

Norfolk Vanguard Offshore Wind Farm

# Statement of Common Ground

Whale and Dolphin Conservation  
Society

Applicant: Norfolk Vanguard Limited  
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*Photo: Kentish Flats Offshore Wind Farm*



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## Glossary

CIA	Cumulative Impact Assessment
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
HRA	Habitats Regulations Assessment
HDD	Horizontal Directional Drilling
LiDAR	Light Detection and Ranging
LSE	Likely Significant Effect
MMMP	Marine Mammal Mitigation Plan
OWF	Offshore Wind Farm
PEIR	Preliminary Environmental Information Report
cSAC	candidate Special Area of Conservation
SCI	Site of Community Importance
SIP	Site Integrity Plan
SNCB	Statutory Nature Conservation Committee
SoCG	Statement of Common Ground

## Terminology

Array cables	Cables which link the wind turbines and the offshore electrical platform.
Landfall	Where the offshore cables come ashore at Happisburgh South
Offshore accommodation platform	A fixed structure (if required) providing accommodation for offshore personnel. An accommodation vessel may be used instead
Offshore cable corridor	The area where the offshore export cables would be located.
Offshore electrical platform	A fixed structure located within the wind farm area, containing electrical equipment to aggregate the power from the wind turbines and convert it into a more suitable form for export to shore.
Offshore export cables	The cables which bring electricity from the offshore electrical platform to the landfall.
Onshore cable route	The 45m easement which will contain the buried export cables as well as the temporary running track, topsoil storage and excavated material during construction.
The OWF sites	The two distinct offshore wind farm areas, Norfolk Vanguard East and Norfolk Vanguard West.

## 1 INTRODUCTION

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1. This Statement of Common Ground (SoCG) has been prepared between Whale and Dolphin Conservation (WDC) and Norfolk Vanguard Limited (hereafter ‘the Applicant’) to set out the areas of agreement and disagreement in relation to the Development Consent Order (DCO) application for the Norfolk Vanguard Offshore Wind Farm (hereafter ‘the project’), as requested by the Planning Inspectorate in the Rule 6 letter dated 9 November 2018.
2. This SoCG comprises an agreement log which has been structured to focus on marine mammals as the topic of interest to WDC in relation to the Norfolk Vanguard DCO application (hereafter ‘the Application’). Topic specific matters agreed, not agreed and actions to resolve between WDC and the Applicant are included. Points that are not agreed will be the subject of ongoing discussion wherever possible to resolve, or refine the extent of disagreement between the parties.

### 1.1 The Development

3. The Application is for the development of the Norfolk Vanguard Offshore Wind Farm (OWF) and associated infrastructure. The OWF comprises two distinct areas, Norfolk Vanguard (NV) East and NV West (‘the OWF sites’), which are located in the southern North Sea, approximately 70km and 47km from the nearest point of the Norfolk coast respectively. The location of the OWF sites is shown in Chapter 5 Project Description Figure 5.1 of the Application. The OWF would be connected to the shore by offshore export cables installed within the offshore cable corridor from the OWF sites to a landfall point at Happisburgh South, Norfolk. From there, onshore cables would transport power over approximately 60km to the onshore project substation and grid connection point near Necton, Norfolk.
4. Once built, Norfolk Vanguard would have an export capacity of up to 1800MW, with the offshore components comprising:
  - Wind turbines;
  - Offshore electrical platforms;
  - Accommodation platforms;
  - Met masts;
  - Measuring equipment (LiDAR and wave buoys);
  - Array cables;
  - Interconnector cables; and
  - Export cables.
5. The key onshore components of the project are as follows:
  - Landfall;

- Onshore cable route, accesses, trenchless crossing technique (e.g. Horizontal Directional Drilling (HDD)) zones and mobilisation areas;
- Onshore project substation; and
- Extension to the existing Necton National Grid substation and overhead line modifications.

## **1.2 Consultation with WDC**

6. This section briefly summarises the consultation that the Applicant has undertaken with WDC. For further information on the consultation process please see the Consultation Report (document reference 5.1 of the Application).

