

The Planning Inspectorate
National Infrastructure Directorate
Temple Quay House
Temple Quay
Bristol BS1 6PN

Our ref: AE/2019/124323
Your ref: ENO10087
Date: 31 March 2020

Via email:

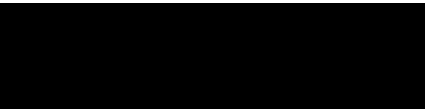
Dear Sir/Madam

**APPLICATION BY NORFOLK BOREAS LIMITED FOR THE NORFOLK BOREAS
OFFSHORE WINDFARM
THE EXAMINING AUTHORITY'S FURTHER WRITTEN QUESTIONS AND
REQUESTS FOR INFORMATION (EXQ3)**

I write in response to the Examining Authority's further written questions and requests for information – ExQ3 issued 23 March 2020.

As requested, we are presenting our response in a table which is appended to this letter.

Yours faithfully



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Q3.5.8.7	<p>Provide an update on discussions with the EA over protective provisions. Has agreement been reached? If not, provide any additional information to assist the ExA in making its recommendation to the SoS.</p>	<p>There is one matter on which agreement has not yet been made. This is the presumption of deemed consent. The Environment Agency's position is that deemed refusal is required and is not negotiable. The protective provisions effectively replicate the provisions within the Environmental Permitting (England and Wales) Regulations 2016 and so should be consistent with them. See for example, the decision on M20 Junction 10A DCO where the view was taken that drafting protective provisions should reflect the contemporary statutory provisions.</p>
Q3.15.0.3	<p>Refined conceptual site modelling for each watercourse crossing: Confirm satisfaction with the updated OCoCP [REP5-010] commitment to develop a scheme and programme for each watercourse crossing, diversion and reinstatement, particularly whether this adequately addresses the EA expectation for provision of refined conceptual site modelling for each watercourse crossing to be included in each site specific CoCP.</p>	<p>The Environment agrees that the updated OCoCP [REP5-010] which undertakes to develop a scheme and programme for each watercourse crossing does address our concerns regarding watercourse crossings. [REP5-010] does not reference our position that we should be consulted on relevant CoCPs. However, Requirement 20 of the DCO requires consultation with the Environment Agency by the relevant planning authority. This is referenced in the last Statement of Common Ground under Table 6 Agreement Log – Water resources and Flood Risk submitted at deadline 6 . The final position for this issue is: 'It is agreed by both parties that the development of a CoCP in consultation with the Environment Agency is an appropriate level of pollution control, subject to the update of the OCoCP.'</p>
Q3.15.0.5	<p>Risk Assessment based on chemical testing in the ground investigation reports: Confirm satisfaction with or comment on the Applicant's response [REP6-014] to EA's comments on Q2.16.2.4 regarding Risk Assessment based on chemical testing in the ground investigation reports that showed detections of 'low level hydrocarbons which is unexpected given the land uses in the area of the crossings'; in particular whether the commitment to additional groundwater protection and undertaking more detailed hydrogeological risk assessments has been adequately covered and secured through the updated OCoCP submitted at Deadline 5 to the satisfaction of EA and NE.</p>	<p>The Environment Agency are satisfied with the Applicants response [REP6-014] and that the updated OCoCP secures the proposed approach.</p>
Q3.15.0.6	<p>Consultation on contamination and approval of remediation: Confirm satisfaction with or comment on the Applicant's response [REP6-014] to EA's comments on Q2.16.2.5 regarding consultation and approval procedures for remediation of suspected contamination or spills, in particular the adequacy and extent of application of proposed wording for a future update of the OCoCP Section 13 Environmental Incident and Response and</p>	<p>We note that Requirement 20 requires that the Environment Agency's approval must be sought for each stage CoCP. This provides the Environment Agency with a means of checking the adequacy of proposed methods and timeframes. We also note and the updated OCoCP Section 13 wording.</p>

	<p>Contingency to include that the 'Environment Agency incident response teams must be notified where an environmental incident could cause spillage or contamination into a watercourse including drains'.</p>	
<p>Q3.15.0.8</p>	<p>Attenuation capacity at substations allowance for climate change: The Flood Risk Assessment [APP-586] para 229 states that 'the outline drainage design' includes capacity for attenuation of 40% above that required for the 1 in 100 year event (i.e. provides a 20% margin of safety beyond a 20% allowance for climate change) but the OODP [APP-712] only refers to 20% proposed allowance for climate change, which appears to have been conceded by Norfolk CC as Lead Local Flood Authority in SoCG [REP6-035] on the basis of a 35-year operational life of the development. The Applicant to explain:</p> <ol style="list-style-type: none"> 1. how at the end of the operational life of the development the infiltration rate of the entire footprint of the project substations and the National Grid substation extension will in practice be restored to the same as the present-day and how this is secured by the DCO; 2. how risks discussed in [REP6-035] of SuDS drainage features performing sub-optimally if designed for additional capacity could be mitigated by design and management in order to maintain the 40% additional aggregate attenuation capacity during operation that was included in the FRA. <p>The Environment Agency, Water Management Alliance and Breckland Council are asked to comment on this proposed relaxation from the 40% figure that was included in the Flood Risk Assessment, in relation to both the project substation and the National Grid substation.</p>	<p>The issue of surface water is not within the Environment Agency's remit and is not an issue on which we would usually make representation. However, we do provide advice on the application of climate change allowances and make comment on that basis. The Environment Agency's "<i>Flood Risk Assessments: climate change allowances guidance</i>" is published on the gov.uk website. https://www.gov.uk/guidance/flood-risk-assessments-climate-change-allowances</p> <p>The guidance explains that: The upper end climate change allowance for peak rainfall intensity up to the year 2039 requires a 10% uplift to the assessed current day peak rainfall intensity. This would apply for development lifetimes of <u>19 years</u> (from a 2020/current day baseline).</p> <p>For development lifetimes of up to <u>49 years</u> from a 2020/current day baseline i.e. for the period 2040 to 2069, the upper end climate change allowance for peak rainfall intensity requires a 20% uplift to the assessed current day peak rainfall intensity.</p> <p>For developments where the lifetime is expected to extend <u>beyond 2070</u>, then the upper end climate change allowance for peak rainfall intensity requires a 40% uplift to the assessed current day peak rainfall intensity.</p> <p>Therefore, if the ExA are content that the proposed substation's lifetime is 35 years then the relaxation could be considered appropriate. However, if the completion/commissioning date for the sub-stations is likely to be more than 14 years from the current day/2020 baseline, then the quoted development lifetime of 35 years would extend into the "beyond 2070" climate change allowance epoch and would require the drainage system to be designed for a 40% increase in the assessed current day peak rainfall intensity.</p> <p>Therefore, if both the Inspector and Applicant are confident that the infrastructure will be built and commissioned before the year 2034 and that the development lifetime is no greater than 35 years, then the drainage system could be designed for a 20% increase in peak rainfall intensity in accordance with the EA's current "<i>Flood Risk Assessments: climate change allowances</i>" guidance</p> <p>Reference: EN-1 – Overarching National Policy Statement for Energy Section 4.8 paragraphs 4.8.6 & 4.8.11; Section 5.7 paragraph 5.75</p>