



TRINITY HOUSE

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

24 August 2020

Your Ref: EN010087
Identification No. 20022478

The Norfolk Boreas Offshore Wind Farm Project Draft Development Consent Order

Written Response to the Examining Authority for Deadline 14 Following Examining Authority's Fifth Round of Written Questions – ExQ5 on 11 August 2020)

Dear Sir / Madam

We refer to the above application for development consent.

We request to submit to the Examining Authority (ExA) a written response, as below, for Deadline 14 in response to the ExA's fifth round of written questions (ExQ5).

Development Consent Order and Deemed Marine Licences

ExA's Question Q5.5.4.4 - Decommissioning of cables in HHW SAC Conditions 20 and 3(1) (g)

Confirm satisfaction or otherwise with change to the dDCO [REP13- 007/008] that includes a new cable decommissioning condition 20 in Schedules 11 and 12 and removes condition 3(1)(g) prohibiting rock or gravel dumping.

Trinity House response:-

Recognising similar conditions to Condition 20 in Schedules 11 and 12 were made by the Secretary of State to the DCO/DML for the Norfolk Vanguard OWF project, Trinity House would request that any "timeframe as specified within the decommissioning programme approved by the Secretary of State" is agreed between the Applicant and the Marine Management Organisation (MMO) prior to the written decommissioning programme being submitted. Trinity House would expect the timeframe specified to be sufficient for the MMO

to consult with other bodies on matters relating to Maritime Safety and the Environment prior to confirming satisfaction with the method statement. It is likely that Trinity House and the Maritime & Coastguard Agency (MCA) would have comments to feedback to the MMO, and the Applicant, on the method statement with regard to maritime safety, and it is considered therefore that the agreed timeframe must allow for adequate assessment of the proposed method(s).

Trinity House have no comments on the proposed removal of condition 3 (1) (g).

ExA's Question Q5.5.4.5 - MMO objection to Part 5 of Schedule 9 to 13 Procedures for Appeals

Confirm satisfaction with the amendment to the Boreas dDCO/DMLs in [REP13-007/008] removing part 5 following the determination of the Norfolk Vanguard application. The MMO had previously sustained an objection to Part 5 of Schedules 9 to 13 which proposes an override of the Marine Licensing (Licence Application Appeals) Regulations 2011 (Appeal Regulations) to enable the Applicant to appeal a MMO decision or failure to determine within the prescribed time period. In SoCG [REP9-023] the parties agree with each other that it should be the Secretary of State who decides this matter. Trinity House also supported the MMO's position in regard to arbitration or appeal and deemed refusal.

Trinity House Response:

Trinity House confirms that it is content with the applicant's proposed amendment to the draft DCO and DMLs in [REP13-007/008] in respect of the removal of Part 5 to Schedules 9 to 13. Trinity House also confirms that it is content with the applicant's proposed amendment to Article 38 (Arbitration) of the DCO in [REP13-007/008].

ExA's Question Q5.6.01 - Request for specific DML wording to be added re-reduction in clearance depth

Trinity House stated in [REP8-034] and confirmed in the SoCG [REP9-028] that it continues to disagree with the Applicant regarding the DML condition wording and maintains its request for specific wording to be added on the grounds that a reduction of over 5% in clearance depth may cause a significant hazard to navigation without the timely risk mitigation that Trinity House are concerned to secure in the DMLs.

Trinity House requested to signpost where in the examination alternative drafting has been provided, and if no drafting is available, provide suitable wording for consideration.

Trinity House Response

Trinity House and the MCA requested the 5% reduction in depth to be directly secured early in the process. Suggested wording was initially included in REP2-040 Deadline 2 submission SoCG with TH and REP2-049 Deadline 2 submission SoCG with The MCA.

Trinity House continued to raise the issue in SoCGs and relevant submissions REP6-039, REP8-034, REP8-024, REP9-028 and REP10-069.

Accordingly, Trinity House would therefore submit to the ExA that its preferred drafting in the 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)] would include the following wording:-

“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.”

We trust that these responses are helpful.

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

Yours faithfully,

Russell Dunham

Russell Dunham ACII
Legal Advisor

Email: Russell.dunham@trinityhouse.co.uk