

Oulton
Norfolk

19th November 2021

The Rt. Hon. Kwasi Kwarteng
Secretary of State
Dept. for Business, Energy and Industrial Strategy

Dear Mr. Kwarteng,

Re-determination of Norfolk Vanguard: submission on behalf of the Norfolk Parish Movement for an OTN

I am writing to you today in response to your letter of 11th October 2021 regarding the re-determination of Norfolk Vanguard, and your letter of 26th October 2021 regarding the extension of time for submissions.

I write on behalf of the **85 Norfolk Parish and Town Councils** listed below, who are members of the Norfolk Parish Movement for an Offshore Transmission Network (OTN). This movement continues to experience an unprecedented surge in membership in recent months, as further information about the in-combination onshore impacts of **all 5 offshore wind farm projects affecting Norfolk** has become apparent. These communities are drawn from the length and breadth of Norfolk, and are not just clustered around the cable routes. There is an increasing understanding that this disruption will be severely damaging to the whole of Norfolk in many ways - and that it is unnecessary.

This submission is on behalf of the whole group, but individual Town and Parish Councils may also wish to make separate representations.

The Judicial Review awarded against Vattenfall in respect of Norfolk Vanguard

The DCO for Norfolk Vanguard was quashed in the High Court in February 2021 on the grounds of a failure properly to consider the cumulative impacts of Norfolk Vanguard, taken together with its sister project Norfolk Boreas. In addition, the judgement handed down by Mr. Justice Holgate emphasised the distortion of a fair, lawful and transparent conduct of the NSIP planning process that had occurred in this case, in the following terms:

“135: The Defendant has decided that the cumulative impacts at Necton should be assessed solely in the Boreas examination and decision and not also in the Vanguard process, despite (1) the availability of information to enable him to make an evaluation of those impacts and (2) the Court of Appeal's judgment in *Larkfleet*. The Defendant's approach has had the effect, absent consideration of those cumulative effects, of making it easier to obtain consent for Vanguard, and providing a "foot in the door" making it easier to obtain consent for Boreas. Although there is no evidence that NVL sought those outcomes, the Vanguard DCO decision has had a "precedent effect" for decision-making in relation to Boreas upon which, understandably, NVL has relied heavily in the Boreas examination. In view of the familiar *North Wiltshire* line of authority on consistency in

decision-making, these were highly likely, if not inevitable, consequences of the Defendant's decision to approve the DCO for Vanguard. These were obviously material considerations which went directly to the rationality of the decision."

Justice Holgate concluded his judgement with the following statement:

"180: Paragraph 11c of NVL's submissions relies upon "the importance in the public interest of determining applications for nationally significant infrastructure projects such as this without undue delay" as a factor influencing the timing of the Defendant's decision. That does indeed reflect one of the purposes of the PA 2008 and the procedural timetables it contains (see also the case law cited in [9] above). But that consideration does not override the need for compliance with EIA legislation and with principles of public law and procedural fairness. It is most unfortunate that there has been a failure to grapple with an important issue in the Vanguard decision (and before the Boreas decision) and that this has resulted in delay to the determination of an important application. But that only serves to underscore the need for care now to be taken to avoid future procedural steps in relation to either project being impugned."

In our letter to you dated 18th May 2021, we laid out the reasons why it would only be possible to rectify this failure by considering the two projects as one:

"...the absence of consideration of these cumulative effects has *severely distorted* the examinations and the decision-making processes of both Norfolk Vanguard and Norfolk Boreas, such that both examinations now need to be rewound to the beginning and re-examined, in the interests of transparency and procedural fairness.

Mr Justice Holgate himself stated (para 174):

"It is not too difficult to think of a fundamental error affecting the application process from the outset, which would therefore require the matter to be rewound to the beginning, notwithstanding rule 20 of the 2010 Rules."

The consideration, separately and sequentially, of Vattenfall's project as if it were two projects has been an act of artifice. This fact, when compounded by the unlawful failure to consider the cumulative impacts of the substations at Necton has had such far-reaching implications and repercussions for both the decision-making process of Vanguard, and the examination of Boreas, that it constitutes *just such a fundamental error*.

