

Norfolk Vanguard Offshore Wind Farm

Norfolk Vanguard Limited

Natural England Position Statement at Deadline 8

Applicant: Norfolk Vanguard Limited
Document Reference: ExA; AS; 10.D8.17

Deadline 8
Date: 30 May 2019
Author: Royal HaskoningDHV

Photo: Kentish Flats Offshore Wind Farm



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1 INTRODUCTION

1. The Applicant and Natural England have continued to engage on the outstanding issues summarised in the Statement of Common Ground (SoCG) submitted at Deadline 1 (Rep1 - SOCG - 13.1) and which was subsequently updated at Deadline 5 (Rep2 - SOCG - 13.1) to further reflect areas which had been resolved and those which remained outstanding, with a view to progressing the latter matters and reaching common ground.
2. It is recognised that a final SoCG was requested at Deadline 8 by the Planning Inspectorate in the Rule 8 Letter, however discussions between the Applicant and Natural England are ongoing and the final SoCG will be provided at Deadline 9.
3. This document provides the Applicant's position at Deadline 8 (30 May 2019) regarding matters relating to offshore ornithology, benthic ecology and onshore ecology that are subject to ongoing discussions with Natural England.

2 OFFSHORE ORNITHOLOGY

1. The Applicant submitted a position statement at Deadline 7 which included the Applicant's position on offshore ornithology matters that were subject to ongoing discussion with Natural England. In addition, at Deadline 7 the Applicant submitted the following documents regarding offshore ornithology:
 - Alde Ore Estuary Special Protection Area (SPA) Population Viability Analysis (PVA) Responses (document reference ExA; AS; 10.D7.21A); and
 - Offshore Ornithology Cumulative and In-combination Collision Risk Assessment (document reference ExA; AS; 10.D7.21).
2. The Applicant then provided the following Additional Submissions on the 14th May 2019:
 - Offshore Ornithology Cumulative and In-combination Collision Risk Assessment Update (document reference ExA; AS; 10.D7.21 Version 2); and
 - Deterministic CRM revised layout and draught height (document reference ExA;AS;10.D7.5.2).
3. Since the Deadline 7 Position Statement, further conference calls were held between the Applicant and Natural England on 9th May and 20th May 2019 to discuss outstanding matters regarding offshore ornithology. In response to these discussions the Applicant has submitted the following documents at Deadline 8 and the final position on these matters will be reflected in the final SoCG at Deadline 9:
 - Precaution in ornithological assessment for offshore wind farms (document reference ExA; AS; 10.D8.8) with Kittiwake age structure in the southern North Sea appendix (document reference ExA; AS; 10.D8.8A); and
 - Offshore Ornithology Auk Displacement Assessment Update for Deadline 8 (document reference ExA; AS; 10.D8.10).

3 BENTHIC ECOLOGY

4. The Applicant submitted a position statement at Deadline 7 which included the Applicant's position on benthic ecology matters that were subject to ongoing discussion with Natural England. At that stage, Natural England and the Marine Management Organisation (MMO) had reviewed a draft of the Outline HHW SAC SIP (document reference 8.20) and the Applicant had sought to address comments from both parties in the version of the Outline HHW SAC SIP that was submitted at Deadline 7 however it was agreed that there was insufficient time to enable Natural England and the MMO to review the updated draft before it was submitted to the Examination.
5. Accordingly, a conference call was held between the Applicant, Natural England and the MMO on the 21st May 2019 to discuss feedback on the updated version of the Outline HHW SAC SIP that was submitted at Deadline 7. The following preliminary feedback was provided by Natural England during the conference call:
 - The document now provides tangible commitments that adequately secure the mitigation.
 - The HHW SAC SIP and the associated Condition 9(1)(m) of the Transmission DMLs allow Natural England to conclude there will be no Adverse Effect on the Integrity (AEoI) of the HHW SAC, noting that there will be significant work to be done prior to construction in order to agree the final HHW SAC SIP.
 - As per previous comments in the Examination, Natural England has suggested the MMO's condition applied to the aggregates industry which specifies that the removed sediment particle size needs to be >95% similar to the disposal location should be incorporated in the HHW SAC SIP.
 - The consequences of an AEoI not being agreed states that the Applicant may consider a Development Consent Order (DCO) variation or a separate Marine Licence application. Natural England requests that the purpose of these applications should be explained in the Outline HHW SAC SIP.
 - A summary of the various works that will be undertaken post-consent to inform the development of the HHW SAC SIP would be useful.
6. The Applicant will endeavour to address these comments and written feedback expected at Deadline 8, and will resubmit the Outline HHW SAC SIP at Deadline 9.

