

Hornsea Project Three
Offshore Wind Farm



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Written summary of Applicant's oral case put at Issue Specific
Hearing 9 (8th Mar 2019)

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1. **INTRODUCTORY REMARKS**

1.1 Issue Specific Hearing 9 ("ISH") was held at 09:00am on 8 March 2019 at the Mercure Norwich Hotel, 121-131 Boundary Road, Norwich, NR3 2BA.

1.2 The ISH took the form of running through items listed in the agenda published by the Examining Authority (ExA) on 27 February 2019 (the "Agenda"). The format of this note follows that of the Agenda. The Applicant's substantive oral submissions commenced at item 3 of the Agenda, therefore this note does not cover items 1 and 2 which were procedural and administrative in nature.

2. **AGENDA ITEM 1 – INTRODUCTION OF THE PARTICIPATING PARTIES**

2.1 The ExA: - David Prentis (Lead Panel Member), Guy Rigby, David Cliff and Dr Roger Catchpole.

2.2 The Applicant:

2.2.1 Speaking on behalf of the Applicant: - Gareth Phillips (Partner at Pinsent Masons LLP).

2.2.2 Present from the Applicant: - Andrew Guyton (Project Manager), Sarah Drljaca (Environment and Consents Senior Project Lead) and Richard Grist (Senior Land and Property Manager).

2.2.3 The Applicant's legal advisors:- Claire Brodrick (Pinsent Masons LLP) and Peter Cole (Pinsent Masons LLP).

2.2.4 The Applicant's transport and highway safety consultants – Paul Zanna (Technical Director at Create Consulting Engineers Ltd) and Simon Stephenson (Technical Director at RPS);

2.3 The following parties participated in the ISH:

2.3.1 Norfolk County Council ("NCC");

2.3.2 South Norfolk District Council ("SNDC");

2.3.3 Broadlands District Council ("BDC");

2.3.4 North Norfolk District Council ("NNDC") represented by Estelle Dehon;

2.3.5 Oulton Parish Council ("OPC");

2.3.6 Cawston Parish Council ("CPC");

2.3.7 Mulbarton Parish Council;

2.3.8 Trinity House ("TH") represented by David Mundy of BDB Pitmans

Part 1 - Cumulative traffic impacts and related mitigation measures

2.4 Claire Brodrick confirmed that since Deadline 6 that further discussions with NCC had taken place and that a different Cawston intervention scheme had been devised. Therefore, the revised scheme would be the one to be discussed at Agenda Item 6.

3. **AGENDA ITEM 3 – CUMULATIVE LINK ASSESSMENT [REP6-039]**

3.1 **a) HGV traffic distribution**

3.2 Paul Zanna confirmed that the cumulative link assessment provided in REP6-039 is an update on the environmental statement assessment of cumulative effects. This was undertaken as the environmental

statement assessment was based the most recently available traffic flow data (at the time) presented by Norfolk Vanguard ("NV") in its Preliminary Environmental Information Report. REP6-039 is based on the traffic flow data provided in the Norfolk Vanguard DCO application. The use of this data for the purpose of REP6-039 has been agreed between Hornsea Three and NV through ongoing consultation. Responding to ExA questions on the sensitivity of the network to traffic doubling, he advised that using the sensitivity distribution would in fact create an unrealistic situation as the traffic could not be doubled in reality as one of the route options would in fact be delete once the final route choice was chosen. As a result moving the HGV distribution to a more traditional distribution would be in line with NV and has now been agreed with NCC.

