

From: [Geoff Lyon](#)
To: [Norfolk Boreas](#)
Subject: RE: Norfolk Boreas Project – EN010087 (INTERESTED PARTY REF: 20022969)
Date: 01 May 2020 15:57:22
Attachments: [NORB EXQ3 NNDC Deadline 7 submissions - 01 May 2020.pdf](#)

Dear Sian,

RE: Deadline 7 Submission

Thank you for your email of 29 April confirming the position on deadline submissions.

Please find attached North Norfolk's delayed Deadline 7 submissions on ExQ3. Once again, apologies for the delay for the reasons previously explained.

I shall submit a brief combined Deadline 8 and 9 submission either today or Monday which sets out the main issues we consider are still outstanding.

We have progressed the Statement of Common Ground with the applicant. A version was submitted at Deadline 9 and an further update is likely for Deadline 10.

Please can you confirm receipt of my email.

Kind Regards

Geoff Lyon
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North Norfolk District Council

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**NORTH
NORFOLK
DISTRICT
COUNCIL**

Norfolk Boreas Offshore Wind Farm

EXQ3: NNDC RESPONSE TO QUESTIONS ISSUED ON 23 MARCH 2020

NORTH NORFOLK DISTRICT COUNCIL
(INTERESTED PARTY REF: 20022969)

01 MAY 2020

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
5. Development Consent Order and Deemed Marine Licences			
5.3 SCHEDULE 1 PART 3: Requirements			
Q3.5.3.3	North Norfolk District Council	<p>Requirement 15: Scenarios, stages and phases of authorised development onshore</p> <ol style="list-style-type: none"> 1. Comment on the Applicant's view that programmes for submission and timetables for discharge would be better dealt with in the PPA? [REP6-014, response to NNDC response to Q2.5.1.5] 2. Are you still of the view that an indication of stage commencement and completions should be included in Requirement 15? 	<ol style="list-style-type: none"> 1. NNDC notes the applicant's submission at REP6-04 in response to Q2.5.1.5. NNDC accepts that it may be challenging for the applicant to be able to set programmes for submission and timetables for discharge within Requirement 15 for a variety of reasons. The underlining purpose of the suggestion from NNDC was to help improve the requirement discharge process through better understanding of timescales and the ability to match resources where they are most needed. If this can be achieved via a PPA then this would be acceptable but, whilst there is the principle of a PPA, this is not secured as part of this DCO decision and is still subject to applicant and LPA agreements. 2. NNDC are prepared to rely on the timing of the requirement discharge process through a PPA.
Q3.5.3.4	The Applicant North Norfolk District Council	<p>Requirement 15: Scenarios, stages and phases of authorised development onshore</p> <p>Parties to submit any additional information to assist the ExA in</p>	Nothing further to add from NNDC to previous submissions.

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
		reaching its recommendation to the SoS.	

