

Application by Norfolk Vanguard Limited

Norfolk Vanguard Offshore Wind Farm

The Examining Authority's Rule 17 requests for further information or written comments

Issued on 21 May 2019

The following table sets out the Examining Authority's (ExA) requests for further information or written comments made under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010.

Column 2 of the table indicates **to whom requests are directed**. In no way does this preclude additional answers being provided by a person to whom a request for information/comment is not directed, should it be relevant to their interests.

Each request has a **unique reference number** which combines a section number and a request number.

When you are answering a request, please start your answer by quoting the unique reference number.

Responses should be submitted by **Deadline 8 (Thursday 30 May 2019)**.

If you are answering a limited number of requests, responses in a letter format will suffice. If you are answering several requests, it will assist the ExA if you use a table based on that used below. An editable version of this table, in Microsoft Word, is available on request from the case team by emailing:

NorfolkVanguard@planninginspectorate.gov.uk

Request made to:		Information or written comments requested:
1.	Policy/project design/ecology/HRA	
FQ 1.1	Applicant	<p>The decision-making framework for Nationally Significant Infrastructure Projects is the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure. However, the National Planning Policy Framework (NPPF) can also be important and relevant. At the time the application was prepared, the original NPPF (2012) was in force and has been referred to where appropriate. The NPPF has now been updated (February 2019). In light of this update, can the Applicant please check the application material and add or alter it as necessary in light of this update. Please provide a table setting out any revisions which have been made.</p>
FQ 1.2	Applicant	<p>In your document Offshore Ornithology Cumulative and In-combination Collision Risk Assessment (Update), Exam library reference [AS-048], you state that you have applied additional mitigation through a revision of the wind turbine layout and an increase in turbine draught height of 5m, from 22m to 27m to further minimise collision risks.</p> <p>Please state on what basis you have arrived at the proposed amended draught height of 27m above MHWS and whether other draught heights have also been modelled for collision risk.</p> <p>Also the accompanying e-mail, dated 14 May 2019, refers to a 'raised hub height' and yet in paragraph 2 of Document reference [AS-049] it states that all other parameters will remain the same as those submitted in ExA; CRM;10.D6.5.1.</p>

Request made to:		Information or written comments requested:
		Please can you confirm that this is the case and that, for instance, the hub height would not alter from that which is specified in Condition 1(1)(b) of Schedules 9 and 10 of the draft DCO [AS-038].
FQ 1.3	Applicant, NE and MMO	Please set out whether an increase in turbine draught height of 5m, from 22m to 27m above MHWS would have any implications for any other matters assessed in the Environmental Statement, and if so, explain what you consider these would be?
FQ 1.4	Applicant	In your deadline 7 submission Development Principles, Exam library reference [REP7-029] you provide some details on matters such as the positioning of structures. Please set out how this document relates to the design plan that is required in accordance with Condition 14(1)(a) of Schedules 9 and 10 and Condition 9(1)(a) of Schedules 11 and 12 of the draft DCO.
FQ 1.5	Applicant	Please indicate whether you consider the information you have submitted for deadline 7 (including the late submissions [AS-048 and AS-049] and previously, has addressed the specific Adverse Effect on Integrity (AEOI) concerns that Natural England has raised in its Interim Position Statement at Deadline 7 for Offshore Ornithology [REP7-075] as detailed in paragraphs 2.5.2 (little gull at Greater Wash SPA), paragraph 2.7.1 (gannet at FFC SPA), paragraph 2.8.2 (kittiwake at FFC SPA) paragraphs 2.9.1 and 2.9.3 (guillemot/all three auk species at FFC SPA), 2.10.1 (razorbill at FFC SPA), and 2.11.1 (puffin at FFC SPA). If you consider that you have not yet addressed these outstanding concerns, then please indicate how you intend to do so or provide a justification as to why you propose not to.

