



Department for  
Business, Energy  
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To:

Norfolk Vanguard Limited

Your Ref:  
Our Ref: EN010079

Date: 5 July 2021

cc: Norfolk Vanguard and Norfolk Boreas Interested Parties

Dear Sir or Madam

**Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010**

**Application by Norfolk Vanguard Limited (“the Applicant”) for an Order granting Development Consent for the proposed Norfolk Vanguard Offshore Wind Farm and associated offshore and onshore infrastructure (“the Norfolk Vanguard project”)**

**SECRETARY OF STATE’S CONSIDERATION OF PROCEDURAL MATTERS FOLLOWING THE HIGH COURT’S DECISION TO QUASH THE NORFOLK VANGUARD OFFSHORE WIND FARM ORDER 2020**

1. On 29 April 2021, the Secretary of State for Business, Energy and Industrial Strategy (the “Secretary of State”) invited Interested Parties to the Norfolk Vanguard project and the Norfolk Boreas offshore wind farm project (the “Norfolk Boreas project”) to submit their views on the procedure that should be followed in the re-determination of the Norfolk Vanguard project application.
2. The responses to that consultation have now been published on the Planning Inspectorate’s Norfolk Vanguard project page:  
  
<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/norfolk-vanguard/> .
3. The Secretary of State is grateful to the respondents for their thoughtful consideration of this issue. He has carefully considered all the responses submitted to him following the consultation and makes the following points.

4. The Secretary of State agrees it is important that the consideration of the cumulative impacts of the onshore substation infrastructure at Necton should not be limited to any particular aspect of those impacts. Some respondents thought that his letter implied that consideration of this matter should be limited to design issues but that was not his intention, rather it was an issue on which information was lacking. But the re-determination will of course consider all elements of the cumulative impacts and in a later stage of the re-determination process (see paragraph 11 below), Interested Parties will be able to make representations on any aspect of the cumulative impacts of the onshore substation infrastructure.
5. In addition, the Secretary of State notes that a number of consultation responses expressed the need to consider impacts beyond the cumulative landscape and visual impacts of the onshore substation infrastructure at Necton. Having considered these responses, the Secretary of State has decided to revisit the conclusions of the Habitats Regulations Assessment in relation to certain protected sites (see further paragraphs 17 - 22 below).
6. Some respondents considered that the Secretary of State should take into account any developments which will have occurred between his original decision (now quashed) and his ultimate decision on the development consent application for the Norfolk Vanguard project following the re-determination process. In this regard, both the Offshore Transmission Network Review (“OTNR”) and the proposed Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects were mentioned and the Secretary of State has taken account of these in his requests for further information at paragraphs 15 and 16 below.
7. The Secretary of State also notes that a number of the consultation responses requested that the re-determination of the Norfolk Vanguard project application should proceed by way of a re-opening of the examination process (with several comments suggesting that the examination should cover both the Norfolk Vanguard project and the Norfolk Boreas project development consent applications or make the Applicant re-apply for development consent on the basis of Norfolk Vanguard and Norfolk Boreas being a single project). Having considered all the comments that have been submitted to him, the Secretary of State, while noting that it is possible for him to re-open the examination into the Norfolk Vanguard development consent application, has decided that the necessary re-determination of the application will proceed by way of written representations and that it will proceed separately to the determination of the Norfolk Boreas project whilst taking full account of the overlap of certain matters.
8. In taking this decision, the Secretary of State notes that the consideration of development consent applications submitted under the Planning Act 2008 process is primarily based on written representations. The Secretary of State considers that he either already has the information needed from the Norfolk Vanguard examination Library or will obtain the necessary additional information via this consultation process, thereby enabling him to consider cumulative impacts properly without joining together the Norfolk Boreas and the Norfolk Vanguard projects in a single new examination. He considers, therefore, that the written representations process provides an appropriate mechanism for Interested

Parties to draw to his attention the details of any arguments about relevant matters. Although his consideration of the cumulative effects of the onshore substation infrastructure will need to include analysis of aspects of the Norfolk Boreas project, the Planning Act 2008 does not require, in a situation where an application may have cumulative effects with other live applications, that those applications should be examined together. In this context, the Secretary of State notes that in paragraph 128 of the judgment handed down on 18 February 2021, the Honourable Mr Justice Holgate states: "There is no dispute that Vanguard and Boreas are separate projects. They did not fall to be treated as a single project for the purposes of EIA legislation. This is not a case where, for example, the developer has sought to define the development for which he seeks permission so as to avoid EIA scrutiny."

