

Norfolk Vanguard Offshore Wind Farm

Statement of Common Ground

The Wildlife Trusts



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
OWF	Offshore Wind Farm
PEIR	Preliminary Environmental Information Report
SAC	Special Area of Conservation
SCI	Site of Community Importance
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

1. This Statement of Common Ground (SoCG) has been prepared between The Wildlife Trusts (TWT), Norfolk Wildlife Trust (NWT) 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’).
2. This SoCG comprises an agreement log which has been structured to reflect topics of interest to TWT and NWT on the Norfolk Vanguard DCO application (hereafter ‘the Application’). Topic specific matters agreed, not agreed and actions to resolve between TWT 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 The Wildlife Trusts

6. This section briefly summarises the consultation that the Applicant has undertaken with TWT. 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 TWT 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. During formal (Section 42) consultation, TWT provided comments on the Preliminary Environmental Information Report (PEIR) by way of a letter dated 8th December 2017.
9. Further to the statutory Section 42 consultation, several meetings were held with TWT 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

10. As part of the pre-examination process, TWT submitted a Relevant Representation to the Planning Inspectorate on the 13th September 2018. TWT also engaged throughout the Examination process.

2 STATEMENT OF COMMON GROUND

11. Within the sections and tables below the different topics for areas of agreement and disagreement between TWT and the Applicant are set out.

2.1 Marine Mammals

12. 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.

13. Table 3 provides an overview of meetings and correspondence undertaken with TWT regarding Marine Mammals.

14. Table 4 provides areas of agreement (common ground) and disagreement regarding Marine Mammals.

15. 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 The Wildlife Trusts in relation to Marine Mammals

Date	Contact Type	Topic
Pre-Application		
10 th November 2016	APEM Workshop	APEM-organised workshop on marine mammal digital aerial surveys.
21 st November 2016	Call	Comments on the APEM workshop.
24 th November 2016	Meeting	Update on Norfolk Vanguard and Evidence Plan Process; role of The Wildlife Trusts at national level; impact on Marine Conservation Zone (MCZ) (see section 2.1) and harbour porpoise SAC; further feedback from APEM marine mammal workshop.
2 nd February 2017	Email from the Applicant	Provision of the Marine Mammals Method Statement (Appendix 9.13 of the Consultation Report).
15 th 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 nd June 2017	Email from the Applicant	Offshore HRA Screening (Appendix 5.1 of the HRA) provided for consultation.
6 th 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 th October 2017	Email from the Applicant.	Provision of the Marine Mammals PEIR Chapter.

Date	Contact Type	Topic
8 th December 2017	Letter from The Wildlife Trusts	PEIR feedback
8 th December 2017	Marine mammal ETG Conference call	Marine mammal PEIR comments and approach to HRA.
18 th December 2017	Email from The Wildlife Trusts	Comments on the approach to the HRA.
22 nd February 2018	Email from the Applicant	Provision of draft Norfolk Vanguard Information to Support Habitats Regulations Assessment (HRA) (document 5.3).
26 th 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).
28 th March 2018	Letter from The Wildlife Trusts	Comments on the draft HRA.
13 th April 2018	Email from the Applicant	Provision of draft In Principle Southern North Sea cSAC Site Integrity Plan (document 8.17) for review.
10 th May 2018	Letter from The Wildlife Trusts	Comments and concerns regarding the Site Integrity Plan
Post-Application		
13 th September 2018	Relevant Representation	Initial feedback on the DCO application
14 th January 2019	Deadline 1	Written Representation and Response to Examining Authority's Written Questions
14 th February 2019	Deadline 3	Post Hearing Submission
13 th March 2019	Deadline 4	Response to ExA's Further Written Questions

