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MMO Reference: DCO/2017/00002
Planning Inspectorate Reference: EN010087
Identification Number: 20022925

19 December 2019

Dear Ms Fernandes,

Planning Act 2008, Norfolk Boreas Limited, Proposed Norfolk Boreas Offshore Wind Farm

MMO Deadline 3 Response

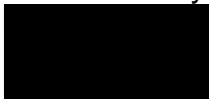
On 11 June 2019, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Norfolk Boreas Limited (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Norfolk Boreas Offshore Wind Farm (the “DCO Application”) (MMO ref: DCO/2017/00002; PINS ref: EN010087).

The Applicant seeks authorisation for the construction, operation and maintenance of the DCO Application, comprising of up to 180 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 3.

This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours Sincerely



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1. Further MMO Responses to Examiners Questions

1.1 Written Question 5.0.4

Discharging Requirements and Conditions

All discharging authorities are requested to check Schedules in the dDCO for accuracy and provide the ExA with any suggested corrections and amendments.

1.1.1 The MMO provided a detailed review of the dDCO in section 2 of the Relevant Representation (RR-069), the MMO is discussing these with the applicant through the Statement of Common Ground. The MMO has reviewed the dDCO submitted at deadline 1 (REP1-009) and have no further comments at this stage.

1.2 Written Question 8.11.4

South North Sea SAC

Can MMO advise whether there is likely to be any impediment to granting the licence for UXO clearance?

1.2.1 The MMO are unsure if this question relates to a marine wildlife licence or a marine licence for UXO clearance. Either way the MMO cannot guarantee the issue of a marine licence or wildlife licence as the outcome of an application cannot be pre-determined.

1.2.2 On submission of a wildlife or marine licence application the MMO will engage in a consultation process including our Statutory Nature Conservation Bodies (SNCBs) and any relevant interested party.

1.2.3 For a wildlife licence the application may take about 8 weeks to process to determine whether any action carried out would impact the favourable conservation status of any UK or European Protected Species and consider alternatives or suitable mitigation to prevent harm or disturbance.

1.2.4 For a marine licence application, the MMO aim to make a decision within 13 weeks of an application being validated. Applications are determined in line with Marine and Coastal Access Act 2009, including consideration of all relevant matters such as the need to:

- protect the environment
- protect human health
- prevent interference with legitimate uses of the sea

1.3 Written Question 8.12.3

Annex 1 reef

The Applicant [AS-024] in response to MMO's concern that the IPMP only proposes monitoring of Annex I reef and not wider benthic impacts [RR-069], states that the findings of benthic ecology assessment do not warrant a full-scale programme. What is MMO's response?

1.3.1 The MMO are of the opinion that benthic surveys (in addition to Annex I) should be undertaken for all OWFs. This is due to the still unknown long-term impacts of the existence of multiple turbine foundations on subtidal benthic habitats and species. Due to this uncertainty, precautionary approach should be adopted.

- 1.3.2 Although the Environmental Statement concluded impact on the benthic habitats and species to be no greater than minor adverse, it is the responsibility of the developer to validate the predictions in the ES via site specific monitoring.
- 1.3.3 The MMO 2014 review (MMO, 2014) highlighted the uncertainty in relation to localised effects of turbines, in particular, and the consequential effects on fauna in a wider area. Any areas of uncertainty should be subject to monitoring.
- 1.3.4 The MMO still requires wider benthic surveying to be undertaken. The MMO will work with the applicant through the Statement of Common Ground (SoCG) to discuss this further.

2. Action Point - MMO to respond further on appropriateness of use of a Site Integrity Plan (SIP) at consenting stage

- 2.1.1 The MMO welcome the further amendments to the Haisborough, Hammond, and Winterton (HHW) Special Area of Conservation (SAC) SIP, however still feel it is not appropriate to use the SIP in this (Norfolk Boreas) circumstance.
- 2.1.2 The MMO provided detailed comments within the Relevant Representation on the appropriateness of the SIP (RR-069). The MMO accept the use of a SIP for the Southern North Sea (SNS) SAC, this is because of the in combination impacts of noise with other projects. This is fundamentally different to the submission of HHW SAC SIP, as the Norfolk Boreas concerns are in relation to project alone impacts.
- 2.1.3 The MMO would like to highlight to the applicant that the HHW SAC SIP has not been accepted by the MMO as the appropriate mechanism for Norfolk Vanguard.
- 2.1.4 In addition to this, Natural England have strengthened their position with further legal advice during the Norfolk Boreas Examination (REP2-080 – Q2.0.6) to advise that the HHW SAC SIP is not appropriate under the Habitat Directives to defer consideration of Adverse Effect on Integrity (AEoI) to post consent stage.
- 2.1.5 The MMO defer Habitat Regulations Assessment issues to Natural England. Currently the MMO are aware that there is a disagreement on AEoI on the HHW SAC between Natural England and the Applicant. The MMO support Natural England on this.

