



## Meeting note

<b>Project name</b>	Norfolk Boreas
<b>File reference</b>	EN010087
<b>Status</b>	<b>Final</b>
<b>Author</b>	The Planning Inspectorate
<b>Date</b>	8 February 2019
<b>Meeting with</b>	Norfolk Boreas Limited
<b>Venue</b>	Temple Quay House
<b>Meeting objectives</b>	Draft documents review meeting
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

### Draft document review

The Applicant set out the overarching principle for the two scenarios described in the draft application documents. Scenario 1 describes how Norfolk Boreas (Boreas) interacts with the Norfolk Vanguard (Vanguard) project and scenario 2 describes how Boreas would be built if Vanguard wasn't consented.

### Development Consent Order (DCO)

The articles in the draft DCO will describe the difference powers needed for each scenario in different paragraphs within the articles. The Applicant clarified that only one option within an article will be executable. The Applicant stated that it believed this approach made the draft DCO easier to read in conjunction with the Works Plans, and other documents.

The Applicant was advised to be clear when numbering the works in the DCO to avoid confusion and Works 11 and 11a were discussed as examples. It was clarified that these had been numbered 11 and 11a as they were not two different scenarios but two Works being built as part of Boreas. The Applicant stated it would review this and either explain it in the Explanatory Memorandum (EM) or split the works into the two scenarios.

The Applicant was advised to use scenarios in the EM to ensure clarity and to add a table of provisions to enable cross referencing between the scenarios.

The Applicant explained that it would use a feedback mechanism to ensure that the host authority knew which scenario was being executed during the pre-commencement stage. The Applicant was advised to review [Advice Note Fifteen: Drafting Development Consent Orders](#) when defining commencement and how the discharges under the two scenarios would work.

### **Deemed Marine License (DML)**

The Inspectorate referenced advice in Advice Note Fifteen regarding the DML being transferred in part. It was further clarified that each DML on its own could be used to implement the project. The Applicant was advised to draft the DCO and DMLs, so they would not conflict with each other. The Applicant clarified that any of the three electrical solutions referred to in the DML could be implemented at the discretion of the applicant and that it depended on commercial factors.

Further written comments on the draft DCO, EM and DML has been appended to this meeting note at Annex A.

### **Plans**

The different scenarios will be described on the land plans using a series of coloured hatching. The Inspectorate advised the Applicant that it might be beneficial to produce a stand-alone document that explained how the plans should be read in the context of the different scenarios as was recently produced as an application document for Rail Central (Strategic Rail Freight Interchange). The Applicant was advised to review [Advice Note Six: Preparation and submission of application documents](#).

The Applicant was advised to compare the descriptions used within the keys used for the plans with the Book of Reference to ensure the same descriptions was used.

Further written comments on the plans has been appended to this meeting note at Annex B.

### **Project update**

Anticipated submission date mid – late June 2019.

The Applicant was advised to redact any signature in documents prior to submitting them to the Inspectorate.

### **Specific decisions / follow up required?**

- Inspectorate to check the status of the last meeting note.

## **Annex A**

### **Norfolk Boreas Offshore Wind Farm Order: Comments on draft Development Consent Order (DCO) and Explanatory Memorandum (EM) February 2019**

These queries relate solely to matters raised by the draft documents, and not the merits of the proposal. They are limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. They are provided to assist the preparation of the next iteration.

#### **General Drafting points**

1. The Applicant should ensure that when the development consent order (DCO) is finalised all internal references and legal footnotes are checked and that the drafting follows best practice in Advice Notes 13 and 15 and any guidance on statutory instrument drafting.
2. The Explanatory Memorandum (EM) should state whether the article replicates a model provision or precedent article. Where there has been a change from the precedent or model provision this should ideally be shown in a track change DCO. It would also be helpful if the EM clarified whether the change is minor and has been made where in the applicant's view the model provision/precedent is unclear, or does not follow standard statutory instrument drafting practice. Where a model provision or precedent article is substantially changed, the EM should clearly explain how that alters the effect. Ideally (and particularly if an article is novel), the power on which each article is based should be identified.
3. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

