



## Meeting note

<b>File reference</b>	EN010079
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	21 March 2018
<b>Meeting with</b>	Vattenfall
<b>Venue</b>	Teleconference
<b>Attendees</b>	<b>The Planning Inspectorate</b> Kay Sully (Case Manager) Siân Evans (Case Officer) Hannah Pratt (Senior EIA and Land Rights Advisor) Clare Richmond (EIA and Land Rights Advisor) Nick Bandu (Lawyer) <b>Vattenfall</b> Ruari Lean Catrin Jones Bex Sherwood Claire Rees [Womble Bond Dickinson] Ruth Henderson [RHDHV] Gemma Keenan [RHDHV]
<b>Meeting objectives</b>	Norfolk Vanguard project meeting update
<b>Circulation</b>	All attendees

### Introduction

Vattenfall (the Applicant) and the Planning Inspectorate (the Inspectorate) case team introduced themselves and their respective roles. The Inspectorate outlined its openness policy and ensured those present understood that any issues discussed and advice given would be recorded and placed on the Inspectorate's website under s51 of the Planning Act 2008 (PA2008). Further to this, it was made clear that any advice given did not constitute legal advice upon which the Applicant (or others) can rely.

### General Project update

The Applicant advised that, following the close of their statutory consultation and review of responses, they have been able to provide further information about the scheme. The Applicant has announced that HVDC technology will be used exclusively for both the Vanguard and Boreas projects. The Applicant is working on a FAQs document following recent stakeholder feedback.

The Applicant advised that they are aiming to submit the application in June 2018.

### **Environmental Statement**

The Applicant explained that they are updating their final assessments based on consultation feedback and updates to the final project design.

The Applicant advised that it intends to send some chapters to Expert Topic Group members approximately 1-2 weeks prior to formal submission. The Inspectorate advised the Applicant to make it clear that these were not the final submitted documents.

The Applicant enquired whether the Inspectorate wished to attend any Steering Group meetings. The Inspectorate advised that they did not need to attend these but can do so if requested by the Applicant.

### **Habitats Regulations Assessment**

The Applicant advised that the HRA chapter has been issued to stakeholders and they are expecting comments back imminently. The Applicant explained that it will shortly be holding workshops with Expert Topic Group members to discuss feedback on the HRA, including marine mammals, benthic ecology and ornithology.

### **Hornsea 3**

The Applicant explained that there is an onshore crossing point for both Vanguard, Boreas and Hornsea 3 projects however they are liaising closely with the Hornsea 3 project team. The Applicant advised that both projects are avoiding overlapping project communications and have different submission timetables.

### **Consultation**

The Applicant advised that they have undertaken further targeted consultation following minor updates to the redline boundary since the close of the formal consultation period in Q4 2017. The Inspectorate advised that this should be clearly explained in the Consultation Report, which the Applicant advised is currently being drafted.

### **Further documents for review**

The Applicant enquired whether the Inspectorate would wish to see the Statement of Reasons (SoR), as they were aware this had been requested on another project. The Inspectorate advised that it can be useful to see when provided as part of a suite of documents to review but not as a stand-alone document so it was agreed in this instance that the SoR wouldn't be submitted.

The Inspectorate advised that it is for the Applicant to determine which documents they would like to submit for review but requested that any further documents are sent at the same time. The Inspectorate stated that it can be useful, where time allows, to see the Consultation Report, the Environmental Statement project description and the HRA Report. However given the period between now and the submission of application, there may not be sufficient time to review these. The Inspectorate advised the Applicant to allow at least 4-6 weeks for a further review and give as much advance notice of submission as possible. The Inspectorate also

requested that when documents are submitted the Applicant highlights which specific areas they would like the review to focus on. The Inspectorate advised the Applicant when deciding what further documents to submit to also consider whether they will have sufficient time to incorporate any changes as a result of a review.

### **Draft documents review**

Please see Annex A for comments on the draft Development Consent Order and Explanatory Memorandum.

### **Submission**

The Inspectorate advised that two hard copies and five USBs of the application should be submitted. The Inspectorate may ask for further hard copies of documents if the application is accepted, depending on the number of Examining Inspectors appointed.

The GIS shapefiles should be submitted to the Inspectorate by email a minimum of 10 working days before the application is submitted. The Inspectorate advised that it is helpful for the Applicant's electronic application index to be submitted at the same time – this can be found in [Appendix 2](#) to [Advice Note Six: Preparation and submission of application documents](#).

The Inspectorate confirmed that, when drawing up Examination timetables, they would be mindful of other Examinations running at the same time and the resources of the local councils and others.

The Inspectorate advised that it would be useful if the Applicant could send any information in relation to potential hearing venues.

### **AOB**

The Inspectorate drew the Applicant's attention to good example documents on the Inspectorate's website. In particular, the Guide to the Application and Statement of Commonality.