<p>Q3.5.3.8</p>	<p>Norfolk County Council North Norfolk District Council Broadland District Council</p>	<p>Requirement 16 (13): Trenchless installation techniques</p> <ol style="list-style-type: none"> 1. Provide any comments on the points above. 2. Regarding point 3. above, provide responses to the Applicant's D7 response at D8. 	<p>NNDC notes the applicant's response to Q3.5.3.8 and Q3.12.0.5 in their Deadline 7 response (REP7-017). This is also supplemented by the applicant's Position Statement Church Road, Colby (REP7-035) which considers the alternative proposals put forward by NNDC at Deadline 5 (REP5-067).</p> <p>The ExA will no doubt be aware that the primary issues raised by NNDC in relation to Church Road, Colby was to seek to minimise the loss of trees and hedgerows. The evidence presented by NNDC at Deadline 5 in response to ExQ2.12.0.3 identified six 'Important Hedgerows' affected by the project in this area alone where the LVIA noted 'loss of any trees here would have a significant effect'. If hedge and tree loss can be avoided, then this should be explored. NNDC welcomes the applicant undertaking the further work within the Position Statement.</p> <p>Whilst it is perhaps considered inevitable that within this document the applicant seeks to distance themselves from and have arguably overstated the negative impacts associated with the alternative proposal, what the Position Statement has helpfully provided is a more detailed analysis of how the open-cut trenching</p>
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ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>would affect the trees along Church Road, helpful detail that was missing from the project to date including the clarity as to which trees would have to be removed.</p> <p>Whilst NNDC do consider that the loss of the four identified trees would likely affect the character of this part of Church Road, as set at Deadline 5, ultimately it is a matter of planning judgment for the ExA in weighing the loss of trees against the public benefit of the project.</p> <p>NNDC certainly do welcome the proposed inclusion of text within the OLEMS document as set in paragraph 29 of the Position Statement. This should be included within the final OLEMS document and which will help guide contractors when undertaking works in the area.</p> <p>On balance, NNDC is prepared to withdraw its request for trenchless crossing under Church Road Colby on the proviso that the applicant makes every effort to protect as much of the identified Important Hedgerows and as many of the trees in the areas as possible and make a positive contribution to replanting to ensure no net loss of trees.</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
Q3.5.3.9	North Norfolk District Council	<p>Requirement 19: Implementation and maintenance of landscaping The ExA notes that discussion is ongoing regarding how a ten-year replacement period could be secured [REP6-036, Pages 47 to 54].</p> <ol style="list-style-type: none"> 1. Is agreement with the Applicant over a way of achieving replacement planting over a ten-year period (if required), which would avoid net loss in a worst case scenario, through wording in the OLEMS (or elsewhere other than the dDCO) likely to be reached in the timescale of this Examination? 2. If so, what is it? 3. If not, submit any additional information to assist the ExA in reaching its recommendation to the SoS. 	<p>On 11 March 2020, NNDC wrote to the applicant on the subject of Article 27 and Requirement 19 with some suggested amendments to the wording of these parts of the DCO. This was followed up with a teleconference on 19 March (following the cancellation of the ISH planned for 17 March). The applicant was to consider further the wording proposed by NNDC.</p> <p>NNDC notes the updated draft DCO (version 6) submitted by the applicant at Deadline 7 (REP7-003 & 004) and that revisions have been made, inter alia, to Article 27 and Requirement 19. This includes the insertion of a new definition of the maintenance period for North Norfolk in relation to the maintenance of landscaping in Article 27 and Requirement 19 has been amended along the lines suggested by NNDC so as to secure a ten-year replacement planting period.</p> <p>NNDC wishes to thank the applicant for these changes and, subject to these provisions being included within the final DCO, this matter is now agreed between the parties.</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
5.7 SCHEDULE 16: PROCEDURE FOR DISCHARGE OF REQUIREMENTS			
Q3.5.7.4	The Applicant Breckland Council Broadland District Council Norfolk County Council North Norfolk District Council	Schedule 16 Parties to submit any additional information to assist the ExA in reaching its recommendation to the SoS.	NNDC has nothing further to add to its previous submissions on this matter.
Q3.5.7.5	The Applicant Breckland Council Broadland District Council Norfolk County Council North Norfolk District Council	Planning Performance Agreements Provide any update on matters since the response to responses to further written questions provided by the Applicant [REP6-014, responses to Q2.5.7.1].	Since Deadline 6, a teleconference took place on 12 March 2020 with representatives from Norfolk Boreas, all the District Councils and County Council where the applicant put forward their initial ideas and thoughts on a PPA to the potential discharging authorities for further consideration and discussion. The applicant subsequently followed this up with an email on 16 April which included a document titled 'VATTENFALL WIND POWER LTD - PLANNING PERFORMANCE AGREEMENT POINTS OF REFERENCE'. This is attached at Appendix A . This document sets out a range of issues for consideration in relation to a PPA and included as an Annex the information produced by NNDC at Annex B of its Deadline 6 submission [REP6-043].

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>NNDC are currently considering the contents of this document and will provide further comment on its position to the ExA prior to completion of the examination.</p> <p>NNDC welcome the consideration of a PPA to discharge requirements, the key issue now is to determine how it will be delivered in a way that provides maximum public benefit.</p>
12. Onshore construction effects			
12.0 Cable corridor and ducting			
Q3.12.0.7	The Applicant North Norfolk District Council	Church Road, Colby (open cut trench/ trenchless crossing) Parties to submit any additional information to assist the ExA in reaching its recommendation to the SoS.	See response to Q3.5.3.8 above.
12.1 Mobilisation areas			
Q3.12.1.1	North Norfolk District Council	Mobilisation Areas Are you content with the additional wording which the Applicant has added to the OCoCP [REP5-011, Section 3.2.1]?	NNDC have reviewed the OCoCP (version 4) submitted at Deadline 8 [REP8-003] including content at Section 3.2.1. NNDC would be happy with this document at the content at section 3.2.1 but subject to an addition recommending the use of

