

Norfolk Boreas Offshore Wind Farm

Statement of Common Ground

Natural England

(Version 5)

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Glossary of Acronyms

AEol	Adverse Effect on Integrity
ALC	Agricultural Land Classification
BDMPS	Biologically Defined Minimum Population Size
BMV	Best and Most Versatile
CIA	Cumulative Impact Assessment
Cefas	Centre for Environment, Fisheries and Aquaculture Science
CoCP	Code of Construction Practice
CRM	Collision Risk Model
CSIMP	Cable Specification, Installation and Monitoring Plan
DCO	Development Consent Order
DML	Deemed Marine Licence
EIA	Environmental Impact Assessment
ES	Environmental Statement
ESS	Entry Level Stewardship Scheme
ETG	Expert Topic Group
ExA	Examining Authority
HDD	Horizontal Directional Drilling
HRA	Habitats Regulations Assessment
HVAC	High Voltage Alternating Current
HVDC	High Voltage Direct Current
LIDAR	Light Detection and Ranging
LSE	Likely Significant Effect
MarESA	Marine Evidence based Sensitivity Assessments
MarLIN	Marine Life Information Network
MCZ	Marine Conservation Zone
MMMP	Marine Mammal Mitigation Protocol
MMMZ	Marine Mammal Mitigation Zone
MMO	Marine Management Organisation
OCoCP	Outline Code of Construction Practice
OLEMS	Outline Landscape and Environmental Management Strategy
O&M	Operation and Maintenance
PBR	Potential Biological Removal
PEIR	Preliminary Environmental Information Report
PVA	Population Viability Analysis
pSPA	potential Special Protection Area
RoC	Review of Consents
SAC	Special Area of Conservation
SCI	Site of Community Importance
SIP	Site Integrity Plan
SMP	Soil Management Plan
SNCB	Statutory Nature Conservation Bodies
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SoCG	Statement of Common Ground

SoS	Secretary of State
UXO	Unexploded Ordnance

Glossary of Terminology

Array cables	Cables which link wind turbine to wind turbine, and wind turbine to offshore electrical platforms.
Evidence Plan Process	A voluntary consultation process with specialist stakeholders to agree the approach to the EIA and information to support the HRA.
Export Cables	Cables that transmit power from an offshore electrical platform to the onshore project substation
Interconnector cables	Offshore cables which link offshore electrical platforms within the Norfolk Boreas site
Landfall	Where the offshore cables come ashore at Happisburgh South
Mobilisation area	Areas approx. 100 x 100m used as access points to the running track for duct installation. Required to store equipment and provide welfare facilities. Located adjacent to the onshore cable route, accessible from local highways network suitable for the delivery of heavy and oversized materials and equipment.
National Grid overhead line modifications	The works to be undertaken to complete the necessary modification to the existing 400kV overhead lines.
Necton National Grid substation	The grid connection location for Norfolk Boreas and Norfolk Vanguard.
Norfolk Boreas Site	The Norfolk Boreas wind farm boundary. Located offshore, this will contain all the wind farm array.
Offshore cable corridor	The corridor of seabed from the Norfolk Boreas site to the landfall site within which the offshore export cables will be located.
Offshore electrical platform	A fixed structure located within the Norfolk Boreas site, containing electrical equipment to aggregate the power from the wind turbines and convert it into a suitable form for export to shore.
Offshore export cables	The cables which transmit power from the offshore electrical platform to the landfall.
Offshore project area	The area including the Norfolk Boreas site, project interconnector search area and offshore cable corridor.
Offshore service platform	A fixed structure (if required) providing accommodation for offshore personnel. An accommodation vessel may be used instead.
Onshore cable route	The up to 35m working width within a 45m wide corridor which will contain the buried export cables as well as the temporary running track, topsoil storage and excavated material during construction.
Onshore project substation	A compound containing electrical equipment to enable connection to the National Grid. The substation will convert the exported power from HVDC to HVAC, to 400kV (grid voltage). This also contains equipment to help maintain stable grid voltage.
Project interconnector	Offshore cables which would link either turbines or an offshore electrical

cable	platform in the Norfolk Boreas site with an offshore electrical platform in one of the Norfolk Vanguard OWF sites.
Project interconnector search area	The area within which project interconnector cables would be installed.
The Applicant	Norfolk Boreas Limited
The Norfolk Vanguard OWF sites	Term used exclusively to refer to the two distinct offshore wind farm areas, Norfolk Vanguard East and Norfolk Vanguard West (also termed NV East and NV West) which will contain the Norfolk Vanguard arrays.
Trenchless crossing zone (e.g. HDD)	Areas within the onshore cable route which will house trenchless crossing entry and exit points.

1 INTRODUCTION

1. This Statement of Common Ground (SoCG) has been prepared by Norfolk Boreas Limited (hereafter the Applicant) with initial input to Version 1 and agreement of Version 4 and Version 5 (this version) from Natural England (NE) (together 'the parties') to set out the areas where there is agreement and areas of disagreement in relation to the Development Consent Order (DCO) application for the Norfolk Boreas Offshore Wind Farm (hereafter 'the project'). A full description of the project can be found in Chapter 5 of the Environmental Statement (document reference 6.1.5 of the Application, [APP-218]).
2. This SoCG comprises agreement logs which has been structured to reflect the topics of interest to Natural England with regard to the Norfolk Boreas DCO application (hereafter 'the Application'). The agreement logs (section 2.1 to 2.7) outline all topic specific matters agreed and those for which it has not been possible, during the Norfolk Boreas examination, to reach agreement between Natural England and the Applicant.
3. The Applicant has had regard to the Guidance for the examination of applications for development consent (Department for Communities and Local Government, 2015) when compiling this SoCG.
4. This document provides a record of how issues were progressed during the Norfolk Boreas examination and it is the intention that this will give the Examining Authority (ExA) sight of the level of common ground between both parties reached by the conclusion of the examination process.
5. Natural England wish it to be noted that the SoCG is a developer led process, with the Applicant providing the drafting and Natural England agreeing the wording, at deadlines at the beginning [AS-028] and at the end of the examination (this document). The document does not provide full detail on all issues; however, Natural England have provided a Risk and issues log with its outstanding issues outlined in full at relevant Deadlines. This log is owned by Natural England and reflects their position; it should not be taken as a representation of the Applicant's position.
6. Natural England have updated the Risk and issues log as issues have been discussed and resolved. As proposed at the beginning of Examination Natural England have engaged in this final version of the SoCG submitted at Deadline 16 of the Examination when all issues have been either resolved or progressed as far as possible.
7. The Applicant has updated this SoCG and submitted it at Deadlines 2, 6 and 10 as a record of its understanding on how issues have progressed. However, it should be

noted that, although issues and updates to this SoCG were discussed with Natural England, in view of Natural England's position as outlined in paragraph 6 above, updates to this document made for Deadlines 2 and 6 were not approved by Natural England. Within the agreement logs '(D2)', '(D6)', '(D10)' and '(D16)' denote the deadline at which the update was made and thus demonstrates when and how issues have been progressed since the original submission on the 4th November 2019 [AS-028].

8. Throughout this document references provided in square brackets (for example [APP-201]) refer to the location of a document within the Planning Inspectorates Norfolk Boreas Examination Library¹.

1.1 Consultation with Natural England

9. This section briefly summarises the consultation that the Applicant has had with Natural England. For further information on the consultation process please see the Consultation Report (document reference 5.1 of the Application, [APP-027]).

1.1.1 Pre-Application

10. The Applicant has engaged with Natural England regarding the project during the pre-application process, both in terms of informal non-statutory engagement and formal consultation carried out pursuant to Section 42 of the Planning Act 2008. Due to similarities between the Norfolk Boreas project and its 'sister' project Norfolk Vanguard, which is progressed one year ahead of Norfolk Boreas, early consultation with stakeholders was conducted for both projects concurrently. Although latterly, the pre-application consultation was undertaken separately for the two projects, Norfolk Boreas has had regard to the Norfolk Vanguard consultation and many of the agreements achieved for the Norfolk Vanguard project also apply to the Norfolk Boreas project.
11. During formal (Section 42) consultation, Natural England provided comments on the Preliminary Environmental Information Report (PEIR) by way of a letter dated 27th November 2018.
12. Further to the statutory Section 42 consultation, meetings were held with Natural England through the Evidence Plan Process and a draft of the Information to Support HRA was reviewed by Natural England in March and April 2019.
13. Table 1 provides an overview of the key meetings and correspondence undertaken with Natural England for both projects. Minutes of the meetings are provided in Appendices 9.29 to 9.32, 9.43 to 9.45 (pre-Section 42) and Appendices 27.2 and 28.1

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-000897-Norfolk%20Boreas%20Examination%20Library%20PDF%20Version.pdf>

(post-Section 42) of the Consultation Report (document reference 5.1 of the Application, [APP-027]).

1.1.2 Post-Application

14. As part of the pre-examination process, Natural England submitted a Relevant Representation to the Planning Inspectorate on the 31st August 2019. Natural England has also engaged throughout the Norfolk Boreas Examination. A series of meetings have been held between the Applicant and Natural England since the Application was submitted. These are also summarised in Table 1. Norfolk Boreas Limited has also been present at a number of meetings held between Natural England and the Norfolk Vanguard project as many of the issues relevant to Norfolk Vanguard also apply to Norfolk Boreas.

Table 1 Summary of Consultation with the Natural England

Date	Contact Type	Topic
Pre-Application		
21 st March 2016	Benthic and Geophysical Survey Scope Meeting	Discussion on the required scope of the geophysical surveys to inform the approach to the offshore surveys which cover the Norfolk Boreas offshore cable corridor and part of the project interconnector search area. The surveys were conducted in Summer/Autumn 2016
22 nd June 2017	Email from the Applicant	Provision of survey reports relevant to the Norfolk Boreas offshore cable corridor and project interconnector search area. These were discussed at the Norfolk Vanguard Benthic Ecology and Marine Physical Processes Expert Topic Group meeting held on the 7 th July 2017.
17 th November 2017	Email from the Applicant	Provision of a report demonstrating that the sediment contaminant samples and benthic ecology samples collected and analysed were sufficient to characterise the Norfolk Boreas site.
1 st November 2017	Letter from the Natural England	Letter confirming that no additional sampling is required.
16 th January 2018	Email from the Applicant	Provision of the following draft technical reports to support the Information to Support HRA report: <ul style="list-style-type: none"> • Appendix 7.1 ABPmer Sandwave study; and • Appendix 7.2 Envision Sabellaria data review
January/ February 2018	Emails from the Applicant	Provision of the following Method Statements to Natural England: <ul style="list-style-type: none"> • Marine Physical Processes, Marine water and Sediment Quality, Benthic and intertidal Ecology, Fish ecology (see Appendix 9.16 of the Consultation Report document reference 5.1.9.16 of the application [APP-053]); • Marine Mammal ecology (see Appendix 9.26 of the Consultation Report document reference 5.1.9.26 of the application [APP-063]);

Date	Contact Type	Topic
		<ul style="list-style-type: none"> Offshore ornithology (see Appendix 9.27 of the Consultation Report document reference 5.1.9.27 of the application [APP-064]); and Onshore Ecology and Archaeology (see Appendix 9.17 of the Consultation Report document reference 5.1.9.17 of the application, [APP-054]).
12 th March 2018	Norfolk Boreas- Marine mammal ETG Meeting	Agreement on the methods used to conduct the assessment (minutes provided in Appendix 9.43 of the Consultation report (document reference [APP-082])).
14 th March 2018	Norfolk Boreas- Marine Physical Processes, Benthic Ecology and Fish ETG meeting	Agreement of the methods to be used in the EIA (minutes provided in Appendix 9.43 of the Consultation report (document reference [APP-080])).
17 th October 2018	Email from the Applicant.	Early provision of relevant chapters of the PEIR Chapter.
7 th December 2018	Letter from the Natural England	Natural England response to the Norfolk Boreas PEIR.
18 th February 2019	Onshore Ecology and ornithology ETG meeting	Onshore Ecology and Ornithology progress meeting to discuss section 42 responses and approach to Environmental Statement (document 5.1.28.1 of the Application, [APP-192]).
21 st February 2019	Marine Mammals ETG meeting	Comments on PEIR and agreement on the approach to HRA (minutes provided in Appendix 28.1 of the Consultation report (document reference 5.1.28.1 of the Application, [APP-192])).
27 th February 2019	Offshore Ornithology ETG meeting	Comments on PEIR and agreement on the approach to HRA (minutes provided in Appendix 28.1 of the Consultation report (document reference 5.1.28.1 of the Application, [APP-192])).
22 nd March 2019	Email from the Applicant	Provision of draft Norfolk Boreas Information to Support Habitats Regulations Assessment (HRA) report.
22 nd March 2019	Email from the Applicant	Provision of draft DCO and other draft DCO documents for review
23 rd April 2019	Letter from Natural England	Email from Natural England providing comments on the HRA
13 th June 2019	Email from the Applicant	Provision of early access to relevant documents from the DCO application.
Post-Application		
31 st August 2019	Relevant and Written Representations	Natural England's initial feedback on the DCO application.

Date	Contact Type	Topic
30 September 2019	Email to Natural England	First draft of this SoCG provided to Natural England
21 st October 2019	Meeting	To discuss Natural England's Relevant Representation and the draft SoCG
28 th November 2019	Meeting to discuss WQs and progression of the issues log	To discuss WQs where collaboration was requested by the ExA and to progress NE's issues log and the Applicant's SOCG
8 th January 2020	Meeting to progress outstanding issues	To discuss outstanding issues including updates made to control documents at D1 and further assessment and mitigation measures.
9 th January 2020	Email	Further information provided by the Applicant on outstanding DCO issues.
20 th January 2020	Email	The Senior case officer provided comments on the outstanding issues within the DCO as he had not been present at the previous January meetings.
17 th February 2020	Meeting to discuss outstanding issues	This meeting was in part held with the MMO to address a number of issues which were raised during ISH4. In addition, the Applicant was intending discuss many outstanding issues with Natural England and to run through Natural England's Risk and issues log (in order to update the SoCG). However, due to illness Natural England had not reviewed the relevant documents are therefore were not in a position to be able to advance any of the issues.
7 th January – 25 th February 2020	Numerous meetings, email exchanges and conference calls with Norfolk Vanguard and Natural England	These consultations, many of which were also attended by the MMO, were to discuss additional proposed mitigation measures and in principle derogation cases for both projects.
24 th March 2020	Meeting to discuss Applicant's Approach to an In principle derogation case.	This meeting was held so that the Applicant could outline its approach to an In Principle Derogation case and seek advice on this approach. However due to the fact that Natural England had not yet had the opportunity to review Norfolk Vanguard's Derogation case - and Norfolk Boreas' case follows similar principles – Natural England were not in a position to provide advice at this stage. Natural England did however make a commitment to consider Norfolk Boreas when reviewing Norfolk Vanguard's derogation case and provide feedback on Norfolk Boreas' proposed approach.

Date	Contact Type	Topic
23 rd April 2020	Meeting to discuss and agree SoCG (excluding benthic sections)	Meeting to discuss and finalise all sections of the SoCG apart from the benthic section.
28 th April 2020	Meeting to discuss and agree benthic sections	Meeting to discuss and finalise the benthic sections of SoCG and any other outstanding issues.
05 th May 2020	Meeting to discuss additional commitments	Meeting to discuss if the commitment to removing rock protection as an option in the Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) was an acceptable way of securing decommissioning within the HHW SAC.
10 th July 2020	Meeting to discuss implications of the Secretary of States (SoS) decisions on Norfolk Vanguard (NV) and Hornsea Project Three (HP3)	Meeting to discuss the implications for Norfolk Boreas of the SoS decisions on Norfolk Vanguard (NV) and Hornsea Project Three (HP3) and the Issue Specific Hearing Agendas, to understand each party's position on any outstanding issues.
July 2020	Email Correspondence	Email correspondence regarding the adoption of Condition 20 to decommission cable protection which was included within the Norfolk Vanguard DCO.
13 th August 2020	Meeting for Natural England to provide an update on any changes in position following the Norfolk Vanguard and Hornsea Project 3 decisions.	Meeting to understand each party's position on any outstanding issues, review the SoCGs and for Natural England to provide further detail on any changes to their position on the Norfolk Boreas project as a result of the Norfolk Vanguard and Hornsea Project 3 decisions.
20 th August 2020	Meeting to discuss Condition 20	Following the meeting on the 13 th August 2020, a further meeting was held to discuss Condition 20 of the Transmission Deemed Marine Licences (DMLs).
24 th August 2020	Meeting to discuss Condition 20	Agreement on the proposed approach of removing condition 20 and re-instating Condition 3(1)(g) (with a minor amendment) in the Norfolk Boreas Transmission DMLs.
7 th September 2020	Meeting	Meeting discuss updates to the SoCG
18 th September 2020	Meeting	Meeting to discuss Natural England's request to include Condition 20 within the DCO and move further plans to six months prior to construction.
24 th September 2020	Email	Email from Natural England to the Applicant confirming agreement of the SoCG.

2 STATEMENT OF COMMON GROUND

15. Within the sections and tables below, the different topics and areas of agreement (marked as green) between Natural England and the Applicant are set out. Areas where agreement has not been reached during the examination are marked as red and notes for Examiners and/or competent authority are marked as purple.
16. Within the agreement logs '(D2)', '(D6)', '(D10)' and '(D16)' etc. denote at which deadline issues were progressed since the original submission on the 4th November 2019. Therefore, the log provides a record of how each issue was progressed.

2.1 Marine Geology, Oceanography and Physical Processes

17. The project has the potential to impact upon Marine Geology, Oceanography and Physical Processes. Chapter 8 of the Norfolk Boreas Environmental Statement (ES) (document reference 6.1.8 of the Application and [APP-221] in the Norfolk Boreas Examination Library) provides an assessment of the significance of these impacts and the Information to Support Habitats Regulations Assessment (document reference 5.3 of the Application and [APP-201] in the Norfolk Boreas Examination Library) assesses its potential effects on Natura 2000 sites.
18. Table 2 provides areas of agreement (common ground) and areas where it has not been possible to reach agreement during the Norfolk Boreas Examination regarding Marine Geology, Oceanography and Physical Processes. The main area of disagreement between Natural England and the Applicant, relating to physical processes, is that of potential effects of the project on Annex I Sandbanks which are a designated feature of the Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC).
19. There is also disagreement between the Applicant and the Natural England on the potential effects of the project on Annex I *Sabellaria Spinulosa* reef, however these are covered in section 2.2 (Table 3).
20. It should also be noted that both Natural England [REP4-041] and the Applicant [REP5-057] have submitted position papers to the Norfolk Boreas Examination which clearly set out both parties' positions on areas of disagreement relevant to the HHW SAC in greater detail than is provided within the SoCG.
21. Table 2 has been restructured since the Deadline 6 submission of this SoCG in order to reduce repetition. Areas of agreement and disagreement relating to two alternatives for condition 9(1)(m) of Schedule 11-12 of the dDCO have now been moved to Table 7 (Development Consent Order).

