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Norfolk Boreas Request for Further Information

Dear Mr Leigh,

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by Norfolk Boreas Limited for development consent for Norfolk Boreas Offshore Wind Farm (Norfolk Boreas) Response to the Further Consultation Letter dated 22 September 2021 Norfolk Boreas Limited ("the Applicant")

We refer to your letter dated 22 September 2021 which invites further comments from interested parties on the representations submitted by the Applicant on 20 August 2021 as well as the Applicant's comments on representations received from interested parties.

The letter also requested further information from the Applicant in respect of certain details relating to the compensatory measures, submitted without prejudice to the Applicant's case that no AEoI arises, updated Collision Risk Modelling (CRM) and Population Viability Analysis (PVA) in respect of certain ornithological species, and further details in respect of the use of cable rock protection and avoidance of reefs during cable installation in the Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC).

The following documents are enclosed with the Applicant's submission:

1. The Applicant's Response to the Request for Further Information
2. The Applicant's Comments on Interested Parties Representations
3. In Principle Habitats Regulations Derogation Provision of Evidence Appendix 2 Alde-Ore Estuary SPA In Principle Compensation (Version 3)
4. In Principle Habitats Regulations Derogation Provision of Evidence Appendix 3 Haisborough Hammond and Winterton Principle Compensation (Version 3)
5. In Principle Habitats Regulations Derogation Provision of Evidence Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation (Version 3)
6. Extract of Schedule 19 to the draft DCO Compensation to protect the coherence of the Natura 2000 Network
7. Alde Ore Estuary SPA Collision Risk Modelling and Population Viability Analysis
8. Flamborough and Filey Coast SPA Collision Risk Modelling and Population Viability Analysis
9. Updated Population Viability Analysis Flamborough and Filey Coast SPA: Updated at the request of Natural England

We trust the enclosed documents deal fully with your request for further information.

Hornsea Project Four

Following your letter dated 22 September 2021, we are aware that an application for development consent in respect of Hornsea Project Four was submitted to the Planning Inspectorate on 29 September 2021. The Hornsea Project Four application documents were made available on 8 October 2021 and a decision on whether the application will be accepted for examination is expected on or before 27 October 2021.

The location of the Hornsea Project Four onshore cable route and associated infrastructure has a connection point near to Creyke Beck in Yorkshire and accordingly there will be no onshore interaction with Norfolk Boreas and therefore no possibility of onshore cumulative impacts arising from Norfolk Boreas and Hornsea Project Four.

In respect of offshore impacts, the Applicant has reviewed the relevant sections of the Hornsea Project Four application to determine if there are any changes to the collision estimates from the Preliminary Environmental Impact Report (PEIR) figures used to date, with those in the Environmental Statement (ES) which would need to be included in the Norfolk Boreas cumulative and in-combination assessment. To undertake this, the Applicant compared the equivalent collision predictions from the PEIR and the ES (i.e. the ones identified in the Hornsea Project Four assessment as estimated using 'SNCB Parameters'. Hence, the ES collision estimates considered are directly comparable to those presented in that project's PEIR, as used by the Applicant). This like-for-like comparison has established that, following design modifications for Hornsea Project Four, the predicted collision estimates have been reduced by 40%-50% (varying between species). A similar exercise was undertaken with respect to the Hornsea Project Four displacement assessment, as presented in that project's PEIR and ES. This also indicated that the ES displacement estimates were lower than those presented in the PEIR, by between 45% and 70% (varying across species).

Therefore, while the Applicant has not been able to update the collision or displacement figures for Hornsea Project Four used in the cumulative and in-combination assessment (due to limited time), it can be concluded that the current Norfolk Boreas assessment continues to represent the worst case, and due to the reductions at Hornsea Project Four, contains an additional element of precaution.

Requests for Information

As you will be aware, the Norfolk Boreas application was submitted on 11 June 2019 and accepted for examination on 4 July 2019. The examination opened on 12 November 2019 and whilst due to end on 12 May 2020, was extended until 12 October 2020, therefore lasting almost one year. Since the close of the examination and following the deadline for the Examining Authority's recommendation to the Secretary of State (SoS), three further requests for information have been received on 28 April 2021, 9 July 2021 and most recently on 22 September 2021.

During this period the need and urgency for the delivery of offshore wind has only increased. In November 2020, the Ten Point Plan for a green industrial revolution explained the critical role of offshore wind in order to build back better and greener, setting the target to produce 40GW of offshore wind by 2030. In December 2020, this was followed by the Government's Energy White Paper, Powering our Net Zero Future, which set out the vision to transition to clean energy by 2050, and the importance of offshore wind as a proven technology to deliver affordable decarbonisation at scale. In short, there can be no doubt that there is an increasingly urgent need for the delivery of Norfolk Boreas to maintain the pathway for net zero by 2050. The focus of the SoS's requests for information have, in the main, been directed towards the potential impact of the onshore project substation, near Necton, and the potential for adverse

effects on integrity to European sites, including the Applicant's proposed, without prejudice, compensatory measures. In the SoS's letter of 28 April 2021 the Applicant was requested to provide additional information on:

- the potential cooperation agreement between Norfolk Boreas and Norfolk Vanguard;
- funding for compulsory acquisition;
- protective provisions.