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>white noise / low noise vehicle reversing warnings.</p> <p>This inclusion is considered unlikely to present a problem for the applicant given they are proposing to use modern and quiet equipment (fifth bullet point)</p>
12.2 Noise and Vibration			
Q3.12.2.1	The Applicant North Norfolk District Council Broadland District Council	<p>Noise Sensitive Receptors The ExA notes the Joint Position Statement with North Norfolk DC on Noise Sensitive Receptors [REP6-022]. The ExA also notes unresolved matters with Broadland DC in the updated Statement of Common Ground (SoCG) [REP6-026], regarding the appropriateness of the position of sensitive receptors.</p> <p>1. The Applicant, North Norfolk DC and Broadland DC to submit a joint position statement regarding Noise Sensitive Receptors, as an update to the submissions [REP6-022] and [REP6-026]. Joint Position Statement to include detail on the process for reaching agreement (if agreement has not been reached) including implications if no agreement</p>	<p>1. An Updated Joint Position Statement on Noise Sensitive Receptors was submitted to the ExA by the applicant at Deadline 7 [REP7-034]. NNDC's position is set out within section 5 of that document (paragraphs 29-32) including some suggested amendments and additions.</p> <p>Subject to the inclusion of these suggested amendments, NNDC are content.</p> <p>2. Not in NNDC area – for applicant to respond</p> <p>3. NNDC would recommend/suggest calling the NSL's in the dDCO Operational NSL's and the Construction receptors in the OCoCP Construction NSR's</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
		<p>reached before close of Examination.</p> <p>2. The dDCO [REP5-044] defines noise sensitive locations (Noise Sensitive Locations) (NSL) as those in Table 25.27 of ES chapter 25 [APP-238]. Provide an updated table 25.27 in light of the joint position statement with North Norfolk DC and Broadland DC.</p> <p>3. Should the definition of NSLs in the dDCO [REP5-044] be updated to refer to the definition in the ES Chapter 25 [APP-238]? If not, is there a potential for confusion between NSLs as defined in the dDCO and NSRs as defined in the ES?</p>	
Q3.12.2.3	<p>North Norfolk District Council Broadland District Council Breckland District Council Norfolk County Council</p>	<p>Enhanced Mitigation The Outline Code of Construction Practice (OCoCP) version 3 [REP5-011, para 131], refers to potential requirement for enhanced mitigation to be identified for specified receptors. North Norfolk DC and other discharging authorities to comment if <i>“potential requirement”</i> should be</p>	<p>NNDC have reviewed the OCoCP (version 4) submitted at Deadline 8 [REP8-003] including content at Section 9.2.2 (para 135).</p> <p>NNDC consider it would be appropriate to amend para 135 (third sentence) to state: ‘The potential requirement for enhanced mitigation has been identified in ES</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
		strengthened, and if so, propose wording.	<p>Chapter 25 and it is expected that enhanced mitigation will be required for the receptors identified in Table 9.2.'</p> <p>However, NNDC consider that, in addition, to those sites in Table 9.2, a considerable number of additional receptors types, as detailed in Table 9.1, which include non-residential receptors, will require standard or enhanced mitigation.</p> <p>This is because NNDC consider that the number of sites set out at paragraph 136 of the OCoCP (version 4) have been underestimated.</p>
Q3.12.2.5	The Applicant North Norfolk District Council Broadland District Council Breckland District Council Norfolk County Council	<p>Enhanced Mitigation</p> <ol style="list-style-type: none"> 1. North Norfolk DC and other discharging authorities, should the OCoCP [REP5-011, section 9.1.2.2] include a commitment for noise barrier locations to be agreed with relevant local planning authorities? 2. Should there be a commitment for the assessment of the impact of noise barriers be carried out in consultation with the relevant local planning authorities? 3. Applicant to comment. 	<p>Items 1 and 2</p> <p>NNDC have reviewed the OCoCP (version 4) submitted at Deadline 8 [REP8-003] including content at Section 9.2.2</p> <p>NNDC agree that the OCoCP should include commitments to consult and agree noise barrier locations and noise impact assessments with the relevant LPA's.</p> <p>NNDC welcome the applicant's response to Q3.12.2.5 including reference to Best Available Techniques (BAT) and Best Practicable Means (BPM)</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>NNDC notes the Applicant has set out that:</p> <p>'A Construction Noise (and vibration) Management Plan (CNMP) will be developed and included in the final CoCP, as required under Requirement 20 (2)(e) of the draft DCO and submitted for approval to the relevant planning authority. The CNMP will detail the design of onshore assets and will incorporate Best Available Techniques (BAT) and Best Practicable Means (BPM) to minimise any associated noise impacts; where applicable, enhanced mitigation measures will also be detailed, such as noise barrier locations.</p> <p>The CNMP will be developed prior to construction when further details of the construction activities are known, this will ensure that the most appropriate controls and mitigations are identified. The development of the CNMP will include a review of the construction activities and the identification of any potential noise sensitive receptors....which may be affected.</p> <p>Based on the type of construction activity proposed, e.g. establishment of a mobilisation area, and the sensitivity of the receptor, the CNMP will then detail the appropriate controls which will be in</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>place to minimise any potential effects. The results of the process will be submitted to and reviewed by the relevant planning authority as part of the final CoCP and discharge of DCO Requirement 20 (2). NNDC note and welcome the commitment from the Applicant to update the OCoCP to reflect this.</p>
13. Socio-economic effects			
13.2 Tourism			
Q3.13.2.1	The Applicant North Norfolk District Council	<p>Tourism Mitigation Strategy The ExA notes that there is agreement between the Applicant and North Norfolk DC that the long-term effect on the long-term effects of the cable route on the tourism economy will be not significant. The ExA further notes that the disagreement between the parties is on the impact of cable corridor construction phase on local tourism businesses, the need for a tourism and associated business impact mitigation strategy, and securing this through a requirement in the dDCO.</p> <p>1. The Applicant to provide a brief summary of its assessment to the specific point about the impact of</p>	<p>NNDC's LIR [REP2-087] provided significant detail and evidence in relation to tourism impacts, starting from paragraph 14.21, including suggested wording for a DCO Requirement relating to tourism and associated businesses.</p> <p>At the Issue Specific Hearing on 21 January 2020 the ExA held over for written questions an update on discussions regarding the impact of the cable corridor construction on local tourism and businesses. NNDC provided a further update following the Issue Specific Hearing on 21 January 2020 at Deadline 4 [REP4-031 (Section 5)].</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
		<p>the cable corridor construction phase (including 150m workfronts, location and duration of installation of mobilisation area compounds, and landfall location) on local tourism and associated businesses.</p> <p>2. The Applicant to provide, without prejudice, wording for a dDCO Requirement relating to tourism and associated businesses in case the SoS decides to include such a Requirement</p> <p>3. Parties to submit any additional information to assist the ExA in reaching its recommendation to the SoS.</p>	<p>NNDC note the Applicant's response to EXQ2.13.2.1 across pages 118 and 119 of the Applicant's Responses to the Examining Authority's Further Written Questions [REP5-045].</p> <p>NNDC also notes the Applicants response to EXQ3.13.2.1 across pages 132 to 136 of the Applicant's Responses to the Examining Authority's Third Round of Written Questions [REP7-017].</p> <p>The applicant continues to seek to downplay the impacts from this project on tourism and refuses to accept the tourism impacts asserted by NNDC.</p> <p>NNDC's position remains that if business owners in NNDC suffer as a result of the Actual Tourism Impact of Negative Perceptions associated with the individual and cumulative impact of windfarm cable route works, it would be neither fair or reasonable that those businesses should be affected as a result of the turbine project without some form of mitigation strategy being in place.</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
			<p>The ExA are faced with a stark choice between the position of the applicant with no tourism mitigation against the sensible precautionary approach being advocated by NNDC which includes appropriate mitigation in the form of the Requirement wording suggested by NNDC at Deadline 2 [REP2-087] (Pages 32/33 – para 14.21).</p>
15. Water Resources and Flood Risk			
Q3.15.0.7	North Norfolk District Council Natural England	<p>Definition of secondary consent bodies:</p> <p>Comment on the Applicant's response at [REP6-014] to NNDC comment [REP5-067] on Q2.15.0.1 (that dDCO Requirement 25, in relation to watercourse crossings, refers specifically to some but not all secondary consent bodies) "<i>all parties who would be involved in the secondary consenting associated with watercourse crossings are captured and consulted under Requirement 25, these are the Environment Agency, Norfolk County Council as</i></p>	<p>NNDC are content with the response from the Applicant which clarifies that Internal Drainage Boards are to be included.</p>

