

The Planning Inspectorate
National Infrastructure Directorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: AE/2019/124323
Your ref: EN010087
Date: 10 December 2019

Via email:

Dear Sir/Madam

**APPLICATION BY NORFOLK BOREAS LIMITED FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE NORFOLK BOREAS OFFSHORE WIND
FARM – RULE 8 LETTER: ANNEX B, THE EXAMINING AUTHORITY’S WRITTEN
QUESTIONS**

I write in response to the Rule 8 letter issued on 19 November 2019

As requested, we are presenting our response in a table which is appended to this letter.

Please do not hesitate to contact me if you require any further information. We look forward to continuing to work with the applicant to resolve the matters outlined within our relevant representation, and to ensure the best environmental outcome for the project.

Yours faithfully



MRS BARBARA MOSS-TAYLOR
Sustainable Places - Planning Specialist
Direct dial 020847 48010
Direct e-mail barbara.moss-taylor@environment-agency.gov.uk

Norfolk Boreas EN010087 Rule 8 Letter – Written Questions

Q2.04	Net gain While it is accepted that net gain is not a mandatory requirement for NSIPs, do NE and EA accept that the Applicant's response to the RRs [AS-024] reflect no loss to biodiversity and some elements of net gain? The Applicant may wish to comment.	The Environment Agency has not identified loss of biodiversity as a concern for aspects under its remit. It is accepted that there may be some elements of net gain to biodiversity but, no mechanism has been presented to quantify this. We accept that there is no mandatory requirement to quantify net gains but we would welcome post consent discussions linked to water crossing to ensure that all opportunities to maximise environmental benefit are realised wherever feasible.
Q5.0.4	Discharging Requirements and Conditions All discharging authorities are requested to check Schedules in the dDCO for accuracy and provide the ExA with any suggested corrections and amendments	We have the following observations in respect of the draft DCO. Article 7(3) refers to the Environmental Permitting (England and Wales) Regulations 2010 and makes reference via a footnote to SI 2016/475. These regulations are the amendment regulations and were superseded by the Environmental Permitting (England and Wales) Regulations 2016; SI 2016/1154. In respect of Article 15(6) we note the intent of this provision but would prefer the following wording "Nothing in this article overrides the requirement for an environment permit under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2016 insofar as the discharge activity comes within the definition contained within the said Regulations".
Q5.3.10	Requirement 25: Watercourse crossings The EA's RR [RR-095] notes that Norfolk Vanguard dDCO committed to site-specific water crossing plans, but the Proposed Development's OCoCP does not, although dDCO requirement 25 'Watercourse crossings' does commit to a 'scheme and programme for any such crossing, diversion and reinstatement'. Do site-specific watercourse crossing plans need to be secured in the OCoCP for the Proposed Development as well as in Requirement 25? If not, why not?	It is our view that site-specific watercourse crossing plans need to be secured in the OCoCP for the Proposed Development as well as in Requirement 25. This is because the Requirements set out what should be provided for the scheme overall but the CoCPs (outline and detailed) are a primary source of reference during the construction phase of a consented project. We note that Version 2 of the OCoCP (paragraph 129) now includes a commitment for a scheme and programme for each watercourse crossing which reflects the scheme referred to in Requirement 25.
Q5.8.4	Disapplication of legislation relevant to the Environment Agency: The Applicant to comment on the following statement in the SoCG with the Environment Agency [AS-026]: <i>"The Applicant seeks to disapply various pieces of legislation. We are currently considering our position in relation to the legislation which is relevant to the Environment Agency. However, the draft protective provisions contained within part 7 of Schedule 17 of the draft DCO [AS-019] do not correspond with the latest version of the Environment Agency's model protective provisions."</i>	Please note that since the Relevant Representations were submitted the Applicant has been in contact with the Environment Agency. We have set out our position regarding the draft Protective Provisions. We have advised that it would be helpful to revise the description of the Environment Agency as a 'drainage authority' to draw a distinction between the Environment Agency and other drainage authorities as recent experience has shown that this can potentially cause confusion about our powers and responsibilities. We have also advised 'main river' should be defined.
Q8.2.2	Air Quality With regard to air quality impacts to protected sites; are NE and EA content with the Applicant's response to NE's concerns (Table 17 of [AS-024]) regarding no mitigation at designated sites?	Please note that the Environment Agency is not the Competent Authority in respect of air quality for construction activity. The Local Authority is the Competent Authority to advise on impacts on air quality in respect of vehicle movements etc. The Environment Agency's authority is in respect of air quality principally relates to impacts related to Environmental Permitting Regulations and specified installations that are subject to them.

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<p>Q16.2.3</p>	<p>Ground Conditions and Contamination issues in EA's RR Section 2 of the Environment Agency's [RR-095] identified a number of issues in relation to Ground Conditions and Contamination which it considers have not been addressed to its satisfaction, relating to construction phase impacts on:</p> <ol style="list-style-type: none"> 1. the quality of surface water fed by groundwater; with particular regard to its observation that the ES does not provide the locations of where groundwaters and surface waters are hydrologically connected in relation to where construction activities are anticipated to take place; 2. unlicensed water supplies; 3. land quality; 4. impacts on groundwater quality in the principal aquifer from trenchless crossings and piling; 5. impacts on shallow groundwater due to changes to hydraulic regime as a result of soil compaction; and 6. data sources. <p>The Environment Agency to comment on the Applicant's responses [AS-024] to these concerns submitted in response to the ExA's Rule 6 letter.</p>	<ol style="list-style-type: none"> 1. We welcome the commitment to addressing our concerns in the post consent period. We wish to review and comment on the refined conceptual site models and mitigation measures once post-consent ground investigations have been undertaken and prior to construction. 2. We acknowledge the Applicant's clarification. If any of the activities have the potential to derogate a groundwater abstraction, the Applicant will need to get the abstractor's formal consent to derogate, before works begin, irrespective of whether or not they have access to mains water. 3. We acknowledge the Applicant's PRA recommendation for Ground Investigations and further assessment in respect of Controlled Waters and Groundwater Risk Assessments. We wish to review and comment on the assessments prior to construction. 4. We note that this has been referenced within the updated OCoCP 5. The Applicant undertakes to investigate the presence of so far unknown private groundwater abstractors when they commence work. We request that the Applicant provides us with details of any groundwater abstractors identified along with a risk assessment for the works, along with a groundwater monitoring proposal if appropriate, or an evidence-based justification of the reasons why a risk assessment and monitoring are not required. 6. The Terra Consult reports have now been provided by the Applicant.
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