



THE PLANNING ACT 2008
THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE)
RULES 2010

NORFOLK VANGUARD OFFSHORE WIND FARM

Planning Inspectorate Reference: EN010079

Secretary of State Additional Information Request

**Natural England's advice on the Proposed DCO Conditions
regarding Compensatory Measures**

19th November 2021

ANNEX 4 - Natural England Advice on Norfolk Vanguard Proposed DCO Conditions Regarding Compensatory Measures

1) Comments on Vanguard DCO/DML requirements and conditions

Page	Para	Comment	RAG
Part 1 Flamborough and Filey Coast Special Protection Area: Kittiwake Compensatory Measures			
2	2	<p>Natural England note from condition 2 that the timing of submission of the plan is required no later than 18 months prior to operation of any wind turbine. We note that there is no requirement for compensation to be in place or functional prior to impact, just for the plan to be approved prior to generation (when the impact would commence). In our view this significantly reduces the confidence that the measures will be implemented in a timely fashion.</p> <p>Please note the Hornsea 3 compensation schedule for kittiwake had a requirement that the compensation be in place four full breeding seasons prior to operation, providing the required certainty that the measures would be in place at an appropriate point in time. In contrast, the conditions as phrased for Norfolk Vanguard do not provide any certainty at all regarding when the compensatory measures would be in place, and therefore at what point the counteracting benefits of the measure would arise. Natural England would support the inclusion of a condition similar to Hornsea 3's which secured an appropriate timeframe.</p> <p>Natural England would also request that this condition secure an appropriate consultation period on the compensation plan. These plans are likely to be highly technical and to required detailed review and expert feedback to support our response. A period of 6 weeks for Natural England and the MMO to respond would give all parties more certainty on the timeframes.</p>	
2	6	No timing requirement on how long Natural England will be given for consultation on the monitoring reports has been included. As with the final comment on condition 2 above, Natural England considers that a consultation period of not less than 6 weeks should be stated within the condition.	
Part 2 Alde-Ore Estuary Special Protection Area: Lesser Black Backed Gull Compensatory measures			
3	2	Our comments regarding paragraph 2 in Part 1 of Schedule 17 also apply here.	
3	6	Our comments regarding paragraph 6 in Part 1 of Schedule 17 also apply here.	

Part 3 Haisborough, Hammond and Winterton Special Area of Conservation: Compensation measures for cable protection		
4	2	<p>The wording here and in paragraph 3 confirms that compensation will be provided only after the impact occurs. As per our comments on the HHW SAC In Principle Compensation plan, Natural England does not support this approach. Natural England considers that the plan should be provided, agreed and the compensation functioning prior to any impact occurring. The conditions should be written to ensure this.</p> <p>We also note the three-months timing previously included has been included, along with wording we proposed on the Norfolk Boreas project. We welcome this inclusion, however, note it does not resolve the issue raised above.</p> <p>Furthermore, the approach taken raises several practical issues regarding which we consider require clarification:</p> <ul style="list-style-type: none"> • What happens if further cable protection is determined to be required after the notification for each cable? Will a separate licence be required? • Paragraph 2 notes for each bundled cable a notification will be provided. This would mean multiple compensation plans need to be produced and agreed. It should be noted that multiple compensation plans being submitted for the same site increase the effort required for approval and increase the risk of delay to the project and therefore addressing the impacts.
4	3	<p>As noted above, Natural England does not support the delivery of compensatory measures after the impacts have occurred.</p> <p>We also note that within the condition the SoS has the ability to waive the requirement for the plan to be submitted prior to generation. It is not clear why this condition is considered necessary and we would again note our opinion that the compensation plans need to be submitted, approved and the compensatory measures functioning prior to impact. Furthermore, should this requirement be waived, this could further reduce the extent to which prompt submission of the Plan is secured and the extent to which the compensation measures within the plan are delivered.</p> <p>Again, no timing requirement has been included for how long Natural England will be given for consultation on these plans. As per our comments on Part 1 paragraph 2 we request a period of 6 weeks be stipulated.</p>

