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Ref: EN010103

Rob Booth
DWD

28 October 2025

By email: Rob.Booth@dwd-ltd.co.uk

Dear Mr Booth,

PLANNING ACT 2008

PROPOSED NON-MATERIAL CHANGE TO THE NET ZERO TEESSIDE DEVELOPMENT CONSENT ORDER 2024 (S.I 2024 NO.174) AS CORRECTED BY THE NET ZERO TEESSIDE (CORRECTION) ORDER 2024 (S.I 2024 NO.1384)

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 Net Zero Teesside Power Limited and Net Zero North Sea Storage Limited ("the Applicants") on 13 March 2025 for changes which are not material to be made to the Net Zero Teesside Order 2024 ("the 2024 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 16 February 2024¹. Development consent was granted for the onshore elements of the proposed full chain Carbon Capture, Usage and Storage project comprising a number of elements including a new gas-fired electricity generating station (with an electrical output of up to 860 megawatts) with post combustion carbon capture plant; gas, electricity and water connections (for the electricity generating station); a carbon dioxide (CO₂) pipeline network (a 'gathering network') for gathering CO₂ from a cluster of local industries on Teesside; a high pressure CO₂ compressor station and an offshore CO₂ export pipeline. On 20 December 2024, the Secretary of State issued a Correction Order correcting minor drafting and typographical errors within the Order².
3. The Applicants are seeking consent for changes to Schedule 1 'Authorised Development' and Schedule 2 'Requirements' of the Order. The changes are:

¹ https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002914-Decision%20Letter_Net%20Zero%20Teesside%20Project.pdf

² https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002945-uksi_20241384_en.pdf

- Change 1- Addition of 'Work No. 6A' to Schedule 1 'Authorised Development' of the Order. This work would comprise a new Above Ground Installation ("AGI") for the CO₂ gathering network and associated apparatus to be located at Seal Sands. Change 1 also includes the addition of 'Work No. 9G' to Schedule 1 'Authorised Development' of the Order. This work would comprise a temporary construction laydown area adjacent to the new AGI at Work No. 6A to facilitate the construction of the AGI.
- Change 2- Extension of the area allocated for 'Work No. 2B' to Schedule 1 'Authorised Development' of the Order. This would comprise expansion of the area for the proposed natural gas AGI at the CATS Terminal (Seal Sands).
- Change 3- Addition of 'Work No. 6A' to Schedule 1 'Authorised Development' of the Order. This work would comprise a new AGI and associated apparatus to be located at the Power, Capture and Compression ("PCC") Site. Change 3 also includes realignment of the CO₂ gathering network which is 'Work No. 6' to Schedule 1 'Authorised Development' of the Order.
- Change 4- Extension of the area allocated for 'Work No. 3A' to Schedule 1 'Authorised Development' of the Order. This would comprise above ground and underground high voltage electrical cabling, two cable support structures adjacent to existing bridges over the Tees Valley Line, River Fleet and existing pipelines to support the cables. In association with this, the Applicants request a change to Requirement 3(4) of Schedule 2 'Requirements' of the Order to ensure that details of the two proposed cable support structures are submitted for the approval of the relevant planning authority.

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.

The Applicants' Consultation on the Non-Material Change Application

5. In accordance with Regulation 7(3) of the 2011 Regulations, the Secretary of State agreed to a reduced consultee list on 18 December 2024³. The Applicants proposed to consult 33 parties including the relevant local authorities, the Environment Agency, Natural England, South Tees Development Corporation and affected landowners. The Secretary of State considered that the Applicants should further consult the Health and Safety Executive. In accordance with the requirements of Regulation 7 of the 2011 Regulations, these specified parties were notified of the Application by email on 19 March 2025.
6. The Applicants 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 Teesside Gazette and Northern Echo on 20 and 27 March 2025 and the Darlington and Stockton Times on 21 and 28 March 2025). The Application was also made publicly available on the Planning Inspectorate's ("PINS") website, such that

³ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002946-241218_Net%20Zero%20Teesside_Regulation%207\(3\)%20Letter%20for%20Limited%20Consultation_Final.pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002946-241218_Net%20Zero%20Teesside_Regulation%207(3)%20Letter%20for%20Limited%20Consultation_Final.pdf)

there was an opportunity for anyone not notified through the consultation process to also submit representations to PINS.

