

From: [Dale Rodmell](#)
To: [Norfolk Vanguard](#)
Cc: [REDACTED]
Subject: Norfolk Vanguard - Written Representation on behalf of NFFO and VisNed
Date: 15 January 2019 18:26:03
Attachments: [190115 NFFO VisNed Written Representation - Final.pdf](#)

Good evening,

Please find attached written representation in line with deadline 1 for the Norfolk Vanguard Examination process.

I would like also to notify that I wish to attend the issue specific hearing covering fisheries issues. One of the issues raised concerns DCO/DML matters and I would therefore be grateful for advice on whether it would be necessary to also attend this hearing.

Kind regards,

Dale

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Our ref: NFFO/3727/DR
Your ref: EN010079

National Infrastructure Planning
Temple Quay House
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Bristol, BS1 6PN

15th January 2019

Dear Karen Ridge,

Application by Norfolk Vanguard Limited for an Order Granting Development Consent for the Norfolk Vanguard Offshore Wind Farm Project: Written Representation

We offer the following written representation prepared following discussions with Vatenfall to develop a statement of common ground that we understand to have been submitted by the applicant in line with deadline 1.

While it has been possible to come to agreement in some areas, unfortunately there remain a number of significant areas of disagreement. The following is a summary of outstanding concerns, followed by detailed commentary on these issues.

Summary of Outstanding Concerns

1. The worst case scenario has not been adequately defined in order to properly inform the assessment – it does not define, for a given water depth, how far anchor lines will extend beyond the floating platforms.
2. There is insufficient evidence that the risk to fishing vessels under the worst case scenario has been appropriately assessed. It is not clear how the conclusion that under the present proposal safety risks for fishing vessels have been determined to be within acceptable limits.

3. The definitions used to define sensitivity criteria in the assessment methodology lack specificity over what constitutes limited, moderate and extensive operational vessel fishing range and dependence upon the number of fishing grounds. We do not agree that the significance of the impact should be classified as minor with respect of loss of grounds and displacement during the operation and maintenance phase under the worst case scenario.
4. The Cumulative Effects Assessment lacks transparent data analysis to support its conclusions. There is also no evidence that proposed fisheries measures associated with the marine protected areas have been included in the CEA. We do not agree with the conclusion that the significance of impact due to loss or restricted access applying to the project operational phase is minor-adverse for the Dutch beam trawl and seine net fisheries, UK beam trawl, and minor local inshore vessels. Following discussions with Vatenfall we have provided shape files of proposed fisheries management measures in the English Southern North Sea, Dutch and German North Sea Areas with view to the assessment being expanded and updated.
5. Relative to fixed foundation options, floating platform options present a less safe operating environment (especially under the worst case scenario) and physically hinder coexistence with commercial fisheries activities. There is a very high likelihood that the use of floating platforms under the worst case scenario would result in the practical exclusion of commercial fisheries activities. As such, their inclusion at this site location is not in accordance with pursuing the following East Inshore and East Offshore marine plan policies GOV2 and FISH1 and Vatenfall has not made a case for justifying floating wind options in the context of these policies. In light of this and the impacts generated, we therefore object to floating wind technology being permitted as part of the project's design envelope.
6. For safety reasons, an obligation to report exposed cables should be secured via the Deemed Marine Licence. We suggest a condition under notifications requirements is most appropriate.

Detailed Commentary

1. Insufficiently Defined Worst Case Scenario

The worst case scenario has not been adequately defined in order to properly inform the assessment. While this scenario is defined as, amongst other factors, the minimum spacing between turbines (680 m) and the use of floating foundations (tension leg platforms with up to 12 anchor lines and an angle of mooring up to 30 degrees), **it does not define, for a given water depth, how far anchor lines will extend beyond the floating platforms.**

This is crucial to considering both whether and to what extent fishing activities may be able to operate and the safety implications of doing so.

In the absence of this being explicitly defined, we estimate that the worst case scenario using 200 x 9MW turbines on tension leg platforms with 12 anchor lines (or 20m in length) and mooring up to 30 degrees and 45m floating structures based on a minimum turbine distance of 680m and applying a 50m safety zone from the anchors will translate to a theoretical fishable clearance of 500m between turbines.

