

12 October 2020

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**By email only**

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Our ref:  
VJR2/JT8/47583.36  
Your ref:  
EN010087

Dear Sian

**Norfolk Boreas Limited (the Applicant)**  
**Development Consent Order (DCO) application for Norfolk Boreas Offshore Wind Farm**  
**Application Ref: EN010087**

### **Deadline 18 Submissions**

We write further to the Planning Inspectorate's Rule 8 letter dated 19 November 2019, and the updated examination timetables dated 19 May 2020 and 4 September 2020. In accordance with Annex A of the 4 September 2020 updated examination timetable, we enclose the following in response to Deadline 18:

1. Final draft DCO, Explanatory Memorandum and Schedule of Changes;
2. Final Guide to the Application;
3. Final Note on Requirements and Conditions in the Development Consent Order;
4. Final updated version of the Book of Reference;
5. Final Statements of Common Ground (referenced below);
6. Final Compulsory Acquisition Schedule;
7. Final Schedule of Mitigation; and
8. Comments on Deadline 17 submissions.

The Applicant refers the Examining Authority (**ExA**) to the Guide to the Application (Document Reference ExA.GtA.D17.V19 (Version 19)) for a full list of documents submitted by the Applicant at Deadline 18.

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## Validation of the Final Draft Development Consent Order

The Applicant has submitted confirmation that the dDCO is validated. In view of the size of the dDCO, the Applicant has had to submit it for validation in four parts. Proof of validation (in four parts) is enclosed within this letter as Appendix 1.

## Final Statements of Common Ground (SoCGs)

The Applicant has provided a table below of the SoCGs requested by the ExA in the Rule 8 Letter, as well as any additional SoCGs. The table outlines the date of the final SoCG as well as the relevant Examination Library Reference.

Statement of Common Ground	Status
Norfolk Boreas Anglian Water Service Limited Statement of Common Ground (Version 2)	28 September 2020, Final REP16-006
Norfolk Boreas Breckland Council Statement of Common Ground (Version 2)	20 April 2020, Final REP9-013
Norfolk Boreas Broadland District Council Statement of Common Ground (Version 5)	28 September 2020, Final REP10-036
Norfolk Boreas Chamber of Shipping Statement of Common Ground (Version 2)	20 April 2020, Final REP9-018
Norfolk Boreas Eastern Inshore Fisheries and Conservation Authority Statement of Common Ground (Version 3)	20 April 2020, Final REP9-019
Norfolk Boreas Environment Agency Statement of Common Ground (Version 5)	28 September 2020, Final REP16-007
Norfolk Boreas Highways England Statement of Common Ground (Version 3)	28 September 2020, Final REP16-008
Norfolk Boreas Historic England Statement of Common Ground (Version 1)	20 April 2020, Final REP9-022
Norfolk Boreas Marine Management Organisation Statement of Common Ground (Version 6)	28 September 2020, Final REP16-009
Norfolk Boreas Maritime and Coastguard Agency Statement of Common Ground (Version 4)	20 April 2020, Final REP9-024
Norfolk Boreas National Farmers Union Statement of Common Ground (Version 5)	12 October 2020, Final Version 5, ExA.SoCG-13.D18.V5
Norfolk Boreas National Association of Producer Organisations in Dutch Demersal Fisheries (VisNed) and National Federation of Fishermen's Organisations (NFFO) Statement of Common Ground (Version 3)	20 April 2020, Final REP9-025
Norfolk Boreas Natural England Statement of Common Ground (Version 5)	28 September 2020, Final REP16-010
Norfolk Boreas Natural England (Offshore Ornithology) Statement of Common Ground (Version 5)	28 September 2020, Final REP16-011
Norfolk Boreas Norfolk County Council Statement of Common Ground (Version 4)	28 September 2020, Final REP16-012
Norfolk Boreas North Norfolk District Council Statement of Common Ground (Version 4)	28 September 2020, Final REP10-040
Norfolk Boreas Royal Society for the Protection of Birds Statement of Common Ground (Version 4)	28 September 2020, Final REP16-014

Statement of Common Ground	Status
Norfolk Boreas Royal Yachting Association Statement of Common Ground (Version 1)	August 2019, Final REP9-027
Norfolk Boreas The Wildlife Trusts Statement of Common Ground (Version 4)	20 April 2020, Final REP9-030
Norfolk Boreas Trinity House Statement of Common Ground (Version 4)	20 April 2020, Final REP9-028
Norfolk Boreas Whale and Dolphin Conservation Statement of Common Ground (Version 2)	20 April 2020, Final REP9-029
Norfolk Boreas Orsted Hornsea Project Three Statement of Common Ground (Version 6)	12 October 2020, Final Version 6, ExA.SoCG-27.D18.V6

The Applicant considers that significant progress has been made with stakeholders. To the extent that any matter remains unresolved with the parties identified above (of which there are only a very small number) these are matters of principle for the Secretary of State to consider in the decision making process.