ExQ3 Question No.	Question to	Question	North Norfolk District Council Response
		<i>Lead Flood Authority and Internal Drainage Board (captured under relevant drainage authorities)."</i>	

END of Questions for NNDC

**Appendix A – ‘VATTENFALL WIND POWER LTD -
PLANNING PERFORMANCE AGREEMENT POINTS OF
REFERENCE’**

VATTENFALL WIND POWER LTD

PLANNING PERFORMANCE AGREEMENT POINTS OF REFERENCE

1. EXECUTIVE SUMMARY

- 1.1 In view of the length of the cable route which runs through several different local planning authority (**LPA**) boundaries, for the effective discharge of Requirements, Vattenfall Wind Power Ltd (**VWPL**) considers that it is in Norfolk Vanguard's/Norfolk Boreas' and the Local Authorities' (**LAs**) interests to agree to a single and consistent approach to the discharge of Requirements. The most efficient mechanism that we (as the project team) have experienced on previous projects involves LAs entering into arrangements for one LA to discharge certain Requirements on behalf of all LAs or, alternatively, to have a single or identified point of contact who could discharge, or co-ordinate the discharge of, certain Requirements on behalf of all LAs. We are of course willing to consider alternative, or complementary, approaches including the possibility of funding an LA role on a temporary basis to 'backfill' a position and, accordingly, unlock resource for those with experience of the projects to enable them to take a lead co-ordination role.
- 1.2 A single and consistent approach would ensure the most efficient use of LA resources and specialist skills across the districts and county. Joint working between LAs when exercising their planning powers is also encouraged by Government guidance.

2. INTRODUCTION

- 2.1 Vattenfall Wind Power Ltd (**VWPL**) is developing two offshore wind farms off the coast of Norfolk with a combined export capacity of 3,600MW. Norfolk Vanguard Limited (**NV**, or **Vanguard**) submitted its Development Consent Order (**DCO**) application in June 2018 relating to the construction, operation, and maintenance of the Norfolk Vanguard Offshore Wind Farm with an electrical export capacity of up to 1,800MW and comprising up to 158 wind turbine generators to be located approximately 47km off the coast of Happisburgh. Norfolk Vanguard's sister company, Norfolk Boreas Limited (**NB**, or **Boreas**), submitted its DCO application in June 2019 for the construction, operation, and maintenance of the Norfolk Boreas Offshore Wind Farm with an electrical export capacity of up to 1,800MW and comprising up to 158 wind turbine generators to be located approximately 73 km off the coast of Happisburgh. Should both projects obtain consent and proceed to construction, Norfolk Boreas will optimise synergies and efficiency savings from enabling works put in place by Norfolk Vanguard.
- 2.2 The onshore works that are necessary for the projects fall within the administrative areas of four local authorities (**LAs**) - Breckland Council (**Breckland**), Broadland District Council (**BDC**), North Norfolk District Council (**NNDC**) and Norfolk County Council (**NCC**). Breckland, BDC and NNDC are local planning authorities (**LPAs**) and NCC is the local highway authority (**LHA**) and lead local flood authority (**LLFA**) for the project areas.
- 2.3 Under the DCOs, the relevant planning authority (**RPA**) is required to discharge a number of planning conditions (known as "Requirements"). Some of these Requirements – for instance the Code of Construction Practice – have relevance across the entire onshore cable route and, therefore, cross a number of LPA boundaries. Each LPA is an RPA for the purpose of discharging certain Requirements within the DCO.
- 2.4 During the Norfolk Vanguard examination, the Norfolk Vanguard applicant engaged in initial discussions with NCC in relation to a Planning Performance Agreement (**PPA**). The Norfolk Boreas applicant resumed these discussions during the Norfolk Boreas examination and, in particular, on a conference call with the LPAs on 12 March 2020. During this call, and in order to inform future discussions, Norfolk Boreas agreed to provide further details on the areas which a PPA could cover. This document sets out the applicability of a PPA for the projects and provides, as a starting point, examples of how a PPA could be used between VWPL and the councils. Both

Norfolk Vanguard and Norfolk Boreas welcome feedback and further dialogue with the LPAs on the content of this note.

