



Department for  
Energy Security  
& Net Zero

3-8 Whitehall Place  
London  
SW1A 2AW  
+44 020 7215 5000  
[energyinfrastructureplanning@energysecurity.gov.uk](mailto:energyinfrastructureplanning@energysecurity.gov.uk)  
[www.gov.uk/desnz](http://www.gov.uk/desnz)

Ref: EN010098

Alex Tresadern  
Pinsent Masons LLP  
30 Crown Place  
London  
EC2A 4ES

11 April 2025

Dear Mr Tresadern,

## **PLANNING ACT 2008**

### **PROPOSED NON-MATERIAL CHANGE TO THE HORNSEA FOUR OFFSHORE WIND FARM DEVELOPMENT CONSENT ORDER 2023 – (S.I. 2023/800) (AS CORRECTED AND AMENDED)**

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 which was made by Orsted Hornsea Project Four Limited (“the Applicant”) on 14 January 2025 (“the Application”) for changes which are not material to be made to the Hornsea Four Offshore Wind Farm Order 2023 (“the Order”) under section 153 of, and Schedule 6 to, the Planning Act 2008 (“PA2008”). 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 PA2008 was granted consent on 12 July 2023<sup>1</sup> and gave development consent for the construction and operation of an array of up to 180 wind turbines and associated onshore and offshore infrastructure. On 31 January 2024<sup>2</sup>, the Secretary of State issued a Correction Order. The Order was amended to make a change that is not material by an Amendment Order issued by the Secretary of State on 17 July 2024<sup>3</sup>. The Secretary of State approved the Applicant’s proposed Kittiwake Compensation Implementation and Monitoring Plan, as required by Part 2 of Schedule 16 to the Order, on 19 March 2025<sup>4</sup>.

---

<sup>1</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002330-DCO%20Hornsea%204%20OWF%20signed.pdf>

<sup>2</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002365-Hornsea%204%20Correction%20Order%2030.01.2024\\_Redacted.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002365-Hornsea%204%20Correction%20Order%2030.01.2024_Redacted.pdf)

<sup>3</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002386-The%20Hornsea%20Four%20Offshore%20Wind%20Farm%20\(Amendment\)%20Order%202024%205signed%20but%20not%20registered%5d.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002386-The%20Hornsea%20Four%20Offshore%20Wind%20Farm%20(Amendment)%20Order%202024%205signed%20but%20not%20registered%5d.pdf)

<sup>4</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002413-Hornsea%20Four%20-%20KCIMP%20Approval%20Letter%20R%20-%2019%20March%202025.pdf>

3. The Applicant is seeking consent for a second change that it considers is non-material to the Order. The Applicant seeks consent to amend paragraph 1 of Part 1 and paragraphs 10 to 12 of Part 3 of Schedule 16 to the Order. These provisions of the Order relate to guillemot compensation measures which are currently secured in the form of (i) predator eradication and (ii) bycatch reduction. The Order as drafted currently requires the Applicant to submit the Guillemot Compensation Implementation and Monitoring Plan (“GCIMP”) based on the strategy for guillemot compensation set out in the guillemot and razorbill compensation plan and must include, for the bycatch reduction measure, details of the arrangements with fishers to use bycatch reduction technology and associated provisions. The Applicant must then enter into contracts with fishers for the bycatch reduction technology as set out in the approved GCIMP. Certain numbered works authorised by the Order cannot commence until at least one year has lapsed after the contracts with fishers have been entered into.
4. Instead, the Applicant proposes to amend the Order to remove the requirements in Part 3 of Schedule 16 to the Order relating to carrying out bycatch reduction through contracts with fishers because, principally, the required guillemot compensation can be delivered via predator eradication only. The Applicant intends to fulfil the compensation requirements for guillemot solely via the predator eradication measures. Given the two measures of predator eradication and bycatch reduction were considered as a package of compensation in the Applicant’s guillemot and razorbill compensation plan, to be scaled up or scaled down as appropriate, the Applicant proposes to “scale down” the bycatch reduction measure to zero. The Applicant will keep the bycatch reduction measure as one of a range of adaptive management measures for future consideration, rather than as primary compensation.
5. The Applicant considers the proposed changes would not require additional compulsory acquisition of land, nor would they have new or different effects on local residents or businesses or any additional implications in respect of habitats regulation assessment (“HRA”), particularly given that the two measures of predator eradication and bycatch reduction were always considered as a package of compensation, to be scaled up or scaled down as appropriate. The Applicant produced a report as part of the Application which demonstrated that the conclusions of the Environmental Statement and HRA would not be affected by the proposed amendment to the Order. Further, the Applicant considers the Application will not result in any materially new or materially different environmental effects, given that the changes proposed are technical and would not result in any development beyond that already consented through the Order, which has already been subject to Environmental Impact Assessment.