Request made to:		Information or written comments requested:
FQ 1.6	Applicant	In its deadline 7 response [REP7-075] NE has referred to being able to reach a conclusion of no AEOI for red-throated diver at Greater Wash SPA should you commit to no cable installation within or affecting the Greater Wash SPA between January and March inclusive. Please comment on this matter.
FQ 1.7	Applicant and NE	Natural England in its deadline 7 response [REP7-075], and previously, has strongly advised against the use of cable protection within designated sites. In light of the Interim Cable Burial Study that has been submitted at Deadline 7 (Appendix 2 of the draft Outline HHW SAC Site Integrity Plan [REP7-026]), please comment on the feasibility of such an approach.
FQ 1.8	Applicant, NE and RSPB	Please comment on the areas that contain question marks, ie where there is not agreement between the Interested Parties and the Applicant that LSE and/or an AEOI can be excluded, as set out in Annexes 2 and 3 of the Report on the Implications for European Sites (RIES) [PD-016].
FQ 1.9	NE and RSPB	Having regard to the Applicant's comments on 'over precaution' in section 2 of the Offshore Ornithology Cumulative and In-combination Collision Risk Assessment (Update) [AS-048] and the 'Waddenzee judgment', please comment on the precautionary nature of the information that has been submitted.
FQ 1.10	French Government	Please provide any comments you wish to make in relation to the updated screening matrices, exam library reference [AS-044], for any of the European sites located in France.
FQ 1.11	MMO	Having regard to the 'Harbour porpoise Special Area of Conservation: Southern North Sea Conservation Objectives and Advice on Operations, March 2019' document, submitted at deadline 7 [REP7-052], please comment on the acceptability of Condition 14(1)(m) of Schedules 9 and 10, and Condition 9(1)(l) of Schedule 11 and 12 of the draft DCO.

Request made to:		Information or written comments requested:
FQ 1.12	MMO	<p>What is your view on whether, and if so how, enforcement action against a breach of the Development Principles [REP7-029] could be undertaken unless they were made a specific condition of an eventual approved Design Plan?</p> <p>What matters, if any, in the Development Principles should be elevated to a clear mandatory status by for example specifying them alongside other design parameters set out in the DCO/DMLs.</p> <p>For example, would the design rule that all structures (not just the turbines as set out in the DCO design parameters) should have a minimum separation distance of 760m, be better located in the DCO/DML Requirements if this is seen as critical to SAR and other navigational safety needs?</p>
FQ 1.13	Applicant	<p>The Examining Authority (ExA) understands that the Applicant's clear position at the time of ISH6, as set out in [REP7-039], is that it would not be putting forward alternatives, a case for IROPI or compensatory measures and wishes the application to be determined on the basis of the evidence submitted and the findings of the ExA which lead to an overall recommendation. Please confirm that you do not wish to put forward a fallback position in the form of alternatives/IROPI/compensatory measures even if the ExA were to conclude that there is some/limited AEOI in relation to any species/ecological interests.</p>
FQ 1.14	Applicant	<p>Having regard to FQ 1.13 above, why should the Secretary of State not be entitled to assume that the ExA considered and placed before him all relevant available information to enable him to conclude whether the project would adversely affect the integrity of the site concerned, without</p>

Request made to:		Information or written comments requested:
		searching for further information to address lacunae in the case put forward?
2.	Compulsory acquisition	
FQ 2.1	Applicant	<p>Guidance related to procedures for the compulsory acquisition of land (September 2013) states that the funding statement should provide as much information as possible about the resource implications of implementing the project for which the land is required. The Funding Statement [APP-009] states that the Company has substantial net assets as well as a positive track record in the field of renewable energy development and is therefore able to provide the required funding for the Project.</p> <p>The reported fixed assets for 2016/2017 state a total of £270,162,000, however the capital-intensive nature of a project of this scale would appear to require very significant funding beyond any assets specifically identified thus far. No costings appear to be given for the cost of the Project, but it is said that "as a result of the Company's experience and reputation, funds are likely to be available" (para 3.7).</p> <p>Please supply as much information as possible to demonstrate what the costs would be and how the necessary funds for the construction of the Project would be secured, explaining what funding would be derived from within the company group, the Swedish State and any outside person or body as appropriate. Please identify any key potential risks inherent in procuring the necessary funds to construct the project.</p>
FQ 2.2	Applicant	Please supply a copy of the consent letter from the Crown Estate Commissioners pursuant to Section 135 Planning Act 2008, referred to in the Position Statement with TCE [REP6-016].