Table 2 Agreement Log - Marine Geology, Oceanography and Physical Processes

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Site Selection and Project Design			
Landfall	Landfall at Happisburgh South is the most appropriate of the options available, avoiding the Cromer Shoal Chalk Beds Marine Conservation Zone (MCZ).	Agreed	It is agreed by both parties that landfall at Happisburgh South is a viable option.
Landfall	The design of the landfall works will adopt a highly conservative approach to ensure cables do not become exposed as a result of erosion. A construction method statement, including cable landfall, must be agreed with the MMO prior to construction, as required under the Deemed Marine Licence (DML) Schedules 11 and 12 Part 4 Condition 9(c)(iv). (D10) The Applicant can confirm there are no plans to place any rock armouring in the intertidal area.	Agreed, following receipt of further information from Norfolk Vanguard Limited on 29/11/2018 Natural England (NE) is satisfied that the specific issues relating to the assessment of coastal erosion at Happisburgh have been resolved. (D10) However, should any rock armouring be required to be placed in the intertidal area then we would wish to be consulted again.	It is agreed by both parties that the design of the landfall works will adopt a suitably conservative approach to ensure cables do not become exposed as a result of erosion
Environmental Impact Assessment			
Existing Environment	Survey data collected for Norfolk Boreas used in the characterisation of Marine Geology, Oceanography and Physical Processes are suitable for the assessment as agreed during the survey scope meetings in March 2016 (the offshore cable corridor) and February 2017 (the Norfolk Boreas site).	Agreed	Agreed
	The Environmental Statement (ES) adequately characterises the baseline environment in terms of Marine Geology, Oceanography and Physical Processes [APP-221].	Agreed	Agreed
Assessment methodology	The list of potential impacts assessed for Marine Geology, Oceanography and Physical Processes is appropriate [APP-221].	Agreed	Agreed
	The impact assessment methodologies used provide an appropriate approach to assessing potential impacts of the proposed project. In particular: <ul style="list-style-type: none"> The assessment uses expert judgement based upon knowledge of the sites and available contextual information (Zonal and East Anglia ONE studies and modelling); therefore no new modelling (e.g. 	Agreed	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>sediment plumes or deposition) was undertaken for the assessment</p> <ul style="list-style-type: none"> The definitions used of sensitivity and magnitude in the impact assessment are appropriate. <p>These are in line with the Method Statement provided in February 2018 (see Appendix 9.16 of the Consultation Report (document reference 5.1 of the consultation report) and as discussed during expert topic group meetings.</p>		
	<p>The worst case scenario used in the assessment for Marine Geology, Oceanography and Physical Processes is appropriate. This includes a conservative assessment for cable installation based on pre-sweeping as well as potential reburial requirements.</p>	<p>Agreed, although it is noted by Natural England in the Relevant Representation (Appendix 2 of RR-099) that there is currently no evidence that sandwave levelling ensures cables remain buried and therefore that there is no future need for reburial or cable protection. (D10) However, we recognise that the WCS includes precautionary reburial events.</p>	<p>Agreed</p>
	<p>Cable protection will only be required at cable crossing locations and in the unlikely event that hard substrate (i.e. areas that are not Annex I Sandbank) is found along the cable route that cannot be avoided.</p> <p>The Haisborough Hammond and Winterton (HHW) SAC Site Integrity Plan (SIP) (now referred to as the HHW SAC control document 8.20) ensures that the deployment of cable protection must be agreed with the MMO in consultation with Natural England prior to construction.</p> <p>For cables outside the HHW SAC, the Scour Protection and Cable Protection Plan (required under DCO Schedules 9 and 10 Part 4 Condition 14(1)(e) and Schedules 11 and 12 Part 4 Condition 9(1)(e)) provides the mechanism for the volume, extent and location of cable protection to be agreed with the MMO in consultation with Natural England prior to construction and Condition 22 of Schedules 9 and 10 requires that the location, volume and any other information relating to cable protection is reported to the MMO and Natural</p>	<p>Agreed that cable protection should only be used at essential locations such as cable crossings.</p> <p>Natural England notes that past experience has shown that additional cable protection has often been required beyond that which is expected.</p> <p>Agreed, for outside of MPAs. However as noted in the Relevant Representation [RR-099] Natural England has concerns in relation to cable protection within designated sites. (D10) This is further covered in the HRA section of this Table.</p>	<p>(D10) Both Parties agree that cable protection will only be used where required and this will only be at essential locations within the HHW SAC. The mechanism for ensuring this is through approval (by the MMO, in consultation with Natural England) of the HHW SAC control document (8.20), whether that is a SIP or a CSIMP (for further information see section 6 of the Applicant's HHW SAC position paper [REP5-057]). There are areas of disagreement between NE and the Applicant regarding the HHW control documents which are included in Table 7.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>England within four months of the construction phase being complete.</p> <p>(D10) Further information on HRA areas of disagreement relating to cable protection and the Applicant and NEs positions on whether a HHW SAC SIP or a Cable Specification, Installation and Monitoring Plan (CSIMP) should be secured are covered in the HRA section of this Table and in Table 7.</p> <p>The Applicant commissioned an Interim Cable Burial Study following consultation with Natural England which has allowed the Applicant to commit to reducing the cable protection contingency from 10% which is the quantity included within the application to 5%. The HHW SAC SIP (now superseded by the HHW SAC control documents [REP6-011] and [REP6-017]), which has been updated to reflect this further commitment, ensures that the deployment of cable protection must be agreed with the MMO in consultation with Natural England prior to construction. Diagram 5.2 in the Outline HHW SAC SIP outlines the process regarding minimising cable protection for potential unburied cable and seeking agreement from the MMO in consultation with Natural England.</p> <p>(D10) Further information on HRA areas of disagreement relating cable protection are covered in the HRA section of this Table and in Table 7.</p>	<p>As outlined in Appendix 2 of the Relevant Representation [RR-099] Natural England have concerns with the principle of the HHW SIP particularly with cable protection within the SAC, even with the 5% reduction in cable protection, these commitments may still be considered insufficient to agree no AEoI at the pre-construction stage.</p> <p>(D10) In relation to EIA and physical processes it is agreed that based on the best available evidence the applicant has made every effort to reduce the amount of cable protection within HHW. Based on the Applicant's commitments and/or mitigation measures there are options to ensure that potential disruption to physical process which may also affect the Annex I features can be further reduced/avoided. Further information on HRA areas of disagreement relating to cable protection are covered in the HRA section of this Table and in Table 7.</p>	<p>Agreed</p>
Project alone assessment findings	<p>The conclusions of the assessments that no significant impacts in relation to EIA are likely to occur is appropriate.</p> <p>(D10) HRA specific measures are addressed under the HRA heading in this Table.</p>	<p>As stated in Appendix 2 of the Relevant Representation [RR-099 section 280] Natural England does not agree there will be negligible impact.</p>	<p>Whilst Natural England cannot agree that the EIA impacts can be determined as no impact or negligible Natural England agree that they are unlikely to be</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		(D10) Natural England considers that in relation to EIA and physical processes it is agreed that based on the best available evidence the applicant has made every effort to reduce the impacts to an acceptable level and it is unlikely there will be a significant adverse impact to the wider marine processes from the proposal. Based on the Applicant's commitments and/or mitigation measures there are options to ensure that potential disruption to physical process which may also affect the Annex I features can be further reduced/avoided.	significant adverse. (Note that this does not relate to HRA impacts which are dealt with below.)
Cumulative Impact Assessment (CIA)	The plans and projects considered within the CIA are appropriate and as agreed during the expert topic group meeting in March 2018.	Agreed	It is agreed by both parties that the plans and projects included in the CIA are appropriate.
	The CIA methodology is appropriate.	Agreed	Agreed
	<p>The cumulative impacts between Norfolk Boreas and Norfolk Vanguard in the HHW SAC will be considered further based on latest evidence and pre-construction survey findings in the development of the HHW SAC SIP (now superseded by the HHW SAC control documents see the Applicants position paper on the HHW SAC [REP5-057 for further details).</p> <p>(D10) The Applicant maintains that Norfolk Boreas and Norfolk Vanguard will result in non-significant impacts on physical processes when considered cumulatively in EIA terms.</p> <p>Further information on HRA areas of disagreement are covered in the HRA section of this Table and in Table 7.</p>	<p>As stated in Appendix 2 of the Relevant Representation (RR-099) Natural England does not believe that they [SIPs] are appropriate for benthic issues where a worst case scenario can be determined.</p> <p>(D10) Natural England considers that in relation to CIA and physical processes it is agreed that based on the best available evidence the applicant has made every effort to reduce the impacts to an acceptable level and it is unlikely there will be a significant adverse impact to the wider marine processes from the Vattenfall proposals. Based on the Applicant's commitments and/or mitigation measures there are options to ensure that potential disruption to physical process which may also</p>	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		affect the Annex I features can be further reduced/avoided.	
Habitats Regulations Assessment (HRA)			
Screening of Likely Significant Effect (LSE)	The approach to HRA Screening is appropriate. The following site is screened in for further assessment as agreed during the expert topic group meeting in February 2019: Haisborough, Hammond and Winterton SAC	Agreed	Agreed
Assessment of Adverse Effect on Integrity	The approach to the assessment of AEoI is appropriate.	Agreed	It is agreed by both parties that the approach to the assessment of potential adverse effects on site integrity presented in the Information to Support HRA report [APP-201] is appropriate
	The physical processes of Annex I Sandbanks in the Haisborough, Hammond and Winterton SAC has the potential to recover from construction activities, within the range of natural variation.	Agreed, noting that there is limited empirical evidence and sandbank recovery should be monitored (see monitoring below). It is also not clear how single build vs phased build and either option in combination with Norfolk Vanguard has been assessed. (D10) Natural England agrees that the physical process of Annex I sandbanks have the potential to recover. However, there is the potential for additional impacts to the interest features of the SAC as a result of the Sandwave levelling activities that are addressed in DCO (Table 7) and the Benthic HRA section (Table 3).	(D10) Agreed that there is potential for physical processes to recover. (Note that this does not relate to other HRA impacts which are dealt with below.)
	The small scale of cable protection assessed will not interfere with the physical processes (e.g. bed level, morphology, sediment transport) associated with the Annex I Sandbanks. Due to the patterns of erosion, accretion and movement of sand waves naturally occurring within the offshore cable	Not agreed. Natural England does not agree there will be negligible impact on the sandbank feature and relevant attributes (volume, extent, morphology etc.) described in the	Not Agreed. The Applicant and Natural England do not agree whether AEoI due to the effects of cable protection on the HHW SAC can be ruled out. Natural

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>corridor (discussed in Appendix 7.1 of the Information to Support HRA report) it is expected that the cable protection may undergo some periodic burial and uncovering and therefore there would be no adverse effect on the form and function of the Sandbanks.</p> <p>(D6) As described in Table 7 the Applicant has proposed an alternative Condition to that which relies on the HHW SAC Site Integrity Plan (SIP). Therefore, the commitments that Natural England welcome would either be secured within the HHW SAC SIP or the HHW SAC CSIMP (collectively referred to as the HHW SAC control document).</p> <p>(D10) Following a review of the supply chain, the Applicant has made a further commitment to decommission cable protection within the HHW SAC at the end of the Norfolk Boreas project life where it is associated with unburied cables due to ground conditions (where required for crossings cable protection will be left in situ). This commitment ensures that there will be no permanent Annex I habitat loss as a result of cable protection.</p> <p>This commitment has been secured within the HHW SAC control document (8.20). Further detail on possible methods for decommissioning are provided in Annex 2 of the Additional information for the HHW SAC position paper [REP6-018]. The updated Assessment of Additional Mitigation in the Haisborough, Hammond and Winterton Special Area of Conservation [REP6-019] considers this additional mitigation and assesses the impacts of cable protection as being long</p>	<p>supplementary advice on conservation objectives²).</p> <p>Natural England have a number of concerns regarding the Appendix 7.1 of the HRA which are detailed within the relevant section of Appendix 2 of the Relevant Representation.</p> <p>(D6) Natural England notes that the Applicant has committed to:</p> <ul style="list-style-type: none"> - ensuring that all sediment remains with the SAC; - disposing of sediment upstream of where it has been dredged from; and - to disposing of sediment at least 50m from Annex I <i>S.spinulosa</i> reef. <p>In [REP4-043] Natural England confirmed that the proposed disposal location is acceptable and welcomed retention within the SAC sandbank system. However, we wait for confirmation as to how this will be secured (noting our concerns with the SIP approach) in the DCO/DML, once secured this may be considered resolved.</p> <p>(D10) As detailed in our Norfolk Vanguard response to the SoS dated 27th April 2020 - Natural England has identified that an adverse effect on integrity cannot be ruled out from an enduring/lasting impact over the life time of</p>	<p>England do however acknowledge that the mitigation agreed at Deadline 10 does significantly reduce the risk of an AEol.</p> <p>Further information on areas of agreement and disagreement regarding the condition(s) which secure the HHW SAC control document and those which govern the decommissioning of cable protection are covered in Table 7 (Agreement Log – DCO, DML and other DCO document).</p>

²<https://designatedsites.naturalengland.org.uk/Marine/SupAdvice.aspx?SiteCode=UK0030369&SiteName=hais&SiteNameDisplay=Haisborough%2c+Hammond+and+Winterton+SAC&countyCode=&responsiblePerson=&SeaArea=&IFCAArea=>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>term rather than permeant and concludes that there would be no AEol.</p> <p>Further information on areas of disagreement regarding the condition(s) which secure the HHW SAC control document are covered in Table 7.</p> <p>Following further consultation with Natural England the commitment has been made by the Applicant to not undertake rock or gravel dumping within the HHW SAC as a form of cable protection where it is not possible to bury cables to the optimum depth as it is recognised that this would be difficult to decommission. The Applicant secured this commitment within the DCO (Condition 3(1)(g) in Schedule 11-12). Furthermore, the Applicant has included wording in the HHW SAC control documents (8.20) to make it clear that it would be the Applicant's responsibility to demonstrate that the cable protection used in the HHW SAC where it is not possible to bury cables to the optimum depth could be decommissioned.</p> <p>(D16) At Deadline 13 the Applicant included Condition 20 in the Transmission DMLs (Schedules 11 and 12) of the draft DCO [REP13-009]. This condition, which was designed to ensure that the Applicant would decommission cable protection within the HHW SAC, was included by the SoS within the Norfolk Vanguard made Order and was therefore adopted at Deadline 13 for Norfolk Boreas. However, at Deadline 14 it was agreed by the Applicant, Natural England and the MMO that the existing Norfolk Boreas Condition 3(1)(g) (which was not proposed for consideration for the Norfolk Vanguard DCO) was a more suitable mechanism to secure what is required.</p> <p>At Deadline 16 Natural England revised their position and</p>	<p>the project i.e. 30 years from the placement of cable protection.</p> <p>Natural England notes that at Deadline 6 [REP6-018] detail on the methods for decommissioning cable protection was submitted that advocated the use of concrete mattresses (or a similar product) and has agreed with the Applicant on 5 May updates to the DCO and the SIP/CSIMP control documents to secure this mitigation. Natural England considers that this mitigation does not fully remove our concerns regarding the potential for AEol on HHW SAC. However, we acknowledge that this mitigation does significantly reduce the risk of AEol.</p> <p>Following the Applicant's commitment made within the DCO and outline HHW SAC control documents Natural England agree that the impacts due to cable protection would be a lasting impact, but if successfully decommissioned would no longer be a permanent impact however note that, as per our Deadline 9 advice on lasting impacts, this does not fully remove our consideration that we cannot say beyond reasonable scientific doubt No AEol. It does however, significantly reduce the risk of an AEol.</p> <p>(D16) Natural England is not content to accept the condition proposed by the SoS for the Norfolk Vanguard DCO. Natural England, the MMO and the Applicant have agreed updated wording which Natural England consider</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>requested that both Condition 3(1)(g) and an updated version of Condition 20 were included within the DMLs. Whilst the Applicant and Natural England in consultation with the MMO have agreed on proposed wording, which is acceptable to all parties for a Condition 20, should the secretary of state conclude that it is required, the Applicant remains of the position that Condition 20 is not required (further information and justification for this position is provided in the last row of Table 7).</p> <p>Therefore, at Deadline 18 the Applicant has reinstated Condition 3(1)(g) in the dDCO, but has not included Condition 20 (either the original wording proposed by the SoS for Norfolk Vanguard or that which has been agreed by all parties).</p> <p>The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEoI [REP13-023] and that this judgement supports the position presented by the Applicant.</p>	<p>preferable to the original condition (further information is provided in the final row of Table 7).</p> <p>Natural England updated their position at Deadline 16 and now consider the updated Condition 20 in addition to Condition 3(1)(g) to be their first preference, in the event the SoS concludes No AEoI based on the Vanguard judgement. If the SoS determines AEoI and therefore compensatory measures are required then NE considers that neither Condition 3(1)(g) or Condition 20 is required.</p> <p>Natural England is cognisant of the decision made by the SoS for the Norfolk Vanguard project, however this does not change the advice provided by Natural England for the Norfolk Boreas project.</p> <p>Whilst we recognise that Vattenfall has acted as a responsible developer and has made every effort to mitigate their projects as much as possible, which has significantly reduced the risk of an adverse effect on integrity. However, there remains uncertainties due to lack of empirical evidence in relation to the impacts on the designated site features and conservation objectives over a 30 year deployment of cable protection and ability to fully decommission such that there are no wider/additional impacts to surrounding site features and the site recovers to its pre-impacted state. Therefore, Natural England</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		can't advise beyond all reasonable scientific doubt no AEol."	
Management Measures – Mitigation and Monitoring			
Monitoring	<p>The In Principle Monitoring Plan (document 8.12), provides an appropriate framework to agree monitoring with the MMO in consultation with Natural England</p> <p>As stated in the In Principle Monitoring Plan [APP-703], swath-bathymetric survey would be undertaken pre- and post-construction in order to monitor changes in seabed topography, including any changes as a result of sand wave levelling.</p> <p>It is acknowledged that the purpose of the post-construction monitoring is to address evidence gaps in this area as well as for engineering purposes.</p> <p>(D2) The Applicant has made a commitment in the updated outline HHW SAC SIP ([REP1-033] which is now superseded by the HHW control document either [REP6-011] or [REP6-017]) to providing a pre-construction sandwave levelling report with the final HHW SAC control document.</p> <p>(D6) In response to Natural England's comment that there is no mention of preconstruction surveys, the IPMP does commit the Applicant to preconstruction surveys as follows: <i>"A single survey within the agreed array and cable corridor survey areas using full sea floor coverage swath-bathymetric undertaken to IHO S44ed5 Order 1a standard and side-scan surveys of the area(s) within the order limits in which it is proposed to carry out construction works, including a 500m buffer area around the site of each works"</i>.</p> <p>The timing of the post construction survey(s) would then be agreed with the MMO and Natural England based on the findings of the preconstruction surveys and the final project design. As stated in the IPMP:</p>	<p>Agreed, noting that as stated in the Relevant Representation Natural England advise that a pre-construction sandwave levelling report and assessment is required to ensure that the results of any further monitoring and specific site characteristics are taken into consideration and the impacts remain within the parameters assessed especially in relation to orientation of levelling to wave and involvement in troughs. This should be secured as part of the DML.</p> <p>(D6) NE notes that the Applicant has committed to a single post construction survey and then "Further surveys may be required at a frequency to be agreed with the MMO (e.g. 3 years non-consecutive e.g. 1, 3 and 6 years or 1, 5 and 10 years). If evidence of recovery is recorded and agreed with the MMO, monitoring will cease" within the IPMP. However, there is no mention of specific preconstruction survey and/or timeframes for the post construction survey. At the moment what is meant by post construction is too ambiguous to appropriately capture the ability of sandbanks to recover.</p> <p>(D16) As stated in [REP13-038], R17.1.19 Natural England notes that the Applicant has adopted all of the points we raised on the IPMP and therefore has no further comments [REP13-038].</p>	(D16) Agreed, Natural England confirmed at Deadline 13 that the Applicant has adopted all of the points raised by Natural England on the IPMP and therefore has no further comments [REP13-038].

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p><i>Further surveys may be required at a frequency to be agreed with the MMO (e.g. 3 years non-consecutive e.g. 1, 3 and 6 years or 1, 5 and 10 years).</i></p>		
Mitigation and Management	<p>All seabed material arising from the Haisborough, Hammond and Winterton SAC during cable installation would be placed back into the SAC using an approach, to be agreed with the Marine Management Organisation (MMO) in consultation with Natural England.</p> <p>The HHW SAC is an open system with sediment both entering and leaving it around the boundaries. The proposed works are over 6km from the southern boundary) and are unlikely to bring about any disruption to the transport regime. Therefore, the movement in and out of the HHW SAC as occurs at present will continue, irrespective of the proposed dredging or disposal activities as discussed in the Information to Support HRA report Appendix 7.1 ABPmer Sandwave Study.</p> <p>The methods for sediment disposal would be agreed through the Cable Specification, Installation and Monitoring Plan, required under the draft DCO Schedules 9 and 10 Part 4 Condition 14(1)(g) and Schedules 11 and 12 Part 4 Condition 9(1)(g) and would be based on latest evidence, engineering knowledge and pre-construction surveys.</p>	<p>Only agreed if material remains in the site after deposition, modelling will need to demonstrate this.</p>	<p>It is agreed by both parties that seabed material arising from the Haisborough, Hammond and Winterton SAC during cable installation would be placed back into the SAC using an approach to be agreed with the MMO in consultation with Natural England.</p>

2.2 Benthic and Intertidal Ecology

22. The project has the potential to impact upon Benthic and Intertidal Ecology. Chapter 10 of the Norfolk Boreas ES (document reference 6.1.10 of the Application, [APP-223]) provides an assessment of the significance of these impacts and the Information to Support Habitats Regulations Assessment [APP-201] assesses its potential effects on Natura 2000 sites.
23. Table 3 provides areas of agreement (common ground) and areas where it has not been possible to reach agreement during the Norfolk Boreas Examination regarding Benthic and Intertidal Ecology. The main area of disagreement between Natural England and the Applicant, in relation to benthic ecology, is that of the potential effects of the project on Annex I *Sabellaria Spinulosa* reef and the Annex I Sandbank communities (the effects on the form of the Sandbanks themselves are considered in Table 2); both of which are located within the HHW SAC.
24. As mentioned in section 2.1 both Natural England [REP4-041] and the Applicant [REP5-057] have submitted position papers to the Norfolk Boreas Examination which clearly set out both parties' positions on areas of disagreement relevant to the HHW SAC in far greater detail than is provided within the SoCG.
25. Table 3 has been restructured since the Deadline 6 submission in order to reduce repetition and areas of agreement and disagreement relating to the HHW SAC control document and associated form of conditions 9(1)(m) and Condition 20 of the DMLs, are included within Table 7.

Table 3 Agreement Log - Benthic and Intertidal Ecology

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Site Selection and Project Design			
Landfall	Landfall at Happisburgh avoids impacts on the Cromer Shoal Chalk Beds MCZ	Agreed	It is agreed by both parties that landfall at Happisburgh avoids impacts on the Cromer Shoal Chalk Beds MCZ
Environmental Impact Assessment			
Existing Environment	Survey data collected for Norfolk Boreas for the characterisation of Benthic and Intertidal Ecology are suitable for the assessment as agreed in the survey planning meeting in March 2016 and the expert topic group meeting in March 2018.	Agreed	Agreed
	<p>The ES adequately characterises the baseline environment in terms of Benthic and Intertidal Ecology.</p> <p>For the purposes of the EIA, the site characterisation has identified the potential extent and location of <i>S. spinulosa</i> reef as far as reasonably practicable. This has allowed the EIA to assess potential impacts on <i>Sabellaria</i> reef.</p> <p>The assessment does not discount “low reef”. Figure 7.2 of the Information to Support HRA report presents a map of potential <i>Sabellaria</i> reef extent based on medium to high confidence of reef presence (N.B. this includes reef of any reefiness characteristic, including low). <i>Sabellaria</i> reef identified during the Norfolk Boreas benthic surveys in 2016 and 2017 was found to be of low or medium reefiness and this is included in the assessment.</p>	Agreed, although noting the uncertainty associated with <i>S. spinulosa</i> reef mapping due to the ephemeral nature of the reef, the analytical use of a range of datasets, and the confidence levels applied to reef presence	It is agreed by both parties that the ES adequately characterises the baseline environment in terms of Benthic and Intertidal Ecology, although noting the uncertainty associated with <i>S. spinulosa</i> reef mapping.