### Progress and Further Commitments During the Examination

In addition to the significant levels of embedded mitigation for the Project, considerable progress has also been made throughout the course of the Examination.

In relation to offshore ornithology:

- A reduction in the project design envelope and securing further mitigation to reduce collision impacts by 63% (herring gull and great black-backed gull), 64% (lesser black-backed gull), 72% (kittiwake), 73% (little gull) and 74% (gannet) [REP5-059] when compared with impacts at application submission.
- On the basis of the revised collision estimates Natural England (NE) have been able to conclude that the Project alone would not give rise to any adverse effect on integrity (AEol) of any SPA populations.
- Additional mitigation measures for red-throated diver [AS-024] with commitments that no more than one cable installation vessel would operate within the SPA during the most sensitive periods of the winter (January to March), and that best practice vessel movements would be adopted. This enabled NE to rule out risk of AEol on the SPA red-throated diver population.

In relation to the HHW SAC:

- A reduction in the area of the HHW SAC occupied by cable protection from 52,000m<sup>2</sup> to 24,000m<sup>2</sup> following further mitigation offered by the Applicant and as a result of pursuing and agreeing terms with BT to remove out of service cables within the HHW SAC.
- In the event that the Secretary of State agrees that there is no AEol such that compensation for the HHW SAC is not required, a commitment, following engagement by the Applicant and analysis of the supply chain, to decommission cable protection within the HHW SAC (except at crossing points) at the end of project lifespan.
- A commitment, following further investigations, not to place cable protection within the priority areas to be managed as Annex I *Sabellaria spinulosa* reef.
- Agreeing a comprehensive HHW SAC control document (8.20) with the Marine Management Organisation (MMO) and NE to secure mitigation for the HHW SAC; and the introduction of an alternative condition (and associated Cable Specification, Installation and Monitoring Plan (CSIMP)) for the HHW SAC, preferred by NE and the MMO.

- Agreement with NE that the effects on the HHW SAC will not be permanent in nature, and confirmation from NE that the mitigation measures significantly reduce the risk of any AEoI.

In relation to onshore matters:

- Agreement with Norfolk County Council that the Highway Intervention Scheme (HIS) is sufficient to mitigate construction traffic impacts of the Project through Cawston, both alone and cumulatively.
- Commitments from each of Norfolk Boreas, Norfolk Vanguard, and Hornsea Project Three (through the relevant project Traffic Management Plans) to implement the revised HIS.
- Commitment within the Outline Traffic Management Plan (OTMP) to reduce the cumulative HGV peak by avoiding overlapping peaks with Hornsea Project Three.
- Commitment within the OTMP to monitoring measures, including identifying any potential driver compliance issues and introducing further intervention measures should a valid driver compliance issue be identified.
- Providing further information regarding the design of the onshore project substation, which is secured through the DAS (document reference 8.3, Version 5). This includes the production of zoning plans and a Preliminary Design Report which provides a review of material options and a colour analysis for the external appearance of the convertor halls. It also provides further information regarding the approach on form, massing and style and isometric visualisations of the indicative design layout of the onshore project substation.
- Further substantial consultation commitments on the design and mitigation of the onshore project substation. The DAS (document reference 8.3, Version 5) has been updated to include: production of the Design Guide (to be developed from the Preliminary Design Report) which will set out the design approach and mitigation measures to be applied in respect of the onshore project substation; a commitment to undertaking a Design Review Process at an early stage to inform the final detailed design; commitment to engage with local stakeholders as part of the Design Review Process and via the Design Guide to gather feedback on options which would be open for influence. The design review process and approach to engagement is agreed with Breckland Council.