4 ONSHORE ECOLOGY

7. The Applicant submitted a position statement at Deadline 7 which included the Applicant's position regarding onshore ecology matters that were subject to ongoing discussion with Natural England.
8. Since this date, discussions have continued between the Applicant and Natural England in relation to the remaining unresolved issues:
 - Natural England provided advice on 30 April 2019 (Appendix 1);
 - A conference call was held between the Applicant and Natural England on 21 May 2019;
 - The Applicant submitted a further clarification note to Natural England on 23 May 2019 (Appendix 2);
 - Natural England then provided a response to this on 29th May 2019 (Appendix 3).
9. The Applicant is considering the response provided by Natural England on the 29th May 2019 and the final position will be reflected in the SoCG to be provided at Deadline 9.

APPENDIX 1 - NATURAL ENGLAND'S POSITION (30 APRIL 2019)

Date: 30 April 2019
Our ref: 280816
Your ref: Outstanding Issues Clarification Note



Royal Haskoning DHV on behalf of Norfolk Vanguard Ltd.

BY EMAIL ONLY

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Dear Jon,

Planning consultation: Norfolk Vanguard Offshore Windfarm Outstanding issues raised by Natural England following 18 March DAS Responses Clarification Note
Location: Norfolk

Thank you for your consultation on the above dated 15 April 2019 which was received by Natural England on the same date. The following advice is provided under Natural England's Discretionary Advice Service (DAS).

1. Unresolved issue: One year of survey data in relation to Broadland SPA / Ramsar site wintering birds

Natural England welcomes the additional measures presented. The European Site Conservation Objectives: Supplementary advice on conserving and restoring site features Broadland SPA was updated in February 2019, and this should inform your assessment.

Functionally Linked Land (FLL) describes areas of land or sea occurring outside of a designated site which nonetheless are considered to be critical to or necessary for the ecological or behavioural functioning in a relevant season of a qualifying feature for which that site has been designated.

Norfolk Vanguard Ltd. should clearly demonstrate functional linkage and the absence of risks of adverse effects on FLL. For further information please see Natural England's report on [Functional Linkage and authoritative decisions \(2016\)](#).

a. Measure 1

We welcome the commitment to undertaking a second year of wintering bird surveys post consent. This should be incorporated into the baseline and be used to inform future monitoring and mitigation. We note that the survey area has been identified as the area comprising farmland within the Order limits (and up to 300m buffer) that sits within 5km of Broadland SPA / Ramsar. We would advise that the area of survey is informed by the area of Functionally Linked Land (FLL) for Broadland SPA designated features. Pink footed goose (*Anser brachyrhynchus*) have a maximum foraging distance of 20km, whilst white-fronted goose (*Anser albifrons*), greylag goose (*Anser anser anser*), Bewick's swan (*Cygnus columbianus bewickii*), whooper swan (*Cygnus Cygnus*) and bean goose (*Anser fabalis*) have a maximum foraging distance of 10 km. We question therefore why a 5km buffer has been proposed? We advise that the survey area is extended to 20km to include the maximum extent of potential FLL from Broadland SPA/Ramsar.

We welcome the commitment to record all swan and goose species. We note that Bewick's swan and greylag goose are not currently identified as key species and advise that the appropriate Ramsar species are also included (<http://jncc.defra.gov.uk/pdf/RIS/UK11010.pdf>).