9. Having decided to proceed by way of written representations, the Secretary of State wishes to set out the next stages in the re-determination process.
10. This letter asks the Applicant to provide further information on a number of issues set out below. The Secretary of State requests the Applicant to provide that information by 23.59 on 2 August 2021. The Applicant should submit its response to this consultation to the Secretary of State c/o the Planning Inspectorate's e-mail address for the Norfolk Vanguard development consent application - [NorfolkVanguard@planninginspectorate.gov.uk](mailto:NorfolkVanguard@planninginspectorate.gov.uk) .
11. The Secretary of State will publish any additional information he receives from the Applicant and will then write to all Interested Parties to seek their views on the issues raised in this letter and in the submissions made by the Applicant. Following the receipt of responses to that consultation, it is likely that the Secretary of State will allow the Applicant and Interested Parties a final opportunity to comment including on the responses received to the previous consultation.
12. In the interests of clarity, it is worth re-stating that the Secretary of State will continue to proceed to determine the Norfolk Boreas development consent application on the basis of the Examining Authority's Report and any information that may be submitted to him subsequently by way of consultation responses or other submissions. As set out in his letter of 29 April 2021 and confirmed at paragraph 7 above, the applications for development consent in respect of the Norfolk Vanguard project and the Norfolk Boreas project will continue to be dealt with separately and the Secretary of State's decisions on those applications will not necessarily be issued at the same time.

#### **SECRETARY OF STATE'S REQUESTS FOR ADDITIONAL INFORMATION**

13. Further to the procedural decisions set out above, the Secretary of State requests that the **Applicant** should provide any additional information on the cumulative impacts of the proposed Norfolk Vanguard project that will assist him in considering the impacts of the proposals to locate the Norfolk Vanguard substation(s) at Necton. The additional information should include but not necessarily be limited to assessments of landscape and visual effects, construction and operational noise effects, the impacts of artificial lighting at the substation sites and any potential water run-off from the substations. That information might include any material which was produced as part of the application, or

during the examination, of the Norfolk Boreas project which the **Applicant** considers may be relevant to the Secretary of State's consideration of the cumulative effects of the substation infrastructure (including any proposed mitigation). As indicated in paragraph 11 above, the Secretary of State will, in due course, invite Interested Parties to comment on information provided by the Applicant and to provide their own information which will be considered in the decision-making process.

14. In line with the request made by the Secretary of State on 28 April 2021<sup>1</sup> with regard to the proposed Norfolk Boreas project, the **Applicant** is asked to provide any further details which are available in respect of the proposed cooperation agreement between Norfolk Boreas Limited and Norfolk Vanguard Limited mentioned by the Applicant in its response to the Examining Authority's Written Question 2.9.3.4. The **Applicant** is asked to indicate how, if at all, the cooperation agreement is intended to address design issues for the Norfolk Boreas and Norfolk Vanguard projects at the Necton substation to ensure that the cumulative landscape and visual impacts are minimised.
15. In respect of the OTNR, the Secretary of State will consider any relevant matters arising from that review when he takes his decision. He requests the **Applicant** to consider whether, in the context of the 'Early Opportunities' workstream of the OTNR as mentioned in the joint BEIS-Ofgem letter of 18 December 2020<sup>2</sup>, it has identified any opportunities for a more co-ordinated approach to the design and delivery of the transmission infrastructure for the Norfolk Vanguard and Norfolk Boreas projects, including with other projects in the same region.
16. In relation to the proposed Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects, the Secretary of State wishes to consider whether there is any additional information in respect of those projects that is relevant to his consideration of the re-determination of the Norfolk Vanguard project. In the first instance, therefore, he requests that the **Applicant** should provide any additional information relating to those projects which it thinks is relevant to his consideration of the Norfolk Vanguard project re-determination.

#### **Alde-Ore Estuary Special Protection Area ("SPA")**

17. In line with the request made with regard to the proposed Norfolk Boreas project, in relation to the in-combination impacts on the lesser black-backed gull feature of the Alde-Ore SPA, and in addition to the In Principle Compensation Measures submitted as part of the application, the **Applicant** is requested to provide the following information in consultation with Natural England:
  - Details of any strategic compensation options considered;

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<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002810-NORB-Secretary-of-State-letter.pdf>  
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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/949510/Open\\_Letter\\_Response\\_Final.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/949510/Open_Letter_Response_Final.pdf)

- Evidence of how any proposed compensation site(s) will be acquired/leased;
- An implementation timetable for when the compensation measures will be delivered and achieve their objectives in relation to the first operation of the wind farm.