Table 2 Statement of Common Ground - Marine mammals

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
Environmental Impact Assessment			
Existing Environment	Survey data collected for Norfolk Vanguard for the characterisation of marine mammals are suitable for the assessment.	Agreed	It is agreed by both parties that sufficient survey data has been collected to undertake the assessment.
	The ES adequately characterises the baseline environment in terms of marine mammals	Agreed	It is agreed by both parties that the existing environment for marine mammals has been characterised appropriately for the assessment.
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to marine mammals has been used.	Agreed although TWT notes that some of the latest Statutory Nature Conservation Body (SNCB) guidance should be updated, e.g. the JNCC 2010 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' which is based on smaller wind farms and the JNCC 2010 'Guidelines for minimising the risk of injury to marine mammals from using explosives' does not take into account the NOAA thresholds and the need for additional mitigation.	It is agreed by both parties that appropriate legislation has been considered. However, TWT notes that numerous guidance continues to be out of date.
	The list of potential impacts on marine mammals assessed is appropriate	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	Agreed	It is agreed by both parties that appropriate species of marine mammal have been assessed.

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
	The reference populations as defined in the ES are appropriate.	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 in 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 15 February 2017. The definitions used in the ES are as presented in the method statement and Preliminary Environmental Information Report (PEIR).	TWT has some concerns regarding the inconsistent use of sensitivity and magnitude criteria used by developers.	TWT has some concerns regarding the inconsistent use of sensitivity and magnitude criteria used by developers.
	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.	Please refer to our comments on the sensitivity and magnitude criteria.	TWT has some concerns regarding the inconsistent use of sensitivity and magnitude criteria used by developers.
	The magnitude of effect is correctly identified.	Please refer to our comments on the sensitivity and magnitude criteria.	TWT has some concerns regarding the inconsistent use of sensitivity and magnitude criteria used by developers.
	The impact significance conclusions of negligible or minor for Norfolk Vanguard alone are appropriate.	Agreed although please refer to our comments on the sensitivity and magnitude criteria.	It is agreed by both parties that the impact significance for marine mammals is appropriately

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
			characterised for Norfolk Vanguard alone. However, TWT has some concerns regarding the inconsistent use of sensitivity and magnitude criteria used by developers.
Cumulative Impact Assessment (CIA)	<p>The plans and projects considered within the CIA are appropriate.</p> <p>By-catch by commercial fisheries is recognised as a long-standing cause of harbour porpoise mortality and is therefore a factor in the existing population. It is considered that this would be double counting to assess commercial fisheries as an additional impact within the CIA while it is also assessed as a feature of the baseline environment.</p> <p>It is acknowledged that the Review of Consents (RoC)¹ (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 suggest that the level of fishing within the cSAC/SCI will significantly increase beyond those in the baseline.</p>	Not agreed on the basis that commercial fisheries should be included in the CIA. TWT does not consider fishing to be part of the baseline. Please see supporting text in Appendix 1.	The plans and projects to be considered in the CIA are not agreed.

¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/753026/RoC_SNS_cSAC_HRA_5.0.pdf

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
	The CIA methodology is appropriate.	Agreed, with the exception of commercial fisheries within the project list (see above).	It is agreed by both parties that the CIA methodology is appropriate, with the exception of the inclusion of commercial fisheries.
	<p>The cumulative impact conclusions of negligible or minor significance are appropriate.</p> <p>Harbour porpoise mortality and prey availability, as a result of commercial fisheries, is a factor of the existing population.</p> <p>The sensitivity and magnitude definitions used in the ES are in accordance with the method statement and PEIR.</p> <p>At the time of writing, Hornsea Project Three was a tier 5 project. It is acknowledged that it is now tier 4. This update in status does not change the conclusions of the CIA.</p>	<p>Not agreed for the following reasons:</p> <ul style="list-style-type: none"> Commercial fisheries should be included in the CIA. TWT does not consider fishing to be part of the baseline (see Appendix 1). As outlined above TWT has some concerns about the sensitivity and magnitude criteria. The number of animals potentially effected by disturbance is high and there is little evidence to support that this will not have an adverse effect. <p>Please note, Hornsea Project Three should be classed as a tier 4 project.</p>	The conclusions of the CIA are not agreed.
Habitats Regulations Assessment (HRA)			
Screening of Likely Significant Effects (LSE)	<p>The Approach to HRA Screening is appropriate. The following sites are screened in for further assessment:</p> <ul style="list-style-type: none"> Southern North Sea cSAC/SCI Humber Estuary SAC The Wash and North Norfolk Coast SAC 	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 of	The effects considered in the Information to Support HRA report (document 5.3) are appropriate.	Agreed	It is agreed by both parties that the effects considered in the Information to Support HRA report are appropriate.

