

Response to the request from the Secretary of State

EN010079-004303-NORV-Re-Determination-Consultation-Letter-29-April-2021.pdf

Your references

EN010079

EN010087

Written by Julian Pearson on behalf of Holme Hale Parish Council

ANSWERS TO SPECIFIC QUESTIONS

In response to the scope detailed in paragraph 8 of the consultation letter,

- 1) **Procedure:** In theory, the use of a document from the Boreas application makes sense.. however this is surely in breach of normal procedure.. If the Vanguard application has failed to deliver a document, or series of documents required under the law, then the application was incomplete and should have been dismissed.. consequently...
- 2) **On re-Opening:-** The applicant should be required to restart the process with the Examining Authority, for that element, together with the appropriate costs. Once those documents are complete, it will allow full examination and critique of the documents concerned, IN PUBLIC, so that the ExAuth can use it's position to ensure that the applicant provides the fullest details as prescribed in law, or declare the application remains incomplete.
- 3) **On agreement with the Secretary of state assessment:** the proposed evaluation in light of single development and cumulative development is agreeable, HOWEVER this would require that the documents referred to in section 5, namely the documents from Norfolk Boreas application, meet at least the minimum requirements in law. I also note that the link in the footer of the letter, (see below) failed.

[https://infrastructure.planninginspectorate.gov.uk/wpcontent/ipc/uploads/projects/EN010087/EN010087-002452-8.3%20Design%20and%20Access%20Statement%20Figures%20\(Versions%205\)%20\(Part%201%20of%204\).pdf](https://infrastructure.planninginspectorate.gov.uk/wpcontent/ipc/uploads/projects/EN010087/EN010087-002452-8.3%20Design%20and%20Access%20Statement%20Figures%20(Versions%205)%20(Part%201%20of%204).pdf)

In seeking this out on the Planning Inspectorate website, It only consists of a series of maps for the landfall site and the cable route.. making zero reference to the site of the substation at Necton... I therefore assume the footnote link relates to the wrong document.

Examination of the Boreas documentation, I believe the intended document link was to

[https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002452-8.3%20Design%20and%20Access%20Statement%20\(Versions%205\)%20\(Tracked%20Changes\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002452-8.3%20Design%20and%20Access%20Statement%20(Versions%205)%20(Tracked%20Changes).pdf)
which is more of a text document.

There is relevance to the matter in hand, throughout that document, so I shall refer to it as precisely as I can.

VALIDITY OF DOCUMENTS

However, I should firstly draw the attention of the Secretary of State, to the mention of Directive 2011/92/EU. Recital (7) in the High Court Case No: CO/2836/2020 which quashed the Vanguard decision.. specifically section 103 which defines the MINIMUM requirements of an Environmental statement...

- ‘(a) a description of the project comprising information on the site, design and size of the project;
- (b) a description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects;
- (c) the data required to identify and assess the main effects which the project is likely to have on the environment;
- (d) an outline of the main alternatives studied by the developer and an indication of the main reasons for his choice, taking into account the environmental effects;
- (e) a non-technical summary of the information referred to in points (a) to (d).’

On page 21 of the DAS, heading 5.3.6, section 66, the applicant clearly considers the requirement to meet DCO requirements part 16(2), even though the whole of section 16 relates to ‘Securing Mitigation’...as it relates to the Environmental Statement. This is pertinent to the fulfilment of paragraph b above. The advice notes for Requirement 16(2) mention, as examples, the INCLUSION of various codes and plans, with the inference that they are already completed.. not simply a referral to a proposed document yet to be created.

The lack of fulfilment of paragraph b above is strengthened in section 4.5 paragraph 38, of the DAS that the final design will be part of a detailed design phase POST consent... and they appear to seek fulfilment of DCO Requirement 16(2) by referring to a process through which mitigation will be (future tense) designed. i.e. a plan to do the work that, given the significance of the development, should have been done in time for the application submission.. or at least during the ExAuth process. I know it was brought up on several occasions during the public hearings, by myself and in each case the applicant referred back to the plans to do it post consent, stating it could not be done without the final design.

On page 15 of the DAS, In Table 4.3, rows 3 and 4 The applicant refers to “within the parameters set out in Requirement 16 of the DCO”. That table cross references to an indexed page #54, which with the tracked changes, now appears on page #60 in the DCO version 9. The terminology infers that those parameters are defined by DCO requirements, but the actual DCO requirements 16, as mentioned two paragraphs above, only refer to securing mitigation. The parameters quoted are generated entirely by the applicant.

On Page 21, of the DAS section 5.3.6 section 68 the applicant spells out that the DESIGN GUIDE (not yet written) will define the design approach and the mitigation measures and intends to share this with Breckland DC..

It therefore stands to reason that if the mitigation details cannot be designed into the scheme until the design of the substation has been finalised, then the true environmental impact of the scheme cannot be determined either.

Directive 2011/92/EU. Recital (7) are mandatory requirements and the applicant has plainly not only been unable to satisfy them prior to and during the submission, but was deliberately deferring to post consent. Consequently, the submission for Vanguard was incomplete.

CONCLUSION

The continued lack of satisfaction of paragraph b mentioned above, in the submission for Boreas should therefore conclude that Boreas documentation is also incomplete and therefore unfit for use in the re-consideration of the Vanguard submission. Indeed, because of this, Boreas too, should be dismissed as incomplete.

Holme Hale Parish Council is not directly averse to the existence of the substation at Necton, despite that the development visual impact affects at least the same if not a greater number of residential properties in this Parish than Necton. Our position has always been one of demanding clear, legally binding mitigation, so as to avoid the repeat of poorly mitigated Dudgeon substation at the same location... remember that the volume of each of the 4 main buildings is still greater than the volume of SIX TIMES both buildings of the Dudgeon substation at Necton

A PRACTICAL SOLUTION

A practical solution to this matter, in order to satisfy Directive 2011/92/EU. Recital (7), would be for the Secretary of State to require the applicant to commission:

- a) external designs for the substation,
- b) detailed impact assessments of those designs and
- c) the detailed proposals for mitigation of the impact identified

before consent and in order for that to be assessed publicly and fairly, for the Secretary of State to pass both applications back to the ExAuth together so that such mitigation can be assessed against both the solus and cumulative impact of the two projects at the same time.

As was mentioned in one of the ExAuth public meetings, by myself, there is a global leader in visual impact mitigation (Saab defence systems) less than 5km from Vattenfalls head office whom are aware and willing to assist.

End.