3. LEGAL BACKGROUND TO PLANNING PERFORMANCE AGREEMENTS (PPA)

- 3.1 A PPA allows a developer and a LA to agree a project plan and programme which will include the allocation of appropriate resources to carry out functions to a defined timetable. PPAs can be a useful tool for both the LA and developer by providing a platform for the timely discharge of Requirements and giving the LA a clear and transparent funding mechanism to assist in the discharge of Requirements.
- 3.2 A PPA may also confirm responsibilities for discharge of certain Requirements between specific LAs or for a sole discharging authority or appointed coordinator. The legal basis which allows for the county council and/or district council to take on the role of an approving body is set out below.
- 3.3 The Project falls outside of the Town and County Planning Act 1990 (**TCPA 1990**) regime as it is a Nationally Significant Infrastructure Project (**NSIP**). Section 57(1A) of the TCPA 1990 states that planning permission is not required for development for which development consent pursuant to the Planning Act 2008 (**2008 Act**) is required. Therefore, the provisions of Schedule 1 (Local Planning Authorities: Distribution of Functions) of the TCPA 1990 will not apply.
- 3.4 Under the 2008 Act the decision maker is the Secretary of State, save as noted in section 120 of the 2008 Act. Section 120 sets out what may be included in the DCO and provides that Requirements, corresponding to conditions which could have been imposed on the grant of planning permission, may be imposed.
- 3.5 Section 120 is reproduced in part below:
- (1) *An order granting development consent may impose requirements in connection with the development for which consent is granted.*
 - (2) *The requirements may in particular include—*
 - (a) *requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation...;*
 - (b) *requirements to obtain the approval of the Secretary of State or any other person, so far as not within paragraph (a)...*
- 3.6 The principle of the county council and/or district council approving the Requirements can fall within either (a) or (b) of subsection (2) above. Subsection (2)(a) does not specify that a Requirement must be approved by a LPA, therefore a Requirement could contain a sign-off provision by any appropriate person. In any event, even if that paragraph could only apply to Requirements signed off by a LPA, the broader provision of subsection (2)(b) would still apply to county councils (i.e. "any other person").
- 3.7 In summary, under the provisions of the 2008 Act and subject to the wording of the DCO, a county council and/or district council is in a position to legally discharge requirements in the DCO.

4. PREVIOUS EXAMPLES

- 4.1 We have seen PPAs used for previous DCO projects in the following ways:

Joint 'lead authority' approach

- 4.2 For example, and in the context of discharge of Requirements, we have seen a 'lead authority' approach where the county council (or a lead district council if appropriate) is the main discharging authority for the whole onshore area; the district councils delegated their authority to the county council to determine whether to discharge the Requirements for their administrative areas. A PPA was entered into to support the lead authority with timetables and funding for discharge of requirements. The PPA included, amongst other things:

- 4.2.1 Measures to govern joint working and attendance at monthly meetings;
- 4.2.2 Allocation of specific representatives from each of the council and developer;
- 4.2.3 Performance standards on the developer, such as:
 - (a) To respond to any requests for further information within a certain period of working days; and
 - (b) Payment of prescribed sums at certain milestones and in accordance with applications for discharge.
- 4.2.4 Performance standards on the council, such as:
 - (a) To provide responses to written communications and/or calls from the developer within a certain period of working days from receipt;
 - (b) To notify the developer of any Planning Committee meeting related to the project;
 - (c) To clearly demarcate sums paid by the developer in an interest bearing account to be used solely for the purposes set out in the PPA; and
 - (d) To allocate sufficient resource to carry out the prescribed activities in order to meet the proposed timeline (i.e. reach a discharge decision within a certain period of working days).

Appointed coordinator approach

- 4.3 Another option is for RPAs and County Councils to appoint a full time coordinator to act as the single point of contact for the developer and the discharging authorities for the whole onshore area. The onus will still be placed on the developer to demonstrate that the affected RPAs had been consulted during the development of the various submissions and that there was evidence the affected RPAs were satisfied with the information being submitted. However, the administrative burden of reviewing submissions, consulting with stakeholders, pooling together responses, and issuing discharge notices (etc.) sat with the coordinator (following approval and sign-off from each relevant RPA). Having a single coordinator also allowed for a single consistent approach for submissions.
- 4.4 The coordinator could have delegated powers to discharge the Requirements providing that there was evidence that the affected RPAs and other named stakeholders were in agreement with the technical content of the submissions. The coordinator would also corroborate this with the affected RPAs before any Requirements were formally discharged.
- 4.5 In order to facilitate this approach, PPAs could be entered into with the RPAs and County Council to support the cost of appointing a full time coordinator (which could be provided by one of the LAs, with the costs used to back fill as set out above) and for costs associated for each RPAs to be engaged during the finalisation of the plans.