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
the Southern North Sea SCI	Clearance of UXO has been considered in order to provide a conservative assessment, however licencing of UXO works would be done following UXO surveys once the nature and extent of UXO clearance requirements are known. Further assessment and identification of appropriate mitigation would be undertaken at that time.	TWT is pleased that some assessment of UXO impacts has been considered. However, based on the updated NOAA guidance, TWT have concerns regarding the alone and cumulative effects of underwater noise impacts from UXO clearance. Based on the outputs of the new NOAA guidance, TWT expect industry to collaborate to develop effective mitigation to reduce underwater noise impacts from UXO clearance. There is no evidence to support that mitigation such as bubble curtains is effective to mitigate against the underwater noise impacts from UXO clearance. As the UXO licence and MMMP will not be developed until post consent, TWT request to be named as a consultee on the UXO MMMP.	
	<p>The approach to the assessment of adverse effect on site integrity is appropriate.</p> <p>The approach follows the SNCB's current advice on the assessment of impacts on the Southern North Sea harbour porpoise cSAC/SCI (Natural England, June 2017²). 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>	TWT does not agree with the proposed SNCB guidance to assess the impact of underwater noise on the Southern North Sea (SNS) SCI. The evidence base which the SNCBs have used to support the proposed 10/20% thresholds is weak and therefore the approach is not precautionary enough. TWT advocate the use of noise limits such as those employed in Germany.	The approach to the assessment of adverse effect on site integrity is not agreed as TWT does not agree with the SNCB guidance.
	The reference populations as defined in the Information to Support HRA report are appropriate. The assessment is based on the North Sea Management Unit (MU) in accordance with advice	TWT believes the assessment should be taken against a site population number. TWT is pleased that the site	TWT does not agree with the advice of Natural England

² 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	The Wildlife Trusts position	Final position
	<p>from Natural England during the Evidence Plan Process.</p> <p>The conclusions of the Information to Support HRA report are appropriate for Norfolk Vanguard alone and in-combination based on the following:</p> <ul style="list-style-type: none"> • The approach follows the SNCB’s current advice on the assessment of impacts on the Southern North Sea harbour porpoise cSAC/SCI (Natural England, June 2017) • The Site Integrity Plan (SIP), in accordance with the In Principle SIP (document 8.17) is secured through condition [14(m)] of the Generation DMLs and [9(l)] of the Transmission DMLs. As such, construction cannot commence until the Regulator is satisfied that there will be no Adverse Effect on Integrity (AEOI) beyond reasonable scientific doubt. <p>Appropriate mitigation of underwater noise effects associated with UXO clearance will be determined as part of the licencing of these works (not included in the current DCO application). This will be undertaken once the nature and extent of clearance works are known, following the UXO survey.</p>	<p>population has been included in Appendix 8.1 of the Information to Support HRA report).</p> <p>TWT does not agree with the conclusions of no adverse effect on the SNS SCI for the following reasons:</p> <ul style="list-style-type: none"> • TWT does not agree with the SNCB advice of underwater management. • Despite our views, the spatial and temporal thresholds are breached based on the potential maximum worst case for piling and UXO clearance. • When the additive effect of all in-combination assessment impacts are calculated, the thresholds will also be breached. • With the use of mitigation, the applicant has concluded no adverse effect. However, this conclusion must be drawn when there is no reasonable scientific doubt. The SIP in its current form does not provide certainty to conclude no AEOI beyond reasonable scientific doubt. Therefore, TWT cannot agree with this conclusion. <p>TWT notes that the in-combination assessment outlines that there will be no PTS impacts from UXO clearance due to the production of a MMMP. However, currently there is no evidence to support that mitigation for UXO clearance for PTS impacts is effective. As above, TWT wishes to engage in the UXO clearance MMMP and suggest that monitoring is undertaken to understand the effectiveness of mitigation.</p> <p>It should be noted that TWT is supportive of Norfolk Vanguard’s comment as follows <i>“The aim would be to strive for a more evidence based and realistic</i></p>	<p>regarding the use of the North Sea MU in the HRA.</p> <p>The conclusions of the Information to Support HRA report in relation to the Southern North Sea cSAC/SCI are not agreed.</p>