The Inspectorate advised that an [advisory letter regarding water preferred policy guidelines for the movement of abnormal loads](#) has been published under the guidance on the Inspectorate's website.

The Inspectorate reminded the Applicant that the General Data Provisions Regulations 2018 will come into force in May 2018. The Applicant advised that responses in the Consultation Report will be anonymised. The Inspectorate advised the Applicant to be prepared if the Inspectorate requests the consultation responses in the Acceptance period.

### **Specific decisions / follow up required?**

The Inspectorate advised they would send information regarding fees to the Applicant.

The Applicant's point of contact for the Examination, Laura Gribble, will email the project mailbox and the Inspectorate will send their venue requirements to her.



**Norfolk Vanguard Offshore Wind Farm: Comments on draft documents March 2018**

These queries relate solely to matters raised by the draft documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration.

**General Drafting points**

1. The Applicant should ensure that when the development consent order (DCO) is finalised all internal references and legal footnotes are checked and that the drafting follows best practice in Advice Note 15 and any guidance on statutory instrument drafting.
2. A number of typos have been found in the draft DCO and Explanatory Memorandum. These will need to be corrected.
3. The Explanatory Memorandum (EM) should state whether the article replicates a model provision or precedent article. Where there has been a change from the precedent or model provision this should ideally be shown in a track change DCO. It would also be helpful if the EM clarified whether the change is minor and has been made where in the Applicant's view the model provision/precedent is unclear, or does not follow standard statutory instrument drafting practice. Where a model provision or precedent article is substantially changed, the EM should clearly explain how that alters the effect. Ideally (and particularly if an article is novel), the power on which each article is based should be identified.
4. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

## Draft DCO

<b>Point no.</b>	<b>Ref</b>	<b>Extract</b>	<b>Question/Comment</b>
<b>1</b>	Interpretation (of DCO and DML)	Definition of "commencement"	<p>The ExA will need to consider whether this definition, which follows the East Anglia 3 DCO, is satisfactory including the impacts of any exclusion included. We note that 'remedial work' is not defined, and the ExA may therefore need clarification on the scope of remedial works to consider whether this is too wide, and/or whether a condition would need to be applied.</p> <p>The ExA will also need to consider whether the flexibility afforded by the 'carve outs' for exempted works such as site clearance, demolition etc. is justified. It may be helpful for the Applicant to clarify any impacts for these works so the ExA can consider whether they are justified and/or need to be controlled by a requirement.</p> <p>Also, why is it necessary for the definition here to be wider than that provided for in relation to the deemed marine licences (definitions in sch. 11.1 (1) and sch 12.1 (1))?</p>
<b>2</b>	Interpretation (of DCO and DML)	Definition of "maintain"	Have the impacts of the various activities listed all been assessed in the ES?
<b>3</b>	Interpretation (of DCO and DML)	"HAT" means lowest astronomical tide	Should this be <b>highest</b> astronomical tide?
<b>4</b>	Interpretation (of DCO and DML)	"mean high water springs" or "MHWS" means the highest level which spring tides reach on average over a period of time	Should this definition refer to 'above chart datum' (as per the definition of mean low water springs)?
<b>5</b>	Interpretation (of DCO and DML)	Definition of "mean low water springs"	Where is the definition of "Chart Datum"?
<b>6</b>	Interpretation (of DCO and DML)	Definition of 'Mobilisation area'	Is this too wide?
<b>7</b>	Interpretation (of DCO and DML)	Definition of 'monopile foundation'	Separate definition, needs own paragraph
<b>8</b>	Interpretation (of DCO and DML)	"The expression 'includes' may be construed without limitation"	Is this necessary?

<b>9</b>	Part 2, 5	(8) This paragraph applies where— (a) the transferee or lessee is a person who holds a licence under the Electricity Act 1989; or	Notwithstanding precedents from previous made orders, it may be helpful for the ExA for there to be an explanation/justification for the exceptions to the requirement for the SoS to consent to the transfer of the benefit of the order.
<b>10</b>	Article 14	(1) The undertaker may for the purposes of this Order enter on any land shown within the Order limits or which may be affected by the authorised project and— (a) survey or investigate the land; (b) without prejudice to the generality of sub-paragraph (a), make trial holes in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer and subsoil and remove soil samples; (c) without prejudice to the generality of sub-paragraph (a), carry out ecological or archaeological investigations on such land; and (d) place on, leave on and remove from the land apparatus for use in connection with the survey and investigation of land and making of trial holes. [...]	To have these powers over any land “which may be affected by the authorised project” may be seen to be too wide. What are the criteria for defining what “may be affected by the authorised project”?
<b>11</b>	Article 15	Compulsory acquisition of land 15.— (1) The undertaker may acquire compulsorily so much of the Order land as is required for the authorised project or to facilitate, or is incidental, to it. (2) This article is subject to paragraph (2) of article [17] (compulsory acquisition of rights) and article [23] (temporary use of land for carrying out the authorised project).	This is a wide reaching power covering all of the Order Land. It may be difficult to justify that such wide CA powers derived from the DCO are necessary, and the Applicant may wish to consider making these powers more specific, with reference to a separate schedule or the Book of Reference.  The Applicant may wish to consider the wording on the M20 DCO.

