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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 LESSER BLACK-BACKED GULL IMPLEMENTATION AND MONITORING PLAN UNDER PART 2 OF SCHEDULE 19 TO THE NORFOLK BOREAS ORDER AND PART 2 OF SCHEDULE 17 TO THE NORFOLK VANGUARD ORDER**

1. The Norfolk Boreas Order and the Norfolk Vanguard Order (“the Orders”)<sup>1</sup> 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 Lesser Black-Backed Gull Plan of Works for the lesser black-backed gull compensation measures, as required by paragraph 13 of Part 2 of Schedule 19 to the Norfolk Boreas Order and paragraph 13 of Part 2 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 13 of Part 2 of Schedule 19 to the Norfolk Boreas Order and paragraph 13 of Part 2 of Schedule 17 to the Norfolk Vanguard Order. On 27 September 2022 the Secretary of State approved the Plan of Works Approval Request in accordance with paragraph 13 of Part 2 of Schedule 19 to the Norfolk Boreas Order and paragraph 13 of Part 2 of Schedule 17 to the Norfolk Vanguard Order.

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<sup>1</sup> 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).

4. On 28 October 2022, the Applicants submitted the Lesser Black-Backed Gull Implementation and Monitoring Plan (“the LBBGIMP”) for the Alde-Ore Estuary Special Protection Area under Part 2 of Schedule 19 to the Norfolk Boreas Order and Part 2 of Schedule 17 to the Norfolk Vanguard Order (“the LBBGIMP Approval Request”).
5. The Secretary of State wishes to inform the Applicants that consideration has now been given to the LBBGIMP Approval Request.

**Requirements under paragraphs 13, 14, 15, 16 and 19 of Part 2 of Schedule 19 to the Norfolk Boreas Order and paragraphs 13, 14, 15, 16 and 19 of Part 2 of Schedule 17 to the Norfolk Vanguard Order**

6. Paragraph 13 of Part 2 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 LBBGSG [Lesser Black-Backed Gull Steering Group] has been submitted to and approved by the Secretary of State. Such plan must include:

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

7. Paragraph 14 of Part 2 of Schedule 19 to the Norfolk Boreas Order states that:

“Following consultation with the LBBGSG, the LBBGIMP 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 predator control fencing, and the relevant statutory nature conservation body. The LBBGSG must be consulted further as required during the approval process.”

8. Paragraph 15 of Part 2 of Schedule 19 to the Norfolk Boreas Order states that:

“The LBBGIMP must include measures to increase the number of adult lesser black-backed gulls available to recruit to the AOE [Alde-Ore Estuary Special Protection Area] in accordance with the principles contained in the lesser black-backed gull compensation plan, must contain the relevant matters identified in section 4.6.2 of the lesser black-backed gull 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 LBBGIMP;
- (c) details of the design of the predator control fencing including the type of fencing, the area and location of enclosure, and details of any other habitat management measures;
- (d) an implementation timetable for the delivery of the predator control fencing and any other habitat management measures that ensures all compensation measures are in place to allow four full lesser black-backed gull breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) a fencing maintenance schedule;

(f) details of the proposed ongoing monitoring and reporting of 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; and

(g) minutes from all consultations with LBBGSG.”

9. Paragraph 16 of Part 2 of Schedule 19 to the Norfolk Boreas Order states that:

“The undertaker must implement the measures as set out in the LBBGIMP 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 LBBGIMP 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 19 of Part 2 of Schedule 19 to the Norfolk Boreas Order states that:

“Unless otherwise agreed in writing by the Secretary of State or unless the measures set out in the LBBGIMP have already been delivered, the undertaker must not commence construction of Work No.1 until it has first –

(a) provided a reasonable estimate of the cost of delivery of the compensation measures; and

(b) put in place either –

(i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or

(ii) an alternative form of security for that purpose,

that has been approved by the Secretary of State.”

11. Paragraph 13 of Part 2 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 LBBGSG [Lesser Black-Backed Gull Steering Group] has been submitted to and approved by the Secretary of State. Such plan must include:

(a) terms of reference of the LBBGSG;

(b) details of the membership of the LBBGSG;

(c) details of the schedule of meetings, timetable for preparation of the LBBGIMP [Lesser Black-Backed Gull Implementation and Monitoring Plan] and reporting and review periods; and

(d) the dispute resolution mechanism.”

