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Jake Laws
Senior Consents Manager
Norfolk Vanguard and Norfolk Boreas

Our ref
Your ref

26 January 2023

Dear Mr Laws,

PLANNING ACT 2008

THE NORFOLK BOREAS OFFSHORE WIND FARM ORDER 2021 (AS AMENDED) (“the Norfolk Boreas Order”)

THE NORFOLK VANGUARD OFFSHORE WIND FARM ORDER 2022 (AS AMENDED) (“the Norfolk Vanguard Order”)

APPROVAL OF THE KITTIWAKE IMPLEMENTATION AND MONITORING PLAN UNDER PART 1 OF SCHEDULE 19 to the NORFOLK BOREAS ORDER AND PART 1 OF SCHEDULE 17 to the NORFOLK VANGUARD ORDER

1. The Norfolk Boreas Order and the Norfolk Vanguard Order (“the Orders”)¹ contain requirements and conditions that the undertaker must comply with before certain works within the authorised developments as defined in the Orders can commence.
2. Norfolk Boreas Limited and Norfolk Vanguard Limited (“the Applicants”) made a request to the Secretary of State for Business, Energy & Industrial Strategy (“the Secretary of State”) on 7 June 2022 for approval of the Kittiwake Plan of Works for the kittiwake compensation measures, as required by paragraph 2 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraph 2 of Part 1 of Schedule 17 to the Norfolk Vanguard Order (“the Plan of Works Approval Request”).
3. The Plan of Works Approval Request was submitted to the Secretary of State for approval under paragraph 2 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraph 2 of Part 1 of Schedule 17 to the Norfolk Vanguard Order. On 27 September 2022 the Secretary of State approved the Plan of Work Approval Request in accordance with paragraph 2 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraph 2 of Part 1 of Schedule 17 the Norfolk Vanguard Order.
4. On 2 November 2022, the Applicants submitted the Kittiwake Implementation and Monitoring Plan for the Flamborough and Filey Coast Special Protection Area under Part 1 of Schedule 19 to the Norfolk

¹ The Norfolk Boreas Offshore Wind Farm Order 2021 (SI 2021 No. 1414) as amended by The Norfolk Boreas Offshore Wind Farm (Corrections) Order 2022 (SI 2022 No. 901) and The Norfolk Boreas Offshore Wind Farm (Amendment) Order 2022 (SI 2022 No. 968).

The Norfolk Vanguard Offshore Wind Farm Order 2022 (SI 2022 No. 138) as amended by The Norfolk Vanguard Offshore Wind Farm (Corrections) Order 2022 (2022 No. 944) and The Norfolk Vanguard Offshore Wind Farm (Amendment) Order 2022 (SI 2022 No. 1004).

Boreas Order and Part 1 of Schedule 17 to the Norfolk Vanguard Order to the Secretary of State for approval (“the KIMP Approval Request”).

5. The Secretary of State wishes to inform the Applicants that consideration has now been given to the KIMP Approval Request.

Requirements under paragraphs 2, 3, 4 and 5 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraphs 2, 3, 4 and 5 of Part 1 of Schedule 17 to the Norfolk Vanguard Order

6. Paragraph 2 of Part 1 of Schedule 19 to the Norfolk Boreas Order states that:

“The authorised development may not be commenced until a plan for the work of the KSG [Kittiwake Steering Group] has been submitted to and approved by the Secretary of State. Such plan must include:

- (a) terms of reference of the KSG;
- (b) details of the membership of the membership of the KSG;
- (c) details of the schedule of meetings, timetable for preparation of the KIMP [Kittiwake Implementation and Monitoring Plan] and reporting and review periods; and
- (d) the dispute resolution mechanism.”

7. Paragraph 3 of Part 1 of Schedule 19 to the Norfolk Boreas Order states that:

“Following consultation with the KSG, the KIMP must be submitted to and approved by the Secretary of State, in consultation with the local planning authority or authorities for the land containing the artificial nest sites, and the relevant statutory nature conservation body. The KSG must be consulted further as required during the approval process.”

8. Paragraph 4 of Part 1 of Schedule 19 to the Norfolk Boreas Order states that:

“The KIMP must include measures to increase the number of adult kittiwake available to recruit to the FFC [Flamborough and Filey Coast Special Protection Area] in accordance with the principles contained in the kittiwake compensation plan, must contain the relevant matters identified in section 4.6.3 of the kittiwake compensation plan and must include in particular:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures (including why the location is appropriate ecologically and likely to support successful compensation);
- (b) details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the KIMP;
- (c) details of the design of the artificial nest structures, including the projected number of nests that will be accommodated on the structures, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;
- (d) an implementation timetable for the delivery of the artificial nest structures that ensures that all compensation measures are in place to allow four full kittiwake breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) a maintenance schedule for the artificial nest structures;
- (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;

- (g) provision for annual reporting to the Secretary of State, to include details of the number of birds colonising the site including: evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging, to identify barriers to breeding success and target alternative or adaptive compensation measures;
- (h) details of how natal dispersal and colony interchange with the FFC kittiwake colony should be investigated, potentially using colour-ringing of chicks; and
- (i) minutes from all consultations with the KSG.”

9. Paragraph 5 of Part 1 of Schedule 19 to the Norfolk Boreas Order states that:

“The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until four full breeding seasons following the implementation of the measures set out in the KIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.”