It is highly unlikely in our view that under these estimates that any existing commercial fishing activities would take place within the array area.

2. Commercial Fisheries Assessment – Gear Snagging Safety Risk

With respect to assessing gear snagging safety risk, this is covered in the commercial fisheries assessment and not in the navigation impact assessment. **There is insufficient evidence that the risk to fishing vessels under the worst case scenario has been appropriately assessed.** As a result, **it is not clear how the conclusion that under the present proposal safety issues for fishing vessels have been determined to be within acceptable limits.**

There is no evidence that an assessment has been completed using methodology equivalent to the navigational impact assessment including evidence of the application of frequency and severity criteria. There is no indication of what is considered to be a safe fishing distance from hazards such as anchor lines. When fishing, vessels operating towed gears have restricted manoeuvrability and trawls will be towed at significant distances from the vessel e.g. a beam or pulse trawl working in 40m of water will be operating at a distance of around 200m from the vessel with trawls extending a further 50m beyond that. Subject to tidal and wind effects gears are not following directly astern of the vessel. Such factors are key in determining manoeuvrability of vessels and potential snagging risks around turbine arrays.

Chapter 14 of the Environmental Statement does not specify how either statutory safety zones or non-statutory advisory safety zones would be applied to the infrastructure. In our estimate of the worst case scenario above we have assumed that they would be applied to each of the anchor foundations as well as the turbine structure itself which would be significantly larger than a 50m safety zone around the centre point of the structure. If the latter is applied (as indicated in chapter 15 p 36 where the safety zone is applied to surface infrastructure) we note that it would appear to barely cover the extent of the anchor lines.

We question therefore whether in both assessments (Navigation and impacts to fishing activities) the appropriate application of safety zones have been applied.

3. Commercial Fisheries Assessment - Excluding Safety

The definitions used to define sensitivity criteria in the assessment methodology lack specificity over what constitutes limited, moderate and extensive operational vessel fishing range and

dependence upon the number of fishing grounds. It is not clear what the criteria are scaled to, particularly with respect to the medium and low classifications, which have the potential under the matrix methodology (that combines sensitivity and magnitude criteria) to determine whether or not an impact is found to be significant or not. This reduces the confidence we can have in the assessment and cumulative effects assessment findings.

We also note that by aggregating the assessment by nation and gear groupings it is not possible to assess impact at the level of individual businesses. The limitation of vessels being able to relocate to alternative ground is therefore not assessed by a broad depiction of fishing grounds for an entire sector of each nation's fleet.

We do not agree that the significance of the impact should be classified as minor with respect of loss of grounds and displacement during the operation and maintenance phase under the worst case scenario. The area of the project is an important area for fisheries. As the Preliminary Environmental Information Report (PEIR) commercial fisheries chapter and supporting technical annex noted (not referenced in the Environmental Statement), the area of the North Vanguard site records among the highest effort and landings values for the Dutch fleet (overwhelmingly derived from beam trawling) in the southern North Sea, worth nearly 11 million euros. (ICES rectangle 34F2 2011-15 averaged). Values of individual spatial units located within the NV West are recorded as 1-1.5 million euros and the remaining areas fall within 0.5-1 million euros. These values increase once UK registered vessels (and those of other nations) are taken into account, where the project also sited on a regional core fishing ground (a further £719,422 is derived from ICES rectangle 34F2 – 2012-16 average).

We consider that the methodology does not provide a transparent assessment of compatibility of fishing activities taking place within the vicinity of the wind farm as we noted in our response to the PEIR consultation.

As it stands the EIA is not well suited to informing the most appropriate measures that will promote coexistence. This is evidenced by the fact that at the end of the chapter (Table 14.41, p108) mitigation is listed as not being applicable to virtually all commercial fisheries receptors (with the exception of inshore static gear vessels which make reference to following FLOWW guidelines). We note that this has changed from the presentation in the PEIR impacts results table.