- 3.3 In response to a question from the ExA, Mr Zanna advised that NV has applied a standard distribution (100%) with no doubling of traffic applied.
- 3.4 In regards to safeguards to prevent an excessive increase in traffic levels beyond the assessed level, Mr Zanna confirmed that the assessment had been based on the maximum level, with upper peaks for a short time period. This, he confirmed, had been agreed with NCC, and there would be a maximum threshold applied for each link in the Construction Traffic Management Plan ("CTMP") to reflect this.
- 3.5 Mr Zanna agreed to check, in response to an ExA question, the percentage increase stated for Link 110 in Table 2.1 of the Cumulative Link Assessment. It is confirmed that the percentage change for Link 110 should be 5.5%, not 45.5% as stated in REP6-039.
- 3.6 In responding to an ExA question, Mr Zanna stated that he could not confirm why the NV link assessment figures were higher than those predicted for Hornsea Three, as these will have been developed based on a set of assumptions made by NV. He could confirm that he had applied the maximum peak traffic flows from NV's ES, based on the generation calculations available.
- 3.7 Gareth Phillips confirmed, replying to an ExA question, that NV's promoter has indicated a preferred port for use during construction but has yet to sign a contract for it, or undertake the procurement process. Mr Zanna agreed to discuss with NV whether this had been taken into account within their assessment.
- 3.8 Mr Zanna advised the ExA that the full cumulative link assessment had not been carried out for Cawston or Oulton due to the presence of an intervention scheme. He added that he would expect both locations to experience moderate effects on sensitive receptors (without mitigation), but confirmed that he would provide a submission with more detail on this point in the next deadline.

3.9 **b) Cumulative link assessment results**

- 3.10 Responding to an ExA request for an update on the cumulative highway links assessment thresholds, Mr Zanna stated that he had yet to receive comments from NV on this. He added that he would expect management measures to be agreed between the parties and NCC and added to the Outline CTMP within the examination timetable, most likely by Deadline 8.

4. **AGENDA ITEM 4 – OULTON STREET**

4.1 **a) Updates as necessary subsequent to Deadline 6 submissions**

- 4.2 Mr Zanna confirmed that the Applicant had no further update on this.

4.3 **b) Predicted Hornsea Three traffic movements, including fluctuations across the construction period and throughout each day**

- 4.4 Mr Zanna confirmed to the ExA that the figure of 118 HGV movements quoted by the Applicant relates to two way movements, so this would be 59 in each direction.

- 4.5 Mr Zanna advised that the 30 month period for works at Oulton construction compound was based on previous project experience and calculated as an average across the five corridor stages. Ms Brodrick confirmed to the ExA that there was no monthly limit in the Outline CTMP or Outline Code of Construction Practice ("CoCP"), to allow for a situation where works could not be undertaken, for example due to bad weather, so the 30 month period needed to be extended. The Applicant has a commitment within the

- Outline CoCP (paragraph 5.2.1.4) to notify Oulton Parish Council and the residents of the Old Railway Gatehouse of any changes to the proposed duration of the active use of the main construction compound.
- 4.6 Responding to an ExA question, Mr Zanna advised that the assessment used VISSIM modelling that took into account the upper limit of operation based on 2028 figures for traffic, applying factors in growth. Regarding a point made by Oulton Parish Council on the number of cable drums and time period for their delivery, Mr Zanna stated that the project parameters and source of the deliveries would determine their number and frequency and would be confirmed once detailed design was complete and the preferred supplier and source point agreed.
- 4.7 Ms Brodrick confirmed that the Applicant would confirm in writing but that the 30 months duration at the main construction compound related to active working within the eight year construction window, so if and event occurred outside the Applicant's control, for example, there was adverse weather conditions, that period would be paused and restarted. She added that whilst there could be gaps in use of the main construction compound, the Applicant is striving to generate electricity and so would prefer not to have such a gap. Mr Phillips responded to ExA questions on this point that whilst other lesser activities such as use of generators may be undertaken during the downtime, the Applicant had assessed 30 months of active works, and it was in its interest to move forward at pace.
- 4.8 Mr Zanna responded to comments from BDC, stating that the numbers in the transport noise assessment were based on maximum daily peak movements. Mr Zanna offered to provide traffic flow information to BDC on the total project life construction traffic information along The Street at the next deadline
- 4.9 **c) Norfolk Vanguard project assumptions (including vehicle movements, location of construction compounds, timescales)**
- 4.10 Mr Zanna advised that the Applicant had used the maximum numbers from NV's DCO application and applied these to The Street.
- 4.11 Responding to an ExA question on the cooperation between Hornsea Three and NV along The Street (including implementation of the mitigation and its removal), Mr Phillips confirmed that there was direct liaison between the Applicant and the applicant for NV, and that as far as the Applicant was aware there had not been any commitment by NV to any particular solution at this point in time. Mr Phillips advised that the mitigation proposed by Hornsea Three along The Street was in response to consultation, and Hornsea Three has committed to remove certain elements of the scheme. Mr Phillips continued to state that if there is a desire to retain certain traffic mitigation measures this was within the gift of the local planning authority, who could retain the mitigation if there was consensus between parties. This position is set out in paragraph 5.2.1.3 of the Outline CTMP. Mr Phillips confirmed that there would be a commercial agreement between the Applicant and NV's applicant, to manage the crossover issues between the projects such as which commences construction first, and what this means for the other party. This agreement covers cooperation along common accesses such as The Street.
- 4.12 Ms Brodrick confirmed that the outline CTMP submitted at Deadline 6 added at paragraph 9.2.1.2 wording to make clear that the detailed CTMP would put in place measures to manage cumulative traffic impacts. This paragraph specifically added reference to how the interfaces between the parties would be managed at key locations including The Street and Cawston.
- 4.13 Replying to an ExA question, Mr Zanna stated that if at the end of the examination there was no more detail known on NV, this would not affect the conclusions or mitigation presented by Hornsea Three as the Applicant had taken into account NV's worst case maximum peak traffic generation on the Street, and was satisfied that the mitigation measures set out in the Outline CTMP for The Street could accommodate the maximum numbers for both projects.
- 4.14 Responding to comments from OPC, Sarah Drijaca confirmed that wording had been added at paragraph 5.2.1.3 of the CTMP that referenced the need to consult with OPC prior to decommissioning mitigation measures.
- 4.15 **d) VISSIM modelling**

