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To: The Applicant,
NFU, Land Interest Group, Brown & Co,
Paul King, Savills, Bidwells, Colin King,
Mr Allhusen, Ms Allhusen,
Natural England,
Marine Management Organisation
RSPB
Highways England

Your Ref:

Our Ref: EN010087

Date: 10 September 2020

Dear Sir/Madam

**Planning Act 2008 (as amended) and The Infrastructure Planning
(Examination Procedure) Rules 2010 (as amended) – Rule 17**

**Application by Norfolk Boreas Limited for an Order Granting Development
Consent for the Norfolk Boreas Offshore Wind Farm**

Request for further information

The Examining Authority has further questions, directed to the above parties, at Annex A.

Please note the deadlines for responses.

Yours faithfully

Frances Fernandes

Frances Fernandes
Lead member of the Panel of Examining Inspectors



Reference	Respondent:	Deadline for Response:	Question:
Compulsory Acquisition			
R17.1.1	The Applicant NFU / Land Interest Group	Deadline 16 Deadline 17	<p>The ExA notes the Applicant’s response to the Relevant Representation submitted by Brown and Co on behalf of Necton Farms Ltd [RR-009; AS-024]. The Applicant is requested to provide a detailed response or signpost where in the Examination documents a detailed response has been given to the points made by D16, 28 September.</p> <p>Necton Farms Ltd (and/or their respective agent/ representative) is requested to comment on the Applicant’s response at Deadline 17, 7 October.</p>
R17.1.2	<p>The Applicant NFU / Land Interest Group</p> <p>Objection 2 – Brown and Co Necton Farms Ltd;</p> <p>Objection 9 Paul King;</p> <p>Objection 20 Savills on behalf of Church Farms</p> <p>Objection 27 Savills on behalf of L Padulli</p>	Deadline 16 Deadline 17	<p>The ExA notes from the updated Compulsory Acquisition Objections Schedule [REP14-041] that a number of objectors have still to reach agreement with the Applicant. These are Objectors No; 2; 9; 20; 27; 34; 39; 42; 49; 55; 62.</p> <p>The ExA notes the previous evidence submitted to the Examination and requests landowners or their respective land agents if relevant, to provide by Deadline 16, 28 September:</p> <ol style="list-style-type: none"> 1. An update with details of the reasons for the continuing objection, by reference to specific land plots and/or rights that would be affected by Compulsory Acquisition. 2. Whether it is anticipated that agreement is likely to be reached between the parties before the end of the Examination. 3. If agreement has been reached, confirmation of this position. <p>The Applicant is requested to comment on these responses at Deadline 17, 7 October.</p>



Reference	Respondent:	Deadline for Response:	Question:
	Objection 34 Savills on behalf of Mr J Carrick Objection 39 Savills on behalf of Albanwise Ltd Objection 42 Savills on behalf of Stinton Hall Trust Objection 49 Bidwells on behalf of Christopher S Wright Objection 55 Colin King Objection 62 Christian Henry Allhusen and Penelope Amanda Allhusen		
Cable Protection Decommissioning after 30 years			
R17.1.3	The Applicant Natural England	Deadline 16 Deadline 18	The Applicant and Natural England disagree over whether long term temporary impacts on benthic habitats caused by cable protection would recover to pre impacted states within the Haisborough, Hammond and Winterton Special Area of



Reference	Respondent:	Deadline for Response:	Question:
			<p>Conservation (SAC). Both parties have provided evidence for its case throughout the Examination.</p> <p>Both parties to confirm at Deadline 16, 28 September, whether this is their final position or if further discussions may lead to agreement being reached by Deadline 18, 12 October and the close of the Examination.</p>
Decommissioning Development Consent Order (DCO) requirement			
R17.1.4	The Applicant Natural England Marine Management Organisation	Deadline 16	<p>At [REP14-058] the Applicant, the Marine Management Organisation and Natural England agreed that with the reinstatement of an amended DML Condition 3 (1) (g) prohibiting the use of rock or gravel dumping for cable protection, apart from cable crossings, in the Haisborough, Hammond and Winterton SAC, Condition 20 could be removed.</p> <p>The MMO consider Condition 20 as drafted, would appear to make decommissioning subject to dual regulation through both the Energy Act 2004 and MCAA 2009 and this could be a cause of confusion. The MMO therefore considers that decommissioning works should not be included in the DMLs.</p> <p>Natural England [REP15-009] provided a draft DCO condition for decommissioning of cable protection, which the Applicant [AS-081] commented on and provided its version of an amended Condition 20.</p> <p>At Deadline 15, the Applicant [AS-081] stated that it is working with the MMO and Natural England on agreed wording for Condition 20, as copied below:</p>