These projects should always have been submitted *together* for consideration by an ExA."

We remain of the conviction that this is the only fair way to re-determine this application.

Possible re-determination of Norfolk Vanguard as a discrete project

If, however, Norfolk Vanguard is to be re-determined alone, then exceptionally careful consideration must be taken as to the in-combination impacts of the effects of this project, taken together with the effects of Norfolk Boreas.

There are many cumulative effects of these two sister projects *that remain to this day unresolved*, including onshore the punishing construction traffic impacts over many years on particular villages and routes, the unpredictable effects on the eroding cliffs

at the landfall site, and the massive intrusion into the rural landscape of the enormous converter halls and associated infrastructure at Necton.

Regarding the latter – the nub of the point of law at issue in the Judicial Review – there has been no perceptible movement from the Applicant in terms of a material improvement to the mitigation measures being proposed.

Although during this re-determination period there has been some response to the several requests that have been made by the Secretary of State to the Applicant, and to others, for further information about *offshore* ornithology and coastal nesting sites, requests for further information about the cumulative impacts *onshore* at Necton have produced little progress. So far as we are aware, Vattenfall have not revealed for scrutiny any material changes to the substation plans for Necton.

There is no apparent movement on the possible mitigation of those effects, even in terms of a response to the suggestions of Necton Parish Council, for instance: lowering the ground level of the substations, using the spoil for a bund around the site, and planting trees along the bund.

It is entirely unsatisfactory that, during this attempt to re-determine Norfolk Vanguard as a discrete project, issues of offshore ornithology (not pertinent to the Judicial Review) have been opened up for re-examination, whereas the **many outstanding onshore issues** referred to above – including the very issues at Necton which resulted in the quashing of the original consent – have hardly been touched upon at all.

It would be difficult to say, therefore, that this re-determination process has been conducted in accordance with the normal practices of “public law and procedural fairness”, as referred to by Mr. Justice Holgate.

National Grid and the OTNR Early Opportunities Workstream

On 27th September 2021, National Grid ESO (NGESO) published an open letter in the course of its work on the OTN Review, in which it provided: “a list of projects in the East of England considered to potentially be in scope of the Early Opportunities workstream.”

Crucially, this letter lists several Round 3 projects, including both Norfolk Vanguard and Norfolk Boreas. Despite being hedged around by caveats, NGESO indicated no engineering reason for excluding these projects from early inclusion in the Holistic Network Design of an OTN.

If the UK is serious about the urgency of its transition to renewable energy – and if it is truly committed to “keeping 1.5 alive” – then it ought to embrace actively every step that will maximise the optimal use of the green energy produced by offshore wind. The rapid evolution of an OTN must be a key component of any long-term plan for offshore wind.

By comparison, connecting individual offshore wind farms to the UK grid via individual radial connections – which might have been considered a satisfactory

means of transmission under an Ofgem regime designed for a wind energy output of less than 10 GW – now looks like wasteful stone-age technology when 40GW and more of offshore wind power is planned over the coming years.

The Applicant for Norfolk Vanguard, in a self-serving nod to the OTNR, now frequently refers to itself as an “already co-ordinated” project, but this is disingenuous and entirely misleading. Their only basis for this claim is that *their own two projects* – Vanguard and Boreas – are co-locating landfall and substation sites and sharing a cable trench. The ‘coordination’ being envisaged in the OTNR is much more radical and fundamental than that, and involves different developers cooperating to join together at sea in a ring-main configuration, before coming ashore at brownfield sites close to centres of energy need.

The East Coast Pathfinder

In May 2021 Mulbarton Parish Council (MPC) submitted a paper to the government’s OTN Review entitled: “East Coast Pathfinder – Implementation”.

The introduction to this paper states:

“To meet the UK’s legally binding emissions targets, it is now necessary to speed up the delivery of offshore wind energy. Much of this will necessarily come from the Round 2 and Round 3 projects off the east coast. Studies have shown that the East Coast Pathfinder is the optimum approach, and this paper sets out a proposed scheme for its implementation.”