5. RELEVANCE FOR NV AND NB

- 5.1 Article 2 of the DCOs define the relevant planning authority as:
 - 5.1.1 *"... the district planning authority for the area in which the land to which the relevant provision of this Order applies is situated".*
- 5.2 The majority of the Requirements are to be approved by the relevant planning authority. For example, the Code of Construction Practice discharged pursuant to Requirement 20 states that:
 - 5.2.1 *"No stage of the onshore transmission works may commence until for that stage a code of construction practice has been submitted to and approved by the relevant*

planning authority, in consultation with Norfolk County Council, the Environment Agency, and the relevant statutory nature conservation body...".

- 5.3 The definition of a stage of works is therefore important because it will dictate which LPAs need to discharge Requirements (and associated plans) for that stage depending on whether the stage falls within the LPAs administrative area. We explore this concept further below.

Joint Lead Authority

- 5.4 Although not dealt with through the Requirements, it is possible for the LAs to agree a single discharging authority following the grant of the DCO. Formal joint working such as this, with one LA taking the lead, is facilitated through legislation – section 101(5) of the Local Government Act 1972 allows two or more LAs to enter into arrangements to discharge any of their functions jointly. The LAs could enter into an arrangement for one authority, which could for example be NCC or NNDC, to coordinate the discharge of certain Requirements. If appropriate, the discharge of certain Requirements could also be excluded from this approach. The Local Government Act 1972 is unclear as to the exact process for putting in place this mechanism but we anticipate that resolutions by each of the local authorities would be required for relevant members to agree to delegate certain functions to prescribed officers within a single discharging authority. Whilst we recognise that this may not be the preferred approach of the LAs, it may be prudent to explore the consistency and efficiency savings that could be realised by having a sole discharging authority for certain scheme-wide aspects, recognising that certain stages of works could still be better dealt with at a district level. For example, Breckland Council is likely to have particular concerns in relation to the Design and Access Statement for construction of the onshore project substation, however this is likely to be a separate stage with its own separate plan. Similarly, North Norfolk District Council may have particular concerns with the construction of the landfall, which is also likely to be defined as a separate stage and therefore be supported by a separate plan for the discharge of the Requirement in relation to the landfall construction. Broadland District Council may have a particular interest in the Traffic Management Plan in the vicinity of Cawston and for the interaction with Orsted, which again could be supported by a separate stage and plan.
- 5.5 In any event, NCC may ultimately be required to provide advice to the districts on the discharge of a number of the Requirements – for instance, concerning archaeology, as well as for topics where NCC are the statutory authority such as for traffic and local flood risk. Accordingly, from NCC's perspective they may wish to avoid receiving multiple, and slightly different, versions of each document from each LPA; which could of course lead to increased workload, complexity and confusion.

Single Coordinator

- 5.6 During discussions with the LAs, we recognise that the LAs indicated that they did not support an approach where a single authority takes the lead, with the ability to discharge Requirements on behalf of each and all of the LAs. In particular, we understand that the individual LPAs would like to retain control for discharge of certain Requirements such as the Code of Construction Practice, which may have different consequences for their particular areas. However, in order to simplify the discharge of Requirements, it may be possible for the LAs to appoint a single joint consultant who could manage the discharge of Requirements on behalf of all of the LAs (whilst each LPA retains the authority to discharge plans for its particular area, albeit through the co-ordinator). The consultant could then be tasked with streamlining the documents as far as possible, whilst retaining flexibility for some plans to differ where certain circumstances dictate this.
- 5.7 We consider that a single appointed coordinator could be used in some of the following ways, to:
- 5.7.1 act as a primary contact for the undertaker and the LPAs;
 - 5.7.2 attend scheduled project and programme management meetings with the undertaker;
 - 5.7.3 download and upload application and discharge documentation from a centralised portal;

- 5.7.4 consult with internal and external consultees (including the relevant statutory nature conservation body where applicable) in order to obtain approval;
- 5.7.5 review submissions and coordinate appropriate sign-off with the RPAs; and
- 5.7.6 prepare discharge letters for approval by the RPA.

Funding an LA role on a temporary basis ("backfilling")

- 5.8 As previously suggested by NNDC, a third or complementary option could be for a PPA to fund a role within the LA on a temporary (for example, 6-12 month) basis in order to assist the LAs with day to day matters unrelated to the projects and, therefore, freeing resource for those with knowledge and experience of discharging major projects and/or DCOs, perhaps even identifying an existing individual from one LPA to perform the co-ordinator role.
- 5.9 Whilst the PPA would need to be prescriptive in what the funds were used for and the existing resource that would be allocated to the projects, it could, for example, fund the role of one employee on a temporary basis for the period in which discharge was required. This could be funded for each RPA, or funds could be provided to a single RPA where a joint co-ordinator approach was followed. This is a matter we would welcome further information on from the councils, including details on how this mechanism has been used on previous projects.