### **Flamborough and Filey Coast Special Protection Area (“SPA”)**

18. The Secretary of State's determination of Hornsea Project Three Offshore Wind Farm<sup>3</sup> concluded that the development would have an adverse effect on the kittiwake feature of the Flamborough and Filey Coast SPA in-combination with other plans or projects. Compensatory measures were secured to offset impacts to the site and to ensure the overall coherence of the National Site Network. In light of the Hornsea Project Three Offshore Wind Farm determination and associated Habitats Regulations Assessment and in line with the request made with regard to the proposed Norfolk Boreas project, the Secretary of State wishes to revisit the Habitats Regulations Assessment for Norfolk Vanguard in relation to the Flamborough and Filey Coast SPA.

19. In relation to in-combination impacts on the kittiwake, razorbill, gannet and guillemot features of the Flamborough and Filey Coast SPA, the **Applicant**, in collaboration with Natural England, is invited to provide updated in-combination assessments for collision and/or displacement effects, with and without Hornsea Project Four Offshore Wind Farm, using:

- Natural England's advised assessment parameters; and
- The latest project parameters and baseline ornithology survey data for Hornsea Project Three Offshore Wind Farm.

20. The **Applicant** is also requested to provide details of the following:

- Any modifications to the Norfolk Vanguard project, that were not included at the time of the application or during the Examination, which could avoid or reduce adverse effects on the integrity of the site for kittiwake, razorbill and guillemot features; and
- Compensation strategies for kittiwake, razorbill and guillemot produced in consultation with Natural England, other interested parties and, if an action is required on its part, Defra. The strategies should include, but not be limited to, the following information:
  - a description of the compensatory strategies proposed, accompanied by an explanation of how they will effectively compensate for the negative effects of the Norfolk Vanguard project on the species, and how they will ensure that the overall coherence of the National Site Network is protected;

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<sup>3</sup> <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/hornsea-project-three-offshore-wind-farm/>

- confirmation of the selected sites(s) for compensation strategies and details of how the site(s) will be acquired/ leased. For kittiwake, this would include viable options for offshore artificial nest site creation;
- an implementation timetable for when the compensation measures will be delivered and achieve their objectives in relation to the first operation of the wind farm; and
- details of any proposed routine maintenance and species population monitoring during the project lifetime, together with the funding mechanisms for their delivery.

### **Haisborough, Hammond and Winterton Special Area of Conservation (“SAC”)**

21. The Secretary of State’s determination of Hornsea Project Three Offshore Wind Farm concluded that habitats which are subjected to cable protection will experience the effects of habitat loss, habitat modification and changes in epifauna communities. This is likely to impede the restoration of Annex I habitats for the duration that they are in place. With this considered, compensatory measures for the North Norfolk Sandbanks and Saturn Reef SAC and the Wash and North Norfolk Coast SAC were secured to offset impacts on Annex I habitat and to ensure the overall coherence of the National Site Network. In light of the Hornsea Project Three Offshore Wind Farm determination, the associated Habitats Regulations Assessment, and the letter of February 2021 issued by Defra in respect of the Norfolk Boreas application<sup>4</sup> the Secretary of State wishes to revisit the Habitats Regulations Assessment for Norfolk Vanguard in relation to the Haisborough, Hammond and Winterton SAC.
22. The **Applicant** is requested to consider the letter published by Defra (February 2021) and provide details of alternative compensation strategies for the reef and sandbank features of the Haisborough, Hammond and Winterton SAC which are produced in consultation with Natural England, other interested parties and, if an action is required on its part, Defra. The agreed compensation strategies should ensure that the overall coherence of the National Site Network is protected.
23. As indicated above, the **Applicant** should provide the requested information by 23.59 on **2 August 2021** to the Secretary of State c/o the Planning Inspectorate’s e-mail address for the Norfolk Vanguard development consent application - [NorfolkVanguard@planninginspectorate.gov.uk](mailto:NorfolkVanguard@planninginspectorate.gov.uk) . The information will then be published and Interested Parties will be invited to offer their views on it.

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<sup>4</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010087/EN010087-002810-NORB-Secretary-of-State-letter.pdf>

Yours faithfully

*Gareth Leigh*

**Gareth Leigh**  
Head of Energy Infrastructure Planning