7. The deadline for receipt of representations on the Application was 25 April 2025. In accordance with the requirements of Regulation 7(5) of the 2011 Regulations, the Secretary of State made available all responses to the consultation on the PINS website on 1 May 2025⁴.
8. The Applicants submitted a Consultation and Publicity Report as required by Regulation 7A of the 2011 Regulations on 27 May 2025, which included a copy of the Regulation 6 notice and which stated that the Applicants had complied with all necessary steps set out in Regulations 6 and 7 of the 2011 Regulations in respect of stakeholder consultation and set out its public engagement approach. This was published on the PINS website on 7 October 2025⁵.
9. A representation was received and considered from Network Rail Infrastructure Limited (“NRIL”). NRIL by email on 25 April 2025⁴ stated that negotiations are ongoing between the parties to document the rights which the Applicants require on parts of the land currently outwith the Order limits via private agreement. NRIL stated that the agreement was close to being in place and accordingly NRIL was not submitting any substantial representations at this stage. NRIL stated it fully reserved its right to submit further representations should the need arise in order to protect its position with respect to the safe operation of the railway network.

The Secretary of State’s Consideration of the Responses Received and Further Consultation Required

10. The Secretary of State carefully considered the Application documents, including NRIL’s representation. The Secretary of State found that the Application did not contain sufficient clarity or detail to enable him to reach informed conclusions and he therefore wrote to the Applicants on 31 July 2025⁶ requesting further information regarding the changes being proposed and their likely environmental effects (“the Secretary of State’s consultation letter”). The Applicants responded to the Secretary of State’s consultation letter on 18 August 2025⁷ (“the Applicants’ consultation response”). The Secretary of State has considered the Applicants’ consultation response in detail and addresses this, where appropriate, in the following paragraphs.
11. The Secretary of State’s consultation letter noted that only NRIL had responded to the Applicants’ consultation and requested the Applicants to confirm if they had received any representations directly or wanted to inform the Secretary of State of any pre-application consultation undertaken. The Applicants’ consultation response confirmed that no consultee responses were received following the publication and issue of consultation materials associated with the Application. The Consultation and Publicity Report sets out the various

⁴ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002948-THE%20NET%20ZERO%20TEESSIDE%20ORDER%202024%20\(SI%202024_174\)%20REPRESENTATIONS%20ON%20BEHALF%20OF%20NETWORK%20RAIL%20INFRASTRUCTURRedacted.pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002948-THE%20NET%20ZERO%20TEESSIDE%20ORDER%202024%20(SI%202024_174)%20REPRESENTATIONS%20ON%20BEHALF%20OF%20NETWORK%20RAIL%20INFRASTRUCTURRedacted.pdf)

⁵ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002949-NZT%20NMC%20-%20Consultation%20and%20Publicity%20Statement%20%28May%202025%29.pdf>

⁶ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002980-NZT%20SoS%20Consultation%20Letter%20Final.pdf>

⁷ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002984-NZT%20NMC%20-%20Applicants%20Response%20to%20SoS%20RFI%20\(18%20August%202025\).pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010103-002984-NZT%20NMC%20-%20Applicants%20Response%20to%20SoS%20RFI%20(18%20August%202025).pdf)

methods used to publicise the Application in accordance with Regulation 7(3) of the 2011 Regulations. In terms of pre-application consultation on the proposed changes, the Applicants did engage with affected landowners prior to the submission of the Application.

12. The Secretary of State is satisfied that the Applicants have complied with the 2011 Regulations. Following the Applicants' consultation response, the Secretary of State does not consider that any further information needs to be provided by the Applicants or that further consultation is necessary in order for the Secretary of State to determine the Application.

Guidance Relating to the Materiality of the Proposed Changes

13. 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.
14. The Secretary of State has considered whether the elements of the Application are material or non-material changes. 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.
15. Guidance 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")⁸ makes the following points in relation to whether a proposed change is likely to be material or non-material:
 - (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).

⁸ <https://www.gov.uk/government/publications/changes-to-development-consent-orders>

- (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

16. The Secretary of State has considered the four changes proposed by the Applicants against the four matters set out in (1), (2), (3) and (4) above.

