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02 August 2021

Norfolk Vanguard Request for Additional Information

Dear Mr Leigh,

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Re-determination of application by Norfolk Vanguard Limited (Applicant) for development consent for the Norfolk Vanguard Offshore Wind Farm (Norfolk Vanguard)

Response to the Secretary of State's Consideration of Procedural Matters and request for additional information dated 5 July 2021 following the High Court's decision to quash the Norfolk Vanguard Offshore Wind Farm Order 2020

We refer to your letter dated 5 July 2021 which requests additional information in relation to the redetermination of Norfolk Vanguard.

The following documents are enclosed with the Applicant's submission:

1. Applicant's Guide to the Application (Version 12)
2. Applicant's Response to the Request for Additional Information
3. Design and Access Statement (Version 2) (document 8.3)
4. In Principle Habitats Regulations Derogation Provision of Evidence Appendix 2 Alde-Ore Estuary SPA In Principle Compensation (document 8.24)
5. In Principle Habitats Regulations Derogation, Provision of Evidence Appendix 3 Haisborough, Hammond and Winterton SAC In Principle Compensation (document 8.25)
6. In Principle Habitats Regulations Derogation Provision of Evidence Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation (document 8.26)
7. Onshore Project Substation Masterplan (document 8.27)
8. Information from the Norfolk Boreas Examination
9. Summary of Norfolk Boreas Environmental Statement Information with respect to Cumulative Impacts
10. Updated information on cumulative and in-combination effects with the Dudgeon and Sheringham Shoal Extension Projects
11. Norfolk Boreas Document Index

Cumulative and In-combination Impacts following the publication of the Dudgeon and Sheringham Shoal Extension Projects PEIR and draft Information to support HRA

The Dudgeon and Sheringham Shoal Extension Projects (DEP and SEP) Preliminary Environmental Impact Report (PEIR) and draft Information to support HRA were published in April 2021, and included a preliminary assessment of cumulative impacts and in-combination impacts with Norfolk Vanguard respectively. In response to the SoS's request, the Applicant has reviewed the PEIR documentation for each EIA topic and considered the potential for likely significant effects to arise as a result of DEP and SEP when considered cumulatively with Norfolk Vanguard. A similar review has been undertaken for the draft HRA information with respect to in-combination impacts of DEP and SEP with Norfolk Vanguard. The review undertaken is, of course, necessarily high level since at this stage only preliminary and draft information is available for the DEP and SEP projects.

Within the PEIR, the preliminary cumulative impact assessment undertaken by DEP and SEP concludes that there would be no significant adverse cumulative impacts with Norfolk Vanguard for any of the EIA topics. Having reviewed the information within the PEIR the Applicant also concludes that there are no likely significant adverse effects for any of the EIA topics as a result of DEP and SEP when considered cumulatively with Norfolk Vanguard. Similarly, the draft HRA information concludes that there would be no adverse effects on the integrity of any European site as a result of the in-combination impacts of DEP and SEP and Norfolk Vanguard, and the Applicant agrees with this conclusion.

Avoiding Adverse Effect on Integrity of European Sites

Update on Auk impacts following Natural England's advice of no AEol at the East Anglia ONE North and East Anglia TWO examinations (excluding projects for which only preliminary information is available)

Natural England's recent submission¹ to the East Anglia ONE North and East Anglia TWO examination advised that adverse effects on integrity could be ruled out for all in-combination impacts on gannet, guillemot and razorbill as well as for the seabird assemblage at the Flamborough and Filey Coast SPA when all projects up to and including Hornsea 3, Norfolk Vanguard, Norfolk Boreas, East Anglia One North and East Anglia Two are included in the in-combination totals. Whilst Natural England has advised that in-combination impacts cannot be ruled out when considered with DEP and SEP and Hornsea Project Four, this is due to those projects having only presented preliminary information at this stage.

