



Gareth Leigh
Department for Business, Energy and Industrial Strategy

The Wildlife Trust reference: 20012715

BY EMAIL

27 April 2020

Dear Gareth

Response from The Wildlife Trusts on further information submitted by Norfolk Vanguard to the Secretary of State for Business, Energy and Industrial Strategy

The Wildlife Trusts (TWT) welcomes the opportunity to respond to the further information provided by the applicant on the 28th February 2020.

TWT support the UK's current targets to reduce greenhouse gas emissions and the government's ambitions to tackle climate change and increase the proportion of overall energy generated from alternative sources. However, we do not believe that this should be at the expense of the environment and firmly believe that it needs to be 'right technology, right place'.

Our response below focuses on cabling impacts on Marine Protected Areas (MPAs). However, we did not engage on the impact of cabling on Haisborough, Hammond and Winterton (HHW) SAC during examination. Therefore, our comments in this letter focus on the broad principles of derogation and our position on the analysis and proposals made by Norfolk Vanguard.

1. Reduction of Norfolk Vanguard envelope

We welcome the measures the applicant has taken to reduce impacts including a commitment to HVDC. To reduce impacts from cabling on the marine environment and ensure consistency, all offshore wind farm developers should make this commitment.

TWT would like to raise that many issues arise from the Rochdale Envelope approach across all projects. The broadness of the envelope which developers present creates a great deal of uncertainty on the environmental impacts and results in worst case scenarios which developers regularly present as unrealistic. However, we have to base our comments on the worst-case scenario to ensure the strictest protection of the environment. It is widely accepted that cumulative impacts on the environment from the scale of offshore wind farm development predicted is the greatest concern. To plan and manage the cumulative environmental impact, more realistic scenarios need to be presented. We appreciate the issues regarding the Rochdale Envelope go beyond this project and need to be dealt with at a strategic level.

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2. Alternatives

TWT believe that safeguards provided for by the Habitats Directive, such as the consideration of viable alternatives, have not been exhausted. There are alternatives which TWT consider relevant and require further consideration:

2.1. No rock protection in Marine Protected Areas (MPAs)

TWT does not support the use of rock protection in MPAs. Rock protection causes the permanent loss of habitat, often in MPAs which are already in unfavourable condition. Based on the following evidence, TWT conclude that this alternative requires further exploration:

a) Lincs and Lyn offshore wind farms

We are aware that both these offshore wind farms have cables which are exposed and have no rock protection. Further information is required as to why these offshore wind farms are able to have exposed cabled and management measures which have been put in place to ensure no damage to the cable.

b) Telecommunications cables

Although we appreciate telecommunication cables are smaller than offshore wind farm cables, as far as we are aware, no telecoms cables are protected by rock.

No cable protection within an MPA must be considered as a viable alternative and European Guidance states that this must be considered against the site's conservation objectives, integrity and contribution towards the overall coherence of the Natura 2000 network¹. We suggest that this could be achieved by legally designating a safety/exclusion zone to all activities which have the potential to cause damage to cables. This would include anchoring from vessels, and fishing exclusion zones.

European Guidance states that compensation constitutes the last resort, when all other measures to avoid adverse effect have been considered². By excluding cable protection from MPAs, compensation measures would not be required. Compensation in the marine environment is difficult to deliver. This further supports the need to fully explore no cable protection in MPAs to ensure no decline of the site, Natura 2000 and UK MPA network.

2.2. Shared cabling route with other offshore wind farm developers

There are numerous projects with proposed cable routes along the Norfolk coast (Hornsea Three, Norfolk Vanguard, Norfolk Boreas, Sheringham and Dudgeon Extension). TWT proposes a pause in the Norfolk Vanguard project alongside these projects to review alternatives and compensation. We suggest a shared cable route with other developers should be considered as part of this. Indeed, one viable option may be to consider a shared cable route between Norfolk Vanguard and Norfolk Boreas, which are both owned by Vattenfall.

2.3. Summary of TWT position on alternatives

TWT has identified feasible alternatives which require further analysis against the MPA in question as outlined in European Commission guidance.

We encourage this applicant and all offshore wind farm developers, who have extensive resources and skilled engineers, to develop alternative solutions and invest in the gathering of data to give better certainty that there will be minimal impacts on the marine environment from offshore wind farm development. Developers cannot continue to deliver projects in the way which they have over the past 20 years if the UK network of MPAs is to be maintained.

¹ Page 57. Commission notice "Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC" (2018)

² Page 61. Commission notice "Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC" (2018)

3. Analysis of compensation

Further analysis on the effectiveness of compensation against Site Conservation Advice and Objectives is required. In-combination impacts and the condition of a Site must also be taken into account. It is also essential that analysis is undertaken to assess the success of compensation against the coherence of the Natura 2000 network and UK network of MPAs. There is a lack of policy and guidance on assessing impacts and compensatory measures against the coherence of the UK MPA network and we suggest this is required to meet section 123 of the Marine and Coastal Access Act 2009. The consideration against the MPA network is also outlined in Defra guidance³.

4. Views on proposed compensation

4.1. Establish a new reef feature

TWT agree with the Norfolk Vanguard, that this measure would not provide compensation for the impacts of cabling within HHW SAC as it does not meet both EU⁴ and Defra⁵ guidance on compensation measures. Associated with this there is a lack of uncertainty regarding the deliverability of this proposal which does not provide confidence that the compensatory measure will be sufficient.

