Department for Energy Security & Net Zero

3-8 Whitehall Place
London
SW1A 2AW
+44 020 7215 5000
energyinfrastructureplanning@energysecurity.gov.uk
www.gov.uk/desnz

Ref: EN010079

Anne Westwood
Development Manager for Vanguard West, East and Boreas
RWE Renewables UK

18 December 2025

By email: vanguarddco@rwe.com

Dear Dr Westwood,

PLANNING ACT 2008

PROPOSED NON-MATERIAL CHANGE TO THE NORFOLK VANGUARD OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER 2022 AS CORRECTED BY THE NORFOLK VANGUARD OFFSHORE WIND FARM (CORRECTIONS) ORDER 2022 AND AMENDED BY THE NORFOLK VANGUARD OFFSHORE WIND FARM (AMENDMENT) ORDER 2022 AND AMENDED BY THE NORFOLK VANGUARD WIND FARM (AMENDMENT) ORDER 2023

1. I am directed by the Secretary of State for Energy Security and Net Zero ("the Secretary of State") to advise you that consideration has been given to the Application ("the Application") which was made by Norfolk Boreas Limited and Norfolk Vanguard East Limited ("the Applicant") on 13 May 2025 for changes which are not material to be made to the Norfolk Vanguard Offshore Wind Farm Order 2022 ("the Order") under section 153 of, and Schedule 6 to, the Planning Act 2008 ("the 2008 Act"). This letter is the notification of the Secretary of State's decision in accordance with Regulation 8 of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) ("the 2011 Regulations").

2. The original application for development consent under the 2008 Act was granted on 11 February 2022 and gave development consent for the construction, operation, and maintenance of an offshore wind generating station with a gross electrical output of up to 1,800 megawatts ("MW").[1] On 6 September 2022, the Secretary of State issued a Correction Order.[2] The Order was amended to make a change that is not material by an Amendment Order

[1] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004458-Holding%20document.pdf
[2] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004502-SI - The Norfolk Vanguard Offshore Wind Farm (Corrections) Order 2022.pdf

issued by the Secretary of State on 28 September 2022.[3] The Order was further amended to make a change that is not material by an Amendment Order issued by the Secretary of State on 13 December 2023.[4]

3. The Applicant seeks consent for changes to the following parts of the Order: Article 2 (Interpretation), and Part 3 (Haisborough, Hammond and Winterton Special Area of Conservation: Delivery of measures to compensate for cable installation and protection) of Schedule 17 (Compensation to protect the coherence of the national site network). The Applicant seeks these changes to:

   (a) Add a new definition of "Defra" and update the definition of "undertaker"

   (b) Align the wording of Schedule 17 of the Order with the provisions already approved by the Secretary of State ("SoS") in the Benthic Implementation and Monitoring Plan ("BIMP") which allow a payment to be made into the Marine Recovery Fund ("MRF") if required as an adaptive management measure.[5;6] The proposed changes requested to Schedule 17 include drafting to reflect how the MRF is intended to operate in practice. In addition, the proposed amendments remove the current provision in the Order requiring that the specified area of marine debris clearance must be completed before cable installation works may commence.

Summary of the Secretary of State's decision

4. The Secretary of State has decided under paragraph 2(1) of Schedule 6 to the 2008 Act to make non-material changes ("NMCs") to the Order to authorise the changes as detailed in the Application.

Guidance Relating to the Materiality of the Proposed Changes

5. The Secretary of State has given consideration as to whether the Application is for a material or non-material change. In doing so, the Secretary of State has had regard to paragraph 2(2) of Schedule 6 to the 2008 Act which requires the Secretary of State to consider the effect of the change on the Order as originally made.

6. There is no statutory definition of what constitutes a 'material' or 'non-material' amendment for the purposes of Schedule 6 to the 2008 Act and Part 1 of the 2011 Regulations.

