

5 August 2019

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Our ref:
VJR2/JT8/47583.36
Your ref:

Dear Sirs

Norfolk Boreas Offshore Wind Farm Development Consent Order (DCO) (the Project)
Case reference no: EN010087
The Applicant: Norfolk Boreas Limited

Response to section 51 advice

We write further to the Planning Inspectorate's section 51 advice dated 24 July 2019 (the **s51 advice**) and respond to the matters raised in the s51 advice in turn.

1. Habitats Regulations Assessment (HRA)

- 1.1 Although the deadline of 20 March 2019 was set as a necessary cut-off point to make any significant changes to the Norfolk Boreas HRA, changes made in the latter stages of the Norfolk Vanguard Examination were captured in the Norfolk Boreas documents where possible. In relation to the HRA Report (document reference 5.3), matters relevant to the Haisborough, Hammond and Winterton SAC Site Integrity Plan (HHW SIP) post Norfolk Vanguard's Deadline 5 have been taken into account in the Norfolk Boreas application documents where relevant. In particular, the Norfolk Boreas HHW SIP incorporated relevant final changes made to the equivalent Norfolk Vanguard document. Whilst the Norfolk Boreas application did not include the commitment to reduce cable protection contingency from 10% to 5% in the Haisborough, Hammond and Winterton SAC, the Applicant can now confirm this commitment and has updated the screening and integrity matrices accordingly. The Applicant will update the relevant parameters in the next version of the draft DCO to be submitted in accordance with the examination timetable and will also update the draft HHW SIP during the course of the examination accordingly.
- 1.2 The matters discussed after Deadline 5 of the Norfolk Vanguard Examination do not affect the overall conclusions of the Norfolk Boreas HRA and therefore the Applicant does not propose to update the HRA (document reference 5.3), screening offshore (document reference 5.3.5.1), and screening onshore (document reference 5.3.5.2) documents. Whilst revised Collision Risk Modelling and displacement assessments were submitted at the Norfolk Vanguard Examination (following the commitment by Norfolk Vanguard to increase the draught height to 27m), the effect that these revised numbers will have on the Norfolk Boreas in-combination assessment has yet to be agreed with Natural England. The Applicant is engaging with Natural England with respect

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to this matter and would propose to submit a technical note to deal with this point during the course of the examination.

1.3 At Deadline 7 Norfolk Vanguard submitted updated screening and integrity matrices. The Applicant has therefore submitted with this s51 response updated screening matrices (document reference 5.3.5.3) and integrity matrices (document reference 5.3.6.1) to reflect this. These updated matrices also respond to the Planning Inspectorate's request to clarify the following matters:

1.3.1 Inclusion of integrity matrices for Bredon Water SPA and Ramsar, Broadland SPA and Ramsar, and North Norfolk Coast SPA and Ramsar. These matrices were mistakenly omitted from the integrity matrices and were incorrectly identified in the screening appendix as 'screened out'. The assessment of potential effects for these sites was presented in Annex 7 of the Ornithology Assessment Technical Appendix (document reference 6.3.13.1).

1.3.2 Insertion of additional rows within the existing matrices to separately identify Ramsar criterion and inclusion of supporting footnotes for those rows.

1.3.3 Insertion of separate rows in the matrices where named European site features had previously been combined into single rows. However, where the relevant feature is an 'assemblage' (albeit with a list of component species), these have been retained as a single row on the basis that it is the assemblage which is the feature of interest. In addition, a combined approach has also been retained for non UK SPAs due to the manner in which the information on features is presented for these sites.

1.3.4 Inclusion of references in the footnotes of the screening matrices to the relevant application documents which support the statement. Where support for the designated feature being screened out is the absence of a pathway for the impact, for example due to the absence of the species within the development, reference has been added to the relevant screening document.

1.3.5 Updates to the integrity matrices such that there are consistent effect headings presented across the screening and integrity matrices.

1.3.6 Inclusion of screening for habitat loss for Sabellaria reef within an updated screening matrix in order to align the impacts with the HRA. In addition, due to further consultation with Natural England and in view of changes that were made to the Norfolk Vanguard Integrity matrices at Deadline 7, the Applicant has updated the Norfolk Boreas integrity matrix to include habitat loss for Sabellaria. The Applicant has informed Natural England of this accordingly. The Applicant does, however, maintain that Sabellaria spinulosa reef would colonise any infrastructure within the Special Area of Conservation and there would therefore be no habitat loss for this feature; notwithstanding this view, the Applicant has updated the integrity matrices to reflect Natural England's position.

1.4 The Applicant has liaised with Natural England, the Marine Management Organisation and the RSPB to explain the approach taken above.