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
		<p><i>assessment of the potential in-combination population effects as a result of the disturbance to harbour porpoise from piling noise.</i>" TWT supports a strategic approach to in-combination assessments.</p>	
Mitigation and Management			
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. The final SIP would be produced pre-construction taking account of the final design of the project and best scientific evidence at that time. As stated in the MMO's Deadline 6 submission (REP6-030), a Regulator Group has been established and stakeholder consultation on the proposed mechanism to manage in-combination noise effects is expected in Q3 of 2019. The MMO stated that <i>"The current requirement for a Site integrity Plan (SIP) is likely to be sufficient to allow any mechanism to be fully incorporated without need for variation."</i></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. The SIP will deliver the required mitigation to conclude no AEOI, as secured through condition 14(m) of the Generation DMLs and 9(l) of the Transmission DMLs. Construction cannot commence until the Regulator is satisfied that there will be no AEOI beyond reasonable scientific doubt.</p>	<p>TWT agree with the principle of the SIP. However, there are a number of offshore wind farms producing SIPs and with lack of guidance on what these documents should contain and what mitigation should be delivered, there is a danger for inconsistency in the standard of mitigation delivered which could threaten the condition of the Southern North Sea SCI. A strategic approach to the management of underwater noise impacts in the Southern North Sea is required.</p> <p>In its current form the Norfolk Vanguard In Principle SIP lacks detail to ensure no adverse effect on site integrity beyond reasonable scientific doubt. TWT suggests that more detail is provided within the SIP on the effectiveness of the proposed mitigation, including referenced examples and noise modelling.</p>	<p>TWT agree with the principle of the SIP. However, there is no mechanism in place to deliver multiple SIPs and therefore TWT has concerns regarding regulation and compliance with the SNCB guidance. TWT considers that UXO clearance should be included as a deemed Marine Licence and within the SIP.</p>

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
	<p>TWT will be provided with the draft and final Site Integrity Plan.</p> <p>Unexploded Ordnance (UXO) clearance is not included within the dDCO as it would be licenced separately once the nature and extent of UXO clearance is known, following preconstruction surveys. A UXO MMMP would be a condition of the UXO clearance Marine Licence. This is the approach that has been taken on other offshore wind farms to date. This is agreed with the Marine Management Organisation (MMO) and Natural England as shown the responses to Q20.4 of the Examining Authority's first written questions, submitted at Deadline 1 (REP1-084 and REP1-088)</p>	<p>To account for the in-combination effects of piling and UXO clearance, UXO clearance should be included as a deemed Marine Licence and within the SIP.</p> <p>TWT requests to be named as a consultee in the SIP.</p>	
	<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 for mortality and injury.</p>	<p>Agree that this is currently the best available approach although TWT recommends the consideration of mitigation technology when the MMMP is developed.</p> <p>As the detailed MMMP will not be available until post-consent, TWT request to be named as a consultee for the MMMP for piling and UXO clearance.</p>	<p>Agree that this is currently the best available approach although TWT recommends the consideration of mitigation technology when the MMMP is developed. TWT notes that monitoring is essential to measure the effectiveness of the MMMP.</p>
Monitoring	<p>The In Principle Monitoring Plan (document 8.12), provides an appropriate framework to agree monitoring with the Marine Management Organisation (MMO). Norfolk Vanguard Ltd would expect the MMO to consult with relevant consultees as required.</p> <p>Norfolk Vanguard Ltd will include reference to the Southern North Sea SAC Site Integrity Plan in the In</p>	<p>TWT is pleased to see that Norfolk Vanguard Ltd is supportive of a strategic approach to marine mammal monitoring and mitigation. TWT is aware that Natural England, the MMO and other developers are also supportive of such an approach. However, a mechanism is lacking. TWT has produced a draft working document on an underwater noise levy which would fund and deliver underwater noise mitigation and monitoring.</p>	<p>TWT is pleased to see that Norfolk Vanguard Ltd is supportive of a strategic approach to marine mammal monitoring and mitigation. Monitoring will be developed post consent in accordance with the In Principle Monitoring Plan (document 8.12).</p>