### **Summary of the Secretary of State’s decision**

6. The Secretary of State has decided under paragraph 2(1) of Schedule 6 to PA2008 to make non-material changes (“NMCs”) to the Order to authorise the changes as detailed in the Application. This letter is notification of the Secretary of State’s decision in accordance with Regulation 8 of the 2011 Regulations.

7. The Secretary of State has given consideration 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 PA2008 which requires the Secretary of State to consider the effect of the change on the Order as originally made.
8. There is no statutory definition of what constitutes a 'material' or 'non-material' amendment for the purposes of Schedule 6 to the PA2008 and Part 1 of the 2011 Regulations.
9. So far as decisions on whether a proposed change is material or non-material, guidance has been produced by the Department for Communities and Local Government (now the Department for Housing, Communities and Local Government), the "Planning Act 2008: Guidance on Changes to Development Consent Orders" (December 2015) ("the Guidance")<sup>5</sup>, which 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 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.
10. 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 that the information supplied supports the Applicant's conclusions that there are no new, or materially different, likely significant effects from

---

<sup>5</sup> <https://www.gov.uk/government/publications/changes-to-development-consent-orders>

those assessed in the ES. Considering the analysis supplied by the Applicant and responses to the consultation, the Secretary of State has concluded that no update is required to the ES as a result of the proposed amendments to the Order.

- (b) In respect of the HRA, the Secretary of State has considered the nature and impact of the change proposed and 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, as per paragraphs 25 to 27 below.
  - (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.
11. The Secretary of State therefore concludes that none of the specific indicators referred to in the guidance, or other relevant considerations, suggest that the changes considered in this letter constitute a material change.
12. 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**

13. In accordance with the requirements of Regulation 7 of the 2011 Regulations specified parties, the Secretary of State agreed to a reduced consultee list. The parties consulted were: the Marine Management Organisation (“MMO”), Natural England (“NE”), the Royal Society for the Protection of Birds (“RSPB”), the Joint Nature Conservation Committee (“JNCC”), and the Alderney Wildlife Trust (“AWT”).
14. 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 (the Yorkshire Post, the London Gazette, the Lloyd’s List and the Fishing News) on 13 February 2025 and 20 February 2025 and 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 sent the Regulation 6 notice to consultees on 13 February 2025. The deadline for receipt of representations on the Application was 24 March 2025.
15. Responses were received from the RSPB<sup>6</sup>, NE<sup>7</sup>, and the MMO<sup>8</sup>. The RSPB stated its support for the Applicant’s proposal to remove the bycatch reduction measure because

---

<sup>6</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002416-RSPB%20NMC%20Consultation%20Response.pdf>

<sup>7</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002418-Natural%20England%20NMC%20Consultation%20response.pdf>

<sup>8</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002421-MMO%20NMC%20Consultation%20Response.pdf>

there is no evidence that demonstrates that it is an effective measure to reduce bycatch of guillemot. However, the RSPB would be happy to review its position on this if new evidence is presented which would allow the Applicant to consider bycatch reduction as an adaptive management measure. The RSPB finished its response by stating that the compensation will ultimately be gauged by the successful colonisation by breeding guillemots in the required numbers and breeding success to meet the compensation objectives.