### **1.2.1 Pre-Application**

7. The Applicant has engaged with WDC concerning the project on multiple occasions during the pre-Application process, both in terms of informal non-statutory engagement and formal consultation carried out pursuant to Section 42 of the Planning Act 2008.
8. Further to the statutory Section 42 consultation, several meetings were held with WDC through the Evidence Plan Process. These are detailed throughout the SoCG and minutes of the meetings are provided in Appendices 9.15 – 9.26 (pre-Section 42) and Appendices 25.1 – 25.9 (post-Section 42) of the Consultation Report (document reference 5.1 of the Application).

### **1.2.2 Post-Application**

9. As part of the pre-examination process, WDC submitted a Relevant Representation (RR) to the Planning Inspectorate on the 3<sup>rd</sup> August 2018. This SoCG includes topic issues raised by WDC in their RR.
10. This SOCG will be a live document throughout the examination process as the Applicant and WDC work to resolve outstanding issues.

## 2 STATEMENT OF COMMON GROUND

11. The project has the potential to impact upon Marine Mammals. Chapter 12 of the Norfolk Vanguard Environmental Statement (ES) (document reference 6.1 of the Application) provides an assessment of the significance of these impacts.
12. Table 3 provides an overview of meetings and correspondence undertaken with WDC.
13. Table 4 provides areas of agreement (common ground) and disagreement.
14. Minutes of Evidence Plan meetings can be found in Appendix 9.24 and Appendix 25.9 of the Consultation Report (document reference 5.1 of the Application).

**Table 1 Summary of Consultation with Whale and Dolphin Conservation in relation to Marine Mammals**

Date	Contact Type	Topic
<b>Pre-Application</b>		
15 <sup>th</sup> September 2016	Meeting	Introduction to Norfolk Vanguard and Evidence Plan Process including marine mammal data collection, impacts of piling; and the Southern North Sea candidate Special Area of Conservation (cSAC)/Site of Community Importance (SCI).
10 <sup>th</sup> November 2016	APEM Workshop	APEM-organised workshop on marine mammal digital aerial surveys.
16 <sup>th</sup> November 2016	Email from WDC	Comments on APEM workshop including image quality and quality assurance process.
2 <sup>nd</sup> February 2017	Email from the Applicant	Provision of the Marine Mammals Method Statement (Appendix 9.13 of the Consultation Report).
15 <sup>th</sup> February 2017	Marine Mammals Scoping Expert Topic Group Meeting	Discussion of the scoping responses and approach to EIA/HRA (minutes provided in Appendix 9.24 of the Consultation Report).
22 <sup>nd</sup> June 2017	Email from the Applicant	Offshore HRA Screening (Appendix 5.1 of the HRA) provided for consultation.
6 <sup>th</sup> July 2017	Marine Mammals Pre-PEI ETG Meeting	Marine mammal HRA Screening agreed and approach to HRA discussed (minutes provided in Appendix 9.24 of the Consultation Report).
25 <sup>th</sup> October 2017	Email from the Applicant.	Provision of the Marine Mammals PEIR Chapter.
16 <sup>th</sup> January 2018	Email from the Applicant	Provision of technical reports to support the benthic HRA
26 <sup>th</sup> March 2018	Marine Mammal ETG Conference Call	Discussion of feedback on the draft Information to Support HRA for Marine Mammals (minutes provided in Appendix 25.9 of the Consultation Report).

Date	Contact Type	Topic
13 <sup>th</sup> April 2018	Email from the Applicant	Provision of draft In Principle Southern North Sea cSAC Site Integrity Plan (document 8.17) for review.
<b>Post-Application</b>		
3 <sup>rd</sup> August 2018	Relevant Representation	Initial feedback on the DCO application