Topic	Norfolk Vanguard Limited position	The Wildlife Trusts position	Final position
	Principle Monitoring Plan to be submitted at Deadline 9.	<p>TWT welcomes that reference to the SIP for the Southern North Sea SAC will be made within the updated In-Principle Monitoring Plan.</p> <p>TWT would like to work with Norfolk Vanguard Ltd, other developers, regulators and SNCBs on the development of a strategic approach to monitoring and mitigation. TWT request to be consulted post-consent on Norfolk Vanguard marine mammal monitoring.</p> <p>Although monitoring in relation to disturbance impacts to marine mammals is discussed in the wider text within the marine mammals section of the in-principle monitoring plan, TWT notes that commitments outlined in table 4.3 of the document, only relate to monitoring for injury and death. Further detail is required for disturbance.</p>	
Post consent engagement	<p>TWT will be provided with the draft and final Site Integrity Plan in accordance with the In Principle SIP (Document 8.17).</p> <p>In addition, Vattenfall and TWT are working on a Memorandum of Understanding to clarify and further the working relationship, especially on post-consent areas of work.</p>	<p>TWT has requested to be named for post-consent engagement on the MMMP, SIP and In-principle monitoring plan.</p> <p>In addition, Vattenfall and TWT are working on a Memorandum of Understanding to clarify and further the working relationship, especially on post-consent areas of work.</p>	Vattenfall and TWT are working on a Memorandum of Understanding to clarify and further the working relationship.

2.2 Onshore Ecology and Ornithology

16. This section is between the applicant and NWT. TWT is supportive of NWT comments.
17. The project has the potential to impact upon onshore ecology and ornithology. Chapter 22 and 23 of the ES, (document reference 6.1.22 and 6.1.23 of the Application), provides an assessment of the significance of these impacts.
18. Table 5 provides an overview of meetings and correspondence undertaken with NWT regarding onshore ecology and ornithology.
19. Table 6 provides areas of agreement and disagreement regarding onshore ecology and ornithology.

Table 3 Summary of Consultation with NWT regarding onshore ecology and ornithology

Date	Contact Type	Topic
Pre-Application		
8 th December 2017	Email from Norfolk Wildlife Trusts	PEIR feedback.
Post-Application		
13 th September 2018	Relevant Representation	Initial feedback on the DCO application, deferring to Norfolk Wildlife Trust on matters relating to onshore ecology

Table 4 Onshore ecology and ornithology

Topic	Norfolk Vanguard Limited position	TWT/NWT position	Final position
Environmental Impact Assessment			
Survey methodology	Survey methodologies for Phase 1 Habitat Surveys are appropriate and sufficient.	Agreed	It is agreed by both parties that Phase 1 methodologies are appropriate.
	Survey methodologies for Phase 2 Surveys are appropriate and sufficient.	Agreed	It is agreed by both parties that Phase 2 methodologies are appropriate.
Existing Environment	Survey data collected for Norfolk Vanguard for the characterisation of onshore ecology and ornithology are suitable for the assessment.	Agreed	It is agreed by both parties that the approach to survey data collection is appropriate to undertake the assessment.
	The ES adequately characterises the baseline environment in terms of onshore ecology and ornithology.	Agree with regards to onshore ecology. NWT has no view regarding ornithology	It is agreed by both parties that the ES adequately characterises the baseline environment in terms of onshore ecology.
Assessment methodology	Appropriate legislation, planning policy and guidance relevant to ecology and ornithology has been considered for the project (listed in section 22.2 and 23.2 in Chapter 22 Onshore Ecology and Chapter 23 Onshore Ornithology respectively).	Agree with regards to onshore ecology. NWT has no view regarding ornithology	It is agreed by both parties that appropriate legislation, planning policy and guidance relevant to onshore ecology and ornithology has been considered.
	The list of potential impacts on onshore ecology and ornithology assessed is appropriate	Agree with regards to onshore ecology. NWT has no view regarding ornithology	It is agreed by both parties that the potential impacts assessed in relation to onshore ecology are appropriate.
	The impact assessment methodologies used for the EIA provide an appropriate approach to assessing potential impacts of the project.	Agreed	It is agreed by both parties that the impact assessment methodologies are appropriate.