In accordance with the Secretary of State's request, in principle compensation measures have been proposed for Auks in the Applicant's *In Principle Habitats Regulations Derogation Provision of Evidence Appendix 1 Flamborough and Filey Coast SPA In Principle Compensation (Version 2)* (document 8.26). However as Natural England has stated that AEol can be ruled out for in-combination impacts when including Norfolk Vanguard, the Applicant maintains that there should be no request for compensation in respect of Auks at the FFC SPA.

¹ [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-005367-Natural%20England%20-%20Appendix%20A16c%20-%20ONE%20Comments%20on%20Cumulative%20and%20In-Combination%20Collision%20Risk%20\[REP11-027\]%20Deadline%2012.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-005367-Natural%20England%20-%20Appendix%20A16c%20-%20ONE%20Comments%20on%20Cumulative%20and%20In-Combination%20Collision%20Risk%20[REP11-027]%20Deadline%2012.pdf)

Mitigating other potential Adverse Effects on the Integrity of European Sites

The Applicant has taken significant steps to mitigate impacts in order to avoid adverse effect on the integrity of European sites. However, following the close of the examination, and without prejudice to the Applicant's firm position that there is no adverse effect on the integrity of any European site as a result of the project, the Applicant has continued to proactively develop the in-principle compensation plans in the event that the Secretary of State considers that it is necessary to secure these.

Significant levels of engagement have been undertaken with relevant statutory consultees to inform the content of the in-principle plans, which now contain considerable detail on the compensation options available; the compensation measures which the Applicant recommends developing further; the feasibility of the recommended compensation measures including how they would be delivered and timescales for their delivery; as well as the costs associated with their delivery and any ongoing monitoring and management proposals.

Agreement in principle has been reached with relevant statutory consultees on compensation measures to be taken forward (if any) for the lesser black-backed gull feature of the Alde-Ore Estuary (AoE) Special Protection Area and the kittiwake feature of the Flamborough and Filey Coast Special Protection Area. Whilst it has not been possible to reach a clear consensus on the most appropriate compensation measure to be taken forward (if any) in relation to the Haisborough, Hammond and Winterton Special Area of Conservation (HHW SAC), the Applicant has recommended two compensation options to be developed further, one of which is to remove anthropogenic material from the seabed including marine debris and/or redundant infrastructure. BT and Helix Well Ops Ltd have confirmed in principle support to the Applicant for removing their out of service infrastructure. Letters demonstrating this are provided in the Applicant's detailed response.

The Applicant can confirm that as of 22 July 2021, agreement has been reached with BT and associated consortia to cut the final out of service telecommunications cable in the HHW SAC. This will allow the Applicant to further reduce the amount of cable protection required. In addition, the Applicant is increasingly confident of the very low likelihood that cable protection will, in fact, be required at all within the HHW SAC (apart from at the one remaining cable crossing point which currently exists). Further evidence in relation to this, from prospective export cable suppliers, has been submitted in the Applicant's detailed response.

Given the above, and that it will not be known whether cable protection is required until the point that the export cable has been installed, the Applicant considers it to be wholly disproportionate to require compensation to be delivered in advance of cable installation. To do so, would require the Applicant to deliver, in advance, compensation which may then never be required. This would unnecessarily delay the delivery of the project in the face of the urgent need for deployment of renewable energy to meet the Government's ambitions for net zero and 40GW by 2030, and unnecessarily (and potentially significantly) increase the costs of the project's delivery and therefore ultimately the cost of energy for consumers.

In any event, whilst the Applicant has developed the in-principle plans in considerable detail, the Applicant is firmly of the view that compensation measures should not be required for this particular project. Following significant steps taken to mitigate impacts in order to avoid adverse effects on integrity, any remaining impacts are extremely small and can properly be regarded as *de minimis*. Notwithstanding this, the Applicant will continue to develop the in-principle plans proactively, in consultation with statutory consultees, pending the determination of the Application.

