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Subject: MMO Deadline 9 response
Date: 06 June 2019 22:03:33
Attachments: [EN010079_Deadline_9_MMO_Response_Final.pdf](#)

Dear Norfolk Vanguard Project Team,

Please find enclosed the Marine Management Organisation's (MMO) submission for Deadline 9.

I would be grateful if you could respond to this e-mail confirming safe receipt.

Kind Regards
Rebecca

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Norfolk Vanguard Case Team
Planning Inspectorate
(Email only)

MMO Reference: DCO/2016/00002
Planning Inspectorate Reference:
EN010079
Identification Number: 20012773

6 June 2019

Dear Sir or Madam,

Planning Act 2008, Vattenfall Wind Power Limited, Proposed Norfolk Vanguard Offshore Wind Farm Deadline 9 Submission

On 26 June 2018, the Marine Management Organisation (the “MMO”) received notice under section 56 of the Planning Act 2008 (the “PA 2008”) that the Planning Inspectorate (“PINS”) had accepted an application made by Norfolk Vanguard Limited (the “Applicant”) for determination of a development consent order for the construction, maintenance and operation of the proposed Norfolk Vanguard Offshore Wind Farm (the “DCO Application”) (MMO ref: DCO/2016/00002; PINS ref: EN010079).

The DCO Application seeks authorisation for the construction, operation and maintenance of Norfolk Vanguard offshore wind farm, comprising of up to 180 wind turbine generators together with associated onshore and offshore infrastructure and all associated development (“the “Project”).

This document comprises the MMO comments in respect of the DCO Application submitted in response to Deadline 9. This written representation is submitted without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This representation is also submitted without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

Yours faithfully



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Contents

- 1. The MMO comments on REP8-004 Applicant’s Draft DCO Tracked Changes.....4
 - 1.1 DCO and DMLs4
 - 1.2 Condition 9 (12)4
 - 1.3 Condition 14 (1) (e).....4
 - 1.4 Condition 15 (3)4
 - 1.5 Condition 15 (5)4
 - 1.6 Condition 14 (8)4
 - 1.7 DML Part 54
 - 1.8 Schedules 11 and 12: Condition 3 (1) (f)5
- 2. The MMO comments on REP8-056 Applicant’s Development Principles5
 - 2.1 Development Principles5
- 3. The MMO comments on REP8-062 Applicant's Comments on the MMO Deadline 7 Written Submissions5
 - 3.1 Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP)5
- 4. The MMO comments on REP8-074 Applicant's Responses to the Examining Authority’s Rule 17 Requests for Further Information5
 - 4.1 General comment5
- 5. The MMO comments on REP8-065 Applicant's Comments on ExA's draft DCO Schedule of Changes.....5
 - 5.1 General Comment5
- 6. The MMO comments on REP8-104 Natural England’s (NE) Deadline 8 response.....5
 - 6.1 REIS5
 - 6.2 OOMP (Starting at page 67)5
 - 6.3 HHW SAC SIP (Starting at page 82)5
- 7. The MMO comments on REP8-124 Trinity House Deadline 8 response5
 - 7.1 General Comment6
- 8. Further MMO comments on Applicant’s deadline 7 and 8 document submissions6
 - 8.1 General comments6
- 9. The MMO remaining DCO/DML comments not agreed with applicant6
 - 9.1 Summary of Position.....6
 - 9.2 Position Statement on Proposed Additional Mechanism Procedures6
 - 9.3 Statutory Nature Conservation Body within the DML.....6
 - 9.4 REP7-026: Outline Norfolk Vanguard Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP)6
 - 9.5 Scour Protection plan Condition 227
- 10. The MMO comments on MCA outstanding concerns8
 - 10.1 MGN 543 and its annexes8
- 11. The MMO comments on NE outstanding concerns8

11.1 Disposal and particle size8

1. The MMO comments on REP8-004 Applicant's Draft DCO Tracked Changes

1.1 DCO and DMLs

1.1.1 The MMO understand the applicant has taken forward the majority of recommendations put forward by the Examiner (ExA) within the Schedule of changes (PD-017) and are satisfied with the majority of the changes. Further comments on the amendments are in the rest of this section.

1.2 Condition 9 (12)

1.2.1 The MMO welcome the applicants amending this condition to include notification to Maritime and Coastguard Agency (MCA).

1.2.2 In regards to the change from five days to three days the MMO support the MCA request for this amendment. The MMO discussed all navigational conditions with MCA and Trinity House (TH) to ensure consistency across all the dDCOs (Hornsea Project Three and Thanet Extension) and future offshore wind farms. During this discussion it was agreed that three days was a suitable time frame and three days was in the final submission dDCO for Hornsea Project 3.

