



Marine Management Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

Norfolk Boreas Case Team
Planning Inspectorate
NorfolkBoreas@planninginspectorate.gov.uk
(Email only)

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

6 May 2020

Dear Sir or Madam,

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

Responses to the Examining Authority's (ExA) Fourth Round of Written Questions

The Marine Management Organisation (MMO) is an interested party for the examination of Development Consent Order (DCO) applications for Nationally Significant Infrastructure Projects (NSIPs) in the marine area. Should consent be granted for the project, the MMO will be responsible for monitoring, compliance and enforcement of Deemed Marine Licence (DML) conditions.

The MMO received a Rule 17 letter containing the ExA's second round of written questions on 28 April 2020 for the proposed Norfolk Boreas Offshore Wind Farm (Ref EN010087). Please find the MMO's response to the ExA's fourth round of questions below for your consideration.

In order to ensure clarity, who the question was directed to and the question to which the answer has been provided has been incorporated in this response.

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 faithfully



Rebecca Reed
Marine Licensing Case Officer

D +44 (0)2080268854

E Rebecca.Reed@marinemanagement.org.uk



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Marine Management Organisation

EN010087 – Norfolk Boreas – The Examining Authority’s fourth written questions and requests for information
Issued on 28 April 2020 for submission at Deadline 10.

ExQ3	Question to:	Question:	MMO Response:
2. Biodiversity, Biological Environment and Ecology			
2.0 Offshore benthic and marine mammals			
Q4.2.0.1	The Applicant	Marine Mammal Monitoring: The Applicant to comment on NE’s wording in [REP6-050] to be included in the Generation DMLs Schedules 9 and 10, which would link with the marine mammal monitoring requirements within the IPMP.	The MMO, NE and the Applicant have agreed on the changes to Conditions 18 and 20 in Schedules 9 and 10. These were highlighted in REP9-035 - the MMO’s response to comments on written question 3.2.0.1.
Q4.2.0.2	Applicant Marine Management Organisation	Sandeel: a) Applicant to state its position regarding MMO’s request for a further update to the IPMP for sediment sampling for particle size analysis in respect of habitat suitability for sandeel. b) The Applicant and MMO to provide any additional information to assist the ExA in making its recommendation regarding sediment sampling to the SoS.	a) The MMO and the Applicant have now agreed this point as the Applicant has updated the In Principle Monitoring Plan (IPMP) at Deadline 6 (REP6-045). This is shown in the SoCG (REP8-021) b) The MMO and the Applicant believes this point is not related to habitat suitability for sandeel but is related to the particle size analysis of dredged material to be disposed of within the Haisborough, Hammond and Winterton (HHW) Special Area of Conservation (SAC) as discussed in Issue Specific Hearing 4.



			<p>The MMO understands that the Applicant, NE and the MMO are in agreement that the conditions proposed for particle size analysis for the Norfolk Vanguard project are not suitable.</p> <p>The MMO understands the Applicant does not believe that a condition is required due to the additional mitigation for disposal of material within the HHW SAC, set out within the HHW SAC control document (Site Integrity Plan (SIP) or Cable Specification, Implementation and Monitoring Plan (CSIMP)).</p> <p>The MMO notes that NE still require a condition or to have some commitment secured to ensure the disposal of material will be in an area with similar particle size to ensure disposal of sediment does not fundamentally change the habitat of the disposal location.</p> <p>The MMO has continued to work with the Applicant and NE to come to a final position, however the current position is that the parties have been unable to suggest a suitable solution or come to an agreement and therefore the MMO cannot provide further comments.</p> <p>The MMO highlights that it is now for the SoS to make a determination and this determination should have regard to both Hornsea Three Project and Norfolk Vanguard to be consistent across all DCOs.</p> <p>If the SoS decides it would be appropriate to include a condition within the DMLs then the MMO considers that the condition would need to meet the five tests and above all be clear and precise enough to be enforceable.</p>
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ExQ3	Question to:	Question:	MMO Response:
5. Development Consent Order and Deemed Marine Licences			
5.0 General			
Q3.5.0.1	The Applicant Marine Management Organisation	<p>Outstanding matters in the dDCO of concern to MMO :</p> <p>Provide an update on progress in resolving issues raised by the Marine Management Organisation (MMO) [REP6-014] related to ExA Written Question 2.5.0.2:</p> <ul style="list-style-type: none"> - Cable Crossings; - Disposal Site queries and references; - Definition of Inert. 	<ul style="list-style-type: none"> - Cable Crossings: The MMO and the Applicant have now agreed this point and this has been updated in the SoCG (REP8-021). - Disposal Site queries and references: The MMO has agreed this with the applicant. The MMO welcomes the inclusion of the disposal site reference numbers in the dDCO (REP07-003/004) and the MMO is content with the update to the Site Characterisation Report submitted at Deadline 7 (REP7-013). - Definition of Inert: The MMO has discussed this further with the Applicant and is content that this definition is no longer required for the Norfolk Boreas project. This has been updated in the SoCG (REP8-021).
5.5 Schedule 9-13: Deemed Marine Licences			
Q4.5.5.1	The Applicant Trinity House (TH)	<p>Prospects for agreement with TH on DML Conditions on cable laying plan:</p> <p>Confirm whether agreement is likely to be reached between the Applicant and Trinity House (TH) prior to Deadline 9 and provide any additional information to assist the ExA in making its recommendation to the Secretary of State in regard to:</p>	The MMO supports the Trinity House request for this addition and believes it is now for the SoS to decide whether a condition is required.

