



Preliminary Meeting Note (Part 1)

Application: Boston Alternative Energy Facility BAEF

Reference: EN010095

Time and date: 10.00am on Tuesday 28 September 2021

Venue: Virtual meeting

This meeting note is not a full transcript of the Preliminary Meeting Part 1. It is a summary of the key points discussed. Full digital recordings of the Meeting are available on the project page of the Planning Inspectorate's National Infrastructure website:

[Recording of Preliminary Meeting Part 1](#)

1. Welcome and Introduction

Max Wiltshire welcomed those present and introduced himself as the single Examining Authority (ExA) to examine the proposed Boston Alternative Energy Facility BAEF project application.

The ExA explained the appointment was made by delegation from the Secretary of State on [30 April 2021](#).

The ExA explained that he would be examining the application made by Alternative Use Boston Projects Limited ('the Applicant') before making a recommendation to the Secretary of State for Business, Energy and Industrial Strategy who will decide whether an Order granting Development Consent for the proposed project, which is a Nationally Significant Infrastructure Project (NSIP), should be made.

The ExA introduced members of the Planning Inspectorate case team who were present.

The ExA explained the purpose of the Preliminary Meeting (PM) was to make procedural arrangements for the Examination, and that no evidence would be heard about the project or its merits.

The ExA confirmed that all documents and submissions received and accepted during the Examination will be published on the project-specific page of the National Infrastructure Planning website.

The ExA explained that a full digital recording of the PM would be made available on the project page of the Planning Inspectorate's National Infrastructure website.

The ExA explained the Planning Inspectorate's duties under General Data Protection Regulation (GDPR).

Further information relating to the GDPR can be found in the Planning Inspectorate's [Privacy Note](#).

The ExA highlighted one change to the [agenda](#) published with the [Rule 6 letter](#):

- An item relating to Procedural Decisions made by the ExA in the Rule 6 letter was made item 4, moving the item on the draft Examination Timetable to item 5 and Any other matters to item 6.

The ExA then asked attending participants to introduce themselves.

2. ExA's remarks about the Examination process (15:55 – 18:40)

The ExA referred all parties to the further information in the [Rule 6 letter](#) and summarised the key points. This sets out the introduction to the PM process in more detail.

The ExA advised that the PM was being held in three parts: this meeting, which will be followed by a period of adjournment to allow any written submissions for Procedural Deadline B (PDB) on Monday 4 October. A second part of the Preliminary Meeting will then take place on Thursday 7 October 2021, if the ExA considers it necessary.

The ExA explained that due to the current COVID-19 pandemic future events were likely to be held virtually. The exceptions to this are the Accompanied Site Inspection on Wednesday 17 November and an in person Open Floor Hearing on Thursday 18 November 2021. An Open Floor Hearing (OFH) will only be held if it is requested and therefore Interested Parties should make any request for an OFH by Deadline 1 in the draft timetable (19 October 2021).

3. Initial Assessment of Principal Issues (18:45 – 29:25)

The ExA explained the purpose of the Initial Assessment of Principal Issues (section 88 of the PA2008), which can be found in [Annex C](#) of the [Rule 6 letter](#) of 17 August 2021 and asked for any observations on them.

United Kingdom Without Incineration Network (UKWIN) requested the ExA consider:

- Where the climate change impacts of incineration would sit;
- Traffic emissions and whether this falls within item 1 (air quality)
- Does the issue of waste hierarchy and potential adverse impact on recycling rates fall within item 11 (Planning Policy) or is it also within scope of item 4 (Design, layout and visibility)

The Environment Agency (EA) requested the ExA consider:

- The inclusion of water quality in item 7 (Habitats, ecology and nature conservation) rather than item 13 (Water quality and flood protection) due to its close connection with intertidal habitats and hydromorphological coastal change

- The addition of odour in the header of item 10 (Noise, lighting, dust and vibration), due to the EA's consideration of the impact and management of odour during the operation of the facility may be a significant issue.

Natural England made their comments in writing for Procedural Deadline A (PDA).

The Applicant had no comments on this agenda item.

4. Examining Authority's Procedural Decisions (29:26 – 31:48)

The ExA briefly explained the Procedural Decisions that have been made on a number of matters, as listed in [Annex E](#) of the [Rule 6 letter](#) of 17 August 2021 and asked for any observations on them.

The ExA referred to the Applicant's additional documents listed in their PDA submission, which are to be submitted at Deadlines 1 and 2.

No comments were raised and the ExA reminded parties of the opportunity to submit any written submissions on the Examination procedure by PDB.

5. Draft timetable for Examination (31:50 – 53:40)

The ExA briefly went through the draft Examination Timetable as set out at [Annex D](#) to the [Rule 6 letter](#).

Further information about the Examination process can be found in [Advice Note 8.4](#).

The ExA summarised Natural England's comments made in writing for PDA:

- Statement of Common Ground submission dates and submission of their own Risk and Issues log;
- Move Deadline 3 to allow more than four working days post hearings;
- Request that additional deadlines are not introduced.