16. NE stated that it has discussed the Applicant's conclusions on bycatch reduction during meetings of the Hornsea Four Offshore Ornithological Engagement Group and it agreed with the Applicant's conclusions that such measures would deliver minimal contributions to compensation requirements. NE considered the retaining of the measure as an adaptive management measure could allow for further research into its efficacy. It also had previously held concerns that financial incentives for fishing businesses adopting the measure could lead to an uptake in gillnet fishing and have implications for other species. NE confirmed it was also broadly supportive of the Applicant's proposed predator eradication measure. NE concluded that the proposed NMC will not significantly impair the effectiveness of the DCO in securing appropriate compensatory measures.
17. The MMO stated it is satisfied with the proposed approach and that it defers to NE as the Statutory Nature Conservation Body for ornithological impacts.
18. No comments were received from the JNCC or AWT.
19. The Applicant submitted its Consultation and Publicity Report as required by Regulation 7A of the 2011 Regulations on 10 March 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 10 March 2025<sup>9</sup>.
20. The Secretary of State has considered the representations received in response to the consultation and does not consider that any further information is required nor that further consultation is necessary.

## **Environmental Impact Assessment**

21. 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.
22. The Secretary of State is satisfied that the information provided by the Applicant is sufficient to allow the Secretary of State to make a determination on the Application.
23. 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

---

<sup>9</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002411-Regulation%207A%20Consultation%20and%20Publicity%20Statement.pdf>

effects set out in the ES for the development authorised by the Order and as such considers that there is no requirement to update the ES.

24. 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**

25. 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 the Secretary of State has ascertained that it will not adversely affect the integrity of a protected site.
26. 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.
27. Without prejudice to the subsequent decision to approve the Guillemot Compensation Implementation and Monitoring Plan, the Secretary of State considers that the Applicant’s supporting information in Appendix 2 ‘Environmental and HRA Report’ demonstrates that scaling the bycatch reduction measure down to zero will not hinder the compensation for the Development. The Secretary of State notes that the precautionary estimates show that the predator eradication measure will deliver the required compensation and, with the inclusion of L’Etac alongside Herm Island, is likely to provide over-delivery. The Secretary of State notes the bycatch reduction compensation measure for guillemot will be retained as an adaptive management measure, should it be required, based on the outcomes from monitoring of the predator eradication measure. The Secretary of State concludes that the NMC will not affect the ecological validity of the compensation or the objective of compensating for 452.3 adult guillemots per year.

## **General Considerations**

### **Transboundary Impacts**

28. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the Secretary of State has considered whether the Application 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 change 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 2023 Order.

29. 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.
30. The Secretary of State therefore concludes there is no need for transboundary consultation with EEA States.

#### Equality Act 2010

31. 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;<sup>10</sup> 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.
32. 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

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

#### Natural Environment and Rural Communities Act 2006

34. 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

---

<sup>10</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

is of the view that biodiversity has been considered sufficiently in this Application to accord with this duty.

### **Secretary of State's conclusions and decision**

35. The Secretary of State considers that the Development continues to conform with the policy objectives outlined in the Overarching National Policy Statement (NPS) 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 following the concluded review of the energy NPS. The need for the Development remains as set out in the Secretary of State's letter of 12 July 2023<sup>11</sup>.
36. As such, for the reasons set out in the paragraphs above, the Secretary of State is satisfied that the Applicant's request is justified and demonstrates that the proposed changes will not result in changes to the impact conclusions of the ES that accompanied the original Hornsea Four Offshore Wind Farm application.
37. The Secretary of State has considered the nature of the Application, and notes that the proposed changes to the development would not result in any further environmental impacts and will remain within the parameters consented by the Order.
38. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the proposed changes in respect of paragraph 1 of Part 1 and paragraphs 10 to 12 of Part 3 of Schedule 16 to 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 second NMC to the Order to authorise the changes detailed in the Application.

### **Challenge to decision**

39. 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

Head of Energy Infrastructure Planning Delivery & Innovation

---

<sup>11</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010098/EN010098-002326-Copy%20of%20SOS%20Decision%20Letter.pdf>



## **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/EN010098>

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)