1.2.3 The MMO support the request for three days and believe this is appropriate for the safety of navigation and do not believe this would be onerous on the Applicant. Within the applicants comments on the ExA schedule of changes the Applicant advised that other equivalent timeframes in Condition 9 of the DMLs (i.e. Condition 9(6),(8), and (9)) include five day notification period and three days is not consistent with these timeframes. The MMO would advise that five days may be appropriate for other notifications within the DML, however as cable exposure is a potential hazard to the safety of other legitimate users of the sea, the MMO therefore believe this is a reasonable request.

1.3 Condition 14 (1) (e)

1.3.1 The MMO is satisfied with the wording the applicant has provided.

1.4 Condition 15 (3)

1.4.1 As previously stated in within REP7-071 and REP8-102 the MMO believe the timescales should be six months rather than four months for the submission of documents and do not support this amendment. The final position of the MMO will be submitted at deadline 9 by the applicant in a Joint Position Statement. The document reference is ExA; AS; 10.D9.4).

1.5 Condition 15 (5)

1.5.1 The MMO welcome the removal of the text relating to requests for additional information, however still has concerns relating to the timescales as stated in comment 1.3.

1.6 Condition 14 (8)

1.6.1 The MMO support the MCA in the request for the changes proposed, the MMO are aware the applicant has agreed with the proposed changes and this would be included within the deadline 9 dDCO.

1.7 DML Part 5

1.7.1 The MMO do not agree with the inclusion of the appeals process – this was discussed within REP8-102. The final position of the MMO will be submitted at

deadline 9 by the applicant in a Joint Position Statement. The document reference is ExA; AS; 10.D9.4).

1.8 Schedules 11 and 12: Condition 3 (1) (f)

1.8.1 The MMO welcome and support this amendment.

2. The MMO comments on REP8-056 Applicant's Development Principles

2.1 Development Principles

2.1.1 The MMO reviewed the Applicant's response to the Rule 17 request FQ1.4 (REP8-074) and discussed the document further with the applicant. The MMO understand the reasoning behind the document is to set forward the principles in developing the layout to be put forward within the design plan. The MMO is aware that MCA and TH are in agreement with the document, the MMO is content with the inclusion of the document.

3. The MMO comments on REP8-062 Applicant's Comments on the MMO Deadline 7 Written Submissions

3.1 Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP)

As per previous response in deadline 7 (REP7-071) the MMO do not believe the inclusion of the SIP is appropriate at this stage and would prefer this to be dealt with pre consent. If the project is unable to rule out AEol this needs to be dealt with at the time of examination. Please see section 9.4.

4. The MMO comments on REP8-074 Applicant's Responses to the Examining Authority's Rule 17 Requests for Further Information

4.1 General comment

4.1.1 The MMO has no further comments on these responses.

5. The MMO comments on REP8-065 Applicant's Comments on ExA's draft DCO Schedule of Changes

5.1 General Comment

5.1.1 The MMO has reviewed the comments made along with the dDCO submitted at Deadline 8 and has responded above in section 1 of this document.

6. The MMO comments on REP8-104 Natural England's (NE) Deadline 8 response

6.1 REIS

6.1.1 The MMO support NE and has no further comments.

6.2 OOMP (Starting at page 67)

6.2.1 In reference 2.1 of the table NE question the removal of the paragraph relating to the description of the approach of construction. The MMO note this has been specified within the DCO/DMLs, however agree better clarity is achieved if this is included within the plan.

6.3 HHW SAC SIP (Starting at page 82)

6.3.1 The MMO would highlight that NE and the MMO have shared concerns over the use of a SIP document for the HHW SAC. Please see section 9.4 of this document.

7. The MMO comments on REP8-124 Trinity House Deadline 8 response

7.1 General Comment

7.1.1 The MMO welcome the support and position of TH on arbitration, appeals processes and deemed discharge position, and has no further comments.

8. Further MMO comments on Applicant's deadline 7 and 8 document submissions

8.1 General comments

8.1.1 The MMO has been in discussion with the applicant relating to the documents submitted by the applicant at deadline 7 and the comments made in the MMO deadline 8 submission (REP8-102). These documents were:

- Outline Operations and Management Plan (OOMP)
- Offshore In Principles Monitoring Plan (IPMP)
- Outline Scour Protection and Cable Protection Plan

The MMO has reviewed the tracked changes versions of these documents that are to be submitted at deadline 9 and are satisfied the changes made by the applicant close off the comments put forward in REP8-102 by the MMO.