- 4.16 Mr Zanna confirmed that the VISSIM model that was issued to OPC and NCC was to aid discussions, and is not a tool used by NCC to determine the acceptability of the intervention scheme. He also confirmed that it has not directly informed the development of the intervention scheme and mitigation measures. He advised the ExA that the updated model since Deadline 4 (provided as REP5-016) included changes for traffic from the potato store which redistributed the traffic flows in line with stakeholder comments and NV staff movement changes. Mr Zanna explained that increased traffic flows along The Street were also added to account for the enhanced harvest period. He confirmed that the model is validated and within parameters for modelling work to consider as verified so no further changes or updates would be submitted.
- 4.17 Responding to comments from OPC, Ms Drijaca confirmed that changes were planned in the outline CTMP to provide further detail on the management of abnormal loads and measures to minimise impacts on residential amenity, for example at the Old Railway Gatehouse, in line with discussions with Broadland District Council. In the Deadline 6 version of the Outline CTMP, paragraph 5.2.1.4 there was a commitment to notify OPC and residents of the Old Railway Gatehouse of any known abnormal loads which were planned to travel outside of the core working hours of the main construction compound.
- 4.18 **f) Old Railway Gatehouse noise and vibration assessment [REP6-037]:**
- 4.18.1 **i) Methodology**
- 4.18.2 Responding to comments from BDC and OPC, Mr Zanna advised that the potato store traffic and additional factor for agricultural harvest traffic was not included in the baseline. This traffic would, if included, raise the baseline noise level and reduce the noise / vibration impact level. As such, the baseline levels utilised ensures a maximum design scenario assessment.
- 4.18.3 Regarding an ExA question on the Old Railway Gatehouse and the use of 2028 as a baseline, Mr Zanna explained that this year has been assigned as the use of Oulton and the compound is different from how the ES peak is assigned. He added that the 2022 peak relates to maximum peak traffic generally associated with the haul road construction. As Oulton will be focused around cable drum movements et cetera, the application of a 2022 design year was not considered to represent the maximum impact, when movements associated with the cable corridor and cable installation could generate more consistent traffic levels over a longer period. As a result, the maximum design scenario at 2028 has been used with the associated growth rate and construction traffic flows applied.
- 4.18.4 Simon Stephenson confirmed that the assessment overplays not underplays the likely impact of the development. He highlighted that, to represent a maximum design scenario, the mitigation works proposed on the existing road hump near the Old Railway Gatehouse were not included within the assessment, which would result in a reduction in HGV noise. Following a request from BDC, Mr Stephenson advised that he was working on a comparison of the figures against WHO thresholds, which would be submitted at Deadline 7. These WHO thresholds, Mr Stephenson stated, are defined as yearly averaged noise levels, which is how the dose response relationship was worked out. He added that further detail on the level of reduction in noise which could be expected following the regrading of the existing road hump would be submitted at Deadline 7.
- 4.18.5 Following a request from BDC, Mr Stephenson advised that the Applicant would include in its Deadline 7 submission, an assessment of the effects of abnormal loads moving during night-time periods (23:00 – 07:00). The assessment would consider two scenarios, one where the movements are shared 50/50 between day and night, and also, as a maximum design scenario, 100% just at night. Impacts associated with movements outside of the core working hours, but within day-time periods e.g. 19:00 – 23:00 are assessed in REP6-037.
- 4.18.6 Regarding the voluntary mitigation measures proposed for the Old Railway Gatehouse, Mr Stephenson confirmed that an acoustic fence or wall could be placed along the southern edge of the garden, or where the property fronted the road. The need to incorporate this mitigation into the design, and secure through the DCO, would be determined based on the outcomes of the night-time noise assessment to be presented at Deadline 7.

