstanding concerns regarding the proposed compensation package.
6. **Responses to the requested information should be submitted by email only to: BostonAlternativeEnergyFacility@planninginspectorate.gov.uk by 23.59 on 9 December 2022.**
7. Responses will be published on the Boston Alternative Energy Facility project page of the National Infrastructure Planning website as soon as possible after the deadline:
<https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/>
8. This letter is without prejudice to the Secretary of State's consideration of whether to grant or withhold development consent for the Boston Alternative Energy Facility or any part of the project. Nothing in this letter is to be taken to imply what the eventual decision might be or what final conclusions the Secretary of State may reach on any particular issue which is relevant to the determination of the application.

Yours faithfully

David Wagstaff OBE

Head of Energy Infrastructure Planning

Dept of Business, Energy and Industrial Strategy (BEIS)