1.5 Whilst the Applicant recognises that these documents do not strictly form part of the certified application for the purposes of section 56 of the Planning Act 2008, the Applicant considers that it may be helpful for stakeholders to have sight of these documents during the section 56 period. The Applicant would therefore be grateful if these documents could be uploaded to the Norfolk Boreas page of the Planning Inspectorate's website.

2. Havergate Island Reserve

2.1 It has been brought to the Applicant's attention by the RSPB that there is an error at paragraph 134 of the HRA (document reference 5.3). The statement in question made reference to information on the RSPB's webpage for the Havergate Island Reserve (which is a part of the Alde

Ore Estuary Special Protection Area, SPA) on which it was previously stated that nest predators (including gulls) were controlled to improve the breeding success of avocet and Sandwich tern. This information was presented in the Norfolk Boreas HRA as part of the background description of the lesser black-backed gull's population status in the SPA.

- 2.2 This statement was originally included in the draft version of the Norfolk Boreas HRA, which was provided to the RSPB for review in advance of production of the final version for submission. Following this review the RSPB informed Norfolk Boreas that the reference to gull control within this statement was no longer applicable to the management of the Havergate Island Reserve (such measures having only been applied in a selective manner in the SPA between 2001 and 2007) and requested that it was removed from the final version of the Norfolk Boreas HRA submitted. The RSPB has also updated their webpage to explain the same. The Applicant accepted the RSPB's response on this matter and intended to remove this paragraph from the HRA. However, due to an oversight, this text was not removed from the final version of the HRA.
- 2.3 For the avoidance of doubt, the Applicant accepts the RSPB's explanation that gull control measures are no longer a part of the management of this reserve. Accordingly, paragraph 134 of the Norfolk Boreas HRA (document reference 5.3) should be disregarded.

3. Book of Reference and Land Plans

- 3.1 The Planning Inspectorate highlighted that plot 2/19 is described as being part of Grub Street and the plot can be found on onshore Land Plan sheet 2 (document reference 2.2) but the street is not named on this plan. The Applicant can confirm that the Applicant has updated the Land Plans to add the name 'Grub Street' to sheet 2 of the Land Plans (document reference 2.2), and the Applicant encloses a revised version with this letter.
- 3.2 The Planning Inspectorate also outlined that Plot 3/01 is described in the Book of Reference as being 'to the west of Grub Street' and that this plot is shown on Land Plan sheet 3 but Grub Street only appears on sheet 2. The Applicant has reviewed this further and whilst the OS mapping shown on sheet 3 of the Land Plans does not include Grub Street, Grub Street is the closest highway to Plot 3/01 and is therefore used as a reference point for identification purposes. Notwithstanding this, for extra clarity the Applicant proposes to amend the description in the Book of Reference by adding a further reference point as 'South East of Walcott Hall'. The Applicant will submit a revised version of the Book of Reference as part of the examination process and in accordance with the examination timetable.

4. Special Category Land Plans

- 4.1 The Applicant has updated the Special Category Land Plan (document reference: 2.3) to include a key plan. The Applicant encloses a revised version of the plan with this letter.

5. Consultees

- 5.1 The Applicant can confirm that, in accordance with the Planning Inspectorate's advice, the following bodies have been notified of the Application's acceptance in accordance with section 56 of the Planning Act 2008:
- 5.1.1 Harlaxton Gas Networks Limited
 - 5.1.2 Homes England
 - 5.1.3 Historic England East.

We look forward to the Planning Inspectorate publishing the enclosed documents on the Norfolk Boreas page of the website in due course. Should the Planning Inspectorate have any queries in the meantime then please contact Esther Villoria on 07817018575 and esthervilloria.dominguez@vattenfall.com.

Please could you kindly confirm safe receipt.

Yours faithfully

Womble Bond Dickinson (UK) LLP

Enclosures

1. Information to Support HRA Appendix 5.3 Screening Matrices Version 2 (Clean) (pdf) (doc 5.3.5.3)
2. Information to Support HRA Appendix 5.3 Screening Matrices Version 2 (Clean) (word document) (doc 5.3.5.3)
3. Information to Support HRA Appendix 5.3 Screening Matrices Version 2 (Tracked changes) (doc 5.3.5.3)
4. Information to Support HRA Appendix 6.1 Integrity Matrices Version 2 (Clean) (pdf) (doc 5.3.6.1)
5. Information to Support HRA Appendix 6.1 Integrity Matrices Version 2 (Clean) (word document) (doc 5.3.6.1)
6. Information to Support HRA Appendix 6.1 Integrity Matrices Version 2 (tracked changes) (pdf) (doc 5.3.6.1)
7. Revised Land Plans – Version 2 (document reference 2.2)
8. Revised Special Category Land Plans – Version 2 (document reference 2.3)