



Department for
Business, Energy
& Industrial Strategy

1 Victoria Street
London SW1H 0ET

www.beis.gov.uk

Our ref EN010095
Your ref

10 January 2023

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 7 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 7 July 2022. The Secretary of State reset the statutory deadline to 10 January 2023 to enable further information to be gathered, and issued consultation letters on 14 October 2022 and 25 November 2022. These letters and the responses to them have been published on the Planning Inspectorate’s Project webpage¹.
2. The Secretary of State has considered the information that has been provided during the original extension period but considers that there remain significant outstanding matters on which he requests the parties identified in bold to provide further information. He has therefore decided to reset the statutory deadline again, to 6 July 2023.
3. In paragraph 3.5 of his letter of 14 October 2022 the Secretary of State requested the Applicant to provide without-prejudice compensation measures with regards to collision risk impacts on the harbour seal feature of The Wash and North Norfolk Coast Special Area of Conservation. The Secretary of State has considered the Applicant’s response of 11 November 2022 to this letter and Natural England’s letter of 8 December 2022, responding to his letter of 25 November 2022.
4. The Secretary of State notes that, despite Natural England and other Interested Parties raising concern regarding the potential for an adverse effect on the integrity of the harbour seal population of The Wash and North Norfolk Coast Special Area of Conservation during pre-application and Examination and in response to the Secretary of State’s consultation letter of 14 October 2022, the Applicant has not provided a without-prejudice compensation package for this qualifying feature.
5. The Secretary of State now asks **the Applicant** to provide details of a without-prejudice compensation package for the harbour seal feature of The Wash and North Norfolk Coast Special Area of Conservation that will appropriately compensate for collision effects on harbour seal. This is requested so that if the Secretary of State, as the competent authority, were to find that the avoidance and/or mitigation measures currently proposed to protect harbour seal are insufficient to avoid an adverse effect on integrity, he can continue to consider whether appropriate compensatory measures are available.
6. The Secretary of State also invites **the Applicant** to respond to the comments raised by Natural England and the RSPB during the second consultation response.

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

7. **Natural England** is invited to comment on the Applicant's response (paragraph 2.2) to the first consultation regarding the proposed changes to the conservation objectives for the harbour seal features of the Wash and North Norfolk Coast Special Area of Conservation. In particular, Natural England is asked whether it agrees with the Applicant that there would be no adverse effect on integrity of the site if the assessment was made under the proposed "restore" objective, and that no information on how to achieve a restore objective is currently available.
8. **Natural England** is invited to comment on the information provided by the Applicant to the second consultation in relation to air pollution impacts on habitats and protected sites, in particular whether an adverse effect on integrity of any protected site due to changes in air quality can now be excluded.
9. **Lincolnshire Wildlife Trust** is invited to comment on the further information and responses provided in response to the Secretary of State's letters of 14 October 2022 and 25 November 2022, specifically with regard to the assessment of impacts to harbour seal.
10. **Responses to the requested information should be submitted by email only to: BostonAlternativeEnergyFacility@planninginspectorate.gov.uk by 23.59 on 10 March 2023.**
11. 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/>
12. 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

Department of Business, Energy & Industrial Strategy (BEIS)