In addition, information was requested on:

- compensation measures relating to the Alde Ore Estuary (AOE) Special Protection Area (SPA) (with a further request dated 22 September to include updated CRM and PVA);
- updated in-combination assessments and compensatory measures relating to the Flamborough and Filey Coast (FFC) SPA (with further requests dated 9 July on updated in-combination assessments and on 22 September to include updated CRM and PVA); and
- compensatory measures relating to the HHW SAC (with further requests dated 9 July (to include information on recovery of sandbanks/sandwaves) and 22 September).

The Applicant has now provided the fullest possible responses on all of the above matters by the respective deadlines of 28 May, 20 August and 21 October 2021 (the Response).

However, with respect to the additional information provided on compensation options and strategies in relation to the AOE SPA, FFC SPA and HHW SAC, the Applicant wishes to reiterate, as made clear in the Response, its firm position that these compensation options and strategies are not required. Nor were they required by the SoS in his original decision letter of 1 July 2020 on Norfolk Vanguard.

Alde-Ore Estuary SPA

As noted in the Response and in the Applicant's submissions during and subsequent to the Examination, the Applicant remains firmly of the view that the Project does not give rise to AEol on the AOE SPA. This is on the basis that the predicted collision risk for LBBG is very small (2.1 individuals) and even this figure contains considerable over-precaution. Hence there is a very high probability that the impact will not be discernible against natural population variations, and the in-combination total is lower than those for which the Secretary of State has previously concluded that no adverse effects on integrity will arise, for example in respect of the Galloper Offshore Wind Farm.

In his original decision letter of 1 July 2020 on Norfolk Vanguard the SoS concluded (para 5.7) no AEol on the basis that *"the potential loss of a relatively very small number of birds through collision impacts does not contribute in a significant way to the total number of birds predicted to be impacted in-combination ("de minimis")"*. That SoS conclusion applies equally to Norfolk Boreas.

Flamborough and Filey Coast SPA

As noted in the Response, and in the Applicant's submissions during and subsequent to the Examination, in light of the significant reductions in impact achieved through additional mitigation for the Project and the wider levels of over-precaution inherent in offshore ornithological impact assessment, the Applicant remains firmly of the view that the project does not give rise to any AEol of the FFC SPA. In addition, Natural England is now in agreement that there will be no adverse effects on the integrity of the FFC SPA as a result of the project alone or in-combination with other projects on gannet, guillemot and razorbill (for all wind farms including Hornsea

Project Three, Norfolk Vanguard, Norfolk Boreas, East Anglia ONE North and East Anglia TWO).

In respect of kittiwake, the Applicant has presented an updated PVA which clearly demonstrates that even when the total in-combination impacts are modelled, using Natural England's preferred methods and on the most precautionary basis, there will only be very small reductions in the population growth rates. The reductions in growth rates will only slow the current rates of population growth, and will not cause population declines, and the difference in the growth rates predicted with and without the Norfolk Boreas wind farm is extremely small and would almost certainly be undetectable. The conclusions from the updated PVA and assessment are unchanged from those presented during the examination and provide further support for the Applicant's position throughout the application and examination process that there will be no AEoI of the FFC SPA due to the Norfolk Boreas wind farm either alone or in-combination with other plans or projects.

In his original decision letter of 1 July 2020 on Norfolk Vanguard the SoS concluded (para 5.7) no AEoI on the basis that *"the potential loss of a relatively very small number of birds through collision impacts does not contribute in a significant way to the total number of birds predicted to be impacted in-combination ("de minimis")"*. That SoS conclusion applies equally to Norfolk Boreas.

Haisborough, Hammond and Winterton SAC

The Applicant has provided the additional requested material in the Response, and as noted in the Response, and in the Applicant's submissions during and subsequent to the examination, due to the mitigation measures which have been committed to, there would be no AEoI within the HHW SAC.

During the course of the assessment and examination process the Applicant has committed to a comprehensive and significant suite of mitigation measures designed to reduce the scale of effects on the HHW SAC, to promote rapid recovery of Annex 1 sandbanks and s. spinulosa reef, and where possible to avoid all interaction of the Project with Annex 1 features. The extensive list of these measures includes a commitment not to use cable protection in the priority areas to be managed as reef within the HHW SAC, unless otherwise agreed. Due to implementation of these mitigation measures the maximum possible size of Annex 1 habitat loss that could be caused by the project would be extremely small. The Applicant has also committed to decommission any cable protection (if required at all) placed within the HHW SAC apart from at cable crossing points, and not to use cable rock protection. Therefore, the SoS can have confidence that the cable protection will be decommissioned, thus ensuring that the impacts of cable protection would be long term temporary. In addition, in the Applicant's submission of Further Information on 20 August 2021 the Applicant produced further evidence in relation to sandbanks which demonstrates that for the conditions experienced at the HHW SAC dredged sandwaves are expected to recover fully and within a short period.