In relation to other matters:

- Agreement with Highways England on all highways matters;
- Agreement with North Norfolk District Council (NNDC) on all matters save in relation to tourism impacts (in which NNDC have submitted no further evidence of impact);
- Agreement with NE on all potential impacts and mitigation for onshore ecology and ornithology, as detailed in the final SoCG, Version 5 [REP16-010];
- Commitment to significant further mitigation in the Outline Code of Construction Practice to address the concerns of stakeholders, including the NFU and LIG;
- Agreement with the Local Planning Authorities and the Local Highway Authority on the form of the Requirements in the dDCO and on the level and detail of mitigation secured within the related certified plans;
- Agreement with statutory undertakers on the protective provisions in the dDCO, including removal of objections from National Grid, Cadent Gas, Network Rail, and agreement with the Environment Agency;
- Agreement of 84% of Heads of Terms with landowners, including the removal of an objection from the National Trust;

- Agreement with Historic England (HE) and the MMO on all archaeological related matters, as presented in the SoCG with HE, and confirmation of agreement on the revised WSI [REP5-020];
- Agreement with NE and the MMO on all aspects of underwater noise that are within the Applicant's control as demonstrated in the respective SoCGs; and
- Commitment by the Applicant (and Hornsea Project 3) to additional measures with respect to potential noise associated with construction traffic movements at Old Railway Gatehouse. These measures were agreed with the residents of Old Railway Gatehouse and are secured through the OTMP in the case of Norfolk Boreas (and updated Construction Traffic Management Plan for Hornsea Project Three).

### **Embedded Mitigation & A Strategic Approach**

Suggestions have been put forward by local stakeholders that alternatives for delivery of the Project should be considered, including shared cable routes or an offshore ring main, and a commitment to HVDC transmission.

The embedded mitigation adopted by the Applicant already provides for an efficient and streamlined construction process. This includes adopting a work-front sectionalised methodology to reduce construction impacts, as well as a strategic approach to the grid connection. Both Norfolk Boreas, and its sister project Norfolk Vanguard, have made an early commitment to HVDC transmission following feedback from pre-application statutory consultation, and both projects have been planned strategically together to incorporate a shared cable route both onshore and offshore, as well as integrated construction, such as advance provision of ducts by Norfolk Vanguard for installation of Norfolk Boreas onshore cables, in order to reduce impacts as far as practicable.

### **Habitats Regulations**

The application was accompanied by Information to support a Habitats Regulations Assessment [APP-201] which concluded that there would be no AEoI of any European site as a result of the Project. In the case of onshore matters, NE agree that there is no AEoI of European sites.

#### Offshore Ornithology

As outlined above, NE agree that there will be no AEoI from the Project alone [REP4-040 and REP7-048] and that the only species for which they could not rule out in-combination AEoI (when Hornsea Projects Three and Four are omitted) were kittiwake from the Flamborough and Filey Coast (FFC) SPA and lesser black-backed gull from the Alde-Ore Estuary (AOE) SPA. NE advise that the contribution of the Project to in-combination effects is small when compared with other projects [REP9-045] and have acknowledged that there is 'some headroom' [REP6-049].

The Applicant's position is that NE's overly precautionary methods of assessment lead to conclusions which are highly improbable [REP2-035, and REP4-014]. In addition, the level of in-combination impact on lesser black-backed gull remains well below the in-combination total predicted for the consented Galloper Wind Farm [REP7-026] and the Project's contribution to total in-combination kittiwake collision risk is comparable with the scale of impact for the consented East Anglia Three Wind Farm, for which NE advised "*while not de minimis, is so small as to not materially alter the significance or the likelihood of an adverse effect on the integrity of the SPA*" [REP8-016]. Indeed, on a per megawatt basis, Norfolk Boreas' impacts are an order of magnitude lower than for most North Sea offshore wind farms consented in the last seven years.

#### HHW SAC

In addition to the Information to support a Habitats Regulations Assessment [APP-201], further assessment was undertaken using Natural England's latest advice and the latest site condition assessment for the HHW SAC; this also concluded no AEoI ([REP10-043]). Whilst it has not been possible to reach agreement with NE on the level of impact to the HHW SAC, NE have advised that AEoI has been significantly reduced [REP10-064, Q4.8.3.2]. In fact, when the further mitigation measures as secured by the Applicant are taken into account the maximum potential impact to the sandbank and reef

features of the HHW SAC are temporary, inconsequential, and any impacts as a result of cable protection are fully within the guidelines of NE's advice note regarding consideration of small scale habitat loss within SACs [REP1-057]. This level of impact is comparable with (or less than) the scale of Annex I habitat loss on a number of other European sites for which AEoI was ruled out and development consent granted [REP10-033]. In view of the above, and the mitigation secured in the HHW control document (8.20) (of which the CSIMP is preferred), no AEoI can be concluded.