## Annex A

<b>Q No.</b>	<b>Section</b>	<b>Extract from draft DCO Scenarios or Description</b>	<b>Question/Comment</b>
<b>1.</b>	Definitions	Definition of 'commencement'	<p>The ExA will need to consider whether this definition, which follows the East Anglia 3 DCO, is satisfactory including the impacts of any exclusion included. We note that 'remedial work' is not defined, and the ExA may therefore need clarification on the scope of remedial works to consider whether this is too wide, and/or whether a condition would need to be applied.</p> <p>The ExA will also need to consider whether the flexibility afforded by the 'carve outs' for exempted works such as site clearance, demolition etc. is justified. It may be helpful for the applicant to clarify any impacts for these works so the ExA can consider whether they are justified and/or need to be controlled by a requirement.</p>
<b>2.</b>	Definitions	Definition of 'Norfolk Vanguard DCO'	Should this be 'Norfolk Vanguard Offshore Windfarm' DCO' so as to be consistent with the title of the dDCO and the definitions for Scenario 1 and Scenario 2?
<b>3.</b>	Works No. 1, 2, 3A, 4A, 4 B and 4C, 8A, 8B, 9, 10 C		It may improve clarity if the works which will take place under both scenarios are identified as such in the dDCO.
<b>4.</b>	Works No 5 onwards	Formatting/ drafting approach	Consider whether current approach to drafting provides the best clarity.

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<b>5.</b>	Works 12 B	<i>and in connection with such Work Nos. 4C to 12</i>	There is no Work No. 12. It appears that this Work related to Scenario 2 only, and it is noted that 12A appears to be applicable for Scenario 1 only. The applicant should review all the sub-divided works and their numbers to ensure clarity
<b>6.</b>	Works No 12 B (b)	<i>(b) temporary access tracks and running tracks both alongside and used for the purpose of constructing Work Nos. 5, 6, 7, and 9;</i>	It appears that work number 12B relates to Scenario 2 only, but work numbers 5, 6, 7 and 9 also relate to Scenario 1. (see comment 4 above)
<b>7.</b>	Works No 12 B (d)	<i>(d) removal of static fishing equipment</i>	Further clarity may be beneficial of to what happens to the removed equipment.
<b>8.</b>	Req.	<i>'Norfolk Vanguard DCO'</i>	This should be 'Norfolk Vanguard Offshore Wind Farm DCO.'
<b>Explanatory Memorandum</b>			
<b>9.</b>	3.4	<i>The differences between the Scenarios are described in more detail in the table below:</i>	<p>The items in the table are not all differences, most of the provisions are the same for either scenario.</p> <p>If both common and different provisions are to be included, then distinguishing the differences might be helpful</p>
<b>10.</b>	3.4	Table	It would be helpful if the table could indicate where each of the relevant provision is in the dDCO.

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11.	3.15	<p><i>This approach has been adopted on a number of offshore wind farms consented under the 2008 Act; most recently in the Norfolk Vanguard application and in the as made East Anglia THREE offshore wind farm Order (<b>East Anglia THREE</b>).</i></p>	<p>The phrase a' number of offshore wind farms consented under the 2008 Act' is not helpful without appropriate examples.</p> <p>If it is the intention to infer that the approach has been adopted by DCOs other than East Anglia Three, then the applicant should provide details of these made DCOs, along with any explanation of any differences in the approach/ drafting.</p>
12.		<p><i>3.19 The approach has therefore provided for up to five separate DMLs as follows:</i></p> <p><i>3.19.1 Licence 1 – generation assets (Phase 1)</i></p> <p><i>3.19.2 Licence 2 – generation assets (Phase 2)</i></p> <p><i>3.19.3 Licence 1 – transmission assets (Phase 1)</i></p> <p><i>3.19.4 Licence 2 – transmission assets (Phase 2)</i></p> <p><i>3.19.5 Licence 1 – Project Interconnector assets (Scenario 1)</i></p>	<p>While it is clear that the Project interconnector assets licence is relevant to Scenario 1 only, it might be helpful for the EM to state that the other DMLs apply to both Scenarios.</p>