In his original decision letter of 1 July 2020 on Norfolk Vanguard the SoS concluded (para 5.8) no AEoI on the basis that *"the Applicant has demonstrated that the area of the site affected will be relatively small (in the case of reef, kept to a minimum through micrositing), any affected features are able to recover, and all cable protection will be removed at the time of decommissioning"*. That SoS conclusion applies equally to Norfolk Boreas.

Without prejudice compensation

Notwithstanding the above, and entirely without prejudice, the Applicant has developed proposed compensation measures over a considerable period of time, in consultation with a number of stakeholders, and to a significant level of detail. In addition, Vattenfall Wind Power Ltd has

collaborated with ScottishPower Renewables to enable the delivery of joint compensation measures (if required by the SoS) for the Norfolk Vanguard, Norfolk Boreas, East Anglia ONE North and East Anglia TWO projects.

Interested parties have raised concerns that the level of detail provided for the compensatory measures to date is insufficient to enable the SoS to have confidence that the measures can be delivered and are secured. However, it is important to remember that compensation measures have been proposed entirely without prejudice to the Applicant's position that there is no risk of AEoI. The degree of detail which can be provided can only be commensurate with the level of agreement on whether AEoI arises and, if it does, agreement on the nature and scale of the compensation to be provided. This is because these aspects will need to be reflected in land or commercial agreements and applications for permissions or consents (if any) required to deliver the compensation measures. In any event, this level of detail is not reasonably required by the SoS in order to conclude that the compensation measures proposed are deliverable and can be secured. Indeed, the SoS appeared to recognise this in the consent award for Hornsea Project Three which did not require compensation proposals to be developed to the extent interested parties now request. Nevertheless, the Applicant has continued to progress the compensation proposals as far as possible, to give all interested parties confidence that compensatory measures could be delivered and secured in the event they are required by the SoS.

Timing of delivery of compensation measures

Interested parties have also stated that compensation should be determined on the basis of the worst case envelope and not the final installed project. Whilst the SoS will no doubt wish to be satisfied that compensation to offset the worst case impacts could be delivered if required, provided that the SoS is satisfied that the compensation measures ensure that the overall coherence of Natura 2000 is protected, the SoS has a discretion to determine the nature and form of compensation measures to be delivered.

In the case of the HHW SAC for example, if the SoS concludes that AEoI will only arise as a result of cable protection, and there is a question as to whether cable protection will or will not be deployed, it would be entirely reasonable and within the SoS's discretion to determine that compensation would not be 'necessary' to ensure the overall coherence of Natura 2000 in the event that cable protection is not deployed, and also that compensation delivered after cable protection is deployed can still ensure the overall coherence of Natura 2000 is protected. This is an entirely lawful and reasonable approach, especially in the context of ensuring the delivery of affordable decarbonisation to meet the Government's targets for 40GW of offshore wind by 2030 and net zero by 2050. As previously noted, a requirement to deliver compensation in advance of understanding the scale of the impact (if indeed needed at all) would unnecessarily (and potentially significantly) increase the costs of the project's delivery and therefore ultimately the cost of energy for consumers. Given the specific circumstances which apply to Norfolk Boreas, this would not necessarily set any wider precedent as interested parties have suggested.

Natural England has, in fact, accepted this is an appropriate approach in certain circumstances and EC Guidance also supports this approach by recognising that there will be certain circumstances where it will not be possible to implement compensation before the impact occurs.

Potential impacts of the onshore project substation at Necton

In the Response, the Applicant provided details of a masterplan approach, which could be secured through the DCO. The masterplan shows the co-location of infrastructure, zoning of the onshore project substation footprints and how the indicative landscaping proposals have been designed to work together across both projects and with existing landscape features. This is supported through the written principles of the masterplan which set out the approach for

ensuring that the design and development of the onshore project substations is considered holistically for both Norfolk Boreas and Norfolk Vanguard. In addition, the same masterplan approach has been proposed for Norfolk Vanguard, with a reciprocal DCO requirement so that this can also be secured for Norfolk Vanguard. The SoS can therefore be satisfied that the Norfolk Vanguard and Norfolk Boreas projects would be co-ordinated to address design issues and that cumulative landscape and visual impacts at the onshore project substation near Necton are minimised.

Overall

Overall therefore, the Applicant has provided full and detailed responses to each of the SoS's requests for further information. However, the level of detail provided by the Applicant on compensatory measures should not be interpreted in any way as an acceptance by the Applicant that Norfolk Boreas would give rise to any AEoI of any of the European sites concerned. As indicated above the Applicant's firm position (supported by the SoS in his decision letter of 1 July 2020 on Norfolk Vanguard) is that the project would not give rise to any AEoI because of the minimal impacts of Norfolk Boreas on those European sites. To require any form of compensatory measures would be wholly disproportionate to the level of impacts concerned.

Yours faithfully



Jake Laws

For and on behalf of

Norfolk Boreas Limited