4. Cumulative Effects Assessment (CEA)

The CEA lacks transparent data analysis to support its conclusions. There is also no evidence that proposed fisheries measures associated with the marine protected areas have been included in the CEA. Management measures for many sites in the southern North Sea are now sufficiently progressed to be included in the CEA in our view.

The qualitative nature of the sensitivity and magnitude criteria used in the methodology means that the CEA needs to clearly evidence its analysis in order to draw conclusions on the significance of impacts to fleets so that we are able to consider the validity of the conclusions in more detail.

Existing plans and projects are not factored into the assessment and are assumed to form part of the baseline. We consider this will disguise impacts already being carried by impacted parts of the fleet as the assessment assumes fishing businesses have perfectly adapted to previous impacts without cost. This results in a “shifting baseline syndrome” similar to that which is attributed to environmental change as reference points change from one project application to the next; there is no “rear view mirror” in the assessment.

Other projects proposed in the East Anglia Zone represent a significant overlay with one of the most heavily fished areas for the Dutch beam trawl fleet. The Norfolk Boreas project also proposes to include floating wind within its design envelope which we anticipate would exclude all types of fishing activity from the area of the array.

On this basis, and without further evidence, **we do not agree with the conclusion that the significance of impact due to loss or restricted access applying to the project operational phase is minor-adverse for the Dutch beam trawl and seine net fisheries, UK beam trawl, and minor local inshore vessels.** Indeed, the equivalent CEA recently completed for the Hornsea 3 offshore wind farm project classifies impact significance as moderate adverse for demersal trawlers (including fly shoot seines) which is significant in EIA terms¹.

There is the potential for displacement due to construction works and once operational for the displacement of the offshore fleets onto fishing grounds targeted by the inshore fleet which is considered not to be likely in the assessment (Ch 14, para 327). The fact that the fishing industry has endeavoured to agree seasonal spatial restrictions for the Dutch demersal fleet on inshore grounds is evidence that there would be a real risk of pressure on those grounds increasing, which may be compounded by closures resulting from conservation measures and restrictions from other wind farms.

We disagree that in the case of safety risk (which has not been included in the CEA), that the same factors and obligations would apply to other projects/ activities that would negate the potential for cumulative effects occurring (Ch14, p87, para 281). This presupposes that those measures removes the safety risk. In our view, each project, irrespective of measures applied, will incrementally increase risk to a fleet overall.

¹ Hornsea Project Three Offshore Wind Farm Environmental Statement Volume 2, Chapter 6 – Commercial Fisheries PINS Document Reference: A6.2.6 APFP Regulation 5(2)(a), p74. Accessed at: https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-000536-HOW03_6.2.6_Volume%20%20-%20Ch%206%20-%20Commercial%20Fisheries.pdf

Following discussions we have provided Vatenfall with shape files of proposed fisheries management measures in the English Southern North Sea, Dutch and German North Sea Areas with view to the assessment being expanded and updated.

5. Maximising Co-existence, Minimising and Mitigating Impact and the Rochdale Envelope

At the proposed site locations, the applicant has available to it proven technically feasible options through the use of the fixed foundations to deliver the project which, in our view, negates the need to pursue floating platform technologies that are presently developmental and more expensive.

Relative to fixed foundation options, floating platform options present a less safe operating environment (especially under the worst case scenario) and physically hinder coexistence with commercial fisheries activities. There is a very high likelihood that the use of floating platforms under the worst case scenario would result in the practical exclusion of commercial fishing activities. As such, the inclusion of floating platforms at this site location is not in accordance with pursuing the following East Inshore and East Offshore marine plan policies GOV2 and FISH1 and Vatenfall has not made a case for justifying floating wind options in the context of these policies:

GOV2: Opportunities for co-existence should be maximised wherever possible.

FISH 1: Within areas of fishing activity, proposals should demonstrate in order of preference:

- a) that they will not prevent fishing activities on, or access to, fishing grounds
- b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them
- c) how, if the adverse impacts cannot be minimised, they will be mitigated
- d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts

In light of this, the impacts generated, we therefore object to floating wind technology being permitted as part of the project's design envelope. We consider that under alternative fixed foundations, where sufficient spacing between turbines and adequate assurance over cable location and burial is provided, some level of fishing activity may co-exist.