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[3] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004528-Norfolk_Vanguard_NMC_Ord.pdf

[4] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004604-Norfolk Vanguard Non-Material Change 2023 - Amendment Order signed not registered - 13 December 2023.pdf

[5] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010087-003041-Secretary%20of%20State%20for%20Energy%20Security%20and%20Net%20Zero%20Decision%20Letter%20-%20v2%20BIMP.pdf

[6] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010087-003037-Norfolk%20Projects%20Benthic%20Implementation%20Monitoring%20Plan%20BIMP%20Version%202_Redacted.pdf

7. To assist in determining whether a proposed change is material or non-material, guidance has been produced by the Department for Communities and Local Government (now the Ministry of Housing, Communities and Local Government), entitled the "Planning Act 2008: Guidance on Changes to Development Consent Orders" (December 2015) ("the Guidance").[7] The Guidance makes the following points:

   (a) given the range of infrastructure projects that are consented through the Planning Act 2008, and the variety of changes that could possibly be proposed for a single project, the Guidance cannot, and does not attempt to, prescribe whether any particular types of change would be material or non-material;

   (b) however, there may be certain characteristics that indicate that a change to a consent is more likely to be treated as a material change. Four examples are given in the Guidance as a starting point for assessing the materiality of a proposed change, namely:

      1) whether an update would be required to the Environmental Statement ("ES") (from that at the time the Order was made) to take account of new, or materially different, likely significant effects on the environment;

      2) whether there would be a need for a Habitats Regulations Assessment ("HRA"), or a need for a new or additional licence in respect of European Protected Species ("EPS");

      3) whether the proposed change would entail compulsory acquisition of any land that was not authorised through the Order; and

      4) whether the proposed change would have a potential impact on local people and business (for example, in relation to visual amenity from changes to the size and height of buildings; impacts on the natural and historic environment; and impacts arising from additional traffic).

   (c) although the above characteristics indicate that a change to a consent is more likely to be treated as a material change, these only form a starting point for assessing the materiality of a change. Each case must depend on thorough consideration of its own circumstances.

The Secretary of State's Consideration of the Application

8. The Secretary of State has considered the change proposed by the Applicant against the four matters set out in (1), (2), (3) and (4) above:

   (a) The Secretary of State notes the information supplied in the Applicant's supporting statement. The Applicant concluded that "The proposed changes to the benthic compensation schedules of the Vanguard Order and the Boreas Order would not affect the conclusions of the Environmental Statement as the changes do not change the design of the project and would not give rise to any materially new or different significant environmental impacts in comparison to those originally assessed". Considering the analysis supplied by the Applicant and responses to the consultation (as discussed further at paragraphs 11 to 27 below), the Secretary of State has concluded that no update is required to the ES as a result of the proposed amendments to the Order.

[7] https://www.gov.uk/government/publications/changes-to-development-consent-orders

(b) In respect of the HRA, the Secretary of State has considered the nature and impact of the change proposed (as discussed further at paragraphs 28 to 29 below). The Secretary of State is satisfied that there is no change to the conclusions of the HRA as a result of the proposed amendments and therefore a new HRA is not required. The Secretary of State is also satisfied that the proposed change does not bring about the need for a new or additional licence in respect of EPS as the amendments sought are not anticipated to give rise to any new or different effects from an ecological perspective than those assessed for the original application.

(c) In respect of compulsory acquisition, the Secretary of State notes that the proposed changes do not require any additional compulsory purchase of land.

(d) In respect of impacts on local people and businesses, the Secretary of State notes that no changes are anticipated by the Applicant to the impacts already assessed in the ES.

9. The Secretary of State therefore concludes that none of the specific indicators referred to in the guidance, or other relevant considerations, suggests that the changes considered in this letter would be a material change.

10. Taking the information contained in the application and responses received from consultees into account, the Secretary of State is therefore satisfied that the changes considered in this letter are not material and should be dealt with under the procedures for NMCs.