Request made to:		Information or written comments requested:
FQ 2.3	Applicant	<p>The additional submission of Castle Farms and Peggy Carrick, represented by LIG/NFU dated 17 May 2019 [AS-051] refers to your proposed use of an access route across a track, that forms part of their land, to help facilitate the construction of the scheme. The track is off the Woodgate Road, Swanton Morley NR20 4JU.</p> <p>Please comment on the concerns expressed in the numbered points in the submission, identifying the affected Plot number or numbers in the Book of Reference. If no land in the BoR is directly affected, please describe how you have engaged with the representors or their agents as to forms of compensation potentially available to them. If you consider a potential claim under the LCA 1973 or s10 CPA 1965 is effectively ruled out, please justify your view with reasoning.</p>
FQ 2.4	Applicant	<p>Please confirm that the “key onshore components” of the project referred to in the revised Statement of Reasons [REP2-022] at paragraph 4.2 are not all to be equated to the “principal development” as referred to in paragraph 5.4 of “Guidance on associated development applications for major infrastructure projects”.</p> <p>The SoR at paragraph 2.8 states “The current application seeks consent for up to four cables...for Norfolk Vanguard, and up to four ducts... for Norfolk Boreas in which the cables for Norfolk Boreas may be installed in the future.”</p> <p>Please explain: (A) how, notwithstanding that principle 5 (iv) would not exclude associated development on a larger scale than is necessary to serve the principal development, the number of cable ducts remains proportionate to the nature and scale of the principal development and (B)</p>

Request made to:		Information or written comments requested:
		<p>how principle 5 (ii) (that associated development should not be an aim in itself but should be subordinate to the principal development) would be met.</p> <p>What weight was given to the possibility that the Boreas project for whatever reason may not proceed? In that eventuality how was this specifically factored into a formal assessment that weighed the adverse impacts of increased disruption due to unnecessary duct laying, against the benefits to individuals and communities in avoiding repeat operations?</p> <p>Please confirm that no person who is a landowner or holder of an interest in land affected by the Boreas associated development has been identified other than those persons already identified as affected by the principal development. Alternatively, please provide the appropriate reference in the Book of Reference to such person(s) and relevant Plot no(s).</p>
FQ 2.5	Applicant	Please provide an update to the CA Schedule.
3.	Content of the draft DCO (dDCO)	
FQ 3.1	Applicant	Article 2(3) - should there be an "in" before "requirements 2 to 11"? Is the use of bold text consistent within the sub-paragraph?
FQ 3.2	Applicant	Article 2(6) "The expression "includes" may be construed without limitation" – should this read "The expression "includes" shall be deemed to be followed by the phrase "without limitation"?
FQ 3.3	Applicant	Please review the use of the word 'approximately' in conjunction with dimensions throughout the dDCO in light of Article 2(2) and Advice Note 15 (Drafting Development Consent Orders July 2018), for example

Request made to:		Information or written comments requested:
		<p>Schedule 1, Paragraph 1 which is not referred to in Article 2(3); likewise in Schedules 3 and 4.</p> <p>Please supply a revised dDCO that amends Article 2(3) by including additional parts of the DCO that are intended to give exact measurements; or that omits the use of "approximately" from parts not made the subject of specific exclusion from the effect of Article 2(3).</p>
FQ 3.4	Applicant	<p>In light of Advice Note 15 Drafting Development Consent Orders July 2018 (not to use obliques in operative text), please justify the inclusion of obliques where they occur in the dDCO [REP7-003]: there appear to be sixty occasions of such use starting on page 5: "direct lay cables and/or cables pulled through cable ducts" and ending on page 260: "any authorised works and/or any other works authorised..."; or alternatively revise the wording to exclude the possibility of ambiguity as to whether they signify 'and' or 'or'.</p>
FQ 3.5	Applicant	<p>Please review the use of "notify to" on pages 244, 251 in light of the use of "notify" with a direct object throughout the rest of the dDCO.</p>
FQ 3.6	Applicant	<p>Please review the use of "will" throughout the dDCO and consider whether any ambiguity over whether it is an imperative or a statement of future intention should be resolved by substituting "must". For example in requirement 12 (Aviation Safety): "Lighting installed specifically to meet Ministry of Defence aviation safety requirements will remain operational" Please revise the dDCO that removes such ambiguity by replacing where appropriate "will" with "must"</p>
FQ 3.7	Applicant	<p>Please review and revise the dDCO to ensure that where the year and chapter of an Act are cited at the start of any footnote, the chapter</p>