- 4.18.7 Responding to a point raised by OPC that an official offer of double glazing mitigation had not been received by the owner of the Old Railway Gatehouse, Ms Brodrick advised that this had been discussed between the residents and the Applicant, and a written offer had not been made but could be given. She confirmed that the outcome of the noise assessment submitted at Deadline 6 was that further mitigation was not required to mitigate effects, however, the Applicant was willing to commit to this as a recognition of the disruption which may occur at this specific property. Ms Brodrick added that whilst effects and the effectiveness of mitigation could be predicted, they would not be verified until construction actually commenced. As such, the Applicant was committed to undertaking noise monitoring at the Old Railway Gatehouse during the active use of the main construction compound, with wording to be added into the next version of the Outline CTMP.
- 4.18.8 Regarding comments from BDC on vibration impacts, Ms Brodrick stated that communication would be needed with the Applicant to assist with BDC's understanding of the likely effects from traffic.

4.19 **g) Impacts upon hedges/trees, including protection measures**

- 4.20 Mr Zanna responded to a request from the ExA on the proposed passing bays by highlighting that the drawings supplied show how they will be constructed, which has been agreed with NCC. He mentioned that the bays will be close to hedges but there will be no hedge loss along the Street. Mr Zanna stated that there were two elements, being the hedgerows and other trees. He confirmed that no trees would be lost or removed as a result of the scheme, and that a hand dig method would be employed where required, as highlighted in the scheme drawings. Ms Drljaca confirmed that this was secured in paragraph 5.3.2.4 of the outline ecological management plan ("EMP") and a cross-reference would be added to the Outline CTMP at the next deadline.

5. **AGENDA ITEM 5 – CAWSTON**

5.1 **a) Update as necessary subsequent to Deadline 6 submissions**

- 5.2 Answering an ExA question, Mr Zanna confirmed that the Applicant proposed a number of measures, including extending the traffic scheme, and modification of the 30mph speed limit zone and introducing a new 20mph zone. He also outlined plans which included an improvement to the footway near the primary school, and retention of the existing parking (albeit with this to be formalised) despite carriageway modifications to allow movement of two HGVs.
- 5.3 In response to comments from CPC, Mr Zanna agreed that he could meet with their representatives prior to Deadline 7 to discuss the current proposed intervention scheme.

Post hearing note: This meeting was held in Cawston, with CPC, BDC and NCC in attendance, along with local residents and business owners, on 12th March 2019. Feedback provided and how it has fed into the most recent intervention scheme proposed for Cawston is submitted as Appendix 27 at Deadline 7.

5.4 **b) Predicted Hornsea Three traffic movements in Cawston, including fluctuations across the construction period and throughout each day**

- 5.5 Mr Zanna responded to an ExA question by advising that detail of cumulative traffic flows would be provided at DL7. He confirmed that there would be 127 two way HGV movements per day, with a total of 370 two way movements, equating to an approximate hourly flow of 12 two way HGV movements. He confirmed that this could be reduced to eight to ten movements per hour outside of the main haul road construction. At this point the Applicant has confirmed to restrict HGV traffic from Hornsea 3 between between 8 am and 9 am, and between 3 pm and 4 pm, due to school pick up and drop off times.