Consultation and Responses

11. In accordance with Regulation 7 of the 2011 Regulations, the Secretary of State agreed to a reduced consultee list on 14 April 2025.[8] The parties consulted were: Natural England ("NE"); The Crown Estate; the Eastern Inshore Fisheries and Conservation Authority ("EIFCA"); The Wildlife Trusts; the Marine Management Organisation ("MMO"); the National Federation of Fishermen's Organisations ("NFFO"); the Joint Nature Conservation Committee ("JNCC"); Centre for Environment, Fisheries and Aquaculture Science ("Cefas"); Whale and Dolphin Conservation; North Norfolk District Council; Broadland District Council; Norfolk County Council; and Breckland Council. The Secretary of State considered that the Department for Environment, Food and Rural Affairs ("Defra") should also be consulted in regard to any explicit reference to the MRF. In accordance with the requirements of Regulation 7 of the 2011 Regulations, these specified parties were notified of the Application by email on 15 May 2025.

12. The Applicant published a notice of the Application in accordance with Regulation 6 (publicising the application) of the 2011 Regulations (the "Regulation 6 notice") for two consecutive weeks in the local press, (Eastern Daily Press) on 15 May 2025 and 22 May 2025 and the Application was also made publicly available on the Planning Inspectorate's (PINS) website, such that there was an opportunity for anyone not notified to also submit representations to PINS. The Applicant also published the Regulation 6 notice in Fishing News

[8] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004627-Norfolk%20Vanguard%20Regulation%207(3)%20Letter.pdf

on 15 May 2025. The deadline for receipt of representations on the Application was 23:59 on 23 June 2025.

13. The Applicant submitted its Consultation and Publicity Report as required by Regulation 7A of the 2011 Regulations on 18 July 2025, which states that the Applicant has complied with all necessary steps set out in Regulations 6 and 7 of the 2011 Regulations in respect of stakeholder consultation and its public engagement approach. This was published on the PINS website on 27 August 2025.[9]

14. Five responses were received from specified Interested Parties including the MMO, NE, and The Crown Estate, who all did not raise any objections to the Application.[10] Defra and EIFCA responded and raised issues with the Application outlined below. No comments were received from the other parties consulted.

EIFCA

15. EIFCA acknowledged that the wording of the proposed amendment was sufficient to achieve its intended purpose. However, it asserted that the use of the MRF implies that compensatory measures may encompass actions that will have an overall adverse impact upon fishing activities and opportunities, thus contradicting with the EIFCA's established position. It further noted that if the MRF were to be used, EIFCA would have less input into the development of measures, when compared to its role as a member of the Benthic Steering Group.

16. In its response to EIFCA's submission, the Applicant acknowledged EIFCA's opposition to possible adaptive measures, but considered that this was an overarching point regarding the policy for delivery of strategic compensation and was therefore not a matter which needed to be addressed in this Application.

Defra

17. Defra made comments aimed at ensuring an accurate alignment with the operating model of the upcoming MRF and clarified that it was not expressing a view on the appropriateness of the Application itself. Defra submitted a number of minor proposed alterations to the wording of the Order, which were variably accepted and rejected by the Applicant.

18. The Secretary of State notes that Defra's submission erroneously refers to changes to Schedule 19 of the Order, when, in the case of Norfolk Vanguard OWF's application, it is Schedule 17 which is to be amended. This mistake likely arose from the fact that Schedule 17 of Norfolk Vanguard's DCO is identical to Schedule 19 of Norfolk Boreas's DCO, to which Defra's comments are presumably also directed.

[9] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004638-Vanguard%20Reg%207A%20Consultation%20and%20Publicity%20Statement.pdf
[10] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010079/documents?stage-post_decision=Non-Material%20Change%203&itemsPerPage=25

The Secretary of State's Consideration of the Responses Received

19. The Secretary of State has considered the representations received in response to the consultation and considers that no further information needs to be provided by the Applicant and no further consultation is necessary.

20. The Secretary of State notes EIFCA's concerns that compensatory measures under the MRF may have an adverse impact on fishing activities, but agrees with the Applicant's position that this is a policy matter, and therefore not within the scope of this application.

21. On 15 September 2025, the Applicant wrote[11] to the Secretary of State to request some minor changes to the draft Amendment Order, following continued engagement with stakeholders and with particular regard to Defra's consultation response of 23 June 2025.[12] The Applicant enclosed an updated extract of Part 3 to Schedule 17 with the proposed minor amendments and an updated draft Amendment Order.[13]

22. The Secretary of State notes the minor amendments requested by the Applicant. However, given that Defra has subsequently announced a slightly different operational approach in some respects,[14] the Secretary of State has made some further amendments of his own to reflect this. Changes to the Applicant's draft Amendment Order are summarised in paragraphs 37 to 40 below.

