

Vattenfall Wind Power Ltd

Thanet Extension Offshore Wind Farm

Appendix 12 to Deadline 3 Submission: Written
Summary of Vattenfall's Oral Case put at the Issue
Specific Hearing 6

Relevant Examination Deadline: 3

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1 Introductory Remarks

- 1 This note summarises the Applicant's case as presented at the Issue Specific Hearing held on 19 January 2019 at the Discovery Park, Ramsgate Road, Sandwich (the "IS Hearing").
- 2 The note follows the structure of the Agenda for the Issue Specific Hearing on 19 January 2019 ("the Agenda"). Where an item was discussed at the IS Hearing that was not on the Agenda it has been marked as an "Additional Agenda Item" within this document.

1.1 Introduction of the Participating Parties

- 3 Jennifer Holgate (Womble Bond Dickinson) spoke on behalf of the Applicant.
- 4 Oral representations were made from the following interested parties:
 - Mr Merlin Jackson (MJ) (Thanet Fishermen Association (TFA));
 - Mr John Nicolls (JN) (TFA chairman);
 - Mr Thomas Henry Brown (retired fishermen) (TFA);
 - Mr J R Lowe (Mr Lowe) (TFA and themselves); and
 - Mr G Pullman (Mr Pullman) (TFA and themselves).
- 5 Oral representations by way of responses were made by the following:
 - Jennifer Holgate (JH);
 - Daniel Bates (DBA);
 - Sean Leake (SEL);
 - Sara Xoubanova (SX);
 - Simon Moore (SM).

2 Agenda Item 1 - Welcome, introductions and arrangements for Issue Specific Hearing 6

- 6 RS introduced the hearing by explaining that the number of RRs that came from fishermen was significant. As such, the ExA had afforded time for a specific hearing in order to hear and understand the concerns raised by fisherman and the fishing industry directly. The ExA wanted to conduct the hearing with no particularly structured agenda, whilst conducting it as an issue specific hearing, to allow the format more akin to an "open floor" environment.
- 7 RAMAC Holdings Limited and the Kent and Essex Inshore Fisheries and Conservation Authority were asked to attend but they were not present. The Crown Estate was present but did not provide representations.
- 8 JN declared an interest in TFA and Thanet Bio Fuel Facility (TBFF). MJ explained his role as the fisheries liaison officer and that this was a position funded by the Applicant.
- 9 JN introduced the TFA and what they represent. It is a voluntary organisation established over 30 years ago. The TFA gives representation on behalf of its members on multiple fronts. JN noted that there has been very good consultation and communication with TFA and the Applicant.
- 10 The current Thanet Offshore Wind Farm (TOWF) array is currently used as fishing grounds. JN highlighted that Thanet Extension will reduce the available fishing grounds and the fishing methods will be restricted.
- 11 JN noted that the TFA are not against the renewables but feels its progress should not be to the detriment of the fisherman.
- 12 MJ noted that the Succorfish project has been helpful and TFA thanked VWPL for their support with the project, for which initial funding has been provided.
- 13 MJ noted that the conclusions of the Environmental Statement (ES) are lower than they would consider representative. He thanked VWPL for good the communication between the parties and confirmed the desire to maintain the relationship in the future.

3 Agenda Item 2 - Effects on Fisheries and Fishing

- 14 RS asked TFA whether they would like the Applicant to provide an overview of the proposal and mitigation measures.
- 15 MJ responded that this was not required as TFA had a good understanding of the proposal.

4 Agenda Item 3 - Oral Submissions from Fisheries and Fishing Representative Bodies

- 16 JN cited the TFA's concerns of the impact of the proposed development on fishing vessels.
- 17 JN also noted that not all of the platform lights are working through TOWF which makes navigation through the site more difficult. Larger turbines could make navigation more difficult. JN explained that use of platform level lights in the wind farms is not a statutory obligation.
- 18 RS asked the Applicant if there is objection to ensuring the maintenance of platform level lighting.
- 19 JKH explained that the Applicant will consider this and discuss internally; it would be preferred for this not to be a separate condition in the draft Order but to form part of any wider plan relating to operation and maintenance. The Applicant also confirmed that they would need to discuss such matters with Trinity House as they would need to consent to such lighting being in place.
- 20 JN cited concerns regarding increased and suggested possible mitigation for the future could include fishing vessels being fitted with AIS. Difficulties in utilising such technology was also considered by way of response.
- 21 JN considered that the pilotage simulation that took place as part of the Navigation Risk Assessment did not include fishing vessels. The Applicant can confirm in response that fishing vessels were including within the simulation, albeit this took place within a strictly controlled environment.
- 22 JN cited concern that any spatial changes in pilotage and shipping activities may reduce available fishing grounds. Safety and cumulative impact were raised as a key concerns for the TFA.
- 23 RS asked the Applicant if they considered any mechanisms or techniques that could be considered to increase safety.
- 24 SL confirmed that the AIS component would be considered and discussed further with TFA. It was noted by the TFA that existing plan does capture safety issues but this AIS specifically had not been previously discussed with the Applicant.