4.2. Site extension or creation of comparable habitat

TWT does not support this as a compensatory measure for offshore wind farm projects for the following reasons:

- The process to extend or create new designated sites is lengthy and we question if there are statutory resources available to undertake this work.
- By extending or designating new sites, it allows for the chipping away and deterioration of existing sites. This is not acceptable as a mechanism, especially considering the scale of offshore wind farm development planned.
- Extending or creating new sites will create further problems in the future for offshore wind farm development, complicating the consenting process and further putting the UK MPA network at risk.

In conclusion, there is uncertainty on the delivery of site extension or creation as a compensatory mechanism which does not provide confidence required for the deliverability of this proposal.

4.3. Fisheries management – reduction of intrusive fishing methods

TWT considers fisheries management as a viable option which should be given further consideration. We welcome that Norfolk Vanguard have recognised that management of fisheries would be addition to site management measures. However, we do not support developers buying fisheries quotas as a mechanism to achieve this.

Fisheries management must be delivered at a strategic level to allow environmental head room to grant offshore wind farm development at a project level. The issue in delivering the scale of offshore wind in combination with other damaging human activities is to ensure that environmental capacity is not exceeded. One way to ensure this is to balance the number and types of damaging activities taking place within the marine environment.

We appreciate that many tools, regulatory mechanisms and policy will be required to achieve this, alongside spatial planning. We also recognise that we are in a time of transition on fisheries management which is associated with Brexit and the Fisheries Bill. We highlight that UK government has powers to manage fisheries within 12nm and mechanisms must be explored on how management can be achieved

³ Guidance on the duties which will be placed on public authorities in relation to Marine Conservation Zones under Part 5 of the Marine and Coastal Access Act 2009 (2010). Defra.

⁴ Commission notice "Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC" (2018)

⁵ Habitats and Wild Birds Directives: guidance on the application of article 6(4) Alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures (2012). Defra

at a project level. It is also important to recognise that the Fisheries Bill may provide opportunities for how fisheries in UK waters beyond 12nm can be managed in the future.

Without a strategic approach, we do not believe that offshore wind farm targets can be achieved without causing a decline in the condition of the marine environment. Discussions regarding strategic approaches must run in parallel to project level discussions on compensation. We recommend a pause in decision making for Norfolk Vanguard to allow these discussions to evolve and be applied to this application.

4.4. Removal of disused anthropogenic infrastructure and litter

TWT agrees with the applicant that this is not a feasible compensation proposal as it does not meet both EU and Defra guidance on compensation measures. We also suggest that decommissioning of infrastructure is part of site management and therefore cannot be considered compensation.

5. Broad views on the delivery of compensation

As TWT is not supportive of the proposed compensation, we have not commented in detail on the delivery aspects of the measures. However, as broad principles:

- Ratios: Ratios are an extremely important aspect of compensation and require careful consideration with stakeholder input and European guidance acknowledges that ratios should be generally well above 1:1⁶. Compensation measures are extremely difficult to deliver in the marine environment which creates uncertainty around the success of any measure. In addition, little evidence exists on the delivery and success of marine compensation measures.
- Timescales: Compensation measures must be in place before the damage takes place. It is also key to determine the lifespan of compensation required to allow review against the original objectives before sign off.
- Delivery groups: Other compensation projects have established multi-stakeholder groups to engage in compensation e.g. Humber Estuary compensation projects. TWT supports the establishment of such groups to ensure checks and balances are in place to ensure the successful delivery of compensation. The role of such a group should be defined before compensation is agreed and included in any legal agreements. In our view, this group would be responsible for agreeing the detail of compensation, the detail and regular review of monitoring data, and advising on the success of compensation projects against the original objectives before any sign off can be agreed.
- Legal mechanisms: it is essential that any legal agreements on how compensation will be delivered and signed off is done so before consent is granted. Of utmost importance is the creation of clear compensation objectives. It is also very important to identify action required if compensation is not successful. Clarity is required on who is the decision maker post-consent in relation to this. We propose that the delivery group should advise the decision maker through the delivery, monitoring and sign off of compensation.

6. Other projects considering derogation

TWT has recently responded to consultation on derogation for Hornsea Three. We would like to stress the importance of consistency in the approach to the derogation process for offshore wind farm developments and would like to better understand the mechanisms which will be put in place to ensure this.

7. Recommendations

Due to the issues highlighted in our response, the Secretary of State cannot yet make a decision on this application. We recommend a pause in decision making so the following points can be worked through:

⁶ Page 67. Commission notice "Managing Natura 2000 sites The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC" (2018)

- To review the alternatives that have been highlighted in this letter and any evidence which exists on the viability of these options.
- The following must take place in parallel:
 - a) Exploration at alternatives and compensation at a project level
 - b) A strategic level group to identify solutions and delivery mechanisms
- The production of guidance on how to assess the suitability of proposed compensation measures against the conservation objectives for a site.

Thank you for considering our response. TWT would be more than happy to provide further detail and answer any questions. We look forward to continuing to engage with the applicant and other stakeholders on the Norfolk Vanguard project.

Yours sincerely



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The Wildlife Trusts