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>The approach to <i>S. spinulosa</i> reef mapping is appropriate to inform the EIA based on the data available.</p> <p>The Applicant agrees there is uncertainty associated with <i>S. spinulosa</i> reef mapping due to the ephemeral nature of the reef. The HHW SAC SIP provides a framework for further consideration of the effects on <i>Sabellaria</i> reef in the HHW SAC to be made prior to construction, based on the results of the pre-construction surveys. The surveys and the SIP will be developed in consultation with Natural England.</p> <p>(D2) The Applicant appreciates that it may not be possible to agree on the methods used for the existing mapping and therefore has also committed to undertaking a further interim survey of <i>S.spinulosa</i> reef within the section of the cable corridor located within the HHW SAC. This, combined with the Norfolk Boreas pre-construction surveys and potentially the Norfolk Vanguard pre-construction surveys, will allow the Applicant to have a much clearer understanding of the extent of Annex I reef within the SAC.</p>	<p>Natural England has uncertainty associated with <i>S. spinulosa</i> reef mapping due to the ephemeral nature of the reef, the analytical use of a range of datasets, and the confidence levels applied to reef presence Appendix 2 (RR-099).</p> <p>(D6) NE note Applicant's comments in response to RR (AS-024) (D0). However concerns remain as outlined in NE ISH comments, oral rep [REP4-43] and D5 [REP5 – 078] and [REP5 – 081] submissions.</p> <p>However, we welcome the commitment to collect further data sets prior to construction.</p>	<p>(D10) The Final Position is that both parties agree that mapping of <i>S.spinulosa</i> reef is inherently difficult over large areas, such as the HHW SAC and Norfolk Boreas offshore cable corridor. Although the Applicant and NE have used different methods and differing data sets to answer different mapping related questions, the outputs broadly align (see Figure 1) albeit that Natural England's approach has identified much larger and fuller "Areas to be managed as <i>S.spinulosa</i> reef" and the Applicant has identified smaller more concise areas where <u>the Applicant</u> is confident that reef currently exists.</p>
	<p>The assessment does not discount "low reef" as stated in Natural England's relevant representation [RR-099]. It should be noted however that by definition, "low reef" is inherently patchy with only 10-20% coverage, Gubbay (2007) and therefore increases the potential for micrositing. Medium reef also has high potential for micrositing, being classified by 20-30% coverage.</p> <p>(D10) Therefore provided that cable installation does not affect the patches of reef it would still be possible to route through areas where patchy reef is present if the installation is routed through the gaps between <i>S.spinulosa</i> patches.</p>	<p>Please see Natural England's advice on Applicant's clarification note on optimising cable routing through the HHW SAC [REP5-081] and Position Statement Regarding the Proposed Site Integrity Plan for the Haisborough Hammond and Winterton Special Area of Conservation [REP4-041]</p> <p>We continue to advise that low/patchy reef should not be microsited through i.e. avoided. Therefore, it is NE's view that are uncertainties that micrositing as a mitigation measure will be 100% achievable.</p>	<p>(D10) The approach to low reef is not agreed.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		(D10) Natural England advise that all reef, including patchy reef, should be avoided by micro-siting and Natural England are not confident that this will be possible.	
	The mapping of potential <i>S. spinulosa</i> reef by Envision on behalf of Norfolk Boreas (and Norfolk Vanguard Limited) identifies potential reef areas which are largely consistent with areas Natural England has identified (as shown on Figure 2.1 below).	Agreed	Agreed
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to Benthic and Intertidal Ecology has been used.	<p>Agreed, but with the caveat that there is disagreement between the parties on the application of the Habitats Directive. Please see Natural England issues log which will be submitted at Deadline 2.</p> <p>Please also see Position Statement Regarding the Proposed Site Integrity Plan for the Haisborough Hammond and Winterton Special Area of Conservation [REP4-041]</p>	(D10) Agreed for EIA (but not for HRA – see below).
	The list of potential impacts on Benthic and Intertidal Ecology assessed is appropriate.	Agreed	Agreed
	<p>The EIA impact assessment methodology is appropriate and is in line with the Method Statement provided in February 2018 (See Appendix 9.16 of the consultation report, [APP-053]) and agreed during the Norfolk Boreas ETG in March 2018 [APP-066].</p> <p>(D2) The Applicant believes that this can be agreed as the position relates to EIA and not HRA. The EIA defers assessment of effects on features to the Information to support HRA (document 5.3, [APP-201]).</p>	Agreed, with the exception of assessment of impacts on the HHW SAC (discussed within the HRA section of this table). Further details are provided within the Relevant Representation [RR-099].	(D10) Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>The worst case scenario used in the assessment for Benthic and Intertidal Ecology is appropriate.</p>	<p>As stated in the Relevant Representation [RR-099] more information on cable burial operations is needed for us to agree this position. We acknowledge that much of the technical detail will only be available post-consent, and as such, we strongly recommend that the Applicant's assessment must be considered with sufficient precaution added to allow for significant, post-consent increases in worst case scenarios, especially when operations occur within Marine Protected Areas. Please see following point.</p> <p>(D10) Agreed. Natural England notes that the SIP [REP6 - 012] includes a cable burial assessment that considers all cable burial options and achievability. We believe that the parameters within this document are in line with the EIA assessment,</p>	<p>(D10) Agreed</p>
	<p>Should additional cable protection be required during maintenance this would be subject to additional consent/licensing.</p> <p>(D6) The Applicant updated the Outline Operations and Maintenance Plan OOOMP (document reference 8.11) to make it explicit that should additional cable protection be required during maintenance this would be subject to additional consent/licensing.</p>	<p>Agreed, for outside of MPAs. However as noted in the Relevant Representation (RR-099) this should be made explicit in the Outline Scour and Cable protection Plan. Please also note that the MMO and Natural England are producing a joint position statement on cable protection that will be available during examination.</p> <p>(D10) At Deadline 3 NE submitted [REP3-023] advice on cable protection assessment for offshore windfarms and inclusion in marine licences. The commitment by the Applicant to apply for a separate marine licence for O&M activities is agreed.</p>	<p>(D10) Agreed</p>
	<p>It is the Applicant's preference to cut and remove redundant cables where possible. This requires agreement from the</p>	<p>Agreed, however Natural England advises that where there are out of service cables, in the</p>	<p>It is agreed by both parties that it is preferable to cut and remove</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>owners of the redundant cable, and therefore until this can be agreed post consent, an assumption that nine existing cables will be crossed has been assessed in order to provide a conservative assessment.</p> <p>In the HHW SAC, the cable installation method and deployment of cable protection must be agreed with the MMO in consultation with Natural England through the HHW SAC SIP.</p> <p>(D6) Every effort is being made by the Applicant to reduce the number of crossings by removing disused cables where agreement can be reached with the cable owners. An Out of Service Cable Recovery Agreement is close to finalisation with BT Subsea who own a number of out of service assets within the HHW SAC. Appendix 3 of the Applicant's Additional information to the HHW SAC position paper (document reference ExA.AS-2.D6.V1.App2) demonstrates the advanced stages of these discussions by way of a Letter of Comfort from BT Subsea.</p> <p>Outside the HHW SAC, the cable installation methodology will be agreed with the MMO through the Construction Method Statement. The Scour Protection and Cable Protection Plan will be updated as the final design of the project develops and must be agreed with the MMO prior to construction. This will include justification of the location, type and volume/area of essential cable protection based on crossing agreements and preconstruction surveys.</p> <p>(D10) Agreement with BT Subsea to cut and remove BT owned out of service cables has now been reached.</p>	<p>HHW SAC, it would be better to reduce impacts by cutting cables rather than introducing unnecessary hard substrate to cross redundant cables. In addition, where strictly necessary the type of cable protection should be selected on the basis of least environmental impact at each particular location.</p>	<p>redundant cables where possible subject to agreement from the cable owner(s).</p>
Assessment findings	<p>The characterisation of receptor sensitivity is appropriate.</p> <p><u>Sabellaria spinulosa reef</u></p>	<p>Mostly agreed, however all references in the document should note that <i>S. spinulosa</i> reef has medium sensitivity to heavy smothering</p>	<p>(D10) Agreed for EIA (but not for HRA – see below).</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	Gibb <i>et al.</i> (2014) ³ reports that <i>S.spinulosa</i> reef has medium sensitivity to habitat change where the change represents an increase in fine sediments which is not applicable to Norfolk Boreas. Gibb <i>et al.</i> (2014) also states that <i>Sabellaria spinulosa</i> reef is considered to be 'Not Sensitive' to a change which results in increased coarseness.	and habitat change and high sensitivity to habitat loss. (D10) Further information on HRA areas of disagreement are covered in the HRA section of this Table and in Table 7.	
	The magnitude of effect is correctly identified.	As stated in the Relevant Representation [RR-099] the magnitude of the impact to <i>S.spinulosa</i> reef is only low if micro-siting is possible. Natural England has several concerns related to the Applicant's ability to successfully microsite to avoid <i>S.spinulosa</i> reef. These are provided in the relevant representation (Appendix 2). Also see [REP5-081]	(D10) Not Agreed as NE have concerns that avoidance of reef may not be possible. This could be agreed if avoidance of reef is possible.
	There would be no permanent loss of <i>S. spinulosa</i> reef as this is an ephemeral species which is likely to recolonise. (D10) The following references (which are included within the Information to Support HRA Report [APP-201] provide examples of evidence that <i>S. spinulosa</i> reef (not individuals) can be expected to recover/recolonise: Tillin and Marshall, 2015; OSPAR Commission, 2010; Holt, 1998; Cooper <i>et al.</i> , 2007; Pearce <i>et al.</i> , 2007. (D16) in response to NE's D16 comment, the Applicant considers that, as Natural England's conservation objectives are to restore and maintain Annex I reef, it is irrelevant whether Annex I reef was present prior to installation, any	Not agreed. Evidence presented to date is in relation to recovery of individuals and not Annex I reef. And particularly disagree due to potential for cable protection. (D16) Whilst we recognised that some of the examples referenced here are for aggregations of <i>Sabellaria spinulosa</i> it is not clear if there was existing Annex I habitat present prior to the impact for these studies therefore is it recovery of an existing reef or establishment on impacted areas where it wasn't previously. In addition SNCB advice to the Boreas Examination [RR – 099 Appendix 2.1] was that	Not Agreed

³ Gibb, N., Tillin, H., Pearce, B. & Tyler-Walters, H. (2014). Assessing the sensitivity of *Sabellaria spinulosa* reef biotopes to pressures associated with marine activities. Available at: http://jncc.defra.gov.uk/PDF/JNCC_Report_504_web.pdf

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	form of <i>S.spinulosa</i> reef would contribute towards the Natura 2000 network. The Applicant understands that Natural England do not consider that reef on artificial substrate is Annex I reef and therefore the Applicant made the commitment at Deadline 6 to decommission cable protection within the HHW SAC at the end of the project life (see further information below).	reef on artificial substrate was not considered to be Annex I reef.	
	The impact significance conclusions of negligible or minor adverse for Norfolk Boreas alone are appropriate.	Natural England has concerns relating to the significance conclusions made for impacts on <i>S.spinulosa</i> reef (further detail is provided within the Relevant Representation, [RR-099]). However, these are HRA issues which are discussed in the HRA section of this Table.	(D10) Agreed for EIA (but not for HRA – see below).
CIA	The plans and projects considered within the CIA are appropriate as agreed during the expert topic group meeting in March 2018.	Agreed	Agreed
Habitats Regulations Assessment (HRA)			
Screening of LSE	The approach to HRA Screening is appropriate. The following site is screened in for further assessment as agreed during the expert topic group meeting in February 2019: <ul style="list-style-type: none"> Haisborough, Hammond and Winterton SAC. 	Agreed	Agreed
Assessment of Adverse Effect on Integrity	The communities of Annex I Sandbanks within the Haisborough, Hammond and Winterton SAC will recover as the physical processes of the Sandbanks recover within the range of natural variation as the communities are habituated to highly mobile sediments. (D16) The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEol [REP13-023] and that this judgement supports the position presented by the Applicant.	Not agreed, Natural England acknowledges that the mobile nature of this particular sandbank system would make it more likely to recover from changes in structure than less mobile ones however as noted in the relevant representation there is currently no evidence that Natural England has seen that sandwave levelling ensures cables remain buried and there is no future need for reburial or cable protection. Whilst this has been asserted by a number of projects we are yet to understand if this is the reality.	(D10) Final position is that it could be agreed that communities of Annex I sandbanks could recover if it could be proven that sandwave levelling would ensure that cables would remain buried. The Applicant's position is that sandwave levelling would ensure that the cables would remain buried (as concluded from the cable installation study [APP-548]). Natural England's position is that

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		(D16) Natural England is cognisant of the decision made by the SoS for the Norfolk Vanguard project, however this does not change the advice provided by Natural England for the Norfolk Boreas project.	this cannot be conclusively demonstrated at this time.
	<p>Based on available data, micrositing around <i>S. spinulosa</i> reef is likely to be possible. However, it is acknowledged that <i>S. spinulosa</i> reef extent may change prior to construction of Norfolk Boreas and therefore pre-construction surveys are required to determine the extent of <i>S. spinulosa</i> reef at that time. A cable specification, installation and monitoring plan, must be agreed with the MMO in consultation with Natural England as discussed under 'Mitigation and Management' below. This will provide the mechanism to agree cable routing/micrositing.</p> <p>(D10) As described in the Applicant's Haisborough Hammond and Winterton Special Area of Conservation Position Paper [REP5-057], the Applicant maintains that the current survey data shows that micrositing will be possible. Also as set out in the position paper (paragraph 16c) the Applicant does not consider that the proposed fishing restrictions are likely to result in a large change in fishing pressure as the current levels of fishing in these areas are extremely low. Therefore the Applicant maintains that the extent of <i>S. spinulosa</i> reef within the section of the HHW SAC which overlaps with the offshore cable corridor is unlikely to change significantly prior to Norfolk Boreas construction. Therefore, micrositing at the time of construction is highly likely to be possible.</p>	<p>Not agreed, Natural England has outlined concerns within the Relevant Representation [RR-099] regarding the Applicant's ability to microsite around Sabellaria reef.</p> <p>(D10) Natural England have submitted the following in support of their position:</p> <p>At D4: Position Statement Regarding the Proposed Site Integrity Plan for the Haisborough Hammond and Winterton Special Area of Conservation [REP4-041]; and Natural England's Written Summary of Oral Representations made at Issue Specific Hearing 4 on offshore effects including the Draft Development Consent Order [REP4-043].</p> <p>At D5: Natural England's advice on Applicant's clarification note on optimising cable routing through the HHW SAC [REP5-081]</p> <p>At D7: Natural England's comments on the Applicant's Haisborough Hammond and Winterton SAC Position Paper of February 2020 [REP7-051].</p>	(D10) Final position is that the Applicant and Natural England do not agree whether micrositing around <i>S. spinulosa</i> reef will be possible with certainty. The Applicant maintains that available data shows that micrositing would be possible at the current time and due to the fact that the current level of fishing pressure within the SAC is low it is unlikely that restrictions on fishing activity will significantly increase the extent of Annex I <i>S. spinulosa</i> reef within the SAC and therefore micrositing will still be possible at the time of construction. Natural England maintain that there remains a risk that the extent of <i>S. spinulosa</i> reef at the time of construction may be such that micrositing is not possible.
	In the unlikely event that micrositing around <i>S. spinulosa</i> reef is not possible, a small proportion of reef may be temporarily disturbed. <i>S. spinulosa</i> in its individual and reef forms, is known to be ephemeral and opportunistic and can be expected to recover/recolonise within the range of natural	Not agreed, there is currently a restore objective for reef features of HHW SAC. Site management measures are being developed for other operations likely to damage the interest features of the site and will be	Final Position: The Applicant maintains the position that if it is not possible to avoid Annex I <i>S. spinulosa</i> reef completely the area affected would be small and

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>variation. Therefore, a small proportion of temporary disturbance to <i>S. spinulosa</i> reef would not cause an adverse effect on the restoration objective of the Haisborough, Hammond and Winterton SAC.</p> <p>The following references provide examples of evidence that <i>S. spinulosa</i> reef (not individuals) can be expected to recover/recolonise: Tillin and Marshall, 2015; OSPAR Commission, 2010; Holt, 1998; Cooper <i>et al.</i>, 2007; Pearce <i>et al.</i>, 2007.</p> <p>As stated in Natural England’s position, there is a high likelihood that <i>Sabellaria spinulosa</i> reef will recover/develop following cessation of disturbance from fisheries. This ability to recover would also apply following cable installation.</p> <p>(D16) The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEoI [REP13-023] and that this judgement supports the position presented by the Applicant.</p>	<p>implemented in the future. In the absence of those pressures there is a high likelihood that <i>Sabellaria spinulosa</i> reef will recover/develop. One such management measure that is being considered is the use of fisheries byelaws to protect areas where <i>Sabellaria spinulosa</i> reef have been shown to be regularly present. Therefore, it is hoped that more extensive <i>Sabellaria spinulosa</i> reefs will be restored in these areas, and that existing encrusting and low quality reef will develop into higher quality reef habitat. Natural England would therefore advise that cable installation activities are avoided in these areas.</p> <p>In addition, the evidence presented in the HRA to support conclusions on recoverability relates only to individuals/abundance, but not to reef. Thus we have limited confidence in the ability of reef to recover from cable installation activities. Therefore, we further advocate that the standard mitigation measure of avoidance is adhered to.</p>	<p>recovery would be rapid, therefore there would be no AEoI. Natural England maintain that no Annex I reef should be affected and do not consider that there is enough comparable evidence that Annex I reef would recover from cable installation.</p>
	<p>Cable protection would not affect the potential of <i>S. spinulosa</i> reef to recover within the Haisborough, Hammond and Winterton SAC as <i>S. spinulosa</i> reef can be expected to colonise cable protection as an artificial substrate, in accordance with the UK Biodiversity Action Plan Priority Habitat Description for <i>S. spinulosa</i> Reefs (JNCC, 2016⁴):</p> <p>“<i>S. spinulosa</i> requires only a few key environmental factors for survival in UK waters. Most important seems to be a good supply of sand grains for tube building, put into suspension by</p>	<p>Not agreed, Natural England does not consider the colonisation of artificial sub-sea structures as beneficial as it is not natural change. Natural England considers that the cable protection will result in permanent loss of habitat.</p> <p>(D6) NE notes and welcomes that cable protection within the priority areas has now be excluded by the Applicant. However, the ability to micro site cables remains a concern.</p>	<p>Final Position is that whilst Natural England acknowledge that the additional evidence, assessment and mitigation measures proposed by the Applicant have considerably reduced the risk of an AEoI on Annex I <i>S. spinulosa</i> reef and sandbank communities, Natural England maintain that there are uncertainties such that they are</p>

⁴ <http://jncc.defra.gov.uk/page-5706>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p><i>strong water movement....The worms need some form of hard substratum to which their tubes will initially be attached, whether bedrock, boulders, artificial substrata, pebbles or shell fragments."</i></p> <p>The HHW SAC SIP ensures that the deployment of cable protection must be agreed with the MMO in consultation with Natural England prior to construction. Diagram 5.2 in the Outline HHW SAC SIP outlines the process regarding minimising cable protection for potential unburied cable and seeking agreement from the MMO in consultation with Natural England.</p> <p>(D2) The Applicant has undertaken a further study to ascertain where, within the SAC, cable burial is likely to be more difficult. The study is provided in the updated HHW SAC SIP [REP1-033].</p> <p>(D6) The Applicant has made the commitment not to install any cable protection in the "priority areas to be managed as <i>S. spinulosa</i> Annex I reef" identified by NE within the HHW SAC, unless otherwise agreed with the MMO in consultation with NE.</p> <p>(D10) the Applicant has also undertaken further assessment of the effects of habitat loss through cable protection upon Annex I <i>S.saballaria</i> reef [REP6-019]. This updated assessment, which takes account of the additional mitigation measures, concludes that there would be no AEol.</p> <p>(D10) Following the review of the supply chain mentioned in Table 2, the Applicant made a commitment (at Deadline 6) to decommission cable protection within the HHW SAC at the end of the Norfolk Boreas project life where it is associated with unburied cables due to ground conditions (where</p>	<p>(D10) Natural England have submitted the following in support of their position:</p> <p>At D3: Natural England advice on cable protection assessment for offshore windfarms and inclusion in marine licences [REP3-023]</p> <p>At D4: Position Statement Regarding the Proposed Site Integrity Plan for the Haisborough Hammond and Winterton Special Area of Conservation [REP4-041]; and Natural England's Written Summary of Oral Representations made at Issue Specific Hearing 4 on offshore effects including the Draft Development Consent Order [REP4-043].</p> <p>At D5: Natural England's advice on Applicant's clarification note on optimising cable routing through the HHW SAC [REP5-081]</p> <p>At D7: Natural England's comments on the Applicant's Haisborough Hammond and Winterton SAC Position Paper of February 2020 [REP7-051]</p> <p>(D16) As detailed in our Norfolk Vanguard response to the SoS dated 27th April 2020 - Natural England has identified that an adverse effect on integrity cannot be ruled out from an enduring/lasting impact over the life time of the project i.e. 30 years from the placement of cable protection.</p> <p>Natural England notes that at Deadline 6 [REP6-018] detail on the methods for</p>	<p>unable to advise, beyond all reasonable scientific doubt, no AEol. The Applicant however considers that sufficient evidence has been provided to rule out AEol and that the mitigation measures which the Applicant has committed to will ensure this to be the case. Furthermore, the Applicant considers that the SoS's HRA assessment for the Norfolk Vanguard project, which concluded no AEol for cumulative effects with Norfolk Boreas, further supports the Applicant's position.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>required for crossings this cable protection will be left in situ). This commitment ensures that there will be no permanent habitat loss of either Annex I Sandbank communities or Annex I <i>S.spinulosa</i> reef as a result of cable protection.</p> <p>This commitment has been secured within the HHW SAC control document (8.20). Further detail on possible methods for decommissioning cable protection are provided in Annex 2 of the Additional information for the HHW SAC position paper [REP6-018]. The updated Assessment of Additional Mitigation in the Haisborough, Hammond and Winterton Special Area of Conservation [REP6-019] considers this additional mitigation and assesses the impacts of cable protection as being long term rather than permeant and concludes that there would be no AEol.</p> <p>Further information on areas of disagreement regarding the condition(s) which secure the HHW SAC control document are covered in Table 7.</p> <p>Following further consultation with Natural England the commitment has been made by the Applicant to not undertake rock or gravel dumping within the HHW SAC as a form of cable protection where it is not possible to bury cables to the optimum depth as it is recognised that this would be difficult to decommission. The Applicant secured this commitment within the DCO (Condition 3(1)(g) in Schedule 11-12). Furthermore, the Applicant has included wording in the HHW SAC control documents (8.20) to make it clear that it would be the Applicant's responsibility to demonstrate that the cable protection used in the HHW SAC where it is not possible to bury cables to the optimum depth could be decommissioned.</p> <p>(D16) At Deadline 13 the Applicant included Condition 20 in</p>	<p>decommissioning cable protection was submitted that advocated the use of concrete mattresses (or a similar product) and has agreed with the Applicant on 5 May updates to the DCO and the SIP/CSIMP control documents to secure this mitigation. Natural England considers that this mitigation does not fully remove our concerns regarding the potential for AEol on HHW SAC. However, we acknowledge that this mitigation does significantly reduce the risk of AEol.</p> <p>Following the Applicant's commitment made within the DCO and outline HHW SAC control documents Natural England agree that the impacts due to cable protection placed where it is not possible to bury cables to the optimum depth is a lasting impact, but if successfully decommissioned would no longer be a permanent impact. However, note that, as per our Deadline 9 advice on lasting impacts, this does not fully remove our concerns such that we cannot say beyond reasonable scientific doubt No AEol. It does however, significantly reduce the risk of an AEol.</p> <p>(D16) Natural England is not content to accept the condition proposed by the SoS for the Norfolk Vanguard DCO. Natural England, the MMO and the Applicant have agreed updated wording which Natural England consider preferable to the original condition (further information is provided in the final row of Table 7).</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>the Transmission DMLs (Schedules 11 and 12) of the draft DCO [REP13-009]. This condition, which was designed to ensure that the Applicant would decommission cable protection within the HHW SAC, was included by the SoS within the Norfolk Vanguard made Order and was therefore adopted at Deadline 13 for Norfolk Boreas. However, at Deadline 14 it was agreed by the Applicant, Natural England and the MMO that the existing Norfolk Boreas Condition 3(1)(g) (which was not proposed for consideration for the Norfolk Vanguard DCO) was a more suitable mechanism to secure what is required.</p> <p>At Deadline 16 Natural England revised their position and requested that both Condition 3(1)(g) and an updated Condition 20 were included within the DMLs. Whilst the Applicant and Natural England in consultation with the MMO have agreed on wording for a Condition 20, should the secretary of state conclude that it is required, the Applicant remains of the position that Condition 20 is not required (further information and justification for this position is provided in the last row of Table 7).</p> <p>Therefore, at Deadline 18 the Applicant reinstated Condition 3(1)(g) in the dDCO, but has not included Condition 20 (either the original wording proposed by the SoS for Norfolk Vanguard or that which has been agreed by all parties).</p> <p>The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEoI [REP13-023] and that this judgement supports the position presented by the Applicant.</p>	<p>Natural England updated their position at Deadline 16 and now consider the updated Condition 20 in addition to Condition 3(1)(g) to be their first preference, in the event the SoS concludes No AEoI based on the Vanguard judgement. If the SoS determines AEoI and therefore compensatory measures are required, then NE considers that neither Condition 3(1)(g) or Condition 20 is required.</p> <p>Natural England is cognisant of the decision made by the SoS for the Norfolk Vanguard project; however this does not change the advice provided by Natural England for the Norfolk Boreas project.</p>	
Management Measures – Mitigation and Monitoring			
Mitigation and Management	A 50m buffer from <i>S. spinulosa</i> reef is proposed for disposal of sediment in accordance with advice provided by Natural England by email to the Norfolk Vanguard Project.	Not Agreed. As noted in the Relevant Representation [RR-099], for offshore designated sites the appropriate buffer is	(D10) Agreed as the commitments are secured within the HHW SAC control document (8.20).

