



## Meeting note

<b>File reference</b>	EN010333
<b>Status</b>	<b>Final</b>
<b>Author</b>	Hannah Dickson
<b>Date</b>	11 September 2015
<b>Meeting with</b>	
<b>Venue</b>	Meeting Room 3/03, Temple Quay House, Temple Quay, Bristol BS1 6PN
<b>Attendees</b>	<b>Planning Inspectorate</b> Ken Taylor – Infrastructure Planning Lead Katherine King – Case Manager Hannah Dickson – Case Officer Helen Lancaster – Senior EIA Advisor Sarah George – Lawyer <b>The Applicant</b> Bronagh Byrne – DONG Energy Marc Browne – DONG Energy Francesca De Vita – DONG Energy Ashley Carton – RHDHV
<b>Meeting objectives</b>	Project update
<b>Circulation</b>	All attendees

### Summary of key points discussed and advice given

#### Welcome and introductions

The applicant was made aware of the Planning Inspectorate's (the Inspectorate) openness policy and that any issues discussed or advice given would be recorded and placed on the Inspectorate's website under section 51 of the Planning Act 2008 (PA 2008). Any advice given does not constitute legal advice upon which the applicant (or others) can rely.

The Inspectorate explained that the Department for Communities and Local Government *Guidance on Changes to Development Consent Orders* had not yet been published. Once this guidance was published the Inspectorate's role in a number of aspects of the process for non-material change applications would be clarified.

## **Project update/project status and timelines**

The applicant delivered a presentation on the project, and explained the need for variations to the Development Consent Order (DCO). The changes included the following:

- Increase the length and area of the three offshore High Voltage Alternating Current (HVAC) collector substation platforms.
- Increase the length width and area of the HVAC reactive compensation substation (RCS) platform.
- Amend requirement 10 within the DCO. Currently the requirement refers to no part of the works below Mean High Water Springs (MHWS) commencing until a decommissioning programme has been submitted to the Secretary of State. The proposed amendment would instead refer to the Mean Low Water Mark.

The applicant is of the opinion that the proposed changes would be non-material and as such would seek to deal with these through an application for a non-material change. The Inspectorate advised that ultimately the decision as to whether the proposed change was material would rest with the Secretary of State for Energy and Climate Change.

The applicant advised that separate applications would be made to the Marine Management Organisation (MMO) for the associated changes to the Deemed Marine Licences (DML).

### **Proposed variation to requirement 10**

The Inspectorate suggested that the applicant speak to Natural England, MMO and RSPB prior to submitting their application to ensure that they are able to take account of any responses/queries prior to submitting an application for a non-material change.

The applicant confirmed that it had previously met with the MMO to discuss this alteration and the previously discussed amendment to the OSS/RCS. The applicant also confirmed that it would arrange a meeting with Natural England to discuss these proposals. The applicant suggested it would not meet with RSPB.

### **Proposed variation to offshore substation platforms**

The Inspectorate suggested that table 4.1 in the draft Technical Note was revised so that the columns that dealt with height, width, length and area were aligned so that comparison between the consented dimensions and those proposed was easier to interpret.

The Inspectorate suggested that the applicant expand the draft technical note to clearly set out the rationale as to why it is considered that the proposed changes do not result in a change in the environmental effects (i.e. by providing greater explanation in third column of the table titled "Assessment of the changes to the OSS and RCS platform design parameters ..." (also numbered Table 4.1)).

The Inspectorate noted that the changes proposed were outside the worst case scenario assessed in the Environmental Statement. As such the Inspectorate emphasised the need for clear evidenced reasoning as to why no new or significant effects on the environment would result due to any of the proposed changes.

The applicant confirmed it would provide further clarity in the technical note to highlight that there would be no changes to the significance of effects as assessed in the environmental statement.

## **Consultation and publication**

The applicant gave an update on the non-statutory consultation to date, advising that meetings had taken place with various bodies including the MMO, Trinity House, Marine and Coastguard Agency, DECC, the Civil Aviation Authority, and the National Federation of Fisherman's Organisations.

The applicant had prepared a draft Consultation and Publication Strategy, setting out the proposed approach to for the consultation and publicity. The Inspectorate advised that regulations 6 and 7 of the Infrastructure Planning Changes to, and Revocation of, Development Consent Orders (as amended) set out the requirements. It was noted that the applicant did not intend to consult all persons detailed in regulation 7(2). Having regard to regulation 7(3) the applicant need not consult with all the specified persons provided consent is given by the Secretary of State for a reduced consultation. Currently the consultation strategy sets out the persons the applicant considers it is necessary to consult with. However it does not set out those the applicant does not consider it necessary to consult. The Inspectorate advised the applicant to provide an updated consultation strategy with justification for any proposed exclusions. The applicant was advised to consider the current approach and provide reasoning for any proposed exclusions.