4	5	<p>Condition 5 is split into 2 parts covering two potential compensation options. Condition 5 (a) covers removal of anthropogenic material, condition (b) covers extension of the SAC.</p> <p>Regarding 5 (a) and for the avoidance of doubt, Natural England does not support (a) as a compensatory measure should it <u>only</u> be referring to the removal of marine debris/litter and education/awareness actions to limit further debris.</p> <p>We also note that the condition provides for no adaptation subject to the results of monitoring. I.e. if the measures are not compensating there is no requirement to address their failure.</p>	
Part 4 Flamborough and Filey Coast Special Protection Area: Guillemot Compensatory Measures			
5	2	Our comments regarding paragraph 2 in Part 1 of Schedule 17 also apply here.	
5	6	Our comments regarding paragraph 6 in Part 1 of Schedule 17 also apply here.	
Part 5 Flamborough and Filey Coast Special Protection Area: Razorbill Compensatory Measures			
6	2	Our comments regarding paragraph 2 in Part 1 of Schedule 17 also apply here.	
6	6	Our comments regarding paragraph 6 in Part 1 of Schedule 17 also apply here.	

2) Matters Arising from the Norfolk Boreas 21 October 2021 submissions

2.1 Decommissioning cable protection

Within the Norfolk Boreas 21st October 2021 cover letter it is stated that *'the Applicant has also committed to decommission any cable protection (if required at all) placed within the HHW SAC apart from at cable crossing points, and not to use cable rock protection. Therefore, the SoS can have confidence that the cable protection will be decommissioned, thus ensuring that the impacts of cable protection would be long term temporary'*. This aligns with NE advice on Norfolk Vanguard on 27 April 2020 to adopt the mitigation hierarchy. This would indicate that condition 3 (1) (g) and the then condition 20 in Boreas DCO Schedule 11 and 12, the transmission DMLs, should be included in the Norfolk Vanguard project within either determination (No Adverse effect on Integrity or Adverse effect on integrity). However, we defer to the SoS to make the final decision on if the mitigation should be included in either instance.

2.2. Timescale for submission of compensation plans

Natural England notes the following Norfolk Boreas comments as submitted on 21st October 2021 (Pages: 35, 38, 43):

Following further engagement with Natural England in advance of the Applicant's submission on 20 August 2021, the condition was in fact amended to require the Applicant to submit relevant compensation plans (save for compensation in respect of the HHW SAC) to the SoS for approval no later than 18 months prior to operation of turbines. It was agreed with Natural England that this struck a balance between allowing the compensation plan to be developed in consultation with Natural England, whilst ensuring sufficient time to allow for formal consultation on and approval of the plan and subsequent implementation of the compensation measures as early as possible. The conditions of the dDCO also Applicant's Comments on IP's Representations Norfolk Boreas Offshore Wind Farm ExA.ASR.D22.V1 October 2021 Page 36 Summary of Submission Applicant's Comments require the compensation plan submitted for approval to include an implementation programme for delivery of the measures (Schedule 19, paragraph 4(d) of all Parts, save for Part 3 dealing with the HHW SAC). This will ensure that the SoS is clear, at the point the plan is approved, when the measures would be implemented and how this relates to the point at which any impact would occur. (Please note that matters in relation to the HHW SAC dDCO conditions are dealt with separately in this document (Section 1.5).

Natural England wishes to respond to the above comment by re-iterating our position on this matter. We do not consider the approach of only submitting a compensation 18 months prior to turbine operation provides appropriate confidence that the compensatory measures would be implemented in a timely fashion, as it could lead to compensation measures not being in place and delivering benefits in advance of the impacts occurring. Please see our detailed comments on Annexes 2 and 3. We are concerned that comments made by Natural England in the run-up to the 20 August 2021 submission have unfortunately been mis-interpreted and note that during those discussions we agreed that the 18-month period would serve to help reduce the period between impact and compensation and thus would reduce the risk to the designated site. However, we firmly maintained that we were agreeing to the 18 months in preference to the original condition submitted, which had no specified time period at all, and without prejudice to our position regarding the need for all compensation measures to be in place and functioning prior to the impact occurring. Therefore, our position has remained consistent.