Environmental Impact Assessment

23. The Secretary of State has considered whether the Application would give rise to any new significant or materially different effects when compared to the effects set out in the ES for the development authorised by the Order.

24. The Secretary of State is satisfied that the information provided by the Applicant is sufficient to allow him to make a determination on the Application.

25. The Secretary of State has considered all relevant information provided and the comments of consultees. The Secretary of State agrees with the Applicant's conclusions that there will not be any new or materially different likely significant effects when compared to the effects set out in the ES for the development authorised by the Order.

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[11] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004640-NV%20Cover%20Letter%20to%20DESNZ%2015%20Sep%2025.pdf
[12] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004636-Norfolk%20Vanguard%20-%20Defra%20response%20to%20NMC%20consultation%20(003).pdf
[13] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010079-004639-Draft%20NV%20Amendment%20Order%20Updated%20Sep%2025%20(in%20SI%20Template)%20-%2012%20Sep%2025(217833565.1)(217836104.1).pdf
14 https://www.gov.uk/government/consultations/offshore-wind-environmental-compensation-reforms/outcome/summary-of-responses-and-government-response

26. As there are no new significant environmental impacts as a result of the proposed change, the Secretary of State considers that no requirement to update the ES.

27. As there are no new significant environmental impacts as a result of the proposed change, the Secretary of State does not consider that there is any need for consultation on likely significant transboundary effects in accordance with Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

The Habitats Regulations

28. The Secretary of State has considered the relevant requirements as set out in the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"). The Habitats Regulations require the Secretary of State to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on any site within the national site network, known as "protected sites". If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State, pursuant to Regulation 63(1) of the Habitats Regulations, to address potential adverse effects on site integrity. The Secretary of State may only agree to the Application (subject to Regulation 64) if he has ascertained that it will not adversely affect the integrity of a protected site.

29. The Secretary of State has considered the information submitted in the Application and the comments of consultees and is satisfied that the proposed changes do not alter the conclusions set out in the Applicant's ES and the Secretary of State's HRA for the Order, and therefore a new HRA is not required.

General Considerations

Transboundary Impacts

30. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the Secretary of State has considered whether the proposed development is likely to have a significant effect on the environment in a European Economic Area ("EEA") State. The Secretary of State has considered whether the changes sought through this Application will have any potential impacts on an EEA State and has concluded that there is no change in the environmental impacts considered within the existing environmental statement for the project. Consequently, the Secretary of State has concluded that there would not be likely significant effects on the environment of any EEA State whether the Application is considered of itself or cumulatively with the environmental effects already considered for the Order.

31. The Secretary of State has also considered whether there may be potential impacts on protected sites in EU Member States, known as transboundary sites, from this Application. Noting that the Secretary of State has reached a conclusion that there will be no likely significant effects on protected sites, the Secretary of State has also concluded that there are

no realistic impact pathways whereby transboundary sites may be impacted by this Application.

32. The Secretary of State therefore concludes there is no need for transboundary consultation with EEA States.

Equality Act 2010

33. The Equality Act 2010 includes a public sector equality duty. This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; sex, sexual orientation, gender reassignment; disability; marriage and civil partnerships;[15] pregnancy and maternity; religion or belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

34. The Secretary of State has had due regard to the need to achieve the statutory objectives referred to in s149 of the Equality Act 2010 and is satisfied that there is no evidence that granting this Application will affect adversely the achievement of those objectives.

Human Rights Act 1998

35. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the amended development. The Secretary of State considers that the grant of development consent would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

Natural Environment and Rural Communities Act 2006

36. The Secretary of State notes the “general biodiversity objective” to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006, and considers the Application consistent with furthering that objective whilst having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent. The Secretary of State is of the view that biodiversity has been considered sufficiently in this Application for an amendment to accord with this duty.