**Table 2 Statement of Common Ground - Marine mammals**

Topic	Norfolk Vanguard Limited position	WDC position	Final position
<b>Renewable Energy</b>			
Renewable Energy	The principle of offshore wind is important and Norfolk Vanguard accords with national renewable energy targets and objectives.	Agreed. Due to the impacts of climate change on cetaceans, WDC supports the development of well-considered marine renewable energy.	It is agreed by both parties that renewable energy is important.
<b>Environmental Impact Assessment</b>			
Existing Environment	Survey data collected for Norfolk Vanguard for the characterisation of marine mammals are suitable for the assessment as agreed in the Expert Topic Group meeting on the 15 <sup>th</sup> February 2017.	WDC agrees that aerial surveys are appropriate for collecting marine mammal data. However we would prefer to see a larger buffer than 4km due to the wide ranging impacts of pile driving on harbour porpoises.	It is agreed by both parties that sufficient survey data has been collected to undertake the assessment.
	<p>The ES adequately characterises the baseline environment in terms of marine mammals.</p> <p>Density estimates of 1.26/km<sup>2</sup> (NV East) and 0.79/km<sup>2</sup> (NV West) have been used in the assessment. These are deemed to be representative of the wider area as they are comparable with the following:</p> <ul style="list-style-type: none"> <li>• SCANS III (Hammond <i>et al.</i>, 2017) Block O (within which NV West is partially located) = 0.888/km<sup>2</sup></li> <li>• SCANS III (Hammond <i>et al.</i>, 2017) Block L (within which NV East and NV West are located) = 0.607/km<sup>2</sup></li> <li>• The Zone Environmental Appraisal for the former East Anglia Zone (“all small cetaceans”) = 0.65/km<sup>2</sup></li> <li>• Norfolk Boreas = 1.006/km<sup>2</sup></li> <li>• East Anglia THREE = 0.294/km<sup>2</sup></li> <li>• East Anglia ONE (mean estimate) = 0.19/km<sup>2</sup></li> </ul>	Agreed, with the exception of the note above regarding the survey buffer area.	It is agreed by both parties that the existing environment for marine mammals has been characterised appropriately for the assessment.

Topic	Norfolk Vanguard Limited position	WDC position	Final position
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to marine mammals has been used.	Agreed	It is agreed by both parties that appropriate legislation, planning policy and guidance has been considered.
	The list of potential impacts on marine mammals assessed is appropriate as agreed in the Expert Topic Group meeting on the 15 <sup>th</sup> February 2017	Agreed	It is agreed by both parties that appropriate impacts on marine mammals have been assessed.
	Harbour porpoise, grey seal and harbour seal are the only species of marine mammal to be considered in the impact assessment as agreed in the Expert Topic Group meeting on the 15 <sup>th</sup> February 2017	WDC is commenting on issues relating to cetaceans only. We agree that harbour porpoise are the only species of cetacean that need to be included in the assessment	It is agreed by both parties that appropriate species of cetaceans have been assessed.
	The reference populations as defined in the ES are appropriate as agreed in the Expert Topic Group meeting on the 15 <sup>th</sup> February 2017.	Agreed	It is agreed by both parties that appropriate reference populations have been used in the assessment.
	The approach to assessment of impacts from pile driving noise for marine mammals follows current best practice and is therefore appropriate for this assessment as agreed with during the Expert Topic Group meeting on 15 <sup>th</sup> February 2017.	Agreed	It is agreed by both parties that the approach to underwater noise impact assessment is appropriate.
	The impact assessment methodology is appropriate as agreed in the Expert Topic Group meeting on the 15 <sup>th</sup> February 2017.	Agreed	It is agreed by both parties that the impact assessment methodology is appropriate.
	The worst case scenario used in the assessment for marine mammals is appropriate.	Agreed	It is agreed by both parties that the worst case scenario used in the assessment is appropriate
Assessment findings	The characterisation of receptor sensitivity is appropriate.	Agreed	It is agreed by both parties that marine mammal sensitivity is appropriately characterised for each species and impact.

Topic	Norfolk Vanguard Limited position	WDC position	Final position
	The magnitude of effect is correctly identified.	WDC does not agree with the magnitude of effect for some impacts, in particular noise from piling activities.	
	The impact significance conclusions of negligible or minor adverse for Norfolk Vanguard alone are appropriate.	WDC does not agree that the conclusions of negligible or minor are appropriate for noise from piling activities.	
Cumulative Impact Assessment	The plans and projects considered within the CIA are appropriate.	Agreed	It is agreed by both parties that the plans and projects included in the CIA are appropriate.
	The CIA methodology is appropriate.	Agreed	It is agreed by both parties that the CIA methodology is appropriate.
	<p>The cumulative impact conclusions of negligible or minor significance are appropriate.</p> <p>Noise from vessels associated with other, non-wind farm, plans or projects such as oil and gas, aggregates and commercial fisheries is considered to be part of the baseline conditions.</p> <p>It is acknowledged that the Review of Consents (RoC) (BEIS, 2018) has attempted to screen in commercial fisheries but then concluded that a quantitative assessment is not possible on the basis that there have been no quantified assessments undertaken on the extent of impacts from commercial fishing and therefore information is not available to inform the assessment. The RoC does however note that commercial fishing has occurred within the cSAC/SCI for many years and has had, and will continue to have, direct and indirect impacts on harbour porpoise and that there are no known plans to</p>	<p>WDC do not agree as the numbers of harbour porpoise predicted to be impacted seem to be high.</p> <p>Additionally the cumulative assessment does not include noise from vessels associated with other, non-wind farm, plans or projects such as oil and gas, aggregates and commercial fisheries.</p>	