Change 1

17. The Secretary of State has considered Change 1 against the four matters set out in (1), (2), (3) and (4) in Paragraph 14 above:

- (a) The Secretary of State notes that the Environmental Statement Addendum Volume 1 ("ES Addendum") supports the Applicants' conclusions that there are no new, or materially different, likely significant effects in respect of Change 1 from those assessed in the ES. The Secretary of State considered that the ES Addendum, while covering all topics from the ES, was brief and lacked detail and therefore asked for additional information from the Applicants.

The Secretary of State requested the Applicants to update the percentage increases in traffic movements as presented in the original ES and confirm whether they would remain below the GEART⁹ thresholds for assessment. The Applicants responded that the new percentage increase is presented in Table 4-1 of the ES Addendum as 13.3%. However, the Secretary of State notes that an increase of 13.3% (equivalent to 10 HGV movements per day) is the original increase presented in the ES [APP-098 Table 16-15] and that the Applicants have not added the additional six daily HGV movements arising from Change 1 as requested and presented in the ES Addendum. The Secretary of State calculates the new increase on Link 13 as 21% $((10+6) / 75 \times 100)$. This remains below the 30% GEART threshold for further assessment.

With regard to the Application documents, including the ES Addendum, and the information provided in the Applicants' consultation response, the Secretary of State is satisfied that Change 1 will not give rise to new, or materially different, likely significant effects on the environment.

- (b) The Secretary of State has concluded that, given the nature and impact of Change 1, there is not likely to be a significant effect on any European site or 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. Therefore, the Secretary of State is satisfied that a new HRA is not required in respect of Change 1.
- (c) The Application documents stated that the land required for Change 1 would be acquired by agreement, but the Applicants' application documents did not include confirmation of the identity of the current landowners or details of their involvement in the application process. The Secretary of State requested that the Applicants evidence if they had

⁹ Institute of Environmental Assessment Guidelines for the Environmental Assessment of Road Traffic

acquired the land. The Applicants' consultation response outlined that Sembcorp Utilities (UK) Limited is the freehold owner of the land and the Applicants have the benefit of an option agreement for leases which has been completed between the parties. Sembcorp Utilities (UK) Limited was a consultee in respect of the Application. The Applicants confirmed that they undertook negotiations in relation to the project, including the land required to deliver Change 1 and the parties specially negotiated and completed contracts with the Applicants. The Secretary of State therefore concludes that Change 1 does not require any additional compulsory acquisition of land.

(d) The Secretary of State notes that the impacts on local people and businesses relating to Change 1 are no greater than those arising from the development permitted by the Order.

18. The Secretary of State concludes that none of the specific indicators referred to in the Guidance, or other relevant considerations, suggests that Change 1 constitutes a material change.
19. The Secretary of State is satisfied that Change 1 is required to enable the spur line connection to potential industrial emitters via a new AGI and associated temporary construction area. The Secretary of State is satisfied that there would be no new significant or materially different effects resulting from Change 1 when compared to the effects set out in the original ES. The Secretary of State concludes that Change 1 is acceptable and can be consented as a non-material change.

Change 2

20. The Secretary of State has considered Change 2 against the four matters set out in (1), (2), (3) and (4) in Paragraph 15 above:
- (a) The Secretary of State notes that the ES Addendum supports the Applicants' conclusions that there are no new, or materially different, likely significant effects in respect of Change 2 from those assessed in the ES. The Secretary of State has concluded that no update is required to the ES in respect of Change 2.
 - (b) The Secretary of State has concluded that, given the nature and impact of Change 2, there is not likely to be a significant effect on any European site or 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. Therefore, the Secretary of State is satisfied that a new HRA is not required in respect of Change 2.
 - (c) The Secretary of State notes that Change 2 does not require any additional compulsory acquisition of land.
 - (d) The Secretary of State notes that the impacts on local people and businesses relating to Change 2 are no greater than those arising from the development permitted by the Order.
21. The Secretary of State concludes that none of the specific indicators referred to in the Guidance, or other relevant considerations, suggests that Change 2 constitutes a material change.
22. The Secretary of State is satisfied that Change 2 is required to enable the natural gas connection works. The Secretary of State is satisfied that there would be no new significant or

materially different effects resulting from Change 2 when compared to the effects set out in the original ES. The Secretary of State concludes that Change 2 is acceptable and can be consented as a non-material change.