Stages of Works

- 5.10 Requirement 15 of the DCOs provides that that the Applicant must submit a scheme to the relevant planning authority which sets out the number of stages for the onshore works.
- 5.11 The definition of stages is linked to the discharge of Requirements. For instance, a stage must not commence until the plan, scheme, programme, protocol (etc.) as relevant for that Requirement has been discharged for that stage.
- 5.12 Stages are geographical and could align with relevant planning authority boundaries or could be aligned by type of work such as the onshore project substation, the landfall, and/or the Hornsea Project Three crossing which covers a discrete geographical area.
- 5.13 The exact detail and number of stages can, however, only be finalised once contractors have been appointed and have determined the detailed construction process. Once the stages have been determined based on geographical delineations then in line with DCO Requirement 15 a written scheme setting out the stages will be submitted to the RPA. For example, if a stage falls within the administrative areas of two LPAs, then (subject to any agreement to the contrary), it would be necessary for both LPAs to approve the relevant plan before any works could be commenced, or for separate plans to be approved by both LPAs.

Resource and considerations for discharge

- 5.14 Whilst we recognise the volume of documents and detail associated with the discharge process, we also consider that the outline plans have been worked-up to a very detailed level; all of which have been subject to scrutiny and 'testing' throughout the examination process. We therefore consider that the principle of the proposed mitigation is clear and precise, and we hope that this will provide a good platform when considering discharge of documents.
- 5.15 In the majority of cases - particularly for more sensitive matters - the Requirements stipulate that the final plan, scheme, or protocol must be in accordance with an outline plan/application document. For instance:
 - 5.15.1 Requirement 16 for the onshore project substation must be in accordance with the Design and Access Statement;
 - 5.15.2 Requirement 18 for the Landscaping Management Scheme must be in accordance with the Outline Landscape and Ecological Management Strategy;

- 5.15.3 Requirement 20 for the Code of Construction Practice must accord with the outline Code of Construction Practice;
 - 5.15.4 Requirement 21 for the various traffic management measures must (as applicable) accord with the Outline Traffic Management Plan, the Outline Travel Plan, and the Access Management Plan respectively;
 - 5.15.5 Requirement 23 for the Archaeological Written Scheme of Investigation must accord with the Outline Written Scheme of Investigation (Onshore);
 - 5.15.6 Requirement 24 for the Ecological Management Plan must accord with the Outline Landscape and Ecological Management Strategy;
 - 5.15.7 Requirement 32 for the Operational Drainage Plan must accord with the Outline Operational Drainage Plan; and
 - 5.15.8 Requirement 33 for the Skills and Employment Strategy must accord with the Outline Skills and Employment Strategy.
- 5.16 The Applicant also envisages that discussions will be held with stakeholders, in particular the relevant statutory nature conservation body, where relevant, once the final Project design has been agreed and in advance of seeking formal discharge of Requirements. This should therefore reduce the need for multiple rounds of consultation following submission of the plan for discharge.
- 5.17 In short, it is hoped that the detailed outline plans which have been subject to scrutiny throughout the Examination, coupled with the Applicant's early engagement with stakeholders, will assist in streamlining matters in the discharge of Requirements.

Other points to consider for the PPA

- 5.18 We anticipate that the PPA will need to cover, amongst other things, the following:
- 5.18.1 Resource
 - (a) Subject to the mechanism adopted, payment by the developer of prescribed sums at certain milestones or for the funding of a single appointed co-ordinator, or to backfill staff.
 - (b) Performance standards on each party linked to the resource and funding – for instance, on the councils to use the funds for the stipulated purposes, and on the developer to pay the funds in accordance with certain triggers.
 - 5.18.2 Timing / programme
 - (a) Performance standards on each party, linking with Schedule 15 of the Vanguard DCO and Schedule 16 of the Boreas DCO.
 - (b) Liaison and mechanisms to provide the councils with a programme for discharge.
 - (c) Regular liaison meetings with prescribed bodies and representatives, including measures to govern joint working and collaboration.
 - 5.18.3 Discharge
 - (a) Performance standards on the developer, such as:
 - (i) To respond to any requests for further information within a certain period of working days (and, following submission of the plan for discharge, in

accordance with the DCO process at Schedule 15 of the Vanguard DCO and Schedule 16 of the Boreas DCO);

(ii) To submit full and detailed plans covering the topic in question and ensuring compliance with the DCO Requirement; and

(iii) To pay sums in accordance with triggers related to discharge (if applicable).

(b) Performance standards on the council, such as:

(i) To provide responses to written communications and/or calls from the developer within a certain period of working days from receipt;

(ii) To notify the developer of any Planning Committee meeting related to the project; and

(iii) To allocate sufficient resource to carry out the prescribed activities in order to meet the proposed timeline.

5.19 We have utilised North Norfolk District Council's table from their Deadline 6 submission [REP6-043] and reproduced this at Annex 1 as a useful starting point in discussing the discharge process. We would welcome input from the LAs on the table. This could then be tailored further depending on which PPA discharging mechanism was considered the most appropriate (i.e. a single discharging authority, an appointed coordinator, or a backfilled temporary employee).

6. CONCLUSIONS / SUMMARY

6.1 We consider that a PPA will be mutually beneficial for both the Applicant and the LAs as it provides a clear and transparent platform for the timely discharge of Requirements whilst giving the LAs an agreed funding mechanism to assist in the discharge of Requirements.