It goes on to state:

“Integrated offshore transmission has been studied for more than ten years. The IOTP (East) report of 2015 demonstrated that, for east coast capacity levels of more than 10GW, there are no cases where non-integrated designs show an economic advantage. Equally important, integrated designs can offer higher energy transfers to centres of demand with smaller onshore infrastructure requirements and possibly shorter construction timescales.

...To meet climate change goals it is not enough to construct large wind farms out at sea; it is also necessary to ensure that renewable energy reaches the main centres of demand as early as possible, and without unnecessary curtailment due to network constraints. The East Coast Pathfinder project aims to eliminate local out-of-region transmission constraints whilst reducing costs and minimising onshore environmental impacts. This helps to ensure the most rapid progress towards the UK’s legally binding climate change mitigation targets.”

Mulbarton’s paper illustrates clearly how the Round 3 projects – including Norfolk Vanguard – can and should be included as pathfinder projects in the OTN, thus maximising the efficient use of the energy produced and obviating the need for expensive and wasteful curtailment of output.

The OTN Review is still actively working on its Holistic Network Design for a more efficient, coordinated way of bringing this electricity into the onshore grid. The Central Design Group has confirmed that it will deliver this new plan in January

2022. It would be a serious mistake therefore to pre-empt the inclusion of Norfolk Vanguard in this plan, by determining this application now, in its present in-isolation form.

The issue is not with generation, but with onshore grid connection

Norfolk has already embraced the energy transition by accepting the Dudgeon and Sheringham Shoal offshore wind farms. These are just off the beautiful North Norfolk coast, with its many nature reserves, and the power produced therefrom already enters the grid either at the village of Necton, or via the substation at Salle, and then on to the village of Swardeston, near Norwich. The problem arises with the addition of Vattenfall's Norfolk Vanguard and Norfolk Boreas projects, and Orsted's Hornsea Three. These would bring ashore approximately *ten times* as much wind energy, with ten times as much onshore infrastructure – green energy that is desperately needed in London and simply cannot be used here in Norfolk.

The 85 town and parish councils are not objecting to new offshore wind farm installations 30 miles off the coast of Norfolk or, in the case of Hornsea Three, 40 miles off the coast of Yorkshire.

The difficulty arises with the additional landing points these projects would bring to the Norfolk coast at Weybourne and Happisburgh, the hundreds of miles of criss-crossing cable trenches, the endless years of heavy goods vehicle traffic along country lanes often not wide enough for the school bus to pass a bicycle, let alone two big lorries carrying aggregate to pass each other at regular intervals throughout the day, and a totally unnecessary legacy of more than 1,000 acres of drain-damaged farmland, and two industrial developments on a massive scale – each one taking up more land than Wembley Stadium – at rural Norfolk villages such as Necton and Swardeston, together with proposals for a new pylon route down to London, which would also pass through areas of outstanding natural beauty in Suffolk.

An offshore transmission network is the solution to this problem.

The time has come for National Grid, the offshore wind companies, Ofgem the industry regulator, and the Secretary of State, to embrace the energy transition as Norfolk has already done, and find brownfield sites near to London, such as the disused power station sites at Bradwell in Essex or the Isle of Grain in Kent, with existing grid connections that can deliver this energy to where it is needed and help to reduce emissions.

This is why Norfolk's town and parish councils, through their MPs, called for the government's urgent Offshore Transmission Network Review to be set up more than a year ago, in July 2020.

The Norfolk Vanguard Judicial Review would not have been heard in court unless there was a real possibility of a different outcome. National Grid has already made clear in an open letter in September this year that it is ready to consider proposals for changes to these projects. To return to the planning system with essentially the same proposal flies in the face of both the Offshore Transmission Network Review

and the Judicial Review, inflicts unnecessary damage on Norfolk coastal wildlife, and unfairly penalises rural Norfolk communities *to no good purpose*.

We urge the Secretary of State to think again.

Norfolk Vanguard and Norfolk Boreas must not be considered each in isolation

It is now widely appreciated that Norfolk Vanguard [East and West] and Norfolk Boreas, are in essence one large project, proposing to share a common grid connection point, and which would be constructed in several phases.