Change 3

23. The Secretary of State has considered Change 3 against the four matters set out in (1), (2), (3) and (4) in Paragraph 15 above:

- (a) The Secretary of State notes that the ES Addendum supports the Applicants' conclusions that there are no new, or materially different, likely significant effects in respect of Change 3 from those assessed in the ES.

The Secretary of State noted that the ES Addendum Table 4-3 mentioned the pipeline construction but not the new Above Ground Installation ("AGI") in terms of noise and vibration and requested the Applicants to provide this. The Applicants' consultation response stated the construction of the AGI would occur within the proposed Power, Capture and Compression ("PCC") site. The Applicants noted the typical plant and quantities needed to construct the additional AGI are already included in the overall construction plant list for the PCC sites building and general site activities and will remain the same with the addition of the AGI. Therefore, the Applicants stated the construction of the AGI would not change the conclusions of the construction noise and vibration assessment carried out in the original ES. The Secretary of State was satisfied with this explanation.

The Secretary of State noted that the ES Addendum Table 4-3 stated that Works No.6/6A were not predicted to result in any additional construction vehicle trips and requested the Applicants to provide details to justify this conclusion, given the construction of the new AGI. The Applicants' consultation response stated that the construction vehicles required to construct a new AGI would not breach the worst-case scenario traffic numbers (e.g. a total of 855 daily arrivals and 855 daily departures) already assessed within the original ES. The proposed works will also not change the peak month of construction that has been assessed within the original ES. The Secretary of State is satisfied with this explanation.

With regard to the Application documents, including the ES Addendum, and the information provided in the Applicants' consultation response, the Secretary of State is satisfied that no update is required to the ES in respect of Change 3.

- (b) The Secretary of State has concluded that, given the nature and impact of Change 3, there is not likely to be a significant effect on any European site or 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. Therefore, the Secretary of State is satisfied that a new HRA is not required in respect of Change 3.
- (c) The Secretary of State notes that Change 3 does not require any additional compulsory acquisition of land.
- (d) The Secretary of State notes that the impacts on local people and businesses relating to Change 3 are no greater than those arising from the development permitted by the Order.

24. The Secretary of State concludes that none of the specific indicators referred to in the Guidance, or other relevant considerations, suggests that Change 3 constitutes a material change.
25. The Secretary of State is satisfied that Change 3 is required to enable connection to the CO₂ gathering network in the southern part of the site and to avoid other apparatus identified during the detailed design stage. The Secretary of State is satisfied that there would be no new significant or materially different effects resulting from Change 3 when compared to the effects set out in the original ES. The Secretary of State concludes that Change 3 is acceptable and can be consented as a non-material change.

Change 4

26. The Secretary of State has considered Change 4 against the four matters set out in (1), (2), (3) and (4) in Paragraph 15 above:
- (a) The Secretary of State notes that the ES Addendum supports the Applicants' conclusions that there are no new, or materially different, likely significant effects in respect of Change 4 from those assessed in the ES.

The Secretary of State noted that smaller-scale plant and equipment were not included on the photowires and photomontages in the original ES as they were considered to be inconsequential in the context of the larger proposed and existing surrounding industrial structures and installations and requested the Applicants to clarify if the changes proposed, particularly Change 4, are regarded as small-scale equipment and to explain the basis for this conclusion. If not, the Secretary of State asked the Applicants to include these in updated photowires and photomontages and submit these as necessary. The Applicants responded that Change 4 specifies that the electrical connection will cross the Tees Valley railway line and River Fleet using steel-framed cable support structures located next to the existing road bridges and that similar structures of comparable height, including the road bridges, already exist in the area. Given this context, the proposed structures are considered to be small-scale, not visible from identified viewpoints and therefore will not be shown in the photowires or photomontages. The Applicants stated the steel-framed cable supports will have a maximum height of 7.2m above ground level: the same as the AGI and lower than the substation at Tod Point (12m above ground level). The proposed structures will be screened by vegetation, existing buildings and landform, further reducing their visibility such that they are not expected to be visible from the identified viewpoints and therefore the Applicants have not updated the photowires and photomontages. The Secretary of State considers that the structures are not likely to be visible from the identified viewpoints and is therefore satisfied that the photowires and photomontages do not require updating for Change 4, or indeed any of the other proposed changes.

