

Date: 28 November 2018
Our ref: Consultation:
Your ref: EN010084



Rynd Smith, Stephen Bradley and Jessica Powis
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
BS1 6PN

BY EMAIL ONLY

Dear Sirs and Madam,

Thanet Extension Offshore Wind Farm Project, Rule 6 letter

Thank you for consulting Natural England on the above received 9 November 2018 . We have reviewed the Rule 6 letter and proposed examination timetables for Thanet Extension Offshore Wind Farm (OWF). Natural England has some significant concerns regarding the overlap of the proposed timetable with the examination timetables for Hornsea Project 3 OWF and Vanguard OWF. A letter has been submitted to PINS to highlight these overarching concerns, a copy of which is attached for your reference. Natural England's specific concerns and recommendations for Thanet Extension OWF are outlined below.

Furthermore Natural England advises that, while we rarely attend site visits, any access to designated sites will require assent from Natural England under The Wildlife and Countryside Act 1981 (as amended) unless the visits are restricted to public rights of way.

1. Attendance at Preliminary hearing

- 1.1. Natural England can confirm that William Hutchinson and Christina Relf will attend the Preliminary hearing to represent Natural England on Tuesday 11 December 2018 and may wish to speak regarding agenda items 4 and 5. Please see our comments below on the examination timetable.
- 1.2. Natural England can confirm that, based on the agenda, we consider that there are no issues relevant to our concerns to be considered at the Issue specific Hearings 1 and 2. We, therefore, do not plan to attend these hearings.

2. Natural England's concerns on the examination timetable

- 2.1. Throughout the examination timetable all written submission deadlines are given as 12 noon. Most NSIP projects use a deadline of midnight. This is extremely useful as it gives extra time to finalise a response. Natural England requests this sensible practice is adopted here, especially given the concerns regarding overlapping timetables and resources it would give much needed additional time to provide responses.

2.2. Natural England would like to bring to your attention that Deadline 1 has significant overlap with Christmas as well as Hornsea Project 3 OWF Deadline 4 and Vanguard OWF Deadline 1. Please see our comment 2.1.1 in Natural England's overarching response. Due to the overlap with Christmas and other projects we have proposed a two week extension. It is noted that 4 weeks are provided. However, previous ExA's have provided a 6 week period for responses due over Christmas to reflect the reduction in staff resource during the holiday period, for example East Anglia 3.

Given the significant overlap and the requirements of all three projects Natural England cannot provide a full detailed and appropriately considered response to all of the various requirements of Deadline 1, unless a change to timetable is granted.

2.3. Issue specific hearings (ISH) 3-7. The current schedule of hearings requires Natural England and other environmental stakeholder presence from the afternoon of 19 February 2019 to the afternoon of 21 February 2019. Given the current constraints of resource and the impact on the public purse, Natural England would like to request that the Compulsory Acquisition hearing (CAH1) be swapped with ISH 3. This would reduce the need for environmental stakeholders to be in attendance for the 19 February 2019, but not unduly impact on other stakeholders, given sufficient notice of the agenda change.

If this change is not acceptable, could the CAH1 be swapped with ISH 7 to allow environmental stakeholders to leave after the morning of 21 February 2019? This has the additional benefit that stakeholders will not be travelling home on the 22 February 2019 and allows an extra working day for response to Deadline 3.

Natural England requests that an agenda with times, themes and areas of discussions is provided by the Planning Inspectorate at least 7 days before the date of all Issue-Specific Hearings (ISH). Based on our experience from other NSIPs it would be helpful to Natural England and our specialists if the ISH agendas could be focused on specific questions from the Examining Authority. This will enable us to appropriately prepare for the hearing; give due consideration to any issues both internally and externally with the Applicant beforehand; and provide robust evidence-based advice to the Examining Authority. This will reduce the need for further discussion and advice post ISHs, prior to the next deadline.

2.4. Similar to the request regarding swapping ISH 3-7, for ISH 8-9. Could ISH9 be moved to the afternoon of 24 April 2019? This would reduce our potential attendance to just one day. Currently the afternoon of 24 April 2019 has no ISH planned.