The Applicant's position is however made clear in, for example, the Scoping Report for Norfolk Boreas (EN010087 page 42 para 154):

'Scenario 1: Norfolk Vanguard consents and constructs transmission infrastructure which would be used by Norfolk Boreas. This includes cable ducts, access routes to jointing pit locations, extension of the Necton National Grid substation, overhead line modification at the Necton National Grid substation and any landscaping and planting schemes around co-located infrastructure.

Scenario 2: Norfolk Vanguard is not constructed and therefore Norfolk Boreas consents and constructs all required project infrastructure including cable ducts, extension to the Necton National Grid Substation, overhead line modification and any landscape and planting schemes.'

The Secretary of State's approach of dealing with Norfolk Boreas prior to and independently of Norfolk Vanguard is contrary to the substance of the applications for both Norfolk Vanguard and Norfolk Boreas, and does not respect the High Court decision.

In light of the above, the Norfolk Parish Movement for an OTN urges the Secretary of State to **refuse development consent to the Norfolk Boreas project** in its current form, and also to **refuse consent now for Norfolk Vanguard in its current form**.

Alternatively, the Secretary of State could:

a) **Make a split decision, for Norfolk Boreas and also for Norfolk Vanguard** - as recommended by so many Interested Parties in the recent Suffolk application for EA1N/EA2. This would mean consenting (perhaps) the offshore works, but deferring a decision at this time on the onshore grid connection; or

b) **Defer the whole decision, for Norfolk Boreas and also for Norfolk Vanguard**, given that the work of the OTNR is still at a critical stage, and is of direct relevance to both projects.

HM Government now needs to incentivise the Round 3 projects, by any means possible, to join the evolution of the OTN from the outset. It should also curtail the current system of constraint payments for projects with point-to-point connections, a system which is actively encouraging the current inertia.

Thank you for your consideration of this issue that is so vital not only to the people and the environment of Norfolk, but also to the greater efficiency of the UK's genuine contribution to global carbon reduction.

Yours sincerely,

Alison Shaw

Oulton Parish Councillor
Convener of the Norfolk Parish Movement for an OTN

For and on behalf of the 85 Norfolk Town and Parish Councils listed below:

Oulton PC

Edgefield PC

Corpusty and Saxthorpe PC

Wood Dalling PC

Cawston PC

Salle PC

Heydon Parish Meeting

Kelling PC

High Kelling PC

Weston Longville PC

Barford with Wrampingham PC

Mulbarton PC

Swardeston PC

Happisburgh PC

Ingworth PC

Bradenham PC

Holme Hale PC

Necton PC

Weybourne PC

Blickling PC

Aylsham Town Council

Fransham PC

Swannington, with Alderford & Lt. Witchingham PC

Garvestone, Reymerston and Thuxton PC

Great Melton PC

Brandiston Parish Meeting

Plumstead PC

Brampton with Oxnead PC

Beeston Regis PC

Morston PC

Booton Parish Meeting

Ashill PC

Rougham PC

North Runcton PC

Hardingham PC

Gressenhall PC

Shotesham PC

Hempstead PC

Brisley PC

Tacolneston PC

Gresham PC

Billingford PC

Sprowston Town Council

Ludham PC

Hoveton PC

Bawdeswell PC

Flitcham PC
Taverham PC
Hevingham PC
Binham PC
Caston PC
Upwell PC
Stanfield PC
Hindolveston PC
Burnham Overy PC
Burnham Market PC
Wicklewood PC
Castle Acre PC
Crimplesham PC
Shouldham PC
Roydon PC
Hethersett PC
Baconsthorpe PC
Hindringham PC
Wiggenhall St. Germans PC
Thursford PC
Briningham PC
Little Snoring PC
Stockton Parish Meeting
Honingham PC
Narborough PC
Reepham Town Council
Halvergate PC

Burnham Thorpe PC

Field Dalling and Saxlingham PC

Smallburgh PC

Haveringland Parish Meeting

Shelton with Hardwick PC

Whissonsett PC

Cley PC

Ringland PC

East Ruston PC

Gunthorpe with Bale PC

Bradwell PC

Barnham Broom PC

-and the Independent Group of 15 councillors on West Norfolk & King's Lynn Borough Council