Modifications to the Applicant’s draft Amendment Order

37. As well as approving the changes requested by the Applicant as outlined at paragraph 3 above, the Secretary of State has made some additional changes to the Applicant’s draft Amendment Order to reflect further consideration of how the MRF is intended to operate in

[15] In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

practice alongside some minor changes intended to improve the clarity of the drafting. These additional changes made by the Secretary of State are set out below.

38. Article 5(2) has been revised to include a definition of “Marine Recovery Fund Payment” and to ensure that the new definitions are incorporated properly into the Order. The term “Marine Recovery Fund Payment” is subsequently used throughout the Amendment Order where appropriate.

39. In Article 5(6), new paragraph 35 being inserted into Part 3 of Schedule 17 of the Order has been amended to clarify that the application to make a contribution to the Marine Recovery Fund is to be made to the Secretary of State. This is to identify who the application may be made to.

40. A number of changes have been made associated with the potential grant of an application to use the MRF in new paragraphs 37-40 to be inserted into Part 3 of Schedule 17 of the Order as follows:

    (a) Upon receipt of an application to use the MRF, the SoS must be satisfied that a switch to the MRF is acceptable in principle and that the operator of the MRF has confirmed that the MRF can be used as an alternative to the original compensation measures (such confirmation would include monetary quantification of the sums due);

    (b) If the SoS is satisfied that these criteria have been met, he may notify the undertaker that the application has been approved;

    (c) Subsequently, there must be no cable installation works within the HHW SAC except when an implementation and monitoring plan has been submitted to and approved by the SoS, and the undertaker has been discharged from any further obligations to deliver the relevant compensation measures; and

    (d) The mechanisms for potential discharge from the obligation to deliver further compensation measures have been adjusted to allow for this to take place following the payment of the first in a series of agreed instalments. Wording has also been added to clarify that release from the obligation to delivery further compensation does not obviate the undertaker from its obligation to continue to comply with any agreed payment schedule into the MRF.

The Secretary of State’s Conclusions and Decision

41. The Secretary of State has considered the ongoing need for the Development and considers that the project continues to conform with the policy objectives outlined in the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy (EN-3). The Secretary of State considers this conformity applies to both 2011 and 2024 iterations, the latter of which is now in force. The need for the Development remains as set out in the Secretary of State’s letter of 11 February 2022. A Written Ministerial Statement (“WMS”) was laid in Parliament on 29 January 2025 which referred to the launch of the MRF as providing an optional mechanism for developers to fund delivery of strategic compensatory

measures.[16] The Secretary of State is satisfied that this Development fits the criteria outlined in the WMS and that the proposed changes are in accordance with the policy positions set out by Defra in its recent updated consultation response dated 3rd December 2025.

42. As such, for the reasons set out in the paragraphs above, the Secretary of State is satisfied that the Applicant's request is acceptable in order to allow: the addition of a definition for "Defra" and an update to the definition of "undertaker"; and the alignment of the wording of Schedule 17 of the Order with the provisions of the approved BIMP which allows the use of the MRF, and removal of the current provision in the Order requiring that the specified area of marine debris clearance must be completed before cable installation works may commence.

43. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the proposed changes to Article 2, and Schedule 17 of the Order. The Secretary of State is satisfied that the changes requested by the Applicant are not material changes to the Order and has decided under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a NMC to the Order to authorise the changes detailed in the Application.

Challenge to Decision

44. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

Publicity for Decision

45. The Secretary of State's decision on this Application is being notified as required by Regulation 8 of the 2011 Regulations.

Yours sincerely,

John Wheadon

John Wheadon

Head of Energy Infrastructure Planning Delivery & Innovation

Department of Energy Security & Net Zero

[16] https://hansard.parliament.uk/commons/2025-01-29/debates/f085d95c-42fd-449c-aa7d-90cbaa214a9a/WrittenStatements#contribution-EAB98906-4E6C-466E-80A4-FD1893FDCB9F

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 (5) of the Planning Act 2008, a decision under paragraph 2(1) of Schedule 6 to the Planning Act 2008 to make a change to an Order granting development consent can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The Amendment Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010079

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).