We would expect the second year of wintering bird surveys to record land use across the survey area.

Reporting will ideally look at the characteristics of land e.g. distance from designated site, location within landscape, habitat types present, land use (this should include a review of land under relevant agri-environment options (available via [MagicMap](#)), aerial photography, and presence of positive/negative factors (e.g. size, public access, shape, presence/proximity of edge features etc.) to determine the likelihood of a site being important for SPA/Ramsar species. Norfolk Vanguard Ltd. should assign a classification of suitability as FLL such as negligible, low, moderate or high. The results of the survey should be used to determine Likely Significant Effect or Adverse Effect on Integrity in relation to designated features and the Conservation Objectives of the site, available from <http://publications.naturalengland.org.uk/publication/5310905998901248>.

b. Measure 2

We welcome the commitment to only undertake intrusive/disruptive work in one section of the onshore project area which intersects with the SPA/Ramsar FLL during winter. We recommend that this measure is revisited given our advice that the survey area should be extended from 5km to 20km from the Broadland SPA/Ramsar.

Bewick's swan and whooper swan are present in significant numbers in the SPA from October to March (European Site Conservation objectives: Supplementary advice on conserving and restoring site features, February 2019). Natural England therefore seeks further clarification on the methodology proposed for Measure 2 and why restrictions are proposed from November to January, and not over the full duration when designated species are present.

2. Sediment management measures in relation to the River Wensum

a. Restoration plan outside of functional floodplain

Natural England look forward to receiving the detailed scheme and programme of watercourse crossings which will be produced by Norfolk Vanguard Ltd. post-consent and is secured through DCO requirement 25. We will provide detailed comment on the proposed scheme once provided.

b. Reinstatement of work areas

Natural England welcome the provision of further clarification regarding reinstatement of work areas methodology and commitment to include in the updated Code of Construction Practice.

c. Number of HDDs

Natural England look forward to receiving information on the exact number of HDDs under the River Wensum SAC, we understand that this will be post-consent and secured through DCO Requirement 25.

The advice provided in this letter has been through Natural England's Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,



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APPENDIX 2 – NORFOLK VANGUARD CLARIFICATION NOTE (24 MAY 2019)

**Clarification Note: Norfolk Vanguard
Outstanding issues Broadland SPA / Ramsar Site
Raised by Natural England following
30 April DAS Response**

**HaskoningDHV UK
Ltd.**

Suggested revision to Measure 2 in relation to the potential presence of qualifying bird species within ex situ habitats associated with Broadland Special Protection Area (SPA) / Ramsar site.

Subject to agreement this would replace the current wording for Measure 2 captured within the Outline Landscape and Ecological Management Strategy (OLEMS) and secured through DCO Requirement 24 (Ecological Management Plan).

Background

In Norfolk, geese spend the majority of their time foraging on harvested sugar beet fields, although between 10 and 20% of their time can be spent on winter-sown cereals¹.

Sugar beet is mechanically harvested, with the crown chopped off and root fragments left behind, on which the geese forage.

Post-harvest, the field may either be ploughed immediately if the field is harvested early (up and into November) so that a winter cereal crop can be sown or left until the spring before ploughing. It is on these latter unploughed fields that the geese overwinter, eating the roots chopped into fragments by the harvester and unharvested roots.

Geese have been recorded using sugar beet fields in Norfolk up to two months after they had been harvested

Approach

Following NE's advice received on 16 March 2019, the Applicant committed to undertake a second year of wintering bird surveys post-consent (Measure 1). These surveys would aim to replicate as far as possible the surveys undertaken during 2016/2017.

¹ Gill JA, Watkinson AR and Sutherland WJ (1996) The impact of sugar beet farming practice on wintering pink-footed goose *Anser brachyrhynchus* populations.

Should the second year of wintering bird surveys confirm that there are low levels of wintering birds associated with the SPA / Ramsar site using the study area then no further restrictions would be applied beyond those already set out in the OLEMS.