Topic	Norfolk Vanguard Limited position	TWT/NWT position	Final position
	The worst case scenario presented in the ES, is appropriate for the project.	Agreed	It is agreed by both parties that the worst case scenario assessed in the ES is appropriate.
	The methodology adopted for the CIA and projects assessed for cumulative impacts with Norfolk Vanguard is appropriate.	Agreed	It is agreed by both parties that the methodology adopted for the CIA is appropriate.
Assessment findings	The assessment of impacts for construction, operation and decommissioning presented are appropriate and consistent with the agreed assessment methodologies.	Agreed	It is agreed by both parties that the conclusions of the impact assessment for Norfolk Vanguard are appropriate.
	The assessment of cumulative impacts is appropriate and consistent with the agreed methodologies.	Agreed	It is agreed by both parties that the conclusions of the cumulative impact assessment are appropriate.
Mitigation and Management			
Approach to mitigation	All mitigation measures required are outlined in the Outline Code of Construction Practice (OCoCP) and Outline Landscape and Environmental Management Strategy (OLEMS).	Agreed	It is agreed by both parties that appropriate mitigation measures are outlined in the OCoCP and OLEMS.
	The use of trenchless crossing techniques at County Wildlife Sites (CWS) is acceptable subject to detailed design.	Agreed	It is agreed by both parties that trenchless crossings at CWS is acceptable subject to detailed design.
	The provision of an Ecological Management Plan (EMP) (based on the OLEMS submitted with the DCO application, document reference 8.7) is considered suitable to ensure potential impacts identified in the EclA are adequately mitigated	Agreed	It is agreed by both parties that the EMP will suitably mitigate impacts identified.
	The mitigation proposed for bats is appropriate and proportionate.	NWT has no view regarding bat mitigation	N/A

Topic	Norfolk Vanguard Limited position	TWT/NWT position	Final position
	The mitigation proposed for great crested newts (GCN) is appropriate and proportionate (as outlined in the draft GCN mitigation licence, circulated and discussed at April 2018 meeting).	Agreed NWT supports consideration of mitigation through alternative GCN licencing process	It is agreed by both parties that proposed GCN mitigation is appropriate and proportionate.
Habitat Regulations Assessment			
Screening of Likely Significant Effects (LSE)	The methodology and sites screened in for the HRA as presented in Appendix 5.2 of the Information to Support HRA report (Application document 5.3) are considered appropriate, considering sites within 5km of onshore infrastructure.	Agreed	It is agreed by both parties that the methodology for HRA is appropriate.
	The approach to HRA screening is appropriate. The following sites are screened in for further assessment: <ul style="list-style-type: none"> • River Wensum; • Paston Great Barn; and • Norfolk Valley Fens. 	Agreed	It is agreed by both parties that HRA screening is appropriate.
Assessment of Adverse Effect on Integrity	The approach to the assessment is appropriate.	Agreed	It is agreed by both parties that the approach to the assessment provided in the Information to Support HRA report (document 5.3) is appropriate.
	The conclusions of no adverse effect on site integrity in the Information to Support HRA report (document 5.3) are appropriate.	NWT has no view regarding the conclusions of the HRA	N/A