Updates to the draft Development Consent Order (dDCO) incorporating the Deemed Marine Licences (DMLs)

In the detailed request for information, the Applicant proposes a suggested DML condition to ensure that the decommissioning of cable protection (save at cable and pipeline crossings) in the HHW SAC can be achieved (condition 3(1)(g)). This is proposed to be included within the transmission asset DMLs at Schedule 11 and Schedule 12 of the dDCO, which aligns with the condition proposed for the Norfolk Boreas application. As explained as part of the Applicant's previous request for corrections, a condition requiring decommissioning of cable protection would not be relevant to, and should not be included within, the generation asset DMLs given that the generation assets would not affect the HHW SAC. In addition, by securing condition 3(1)(g) in the transmission asset DMLs as well as the commitment to decommission cable protection in the outline Site Integrity Plan (SIP) / Cable Specification, Installation and Monitoring Plan (CSIMP), an additional condition requiring decommissioning as secured for Hornsea Project Three (and as contained at condition 20 in the now quashed Norfolk Vanguard DCO) is not required.

In any event, should it be concluded that compensation is required for the HHW SAC, this mitigation would no longer be required. In these circumstances, as agreed with Natural England, it would not be reasonable to require the Applicant to decommission cable protection or therefore to use certain materials that can be decommissioned (condition 3(1)(g)). Whilst it is accepted that the mitigation in the SIP/CSIMP, in so far as it does not relate to cable protection, would need to be secured, given the purpose of the SIP is to ensure adverse effects on integrity are avoided, the CSIMP would be a more appropriate mechanism to secure that mitigation if compensation is required. An alternative condition for securing the CSIMP was proposed in the last version of the dDCO submitted in December 2019.

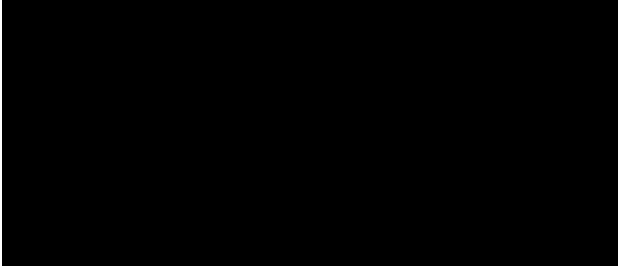
Should the SoS conclude that compensation is required for either the HHW SAC or the FFC or AOE SPAs the Applicant has proposed conditions to secure this, which have been discussed with Natural England and the MMO. Although many of the principles have been agreed, further consultation with these bodies is being undertaken to reach agreement (if possible) on the timescales within which the detailed compensation plans are submitted and the compensation measures delivered.

The Applicant is committed to minimising impacts as a result of the project, and has included significant mitigation to minimise those impacts which could occur cumulatively. Nonetheless, to ensure that the Applicant's commitments to minimise cumulative landscape and visual impacts at the onshore project substation are secured, the Applicant also proposes a new dDCO requirement to ensure that the onshore project substations for both Norfolk Vanguard and Norfolk Boreas are developed in accordance with an overarching masterplan (Requirement 16(4)(b)). As well as zoning information, the masterplan contains clear principles to ensure that development of both onshore project substations is co-ordinated and considered holistically. As explained in the detailed response attached, the Applicant also proposes to update Requirement 18 of the dDCO so that matters referred to in the Outline Landscape and Ecological Management Strategy (OLEMS) are reflected in the dDCO, which is consistent with the amendments made to Requirement 18 of the Norfolk Boreas dDCO during the Norfolk Boreas examination.

Finally, following further discussions since the close of the examination and in agreement with National Grid Electricity Transmission, the Applicant would request that Article 6 (Benefit of the Order) is updated at paragraph 11(a) to reflect the Secretary of State's usual custom and practice formulation to enable a transfer of the benefit of the DCO to be made to any licence holder under the Electricity Act 1989, instead of limiting transfers to transmission licence holders and transfers within the Vattenfall group.

We trust the enclosed documents deal fully with the request for additional information. If however, any further clarification is required, please do not hesitate to contact us.

Yours faithfully



Jake Laws

For and on behalf of

Norfolk Vanguard Limited