10. Paragraph 2 of Part 1 of Schedule 17 to the Norfolk Vanguard Order states that:

“The authorised development may not be commenced until a plan for the work of the KSG has been submitted to and approved by the Secretary of State. Such plan must include:

- (a) terms of reference of the KSG;
- (b) details of the membership of the KSG;
- (c) details of the schedule of meetings, timetable for preparation of the KIMP and reporting and review periods; and
- (d) the dispute resolution mechanism.”

11. Paragraph 3 of Part 1 of Schedule 17 to the Norfolk Vanguard Order states that:

“Following consultation with the KSG, the KIMP must be submitted to and approved by the Secretary of State, in consultation with the local planning authority or authorities for the land containing the artificial nest sites, and the relevant statutory nature conservation body. The KSG must be consulted further as required during the approval process.”

12. Paragraph 4 of Part 1 of Schedule 17 to the Norfolk Vanguard Order states that:

“The KIMP must include measures to increase the number of adult kittiwakes available to recruit to the FFC in accordance with the principles contained in the kittiwake compensation plan, must contain the relevant matters identified in section 4.6.3 of the kittiwake compensation plan and must include in particular:

- (a) details of the location where the compensation measures will be delivered and the suitability of the site to deliver the measures (including why the location is appropriate ecologically and likely to support successful compensation);
- (b) details of landowner agreements demonstrating how the land will be bought or leased and assurances that the land management will deliver the ecology objectives of the KIMP;
- (c) details of the design of the artificial nest structures, including the projected number of nests that will be accommodated on the structures, and how risks from avian or mammalian predation and unauthorised human access will be mitigated;

- (d) an implementation timetable for the delivery of the artificial nest structures that ensures all compensation measures are in place to allow four full kittiwake breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) a maintenance schedule for the artificial nest structures;
- (f) details of the proposed ongoing monitoring and reporting on the effectiveness of the measures, including: survey methods; success criteria; adaptive management measures; timescales for the monitoring and monitoring reports to be delivered; and details of the factors used to trigger alternative compensation measures and/or adaptive management measures;
- (g) provision for annual reporting to the Secretary of State, to include details of the number of birds colonising the site including: evidence of birds prospecting; nesting attempts; egg laying; hatching; and fledging, to identify barriers to breeding success and target alternative or adaptive compensation measures;
- (h) details of how natal dispersal and colony interchange with the FFC kittiwake colony should be investigated, potentially using colour-ringing of chicks; and
- (i) minutes from all consultations with the KSG.”

13. Paragraph 5 of Part 1 of Schedule 17 to the Norfolk Vanguard Order states that:

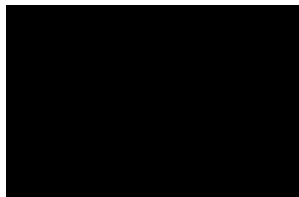
“The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State, unless otherwise agreed in writing by the Secretary of State in consultation with the relevant statutory nature conservation body and the relevant local planning authority. In particular, no operation of any turbine forming part of the authorised development may begin until four full breeding seasons following the implementation of the measures set out in the KIMP have elapsed. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.”

Consideration of the KIMP Approval Request by the Secretary of State

- 14. The Secretary of State has considered the details provided by the Applicants in respect of the requirements related to the submission of the Kittiwake Implementation and Monitoring Plan for the Flamborough and Filey Coast Special Protection Area.
- 15. On 18 November 2022, the Secretary of State invited comments from the East Suffolk Council, Great Yarmouth Borough Council, and Natural England in accordance with paragraph 3 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraph 3 of Part 1 of Schedule 17 to the Norfolk Vanguard Order. The deadline for a response was 11.59pm on Wednesday 30 November 2022.
- 16. East Suffolk Council responded on 24 November 2022 and confirmed that, in their view, the Kittiwake Steering Group Agreement Log (Annex 1 Kittiwake Consultation Report) was an accurate reflection of East Suffolk Council’s position on all matters in which it had an interest, and that East Suffolk Council had contributed to the KIMP and following a careful review agreed with its contents.
- 17. Natural England responded on 29 November 2022 and confirmed that following review it agreed to the contents of the KIMP. Natural England highlighted that the Kittiwake Steering Group Agreement Log set out Natural England’s position on the amount of compensation proposed. Natural England considered that the scale of compensation should seek to provide a realistic chance of the national site network, rather than the biogeographic population, receiving an equivalent number of recruits to that lost to the scheme. On this point, the Secretary of State would recommend that Natural England refer to the conclusions of the Habitats Regulations Assessments for the Norfolk Boreas and Norfolk Vanguard consents.
- 18. Having considered the comments from East Suffolk Council and Natural England, the Secretary of State is satisfied that the Kittiwake Implementation and Monitoring Plan submitted with the KIMP Approval Request contains sufficient detail to comply with Part 1 of Schedule 19 to the Norfolk Boreas Order and Part 1 of Schedule 17 to the Norfolk Vanguard Order. The Secretary of State has considered

the Kittiwake Implementation and Monitoring Plan in detail, and hereby gives his approval in accordance with paragraph 3 of Part 1 of Schedule 19 to the Norfolk Boreas Order and paragraph 3 of Part 1 of Schedule 17 to the Norfolk Vanguard Order.

Yours sincerely,



James Dawkins
Head of Planning