The Environment Agency requested the ExA consider:

- The EA's concern about the level of information currently provided in the application and that issues may not be resolved within the six month Examination timetable;
- Lack of an environmental permit application which could take up to 12 months to determine;
- A current lack of information in relation to maintenance of flood defence works. No environmental permit has been submitted for this. If the permitting route is not used the current protective provisions are not adequate;
- The substantial amount of information to be submitted by the Applicant at Deadlines 1 and 2 and the amount of time to review this;
- A request to postpone part 2 of the PM, similar to the Thurrock Flexible Generation Plant project, to allow for the additional information to be properly consulted on. The EA requested a minimum of a three month postponement;

- The seasonal risk on EA resources and its ability to participate in the Examination.
- The requests for iterations of a draft Statement of Common Ground (SoCG) and the impact on EA resources.

The RSPB requested the ExA consider:

- The matters raised in its PDA submission were considered resolved, on the basis of the Applicant's commitment to supply information at deadline 2 on matters relating to the in-principle or without prejudice derogation case;
- Due to the in-principle compensation case, additional areas may get added in to the DCO boundary. There has been no consultation on these areas and these may also need to be considered in terms of environmental permitting and flood defence.

The Applicant requested the ExA consider:

- Postponement of the hearing on navigation and fishing to March 2022 due to the Applicant intending to submit a navigational risk assessment at deadline 2, which is only two weeks before the hearing proposed in November;
- The Applicant's strong opposition to a delay to the start of the Examination, on the basis that there is no legal, policy or guidance requirement for the submission of an environmental permit application;
- Flood defence issues were expected to be concluded before the end of the Examination. The Applicant noted that in the Able Marine Energy Park Development Consent Order (DCO) application, flood defence matters were not resolved until after the close of the Examination.

Site Inspections:

The ExA advised that he had carried out an Unaccompanied Site Inspection (USI) on 6 July 2021. A [note of the USI](#) was published on the project page of the National Infrastructure Planning website.

The draft Examination timetable includes an Accompanied Site Inspection on 17 November. The Applicant submitted a draft ASI itinerary at PDA and comments on this, including any additional locations, should be submitted for PDB. Interested Parties should submit any requests to attend, by Deadline 1.

Hearings:

The ExA advised that Thursday 18 November is reserved for an in-person Open Floor Hearing (OFH), if requested. This is an opportunity for individuals and community groups to put their views verbally to the ExA. Requests to be heard at an OFH should be made by Deadline 1. For anyone not comfortable attending an OFH in person, a virtual OFH may be held week commencing 28 February 2022, if requested.

The Examination Timetable currently reserves 23 November 2021 for an Issue Specific Hearing (ISH) on the DCO; 24 November for an ISH on environmental matters; 25 November for an ISH on navigation and fishing matters and; 26 November for a Compulsory Acquisition Hearing, if required. Interested Parties who wish to be heard at any of these hearings should notify the Planning Inspectorate in writing by Deadline 1.

The week commencing 28 February 2022 is reserved only if any additional hearings and an ASI are necessary.

The ExA highlighted to all parties the importance of ensuring that information is submitted in accordance with the deadlines in the Examination Timetable. Any late submissions will be only be accepted at the discretion of the ExA in exceptional circumstances.

The ExA advised he would have regard to all matters raised when finalising the Examination timetable.

6. Any other matters (53:40 – 54:00)

The ExA invited participants to raise any other matters before the PM was adjourned. No further matters were raised.

7. Adjournment

The ExA reminded parties that any written comments on the matters discussed today should be sent in writing by PDB – midnight on 4 October 2021.

The ExA reminded parties of:

- the ASI, due to take place on 17 November 2021;
- the in-person OFH, due to take place, if requested, on 18 November 2021; and
- the ISHs and CAH, if required, due to take place from 23 to 26 November 2021.

The ExA thanked all attendees and viewers for their patience and participation and adjourned the PM Part 1 at 10.55am.

The PM was adjourned until 7 October 2020 at 10.00am (if required).



Preliminary Meeting Note (Part 2)

Application: Boston Alternative Energy Facility BAEF

Reference: EN010095

Time and date: 10.00am on Thursday 7 October 2021

Venue: Virtual meeting

This meeting note is not a full transcript of the Preliminary Meeting Part 2. It is a summary of the key points discussed. Full digital recordings of the Meeting are available on the project page of the Planning Inspectorate's National Infrastructure website:

[Recording of Preliminary Meeting Part 2](#)

6. Welcome and Introduction

Max Wiltshire welcomed those present and introduced himself as the single Examining Authority (ExA) to examine the proposed Boston Alternative Energy Facility BAEF project application.

The ExA explained the appointment was made by delegation from the Secretary of State on [30 April 2021](#).

The ExA introduced members of the Planning Inspectorate case team who were present.

The ExA explained the purpose of the Preliminary Meeting (PM) was to make procedural arrangements for the Examination, and that no evidence would be heard about the project or its merits.

The ExA confirmed that all documents and submissions received and accepted during the Examination will be published on the project-specific page of the National Infrastructure Planning website.