Request made to:		Information or written comments requested:
		number is not enclosed within brackets. Conversely, if an Act is cited anywhere else within the footnote then the chapter number should appear within brackets. (See for example page 5, footnote (e): brackets should be removed to be consistent with other footnotes).
FQ 3.8	Applicant	<p>Please review Conditions 13(1) of Schedules 9 and 10 and 8(1) of Schedules 11 and 12 (Force majeure): <i>"If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO."</i></p> <p>Is the object of the notification requirement to capture all deposits made due to a threat to life/ vessels; or to capture unauthorised deposits made for such reasons?</p> <p>If the latter should sub-paragraph (1) read: "If, due to stress of weather or any other cause the safety of human life and/or of the vessel is threatened and the master of a vessel determines that it is necessary to make deposits not authorised under this licence, whether within or outside the Order Limits, within 48 hours full details of the circumstances of the deposit must be notified to the MMO"?</p>
4.	Health, air quality, noise and vibration	
FQ 4.1	Applicant	Having regard to Broadland District Council's response at D7 in relation to the air quality assessment for the Old Railway Gatehouse [REP7-066], please comment on the points raised pertaining to DEFRA background

Request made to:		Information or written comments requested:
		noise levels, local sources of pollution including turkey sheds, pig rearing units and the extant permission for 6no. biomass boilers.
FQ 4.2	Applicant Broadland DC	Please comment on whether the cumulative noise and vibration assessment for Cawston has taken into consideration idling and accelerating vehicles which may occur as a result of single way priority working in the proposed highway intervention scheme. If not, should such assessments be completed?
FQ 4.3	Breckland DC	Please comment on the additional noise and vibration assessment, including conclusions and proposed mitigation, completed for the proposed trenchless crossing on the A1067 within the Applicant's additional submission 'Technical Note Responding to Norfolk County Council's Request for Trenchless Crossings of the A1067 and B1149' [AS-047].
FQ 4.4	Applicant	Please comment on the questions raised by Professor Tony Barnett at D7 [REP7-086] and in particular please provide a response to Q2.
5.	Highways	
FQ 5.1	Applicant	Please provide further details in relation to the proposed arrangements for the importation and storage of cable drums and the consequential implications for HGV traffic to the Oulton compound and link 68 in response to the queries raised by Oulton Parish Council's submission at deadline 7.
FQ 5.2	Applicant	Please confirm the position with regards to the mitigation measures for link 41 as requested by Norfolk County Council (NCC).
FQ 5.3	Applicant	Please comment upon Norfolk County Council's proposal (included within its deadline 7 submission) in relation to amendments to the wording of requirement 22 of the DCO to require the removal of temporary accesses.

Request made to:		Information or written comments requested:
FQ 5.4	Applicant and Norfolk County Council	<p>The Applicant submitted a cumulative impact paper at deadline 5 detailing the traffic impacts on The High Street, Cawston [REP5-012] and these matters were further explored at ISH6. The Hornsea Three project (H3) prepared a Highway Intervention Scheme for High Street, Cawston dated March 2019 which was submitted into this examination at deadline 7 by NCC [REP7-079]. That document records daily baseline flows of 3,477 (all vehicles) and 127 HGV movements, as at 2022. The maximum cumulative traffic would increase these flows by 271 HGV movements (based on a flat demand profile of 127 HGVs for H3 and a maximum peak capped at 144 HGVs for Norfolk Vanguard).</p> <p>In the context of a 12-hour working day and, assuming an even distribution of the additional HGV traffic, this appears to equate to some 22.6 additional HGVs travelling through Cawston village each hour. This would be in addition to the existing baseline of 127 HGVs. If the baseline flow is apportioned over the same 12-hour period, this equates to a total cumulative flow of 33.2 HGVs each hour passing through the village or the equivalent of one HGV approximately every 2 minutes.</p> <p>Please provide your comments upon this analysis and any further general observations you wish to make. More particularised questions follow.</p>
FQ 5.5	Applicant/Norfolk County Council	<p>The H3 Highway Intervention Scheme dated March 2019 is still under consideration and it provides an illustration of some of the mitigation measures which could be utilised. This scheme retains some demarcated on-street parking which would result in HGVs having to wait in turn based upon 'single way priority working signage'. Having regard to the traffic</p>

Request made to:		Information or written comments requested:
		<p>movement figures above, namely one HGV every 2 minutes, how is it envisaged that such a scheme would work and be effective?</p> <p>In particular, how long would one HGV take to navigate the route through Cawston village. How long would the wait times be for HGVs travelling in the opposite direction?</p>
FQ 5.6	Highways England	<p>In light of the traffic speeds and volumes of traffic along the A47, please confirm the basis upon which you are prepared to accept a relaxation of DMRB standards in the visibility splay requirements in relation to access B in regard to vehicles exiting the site and turning right.</p>