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13.	General	Deemed Marine Licences.	<p>Care should be taken to avoid potential conflicts or confusion between the provisions in the main body of the order and the Deemed Marine Licences. Where definitions in the DMLs differ from those in the main order, it may be helpful for there to be specific guidance in the EM, pointing out where definitions differ and the reasons for this.</p> <p>The applicant is advised to review the Inspectorate's Advice Note 15, in particular Section 27 and Good Practice point 11 with regard to avoiding inconsistencies between the DCO and DML, and also Section 28 with regard to the transfer of DML in part.</p>
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## Norfolk Boreas: Planning Inspectorate's comments on draft Plans

	Works and Land Plans - Planning Inspectorate Comments
Land Plans	General comment - Before submission please ensure referencing is complete and ensure that referencing between the Plans, the Draft DCO, BoR and Statement of Reasons are correct and there are no discrepancies. There should be no room for doubt as to the precise areas of land which are to be compulsorily acquired. Boundaries between plots should be clearly delineated, and each plot separately numbered and correspond with the BoR.
Land Plans	<p>At Acceptance the Inspectorate checks the plots identified in the Book of Reference (BoR) against the Land Plans. We have not had sight of a draft BoR but advise that it would be helpful if the Land Plan plot numbers are contained in the BoR and Statement of Reasons along with the plan reference numbers so they can be easily identified and are user friendly for everyone.</p> <p>This makes it easier for Affected Persons and members of the public to identify which plan relates to which plot and to be able to cross reference with information contained in the BoR, DCO and Statement of Reasons.</p>
Land Plan	The plot boundaries and numbering are clear and easy to understand. As we have not received a more evolved DCO, it isn't possible to ascertain if the shading used is consistent.
Land Plans	It is noted that the plans are reasonably complicated and that it should be clear to all stakeholders, especially those with an interest in land, what powers are sought for any given plot. The applicant should ensure that the references to the plans in the DCO and all documentation correspond exactly with the headings on the land plans themselves.
Land Plans	The Applicant should pay particular attention to plots where the use of land can differ depending on whether scenario 1 or 2 is implemented.
Land Plans	Within the key for this plan, it would be beneficial if there was further explanation in the definitions to



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(Sheet 40)	explain what rights were being sought for which scenario (and also what rights were being sought in both scenarios. If there was any extinguishment of rights being sought these should also be clearly labelled in the key and set out in the plans.
Land Plans (Interaction Plan)	<p>It is difficult to see some of the interactions of the two scenarios to the north of the substation, given the different, and number, of different shades used. Further clarity in this particular location should be considered.</p> <p>The plan should also clearly identify which of the attenuation ponds relate to which scenario.</p>
Work plans	The Applicant's approach to showing works for scenario 1 and 2 on separate plans, along with a composite plan showing both scenarios is helpful and greatly aids understanding.
Work Plans	Where land is only required for one scenario, the Applicant should be able to clearly demonstrate the need for the land in the DCO and may need to justify acquisition powers sought for land that may not be required in the final form of the scheme.
Work Plans	It would appear that the Order limits for both scenarios 1 & 2 are the same. Can the Applicant confirm that this is the case?
Work Plan (onshore)	<p>The key uses the words "additional land". This should be further clarified or the terminology changed to better reflect what is being sought.</p> <p>It is questioned whether "used under Scenario 2 only" is the right terminology in the key to the mobilisation area. The applicant should ensure that this is correct.</p>
Work Plans (Offshore)	The inset box should also include the shading for Work No. 4C and 5.
General Advice	To ensure that the plans provide clarity as to the works being carried out, it is advised that the relevant local authorities are consulted on the approach to setting out the works connected with the different scenarios on the work plans and the interaction plans.

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General Advice	<p>Please refer to advice contained in <a href="#">Advice Note 6 How to submit your application</a> which provides advice on file referencing for each plan or document including, for example, the title, a unique plan or document reference and the appropriate APFP Regulation 5(2) paragraph number to which the plan relates.</p> <p>Any plans, drawings or sections should be consistent with the requirements set out in The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.</p>
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