5.6 **c) Existing highway conditions and pedestrian movements within the village (including in relation to Cawston Primary School)**

- 5.7 In response to comments from residents of Cawston, Mr Zanna highlighted that a number of working group meetings had been held with CPC. The development of the intervention scheme in Cawston was

informed by a series of traffic surveys and automatic traffic counts. He added that this was supplemented by noise and vibration surveys some of which were internal, and some external. Mr Zanna confirmed also that observation surveys had been undertaken for the school pick up and drop off times. Based on initial discussions with NCC, it was the Applicant's position that moving the existing bus stop would be of benefit to the functioning of the road network, but would be subject to discussions with CPC and local residents.

5.8 Responding to points raised by CPC on the commuter sensitive links, Mr Zanna advised that currently there are around 300 daily HGV movements in Cawston. He highlighted that there would have to be a balance between scheduling HGV movements outside of the busy periods and implementing a more managed approach in commuter times except for abnormal loads, which would be outside commuter times. Mr Zanna confirmed that there would be restrictions within the Outline CTMP on HGV activity at sensitive locations, such as the school in Cawston, identified in conjunction with NCC. This would be added in at a future examination deadline.

5.9 **d) Noise and vibration assessment**

5.10 Mr Zanna answered an ExA question on noise and vibration effects by confirming that surveys were undertaken at four locations along the High Street, two being internal and two external. He advised that the data is now available and full conclusions will be submitted for Deadline 7, as well as being shared with those who participated in the survey. Mr Zanna confirmed, as a high level summary, that no significant vibration effects are predicted due to traffic linked to Hornsea Three. Mr Zanna explained that vibration resulted from weight and speed, and there would not be a significant effect as the Applicant would not run loads of over 44 tonnes, which is the maximum the road is designated for, and this is combined with the lower speed restrictions proposed. He noted that whilst sound would increase this would not be to a level where mitigation would be necessary at any properties within Cawston, and no significant effects would occur in relation to historic assets (listed buildings) within Cawston.

5.11 Responding to comments from local residents, Mr Zanna confirmed that vibration surveys had been undertaken at numbers 20 and 27 on the High Street. These locations had been informed by consultation with local residents (communications were circulated asking for volunteers for the surveys) and scoped with BDC. Mr Zanna confirmed that a cumulative assessment, to consider impacts of Hornsea Three alongside NV had been carried out, resulting in a predicted moderate impact for sound. As such, the Applicant will be proposing traffic management measures with NV such that the resulting noise levels would be below what would cause a significant effect. In essence, the traffic flows would be restricted to a level which would maintain a noise increase below 3dB.

5.12 Mr Zanna noted comments from CPC, and replied the proposed highway improvements would assist in preventing HGV kerb mounting. He added that speed reductions proposed as part of the intervention scheme would result in reduced noise levels in the centre of the village. Finally, Mr Zanna agreed to take away and consider comments from CPC regarding subsidence in the road.

5.13 **e) Proposed highway intervention scheme (including consideration of parking arrangements and monitoring/enforcement measures) [REP6-017]**

5.14 Mr Zanna confirmed that the Hornsea Three scheme takes into account cumulative effects with NV, and that although communication between the parties was ongoing in respect to impacts on Cawston, he was not aware of a commitment from NV to any particular mitigation at this location at this point in time.

5.15 **f) HGV restrictions relating to pedestrian movements to/from local schools**

5.16 Mr Zanna advised the ExA that the proposed intervention scheme includes timing restrictions on the movement of HGVs and driver awareness measures to mitigate the potential impacts on school drop offs and pick ups. He added that the Applicant would consider the issue of the pre-school as raised by CPC in their submissions at Deadline 7.

5.17 Regarding other measures proposed, Mr Zanna advised that there was already a manned crossing facility to access the school. He confirmed that the outline CTMP would also define where sensitive link receptors are for Cawston, as well as along other key highway links. This would be provided as part of the final outline CTMP to be provided at a future Examination deadline.