However, should the second year of wintering bird surveys indicate significant numbers of qualifying bird species are present within the Order limits (and up to 300m buffer) within 5km of the Broadland SPA / Ramsar site (limited to the two areas denoted in Figure 1 below), then the following measures would be implemented (revised Measure 2). The following text relates to the Broadland SPA / Ramsar site study area which is shown as the black dashed line in Figure 1 below and represents the area of land within a 5km buffer of the SPA and Ramsar site.

Where intrusive works² are programmed between October and March (inclusive), only one of the two sections of the onshore project area located within the Broadland SPA / Ramsar site study area would be worked on at any one time.

The second section (i.e. the one not being worked on that winter) would be managed in advance of construction to provide a suitable alternative feeding ground for birds associated with the Broadland SPA / Ramsar site potentially displaced from the first section. This will be achieved by identifying sugar beet fields (within the Order limits and within 5km of Broadland SPA) in advance of the works. Where sugar beet is present and planned to be harvested in the winter immediately preceding the works this area within the Order limits will not be ploughed following the harvest, thereby leaving the root fragments and the unharvested roots in place available for the geese to feed on.

If there is an insufficient area of sugar beet relative to the numbers of birds identified within the wintering bird surveys then a suitable winter cereal crop will be sown (again limited to the Order limits within one of the two areas shown in Figure 1) in advance of construction.

² Intrusive works include topsoil strip, trench excavation, trenchless crossings, introduction of mobilisation areas, introduction of running track and reinstatement of land. Use of the running track to maintain access would not constitute intrusive works.

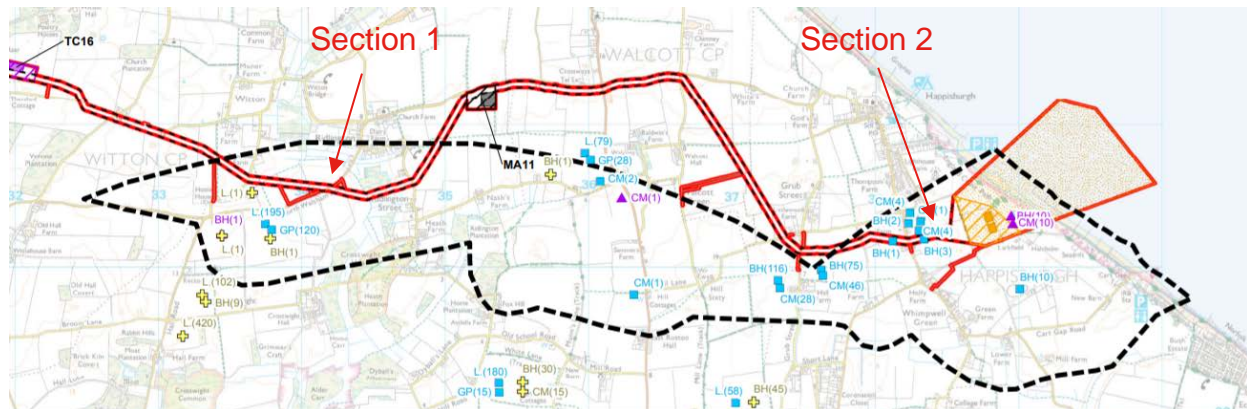


Figure 1: Broadland SPA / Ramsar site study area (black dashed line - representing land within 5km of the SPA / Ramsar site) and onshore project area (red line). Red arrows indicate two separate sections of the onshore project area located within the Broadland SPA / Ramsar site study area.

This additional mitigation would ensure that the potential extent of foraging habitat subject to disturbance effects during construction would be limited to one of the two areas identified in Figure 1, and that suitable alternative foraging areas will have been provided within the second area where works would be restricted.