6.2 Based on previous DCO experience, we consider one of the most suitable purposes of a PPA is to allocate resource to a lead authority, or to fund a single appointed co-ordinator. However, we would welcome further discussion and engagement with the LAs to share knowledge and best practice in the efficient and timely discharge of conditions and Requirements.

ANNEX 1: DISCHARGING ONSHORE REQUIREMENTS (DCO VERSION 5)

Requirement	Requirement title	Discharging Authority / Relevant Planning Authority	Consultees (Internal to Discharging Authority / Relevant Planning Authority)	Consultees (External to Discharging Authority / Relevant Planning Authority)
15	Scenarios, stages, and phases of authorised development onshore	North Norfolk District Council	None	None
		Broadland District Council	None	None
		Breckland Council	None	None
16	Detailed design parameters onshore (onshore project substation)	Breckland Council	TBC	TBC
17	Landfall method statement	North Norfolk District Council	Coastal Manager	Natural England
18	Provision of landscaping (Landscape Management Scheme)	North Norfolk District Council	Landscape Officers	Natural England
		Broadland District Council	Landscape Officers	Natural England
		Breckland Council	Landscape Officers	Natural England
19	Implementation and maintenance of landscaping	No Discharge Required	N/A	N/A
20	Code of construction practice	North Norfolk District Council	Environmental Protection Officer	Norfolk County Council (LLFA & PROW)
				Environment Agency
				Natural England

		Broadland District Council	Environmental Protection Officer	Norfolk County Council (LLFA & PROW)
				Environment Agency
				Natural England
		Breckland Council	Environmental Protection Officer	Norfolk County Council (LLFA & PROW)
				Environment Agency
				Natural England
21	Traffic	North Norfolk District Council	N/A	Norfolk County Council (Highways)
		Broadland District Council	N/A	Norfolk County Council (Highways)
		Breckland Council	N/A	Norfolk County Council (Highways)
22	Highway accesses	No Discharge Required	N/A	N/A
23	Archaeological written scheme of investigation	North Norfolk District Council	N/A	Norfolk County Council (Archaeology)
				Historic England
		Broadland District Council	N/A	Norfolk County Council (Archaeology)
				Historic England
		Breckland Council	N/A	Norfolk County Council (Archaeology)
				Historic England
24		North Norfolk District Council	Landscape Officer (Ecology)	Natural England

	Ecological management plan	Broadland District Council	Landscape Officer (Ecology)	Natural England
		Breckland Council	Landscape Officer (Ecology)	Natural England
25	Watercourse Crossings	North Norfolk District Council	Landscape Officer (Ecology)	Norfolk County Council (LLFA)
				Environment Agency
			Environmental Protection Officer	Natural England
				Internal Drainage Board - Norfolk Rivers
		Broadland District Council	TBC	Norfolk County Council (LLFA)
				Environment Agency
				Natural England
				Internal Drainage Board - Norfolk Rivers
		Breckland Council	TBC	Norfolk County Council (LLFA)
				Environment Agency
				Natural England
				Internal Drainage Board - Norfolk Rivers
26	Construction Hours	North Norfolk District Council	Environmental Protection Officer	N/A
		Broadland District Council	Environmental Protection Officer	N/A
		Breckland Council	Environmental Protection Officer	N/A
27	Control of noise during operational	Breckland District Council	TBC	N/A

	phase and during maintenance (onshore project substation)			
28	European protected species onshore	North Norfolk District Council	Landscape Officer (Ecology)	Natural England
		Broadland District Council	Landscape Officer (Ecology)	Natural England
		Breckland Council	Landscape Officer (Ecology)	Natural England
29	Onshore decommissioning	North Norfolk District Council	TBC	TBC
		Broadland District Council	TBC	TBC
		Breckland Council	TBC	TBC
30	Requirement for written approval	No Discharge Required	N/A	N/A
31	Amendments to approved details	North Norfolk District Council	Dependent on amendments proposed	Dependent on amendments proposed
		Broadland District Council	Dependent on amendments proposed	Dependent on amendments proposed
		Breckland District Council	Dependent on amendments proposed	Dependent on amendments proposed
32	Operational drainage plan	Breckland Council	TBC	Norfolk County Council (LLFA)
				Environment Agency
33 (1)	Skills and employment strategy	Norfolk County Council	N/A	N/A

33 (2)	Skills and employment strategy	N/A	N/A	North Norfolk District Council
	(Undertaker led consultation)	N/A	N/A	Broadland District Council
		N/A	N/A	Breckland Council
		N/A	N/A	Norfolk County Council
		N/A	N/A	New Anglia Local Enterprise Partnership
34	Cromer Primary Surveillance Radar	Secretary of State	N/A	NATS
Boreas only				
35	Reuse of temporary works in the event of scenario 1	North Norfolk District Council	Environmental Protection Officer	Norfolk County Council (Highways)
			Landscape Officer (Landscape)	Norfolk County Council (LLFA)
			Landscape Officer (Ecology)	Natural England
			Coastal Manager	Environment Agency
		Broadland District Council	TBC	Norfolk County Council (Highways)
				Norfolk County Council (LLFA)
				Natural England
				Environment Agency
		Breckland Council	TBC	Norfolk County Council (Highways)
				Norfolk County Council (LLFA)
				Natural England
				Environment Agency