Topic	Norfolk Vanguard Limited position	WDC position	Final position
	suggest that the level of fishing within the cSAC/SCI will significantly increase beyond those in the baseline.		
<b>Habitats Regulations Assessment (HRA)</b>			
Screening of Likely Significant Effects (LSE)	<p>The Approach to HRA Screening is appropriate. The following sites are screened in for further assessment as agreed in the Expert Topic Group meeting on the 6<sup>th</sup> July 2017:</p> <ul style="list-style-type: none"> <li>• Southern North Sea cSAC/SCI</li> <li>• Humber Estuary SAC</li> <li>• The Wash and North Norfolk Coast SAC</li> </ul>	Agreed	It is agreed by both parties that the designated sites and potential effects screened in for further assessment are appropriate.
Assessment of Adverse Effect on Integrity	<p>The approach to the assessment of adverse effect on site integrity is appropriate.</p> <p>The approach follows the Statutory Nature Conservation Body (SNCB)'s current advice on the assessment of impacts on the Southern North Sea harbour porpoise cSAC/SCI (Natural England, June 2017<sup>1</sup>). That is:</p> <p>Displacement of harbour porpoise should not exceed 20% of the seasonal component of the cSAC area at any one time and / or on average exceed 10% of the seasonal component of the cSAC area over the duration of that season.</p>	Not agreed. WDC has concerns with the current SNCB proposal on underwater noise management (Natural England, June 2017).	
	The reference populations as defined in the Information to Support HRA report are appropriate.	Agreed, given the inclusion of an cSAC/SCI 'population' as requested by WDC (Appendix 8.1 of the Information to Support HRA report).	It is agreed by both parties that appropriate reference populations have been used in the Information to Support HRA report.
	The conclusions of the Information to Support HRA report are appropriate for Norfolk Vanguard alone.	Not agreed. WDC do not agree with the current SNCB advice on	

<sup>1</sup> Natural England (2017). Current Advice on Assessment of Impacts on the SNS Harbour Porpoise cSAC. Note dated 13th June 2017.

Topic	Norfolk Vanguard Limited position	WDC position	Final position
		undertaking the HRA, therefore we cannot agree with the conclusions.	
	The conclusions of the In-combination Assessment provided in the Information to Support HRA report are appropriate.	Not agreed. WDC is concerned that the thresholds are breached particularly for piling activity (and UXO clearance). However no AEoI is concluded due to the Site Integrity Plan (SIP). The SIP does not contain enough information to give certainty of no adverse effect/beyond reasonable scientific doubt (see below).	
<b>Mitigation and Management</b>			
Mitigation and Management	<p>The Site Integrity Plan (SIP), in accordance with the In Principle SIP (application document 8.17) provides an appropriate framework for management of effects on the Southern North Sea cSAC/SCI.</p> <p>Conditions 14(m) of the Generation DMLs and Condition 9(l) of the Transmission DMLs include the following commitment which ensures works cannot commence without agreeing mitigation measures with the MMO to ensure no Adverse Effect on Site Integrity therefore allowing the conclusion that the SIP will ensure impacts on the Southern North Sea cSAC/SCI are mitigated:</p> <p><i>In the event that driven or part-driven pile foundations are proposed to be used, the licenced activities, or any phase of those activities must not commence until a site integrity plan which accords with the principles set out in the in principle Norfolk Vanguard Southern North Sea candidate Special Area of Conservation Site Integrity Plan has been submitted to the MMO and the MMO is satisfied that the plan, provides such mitigation as is necessary to avoid</i></p>	Not agreed. WDC agrees with the SIP in principle, however there are no guidelines from SNCBs on what to include, and as a result the SIP contains very little detail on mitigation to be used, or assessment of the effectiveness these methodologies, so are little more than a commitment to use mitigation methods. We recognise that the methodologies will be determined post-consent to make use of the latest studies scientific research. However until the detail of the SIP is decided it is inaccurate to claim there will be no AEoI, as currently cannot remove all reasonable scientific doubt as to the effects of the project on the SNS SCI.	