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>The method by which sediment within the SAC would be disposed of would be agreed through the HHW SIP</p> <p>(D2) The Applicant has committed to disposing of sediment within the SAC via a fall pipe from the dredging vessel. This gives better control over the accuracy of the disposal and allows the 50m buffer to be maintained. The commitment to the use of a fall pipe is made within the updated version of the outline HHW SAC SIP submitted at Deadline 1 [REP1-033] and secured by Condition 9(1)(m) of the Transmission DMLs (Schedule 11-12).</p> <p>(D6) The Commitment would be secured through HHW control documents (whether that is the SIP or the CSIMP)</p>	<p>normally 500m and therefore further justification for a reduced buffer should be considered to ensure a consistent approach across sites and industry.</p> <p>If the sediment is to be surface released then this needs to be taken account of and release points identified at specific states of the tide that will ensure the resting place of the bulk of the material is a minimum of 50m from <i>Sabellaria spinulosa</i> reef identified in pre-construction surveys (noting <i>Sabellaria spinulosa</i> is tolerant to a certain amount of smothering, but the volumes being discussed here are large). This needs to be a licence condition.</p> <p>(D6) NE notes the commitment to not releasing sediment at the surface, and using a fall pipe, therefore this issue may be resolved once this mitigation is secured within DCO or certified documentation.</p> <p>(D10) This is now secured in the SIP and CSIMP therefore this is now agreed.</p>	
	<p>The Conditions of the DMLs (Schedules 9, 10, 11 12, and 13; Part 4) state that a cable specification, installation and monitoring plan, must be agreed with the MMO. This includes a detailed cable laying plan, incorporating a burial risk assessment to ascertain suitable burial depths and cable laying techniques. This gives the MMO and their advisors the opportunity to input to the cable laying plan including the cable route and potential for micrositing.</p>	<p>Agreed, noting that on the basis of current survey data micrositing around reef in cable corridor should be possible but due to its ephemeral nature, this may not be the case pre-construction.</p> <p>It should be noted that these conditions do not address Natural England's current adverse effect on integrity concerns. But are in line with standard OWF licence requirements.</p>	<p>It is agreed by both parties that the cable specification, installation and monitoring plan gives the MMO and their advisors the opportunity to input to the cable laying plan including the cable route and potential for micrositing. However, this does not remove NE's concerns that new information may become</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
			available between consent determination and construction which may necessitate further appropriate assessment (further information is provided in Table 7).
	<p>The HHW SAC SIP ensures that the deployment of cable protection must be agreed with the MMO in consultation with Natural England prior to construction. Diagram 5.2 in the Outline HHW SAC SIP outlines the process regarding minimising cable protection for potential unburied cable and seeking agreement from the MMO in consultation with Natural England.</p> <p>(D10) As described in Table 7 the Applicant has proposed an alternative condition to that which relies on the SIP. Commitments that Natural England welcome would either be secured within the HHW SAC SIP or the HHW SAC CSIMP (collectively referred to as the HHW SAC control document).</p> <p>In response to Natural England’s concerns regarding new data becoming available the Applicant has sought to demonstrate that assessment of the worst case scenario, considered on the basis of the best information currently available, and the likelihood that this information will not change prior to construction, enables an AEoI to be ruled out at the stage of consent determination. In the event that new information becomes available between consent determination and construction (i.e. during the discharge of relevant dML conditions) which would alter the assessment undertaken at the consent determination stage, the MMO will be required</p>	<p>Natural England agrees that cable protection for the HHW SAC must be agreed with the MMO in consultation with Natural England prior to construction. However, Natural England currently have a number of concerns with the HHW SIP and its suitability for use for the project, these are detailed in Natural England's Relevant Representation ([RR-099], Appendix 2)).</p> <p>(D10) Natural England have concerns in relation to new information which may become available between consent determination and construction, which may necessitate further considerations of adverse effect on integrity during the discharge of the dML condition relating to the HHW SAC control document and, depending on the outcome of this, may also need further consideration of compensation measures, however these concerns are further detailed within Table 7.</p>	It is agreed that the HHW SAC control document allows for further consultation. However, this does not remove NE's concerns on the principle of the HHW SAC control document (further information on these concerns is provided in Table 7).

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>to take this into account before discharging any dML conditions in the usual way.</p> <p>Further information on areas of disagreement on the SIP and CSIMP can be found in Table 7.</p>		
Monitoring	<p>The In Principle Monitoring Plan [APP-703] provides an appropriate framework to agree monitoring with the MMO in consultation with Natural England.</p>	<p>Agreed, Natural England advises in the relevant representation that a pre-construction sand wave levelling report and assessment is required to ensure that the results of any further monitoring and specific site characteristics are taken into consideration and the impacts remain within the parameters assessed especially in relation to orientation of levelling to wave and involvement in troughs. This should be secured as part of the DML.</p> <p>Please note that depending upon project determination and discussion through examination, pre-construction benthic monitoring of all features within the MPA additional monitoring to that of Annex I sandbanks would be required.</p>	<p>It is agreed by both parties that the In Principle Monitoring Plan (document 8.12), provides an appropriate framework to agree monitoring with the MMO in consultation with Natural England.</p> <p>The principles set out in the IPMP reflect that monitoring of all Annex I features will be required to demonstrate that the designated features within the SAC are not significantly impacted by the construction of the project and that the project has not inhibited recovery of the SAC toward favourable condition.</p>

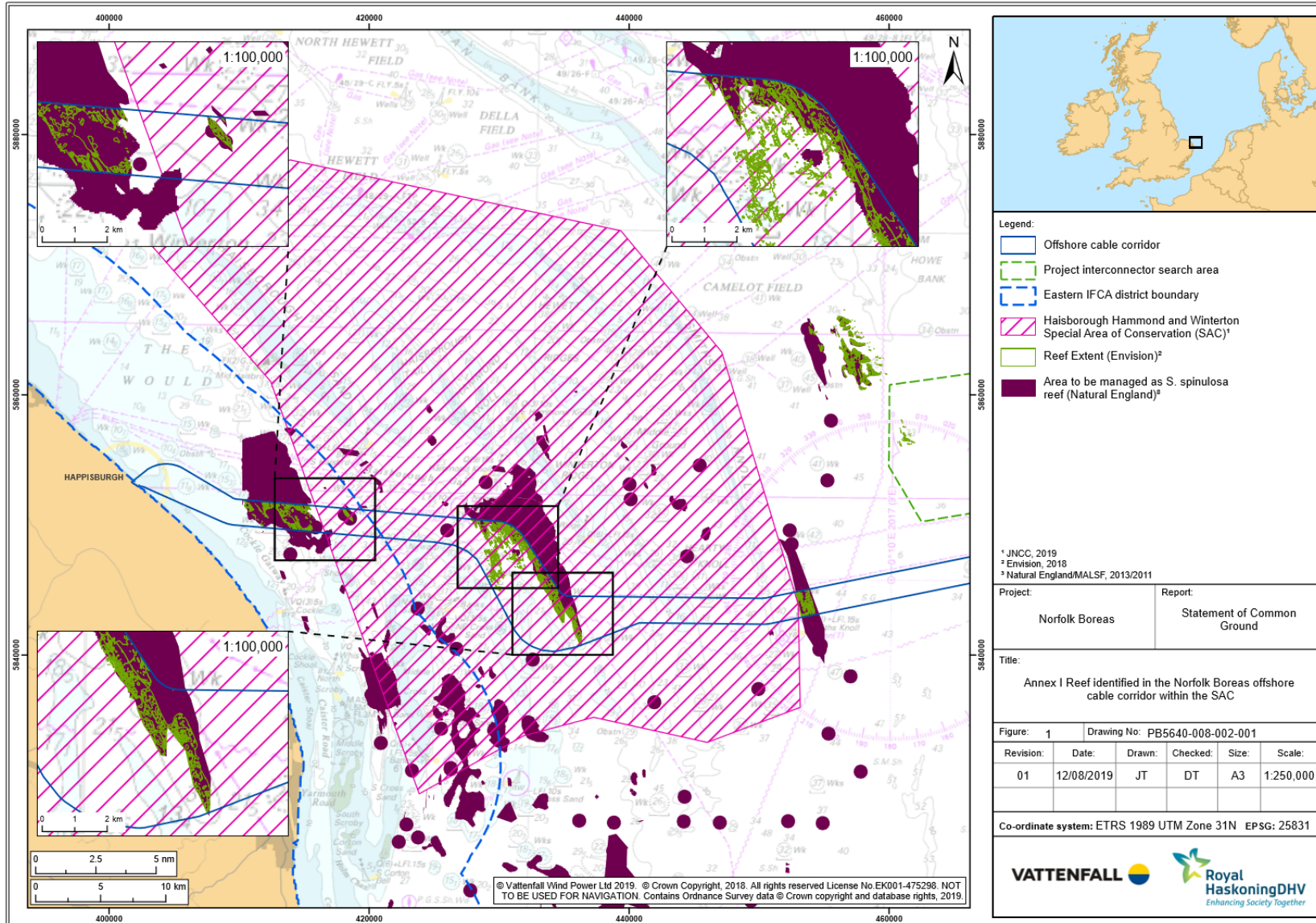


Figure 1 *Sabellaria spinulosa* reef mapping by the Applicant and Natural England

2.3 Fish and Shellfish Ecology

26. The project has the potential to impact upon Fish and Shellfish Ecology. Chapter 11 of the Norfolk Boreas ES (document reference 6.1.11 of the Application, [APP-225a]) provides an assessment of the significance of these impacts.
27. Table 4 provides areas of agreement (common ground) and areas of disagreement (of which in this final version there are none) regarding Fish and Shellfish Ecology.

Table 4 Agreement Log - Fish and Shellfish Ecology

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Environmental Impact Assessment			
Existing Environment	<p>The ES adequately characterises the baseline environment in terms of Fish and Shellfish Ecology.</p> <p>(D2) Section 22.7.5.17 ES Chapter 22 Onshore Ecology (document 6.1.22, [APP- 235]) considers the potential impact of open cut trenching on fish species during construction. The species identified as potential receptors were freshwater species and therefore the Applicant considers that this is dealt with in the onshore ecology sections.</p>	<p>The ES Fish and Shellfish ecology focuses mainly on marine species and there is currently only limited assessment of freshwater or diadromous sp or consideration of potential impacts of proposed project infrastructure such as open cut trenching on fish species. We would like further information regarding potential impact of open cut trenching and management measures on fish species.</p>	<p>(D2) The Applicant understands that Natural England are content that the assessment is dealt with under the heading of onshore ecology.</p>
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to Fish and Shellfish Ecology has been used.	Agreed	Agreed
	The list of potential impacts on Fish and Shellfish Ecology assessed is appropriate.	Agreed	Agreed
	The impact assessment methodology is appropriate, and is in line with the Method Statement provided in February 2018 (see Appendix 9.16 of the Consultation Report [APP-053]) and agreed during the topic group meeting in March 2018.	Agreed	Agreed
	The worst case scenario used in the assessment for Fish and Shellfish Ecology is appropriate.	Agreed	Agreed
Assessment findings	The characterisation of receptor sensitivity is appropriate.	Agreed	Agreed
	The magnitude of effect is correctly identified.	Agreed	Agreed
	The impact significance conclusions of negligible or minor adverse for Norfolk Boreas alone are appropriate.	Agreed	Agreed
Cumulative Impact Assessment (CIA)	As agreed through the EPP, the methodology including the plans and projects considered within the CIA and the outcomes of the assessment are appropriate.	The CIA should incorporate all proposed developments within the Zones of Influence	(D10) Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	The Applicant undertook a screening exercise and screened out all developments apart from wind farms and aggregate sites.	and not be limited to just wind farms and aggregate.	
Management Measures – Mitigation and Monitoring			
Mitigation and Management	As agreed through the EPP, given the impacts of the project, the embedded mitigation outlined in section 11.7.1 of Chapter 11 is adequate.	If necessary would like to see incorporation of mitigation for fish species at open cut trenching locations. NE note the commitment within Schedule of Mitigation (159) and oCoCP (140) to select techniques that can allow fish passage to be maintained in watercourses which support migratory fish species such as brown trout, where appropriate and consider this matter resolved	(D6) Agreed These matters are also covered under the Topic of Onshore Ecology (see section 2.6).
Monitoring	Given the minor impacts of the project, no monitoring is proposed for fish and shellfish ecology. The In Principle Monitoring Plan provides a framework to agree monitoring post consent.	Agreed	Agreed

2.4 Marine Mammals

28. The project has the potential to impact upon Marine Mammals. Chapter 12 of the Norfolk Boreas ES (document reference 6.1.12 of the Application, [APP-225]) provides an assessment of the significance of these impacts.
29. Table 5 provides areas of agreement (common ground) and areas where it has not been possible to reach agreement during the Norfolk Boreas Examination (of which there are none) regarding Marine Mammals.

Table 5 Agreement Log – Marine Mammal Ecology

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Environmental Impact Assessment			
Existing Environment	Survey data collected for Norfolk Boreas for the characterisation of marine mammals are suitable for the assessment.	Agreed	Agreed
	The ES adequately characterises the baseline environment in terms of marine mammals.	Agreed	Agreed
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to marine mammals has been used.	Agreed	Agreed
	The list of potential impacts on marine mammals assessed is appropriate.	Agreed	Agreed
	Harbour porpoise, grey seal and harbour seal are the only species of marine mammal required to be considered in the impact assessment.	Agreed Other marine mammal species are at such low density that it is not necessary to assess further.	Agreed
	The reference populations as defined in the ES are appropriate.	Agreed	Agreed
	The approach to underwater noise modelling and assessment of impacts from pile driving noise for marine mammals follows current best practice and is therefore appropriate for this assessment as agreed during the expert topic group meeting in March 2018.	Agreed	Agreed
	The impact assessment methodology is appropriate.	Agreed	Agreed
	The worst case scenario for Norfolk Boreas alone used in the assessment for marine mammals is appropriate.	Agreed.	Agreed
	Unexploded Ordnance (UXO) clearance is considered in the EIA to provide a conservative assessment but would be subject to additional licensing once the nature and extent of UXO	Agreed	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	present is known following pre-construction surveys. This licensing would be supported by a UXO Marine Mammal Mitigation Protocol (MMMP).		
Assessment findings	The characterisation of receptor sensitivity is appropriate.	Agreed	Agreed
	The magnitude of effect is correctly identified.	Agreed	Agreed
	The impact significance conclusions of negligible or minor for Norfolk Boreas alone are appropriate.	Agreed	Agreed
Cumulative Impact Assessment (CIA)	The plans and projects considered within the CIA are appropriate.	Agreed	Agreed
	The CIA methodology is appropriate.	Agreed	Agreed
	The cumulative impact conclusions of negligible or minor significance are appropriate.	Natural England is broadly in agreement that the implementation of the SIP is appropriate. However as stated in the Relevant Representation [RR-099] a mechanism needs to be developed by the regulators to ensure continuing adherence to the SNCB thresholds over time. Multiple SIPs will be developed, piling can take place over several years, and new projects can come online during this time. Should potential exceedance of the thresholds occur, a process for dealing with this issue needs to be in place – the affected developers / industries will need to work together with the regulator and SNCBs to prevent adverse effect on the Southern North Sea SAC.	It is agreed by both parties that a strategic mechanism is required from the Regulator to ensure that disturbance can be limited to an acceptable level. The current requirement for a SIP (as supported by the Review of Consents) is sufficient to allow any mechanism to be fully incorporated without need for variation. However, without a mechanism in place to manage the SIPs then Natural England are concerned with the management of in-combination impacts.
	<p>The Southern North Sea SIP (DCO Schedules 9 and 10 Part 4 Condition 14(1)(m) and Schedules 11 and 12 Part 4 Condition 9(1)(l)) provides the framework to agree appropriate mitigation measures based on the latest guidance and provides the mechanism for the MMO to ensure that disturbance can be limited to an acceptable level, as piling cannot commence until the MMO is satisfied that there would be no adverse effect on integrity.</p> <p>As outlined in the In Principle Site Integrity Plan (Table 2.1 of document 5.3), it is proposed that the Site Integrity Plan would be updated to capture all relevant assessments and mitigation measures.</p> <p>The Applicant agrees that a strategic mechanism is required from the Regulator to ensure that</p>	<p>Until the mechanism by which the SIPs will be managed, monitored and reviewed is developed, Natural England are unable to advise that this approach is sufficient to address the in-combination impacts and therefore the risk of adverse effect on</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	disturbance can be limited to an acceptable level. In accordance with the Marine Management Organisation's Deadline 6 submission in the Norfolk Vanguard examination, the Applicant considers that the current requirement for a SIP is sufficient to allow any mechanism to be fully incorporated without need for variation.	integrity on the Southern North Sea SAC cannot be fully ruled out.	
Habitats Regulations Assessment (HRA)			
Screening of LSE	The Approach to HRA Screening is appropriate. The following sites are screened in for further assessment: <ul style="list-style-type: none"> • Southern North Sea SAC • Humber Estuary SAC • The Wash and North Norfolk Coast SAC • Winterton-Horsey Dunes SAC • Klaverbank SAC • Noordzeekustzone SAC 	Agreed	It is agreed by both parties that the designated sites and potential effects screened in for further assessment are appropriate.
Assessment of Adverse Effect on Integrity	The approach to the assessment of AEoI is appropriate.	Agreed	Agreed
	The reference populations as defined in the Information to Support HRA report are appropriate.	Agreed	Agreed
	The conclusions of the Information to Support HRA report are appropriate for Norfolk Boreas alone. For the in-combination assessment of grey seal, to take into account the wide ranging movements of the species and the large area covered by the in-combination projects that have been included, it is much more appropriate to use the wider reference population for assessment, which includes the South East England, North East England, and South Coast Scotland MUs and the	Agreed, however Natural England would welcome further discussion with the Applicant regarding their conclusion of no adverse effect on integrity of the Humber Estuary SAC considering up to 37% of the grey seal population of the SAC could potentially be impacted from Norfolk Boreas and all other projects and plans. (D6) as stated in Natural England's responses to Examining Authority's first round of written questions [REP2-080]. Natural England is in	(D6) Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>Waddenzee. Using this wider reference population for the assessment results in a total of 6.6% of the grey population being potentially temporarily disturbed. In addition, not all grey seal that have been predicted to be temporarily affected from the in-combination projects included will be from the Humber Estuary SAC, due to the large distances between the projects assessed and the Humber Estuary SAC.</p> <p>With the implementation of the Southern North Sea SAC SIP to reduce in-combination disturbance effects to harbour porpoise, the in-combination effect of disturbance to grey seal will also be reduced.</p>	<p>agreement with the explanation provided by the Applicant to this point in AS-024. Natural England considers it is reasonable to put the impact to grey seal in the context of the wider in-combination reference population here and agrees it is unlikely that all the grey seal potentially impacted will be from the Humber Estuary SAC.</p>	
	<p>The conclusions of the In-combination Assessment provided in the Information to Support HRA report are appropriate.</p> <p>See position above regarding the CIA conclusions above.</p>	<p>Effectively the Worst Case Scenario (WCS) presented in the HRA will be that all consented projects and those in the planning system will undertake 'noisy' pre-construction site preparation and construction activities at the same time which will almost certainly result in an Adverse Effect on Integrity (AEoI). We recognise that this is an unrealistic WCS because for no other reason it is not technically feasible. However, it does remain probable that two, or more, projects will wish to undertake noisy activities at the same time and depending on the combination of projects there remains a risk of an AEoI.</p> <p>It is also the view of Natural England that the assessment of any future plan or project, such as Norfolk Boreas, is unable to fully complete any in-combination assessment and Habitat Regulation Assessments until a wider mechanism is in place to ensure that</p>	<p>It is agreed by both parties that a strategic mechanism is required from the Regulator to ensure that disturbance can be limited to an acceptable level. The current requirement for a SIP is sufficient to allow any mechanism to be fully incorporated without need for variation.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		disturbance can be limited to an acceptable level.	
Mitigation and Management			
Mitigation and Management	<p>The Offshore In Principle Monitoring Plan (document reference 8.12 of the Application, [APP-703]) provides an appropriate framework to agree monitoring of effects on marine mammals with Statutory Nature Conservation Bodies (SNCB)s and the MMO prior to construction.</p> <p>(D10) The Applicant has provided a full response to Natural England’s proposed conditions for marine mammal monitoring within the Applicant's response to the ExA's third round of written Questions [REP7-017].</p> <p>In summary, the Applicant considers that the conditions proposed by Natural England are not necessary. Furthermore, the proposed drafting would not ensure that relevant data gaps are filled. As stated in the Applicant’s response to further written questions [REP5-045] the Applicant’s position is that given the low contribution of the project to marine mammal impacts any marine mammal monitoring should be undertaken at a strategic level. The wording provided within the IPMP allows for the participation of Norfolk Boreas in any strategic monitoring as required at the time of agreement of the final plans and therefore it is not necessary to include a specific condition within the DCO to commit the Applicant to marine mammal monitoring specifically. Furthermore, due to the fact that the Norfolk Boreas project would make a relatively low contribution to any marine mammal</p>	<p>As stated in the Relevant Representation [RR-099] Natural England considers it is not sufficient to just commit to undertaking strategic marine mammal monitoring. Marine mammal monitoring should seek to answer questions or validate assumptions made in the environmental assessment and it is those questions and issues that should be included in the monitoring plan. Natural England acknowledges that marine mammal assessment issues are likely to be very similar across projects and it may be that monitoring is best undertaken at or between several projects to address these issues and find answers to the original questions. How this is devised and undertaken is for discussion and agreement between the Applicant and other developers, and Natural England will be happy to work with them to achieve this.</p> <p>(D6) This was discussed with the Applicant on 17th February 2020 and NE will provide some proposed wording at Deadline 6.</p> <p>(D10) At Deadline 6 Natural England provided the following proposed condition wording [REP6-050].</p> <p>Within Pre construction monitoring condition 18 (2)</p> <p>(d) appropriate surveys of existing marine mammal activity required to test predictions</p>	<p>The condition is now agreed by both parties and will be included within the dDCO as follows: <i>"undertake or contribute to any marine mammal monitoring referred to in the principle monitoring plan submitted in accordance with condition [14](1)(b)."</i></p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>impacts, it is not appropriate to include a condition within Norfolk Boreas DCO where similar conditions have not been included in DCOs for other wind farms to be constructed in the same area.</p> <p>Notwithstanding the above the Applicant held discussions with both Natural England and the MMO on the 23rd April 2020 and the parties have agreed on the following the condition below:</p> <p>Within Pre construction monitoring condition 18 (2) ... <i>(d) undertake or contribute to any marine mammal monitoring referred to in the in principle monitoring plan submitted in accordance with condition 14(1)(b).</i></p> <p>Within Post construction monitoring condition 20 (2) <i>(e) undertake or contribute to any marine mammal monitoring referred to in the in principle monitoring plan submitted in accordance with condition 14(1)(b).</i></p> <p>The Applicant will incorporate this into the final dDCO.</p>	<p>in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme.</p> <p>Within Post construction monitoring condition 20 (2) (e) appropriate marine mammal surveys required to test predictions in the environmental statement concerning key marine mammal interests of relevance to the authorised scheme</p> <p>Following discussions with both the Applicant and the MMO on the 23rd April 2020, Natural England agrees with the proposed wording for this condition.</p>	
	<p>The Site Integrity Plan, in accordance with the In Principle Site Integrity Plan (document reference 8.17 of the Application, [APP-708]) provides an appropriate framework to agree mitigation measures for effects on the Southern North Sea SAC with Statutory Nature Conservation Bodies (SNCB)s and the MMO prior to construction.</p>	<p>Agreed, however Natural England note that 4 months is not much time to agree the final SIP so it will be imperative that as much information and review as possible is undertaken as soon as possible, particularly after the final project design has been decided.</p>	<p>It is agreed by both parties that the Site Integrity Plan provides an appropriate framework to agree mitigation measures for effects on the Southern North Sea SAC with SNCBs and the MMO prior to construction. Natural England</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
			would advocate a 6 month time frame (see Table 7 for more information on the areas of disagreement regarding the timeframes).
	The MMMP, in accordance with the draft MMMP (document reference 8.13 of the application, [APP-704]), provides an appropriate framework for securing marine mammal mitigation measures in agreement with the MMO prior to construction.	Agreed	Agreed

