

From: [Tania Davey](#)
To: [Norfolk Vanguard](#)
Cc: [Joan Edwards](#)
Subject: TWT response to deadline 3
Date: 14 February 2019 15:21:09
Attachments: [TWT response to NV deadline 3.pdf](#)

Dear Sir/Madam

Please find attached a response from The Wildlife Trusts to deadline 3 for Norfolk Vanguard offshore wind farm.

Kind regards

Tania

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Ms Ridge
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The Wildlife Trust reference: 20012715

BY EMAIL

14 February 2019

Dear Ms Ridge

Deadline 3: The Wildlife Trusts post-hearing submission and further comments for Norfolk Vanguard Offshore Wind Farm

The Wildlife Trusts (TWT) attended the recent Norfolk Vanguard hearing on offshore ecology issues. We would like to highlight that lead Examiner at the issues specific hearing, Gavin Jones, created a positive forum for discussion allowing everyone the opportunity to make their representations.

We have summarised our comments below, which focus on marine mammals.

1. The use of noise limits and the proposed SNCB advice on underwater noise management

The reason TWT advocates the use of noise limits is for the following reasons:

- We do not agree with the proposed SNCB advice on underwater noise management. The proposed thresholds set by the SNCBs are not underpinned by science and we do not know what the carrying capacity is within the Southern North Sea SCI.
- The noise limits used in Germany¹² are based upon peer reviewed scientific information and is a tried and tested method.
- The proposed SNCB approach is not consistent with other North Sea countries such as Germany, the Netherlands and Belgium. The management approach proposed by SNCBs results in a weaker management regime for noise *inside* harbour porpoise SACs than other North Sea countries have *outside* of their own harbour porpoise SACs. Therefore, the precautionary principle is not being applied.

TWT has shared our views on the proposed advice on underwater noise management with SNCBS, regulators, government and industry. There have been a number of

¹ German Sound Protection Concept
http://www.ascobans.org/sites/default/files/document/AC21_Inf_3.2.2.a_German_Sound_Protection_Concept.pdf

² Investigation of the Impacts of Offshore Wind Turbines on the Marine Environment (StUK4). 2013. Bundesamt für Seeschifffahrt und Hydrographie, BSH
<https://www.bsh.de/DE/PUBLIKATIONEN/Anlagen/Downloads/Offshore/Standards-EN/Standard-Investigation-impacts-offshore-wind-turbines-marine-environment.html>

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discussions between the regulators and SNCBs and a statement was released on 7th February 2019 on the most recent workshop held in November 2018.

We highlight that the proposed SNCB advice on underwater noise management has not yet been signed off.

2. Site Integrity Plan (SIP) for the Southern North Sea SCI

2.1. Naming TWT as a consultee

TWT welcome the applicant's engagement with us through the evidence plan process. However, at the time of consent, there is still a great deal of uncertainty regarding the mitigation which will be put in place to ensure no adverse effect on integrity of the Southern North Sea SCI. We welcome that the applicant has named TWT within the SIP but highlight that in the latter part of the process, this will be through information providing rather than consultation. It is more beneficial for the applicant to engage with TWT throughout the post consent process rather than when the MMO consults on the final document, which may be only 4-6 months before construction. By naming TWT on documents such as the UXO and piling MMMP, SIP and marine mammal monitoring, it gives TWT certainty that the applicant will continue to engage with us post-consent.

For information, Hornsea Three has named TWT as a consultee on the SIP³ for the project and developed a project level MoU on the post-consent relationship between the developer and TWT.

2.2. Proposed idea on an underwater noise levy

Multiple SIPs will need to be regulated to manage underwater noise disturbance impacts within the Southern North Sea SCI. However, there is currently no mechanism in place to deliver a strategic approach for mitigation and monitoring to ensure no adverse effect from cumulative underwater noise disturbance impacts.

TWT have been working on the suggestion of an offshore wind farm levy which could be part of a toolkit to deliver underwater noise management. It would fund the development and delivery of strategic mitigation and monitoring, and importantly establish group to oversee the development and delivery of this work. We propose that the levy should be based on the noise limit used in Germany, which would incentivise and reduce underwater noise impacts. What we are proposing is not new; in Scotland all offshore wind farms are conditioned to participate in Regional Advisory Groups to deliver strategic monitoring and mitigation.