ExQ3	Question to:	Question:	MMO Response:
		<p>a) In the light of TH REP8-034, TH request [REP6-039] 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)] suggested text commencing “... a detailed cable laying plan of the Order limits...” and</p> <p>b) TH rejection of the Applicant’s proposal to name TH in Condition 15(8) (Schedule 9-10) and Condition 10(8) (Schedule 11-12).</p>	
8. Habitats Regulation Assessment			
8.2 Southern North Sea SAC			
Q3.8.2.1	Marine Management Organisation	<p>Discussions with Regulators Group:</p> <p>MMO to provide any updates of discussions with Regulators Group [REP7-040]</p>	<p>The MMO attended a meeting on 23 April 2020 and will continue to meet monthly going forward. The MMO can advise that due to Covid-19 there is an expected delay in progress and potential funding.</p> <p>However, there is a proven manual mechanism in place which calculates and documents overall underwater noise risk, and is held and managed by Offshore Petroleum Regulator for Environment and Decommissioning (OPRED). The forum are still discussing finer details and funding in relation to a more technology driven documenting platform with public access.</p>
8.3 Haisborough, Hammond and Winterton SAC			
Q4.8.3.1	The Applicant, Natural England,	<p>Alternative to the Site Integrity Plan:</p> <p>a) The Applicant to explain the process to be followed in the event that “a SIP was not taken forward then an equivalent document capturing all</p>	<p>a) The MMO notes this is directed to the Applicant. The MMO is aware of the alternative condition and Plan proposed CSIMP.</p>

ExQ3	Question to:	Question:	MMO Response:
	Marine Management Organisation,	<p>the commitments made in the SIP would still be required”, as suggested in the response to ExQ2.8.3.2 [REP5-045]. Would an alternative condition resolve this?</p> <p>b) MMO and NE [REP7-040] both emphasise the need to decide on AEol at consenting stage. Can the parties confirm that this will be the case?</p>	<p>In relation to securing mitigation measures the MMO notes that the CSIMP would also have this requirement therefore agrees with Natural England’s proposal that the CSIMP should in fact be the ‘Cable Specification, Installation, Mitigation and Monitoring Plan.’</p> <p>The MMO welcomes the CSIMP plan and related condition as an alternative route to capture all information required at post consent stage and the MMO is content with the principle and the mechanism behind the CSIMP.</p> <p>Notwithstanding this the MMO has concerns that approval of the CSIMP could result in the need for further consideration of Adverse Effect on Integrity by the MMO post consent, leading to potential delay regarding the sign off of this document. The MMO notes that this is a risk for the Applicant.</p> <p>b) The MMO does not agree that the use of the SIP and the Grampian condition is a suitable mechanism to manage the uncertainty the Applicant has explained regarding the cable route and location of Annex I habitat.</p> <p>The MMO understands there is still disagreement regarding adverse effect on Integrity (AEol) between the Applicant and Natural England (NE).</p> <p>The MMO emphasises that while the MMO defers to NE on these matters, the MMO still strongly believes that a decision should be made on AEol at consenting stage and supports NE’s position.</p>

ExQ3	Question to:	Question:	MMO Response:
			<p>The MMO understands that if no agreement on AEol is agreed during examination it will be a matter for the SoS, in light of NE's comments and the information provided by the Applicant, to determine whether sufficient information is available to conclude for certainty that there is no AEol at consenting stage when conducting the project Habitats Regulation Assessment.</p> <p>This MMO notes the Applicant is in agreement that it is now for the SoS to decide as part of the decision.</p>
16. General and cross-topic questions			
16.0 General			
Q3.16.0.2	The Applicant	<p>Norfolk Vanguard Offshore Wind Farm responses to the Secretary of State's consultation letter dated 6 December 2019:</p> <p>The Applicant has provided high level details of compensation for HHW SAC and FFC SPA and Alde-Ore Estuary SPA [REP7-024 – REP7-028]. Can the Applicant provide:</p> <p>a) Proposed options for compensation for HHW SAC in-combination with Norfolk Vanguard b) Proposed options for compensation for FFC SPA and Alde-Ore Estuary SPA in-combination with Norfolk Vanguard and Hornsea 3?</p>	The MMO defers to NE in relation to potential compensation measures.
Q3.16.0.1	All Interested Parties with whom the Applicant has	<p>Statements of Common Ground:</p> <p>The ExA requires confirmation that all Statements of Common Ground (SoCG) which are submitted</p>	The MMO confirms that the SoCG submitted at Deadline 9 (REP9-023) is a true representation of the final position at the close of examination as no further discussions can amend the position.

ExQ3	Question to:	Question:	MMO Response:
	engaged via a Statement of Common Ground	as final by the Applicant do represent the final position from the other party. If submitted final SoCGs are not signed by the party other than the Applicant, confirmation should be sent in responses to these ExQ4 or by email to confirm the final status of the submitted SoCG at the latest by Deadline 11.	Error! Reference source not found. of the SoCG provides areas of agreement (common ground) and disagreement regarding the DCO and DMLs.