Topic	Norfolk Vanguard Limited position	WDC position	Final position
	<i>adversely affecting the integrity (within the meaning of the 2017 Regulations) of a relevant site, to the extent that harbour porpoise are a protected feature of that site.</i>		
	<p>The final SIP would be produced pre-construction taking account of the final design of the project and best scientific evidence at that time.</p> <p>The final SIP would provide the detail on the mitigation proposed in relation to the final design, including detail on the effectiveness of the mitigation proposed.</p>	<p>Agreed, noting that WDC proposes the following mitigation measures:</p> <ul style="list-style-type: none"> <li>• no pile driving should be used</li> <li>• strict limits be placed on noise levels during construction, including cumulative noise;</li> <li>• proven noise reduction at source mitigation methods should be used.</li> </ul>	<p>It is agreed by both parties that the SIP will be updated based on the final design and will take account of best scientific evidence at that time.</p>
	WDC will be provided with the draft and final SIP	<p>Agreed.</p> <p>WDC requests to be named as a consultee for the SIP.</p>	<p>It is agreed by both parties that WDC will be provided with the draft and final SIP.</p>
	The Marine Mammal Mitigation Protocol (MMMP), in accordance with the draft MMMP (application document 8.13) provides an appropriate framework for the securing marine mammal mitigation measures.	<p>Agreed.</p> <p>WDC requests to be named as a consultee for the MMMP.</p>	<p>It is agreed by both parties that the MMMP provides an appropriate framework for securing marine mammal mitigation measures.</p>
	<p>The MMMP for piling will follow the latest guidance where appropriate, which is currently the JNCC (2010) Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise.</p> <p>JNCC (2010) states that “When piling at full power, there is no requirement to cease piling or reduce the power if a marine mammal is detected in the mitigation zone (it is deemed to have entered “voluntarily”). It is also acknowledged that, for engineering reasons, it may not be possible to stop piling at full power until the pile is in final position.”</p>	<p>Not agreed WDC has concerns with the current SNCB guidelines.</p> <p>Recommend that a robust MMMP should include: shut-down when marine mammals approach within a specified distance of operations (mitigation zone), and commitment to using proven mitigation methods.</p>	

Topic	Norfolk Vanguard Limited position	WDC position	Final position
	Noise monitoring would be undertaken as stated in Condition 19(1) of the Deemed Marine Licence (DML).	Agreed, ground-truthing of modelled noise assessment data should be undertaken	It is agreed by both parties that noise monitoring would be undertaken in the event that driven or part-driven pile foundations are proposed
	<p>The In Principle Monitoring Plan (IPMP; document 8.12) provides an appropriate framework to agree monitoring requirements with the MMO prior to construction.</p> <p>Section 4.5.2 of the IPMP acknowledges that there may be little purpose or advantage in site specific monitoring and a strategic approach may be more appropriate in providing answers to specific questions where significant environmental impacts have been identified at a cumulative/in-combination level.</p>	Agreed. The monitoring strategy should be appropriate to consider cumulative impacts of all developments in the region	It is agreed by both parties that the IPMP provides an appropriate framework to agree monitoring requirements with the MMO pre-construction.
<b>Draft Development Consent Order (DCO)</b>			
Wording of Requirement(s)	Part 4 of Schedules 9, 10, 11 and 12 of the DCO appropriately reflects the commitments made in the ES.	Agreed	It is agreed by both parties that the DCO reflects the commitments made in the ES.

**The undersigned agree to the provisions within this SOCG**

Signed	V. James
Printed Name	Vicki James
Position	Policy Officer
On behalf of	Whale and Dolphin Conservation
Date	11/01/2019

Signed	R Sherwood
Printed Name	Rebecca Sherwood
Position	Norfolk Vanguard Consents Manager
On behalf of	Norfolk Vanguard Ltd (the Applicant)
Date	11 January 2019