The Secretary of State noted that the original ES concluded no effects on watercourses resulting from morphological changes and accidental pollution/sediment runoff due to the use of existing watercourse crossings at the electrical connection. As Change 4 would introduce above ground crossings of the Mill Race and Fleet watercourses and works close to these watercourses, the Secretary of State requested the Applicants to identify specific avoidance/mitigation measures and relevant control documents relevant to this change and

explain whether any amendments to these control documents were necessary. The Applicants' consultation response set out that the crossings of the Mill Race and Fleet watercourses would not require any works within the channel with the potential to cause adverse hydromorphological effects to the bed or banks or direct water quality effects. The Applicants stated that the works could create potential for indirect water quality effects relating to runoff of sediments, accidental chemical spillages conveyed to these watercourses, or other debris/materials falling into the channel. The Applicants stated that mitigation outlined in the original ES would remain applicable and control this risk to ensure residual effects were not significant. Measures were expanded upon in the framework Construction Environment Management Plan ("CEMP"), which require a Water Management Plan ("WMP") to be appended to the final CEMP. The submission and approval of the final CEMP is secured by Requirement 16 in Schedule 2 to the DCO. The WMP would provide greater detail regarding site-specific mitigation to be implemented to protect the water environment during construction and mitigation measures would apply equally to the proposed watercourse crossings required by Change 4 and would ensure no significant adverse effects to water quality. The Applicants considered that no amendments to the existing control documents were necessary. The Secretary of State is satisfied that the measures to be secured in the final CEMP will control risks to ensure residual effects are not significant.

The Secretary of State noted that ES Addendum Table 4-4 states there are no changes to the conclusions of the noise and vibration assessment due to Change 4. However, the Secretary of State understood that the nature of the proposed construction works at the electrical connection has changed, including piling up to 18m depth for the cable support structures and considered it was not clear whether piling and foundation works would result in higher noise levels than the topsoil strip assumed in the original ES and whether the ES Addendum should now assess piling and foundation works. The Secretary of State considered there was insufficient information to determine whether this would result in materially different effects at Noise Sensitive Receptor 3 ("NSR 3"), given the original conclusions of minor adverse effects at nighttime and that original predicted noise levels were close to noise limits. The Applicants' consultation response provided a table to present the updated prediction for rotary bored piling and foundation works. The Applicants concluded that, at the closest approach to NSR 3 (485m) the noise level is predicted to be 49 dB LAeq,T which, during daytime and evening/weekend periods, would result in negligible effects. This updated noise level based on rotary bored piling is slightly lower than the predicted level for the topsoil strip as assessed in the original ES. The framework CEMP specifies that no piling works will be conducted at night and so the conclusions from the original ES regarding night-time construction works, albeit based on topsoil strip, remain applicable. The Secretary of State is satisfied that Change 4 would not result in new or materially different effects due to noise and vibration.

The Secretary of State noted that ES Addendum Table 4-4 stated that Work No.3A is not predicted to result in any additional construction vehicle trips and requested the Applicants to provide details to justify the conclusion that construction of above ground and underground high voltage cabling and two cable support structures would not result in any

additional construction traffic. The Applicants' consultation response stated that the development change was not expected to affect the originally assessed traffic increases of 3-5% on the A1085 in the original ES [APP-098] as the predicted number of vehicle trips associated with Change 4 were within the tolerance assessed in the original ES. The Secretary of State is satisfied that Change 4 would not result in new or materially different effects due to traffic movements.

With regard to the Application documents, including the ES Addendum, and the information provided in the Applicants' consultation response, the Secretary of State is satisfied that Change 4 will not give rise to new, or materially different, likely significant effects on the environment.