2.5. Deadline 5 is just 2 working days after ISH 9, assuming a day for our staff to travel back after ISH 9 on Thursday afternoon. This is a very short timeline to provide a response. Natural England would note that should you agree to the scheduling change requested at 2.4 above then there would be an extra working day to provide a response.

2.6. Deadline 6, as currently given, overlaps with Vanguard OWF Deadline 8. Please see our comment 2.1.3 in our overarching response to PINS. Natural England has just 15 working days to provide response on the two important Report on the Implications of European Stes (RIES) documents. With significant overlap on resource requirements between projects this is likely to be very challenging to deliver. Therefore, we are asking if these submissions could be further staggered to allow a week between submission of Vanguard and Thanet. However, this could also be achieved by bringing forward the submission date of the RIES for one project to allow a full week of staggered submission.

2.7. Deadline 7, as currently given, allows just 4 working days to review comments on the RIES and provide a response. Please see our comment 2.1.3 in our overarching response to PINS.

Depending on the number and size of responses received this deadline may be significantly challenging. Could the deadline be extended to Friday the 7 June 2019? It should also be noted this deadline overlaps with Deadline 7 of Vanguard OWF examination. This further reduces the amount of resource Natural England will have available, unless the submission of these documents is staggered as suggested above.

3. Query on the process for MCZ assessment within the Planning Act 2008 application process

3.1. Please see Natural England's overarching concerns comments 2.1-2.3. Natural England would like to know how the impacts to the Goodwin Sands proposed Marine Conservation Zone (MCZ) will be assessed and considered through the examination?

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

Will Hutchinson

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Date: 28 November 2018
Our ref: Consultation:
Your ref: EN010079, EN010084, and EN010080



National Infrastructure Planning
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BY EMAIL ONLY

Dear Sir or Madam,

Hornsea Project 3 Offshore Wind Farm, Vanguard Offshore Wind Farm and Thanet Extension Offshore Wind Farm, Natural England Issues with timetables.

Natural England has now received the examination timetables for three projects: Hornsea Project 3 Offshore Wind Farm (OWF), Vanguard OWF and Thanet Extension OWF. We have already provided comment on the Hornsea Project 3 timetable and will provide individual responses to each of the remaining two projects. However, due to the overarching and interrelated issues caused by the overlap of the three application processes, Natural England is providing this overarching response to highlight our concerns.

Natural England would also like to highlight that the Rule 6 letters for Vanguard and Thanet extension were received much later than expected. Due to the delay, the overlap with Christmas and the significant deadlines in early January, Natural England has had to cancel our participation in several pre application Nationally Significant Infrastructure Projects (NSIP) evidence plan meetings. Thus the timetables are having an impact and potential delay on projects outside of these processes as well.

Furthermore Natural England advises that, while we rarely attend site visits, any access to designated sites will require assent from Natural England under The Wildlife and Countryside Act 1981 (as amended) unless the visits are restricted to public rights of way.

1. Natural England's concerns on the overlapping timetables

1.1. Within the timetables for the three examination processes there are three main points of overlapping concern we would like to highlight.

1.1.1. The first is the overlap of Hornsea Project 3 deadline 4, Vanguard deadline 1 and Thanet deadline 1. All three of these deadlines not only overlap with each other, but overlap with Christmas. If the ExA's written questions and potential additional documentation for review are received the week after the preliminary hearings then there would be highly limited opportunity to review before Christmas. Given that Natural England does not operate between Christmas and New Year this leaves potentially as few as 8 working days to prepare these significant responses. It is also important to note that many of the staff, especially our scientific experts, involved in these developments work on all three applications.

Additionally, it should be noted that on previous application timetables, such as East Anglia 3, when placing deadlines over the Christmas period other Examining Authorities (ExA) have provided 6 weeks for responses. Also that the deadline 1 responses are in fact multi-layered responses to many significant requests, such as: Statements of Common Ground (SoCG), answers to Examiners Questions, Written Representations, comments on updated application documents and several other requests.

With such significant overlap during a period when staff resource is at its lowest, Natural England has to highlight that, without changes to the Vanguard and Thanet timetable it will not be possible to provide full and detailed responses to all three projects, covering all aspects. We will make best endeavours to provide responses to key issues. However, we would like to request that consideration is given to granting a 2 week extension to Vanguard and Thanet deadline 1. Or at a minimum to just Vanguard project deadline 1.