- 5.18 **g) Implications for bridges including any necessary mitigation**
- 5.19 Mr Zanna responded to ExA questions on the two existing bridges stating that the Applicant had agreed with NCC not to exceed the maximum load limits of 44 tonnes. Therefore, there would be no restrictions on the movements across these bridges. This commitment would be included in the next version of the Outline CTMP. There is an existing obligation on NCC to monitor the structural integrity of bridges within Norfolk, and given that this bridge has been identified as suitable for use by 44 tonne vehicles, the Applicant will not be proposing any monitoring of the bridges at this location.
- 5.20 Replying to a point by OPC on cable drum size and cable lengths, Ms Drljaca advised that the project description chapter of the ES [APP-058] sets out maximum parameters which influence cable length (notably the minimum and maximum distance between joint bays), and therefore the length of any cables would remain within this range.
- 5.21 Mr Zanna advised the ExA that the HGV figure of 127 along this link would not be exceeded. He confirmed that the Applicant had agreed with NCC to define the upper limit of HGVs on specific links within the Outline CTMP, with a requirement to seek NCC's consent to exceed this number. These threshold limits will be set out in a future version of the Outline CTMP, to be submitted prior to the end of Examination.
- 5.22 **h) Scope for alternative HGV routing avoiding Cawston (including whether a proportion of HGV traffic could use alternative routing)**
- 5.23 Mr Zanna confirmed that alternatives had been explored, but that the only viable option was to use link IDs 73 and 75. This would require Heydn Road to be upgraded with the potential loss of trees and hedgerows. In addition this would require the crossing of two horizontal directional drilling points along the haul road. Mr Zanna confirmed at this time could not be delivered.
- 5.24 **i) Alternative measures and how secured?**
- 5.25 Answering an ExA question, Mr Phillips advised that should the ExA not be content with an item of mitigation, this could be presented with an alternative option. He added that if the Secretary of State were to be dissatisfied, he would need to impose his own requirement in the order to submit an alternative to the local planning authority for approval. Ms Brodrick advised that under rule 19(3) of the Infrastructure Planning (Examination Procedure) Rules 2010 the Secretary of State would need to consult on any new proposed mitigation to be provided.
6. **AGENDA ITEM 6 – OTHER MATTERS**
- 6.1 **a) Other mitigation measures in Outline Construction Traffic Management Plan (REP6-0115), including the programming of works (paragraph 9.2.1.3)**
- 6.2 Regarding interaction between the Applicant and NV, Ms Brodrick advised that although some measures for cooperation have been included within the Outline CTMP, these need to be high level as the construction period for each project is not known currently. She mentioned that NCC is the approving authority for both projects therefore it could manage their interaction.
- 6.3 Mr Zanna stated that where links are affected by both projects, traffic flows would need to be managed to ensure that there was no overall increase. Hornsea Three would not exceed 127 movements which would be captured in the final outline CTMP and Mr Zanna stated that he expected NCC to require NV not to exceed their assessed level and a similar assurance provided.
- 6.4 **b) Update on outstanding highway matters with Norfolk County Council and Highways England, including the Taverham Road (A47 junction) highway improvement and mitigation measures**
- 6.5 Ms Drljaca advised that engagement had taken place with Highways England regarding the A47. She confirmed that a statement of common ground would be submitted for Deadline 7 confirming that all matters are now agreed. Ms Drljaca advised that provisions had been included within the project envelope so that if the A47 was already duelled when Hornsea Three is built, horizontal directional drilling could be used under that section of the road. The Applicant confirms that the Outline CTMP submitted at

Deadline 6, and revised at Deadline 7, sets out and secures the measures agreed with Highways England and NCC in respect to the A47/Taverham junction.

Part 2 – The Draft DCO

7. AGENDA ITEM 7 - ARTICLES

7.1 b) Article 37 (Arbitration)

7.2 Responding to comments from Trinity House on the applicability of arbitration provisions to them as a public body, Mr Phillips stated that Natural England had made similar submissions already within the examination. He confirmed that two previous decisions of the Secretary of State had stated that all parties would be subject to arbitration. The Applicant is not seeking to change what had been provided for in previous DCOs granted, rather to provide clarity on the arbitration process. Mr Phillips made the point that as another statutory party came forward to say that they should not be subject to arbitration, this would leave only a small number of private parties, perhaps only those with the benefit of protective provisions, who would be subject of arbitration. Finally, Mr Phillips highlighted that unlike the Secretary of State or the MMO, Trinity House were not a determining body under the DCO, and further the prospect of requiring arbitration over the requirement for lighting or a particular turbine colour were unlikely.