2.5 Offshore Ornithology

30. The project has the potential to impact upon Offshore Ornithology. Chapter 13 of the Norfolk Boreas ES (document reference 6.1.13 of the Application, [APP-226]) provides an assessment of the significance of these impacts. A separate Ornithological SoCG has been progressed between the Applicant and Natural England (ExA.SoCG-17a.D16.V5).

2.6 Onshore Ecology and Ornithology

31. The project has the potential to impact upon Onshore Ecology and Ornithology. Chapters 22 Onshore Ecology (document reference of the Application 6.1.22, [APP-235]) and Chapter 23 Onshore Ornithology (document reference 6.1.23 of the Application, [APP-236]) of the Norfolk Boreas ES provides an assessment of the significance of these impacts.
32. Table 6 provides areas of agreement (common ground) and areas where it has not been possible to reach agreement during the Norfolk Boreas Examination regarding Onshore Ecology and Ornithology.

Table 6 Agreement Log - Onshore ecology and ornithology

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Environmental Impact Assessment			
Survey methodology	<p>Survey methodologies for Phase 1 Habitat Surveys are appropriate and sufficient and were agreed during the Expert Topic Group meeting held in January 2017.</p> <p>Phase 1 habitat surveys were undertaken in February 2017 and February 2018. Whilst the Applicant acknowledges that the optimum period for Phase 1 Habitat Survey is between March and September, the findings of the Phase 1 survey are considered appropriate for fulfilling their purpose, which was to characterise the broad habitats present within the study area and to provide the scope for detailed, species-specific Phase 2 surveys.</p> <p>The Applicant has committed to undertaking any post-consent surveys at the optimum time of year, which is captured in the Outline Landscape and Environmental Management Strategy (OLEMS) (document reference 8.7 of the Application, [APP-698]).</p>	<p>Agreed that surveys were not undertaken at the optimum time of year, but that future surveys will be, as committed to within the OLEMS and refer the Applicant to Natural England's standing advice.</p>	Agreed
	<p>Survey methodologies for Phase 2 Surveys are appropriate and sufficient, and were discussed during the Expert Topic Group meeting held in January 2017 and agreed via email on 3rd April 2017.</p>	<p>Agreed, and refer Applicant to Natural England's Standing Advice (Link) for detail.</p>	
Existing Environment	<p>Survey data collected for Norfolk Boreas for the characterisation of onshore ecology and ornithology are suitable for the assessment.</p>	<p>Agreed. Natural England notes the commitment within the OLEMS to undertake post consent surveys at the optimum time of year and refer the Applicant to Natural England's standing advice. In relation to Broadland SPA there was insufficient baseline data available which linked onshore</p>	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		ornithology numbers to the type of agricultural farmland and crop rotations. However we are content that with the mitigation committed to within the OLEMS that this is in line with the precautionary principle and that there will not be an AEoI.	
	<p>The ES adequately characterises the baseline environment in terms of onshore ecology and ornithology.</p> <p>Further information on baseline environment is included in Clarification Notes produced as part of the Norfolk Vanguard Examination. These have been considered by Norfolk Boreas and submitted as an appendix to the Comments on Relevant Representations.</p>	Natural England is satisfied that the ES and further information submitted within Clarification Notes as part of the Norfolk Boreas examination adequately characterise the baseline environment.	Agreed
Assessment methodology	<p>Appropriate legislation, planning policy and guidance relevant to ecology and ornithology has been considered for the project (listed in section 22.2 and 23.2 in Chapter 22 Onshore Ecology and Chapter 23 Onshore Ornithology respectively).</p>	Natural England is satisfied that future surveys if undertaken in accordance with Standing Advice, will adhere to guidance on completion during optimum survey period.	Agreed
	<p>The list of potential impacts on onshore ecology and ornithology assessed is appropriate.</p> <p>Additional information provided in Clarification Notes produced as part of the Norfolk Vanguard examination have been considered by Norfolk Boreas and submitted as an appendix to the Comments on Relevant Representations.</p>	<p>Natural England notes the updated HRA screening and integrity matrices and is satisfied that the list of potential impacts to onshore ecology and ornithology is appropriate.</p> <p>Natural England note the Clarification Notes submitted into the examination and updates to the OCoCP and OLEMS.</p>	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the project.	Agreed	Agreed
	The worst case scenario presented in the ES, is appropriate for the project.	Agreed	Agreed
Assessment findings	<p>The receptors which have been identified and the level of sensitivity applied is appropriate.</p> <p>A 2km buffer has been applied within the assessment detailed in Chapter 22 Onshore Ecology [APP-235], Chapter 23 Onshore Ornithology [APP-236], and the Information to Support Habitats Regulations Assessment Report [APP-201], where no interest features which require larger buffer zones have been identified. Where the need for larger buffers have been identified (for example, for barbastelle bats of Paston Great Barn SAC, or bird species of the Broadland SPA/Ramsar site), this has been set out within the Information to Support Habitat Regulations Assessment Report [APP-201] (which Chapter 22 Onshore Ecology [APP-235] and Chapter 23 Onshore Ornithology [APP-236] draw on).</p> <p>A general 2km buffer for designated sites was agreed with Natural England during the Evidence Plan Process.</p>	<p>As detailed in the Relevant Representation (Appendix 4) Natural England had some concerns about how the zone of influence had been applied.</p> <p>(D6) We noted a 5km ZOI for assessment of impacts to Paston Great Barn had been adopted based on foraging areas and a 5km ZOI identified in relation to Broadland SPA and Ramsar features.</p>	(D10) Natural England are content with the Zones of Influence used in the assessment and therefore this matter is now agreed.
	The magnitude of impact has been assigned appropriately.	Agreed	Agreed
	<p>The conclusions of the Onshore Ecology and Ornithology assessments of no impact to minor adverse for Scenario 1 (with mitigation) and no impact to moderate significance under Scenario 2 (with mitigation) are appropriate.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the</p>	As detailed in the Relevant Representation (Appendix 4) Natural England had concerns about the possible impacts of HDD drilling mud breakouts which have been experienced on a number of other OWF projects..	(D10) Natural England is content with the methodology and safeguards proposed for the trenchless crossing at the River Wensum,

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>River Wensum [REP1-039]. The Applicant anticipates that following Natural England's review of this note, this issue can be agreed.</p>	<p>(D6) NE are content with the detail provided in the Clarification Note [AS-3.D1.V1] and Method Statement [AS-5.D2.V1]. NE is content that with the methodology and safeguards as laid out, that there is unlikely to be a Significant Effect from HDD bentonite breakout on the River Wensum and its features of interest. NE look forward to being consulted on the site specific water crossing plans post consent as specified within OCoCP.</p>	<p>therefore this matter is agreed.</p>
<p>Embedded Mitigation</p>	<p>Ancient Woodland and trees Under Scenario 2 Trenchless crossing techniques are proposed to be used at any location (limited to those listed in Requirement 16 of the draft DCO, [APP-020]) where mixed lowland deciduous woodland is present and which cannot be avoided, and no works will take place within 15m of any woodland. As detailed in section 9.1 of the OLEMS a pre-construction survey will be undertaken by an appropriately experienced arboriculturalist which will inform site-specific measures to protect trees adjacent to the works, including defining root protection areas (calculated using guidance from BS5837:2012). (D6) The Applicant updated the OLEMS to include that <i>'The preconstruction survey mitigation will adhere to Natural England's standing advice for ancient woodland, ancient trees and veteran trees.'</i> At D8 Additional text regarding ancient woodland was added as requested at para 125 of the OLEMS (Version 4, submitted at Deadline 8). The text on page 14 under 'Route</p>	<p>Welcome that site specific measures for Ancient Woodland will be informed by a pre-construction survey and be in line with the Forestry Commission and Natural England's Standing Advice (Link). (D6) We note the updated OLEMS submitted at D1 and welcome that preconstruction survey mitigation will adhere to Forestry Commission and NE's Standing Advice. The 15m buffer is the absolute minimum required and a larger buffer may be required based on site specific circumstances. There is the potential for the wording in the OLEMS to be misconstrued and recommend this is amended to more accurately reflect the standing advice. At Deadline 7 Natural England confirmed that the standing advice has not been reflected throughout the OLEMS and advise that text is also included such as 'a buffer of at least 15m and as informed by an arboricultural survey'</p>	<p>Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>Refinement' is referring to the parameters used within the route refinement which for ancient woodland was 15m, however the mitigation of 'at least 15m and informed by an arboricultural survey' is secured in Section 7.8.2 para 125.</p>	<p>within Route refinement page 14 and embedded mitigation para 125.</p> <p>At D9 Natural England welcomed the inclusion of text in the updated OLEMS as submitted at D8 and consider this agreed.</p>	
	<p>Badgers The procedure outlined within the OLEMS for badger main setts within the project area which require closure and destruction will include other types of setts which may be found within (previously un-surveyed) areas of the project area. This will be captured within the final Ecological Management Plan, secured through DCO Requirement 24, which will require consultation with Natural England prior to discharge.</p>	<p>Agreed on the basis that this is captured within the final Ecological Management Plan, allowing sufficient controls to be put in place.</p>	<p>Both parties agree that the measures for main sett closure (and applied to other setts) are appropriate.</p>
	<p>Wintering and breeding birds To account for potential noise disturbance a buffer of 300m from designated sites (where birds are qualifying features) was identified and potential noise impacts considered. This was agreed with Natural England in January 2017 (Onshore Wintering Bird Surveys Survey Methodology Approach agreed through the Norfolk Vanguard EPP). Beyond this no additional requirement was identified to assess potential disturbance effects.</p> <p>In addition, further measures to deal with the risk of damaging or destroying ground nesting birds' nests (i.e. skylarks) during construction agreed during the Norfolk Vanguard examination have been included within the OLEMS (section 10.3.2).</p>	<p>Natural England is satisfied that further measures to reduce risk of damaging or destroying ground nesting birds' nests (i.e. skylarks) during construction as agreed for Norfolk Vanguard should be incorporated within the Norfolk Boreas OLEMS at the earliest opportunity.</p> <p>At D9 Natural England noted that these have been included in the OLEMS, and consider this agreed.</p>	<p>(D2) The measures have been included within the updated OLEMS and therefore the position is agreed.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>On this basis the assessment of impacts for construction, operation and decommissioning presented are consistent with the agreed assessment methodologies.</p> <p>Air Quality Potential air quality impacts arising from vehicle movements have been assessed for designated sites within 200m of the road transport network that will be required during construction. This is presented in ES Chapter 26 Air Quality and ES Chapter 22 Onshore Ecology.</p> <p>The Applicant will commit to producing an Air Quality Management Plan (AQMP), as part of the final CoCP, for each stage of the works (this will be secured under Requirement 20(l)) which will deliver mitigation that has been identified within Chapter 26 Air Quality. The final CoCP must be submitted and approved by the relevant planning authority in consultation with Natural England post-consent, this commitment will be captured in an update to Requirement 20 within the draft DCO.</p> <p>The traffic related air quality impact assessment was based on the worst case construction traffic on identified transport routes, and also cumulatively with other projects based on their reported construction traffic. No traffic related air quality impacts were identified for ecological receptors for Norfolk Boreas and no air quality mitigation has been identified that would be captured within any AQMP to be developed post-consent.</p> <p>In ES Chapter 22 section 22.8.1.1 the cumulative assessment of Norfolk Boreas and Hornsea Project Three, nitrogen deposition is not predicted to breach the critical load at any designated site. At two designated sites (Felbrigg Woods</p>	<p>As stated in the Relevant Representation Natural England are concerned there may be in combination air quality impacts on designated sites (River Wensum SAC/SSSI and Felbrigg woods SSSI) in proximity to the traffic and transport routes and advise the Applicant include mitigation measures to reduce potential effects.</p> <p>Natural England also note the Traffic and transport chapter does not assess potential impacts with regards designated sites and features. Advise that the final Traffic Management Plan includes a consideration of designated sites identified in proximity to routes, with mitigation measures outlined on how traffic and transport air quality impacts will be minimised.</p> <p>(D6) Natural England welcome that the Applicant will include reference to locations of designated sites within the OTMP and include a commitment that if final traffic numbers change from that assessed than the EIA of air quality impacts will be revisited [REP4-010]. If the documents are updated as stated.</p> <p>(D10) Welcome inclusion of para 74 in the OTMP.</p>	<p>Agreed.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>SSSI and River Wensum SAC/SSSI), nitrogen deposition is predicted to be 2% of the critical load, which is above the 1% threshold in the IAQM guidance for considering potential effects further. The further assessment presented in Section 22.8.1.1 of ES Chapter 22 concludes that an effect of at most negligible magnitude is predicted, resulting in a not significant impact, and as such no mitigation is required. Norfolk Boreas will confirm the Project's actual traffic numbers within the final Traffic Management Plans to be produced post-consent. Provided traffic numbers remain wholly within the worst case scenario that was assessed there would be no requirement to update the air quality impact assessment.</p> <p>(D6) The Applicant updated the OTMP [REP5-025] to include reference to the locations of the designated sites and include the following in the OTMP: <i>'In the event that the final vehicle movements differ from those set out in Appendix 1 and Appendix 2 on those links, then the assessment of air quality impacts upon designated sites presented within the Environmental Statement will be revisited to ensure that the impact level upon designated sites remains not significant.'</i></p> <p>At D8 the OTMP Version 4 was updated to include ES Figure 26.5 as an Appendix.</p>	<p>The OTMP does not show the location of designated sites sensitive to air quality in relation to the traffic and HGV routes, either alone or in combination with other developments. Advise that the Applicant includes ES figure 26.5 as an Appendix to the OTMP to allow reference should the ES not be publicly available by the time of construction.</p> <p>(D10) NE welcome inclusion of Figure 26.5 as Appendix 8.</p>	
	<p>Land Use/Soils</p> <p>The onshore cable duct installation strategy (only required under Scenario 2) will be conducted in a sectionalised approach in order to minimise impacts. Construction teams would work on a short length (approximately 150m section) with topsoil stored adjacent to the excavated trench. Once the cable ducts have been installed, the section would be back filled and the top soil replaced before moving onto the</p>	<p>Natural England welcomes the commitment made in Section 8 (soil management) of the (OCoCP) that topsoil will be stored adjacent to the excavated trench and will be reinstated where it originated.</p>	<p>Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>next section. This would minimise the amount of land being worked on at any one time and would also minimise the duration of works on any given section of the route. This embedded mitigation is specified through the ES and secured through the Outline Code of Construction Practice (OCoCP). Topsoil should be reinstated where it originated.</p> <p>A Soil Management Plan (SMP) will be developed and approved prior to commencing each stage of the works. The scope of the SMP is detailed in Appendix A of the OCoCP.</p> <p>All land classified as Grade 3 has been assumed to be 'best and most versatile' (i.e. Grade 3a) land for the purpose of the assessment presented in the ES.</p>		
	<p>Land Use/ Agri environment</p> <p>Within the study area there are Entry Level Stewardship Schemes (ESS) with Higher Level components. A commitment will be made within the private agreements between Norfolk Boreas Limited and the landowner/occupier to compensate for losses incurred due to potential impacts on ESS during the construction phase of the project.</p> <p>In addition, the applicant will discuss any Countryside Stewardship agreements with landowners and the Rural Payments Agency post-consent. These will form part of the private agreements described above.</p>	<p>There are both Higher Level Stewardship and Higher Tier Countryside Stewardship agreements along the cable route. Due consideration will need to be given to ensure the delivery of these schemes will not be hindered or compromised.</p> <p>As stated in the Relevant Representation. The applicant will need to discuss any Countryside Stewardship agreements with the landowners and the Rural Payments Agency (this is no longer administered by Natural England) at the earliest possible opportunity.</p>	Agreed
	<p>The assessment of cumulative impacts is consistent with the agreed methodologies.</p>	Agreed	Agreed.