The ExA explained that a full digital recording of the PM would be made available on the project page of the Planning Inspectorate's National Infrastructure website.

The ExA explained the Planning Inspectorate's duties under General Data Protection Regulation (GDPR).

Further information relating to the GDPR can be found in the Planning Inspectorate's [Privacy Note](#).

The ExA highlighted the updated [agenda](#) for the meeting and:

- The addition of agenda item 8, to allow the Applicant to state what their consenting strategy was in relation to environmental permitting and flood risk issues.

The ExA noted the requests to be heard at the PM part 2 as submitted in the Procedural Deadline B. The ExA then asked attending participants to introduce themselves.

7. ExA's remarks about the written submissions received to Procedural Deadline B (10:35– 12:21)

The ExA referred all parties to the [submissions received at Procedural Deadline B](#) which included a request to delay the Examination by the Environment Agency (EA), the Royal Society for the Protection of Birds (RSPB) and the Marine Management Organisation (MMO). Agenda item 8 had been added in response. The ExA confirmed all other points in the written submissions had been noted.

The ExA noted the EA wished to speak at item 7. EA confirmed the matter they wished to speak to would be covered under item 8.

8. Consenting strategy in relation to environmental permitting and flood risk issues (12:22 – 25:10)

The ExA invited the Applicant to outline the procedural aspects of their consenting strategy in relation to environmental permitting and flood risk issues.

The Applicant summarised their position. At present no environmental permit (EP) application had been submitted, and a submission date was not yet confirmed. An enhanced pre-application procedure had commenced with EA with an initial meeting set for 20 October 2021. The Applicant considered there was no legal policy or guidance requirements to submit an EP in parallel with the submission and Examination of the Development Consent Order (DCO) application. It believed there was sufficient time for discussions with EA about the EP, taking into account the location and proposed technologies. It intended to engage with EA and provide additional information as required/available, with the view that this could be done outside a formal submission of an EP application.

The Applicant was seeking to dis-apply permitting regulations regarding flood risk. It acknowledged that a legal agreement with EA, containing agreed bespoke protective provisions would be required. Discussions on flood risk had begun and a draft agreement would be produced by the end of October 2021. At PM part 1 the Applicant highlighted Able Marine Energy Park as an example of a similar agreement and stated it was confident the agreement in this case could be reached before the end of the Examination.

The ExA then invited other Interested Parties to respond to the Applicant's statement, again focusing on the procedural aspects only.

EA highlighted the Applicant's point that the project would use established and proven technology. EA believed that whilst that may be the case for some of the

project, it could be that the surrounding constraints and planning constraints make using those techniques and technologies unfeasible at the location. The EA clarified that the permit application process was not pre-determined and the application would need to be reasonably advanced to enable EA to provide assurances on the likelihood of it being granted.

In relation to flood risk issues, the EA stated they suggested negotiations begin in April 2018 and advised they still needed a proposal on the substance of the agreement. Matters regarding long term maintenance could affect the duration of negotiation. Should an off-site compensation site be required this could require further flood risk assessment and agreement regarding construction standards and maintenance. If such a proposal was to interfere with existing flood defences a further legal agreement could be required. The EA emphasized its commitment to assist these matters but it did not share the Applicant's confidence that these matters could be agreed before the close of Examination under the current draft timetable.

9. Any procedural representations on matters that could not be raised at Part 1 of the Preliminary Meeting (25:11 – 26:31)

The ExA confirmed he had not received any procedural representations on matters that could not be raised at Part 1 of the PM, except for [comments from Mr Blanchard](#) and the [EA regarding the Applicant's draft Accompanied Site Inspection \(ASI\)](#); and from [Lincolnshire County Council regarding the Initial Assessment of Principal Issues](#).

No further comments were raised.

The meeting was adjourned until 11.00am to allow the ExA to consider the proposals made to defer the start of the Examination, in oral and written submissions to the Preliminary Meeting, part one and two, and procedural deadlines A and B.

9. Continued: Any procedural representations on matters that could not be raised at Part 1 of the Preliminary Meeting (00:00 – 02:18 of recording part 2)

The meeting re-commenced at 11:00am and the ExA summarised his decision regarding the proposals to defer the start of the Examination. Taking all considerations into account, the ExA decided the commencement of the Examination should not be deferred for the following reasons:

- The Applicant is taking on the consenting risk fully aware of the views of the statutory consultees;
- The Applicant has stated their consenting strategy, and their plan to proceed in the full knowledge of the risks to the final recommendation and decision; and
- Where Environmental Impact Assessment Regulations and National Policy Statements require certainty and feasibility regarding these matters, there will be deadlines in the Examination that the Applicant must meet to enable a conclusion to be reached.

10. Any other matters (02:19 – 03:37 of recording part 2)

The ExA invited participants to raise any other matters before the PM was closed. No further matters were raised.

The ExA advised parties that the Rule 8 letter including the Examination timetable, the ExA's first written questions and the draft ASI itinerary, which would be issued as soon as practicable.

The ExA thanked all attendees and viewers for their patience and participation and closed the PM Part 2 at 11.03am.