- 1.1.2. The second is the overlap of the Hornsea Project 3 issues specific hearings (ISH) 5 and 6, with Vanguard ISH 1 and 2. These hearings occur on the same days in different cities. Many of the experts Natural England would normally bring to such hearings are working on both projects. It is, therefore, impossible for Natural England to provide full support to both sets of hearings. Given Natural England's significant concerns and outstanding issues with the Hornsea Project 3 it is likely to be given priority. However, this may significantly reduce the ability of the Vanguard ExA to ensure adequate examination of the issues raised. This will be further compounded by the high probability that Natural England will not be able to provide a full and detailed response to Vanguard deadline 1.

In addition, it should be noted that, due to the issues around in-combination effects on several environmental receptors of Hornsea project 3, there may be a knock on effect on the ability of Natural England to discuss these issues during the Vanguard and Thanet Extension Project especially when considering the overlapping deadlines and ISHs.

Natural England notes that should an extension to deadline 1 for Vanguard be granted a knock on effect would likely be a change to the dates of the ISH which would remove this overlap.

Furthermore, it is noted that the hearings for all three projects are set during late January and early February. Natural England notes that this period is where the risk of severe weather is the highest. Most of Natural England's attendees at hearings will have significant distances to travel to attend hearings. The timelines and rule 6 letters do not address what procedures will be in place to warn attendees in the event of severe weather causing travel disruption. Natural England places the welfare of its staff as our highest priority and in the event of severe weather will instruct its staff not to attend. We will provide as much advanced notice of any non-attendance due to bad weather as is reasonably possible.

- 1.1.3. The third is the overlap in the consultation on the Vanguard and Thanet Extension Projects ExAs consultation on the Reports on the Implications for European Sites (RIES). These key documents are to be submitted one day apart with a final deadline one day apart. The RIES are highly important documents and require significant amount of resource to review. Many of Natural England's experts will be required to provide advice on both documents simultaneously. Providing fully detailed advice on both projects will be difficult and it would be appreciated if they could be further staggered by at least one week which would allow Natural England to stagger its review processes.

Additionally deadlines 8 and 7 for Vanguard OWF and Thanet Extension OWF, respectively, significantly overlap. Both involve the review of significant amounts of documentation to provide our final advice on the RIES. The time given for both projects is 4 just working days, with both projects overlapping this will be a significant challenge. Natural England is asking for extensions to both of these deadlines, however, staggering the submission would also remove the overlap and significantly reduce the burden.

2. Query on the process for MCZ assessment within the Planning Act 2008 application process

- 2.1. In addition to the concerns raised on the timetable issues, Natural England would like to query how PINS process considers the impact to Marine Conservation Zones (MCZ) as required under section 126 of the Marine and Coastal Access Act 2009 (MCAA)? Both Hornsea Project 3 and Thanet Extension project have a risk of significant impacts to the features of an MCZ. However, within neither of their timetables is any consideration given to review of the impact on these sites. Within PINS Advice note 11, Annex C it notes Natural England's responsibility to provide advice on these sites. However, no guidance or advice note seems to outline a process for how the impact to these designated sites are to be considered through the process, or where Natural England's advice on these impacts is to be sought.
- 2.2. It is noted that the Marine Management Organisation (MMO) process for issuing of Marine Licences under the MCAA is for the regulator to conduct an assessment, upon which Natural England advice is then sought. This process allows for a clear and transparent audit of the regulatory consideration of the impact to the designated site, a clear decision and for the relevant statutory nature conservation bodies advice to be considered. It also ensures consistence of decision making across projects. A lack of a clear and transparent process, such as this, could increase the risk of successful challenge to any decisions made under the Planning Act 2008 process.
- 2.3. Furthermore, it should be noted that a lack of a clear audit of what is considered by the Secretary of State acceptable impact to the MCZ may have implications for post consent sign off of plans and documentation. These documents are considered against the assessments that are made during application, where such assessments are not clearly evident it may lead to the need to re-assess based on the final proposals. These assessments could cause unnecessary delay to these important sign off processes.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,



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