TWT has discussed this idea widely throughout the sector including Defra, SNCBs, BEIS, MMO, Southern North Sea Offshore Wind Forum and Renewables UK. A mechanism for strategic mitigation is essential, especially for managing multiple offshore wind farm construction schedules and we welcome further feedback on how this will be developed. Strategic monitoring is also essential to ensure that mitigation methods are effective.

3. The inclusion of fishing in in-combination assessments

It must be noted that these comments are not specific to the Southern North Sea SCI. Fishing must be included in all in-combination assessments to meet Article 6(3) of the Habitats Directive.

Fishing as a principle should be included in all in-combination assessments. Fishing is not part of the baseline which is supported by a recent response by Natural England to deadline 4 of the Hornsea Three

³ Hornsea Three In-Principle Site Integrity Plan [https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010080/EN010080-001539-Orsted%20Hornsea%20Project%20Three%20\(UK\)%20Ltd%20-%20Appendix%2046%20-%20In-Principle%20Southern%20North%20Sea%20SCI%20Site%20Integrity%20Plan%20V2.0.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN010080/EN010080-001539-Orsted%20Hornsea%20Project%20Three%20(UK)%20Ltd%20-%20Appendix%2046%20-%20In-Principle%20Southern%20North%20Sea%20SCI%20Site%20Integrity%20Plan%20V2.0.pdf)

examinations in which they state “fishing is mobile, variable and subject to change, fishing impacts may not be adequately captured in the baseline characterisation”⁴.

Defra policy⁵ document on managing fisheries in European Marine Sites⁶ (EMS) recognises that fishing is a damaging activity within EMSs and must be assessed and managed to ensure Article 6(3) of the Habitats Directive is met:

“In order to ensure that EMSs receive the requisite level of protection and ensure compliance with the EU Birds and Habitats Directives, Government has decided to revise the approach to the management of commercial fisheries affecting EMS.

Government and Fishery Regulators in England (primarily the Marine Management Organisation (MMO) and Inshore Fisheries and Conservation Authorities (IFCAs)) have legal obligations to ensure that fishing activities (including existing fishing activities), which could adversely affect EMSs are managed in a manner that secures compliance with the requirements of Article 6 of the EU Habitats Directive.

Fishing activity which is prohibited or restricted within EMSs under the revised approach could be allowed through a permitting mechanism at the site level. Any such permitting would be subject to the Article 6(3)-(4) processes described in Part 6 of the Conservation of Habitats and Species Regulations 2010. The regulatory authorities should also ensure ongoing management of commercial fishery activities remains compatible with the conservation objectives of the site in line with their obligations to secure compliance with Article 6(2) of the Habitats Directive.”

TWT recognises that assessing the cumulative impact of offshore wind farm development and fishing is complicated. To develop the revised approach to fisheries assessment and management in EMS, an Implementation Group was established with a range of expert stakeholders to develop a process to tackle this complicated issue. TWT recommends that a similar approach is required to develop an effective mechanism to assess the cumulative impacts of offshore wind farm development and fisheries.

Thank you for considering our response. We are happy to provide further detail if required.

Yours sincerely



Joan Edwards
Director, Public Affairs and Living Seas
The Wildlife Trusts

⁴Natural England response to Examiner’s questions for Hornsea Three: deadline 4
<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010080/EN010080-001479-Natural%20England%20-%20Response%20to%20the%20Examining%20Authority%E2%80%99s%20Further%20Written%20Questions%20and%20further%20information%20requested%20by%20the%20Examining%20Authority.pdf>

⁵ Defra Policy to ensure that all existing and potential commercial fishing operations are managed in line with Article 6 of the Habitats Directive
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/345970/REVISED_APPROACH_Policy_and_Delivery.pdf

⁶ European Marine Sites are defined by the Habitats Regulations as marine SACs or SPAs
<http://jncc.defra.gov.uk/page-4215>