<p><b>12</b></p>	<p>Article 24</p>	<p>Temporary use of land for maintaining authorised project</p> <p>24.—</p> <p>(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—</p> <p>(a) enter on and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project; and</p> <p>(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose.</p> <p>(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—</p> <p>(a) any house or garden belonging to a house; or</p> <p>(b) any building (other than a house) if it is for the time being occupied.</p> <p>(3) Not less than 28 days before entering on and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land.</p> <p>(4) The undertaker may only remain in possession of land under this article for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.[...]</p>	<p>Should there be something to restrict the duration for the undertaker having temporary use of land for maintenance? As it stands, this appears to give right to remain on the land indefinitely provided it is for maintenance purposes.</p>
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<b>13</b>	Article 32	Certification of plans etc	Not all of the plans listed here to be certified are detailed in the 'interpretation' section e.g. important hedgerows plan and marine mammal mitigation protocol. A consistency check is recommended prior to submission.
<b>14</b>	Article 32(1)(k)	<i>(k) the outline written scheme of investigation ([ ]);</i>	Should this state "(k)the outline written scheme of investigation ( <b>offshore</b> ) ([ ]);"?
<b>15</b>	Schedule 1 Work No 1(e)	<i>(e) a network of subsea array cables within the area shown on the works plan between the wind turbine generators and between the wind turbine generators and Work No.2 including one or more offshore cable crossings</i>	Duplication of 'between the wind turbine generators'?
<b>16</b>	Requirement 16(1) – Implementation and maintenance of landscaping	<i>All landscaping works must be carried out in accordance with the landscaping management schemes approved under requirement [14] (provision of landscaping)</i>	Should this be requirement <b>15</b> ?
<b>17</b>	Requirement 18 – Code of Construction Practice	(2) The code of construction practice must include— (a) an artificial light emissions management plan; (b) a contaminated land and groundwater plan; (c) a construction noise and vibration management plan; and (d) a surface water and drainage management plan.	The plans detailed in this requirement each have their own separate requirement in Requirements 19-22. Could this duplication lead to complications when discharging requirements?
<b>18</b>	Requirement 19(2) - External lighting and control of artificial light emissions	(2) Work No. [onshore substation] must not be commenced until a written scheme for the management and mitigation of artificial light emissions during the operation of Work No. [onshore substation], including measures to minimise lighting pollution and the hours of lighting, has been submitted to and approved by the relevant planning authority	Should lighting at the onshore substation also be approved by the relevant planning authority in consultation with Natural England? (i.e. as per Requirement 19(1))

<b>19</b>	Requirement 24 – Highway access	n/a	There appears to be significant overlap of this requirement with requirement 23(1)(c) – could this lead to complications when discharging requirements?
<b>20</b>	Requirement 25 - Archaeological written scheme of investigation	(1) No stage of the connection works may commence until for that stage a written scheme of archaeological investigation (which accords with the outline written scheme of investigation (onshore)) has, after consultation with Historic England and Norfolk County Council, been submitted to and approved by the relevant planning authority	The wording of this requirement implies that consultation will take place between the Applicant and Historic England prior to the scheme being submitted to the relevant planning authority - is this correct? Or should consultation take place between the relevant planning authority and Historic England once the scheme has been submitted by the Applicant as per other requirements e.g. requirement 19?
<b>21</b>	Schedules 11, 12 and 13	Deemed Marine Licences	Care should be taken to avoid potential conflicts or confusion between the provisions in the main body of the order and the Deemed Marine Licences. The approach of having the same definitions in the DMLs as the main order is noted. It may be helpful for the ExA to have more specific guidance on this in the EM including pointing out where definitions differ, and the reasons for this.
<b>22</b>	DML Condition 8	The total amount of scour protection for the wind turbine generators, accommodation platform, meteorological masts and buoys forming part of the authorised project must not exceed [ ] m2.	Should the quantity of cable protection also be specified within the DML?
<b>23</b>	Various	E.g. DML Condition 10(3), DML Condition 15(b)(iii), DML Condition 15(i), DML Condition 15(k)	A number of references to conditions appear to be incorrect. A consistency check is recommended prior to submission.

**Draft figures (Drawing No: PB4476-005-000-000)**

<b><i>Point no.</i></b>	<b><i>Ref</i></b>	<b><i>Question/Comment</i></b>
<b>1</b>	Trenchless crossings	The Inspectorate expects that, should trenchless crossing techniques be required to mitigate potentially significant effects on the environment in any particular location, the relevant locations and trenchless construction methodology should be secured through the dDCO.
<b>2</b>	Page 24	Some of the colours used for different project elements are very similar to each other. Could these be revised to be more easily distinguishable?