The Inspectorate advised that, once the guidance was published, the Planning Inspectorate would be likely to assume the reasonability for agreeing any reduced consultation. In the interim the applicant was advised to provide the updated consultation strategy to the Inspectorate following which the Inspectorate would liaise with DECC in agreeing any reduced consultation.

With regards to the publication strategy, the Inspectorate advised that it appeared that this went beyond that required in the Regulations, for example it is not necessary for the notice to be published in the London Gazette or a national newspaper. The Inspectorate advised that a reduced publication strategy may be appropriate such as advertising in the two local papers for two consecutive weeks, plus Lloyds List and Fishing News for one week. The Inspectorate highlighted that the minimum 28 day period would need to run with the date the last notice was published (which was likely to be second consecutive advert in the local paper(s)). The applicant was also advised that they may wish to consider aligning the end date for the consultation responses (regulation 7) with the end date for the submission of responses in the newspaper adverts (regulation 6).

The following advice was provided on the wording of the draft notice:

- The final line in the description of the main elements of the application (starting with "The inaccuracy in the terminology ...") was not necessary or appropriate for the description as this formed part of the applicant's justification as to why it considered the change to be non-material rather than describing the proposed change.
- The web address for the project is: <http://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/hornsea-offshore-wind-farm-zone-4-project-one/>
- The email address for the project will be: Hornsea@infrastructure.gsi.gov.uk
- A postal address for the Inspectorate should also be provided.

- Remove the sentence beginning “The Planning Inspectorate will co-ordinate the receipt of any representations ...” in its place the applicant may wish to include a sentence to clarify that any responses will be published on the Inspectorate’s website.
- To comply with the regulations it is necessary to add a date that the documents will be available until. This must be at least until the deadline for any responses.

The Inspectorate advised that the application documents would need to be submitted to the Inspectorate prior to the publication of the notices and the consultation taking place, allowing sufficient time for the documents to be published on the website.

### **Time scales**

The applicant asked the Inspectorate to advise on timescales. The Inspectorate advised that the agreement for the reduced scope of consultation would have to take place before the formal application, consultation and publication process could begin. Typically this is not a long process, however currently it will be necessary to also seek confirmation from DECC on the consultation approach, and the Inspectorate cannot guarantee a timescale for this. Following the close of the applications consultation/ publicity period the Inspectorate would aim to publish the responses within a few days.

Following the close of the consultation/publication period the applicant would need to submit a consultation and publicity statement (regulation 7A). This must include a copy of the publicity notice and a statement setting out the steps the applicant took to comply with regulations 6 and 7. The Secretary of State does not need to begin to consider the application until this statement has been submitted.

There is no statutory time frame for a decision to be issued by the relevant Secretary of State, to date the decision period on the three decided applications for a non-material change had taken between a little under three months to a little under six months.

The applicant agreed to submit a timetable setting out the steps that would be undertaken in submitting the application and carrying out the consultation. This would include the date for the submission of the updated consultation and publication strategy. The Inspectorate advised that advance notice of the submission of this document would allow the Inspectorate to liaise with DECC on this matter with an aim to reduce timescales for agreeing any reduced scope of the consultation.

Currently the applicant is seeking to submit the application by the end of September.

### **AOB**

The fee (£6,891) is to be paid to DECC.

The applicant queried whether the drawings that they have included in the Technical Note are sufficient. The Inspectorate advised the applicant that it may be prudent to share these with the MMO and NE to ensure that these provided sufficient information for them to respond to the consultation. However it did appear that these were sufficient for illustrative purposes.

The applicant queried the process in respect of the associated changes to the DMLs. The Inspectorate advised that on previous applications the Inspectorate had been in

discussions with the MMO to seek a consistent approach to the scope of the consultation. However ultimately the processes were separate and in respect of the changes sought to the DCO it was important that the applicant followed the consultation and publicity requirements in the regulations.

The applicant queried whether the wording of Requirement 22 allowed for some changes to be approved by the local planning authority. The Inspectorate advised that the applicant would need to seek the relevant planning authority's view as to whether this requirement allowed for the relevant proposed changes to be approved by the local planning authority. However it appears that this requirement only allows for the relevant planning authority to approve additional changes to plans, schemes etc. which already required its approval, rather than other parameters or aspects of the DCO.

The applicant queried whether future applications for a change to the DCO would be possible, or whether only a single application was permitted. The Inspectorate confirmed that further applications could be submitted; however the cumulative impact of all changes would need to be considered.