With the inclusion of floating wind as an option, the relevance of measures to reduce safety risk and promote coexistence will vary depending upon the actual project plan selected within the Rochdale Envelope provisions. We consider therefore the current set of options within the scope of the

Rochdale envelope to be too broad for decision-makers to determine appropriate licensing arrangements for the project.

6. Fisheries Liaison and Co-existence Plan

It has been agreed with Vatenfall that the Fisheries Liaison and Co-existence Plan the plan will be developed in outline pre-consent in order to provide clarity over its provisions and we look forward to reviewing it.

This should in our view include, *inter alia*, other operational management arrangements such as provisions for gear clearance and disruption settlements including for lost access, navigation corridors and protocols, gear snagging protocols and processes for attributable claims, and retrieval of displaced static gears from safety zones.

In addition we encourage:

- The use of funding arrangements like the West of Morecombe Fisheries Fund as a mechanism to support fishing industry stakeholders affected by the project and provisioning of work opportunities (e.g. guard vessels or surveys for example) available to affected fisheries stakeholders as far as practically possible.
- Supporting the adoption of the Fish Safe device by fishing vessels operating in the area – see <http://www.fishsafe.eu/en/fishsafe-unit.aspx>. This technology, which combined with other safety elements above, provides automated means of integrating safety information into the navigational systems on fishing vessels that in turn provide a real-time warning of safety hazards in the wheel house. This will greatly promote safe working regime around the vicinity of the project and minimise the likelihood of incidents occurring in an area where there exists high levels of fishing activity.

7. Reporting of Cable Exposures Secured via the Deemed Marine Licence.

Although in our Statement of Common Ground with Vatenfall it has been agreed that in the event of cables becoming unburied during the operational phase, fisheries stakeholders would be informed through the FLO and appropriate channels such as the Kingfisher Information Services of Seafish, we consider this needs to be adequately secured under the DML.

We believe an unequivocal and legally secure protocol that places an obligation on the offshore renewable energy sector to report seabed hazards, and in particular the exposure of cables (there is already an accepted procedure for reporting dropped objects) is vital to ensuring a safe operating environment for the fishing industry and other mariners. It also provides the clearest of means to ensuring cable asset integrity.

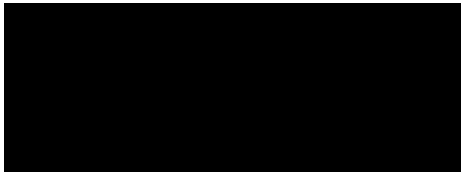
In order to avoid ambiguity and project to project inconsistency in approach, we consider it is necessary to introduce a specific provision within the Deemed Marine Licence to report cable exposures that may

subsequently be adopted as a standard licence condition for other projects. We suggest this would be best placed under the Deemed Marine Licence Conditions (Part 4 of Schedules 9, 10, 11 and 12) for notifications (Schedule 9 and 10 - Article 9 and Schedule 11 and 12 – Article 4), as follows:

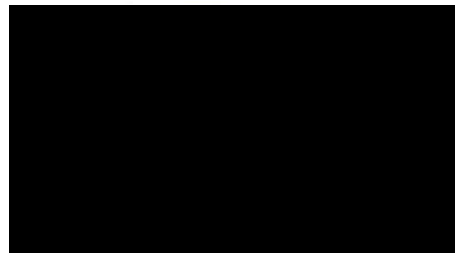
In case of exposure of cables on or above the seabed or due to damage to, destruction of or decay of cable protection, the undertaker must within five days following the undertaker becoming aware of the exposure notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure.

We believe this would place the issue beyond doubt for this project, and, if applied to other projects moving forward, would place what is a safety critical matter on a firm foundation.

Yours sincerely,



Dale Rodmell
Assistant Chief Executive (NFFO)



W. (Pim) Visser MBA
Chief Executive (VisNed)

cc: Helen Croxson, Marine and Coastguard Agency; Ellie Nobel, Marine Management Organisation