Reference	Respondent:	Deadline for Response:	Question:
			<p><i>20.—(1) The obligations under paragraphs (2) and (3) shall only apply in respect of—</i></p> <p><i>(a) cable protection, apart from at cable crossing locations with existing cables and pipelines, which is installed as part of the authorised project within the Haisborough, Hammond and Winterton Special Area of Conservation as at the date of the grant of the Order;</i></p> <p><i>(b) These obligations do not permit the decommissioning of the authorised scheme, and no authorised decommissioning activity shall commence until a decommissioning programme in accordance with an approved programme under section 105 (2) of the 2004 Act has been submitted to the Secretary of State for approval and all relevant consents have been granted under the Marine and Coastal Access Act 2009.</i></p> <p><i>(2) No later than 4 months prior to each deployment of cable protection, except where otherwise stated or unless otherwise agreed in writing by the MMO, the undertaker must submit the following documents for approval by the MMO:</i></p> <p><i>(a) A decommissioning feasibility study on the proposed protection.</i></p> <p><i>(b) A method statement for recovery of cable protection.</i></p> <p><i>(c) A Monitoring Plan including appropriate surveys of cables situated within the Haisborough, Hammond and Winterton Special Area of Conservation that are subject to cable protection to assess the integrity and condition of that cable protection and determine the appropriate extent of the feasibility of the removal of such cable protection having regard to the condition of the cable protection and feasibility of any new removal techniques at that time, along with a method statement for recovery of cable protection.</i></p> <p><i>(d) A monitoring plan to include appropriate surveys following decommissioning to monitor the recovery of the area of the HHW SAC impacted by cable protection.</i></p>



Reference	Respondent:	Deadline for Response:	Question:
			<p><i>(3) No cable protection can be deployed until the MMO, in consultation with the Statutory Nature Conservation Body approve in writing the documents pursuant to (2) above.</i></p> <p>The Applicant, Natural England and the MMO are requested to:</p> <ul style="list-style-type: none"> i) state by Deadline 16 if it agrees that with the inclusion of Condition 3 (1) (g) Condition 20 is not required; ii) if Condition 20 is deemed to be required, confirm agreement with the Applicant’s draft wording; iii) if wording of Condition 20 is not agreed provide suggestions as to how the Condition might be amended together with a reasoned explanation; iv) if the provision was to be included, provide reasoned views as to whether it should be in the DMLs or the dDCO and if so, at what location.
<p>Compensatory Packages: Alde-Ore Estuary Special Protection Area (SPA)</p>			
<p>R17.1.5</p>	<p>The Applicant Natural England</p>	<p>Deadline 16</p>	<p>The ExA notes the Applicant’s position in relation to discussions with landowners regarding proposed compensatory measures [REP14-036]. However, in the absence of compensatory measures being secured, there is limited weight that the ExA could give to these proposed measures.</p> <p>If the SoS should be minded to conclude on no AEOI for either or both of the Alde-Ore Estuary Special Protection Area (SPA) and Flamborough</p>



Reference	Respondent:	Deadline for Response:	Question:
			<p>and Filey Coast SPA, what evidence can the Applicant provide that the compensatory measures could be secured, to include:</p> <ul style="list-style-type: none"> • evidence that landowners would agree to their land being used for provision and maintenance of compensation measures, for example an Option Agreement signed by all parties; • whether any additional licences or agreements would be required for measures at either of the SPA sites; and • the view of Natural England in relation to these measures.
Compensatory Packages: Flamborough and Filey Coast SPA			
R17.1.6	The Applicant Natural England RSPB MMO	Deadline 16 Deadline 17	<p>a) The Applicant to provide full details of the proposed offshore additional nesting sites, to include:</p> <ul style="list-style-type: none"> • potential locations; • what implications this has for the ES; • additional amendments that would be required, if any, to the dDCO; • evidence relating to the success or otherwise of these novel facilities specifically in relation to Kittiwake; and • Given that this is a novel approach, what alternative compensatory package is proposed. <p>b) The Applicant, Natural England, RSPB and the MMO to provide a joint statement on the feasibility of the nesting sites and probability of success. If a joint statement is not agreed, all parties to comment on each other’s submissions at Deadline 17, 7 October.</p>



Reference	Respondent:	Deadline for Response:	Question:
Licenses and property agreements			
R17.1.7	Highways England Applicant	Deadline 16	<p>In its Further Written Questions, the ExA requested an update from the Applicant and Highways England on the current position relating to obtaining appropriate licences and property agreements from HE [Q2.3.0.12, PD-009]. The Applicant explained that Licences would be sought once detailed designs and method statements had been approved with HE prior to construction; property agreements would be sought once the detailed design and methodology had been approved by Highways England [REP5-045]. Highways England did not respond to the ExA's question. The ExA requested a further update from the Applicant [Q3.3.0.18, PD-014]. The Applicant confirmed it was still in discussion with Highways England [Q3.3.0.18, REP8-015]. The final SoCG between the parties does not provide confirmation that Highways England is content with the approach proposed [REP9-021].</p> <p>Highways England is requested to confirm its position by Deadline 16, 28 September. The Applicant may also wish to comment.</p>
Cumulative effects at port(s)			
R17.1.8	Highways England Applicant	Deadline 16	<p>In its fifth written questions the ExA asked a question about cumulative effects at port(s) (Q5.4.0.6). The Applicant's response to the question together with the Applicant's response to Norfolk County Council's response can be found [REP15-003, Q5.4.0.6].</p> <p>In its response, Norfolk County Council said "<i>If Great Yarmouth is chosen as the preferred port (rather than Kings Lynn), there may be potential impacts to traffic on the Trunk Road network if the Great Yarmouth third river crossing project (NSIP ref TR010043) is implemented at the same time. However, given we anticipate the</i></p>



Reference	Respondent:	Deadline for Response:	Question:
			<p><i>impact would arise on the trunk road network, rather than the county highway, the ExA may wish to also direct this question to Highways England."</i></p> <p>Highways England is requested to comment by Deadline 16, 28 September. The Applicant may also wish to comment.</p>