- (b) The Secretary of State has concluded that, given the nature and impact of Change 4, there is not likely to be a significant effect on any European site or 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. Therefore, the Secretary of State is satisfied that a new HRA is not required in respect of Change 4.
 - (c) The Application documents did not explain how it was proposed that the land for Change 4 would be acquired and the Applicants had not confirmed the identity of the current landowners or their involvement in the application process. The Secretary of State requested that the Applicants evidence if they had acquired the land. The Applicants' consultation response outlined that there were two landowners. South Tees Developments Limited is the freehold owner of the majority of the 'additional land' and the Applicants have the benefit of an option agreement for an easement which has been completed between the parties. Network Rail Infrastructure Limited is the freehold owner of the remainder of the 'additional land', including the rail line which will be crossed by Work No. 3, and the Applicants have the benefit of an option agreement for an easement which has been completed between the parties. Both South Tees Developments Limited and Network Rail Infrastructure Limited were consultees in respect of the Application. The Applicants confirmed that they undertook negotiations in relation to the project, including the land required to deliver Change 4 and the parties specially negotiated and completed contracts with the Applicants. The Secretary of State therefore concludes that Change 4 does not require any additional compulsory acquisition of land.
 - (d) The Secretary of State notes that the impacts on local people and businesses relating to Change 4 are no greater than those arising from the development permitted by the Order.
27. The Secretary of State concludes that none of the specific indicators referred to in the Guidance, or other relevant considerations, suggests that Change 4 constitutes a material change.
28. The Secretary of State is satisfied that Change 4 is required to enable the electrical connection. The Secretary of State is satisfied that there would be no new significant or materially different effects resulting from Change 4 when compared to the effects set out in the original ES. The Secretary of State concludes that Change 4 is acceptable and can be consented as a non-material change.

Environmental Impact Assessment

29. 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.
30. The Secretary of State is satisfied that the environmental information provided by the Applicants in the Application and the further clarification received in response to the Secretary of State's consultation is sufficient to allow him to make a determination on the Application.
31. The Secretary of State has considered all relevant information provided and the comments of consultees. The Secretary of State agrees with the Applicants' 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.
32. As there are no new significant or materially different environmental impacts as a result of the proposed change, the Secretary of State considers that there is no requirement to update the ES.
33. 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

34. 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". The Secretary of State also considers it relevant to consider whether there could be significant effects on protected sites in other European Economic Area ("EEA") States. 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 make an appropriate assessment of the implications of the plan or project for that site in view of that site's conservation objectives"*. 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 the protected site concerned.
35. The Secretary of State has considered the information submitted in the Application and is satisfied that the proposed changes do not alter the conclusions set out in the Applicants' ES and the Secretary of State's HRA for the Order, and therefore a new HRA is not required.

General Considerations

Transboundary Impacts

36. Under Regulation 32 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (as amended), the Secretary of State has considered whether the

Development is likely to have a significant effect on the environment in another 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 ES for the project. Consequently, the Secretary of State has concluded that there would not be likely significant effects on the environment of any other EEA State whether the Application is considered of itself or cumulatively with the environmental effects already considered for the Order.

37. 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.
38. The Secretary of State therefore concludes there is no need for transboundary consultation with EEA States.

Equality Act 2010

39. 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;¹⁰ 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.
40. 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

41. 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 this 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

42. 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

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

biodiversity has been considered sufficiently in this Application for an amendment to accord with this duty.

Amendments to the 2024 Order

43. The Secretary of State has noted the content of the Applicants' proposed draft order to give effect to the proposed changes to the 2024 Order. The Secretary of State has made some drafting changes which it is considered have the same effect but add some additional clarity in terms of the amendments to the provisions relating to compulsory acquisition of interests in or rights over land.

The Secretary of State's Conclusions and Decision

44. 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.
45. The Secretary of State has considered 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.
46. 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), National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2), National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) and National Policy Statement for Electricity Networks Infrastructure (EN-5). 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 16 February 2024.
47. For the reasons set out in the paragraphs above, the Secretary of State is satisfied that the Applicants' request is acceptable. Furthermore, the Secretary of State considers that the Applicants have demonstrated that the proposed changes will not result in changes to the conclusions of the ES that accompanied the original application.
48. For the reasons given in this letter, the Secretary of State considers that there is a compelling case for authorising the proposed changes to Schedule 1 and Schedule 2 of the Order. The Secretary of State is satisfied that the changes requested by the Applicants 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

49. 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

50. 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

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/EN010103>

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).