### Compensatory measures

The Secretary of State has recently granted consent for the Applicant's sister project (Norfolk Vanguard) and, when doing so, the Secretary of State considered the in-combination impact with Norfolk Boreas; the Secretary of State found that the Norfolk Vanguard project did not give rise to AEoI on a project alone or in-combination basis. No submissions have been made to the Norfolk Boreas examination which suggest that a different conclusion will be reached by the Secretary of State for this Project.

Whilst the Applicant remains firmly of the view that the project will not give rise to an AEoI of any European site, either alone or in-combination with other projects or plans, should the Secretary of State conclude that there is an AEoI, the Applicant, entirely without prejudice to its position, has prepared a comprehensive and full derogation case with compensatory measures [REP11-011 – REP11-015]. NE and the MMO agree with the compensatory package for the HHW SAC as secured through Schedule 19 of the dDCO. The Applicant therefore considers that compensation requirements have been identified, agreed and secured, such that any remaining matters of detail can be finalised and delivered post-consent in the event that the Secretary of State considers compensatory measures are necessary.

### **National Policy Statements and Net Zero**

Section 104(3) of the Planning Act 2008 provides that the decision maker should determine this application in accordance with NPS's EN-1, EN-3 and EN-5, except to the extent that one or more of the matters set out in Section 104(4) to 104(8) apply. The Planning Statement (APP-693) which accompanied the application concludes that the application accords fully with those NPSs (see sections 2.2 and 4.1).

Further, there is renewed urgency for renewable energy projects to be brought forward to ensure that the UK can meet the Climate Change Act 2008 (2050 Target Amendment) Order 2019. This amendment, which came into force on the 27 June 2019, introduced a target for 100% reduction in greenhouse gas emissions (against 1990 levels) in the UK by 2050 (net zero). This commitment has been further underlined by the Prime Minister's recent public announcement that the UK government plans to make the UK a world leader in green energy and to power all UK homes using renewable energy from offshore windfarms by 2030<sup>1</sup>.

At a regional level, the adoption by local partners of the Norfolk and Suffolk Local Industrial Strategy seeks to position the region as the "UK's clean growth region". It identifies clean energy as one of the three opportunity areas specified, as well as noting a number of underpinning sectors such as ports and logistics. The strategy recognises the significance of the offshore wind sector in delivering a brighter greener future and socio-economic benefits (resulting from the multi-billion pound investments, as well as the direct and indirect jobs) to the region.

Given the urgent need for such infrastructure, EN-1 makes clear that the Secretary of State should start with a presumption in favour of granting consent to applications for energy NSIPs unless any more specific and relevant policies set out in the relevant NPS clearly indicate that consent should be refused (paragraph 4.1.2).

In the course of the examination, as demonstrated through the above sections of this letter, the Applicant has made multiple submissions to the ExA up to, and including, this Deadline 18. None of these submissions, or the submissions of other parties, alter the need case for energy NSIPs set out in EN-1 or the presumption in favour of granting consent for energy NSIPs. No other more specific or relevant

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<sup>1</sup> [https://www.gov.uk/government/news/new-plans-to-make-uk-world-leader-in-green-energy?utm\\_source=27887da9-2aa8-4ad7-a346-b8722cd88156&utm\\_medium=email&utm\\_campaign=govuk-notifications&utm\\_content=immediate](https://www.gov.uk/government/news/new-plans-to-make-uk-world-leader-in-green-energy?utm_source=27887da9-2aa8-4ad7-a346-b8722cd88156&utm_medium=email&utm_campaign=govuk-notifications&utm_content=immediate)

policies indicate that consent should be refused. The Applicant considers that, as concluded by the Secretary of State on the planning balance for Norfolk Vanguard, there are no potential adverse effects which would outweigh the potential benefits of the Project.

We would be grateful if you could kindly confirm safe receipt.

Yours faithfully

**Womble Bond Dickinson (UK) LLP**

## APPENDIX 1 – PROOF OF DCO VALIDATION



## Chloe Walker

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**From:** no-reply@publishing.legislation.gov.uk  
**Sent:** 09 October 2020 19:25  
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Part1TheNorfolkBoreasOffshoreWindFarmDevelopmentConsentOrder.doc (8  
Warnings)

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