12. Paragraph 14 of Part 2 of Schedule 17 to the Norfolk Vanguard Order states that:

“Following consultation with the LBBGSG, the LBBGIMP 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 predator control fencing, and the relevant statutory nature conservation body. The LBBGSG must be consulted further as required during the approval process.”

13. Paragraph 15 of Part 2 to Schedule 17 to the Norfolk Vanguard Order states that:

“The LBBGIMP must include measures to increase the number of adult lesser black-backed gulls available to recruit to the AOE in accordance with the principles contained in the lesser black-backed gull compensation plan, must contain the relevant matters identified in section 4.6.2 of the lesser black-backed gull 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 LBBGIMP;
- (c) details of the design of the predator control fencing including the type of fencing, the area and location of enclosure, and details of any other habitat management measures;
- (d) an implementation timetable for the delivery of the predator control fencing and any other habitat management measures that ensures all compensation measures are in place to allow four full lesser black-backed gull breeding seasons prior to the operation of any turbine forming part of the authorised development;
- (e) a fencing maintenance schedule;
- (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; and
- (g) minutes from all consultations with LBBGSG.”

14. Paragraph 16 to Part 2 of Schedule 17 to the Norfolk Vanguard Order states that:

“The undertaker must implement the measures set out in the LBBGIMP 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 LBBGIMP 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.”

15. Paragraph 19 to Part 2 of Schedule 17 to the Norfolk Vanguard Order states that:

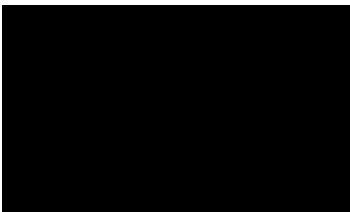
“Unless otherwise agreed in writing by the Secretary of State or unless the measures set out in the LBBGIMP have already been delivered, the undertaker must not commence construction of Work No. 1 until it has first –

- (a) provided a reasonable estimate of the cost of delivery of the compensation measures; and
- (b) put in place either –
  - (i) a guarantee in respect of the reasonable estimate of costs associated with the delivery of the compensation measures; or
  - (ii) an alternative form of security for that purpose,that has been approved by the Secretary of State.”

## **Consideration of the LBBGIMP Approval Request by the Secretary of State**

16. The Secretary of State has considered the details provided by the Applicants in respect of the requirements related to the submission of the LBBGIMP for the Alde-Ore Estuary Special Protection Area.
17. On 9 November 2022, the Secretary of State invited comments from the East Suffolk Council, Great Yarmouth Borough Council, and Natural England in accordance with paragraph 14 of Part 2 of Schedule 19 to the Norfolk Boreas Order and paragraph 14 of Part 2 of Schedule 17 to the Norfolk Vanguard Order. The deadline for a response was 11.59pm on Thursday 24<sup>th</sup> November 2022.
18. East Suffolk Council responded on 16 November 2022 and confirmed that, in their view, the Lesser Black-Backed Gull Steering Group Agreement Log (Annex 1: Lesser Black-Backed Gull 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 LBBGIMP and following a careful review agreed with its contents.
19. Natural England responded on 23 November and confirmed that following review it agreed to the contents of the LBBGIMP, and that the Lesser Black Backed Gull Agreement Log was an accurate reflection of Natural England's position on all matters which it wished to engage on.
20. Having considered the comments from East Suffolk Council and Natural England, the Secretary of State is satisfied that the LBBGIMP submitted with the LBBGIMP Approval Request contains sufficient detail to comply with Part 2 of Schedule 19 to the Norfolk Boreas Order and Part 2 of Schedule 17 to the Norfolk Vanguard Order. The Secretary of State has considered the LBBGIMP in detail, and hereby gives his approval in accordance with paragraph 14 of Part 2 of Schedule 19 of the Norfolk Boreas Order and paragraph 14 of Part 2 of Schedule 17 of the Norfolk Vanguard Order.

Yours sincerely,



**James Dawkins**  
Head of Planning