9. The MMO remaining DCO/DML comments not agreed with applicant

9.1 Summary of Position

9.1.1 The MMO and the applicant are not in agreement with the following topics:

- Arbitration
- Timescales for documents
- Deemed discharge procedures
- Appeal process
- The need for the HHW SAC SIP
- Scour Protection reporting

9.2 Position Statement on Proposed Additional Mechanism Procedures

9.2.1 The MMO understand that timescales, arbitration, deemed discharge and the appeal process put forward by the applicant are all linked together. The MMO fundamental position is that it does not agree with any of the proposed processes and these should be removed from the DCO/DMLs. The MMO would request that all timescales should be six months prior to construction.

9.3 Statutory Nature Conservation Body within the DML

9.3.1 The MMO questions whether the definition of the SNCB needs to be included within Part 1 of the DMLs and not just the DCO, this will ensure consistency throughout the document.

9.4 REP7-026: Outline Norfolk Vanguard Haisborough Hammond and Winterton (HHW) Special Area of Conservation (SAC) Site Integrity Plan (SIP)

9.4.1 The MMO retains considerable concerns regarding the use of a Site Integrity Plan for benthic impacts.

9.4.2 The MMO remains concerned that throughout the document the applicant states the explicit risk of a conclusion of no adverse effect on site integrity (AEoI) not being agreed with the MMO in consultation with NE being borne by the developer. In this scenario, construction cannot commence and the onus would be on Norfolk Vanguard Limited to consider alternative solutions, in consultation with N E and the MMO.

9.4.3 The MMO would highlight this is a major risk to a consented wind farm, if no possible mitigation solution is found at the post consent stage, or a variation to the DML/Marine licence is not granted, what are the options at that stage? The risk and consequences are not felt solely by the developer. The regulator and stakeholders also feel increased and unwanted pressure in trying to progress an already consented wind farm whilst still enforcing regulations as per their remit.

9.4.4 The MMO do not agree with the statement highlighted in red below. The MMO defer the conclusions to Natural England in regards to AEoI, however query the conclusion implied in this statement. The situation as the MMO sees it is that at this stage AEoI CANNOT be ruled out.

The Applicant has therefore taken a conservative approach in the assessment, (e.g. by assessing a contingency for cable protection) in accordance with advice from Norfolk Vanguard Offshore Wind Farm 8.20 Page 8 Natural England and the MMO during the Evidence Plan Process, to avoid the need for post consent variations, whilst also making a firm commitment through the SIP (as required by Condition 9(1)(m) of the Transmission DMLs) to agree all works in the HHW SAC with the MMO in consultation with Natural England. This allows a conclusion of no AEoI at the consenting stage on the basis that works cannot commence until the MMO is satisfied that there would be no AEoI.

9.4.5 The MMO has concerns in relation to the need for a SIP in this circumstance, in addition to the MMO previous comments (REP6-030, REP7-071) the MMO believe the inclusion of a SIP for an individual project on that projects worst case scenario alone could set precedent in future projects which would make the consenting process increasingly difficult.

9.4.6 The MMO do not want to be in a scenario in the future where multiple wind farms are consented with SIP documents for the same marine protected area on their project alone as there is a possibility that the associated risk and in combination impacts could not be assessed fully.

9.5 Scour Protection plan Condition 22

9.5.1 The MMO has not been able to agree on the wording of condition 22 during recent discussions with the applicant. This amendment was to include within the report; scour protection information of location and volume of scour protection once construction is complete.

9.5.2 The MMO believe this is needed as scour protection is new material into the environment and that in terms of impact and navigational risk, the MMO need to be informed of the final construction layout and amount of cable protection. The MMO do not feel this is unreasonable and would require this information for monitoring and enforcement as this report from an applicant would be the only realistic way of checking compliance with this element of consented parameters as assessed in the environmental statement.

9.5.3 The MMO understand the applicants concerns on the wording provided during these discussions and has amended these to reduce these concerns. The current wording the MMO would require in the DML is below:

Reporting of cable and scour protection

17.—(1) Not more than 4 months following completion of the construction phase of the authorised scheme, the undertaker must provide the MMO and the relevant

statutory nature conservation bodies with a report setting out details of the cable protection and scour protection used for the authorised scheme.

(2) The report must include the following information—

(a) location of the cable protection;

(b) volume of cable protection;

(c) any other information relating to the cable protection as agreed between the MMO and the undertaker.

(d) location of the scour protection;

(e) volume of scour protection;

10. The MMO comments on MCA outstanding concerns

10.1 MGN 543 and its annexes

10.1.1 The MMO support the amendment requested by MCA in relation to including ‘and its annexes’ after all references with MGN 543 throughout the DCO/DMLs.

11. The MMO comments on NE outstanding concerns

11.1 Disposal and particle size

11.1.1 The MMO is aware of the proposed condition put forward by NE and as this condition relates to the protection of the conservation objectives within the HHW SAC would defer to NE.