Topic	Norfolk Boreas Limited position	Natural England position	Final position
Mitigation and Management			
<p>Approach to mitigation</p>	<p>All mitigation measures required are outlined in the Outline Code of Construction Practice and OLEMS [APP-698].</p> <p>As noted in OLEMS, hedgerows will be replanted in the first winter after their removal where they are removed to facilitate duct installation, with the exception of the 6m gap retained for the running track. This is the earliest time after removal when they are mostly likely to take successfully. Therefore, there would be no advantage in employing temporary planting or fencing in these areas. In addition, the 6m gap is considered likely to be too small to act as a barrier to commuting / foraging activity (JNCC, 2001; BCT, 2012), therefore temporary planting is not considered to provide an ecological benefit in this area either.</p>	<p>(D10) At Deadline 7 Natural England confirmed they are generally satisfied with the mitigation and management presented by the Applicant but would welcome further information on a number of points as laid out in our D7 responses [REP7-044].</p> <p>OCoCP- It is not clear how many hedgerow gaps may be needed for vehicle access along the onshore cable route and would welcome that an Outline Hedgerow Mitigation Plan is submitted as part of DCO to ensure that all commitments made within various documents can be implemented without any contradiction</p> <p>Applicant confirmed in [REP8-014] and a call (24.04.20) that no additional gaps in hedgerows will be required for vehicle access in addition to those already assessed within the ES and Clarification Note.</p>	<p>(D10) Mitigation has been agreed and therefore this matter is agreed.</p>
	<p>River Wensum SAC</p> <p>The commitments made within the OCoCP [APP-692] to sediment management in the river Wensum flood plain and wider catchment are appropriate.</p> <p>The Applicant has committed to develop a detailed scheme and programme for each watercourse crossing, diversion and reinstatement, which will include site specific details regarding sediment management and pollution prevention</p>	<p>Natural England is generally satisfied with the information as provided within the OCoCP and look forward to being consulted on the site specific water crossing plans as secured through Requirement 25 of the DCO.</p> <p>As noted above, Natural England (RR-099) have concerns about the possible impacts of HDD drilling mud breakouts which have been experienced on a number of other OWF projects. The Relevant Representation</p>	<p>(D10) Natural England is content with the methodology and safeguards proposed for the trenchless crossing at the River Wensum, therefore this position is agreed.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>measures. This scheme will be submitted to and, approved by the relevant planning authority in consultation with Natural England. This commitment is secured through Requirement 25 (Watercourse Crossings) of the draft DCO.</p> <p>With these commitments in place there will be sufficient control measures to safeguard designated sites in relation to sediment control, pollution prevention and reinstatement of all work areas at watercourse crossings.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the River Wensum (REP-039). The Applicant anticipates that following Natural England's review of this note, this issue can be agreed.</p>	<p>provides further detail of what further mitigation should be included within respect to bentonite breakout.</p> <p>(D6) NE is content with the detail provided in the Clarification Note[AS-3.D1.V1] and Method Statement [AS-5.D2.V1]. NE is content that with the methodology and mitigation as laid out, that there is unlikely to be a Significant Effect from HDD bentonite breakout on the River Wensum and its features of interest. NE look forward to being consulted on the site specific water crossing plans post consent as specified within oCoCP.</p>	
	<p>Wintering and breeding birds in wider countryside</p> <p>The mitigation measures for wintering and breeding birds set out in paragraphs 227 to 230 of the Norfolk Vanguard OLEMS (REP9-014 of the Norfolk Vanguard Examination) have been adopted and are included in updated OLEMS [REP1-020] submitted at Deadline 1.</p>	<p>As stated in the Relevant Representation, the mitigation agreed for Broadland SPA as part of the Norfolk Vanguard Examination process has currently not been included within the Boreas OLEMS. Without mitigation there may be an effect on the SPA. Mitigation should be included and documents updated as soon as possible.</p> <p>At D3 NE noted the updated Integrity Matrices for Broadland SPA and Ramsar (onshore). NE is content that with the further information and mitigation proposed (at Deadlines 1 and 2) within the OLEMS that there will not be an adverse effect on integrity of the Broadland SPA features.</p>	(D10) Agreed
	Semi natural habitats	Agreed, Natural England has provided advice and is satisfied this is reflected in the OLEMS,	Agreed

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>Any topsoil strip of semi-natural grassland habitats, within 10m of any watercourses within the River Wensum catchment will be undertaken using a deep turf strip to increase the effectiveness of subsequent reinstatement. This has been captured within an update to the OLEMS.</p> <p>The Applicant has committed to develop a scheme and programme for each watercourse crossing, diversion and reinstatement, which will include site specific details regarding the reinstatement of semi-natural habitats in proximity to watercourses. This scheme will be submitted to and approved by the relevant planning authority in consultation with Natural England. This commitment is secured through Requirement 25 (Watercourse Crossings) of the draft DCO.</p>	<p>we look forward to being consulted on the site specific crossing plans.</p>	
	<p>The use of trenchless crossing techniques under Scenario 2 at County Wildlife Sites is acceptable subject to detailed design. Trenchless crossing techniques are not required under Scenario 1 as they will have been completed by Norfolk Vanguard.</p>	<p>Agreed</p>	<p>Agreed</p>
	<p>The provision of an Ecological Management Plan (based on the OLEMS submitted with the DCO application, [APP- 698]) is considered suitable to ensure potential impacts identified in the Ecological Impact Assessment are appropriately minimised.</p>	<p>Natural England looks forward to being consulted on the final Ecological Management Plan.</p>	<p>Agreed</p>
	<p>The mitigation proposed for great crested newts is appropriate and proportionate (as outlined in the draft great crested newt mitigation licence application, circulated and discussed during May to September 2019).</p> <p>A Letter of No Impediment in response to the draft great crested licence application has been issued by Natural</p>	<p>Natural England have provided a letter of No Impediment to Norfolk Boreas Limited (09 September 2019 Case Ref 10570) in response to the application which includes a number of issues which will need to be addressed before the licence application is formally submitted.</p>	<p>Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	England and will be included within the updated OLEMS to be submitted at Deadline 1.	A copy of the LONI should be sent to the inspectorate.	
	The OLEMS identifies where licences may be required for bats, water voles and badgers. The final Ecological Management Plan will provide full details of the licences to be sought, once full post-consent survey data has been obtained and the development scenario has been confirmed.	We advise the Applicant to submit draft wildlife licence applications as soon as possible in accordance with The Planning Inspectorate, Advice Note 11.	Agreed
	<p>Impacts to fish species are considered within the EclIA and the impact assessment is sufficient to characterise the baseline environment for this species.</p> <p>Under Requirement 25 of the draft DCO no stage of the onshore transmission works involving the crossing, diversion and subsequent reinstatement of any designated main river or ordinary watercourse may commence until a scheme and programme for any such crossing, diversion and reinstatement in that stage has been submitted to and, approved by Natural England.</p> <p>(D2) The Applicant has committed to the development of a scheme and programme for each watercourse crossing, diversion and reinstatement, to be submitted to and approved by the relevant planning authority in consultation with Natural England. These commitments have been captured within an update to the OCoCP, submitted at Deadline 1 [REP1-018]. The requirement for any specific mitigation with respect to fish will be considered during the development of these site specific plans.</p>	Natural England notes in its Relevant Representation [RR-099] that there is currently insufficient information provided for Natural England to comment on the potential impact of water crossings on fish we would expect any impacts to fish to be considered in the site specific water crossing plans.	(D2) Agreed
	Where protected species mitigation measures are proposed which include displacement or translocation of species,	Natural England notes in its Relevant Representation [RR-099] that there is	(D2) This was discussed with Natural England on

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>appropriate post-construction monitoring programmes are detailed within the EclA and OLEMS.</p> <p>Post-construction monitoring for reinstated habitats and for specific species is set out within the OLEMS. This includes details of the required aftercare period for all replanted trees and hedgerows, and post-construction monitoring requirements for water voles subject to displacement and for great crested newts subject to mitigation and translocation.</p> <p>Note also that further detail on the monitoring and maintenance requirements specifically for hedgerows will be detailed in the Hedgerow Mitigation Plan which will be developed in consultation with Natural England post-consent.</p> <p>Post-construction monitoring will be undertaken of any UKHPI and Norfolk LBAP grasslands one year after the completion of construction to identify failure of the grassland to naturally regenerate. This commitment has been captured in the updated OLEMS, submitted at Deadline 1 [REP1-020].</p> <p>(D2) Furthermore, the OLEMS (paragraph 163) states that <i>“If the communities have not re-established, then next steps will be determined based on the status of the restored grassland. This will involve do nothing, grazing management or reseeded, depending on the success of re-establishment after 1 year.”</i></p>	<p>currently no onshore post construction survey or monitoring proposed to ensure protected habitats and species have been successfully reinstated post construction.</p> <p>At D3 NE noted inclusion of monitoring of grassland, 1 year post construction and hedgerows, seven years post construction within the OLEMS.</p>	<p>the 28th November 2020 and has now been agreed.</p>
	<p>Environmental Incident response and reporting The OCoCP identified that a project specific environmental emergency / incident response plan will be prepared post-</p>	<p>Natural England note in the Relevant Representation that there is currently no clarification of how terrestrial environmental</p>	<p>Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>consent. The plan will include a response flow chart and detail how to report and deal with an environmental incident, including the measures available to contain/clean up an incident. A contact list for notifying relevant stakeholders will be appended to the plan.</p> <p>The OCoCP has been updated to include this reporting requirement i.e. in the event that emergency operations are required within a SSSI (outside of the Order limits) in response to an environmental incident, Natural England must be consulted and SSSI consent sought immediately as required.</p>	<p>incidents will be responded to and reported on. The CoCP states that a project specific environmental emergency/incident response will be prepared. Natural England would wish to see further detail as part of the DCO and expect to be consulted within 24 hours if an incident occurs within proximity to a designated site.</p> <p>(D10) We note the additional text added to OCoCP Version 3 at Deadline 7 regarding emergency operations in SSSIs, and the Applicant's commitments to update the text to reflect the suggestions of Natural England for the next revision.</p> <p>(D10) We note the update to para 182.</p>	
	<p>Net Gain The proposals for net gain fall outside of the NSIP consenting regime. However, the mitigation measures set out within Chapter 22 Onshore Ecology [APP-235] have been designed to result in no loss of biodiversity, with all habitats removed to be either reinstated or enhanced following construction (for example, hedgerows temporarily severed along the onshore cable route), or compensated for where permanently lost (for example, at the onshore substation). Furthermore, for selected species (for example commuting / foraging bats), the mitigation set out within Chapter 22 Onshore Ecology [APP-235] has been designed to result in an overall enhancement in biodiversity through increasing the quality of foraging habitat provided following construction of the project. This will also apply to hedgerows at the</p>	<p>Other bodies such as Highways England and Network Rail who are delivering major infrastructure have committed to delivering net gain where possible. Whilst NSIPs are exempt from the statutory requirement to deliver Net Gain we recommend and consider that Net Gain could be delivered as part of this proposal.</p> <p>(D10) Natural England continues to recommend that Net Gain is incorporated where possible as an example of best practice</p>	<p>Not Agreed: The Applicant considers that proposals for net gain fall outside of the NSIP consenting regime, but is committed to undertaking enhancement where possible. However Natural England recommend that Net Gain is incorporated where possible as an example of best practice so that NSIP</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>substation site, ensuring there is no net loss of commuting / foraging habitat.</p> <p>(D2) This was discussed during the call on the 28th November 2020. However, both parties' positions remain unchanged.</p> <p>(D10) The Applicant is committed to undertaking enhancement where possible and has submitted a Clarification Note on Ecological Enhancements at Deadline 2 [REP2-028] which identifies the opportunities for ecological enhancements considered within the application, how these have been selected and signposts the relevant document they are secured i.e. OLEMS and OCoCP.</p> <p>(D16) The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project should be given consent without the requirement to commit to Net Gain and that this judgement supports the position presented by the Applicant.</p>	<p>so that NSIP projects leave a lasting legacy within the landscape.</p>	<p>projects leave a lasting legacy.</p>
HRA			
<p>Screening of LSE</p>	<p>The methodology and sites screened in for the HRA as presented in Appendix 5.2 of the Information to Support HRA report [APP-201] are considered appropriate, considering sites within 5km of onshore infrastructure. The following sites were screened in for further assessment:</p> <ul style="list-style-type: none"> • River Wensum; • Paston Great Barn • Norfolk Valley Fens; and • The Broads SAC <p>(D2) The Screening matrices [REP1-012] have been updated to reflect the position on the Broadland SPA and Ramsar and</p>	<p>Generally agreed, however Natural England note in the Relevant Representation that, during the Norfolk Vanguard examination it was noted that the survey data collected for onshore ornithology species was not of sufficient duration and had not been linked to crop rotations so it would not be possible to comment on where Broadland SPA and Ramsar species may be using Functionally Linked Land, during the construction phase and that there could be direct effects on ex situ habitats. The Applicant committed to</p>	<p>(D10) Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>submitted at Deadline 1.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the River Wensum [REP1-039]. The Applicant considers that following Natural England's review of this note, this issue can be agreed.</p> <p>(D6) The Applicant has updated the Screening matrices and Integrity matrices at Deadline 6 to reflect Natural England's view that due to the risk of bentonite breakout within the River Wensum during construction that potential direct effects upon the River Wensum SAC should be screened in, as discussed in the Clarification note submitted at Deadline 1 [REP1-039].</p>	<p>providing mitigation. This is not reflected within Appendix 5.3 Screening Matrices and the tables should be updated accordingly.</p> <p>Marsh Harrier is also on the Broadland SPA citation.</p> <p>As discussed below: The River Wensum SAC - The matrices presents that the use of trenchless crossing techniques will ensure no direct effects upon any of the qualifying features of the SAC. However, given the number of HDD drilling mud breakouts experienced by other wind farms recently Natural England believe that trenchless crossing does not ensure that there will be no direct effects, and further information on the HDD methodology and potential effects need to be provided.</p> <p>(D6) The updated screening Matrices does not currently screen in Direct effects on the Wensum SAC and its features, due to trenchless crossing. As discussed in our Relevant Representation [RR-099] we consider the chance of HDD break out likely enough that site and features should be screened in. We note the additional information provided in the Clarification note and Method statement for Crossing the River Wensum and adjacent Watercourses AS-5.D2.V1. Natural England is content these documents provide sufficient information with regards design, methodology and</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		<p>mitigation to be confident that the proposal will not adversely affect the integrity of the site. However the screening matrices should be updated accordingly.</p> <p>NE welcome that the applicant will update the screening matrices [REP4-010] and integrity matrices. (Issue may be considered green once document updated).</p> <p>NE welcome that the Applicant will comment on the RIES in relation to screening in Broadland SPA and Ramsar.</p>	
	<p>Broadland SPA/Ramsar</p> <p>Commitments made during the Norfolk Vanguard examination at Deadline 9 and included in the updated OLEMS for that project (REP9-014 of the Norfolk Vanguard Examination) will be adopted under Scenario 2 for the Norfolk Boreas project and the OLEMS [APP-698] will be updated accordingly and submitted to the examination at the appropriate deadline. These commitments are:</p> <ul style="list-style-type: none"> • Potentially undertake a second year of wintering bird surveys and undertake an assessment of predicted crop patterns to assess the potential use of the affected areas by foraging goose and swan species (see bullet point three below). • If required provide suitable alternative habitat (by introducing feed) for potentially displaced qualifying species associated with Broadland SPA / Ramsar site elsewhere within the Order limits or (subject to separate landowner agreements) within nearby fields. 	<p>Agreed, Natural England is satisfied that the commitments laid out within the Vanguard OLEMS in relation to Broadland SPA/Ramsar swan and geese species and ex situ habitats, reflect our advice and that there will be no Adverse Effect on Integrity for the features of the site.</p>	<p>Agreed as these commitments are incorporated within the Norfolk Boreas OLEMS.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<ul style="list-style-type: none"> The Applicant may progress directly to delivering the above mitigation without undertaking the second year of survey, subject to agreement with Natural England. 		
Assessment of Adverse Effect on Integrity	<p>River Wensum SAC</p> <p>The commitment to undertake trenchless crossing techniques at the River Wensum allows direct impacts to the SAC to be ruled out.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the River Wensum [REP1-039]. The Applicant considers that following Natural England’s review of this note, this issue can be agreed.</p> <p>The Applicant has committed to develop a scheme and programme for each watercourse crossing, diversion and reinstatement, which will include site specific details regarding sediment management and pollution prevention measures. This scheme will be submitted to and approved by the relevant planning authority in consultation with Norfolk County Council, the Environment Agency, relevant drainage authorities, and Natural England. This commitment is secured through Requirement 25 (Watercourse Crossings) of the draft DCO.</p> <p>(D6) The Applicant has updated the Screening matrices and Integrity matrices at Deadline 6 to reflect Natural England's view that due to the risk of bentonite breakout within the River Wensum during construction that potential direct effects upon the River Wensum</p>	<p>Direct impacts on the River Wensum SAC have been ruled out given the use of HDD. However, given the number of HDD drilling mud breakouts that have occurred recently on other OWF projects, Natural England advise in their Relevant Representation that that this is a regular enough occurrence to be considered a likely impact. We therefore advise that direct effects of HDD breakouts on the Wensum SAC designated features are scoped in and impacts assessed against a worst case scenario considering, scale, duration and timing. Further advice is provided in the Relevant Representation (Appendix 4).</p> <p>(D10) Natural England are content with the detail currently provided in the Clarification Note and Method Statement for Crossing the River Wensum and adjacent Watercourses [REP2-034] and look forward to being consulted on the site specific water crossing plans post consent as specified within OCoCP. Natural England is content that there is unlikely to be an AEOI on the site from Norfolk Boreas from operations as set out. In relation to Environmental incident response and contingency Natural England welcome</p>	(D10) The HRA matrices have been updated accordingly therefore this matter is now agreed.

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>SAC should be screened in, as discussed in the Clarification note submitted at Deadline 1 [REP1-039].</p> <p>The approach to undertaking the assessment is appropriate.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the River Wensum [REP1-039]. The Applicant considers that following Natural England's review of this note, this issue can be agreed.</p>	<p>the commitment within the OCoCP to contact Natural England within 24 hours.</p> <p>Natural England is generally satisfied with the assessment of adverse effect on integrity, with the CoCP and OLEMS. However further assessment is required with regard to bentonite breakout at the River Wensum SAC (see positions above and further comment within Appendix 4 of the Relevant Representation).</p> <p>(D6) NE is content with the detail provided in the Clarification Note[AS-3.D1.V1] and Method Statement [AS-5.D2.V1]. NE is content that with the methodology and mitigation as laid out, that there is unlikely to be a Significant Effect from HDD bentonite breakout on the River Wensum and its features of interest. NE look forward to being consulted on the site specific water crossing plans post consent as specified within oCoCP.</p>	<p>(D10) Natural England is content with the methodology and safeguards proposed for the trenchless crossing at the River Wensum, therefore this matter is agreed.</p>
	<p>Paston Great Barn SAC</p> <p>The conclusion of No Adverse Effect on Integrity for the Paston Great Barn SAC is appropriate.</p> <p>The commitment to undertake preconstruction bat surveys at specific hedgerows (along North Walsham Road from Edingthorpe Green to Edingthorpe Heath and at two hedgerows between Witton and North Walsham Road) that was included in the Norfolk Vanguard OLEMS (REP9-014 of the Norfolk Vanguard Examination), will be adopted for Norfolk Boreas project and the OLEMS [APP-698] updated accordingly. The updated OLEMS has been submitted to the</p>	<p>As stated in the Relevant Representation Natural England has concerns that there is currently no consideration of indirect effects on the SAC in accordance with the conservation objectives. The onshore cable route will pass through a number of medium to high important feeding and foraging hedgerow corridors, which link core foraging areas to the south of the cable route (Satellite Tracking data). Without appropriate mitigation this could have a LSE on the</p>	<p>(D10) Agreed</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
	<p>examination [REP1-020].</p> <p>(D10) The OCoCP will be updated and submitted at Deadline 10 to identify that the 6m gaps in hedges required for vehicles access are retained and not additional.</p>	<p>Barbastelle bat population. Suggest the Applicant refer to the Clarification Note and OLEMS for Norfolk Vanguard (Deadline 9) and incorporate similar commitments within the Norfolk Boreas DCO.</p> <p>(D6) Welcome inclusion of mitigation in OLEMS, though the area of hedge to be left to thicken up either side of gaps appears to be different for Vanguard and Boreas and Applicant should clarify differences.</p> <p>(D10) Natural England reviewed the OCoCP at Deadline 7 and had the following comments: Within the OCoCP Appendix E It is not clear how many hedgerow gaps will be required for vehicle access routes along the onshore cable. It is not clear how and when the impact of this will be assessed once the detailed design is completed, particularly in relation to impacts upon hedgerows of medium to high importance for Barbastelle.</p> <p>In the Clarification Note Ecological Enhancements (D2), para 10 states that hedgerows will be replanted to an improved ecological standard that aligns with NBPs guidance. However, OCoCP Appendix E (D5) states that 'Only hedge plants such as quick thorn and blackthorn may be planted directly above the onshore cables where a hedge is necessary either for screening purposes or to indicate a field boundary'.</p> <p>It is not currently clear how those commitments in the Clarification Note</p>	

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		<p>Ecological Enhancement have been included in the OCoCP or OLEMS, and will be managed in relation to different planting specifications. We would welcome an Outline Hedgerow Mitigation Plan being submitted as part of the examination as a certified document to ensure that all hedgerow management commitments can be accommodated across the Rochdale envelope.</p> <p>At D9 NE noted the responses within [REP8-014] and discussed with Applicant on call (24.04.20). Natural England are satisfied that remaining issues are now resolved and agreed.</p>	
	<p>The conclusions of no adverse effect on site integrity for all onshore sites presented in the Information to Support HRA report (document 5.3) are appropriate.</p> <p>(D2) The Applicant has submitted a clarification note on trenchless crossings and potential effects of breakout on the River Wensum [REP1-039]. The Applicant considers that following Natural England’s review of this note, this issue can be agreed.</p>	<p>Natural England have concerns regarding the possible impacts of breakout from the trenchless crossing under the River Wensum and therefore cannot yet agree with this statement.</p> <p>Natural England look forward receiving copies of supporting information and commitments with regards Broadland SPA/Ramsar and Paston Great Barns SAC being submitted as part of the DCO process.</p> <p>(D6) NE is content with the detail provided in the Clarification Note [AS-3.D1.V1] and Method Statement [AS-5.D2.V1]. NE is content that with the methodology and mitigation as laid out, that there is unlikely to be a Significant Effect from HDD bentonite breakout on the River Wensum and its</p>	<p>(D10) Natural England is content with the methodology and safeguards proposed for the trenchless crossing at the River Wensum, therefore this matter is agreed.</p>

Topic	Norfolk Boreas Limited position	Natural England position	Final position
		features of interest. NE look forward to being consulted on the site specific water crossing plans post consent as specified within oCoCP.	

2.7 Development Consent Order

33. Natural England's relevant representation [RR-099], submitted to the Planning Inspectorate on the 31st August 2019 includes comments on the draft DCO (contained within Appendix 5 of the Relevant Representation) which the Applicant has addressed where possible.
34. Table 7 provides areas of agreement (common ground) and areas where agreement has not been reached during the examination regarding the DCO. As the Applicant is responding to Natural England's comments these are provided in the second column and the Applicant's response in the third. It should be noted that this is in contrast to Tables 2 to 6 which contain the Applicant's position in the second column and Natural England's response in the third.