- 25 RS asked TFA to engage with the Applicant and the Applicant bring the result of the discussion back to the ExA in April. Both TFA and the Applicant confirmed they would engage proactively in relation to safety measures and to provide an update to the Panel in advance or, or at, the next set of hearings in April.
- 26 In response to a question from the panel regarding the spatial relationship with fishing vessels in a "real world" scenario, SM stated that the International Regulations for Preventing Collision at Sea 1972 as amended (IRPCS) state the hierarchy of how vessels pass one another. Rule 18 - Responsibilities Between Vessels - requires a power driven vessel to keep out of the way of a vessel engaged in fishing. By observing the relative aspect, speed, day and/or night signals being displayed by the fishing vessel the prudent mariner will take avoiding action by altering their own vessels course and/or speed. This complies with Rule 18 when the vessels are in sight of one another.
- 27 In response to representations in the fisherman's experience there have been occurrences in thick fog that vessels passed very close and were not obeying the rules, SM explained that under Rule 19 - Conduct of Vessels in Restricted Visibility that the onus was on all vessels (including the fishing vessels) to keep clear of one another. The fishing vessels should not be relying on the actions of the other vessels alone as would normally be the case under Rule 18 which only applies when vessels are in sight of one another.
- 28 In response to a specific request from the panel, SM confirmed the Applicant would raise considerations relating to manoeuvrability and searoom for fishing vessels is taken account of in the workshop and any other relevant meetings going forward. SM requested typical passing distances between fishing vessels and the searoom they have available in certain scenarios in order to have material to present at that workshop.
- 29 RS wanted to hear from the Applicant if in their view there are adverse effects contained within the Environmental Statement that . RS also asked the Applicant if there is a possibility to enter into commercial agreement to mitigate any such adverse impact. RS explained that if the panel are going to make recommendation to the SoS then they want assurance any such agreements would be reasonable. He noted that to revise the Environmental Statement in anyway would be a significant undertaking.

JKH explained that the assessment undertaken in the environmental statement is considered robust and fit for purpose (Document reference APP-050). As to the question of assessing permanent loss, the assessment however recognises that given the constraints associated with drift netting in operational wind farms, in the particular the case of vessels with limited availability of grounds and that rely on drift netting grounds within the site, the magnitude would be medium. This combined with the medium sensitivity of the fleet results in an impact of moderate significance (and therefore significant). Permanent loss is therefore identified and properly assessed. Discussions with the TFA are welcomed but this would not change the conclusions outlined within the assessment.

- 30 JKH further explained that the mitigation exists through Fisheries Liaison and Co-existence Plan (FLCP) (Document reference APP-143), which has a number of important commitments in it, including compliance by Vattenfall with the FLOWW Guidelines. Those guidelines reference a number of possible ways of dealing with impacts, which may include, where necessary, compensatory measures. The plan is intentionally flexible to allow different measures to be agreed. The Applicant considers that the plan, whilst still being discussed and agreed with the TFA, is sufficient way of dealing with mitigation and is properly secured in the DCO by way of a separate requirement, which shows the firm commitment being made by the Applicant to address
- 31 The Applicant noted the panel's observations that the geography differs for the proposed development than other recent offshore wind farm development consent orders and in addition that the Panel will deliberate on this matter further.
- 32 MJ on behalf of the TFA further confirmed that the co-existence plan currently provides a sufficient level of confidence at this time and as such did not think it was the appropriate juncture to discuss commercial agreements.

- 33 With regard to outstanding disagreements about the ES impact level, SX noted that the potential for significant impacts (above minor adverse) upon driftnet fishery associated with the operational phase of the project were identified in the Environmental Statement (ES) . Specifically, this was noted in relation to vessels which may have a strong dependence on grounds located within Thanet Extension (TE). For these, the assessment concluded potential for an impact of moderate adverse significance. It should be noted that whether or not significant impacts occur on these vessels would depend of the final layout of the project and would be subject to the findings of the drift netting surveys which the Applicant has committed to undertake (agreed with the TFA in the SoCG). In this context it is important to note that provisions for the implementation of appropriate mitigation measures, where residual significant impacts cannot be avoided, are included in the Fisheries Liaison and Co-existence Plan. In line with FLOWW Guidance these would follow an evidence based approach.
- 34 SX explained that with regards to potential impacts during the operational phase on other fishing methods used by the local fleet in the area (i.e. potting, trawling, static netting), given that these methods would be able to resume activity within Thanet Extension during operation, significant impacts (above minor adverse) were not identified in the ES.
- 35 SX stated that in respect of the construction phase, the Applicant notes that the assessment presented in the ES, (which was undertaken on a fleet by fleet basis and by individual method in the case of the local fleet), did not identify significant impacts (above minor adverse) on any of the fishing methods. This took account of available information gathered during consultation with fishermen, including charts depicting the extent of the fishing grounds where different methods are used within the project and the wider area, as well as data derived from Succorfish (data for all vessels aggregated by month). With the extent of the overall areas available for fishing in mind, and considering the short term, temporary and localised nature of potential exclusion to fishing during the construction phase, the assessment identified potential for impacts of minor adverse significance. In the context of this assessment the Applicant notes that any exclusion during construction would be limited to the localised area where safety zones may be in place at a given time. As noted in the SoCG with TFA, TE and TOWF will be open for passage and fishing during the construction phase and in line with the FLCP, the Applicant will endeavour to minimise exclusion during construction. Furthermore, in order to minimise interference with fishing activities consultation with fisheries stakeholders will be ongoing and information will be circulated in a timely and efficient manner, through the FLO and the issue of Notice to Mariners (NTM).

- 36 RS highlighted that where a dispute over the ES occurs it is typical for the panel to make a decision based on the evidence presented. If these areas are under dispute by the April hearings then it may need to be explored further.
- 37 JKH confirmed that the Applicant will continue dialogue with TFA and this will be reflected in the in SoCG.

5 Agenda Item 4 - Oral Submissions from Individual Fishermen

- 38 Both Mr Lowe and Mr Pullman made oral representations at the hearing. The Applicant did not make any specific oral representations by way of reply at the hearing.

6 Agenda Item 5 - Procedural Decisions

39 No procedural decisions were required as an outcome of ISH6.