7.3 d) Article 41 (Crown rights)

7.4 Ms Brodrick clarified to the ExA that the word "take" is The Crown Estate's preferred wording, and was included in recent orders (Port of Tillbury (Expansion) Order 2019 and the Eggborough Gas Fired Generating Station Order 2018). Ms Brodrick confirmed that the word relates to taking of temporary possession under articles 26 and 27 of the draft DCO.

8. AGENDA ITEM 8 – SCHEDULE 1, PART 3 – REQUIREMENTS

8.1 a) Requirements 8 and 9 (Landscaping)

8.2 Following comments on these requirements from NNDC and SNC, Mr Phillips advised that they were still subject to negotiations with the Applicant. He confirmed that revised proposals had been sent, and that negotiations could still move forward. Mr Phillips stated that the Applicant would be happy to include point (a) from the ExA's revised draft, on the surveys being under BS 5837.

8.3 Regarding Requirement 9, Ms Brodrick confirmed that this relates to hedgerows, which can be in the yellow land, and not just permanent possession. She highlighted that Article 27 is required for access to the yellow land, following which the hedgerow would need to be replanted, and handed back and restored. Powers would be needed to go back to maintain.

9. AGENDA ITEM 9 – SCHEDULES 11 AND 12 - DEEMED MARINE LICENCES

9.1 b) Condition 7(11) (Notification of exposure of cables)

9.2 The Applicant accepted the ExA's proposed amendments save that it will deal with cable exposure with reference to relevant industry guidance where the accepted reporting methodology is contained.

9.3 Extent to which plans approved under condition 13 apply during operational phase

9.4 Mr Phillips confirmed that the Applicant's intention is that these requirements would apply during the operational phase of Hornsea Three. He added that in the event that any further activity was required, outwith the deemed marine licence, this could be dealt with either by a variation of that licence, or with a standalone marine licence.

9.5 d) Condition 14 (Approval of plans etc)

9.6 Mr Phillips proposed to deal with this amendment by retaining the language deleted by the ExA, but defining "material change in circumstances". He offered to include this in the next iteration of DCO.

- 9.7 **e) Condition 18(3) and (4) (Noise monitoring)**
- 9.8 Mr Phillips advised that the wording was two versions of the same condition - the first being the Applicant's preferred drafting, and the second, marked (4), being alternative drafting provided by the MMO. He stated that the Applicant's position is that the second paragraph is not required, as it provides for enforcement, but the MMO has ample enforcement powers without the need to provide for a stop notice.
10. **AGENDA ITEM 10 – OTHER DCO MATTERS**
- 10.1 **Schedule 13**
- 10.2 Mr Phillips confirmed that the Applicant had captured the drafting in the latest draft of the DCO [REP6-004], but the difference in the Applicant's drafting was that the parties would share costs, to cover the situation where the Applicant had to use arbitration due to the conduct of other parties.
- 10.3 Mr Phillips made the point that lots of negotiation had taken place regarding arbitration, and concessions made during the examination on the basis that arbitration would apply to parties having a special status. He stated that the position had been that it would be better to have an amended Schedule 13 than not at all. Mr Phillips advised that the Applicant would be in a difficult position if the arbitration provisions were found to apply to any party.
- 10.4 **a) Compulsory acquisition at Moor Farm, Norwich Road – changes following DL6**
- 10.5 Richard Grist stated that the Book of Reference will be amended for Deadline 9 to show the western route is now preferred at Moor Farm. This deadline will be used as a final Book of Reference is required anyway. Mr Grist confirmed that voluntary negotiations are ongoing with the landowner.
- 10.6 Regarding Norwich Road, Mr Grist stated that the landowner's agent expressed a preference for the western access and that survey access had been granted but access was only taken on 7 March and the results of the surveys had not yet been received. He advised the ExA that until the survey results had been received, he couldn't confirm the final position but would hope to update the relevant plans and Book of Reference for Deadline 9.