The undersigned agree to the provisions within this SOCG

Signed	J.Edwards
Printed Name	Joan Edwards
Position	Director of Living Seas and Public Affairs
On behalf of	The Wildlife Trusts
Date	30 th May 2019

Signed	J.Hiskett
Printed Name	John Hiskett
Position	Senior Conservation Officer
On behalf of	Norfolk Wildlife Trust
Date	8 th January 2019 (Onshore Ecology and Ornithology section unchanged since Deadline 1)

Signed	R Sherwood
Printed Name	Rebecca Sherwood
Position	Norfolk Vanguard Consents Manager
On behalf of	Norfolk Vanguard Ltd (the Applicant)
Date	30 th May 2019

APPENDIX 1

TWT position on the inclusion of commercial fisheries in the CIA

Fishing has not been included in the marine mammals or benthic ecology in-combination assessment. Fishing is a licensable activity that has the potential to have an adverse impact on the marine environment. This is supported in the leading case C-127/02 **Waddenzee** [2004] ECR I-7405, the CJEU held at para. 6

“The act that the activity has been carried on periodically for several years on the site concerned and that a licence has to be obtained for it every year, each new issuance of which requires an assessment both of the possibility of carrying on that activity and the site where it may be carried on, does not itself constitute an obstacle to considering it, at the time of each application, as a distinct plan or project within the meaning of the Habitats Directive”

This caselaw demonstrates that fishing is considered a plan or a project and therefore not part of the baseline. Fishing should be included in all in-combination assessments where there is an interaction with a designated feature. In-combination impacts must be taken into account in the same way as if they were removed and the total impact of all human activities considered.

Current Defra policy³ is to ensure that all existing and potential fishing operations are managed in line with Article 6 of the Habitats Directive. The current, risk-based, ‘revised approach’ to fisheries management in European Marine Sites is a compromise agreed by all to prevent the closure of fisheries during assessment. This approach further supports that fishing is considered a plan or a project and therefore must be included in the in-combination assessment in line with Article 6(3) of the Habitats Directive.

A precedent was set for the inclusion of fishing in in-combination assessments when TWT began Judicial Review proceedings against the Department for Energy and Climate Change (DECC) in August 2015 against the approval of Dogger Bank Offshore Wind Farm Order due to the exclusion of fishing from the in-combination assessment as part of the HRA. TWT withdrew the claim due to assurances given by the government regarding the management of fishing within Dogger Bank SAC. One of those assurances was that steps would be put in place to ensure that this scenario would not happen again and that Defra and DECC would work together to ensure fishing would be included in future offshore wind farm impact assessments.

Norfolk Vanguard Ltd position on the inclusion of commercial fisheries in the CIA

By-catch by commercial fisheries is recognised as a long-standing cause of harbour porpoise mortality and is therefore a factor in the existing population. In addition, the baseline prey resource for harbour porpoise is also influenced by long term commercial fishing. As a result, the Norfolk Vanguard CIA considers commercial fisheries to be part of the baseline environment for marine

³ Defra Policy to ensure that all existing and potential commercial fishing operations are managed in line with Article 6 of the Habitats Directive
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/345970/REVISED_APPROACH_Policy_and_Delivery.pdf

mammals, including harbour porpoise. This approach is in accordance with the Planning Inspectorate Advice Note 17 Cumulative Effects Assessment which states *“Where other projects are expected to be completed before construction of the proposed NSIP and the effects of those projects are fully determined, effects arising from them should be considered as part of the baseline”*

While the recent Review of Consents RoC theoretically screens in commercial fisheries to the HRA, it states that *“There have been no quantified assessments undertaken on the extent impacts from commercial fishing may have within the SCI and therefore information to inform this assessment is not available.”* As a result, the RoC HRA provides no assessment of commercial fisheries in the cumulative effects assessment.

Any former discussions between TWT and the government regarding the management of fishing within Dogger Bank SAC were specific to Dogger Bank and are not applicable to Norfolk Vanguard or the Southern North Sea cSAC/SCI.