3. Comments on Written Representations

3.1 Comments

- 3.1.1 The MMO have reviewed Written Representations from the following Interested Parties:
- Natural England (NE)
 - Maritime and Coastguard Agency (MCA)
 - Trinity House (TH)
 - Historic England (HE)
 - Eastern Inshore Fisheries and Conservation Authority (EIFCA)
- 3.1.2 The MMO have no major comments in relation to the comments raised and support the Interested Parties in any offshore matters. The MMO will continue to work with both the Applicant and relevant Interested Parties to come to an agreement during the Examination.

4. MMO comments on response's to ExA first written questions

4.1 Comments on Responses

4.1.1 Please find the table including the MMOs response to the ExA Written Questions in the following document EN010087-MMO-Comments-on-ExA-WQ-DL3-final, enclosed with this letter.

5. Implications for the Norfolk Boreas Application for Development Consent of any Secretary of State (SoS) decision on recent Offshore Windfarm applications

5.1 Hornsea Project Three Offshore Wind Farm (HOW3)

5.1.1 The MMO have no further comments on the implications of the SoS Hornsea Project Three Offshore Wind Farm than what was raised in the MMO deadline 1 response (REP1-058).

5.2 Norfolk Vanguard SoS letter to request further information and comments

5.2.1 The MMO understand that Norfolk Vanguard Limited have been asked to provide further information in relation to the HHW SAC. The MMO believe that this will need to be taken into account within the Norfolk Boreas Project.

5.2.2 In addition to this, the SoS has asked for MMO comments on a number of conditions within the final dDMLs that may need to be taken into account in the Norfolk Boreas Project.

5.2.3 The MMO is reviewing these conditions and will provide an update during the Norfolk Boreas Examination.

6. Other comments

6.1 Joint position statement with Natural England on Scour and Cable Protection

6.1.1 Please note this is no longer a joint position statement and will be classed as two separate documents, one from the MMO and one from Natural England.

6.1.2 The MMO has produced a position statement in relation to cable protection from a marine licensing point of view - this is currently awaiting the final sign off before publication. The MMO will submit this document into examination in due course.

6.2 Timescales

6.2.1 The MMO note the Applicant's comments in relation to timescales and as per Issue Specific Hearing 1 Action Point 6 this discussion is ongoing.

6.2.2 The MMO highlight the applicant's comments:

'This time period is contained on a number of other Offshore Wind Farm (OWF) DCOs (including The East Anglia Three Offshore Wind Farm Order 2017, the Hornsea Two Offshore Wind Farm Order 2016, the draft Norfolk Vanguard Offshore Wind Farm Order [2019], and the draft Hornsea Project Three Offshore Wind Farm Order [2020]). Four months is, therefore, well-established as an appropriate time frame for OWF schemes of this nature and one that ensures a balance is struck between the expedient discharge of the relevant conditions attached to the DML whilst allowing a reasonable period of time for consideration by the MMO and its consultees.'

6.2.3 The MMO has disagreed with the above-mentioned four-month period on a number of projects including but not limited to: Norfolk Vanguard, Thanet Extension, East Anglia Three, and Hornsea Project Three. In addition, the MMO would highlight that cases should be reviewed on their own merit and objects to this being perceived as precedent for other projects.

6.2.4 Nonetheless, the MMO also note that within the recent applications for East Anglia Two and East Anglia One North the applicant has deemed that 6 months is an appropriate timeframe and included this within their dDCOs. This further confirms that project-specific factors must be taken into consideration.

6.2.5 The MMO maintain the request to change any reference to “four months” to “six months”.

6.3 HHW SIP

6.3.1 Due to time constraints the MMO has not been able to fully review the HHW SIP and will work on these with the applicant and provide written comments at Deadline 4.

6.4 Outstanding issues

6.4.1 The MMO is continuing to work with the applicant to discuss outstanding issues through the SoCG and has a call scheduled prior to the Issue Specific Hearing to try and resolve these.

Yours Sincerely



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