



TRINITY HOUSE

The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

7 April 2020

Your Ref: EN010087
Identification No. 20022478

The Norfolk Boreas Offshore Wind Farm Project Draft Development Consent Order

Written Submission to the Examining Authority for Deadline 8 following Examining Authority's Third Round of Written Questions: ExQ3 – 23 March 2020) and Applicant's Deadline 7 Submission

Dear Sir / Madam

We refer to the above application for development consent.

Although not specifically directed at Trinity House (TH), we respectfully request to submit to the Examining Authority (ExA) written representations, as below, for Deadline 8 in response to the Applicant's submission to the ExA's third round of written questions (ExQ3) at Deadline 7, as below:

ExA's Question Q.3.5.5.2

To Applicant:

Prospects for agreement on DML Conditions for notice to mariners period and cable laying plan:

Confirm whether agreement is likely to be reached with TH prior to Deadline 8 and provide any additional information to assist the ExA in making its recommendation to the Secretary of State in regard to matters below remaining to be agreed, as noted in the SoCG [REP6-039], including:

TH request to add to DML Conditions [Schedule 9 Part 4 14 (1)(g), Schedule 10 Part 4 14 (1)(g), Schedule 11 Part 4 9(1)(g), Schedule 12 Part 4 9(1)(g), Schedule 13 Part 4 7(1)(f)]

“a detailed a detailed cable laying plan of the Order limits, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to chart datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or such similar assessment to ascertain suitable burial depths and cable laying techniques, including cable protection”

Applicant’s Response to ExA at Deadline 7

The Applicant considers that Trinity House’s involvement in cable burial approval is already secured through Schedule 9-10, condition 14(1)(a) and Schedule 11-12, condition 9(1)(a) which cover agreement with the MMO in consultation with Trinity House and the MCA on the length and arrangements of all cables as part of the design plan – this condition also includes the Cable Monitoring and Installation Plan.

However, for further clarity, the Applicant is also content to add “and Trinity House” to Condition 15(8) (Schedule 9-10) and Condition 10(8) (Schedule 11-12) as shown below (and this has been included in the dDCO submitted at Deadline 7): No part of the authorised scheme may commence until the MMO, in consultation with the MCA and Trinity House, has confirmed in writing that the undertaker has taken into account and, so far as is applicable to that stage of the project, adequately addressed MCA recommendations as appropriate to the authorised scheme contained within MGN543 “Offshore Renewable Energy Installations (OREIs) – Guidance on UK Navigational Practice, Safety and Emergency Response Issues” and its annexes.

In drafting the DCO and the DMLs, the Applicant has sought to follow existing precedent unless a change can otherwise be justified, and has sought to avoid unnecessary duplication to ensure consents do not become overly complex or lengthy, and remain clear, consistent and workable. The drafting contained in the DML aligns with the wording in the East Anglia THREE DML, which is the most recent offshore wind farm consent to have been granted. It is also the approach adopted on the draft Order for Thanet Extension and importantly on the Norfolk Vanguard draft DML with which the Applicant wishes to maintain consistency given the sister nature of the two projects.

TH Written Representation to the ExA for Deadline 8

TH notes the Applicant’s position and understands that the Applicant considers that the requirement is alternatively covered by other conditions and consultation with TH on the cable design as per Schedules 9-10 Part 4 14(a) and Schedule 11-12, Part 4 9(1a).

Accordingly, TH would like to confirm to the ExA please that it does not agree with the Applicant in this regard and remains of the view that it is important for the requirement to be specifically referenced in the DMLs in the draft DCO.

In particular TH would highlight its concerns regarding its involvement being secured indirectly through other conditions and would prefer direct securing through the suggested condition as worded in agreement between the Maritime and Coastguard Agency and Marine Management Organisation (MMO) and TH.

The Applicant’s suggestion to add TH into Condition 15(8) (Schedule 9-10) and Condition 10(8) (Schedule 11-12) is not accepted as being reasonable as this applies to all activities. Some of these are outside of TH’s statutory remit and which it does not need to be aware of. Consequently, consulting with TH in this manner, on all matters prior to the commencement

of any part of the scheme, will inevitably impact on TH's resources and could result in delays if it were unable to respond to the MMO, or indeed, if it were not appropriate for TH to respond.

TH proposed its drafting change purely on the grounds of improving marine navigation safety. In particular, a reduction in clearance depth of over 5% may cause a significant hazard to navigation. Without suitable and timely risk mitigation, for which its revised drafting clearly provides, TH are concerned that marine safety will be compromised.

TH therefore respectfully submits that it is important for the requirement to be specifically referenced in the DMLs in the draft DCO as outlined above.

Please address all correspondence regarding this matter to myself at russell.dunham@trinityhouse.co.uk and to Mr Steve Vanstone at navigation@trinityhouse.co.uk

Yours faithfully,

Russell Dunham

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Legal & Risk Advisor

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