Alternatively, and subject to landowner agreement, a suitable area of land outside of the Order limits may be identified in advance of the works that would be managed to provide a suitable alternative feeding ground for birds associated with the Broadland SPA / Ramsar site potentially displaced during construction, e.g. existing sugar beet fields and a commitment to not plough after harvesting. The area of land required would be informed by the second year of wintering bird surveys and would be located at least 300m from the works (the agreed buffer for disturbance effects). The management of this area would mirror that described above, i.e. not ploughing sugar beet fields following the harvest in the winter preceding construction works or introducing an appropriate winter cereal crop. With this alternative approach there would be no timing restrictions placed on the two areas identified in Figure 1.

The findings of the second year of surveys and (if required) the approach to managing land for displaced qualifying species associated with the Broadland SPA / Ramsar site, including the size of the area of land required for mitigation, will be detailed within the Ecological Management Plan and will require approval from the relevant local planning authority in consultation with Natural England prior to construction works commencing. This will be captured in the updated OLEMS to be submitted at Deadline 8 and signposted through an amendment to Requirement 24 of the dDCO to be submitted at Deadline 8 as follows:

Ecological management plan

24.(1) No stage of the onshore transmission works may commence until for that stage a written ecological management plan (which accords with the outline landscape and ecological management strategy as appropriate for the relevant stage) has been submitted to and approved by the relevant planning authority in consultation with Natural England. The ecological management plan must be informed by post consent ecological surveying of previously un-surveyed areas for the relevant stage.

(2) The ecological management plan must include an implementation timetable and must be carried out as approved.

(3) Pre-commencement site clearance works must only take place in accordance with a specific ecological management plan for site clearance works which is in accordance with the relevant details for site clearance works set out in the outline landscape and ecological management strategy, and which has been submitted to and approved by the relevant planning authority. The plan for site clearance works must be informed by post consent ecological surveying of previously un-surveyed areas for the relevant stage.

(4) Construction works within 5km of the Broadland Special Protection Area and Ramsar site must be carried out in accordance with the mitigation relating to onshore ornithology contained in paragraphs 228 to 229 of the outline landscape and ecological management strategy, which must be incorporated into the ecological management plan.

APPENDIX 3 - NATURAL ENGLAND'S POSITION (29 MAY 2019)

Date 29 May 2019
Our ref: 282281
Your ref: Clarification Note: Broadland SPA / Ramsar



Royal Haskoning DHV on behalf of Norfolk Vanguard Ltd.

BY EMAIL ONLY

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Dear Jon,

Planning consultation: Clarification Note: Norfolk Vanguard Outstanding issues Broadland SPA / Ramsar Site Raised by Natural England following 30 April DAS Response.

Location: Norfolk

Thank you for your consultation on the Norfolk Vanguard Offshore Windfarm Broadland SPA and Ramsar Clarification Note dated 24 May 2019. The following advice is provided under Natural England's Discretionary Advice Service (DAS). This advice is provided subsequent to our advice dated 30 April 2019 (Our ref: 280816) and teleconference on 21 May 2019 (Our Ref: 282281).

We welcome the commitment to a second years ornithological surveys within the 5km area to inform the baseline. However, the two years of survey data regarding SPA/Ramsar species may still not accurately represent cropping rotations and be used to predict likely bird species abundance in the future. Arable rotations may be based on a 5 year rotation system, the location of sugar beet and crop feeds in future years may therefore not be evident from the dataset. As a consequence the applicant may not be able to accurately predict whether SPA/Ramsar species will be present in the area during future works.

As it is difficult to determine where SPA/Ramsar species may be feeding we advise, as discussed in the call on the 21 May, that the Applicant, in accordance with the precautionary principle, provide food for SPA/Ramsar species on the area of cable route within 5km which is not being worked, or as suggested in the Clarification Note in discussion with landowners outside the red line boundary.

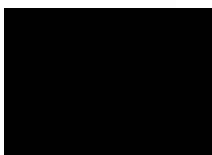
Natural England therefore advise you remove this as a conditional requirement based on the second year survey data. Please see our comments on the Clarification Note PDF attached for further information.

The advice provided in this letter has been through Natural England's Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy,

guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely,



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