Table 7 Agreement Log – DCO, DML and other DCO document

Topic	Natural England position	Norfolk Boreas Limited position	Final position
Development Consent Order			
DCO Schedule 1 General	<p>All references to Natural England should be amended to the Statutory Nature Conservation Body and an interpretation should be added to define the Statutory Nature Conservation Body.</p> <p>At D3 Natural England noted the updated dDCO refer to the relevant Statutory Nature Conservation Body and consider this issue resolved.</p>	<p>The Applicant notes this and has amended the definition throughout the dDCO and DMLs.</p>	Agreed
DCO Schedule 1 General	<p>Natural England requests that a requirement be added to the DCO for the Applicant to confirm in writing to the MMO and Relevant Local planning Authorities once the construction phase has ended and the operations and maintenance phase has commenced. Following that notification no more activities related to the construction of the offshore wind farm may be conducted. This is to ensure clarity on when conditions applying to construction end and when conditions applying to operations and maintenance are active.</p> <p>(D6) Natural England notes that this condition meets a requirement to notify. However, the proposed condition was not just needed for notification. It was there to ensure a clean line between the end of construction and the beginning of operation. Included in this is a confirmation that after this date no works considered construction could take place. Recently Natural England has been involved in discussion on an OWF NSIP project in the operation phase requesting permission to do works which would fall under construction. In this case the position was put forward by the applicant that it could be construed that construction had not ended as there was no such clear indication of when construction ends. A clear</p>	<p>The Applicant notes this comment. The Applicant, however, does not consider that this amendment is necessary for the following reasons:</p> <ol style="list-style-type: none"> 1. The Applicant must provide the MMO with a Construction Programme and Monitoring plan in accordance with the offshore in principle monitoring plan, as secured by Condition 14(1)(b) (Schedule 9-10), Condition 9(1)(b) (Schedule 11-12) and Condition 7(1)(b) (Schedule 13). This will set out the proposed construction programme; 2. The Applicant must also provide an offshore operations and maintenance plan at least four months prior to commencement of operation of the licensed activities, pursuant to Condition 14(1)(j) (Schedule 9-10), Condition 9(1)(j) (Schedule 11-12), and Condition 7(1)(i) (Schedule 13); 3. The Applicant must notify the MMO (including Kingfisher Information Service of Seafish and the UK Hydrographic Office) upon completion of licensed activities (for example, Condition 9 (Schedule 9-10)). 	<p>(D10) Agreed from an onshore perspective.</p> <p>Not Agreed from an offshore notification perspective. The Applicant and Natural England disagree on whether there is currently a mechanism within the dDCO to notify the MMO of the end of construction.</p>

Topic	Natural England position	Norfolk Boreas Limited position	Final position
	<p>condition or requirement would help prevent future disagreements. (28th Jan 2020) The issue the other OWF project raised was to do with cable protection and a consideration submitted by the project that post construction/operational phase cable protection be permitted during the operational phase in accordance with permitted volumes in the DCO. i.e. there are no timing restrictions on when the permitted volumes of cable protection can be deployed. Natural England has not responded to a formal consultation process so cannot share our response.</p> <p>We wish to correct our previous comment as the project raising the issue was proposing to lay cable protection post construction, but is currently in construction, and not constructed as originally indicated.</p> <p>Please see Natural England’s Cable Protection Position Paper Draft December 2019, as submitted into Examination at Deadline 3 for further information on our advice regarding cable protection and the various phases of development.</p> <p>At D8 NE received an email from Applicant 14.04.2020</p> <p>(D10) Natural England notes the initial wording proposed by the MMO at Deadline 7 [REP7-039] and is also aware that the MMO subsequently proposed a further variation to the wording as follows:</p> <p>Condition 9... (6) <i>The undertaker must inform the MMO and the MMO Coastal Office in writing at least five days prior to the</i></p>	<p>In the case of the Kingfisher Information Service of Seafish notification, this must be no later than 24 hours of completion of construction of all offshore activities. The MMO will therefore be notified accordingly and will be in a position to share the information with relevant stakeholders, such as Natural England. The Applicant considers that this notification should, therefore, address Natural England's request. This approach is also in line with precedent, following other as made offshore wind DCOs; and</p> <p>4. In respect of the onshore works, the Applicant must submit a scheme to the LPA setting out the stages of onshore transmission works (Requirement 14). The detail of the stages and construction measures for each stage will then be secured through the Code of Construction Practice (Requirement 20), to be submitted to the LPA in consultation with Norfolk County Council, the Environment Agency and (as per the latest version of the dDCO) Natural England.</p> <p>Accordingly, there are sufficient measures contained in the DCO to provide control and transparency for the enforcement bodies - in consultation with their statutory advisers - in relation to commencement, construction, and stages of works.</p> <p>9th Jan 2020. The Applicant requested further information regarding concerns raised by Natural England at Deadline 3. Given that Natural England's concerns on the previously mentioned project were in relation to cable protection, and the Applicant has committed that any new areas of cable protection</p>	

Topic	Natural England position	Norfolk Boreas Limited position	Final position
	<p><i>commencement of the licensed activities or any part of them, and within five days of completion of the licensed activities.</i></p> <p>NE would support the inclusion of either condition, but note that the MMO have now agreed both of these conditions are not necessary.</p>	<p>following construction would need a new marine licence, the Applicant considers that this position is now resolved.</p> <p>(D10) The Applicant has provided Natural England with further detail, from an engineering perspective, of the distinction between construction and operation.</p> <p>The Applicant cannot accept the MMO's proposed condition for the reasons outlined within Table 1.3 of the Applicant's Comments on Deadline 7 Submissions [REP8-014] and Table 8 of the SoCG with the MMO [REP8-021]. In summary:</p> <ul style="list-style-type: none"> • The DMLs already contain notification requirements for completion of construction (as outlined above). • The MMO should be able to make a case by case decision on whether construction has come to an end by observing whether the development has been completed in accordance with the approvals which the MMO gives in discharging the relevant conditions of the DML. • The second part of the proposed condition has the potential for serious consequences because the implication is that consent will lapse for any part of the development not constructed at the point the notice is served. There is no precedent for including such a condition in the DMLs. For planning permissions, this would be governed by the separate regime under which planning 	

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		<p>permissions can be revoked (to the extent not completed), but revocation of planning permissions can only be justified in certain specified circumstances.</p> <ul style="list-style-type: none"> • With this in mind, and noting that the MMO has a wide power to revoke a licence under section 72(3)(d) of the MCAA 2009, the Applicant considers that such a condition would not meet the tests set out in paragraph 55 of the National Planning Policy Framework (NPPF) (2019) and embedded in the NSIP regime through paragraph 4.1.7 and 4.1.8 of EN-1. A condition which has such serious consequences in the event of, for example, the incorrect service of the notice, cannot be said to be 'reasonable in all other respects'. • There is no justification for the condition and the extent to which it meets the tests in paragraph 55 of the NPPF. It is not clear as to the purpose of the condition or why it is necessary; nor how the condition is relevant to planning and relevant to the development – it does not, for example, secure any mitigation. • The extent to which such a condition would be enforceable is also questionable. <p>Furthermore, in relation to the subsequent suggestion to amend the Condition wording at Condition 9(6) of the dDCO, the MMO have also agreed that this condition amendment is now not necessary. The Applicant has not therefore received any compelling reason from Natural England why the notice</p>	

Topic	Natural England position	Norfolk Boreas Limited position	Final position
		<p>provisions within the current Condition 9(6) should be changed. The Applicant understands that the MMO Coastal Office are responsible for monitoring and enforcement of marine activity. It is unclear why Natural England therefore consider the MMO licensing team to require a separate notice.</p> <p>The Applicant is concerned with the intended purpose of the amended condition or why it is necessary. Furthermore, an amendment to Condition 9(6) is within the context of the standard navigation conditions (agreed with the MCA, UKHO, and Trinity House) and that which is consistent across marine licences of this nature. A revision to this condition may go beyond the original intention of the drafting, which is required to ensure navigational safety.</p> <p>The Applicant's clear position is that it is not necessary to attach such a condition to determine 'headroom' (or requirements for cable protection) in the future, and if this is Natural England's purpose in requiring such a condition, it would not meet the tests of being relevant to planning and relevant to the development under paragraph 55 of the NPPF.</p> <p>The Applicant reiterates its position on enforceability put forward. Irrespective of whether a notice is served, the end of construction must be determined as a matter of fact. Therefore, an update to Condition 9(6) would not achieve Natural England's intended purpose.</p> <p>In any event, as well as being notified directly at the MMO Coastal Office, the MMO will receive copies of</p>	

Topic	Natural England position	Norfolk Boreas Limited position	Final position
		<p>notifications under Condition 9(7) and Condition 9(10) of the DMLs, which have the effect of notifying the MMO (and their statutory consultees, including Natural England) of the end of construction. It is not, therefore, clear why an additional notification needs to be provided.</p> <p>In summary, for the reasons outlined at Deadline 8 and above, together with the lack of precedent for such an approach and the lack of a compelling justification as to why such a change is required, the Applicant is not able to agree to the change proposed.</p> <p>The Applicant has agreed with the MMO that such a condition is not necessary and that no further updates are needed to the dDCO.</p> <p>(D16) The Applicant also notes that the recent precedent from the Norfolk Vanguard DCO does not contain a condition which requires notification of completion of construction in the way suggested by Natural England. This judgement, as well as the MMO's latest position, supports the position presented by the Applicant.</p>	
DCO Schedule 1 part 3 page 55, 5 and 11	<p>The total volumes for cable protection do not match the ES; I suspect this is due to not including cable crossings. Clarification required.</p> <p>The total volumes and areas for scour protection do not match the ES.</p> <p>(D6) Following the changes to the DCO and the updated reconciliation document Natural England is satisfied that the numbers on the dDCO are correct. However, as above would</p>	<p>The Applicant notes this and will review the dDCO and make any changes accordingly. The Applicant, however, suspects that the figures Natural England are referring to can be explained by reference to the Reconciliation Document (document reference: [APP-689]). This document explains how the “worst case scenario” as assessed within the EIA has been adequately secured within the DCO and DMLs. For many of the parameters secured within the DCO it is</p>	(D6) Agreed

Topic	Natural England position	Norfolk Boreas Limited position	Final position
	recommend that the ES project description be updated to reflect the commitment to reduced volumes of cable protection.	clear that the same values have been assessed within the ES, for example the minimum gap between turbines - which is stated at requirement 2 in Schedule 1 of the DCO and also presented throughout. However, due to the fact that the DMLs are defined by a group of assets and the EIA takes a geographical approach to assessing impacts, values for other parameters, such as the maximum quantities of cable protection and/or scour protection, are not so easily cross referenced between the ES and the DCO. This is explained further in the Reconciliation Document.	
DCO Schedule 1 Part 3 Page 59, 20	The code of construction practice details Environment Agency for consultation, but not Natural England. (D6) Natural England notes that in the updated dDCO these changes have now been made. This issue is considered closed.	The Applicant has agreed to include Natural England within the list of consultees for Requirement 20 and this is reflected within the dDCO.	Agreed
DCO Schedule 1 Part 3	Natural England requests that the maximum hammer energy to be used while piling be included within the requirements and within the Deemed Marine Licences. This is an important metric in the measurement of noise impact and represents a significant part of the projects Rochdale envelope. Following discussions with the Applicant on the 28th November 2019 Natural England is content that the maximum piling energy is secured appropriately. (D6) Natural England acknowledges that this condition secures the maximum hammer energy for monopoles. We note the MMO has responded in relation to hammer energy and Natural England support the MMO position.	The maximum amount of hammer energy is secured within the dDCO at Condition 14(3) (Schedule 9-10), and Condition 9(3) (Schedule 11-12) of the DMLs, which states the following: ..."(3) In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or part-drive the pile foundations must not exceed 5,000kJ." The Applicant does not therefore consider it necessary to amend this condition further. (D6) The Applicant has made the changes suggested by the MMO to the version of the dDCO submitted at Deadline 4 (Version 3). Condition 14(3) now reads:	(D6) Agreed

Topic	Natural England position	Norfolk Boreas Limited position	Final position
	<p>28th Jan 2020 Natural England is grateful for the proposed change and can confirm we are content with this as a resolution to this issue.</p>	<p><i>In the event that driven or part-driven pile foundations are proposed to be used, the hammer energy used to drive or partdrive the pile foundations must not exceed— (a) 5,000kJ in respect of monopile foundations; and (b) 2,700kJ in respect of pin piles.</i></p>	
<p>DML Schedule 9/10/13 General</p>	<p>The DCO and ES project description provide assessment of specific volumes of boulder relocation work. However, there is no mention of this as a licensed activity nor of the limits of this licensed and potentially damaging activity within any of the DMLs.</p> <p>(D2) Following discussions with the Applicant on the 28th November 2019 Natural England is content that because boulders would not be lifted to the surface, this would not require specific mention within the DMLs</p> <p>(D6) Natural England is content with the answer provided and considers this issue closed.</p>	<p>Disposal volumes have been separated into drill arisings and dredged sediment in the dDCO. Any boulders of significant size would be relocated as assessed in the ES. These would not be lifted to the surface and are therefore not considered in the volumes for disposal. The Applicant considers that it is not practicable or necessary to distinguish between sand and mud volumes.</p> <p>Notwithstanding this, the Applicant has included the amount of boulders to be cleared within the HHW SAC within the Outline HHW SAC control document (document reference 8.20). This is secured within condition 9(1)(m) of the Transmission DMLs (Schedule 11-12).</p>	<p>(D6) Agreed</p>
<p>DML Schedule 9/10/13 Part 4 Condition 12 (5)</p>	<p>This condition should be amended to ensure that any material of non-natural origin must be disposed of to an appropriate disposal site onshore. Subject to any requirements under the appropriate archaeological conditions.</p> <p>(D6) Natural England discussed this issue with the Applicant in a meeting on 29 November. The Applicant is going to consider the wording change proposed by Natural England. We would note this wording change was made on the Vanguard DCO at the request of the ExA.</p>	<p>The Applicant considers that all material dredged or drilled from the seabed would be of natural origin. Furthermore, all material would be disposed of within the vicinity of the dredge location and therefore would not be transported far from source. Therefore, the wording of the DCO should remain in keeping with the precedent set by previous DCO projects.</p> <p>(9th Jan 2020) Condition 12(5) of the Norfolk Boreas DMLs is identical to the final wording of condition 12(5) contained in the Norfolk Vanguard dDCO. No</p>	<p>(D6) Agreed</p>

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	<p>Additionally, Natural England notes that the intention may be that only material of natural origin are dredged up and then disposed. However, the reality is that there is a risk of manmade material being dredged up, this has occurred on other developments. For example parts of wrecks, detonated UXOs and other man made debris. Disposing of this material back into the marine environment could potentially be considered a breach under OSPAR and this condition should be amended to ensure that any man made material recovered is disposed of to an appropriate onshore disposal site, or as directed under the Written Scheme of Investigation (for any historically significant recoveries).</p> <p>(28th Jan 2020) Natural England notes the response and agrees that this issue may be considered resolved.</p>	<p>changes were proposed by the ExA in their schedule of changes for Norfolk Vanguard. Condition 12(5) is clear that only 'inert material of natural origin' can be disposed within the disposal sites and therefore it is not necessary to expressly state that 'Material of non-natural origin must be disposed of in an appropriate disposal site onshore or as otherwise required under the WSI (Offshore)', especially given that NE states this would be a breach of OSPAR in any event.</p>	
<p>DML Schedule 9/10/13 Part 4 Condition 14 (g) (iii)</p>	<p>Natural England does not agree that cable protection can be deployed under this licence for the duration of operation. The outline Operations and Maintenance plan states that cable protection may be deployed up to the full volume assessed in the ES across the full operation lifetime of the project. Cable protection to be deployed after construction has ended should be applied for under a new consent. This is due to the wide spatial and temporal scale of these construction works. Additionally the definition of maintain within the DCO and DMLs does not include construction of new works such as new areas of cable protection. Furthermore, there appears to be no provision which would require provision of updated plans and methodologies prior to each instance of additional work to allow consultation on their appropriateness and the MMO to make a determination on if the works are within those assessed in the ES, or HRA.</p>	<p>The Applicant can confirm that any new areas of cable protection required during the operation stage would be subject to a separate marine licence. The wording of the current DCO does not allow for the Applicant to install new areas of cable protection during operation. The Outline OOMP demonstrates this in the Table in Appendix 1 that has a yes in the Additional licence likely to be required column against cable protection. The MMO previously advised the Norfolk Vanguard project that the wording of the draft DCO did not allow for new areas of cable protection to be installed during the operation and maintenance phase of the project. The Norfolk Boreas draft DCO uses the same wording as the Norfolk Vanguard DCO and therefore no changes to the draft DCO are considered necessary. Following discussions on the 28th November 2019, it has been agreed that the wording in the OOMP</p>	<p>(D6) Agreed</p>

Topic	Natural England position	Norfolk Boreas Limited position	Final position
	<p>(D6) the Applicant has confirmed no cable protection to be included post construction, therefore this can now be agreed</p>	<p>[REP1-027] makes clear that a separate licence would be required to install cable protection in new areas during operation.</p>	
<p>DML Schedule 9/10/13 Part 4 Condition 14 (l)</p>	<p>Natural England notes there is no reference to the timing requirement within this condition and would suggest cross linking to condition 14 (b) for the avoidance of doubt.</p> <p>(28th Jan 2020) Natural England has considered the updated wording. However, our position remains unchanged. The OMP should be provided before the pre-construction monitoring so it can be ascertained that the monitoring being conducted will be the most appropriate for meeting the hypothesis of the monitoring programme.</p> <p>(D10) Natural England have reviewed the revised condition and agree with the changes.</p>	<p>The general position is that stated under Condition 15(3) in that each programme, statement, plan, protocol or scheme required to be approved under condition 14 must be submitted for approval at least four months prior to the intended commencement of licensed activities (unless stated otherwise). Condition 14(b) is an exception where it is necessary to 'otherwise state' the timeframe. The express reference to a timeframe within condition 14(1)(b) is necessary given that the four month deadline is relevant for the submission of details at different stages and prior to certain events (as opposed to that under the general Condition 15(3) position) – for instance, prior to the first survey; prior to construction; and prior to commissioning.</p> <p>(D6) Notwithstanding the above the Applicant, in agreement with Natural England, has amended this condition within the DCO submitted at Deadline 5 [REP5-004]. Condition 14 (1) (l) now reads as follows:</p> <p><i>(l) In relation to ornithological monitoring—</i></p> <p><i>(i) an outline plan setting out the aims, objectives and timing for ornithological monitoring which must be submitted to the MMO (in consultation with the relevant statutory nature conservation body) at least four months prior</i></p>	<p>(D6) Agreed</p>

Topic	Natural England position	Norfolk Boreas Limited position	Final position
		<p>to the first pre-construction survey (as referred to in Condition 14(1)(b)(aa)), and</p> <p>(ii) an ornithological monitoring plan setting out the methods for ornithological monitoring which must be submitted to the MMO (in consultation with the relevant statutory nature conservation body) in accordance with the details and timescales approved pursuant to the outline plan referred to in sub-paragraph (i).</p> <p>(D10) The amendments shown in strikethrough above are as a result of drafting suggestions from the MMO and have been incorporated in the dDCO.</p>	
<p>DML Schedule 9/10/13 Part 4 Condition 15 (4)</p>	<p>Natural England does not consider 4 months an appropriate timeframe to approve all plans and documentation. Documents such as site integrity plans are likely to require detailed assessment, such as habitats regulation assessment. This is likely to take multiple consultation periods of 4 weeks. Natural England would recommend this be amended to 6 months prior to commencement, to ensure sufficient time to sign off the large volume of complex documentation that will need to be submitted.</p> <p>At D3 Natural England noted the Applicant's comments regarding the appropriateness of the four month period. However, disagrees that this period is appropriate for this project.</p> <p>Natural England notes that it has disagreed with the four month period on a number of NSIP OWF projects including but</p>	<p>The Applicant notes Natural England's comments. The Applicant, however, considers that the four month time frame conditioned within the DMLs is appropriate and proportionate to allow the MMO, in consultation with statutory bodies, sufficient time for stakeholder consultation and the provision of comments, whilst ensuring no unnecessary delay to the commencement of development and completion of construction works.</p> <p>This time period is contained on a number of other Offshore Wind Farm (OWF) DCOs (including The East Anglia Three Offshore Wind Farm Order 2017, the Hornsea Two Offshore Wind Farm Order 2016, the Norfolk Vanguard Offshore Wind Farm Order 2020, and the draft Hornsea Project Three Offshore Wind Farm Order [2020]). Four months is, therefore, well-established as an appropriate time frame for OWF</p>	<p>(D10) The parties agree that it should be left to the Secretary of State to decide whether 4 months or 6 months is included in the final DCO. The Applicant advocates four months whereas Natural England advocate six months.</p> <p>(D16) Agreed. Both parties agree that certain documents should be submitted 6 months in advance of construction and these have been included within the final dDCO.</p>

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	<p>not limited to; Vanguard, East Anglia Three, and Hornsea Project Three.</p> <p>The four month period was originally designed for round one offshore wind farms. These developments were much closer to shore and far smaller. Therefore, they were much less complex and the issues within them easier to resolve. This four month period has been carried over to the NSIP by industry as a standard, however, it is no longer appropriate for projects of such orders of magnitude bigger and more complex than for that it was originally deemed appropriate. The Applicant acknowledges that in some cases it has not been possible to approve these documents within this time period which can lead to costly delays. An appeal mechanism launched at the end of a four month process is not going to reduce the risk of delay. It is more likely to compound the issue by taking up resources that could be devoted to issue resolution, while also taking additional time to come to a determination. Natural England supports the MMO position on the appropriateness of an appeals process.</p> <p>Natural England also notes that within the recent applications for East Anglia 2 and East Anglia One North the Applicant has deemed that 6 months is an appropriate timeframe and included such within their dDCOs.</p> <p>(D10) Natural England notes the suggestion regarding efficiency of time from processing Vanguard. However, also notes there is no requirement to ensure Vanguard is built first and that Vanguard has not yet been granted consent. Therefore, there is a possibility that by the time Boreas submits documents no efficiencies or experience from Vanguard will have been gained.</p>	<p>schemes and one that ensures a balance is struck between the expedient discharge of the relevant conditions attached to the DML whilst allowing a reasonable period of time for consideration by the MMO and its consultees.</p> <p>The Applicant acknowledges that it has, in some recent cases, taken the MMO much longer than 4 months to discharge certain DML conditions on other OWF projects and it should be recognised that with no mechanism to encourage the determination of applications within a reasonable period (such as arbitration or appeal) the developer is then left in a position which is wholly unsatisfactory.</p> <p>(D10) Furthermore, the Applicant considers that the plans to be submitted under the Norfolk Boreas project are likely to benefit from efficiency savings and lessons learned from the Norfolk Vanguard discharge process. Equally, the stakeholders would be familiar with the general content and structure of the plans for discharge, following the NV process. The Applicant believes that these are persuasive points (in addition to those put forward previously) to justify a 4 month period for this particular project, even if other projects have a 6 month period.</p> <p>In view of the above, the Applicant does not consider it necessary or appropriate to adjust the time periods for discharge within the DML conditions.</p>	

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	<p>(D16) Natural England considers that the increase of certain documents to 6 months is a significant step forward in the resolution of this issue. After review of the proposals, Natural England understands that as the DCO/DML will be amended to reflect that the documents agreed (the HHW control document, the SNS SIP, and the MMMP) will be submitted a minimum of 6 months prior to construction then this matter is resolved.</p>	<p>The Applicant does, however, recognise that these efficiencies would only be realised in the event of Scenario 1.</p> <p>(D16) The Applicant notes that the Norfolk Vanguard DCO contains a timescale of 4 months for discharge and that this, along with the requirement for the MMO to use reasonable endeavours to determine an application for discharge as soon as practicable, was considered by the Norfolk Vanguard examining authority to provide a reasonable timeframe in which an objective and considered decision could be made.</p> <p>The Applicant has agreed with the MMO and Natural England to increase the timeframe to 6 months for certain documents –the HHW Control document (8.20), the Southern North Sea (SNS) SAC SIP, and the MMMP/Noise monitoring plan. The Applicant has included these revisions in the final dDCO to be submitted at Deadline 18 and as a result the position on timeframes is agreed with the MMO and Natural England.</p> <p>The Applicant is however mindful that the SoS may wish to reverse the changes listed above to ensure consistency with the 4 month timeframe within the Norfolk Vanguard project and the Applicant would also be content if that were the case.</p>	
<p>DML Schedule 9/10/13 Part 4 Condition 20 (2) (a)</p>	<p>Natural England notes this condition implies only 1 survey will be conducted in any event. However, the Offshore In Principle Monitoring Plan table 4.2 highlights that in the event of damage to reef features further surveys may be needed as to be agreed with the MMO, in consultation with Natural</p>	<p>The obligations in condition 20(2)(a) are in respect of the surveys referred to in sub-paragraph (1) (i.e. all the post-construction surveys) and condition 14(1)(b) (the construction programme and monitoring plan). The construction programme and monitoring plan,</p>	<p>(D6) Agreed</p>

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	<p>England. Natural England would, therefore, recommend that this condition be altered to reflect that more than 1 survey may be needed. For example the use of the term appropriate surveys as used in condition 18 (2) (a).</p> <p>At D3 Natural England noted the response. However, the wording within the condition is fairly specific and could be read to imply a limit of one survey. Given the wording Natural England questions if multiple surveys could be enforced by the MMO? The condition states 'a survey' thus there is a strong implication that only one survey will be required. The wording 'appropriate surveys' would allow for one or more surveys and is more appropriate.</p> <p>On the 28th Jan 2020 Natural England noted the Applicant's position. We consider that an amendment to note 'appropriate surveys' enhances the clarity on the flexibility of this monitoring.</p> <p>(D6) Natural England reviewed the wording in the updated Draft DCO [REP4-003] and accept the wording.</p>	<p>submitted pursuant to condition 14(1)(b), must accord with the IPMP. As stated in the IPMP (document 8.12, [APP-703]), "post-construction survey(s) will be undertaken at a frequency to be agreed with the MMO (e.g. 3 years non-consecutive e.g. 1, 3 and 6 years or 1, 5 and 10 years)".</p> <p>In any event, the MMO must be satisfied and approve both the construction programme and monitoring plan and the post-construction surveys under condition 20. The MMO (and, by extension, Natural England) therefore has sufficient opportunity to raise any further points during this approval process.</p> <p>Accordingly, the Applicant does not consider it necessary to change the wording of the condition.</p> <p>(9th Jan 2020) Whilst DML condition 20(2)(a) refers to 'a survey', this is preceded by the words 'The post-construction surveys.. must.. have due regard to, but not be limited to, the need to undertake...'. Therefore, this requires 'at least' 'a survey', and is not limited to one survey. The actual amount of surveys is governed by the plan which is approved, and therefore no change to the DML condition is required.</p> <p>(D6) Notwithstanding the above the Applicant has, in consultation with Natural England, updated the draft DCO to refer to '<i>an appropriate survey</i>' the relevant conditions now read as follows:</p> <p><i>(2) The post-construction surveys referred to in subparagraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—</i></p>	

Topic	Natural England position	Norfolk Boreas Limited position	Final position
		<p><i>(a) an appropriate survey to determine any change in the location, extent and composition of any benthic habitats of conservation, ecological and/or economic importance constituting Annex 1 reef habitats identified in the pre-construction survey in the parts of the Order limits in which construction works were carried out</i></p>	
<p>DML Schedule 9/10/13 Part 5 Appeals Process</p>	<p>At this time Natural England has no detailed comment to make on the appeals process proposed. However, we are aware such a process was proposed for the Norfolk Vanguard project. The MMO raised concerns regarding this process and Natural England support and agree with the MMO position on these concerns.</p> <p>Natural England confirms it supports the position of the MMO.</p>	<p>The Applicant notes Natural England's comments. The Applicant's position remains the same as that put forward during the Norfolk Vanguard examination and through the joint position statement with the MMO (Appendix 3 of the Applicant's Comments on Relevant Representations document).</p>	<p>(D10) The parties agree that there should be consistency in the arbitration and appeals approach across Norfolk Vanguard and Norfolk Boreas. The parties are therefore content for the Secretary of State to apply the same approach to Norfolk Boreas as that decided following the Norfolk Vanguard decision. (D16) The parties acknowledge that the Secretary of State has removed the appeals wording at Part 5 of the DMLs (and the associated references in Part 4) of the Norfolk Vanguard DCO. The Applicant has updated the Norfolk Boreas dDCO accordingly [REP13-008] and the parties therefore agree to the current position contained in the dDCO.</p>

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DML Schedule 11/12 Interconnect or General	All issues raised on Schedules 9 and 10 also apply to this schedule where similar conditions exist. To avoid repetition Natural England will only provide detail of additional issues within this section.	The Applicant notes this and has interpreted the representations accordingly.	(D6) Agreed
DML Schedule 11/12 Interconnect or Part 4 Condition 9 (1) (m)	<p>Natural England notes the inclusion of a Site Integrity Plan for the Haisborough, Hammond and Winterton SAC. Natural England would refer to the advice we provided on Norfolk Vanguard on the appropriateness of including a site integrity plan given that the maximum impacts of this project on the site are known. It is important that any decision made should be made on the worst case scenario and not deferred to post consent.</p> <p>Natural England's position is that we cannot rule out beyond reasonable scientific doubt that there is AEoI from the proposed works on the HHW SAC and that the process should follow the derogations procedures. NE has provided comment on schedule 19 of the draft DCO detailing the compensatory measures within our Deadline 9 response.</p> <p>(D10) Natural England has provided a detailed response to the outline HHW SAC SIP in their Position Statement [REP4-041].</p> <p>Natural England provided a response to the CSIMP at Deadline 9. Natural England acknowledge that should the Secretary of State determine there is sufficient information to conclude no AEoI at this stage, a condition will be required to ensure the mitigation is secured and the proposed wording is mostly appropriate for this purpose. However, concerns remain on the use of any Grampian style condition.</p>	<p>The HHW SAC SIP combined with the Transmission DML Condition 9(1)(m) allows a conclusion of no AEoI to be made at the consent determination stage on the basis that it restricts the commencement of construction until such time that mitigation measures can be adopted to rule out an AEoI. If a solution cannot be agreed that would allow the MMO in consultation with Natural England to be confident that there would be no AEoI, the Applicant would need to consider: a New Marine Licence application, a variation to the existing red line boundary or a variation to the Transmission DML Condition 9(1)(m) to allow a finding of AEoI should the project satisfy the HRA Assessment of Alternatives, Imperative Reasons of Overriding Public Interest (IROPI) and Compensatory Measures tests.</p> <p>Following comments from Natural England, the Applicant has proposed an alternative condition which does not rely on the SIP mechanism referred to above, removing the Grampian element and relying on a Cable Specification, Installation and Monitoring Plan (CSIMP). More information on this is provided in section 6 of the Applicant's Haisborough Hammond and Winterton Special Area of Conservation Position Paper [REP5-057].</p>	<p>The parties are not agreed on whether AEoI can be conclusively ruled out at consent determination stage as has been determined for Norfolk Vanguard.</p> <p>The parties do, however, agree that if, for Norfolk Boreas, the Secretary of State determines that AEoI can be ruled out at the consenting stage such that development consent can be granted, a condition which secures the mitigation in the HHW SAC control plan should be included in the dML, and that either the HHW SAC SIP or the HHW SAC CSIMP can be used for this purpose (noting that the CSIMP would be the parties' preference).</p>

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	<p>Furthermore, should the Secretary of State determine that there is an AEoI and that the derogations route is applicable, then there will also be a need for a condition to ensure all required mitigation of impacts is still secured within the DML.</p> <p>Of the two proposed conditions Natural England would prefer the use of the CSIMP condition. However, this preference should not be considered an indication that the CSIMP would successfully avoid an AEoI alone, or construed as any fettering of our position regarding this matter.</p> <p>(D16) Natural England is cognisant of the decision made by the SoS for the Norfolk Vanguard project, however this does not change the advice provided by Natural England for the Norfolk Boreas project.</p>	<p>The Applicant has set out the worst case scenario within the HRA. The Applicant believes that no AEoI can be concluded without reliance on the SIP at the consenting stage because, in summary the Applicant considers that:</p> <ol style="list-style-type: none"> 1. neither the dredging of sand waves nor the introduction of cable protection will change the form and function of the Annex I sand banks as they will rapidly recover (as concluded in Appendix 7.1, [APP-206] of the HRA) 2. the project will have the ability to microsite around confirmed <i>sabellaria</i> reef. The only locations where this will not be possible is at cable crossings; and 3. there is enough evidence to suggest that <i>S.spinulosa reef</i> would colonise cable protection. <p>(D10) Neither approach seeks to defer Appropriate Assessment at the consenting stage. A full Information to support Habitats Regulations Assessment (HRA) Report has been provided with the application [APP-201] which concludes that there is no AEoI. Whilst it is correct that the final number and precise route of the cable has yet to be determined, the HRA has been undertaken on the basis of a worst case scenario, taking into account the best information currently available and considering the potential likelihood for this to change between consent determination and construction.</p> <p>(D16) As stated in [REP13-016], the Applicant's preference for the HHW control document (8.20) is</p>	

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		<p>the CSIMP. The Applicant also understands that the CSIMP is the MMO's and Natural England's preferred approach.</p> <p>The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEoI [REP13-023] and that this judgement supports the position presented by the Applicant.</p>	
<p>Offshore Operations and Maintenance Plan Appendix 1</p>	<p>The table plan lists new cable protection as amber. Amber implies that a new marine licence will only be needed if cable protection exceeds the volumes assessed in the ES. Natural England's interpretation is that this is implying cable protection may be deployed across the full operation lifetime of the project. However, the wording in the table is ambiguous and Natural England would request clarification on if this is the case.</p> <p>If the undertaker confirms their intention is for cable protection to be deployed for the lifetime of this development under this licence then Natural England would reiterate the points raised on the Vanguard case. Natural England does not agree that cable protection can be deployed under this licence for the duration of operation. Cable protection to be deployed after construction has ended should be applied for under a new marine licence. This is due to the wide spatial and temporal scale of these construction works.</p> <p>Additionally the definition of maintain within the DCO and DMLs does not include construction of new works such as new areas of cable protection. Furthermore, there appears to be no provision which would require provision of updated plans and methodologies prior to each instance of additional work to allow consultation on their appropriateness and the MMO to make a determination on if the works are within those assessed in the ES, or HRA.</p>	<p>The Applicant agrees that new areas of cable protection installed during the operation phase of the project would be subject to a separate marine licence and the next version of the OOOMP will be updated accordingly.</p> <p>(D6) The updates were included in the version of the OOOMP which was submitted at Deadline 1 [REP1-027].</p>	<p>(D6) Agreed</p>

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	(D6) Natural England notes the Applicant agrees that this consent does not allow construction of cable protection during the operations phase.		
Offshore Operations and Maintenance Plan Appendix 2	Replacement of a failed foundation is listed as amber. Given that removal and reinstallation of foundations have not been assessed in the ES, Natural England considers this should be marked as red. Any need for removal and reinstallation of a foundation will require a new Marine Licence.	<p>The Applicant agrees with Natural England and this will be updated to red in the next version of the OOOMP.</p> <p>(D6) The updates were included in the version of the OOOMP which was submitted at Deadline 1 [REP1-027]</p>	(D6) Agreed
Control of particle size during sediment disposal	<p>(D10) NE notes that there is no guarantee that disposal will be in similar particle size areas and considers that this needs to be secured in addition to the mitigation already secured in the HHW SAC control document (8.20).</p> <p>Please see Deadline 9 response</p>	<p>(D2) The Applicant has made the following commitments to promote recovery of sandbanks within the SAC should sand wave levelling be permitted, which are secured in the HHW SAC control document (8.20):</p> <ul style="list-style-type: none"> • disposing of any dredged sediment close to the seabed using a fall pipe from the dredging vessel, • disposing of sediment within a linear strip close to the cable route; and • disposing of material updrift of the cable route to allow infill of any dredged areas as soon as possible following cable installation. <p>(D10) The Applicant is confident that with these commitments there will be no significant change to sediment composition of the seabed. The Applicant also considers that this mitigation is the most appropriate method of ensuring that the sediment characteristics remain the same and therefore promote the recovery of sandbanks and the sandbank communities within the SAC. Accordingly, the</p>	(D10) The mechanism to guarantee that disposal will be in similar particle size areas is not agreed.

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		<p>Applicant does not consider any further changes are required to the HHW SAC control document.</p> <p>(D16) The Applicant notes that the SoS, relying on the same reasons that the Applicant has advanced for not including such a condition in this case, has given consent to the Norfolk Vanguard project without the requirement for a Condition to secure the particle size of disposed material, and the Applicant considers that this judgement supports the position presented above.</p>	
Decommissioning of cable protection	<p>(D10) Impacts of cable protection can only be reduced from permanent to temporary in the event that the use of concrete mattresses (or a similar product) is secured in the DCO/dML, which is not currently the case. Natural England considers that without wording in the DCO/dML this mitigation is not sufficiently secured. Without securing this mitigation Natural England's position is that there is an increased risk of AEoI on the HHW SAC.</p> <p>Natural England appreciate that the commitment not to use rock protection within the HHW SAC has been included within the HHW SAC. We have agreed (with the Applicant) wording on 5th May for a condition prohibiting the deployment of rock and gravel protection. In addition, we have also agreed updated wording within the SIP/CSIMP to ensure that evidence of the ability to decommission any cable protection will be provided. Therefore, it can be agreed that the Applicant can consider impacts with the HHW SAC to be long term temporary.</p> <p>It should be noted that Natural England considers that this mitigation does not fully remove our concerns regarding the</p>	<p>(D10) The Applicant has committed to decommissioning cable protection within the HHW SAC. This commitment is secured through the HHW SAC control documents (document reference 8.20).</p> <p>The Applicant submitted a Cable Protection Decommissioning Evidence document [REP6-018] at Deadline 6 which demonstrated that with the use of concrete mattresses (or a similar product) cable protection could be decommissioned at the end of the project's life. This reduces the impacts of cable protection from permanent to temporary.</p> <p>The Applicant considers that the commitment to decommission cable protection will require the installation of a concrete mattress or similar and therefore does not consider that it is necessary to secure a specific type of cable protection within a condition in the DCO. It will be the Applicant's responsibility to ensure that whatever method of cable protection is used would be suitable for decommissioning, and this is secured through the</p>	<p>(D10) Agreed: both parties agree that if cable protection is decommissioned this will reduce the impact from permanent to long term temporary/lasting, thus reducing the risk of AEoI to the HHW SAC.</p> <p>(D16) Both parties agree that the inclusion of Condition 3(1)(g) ensures that the cable protection placed within the HHW SAC will be of a type that can be decommissioned. Natural England consider that Condition 20 should be included within the DCO to ensure that the cable protection in the HHW SAC is decommissioned, however the Applicant does not consider</p>

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	<p>potential for AEoI on HHW SAC. However, we acknowledge that this mitigation does significantly reduce the risk of AEoI.</p> <p>(D16) Natural England is not content to accept the condition proposed by the SoS on Vanguard which was designed to ensure that cable protection was decommissioned. This was included (as Condition 20 within the Transmission dMLs) in the Norfolk Boreas DCO submitted at Deadline 13 by the Applicant [REP13-008]. Natural England provided its requirements for the condition to the ExA at Deadline 14 [REP14-064], However it was agreed at Deadline 15 with the Applicant and the MMO to include Condition 3(1)(g) and remove Condition 20 in the DCO.</p> <p>Natural England updated their position at Deadline 16 and now consider the updated Condition 20 in addition to Condition 3(1)(g) to be their first preference, in the event the SoS concludes no AEoI. Should the SoS conclude AEoI and that compensatory measures are required neither Condition 3(1)(g) nor Condition 20 should be included in the DCO.</p> <p>Following Deadline 15 the Applicant proposed wording for Condition 20 to be used [AS-081]. Natural England was largely content with the wording proposed however it did consider that further additional wording should be included to ensure that the cable protection decommissioning feasibility study is updated at regular intervals during operation.</p> <p>Following a further meeting with the Applicant (18th September) the wording of Condition 20 as stated in the Norfolk Boreas Limited position column of this row (which includes a requirement to update the feasibility study) was agreed by Natural England, the Applicant and the MMO.</p>	<p>outline HHW SAC control document (document reference 8.20).</p> <p>Furthermore, the Applicant does not consider it appropriate to include the wording “(or a similar product)” as this would be open to interpretation as to what constitutes a similar product. This may prevent the Applicant from using a future product which would have all the benefits of concrete mattresses and would also be fully compatible with the decommissioning commitment.</p> <p>The Applicant has therefore made a commitment to not use rock (or gravel) protection within the HHW SAC apart from at cable crossings. This is secured within Condition 3(1)(g) in Schedule 11-12 in the dDCO submitted at D10.</p> <p>(D16) At Deadline 13 the Applicant included Condition 20 in the Transmission DMLs (Schedules 11 and 12) of the draft DCO [REP13-009]. This condition, which requires the Applicant to decommission cable protection within the HHW SAC, was included by the SoS within the Norfolk Vanguard made Order and was therefore proposed to be adopted for Norfolk Boreas.</p> <p>Natural England informed the Applicant that it had concerns regarding this condition and therefore the Applicant produced revised wording for the condition designed to address some of Natural England’s concerns whilst remaining as close as possible to the original condition proposed by the SoS.</p>	<p>that this is required as the commitment is adequately secured by Condition 3(1)(g) (Schedule 11-12) and the related measures in the HHW SAC control document (Document reference 8.20) as well as Requirement 14 (to provide a decommissioning programme/scheme). The Applicant therefore considers that the elements of the proposed Condition 20 would be better dealt with in the decommissioning licence.</p> <p>Both parties do, however, agree that it should be up to the SoS to make the final decision on whether Condition 20 is included. If the SoS is minded to include Condition 20 within the Transmission DMLs, the wording as stated here within the Norfolk Boreas Limited position has been agreed by NE, the MMO, and the Applicant. If the SoS is minded to include the wording as a Requirement within the DCO, wording as stated within the MMO SoCG (document reference ExA.SoCG-10.D16.V6) has been agreed by</p>

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	<p>Natural England are also aware that the MMO would prefer to see the wording included as Requirement 14 of the DCO. Natural England's primary position is to defer to the MMO to advise on this matter, however Natural England have seen the wording proposed by the Applicant (and agreed with the MMO) for the Requirement (as presented in the MMO SoCG (ExA.SoCG-10.D16.V6) and are content with this wording in the alternative.</p>	<p>Over three meetings between the 13th and 24th August 2020 attempts were made to agree wording with Natural England and the MMO for a revised Condition 20. It was not possible for all parties to agree on the wording of a revised condition or whether the Condition would be better placed as a requirement (see the MMO SoCG (document reference ExA.SoCG-10.D16.V6) for further discussions on the most appropriate location within the DCO for the wording).</p> <p>It was therefore agreed by all Parties at Deadline 13 that Condition 3(1)(g) was a more suitable mechanism to secure the decommissioning of cable protection within the HHW SAC, and which also met the needs of both Natural England and the MMO. Therefore, at Deadline 18, the Applicant has reinstated Condition 3(1)(g) in the dDCO with the amendment (shown in red) to make it clear that it did not apply to cable protection placed at cable crossings, as follows: <i>'(g) in the Haisborough, Hammond and Winterton Special Area of Conservation, cable protection must not take the form of rock or gravel dumping where it is deployed to protect export cables apart from at cable crossing locations with existing cables and pipelines.'</i></p> <p>Following Deadline 15 the Applicant also proposed possible wording for Condition 20 of the Transmission DMLs [AS-081] to allow for the eventuality that the SoS decided that a decommissioning condition - analogous to the Norfolk Vanguard decommissioning condition - should be included in the DCO. The wording had been designed to accommodate as far as</p>	<p>the MMO, the Applicant and Natural England.</p> <p>The parties do not therefore consider the need for any further consultation on this position following the close of examination.</p>

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		<p>possible all of Natural England’s requests made in [REP14-064] and [REP15-009].</p> <p>Following a further meeting with Natural England on the 18th September 2020 one further change was made to this condition to include the commitment to update the cable protection decommissioning feasibility study every 10 years. With this change all parties are in agreement with the wording of the position.</p> <p>Therefore, the final proposed and agreed (by Natural England, the MMO and the Applicant) wording for Condition 20 to be included by the SoS (should the SoS consider it necessary) is as follows:</p> <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</i></p>	

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		<p><i>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) decommissioning feasibility study on the proposed cable protection to be updated at intervals of not more than every ten years throughout the operational phase of the project.</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 Haisborough, Hammond and Winterton Special Area of Conservation impacted by cable protection.</i></p> <p><i>(3) No cable protection can be deployed in the</i></p>	

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		<p><i>Haisborough, Hammond and Winterton Special Area of Conservation until the MMO, in consultation with the Statutory Nature Conservation Body approve in writing the documents pursuant to (2) above.</i></p> <p>However, as stated above, the Applicant does not consider that Condition 20 should be included in the DCO for the reasons provided in [REP14-036] and [AS-081] which in summary are that:</p> <ul style="list-style-type: none"> • The Applicant has made the commitment to decommission cable protection in the HHW SAC control documents, and as stated in those documents it is the Applicant’s responsibility to demonstrate how this will be done, therefore a prescriptive condition such as Condition 20 may not allow flexibility to discharge this commitment in the most suitable way; and • The requirement to decommission the cable protection would form part of a decommissioning licence (secured by Requirement 14) and much of what is included in the Condition is already covered by the requirements of section 105 and 108 of the Energy Act 2004. It would therefore be unnecessary duplication within the DMLs. <p>Notwithstanding this position, the Applicant understands that the SoS may wish to include Condition 20 within the final made order and the Applicant would be content for the above proposed wording to be used should this be the case. Should the SoS decide that the wording should be included as a</p>	

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		<p>Requirement the Applicant has proposed suitable wording which has been included in the SoCG with the MMO (ExA.SoCG-10.D16.V6) and agreed by all parties.</p> <p>The Applicant also notes that the SoS has concluded that the Norfolk Vanguard project would not result in AEoI [REP13-023] and that this judgement supports the position presented by the Applicant.</p>	

2.8 References

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The names inserted below are to confirm that this is the Final position of the Applicant and Natural England regarding this SoCG.

Natural England

Printed Name	Alan Gibson
Position	Senior Responsible Officer
On behalf of	Natural England
Date	24/09/2020

The Applicant

Printed Name	Jake Laws
Position	Norfolk Boreas Consents Manager
On behalf of	Norfolk Boreas Limited (the Applicant)
Date	24/09/2020