



Department for
Business, Energy
& Industrial Strategy

Dogger Bank Teesside A and B Offshore Wind Farm – Non Material Change Application

Regulation 63 of the Conservation of Habitats and
Species Regulations 2017, and

Regulation 28 of the Conservation of Offshore
Marine Habitats and Species Regulations 2017 (The
“Habitats Regulations”)



February 2019

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1 Introduction and Background

1.1 Dogger Bank Teesside A and B Offshore Wind Farm

This is a record of the Habitats Regulation Assessment (“HRA”) that the Secretary of State for Business, Energy and Industrial Strategy (“BEIS”) has undertaken under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (the Offshore Habitats Regulations) in respect of the change (“the change application”) sought to the Development Consent Order (“DCO”) for the Dogger Bank Teesside A and B Offshore Wind Farm.¹ For the purposes of these Regulations, the Secretary of State is the competent authority.

The DCO was granted to the Forewind Limited consortium on 4 August 2015 and came into force on 26 August 2015. The DCO granted development consent to two individual project companies and projects: Bizco 2 for Project A (“Teesside A”) and Bizco 3 for Project B (“Teesside B”). The DCO grants development consent for each project (A & B) with each project comprising an offshore wind farm with a maximum capacity of 1.2 GW comprising up to 200 wind turbine generators as well as associated onshore and offshore development.

In August 2017, the Forewind Limited consortium, owning Bizco 2 and Bizco 3 was split. SSE and Statoil each now own 50% of Dogger Bank Teesside A (“Teesside A”) through a new consortium, Doggerbank Offshore Wind Farm Project 3 Projco Limited (“Project 3 Projco”); and Innogy now owns 100% of Dogger Bank Teesside B (“Teesside B”) under a new subsidiary, the Sofia Offshore Wind Farm Limited (“the Applicant”). The Applicant has renamed Project B/Teesside B as Sofia Offshore Wind Farm (“the Project”) and has the benefit of the development consent for the Project.

The Applicant does not have the benefit of the DCO in respect of Teesside A and the change application is not made on behalf of Project 3 Projco. The proposed changes will affect the Project’s offshore works only and do not relate to Teesside A or any shared works (save for the proposed changes that split the requirements between projects). The Applicant has indicated in its change application that it will collaborate as necessary to ensure that obligations and requirements under the DCO are met, for example in relation to the shared works consented by the DCO (i.e. Works Nos. 7, 7L, 8S, 9, 10A, 10B, 10C, 10D, 10E, 10F, 10G, 10H, 10I, 10J and 10K as defined in the DCO).

The Project is located 165 km east of Teesside and has consent for up to 200 wind turbines with a total installed capacity of 1.2 GW. The export cable will reach landfall along the Teesside coastline between Redcar and Marske-by-the-Sea (Figure 1).

¹ Dogger Bank Teesside A and B Offshore Wind Farm Order 2015/1592 (as amended).



Figure 1: Location of the Teeside B (Sofia) Offshore Wind Farm

1.2 Change Application

On 15 June 2018, the Applicant submitted a request to the Secretary of State for a change to be made to the 2015 Order under the powers in Schedule 6, of the Planning Act 2008. The requested changes are to allow:

- each wind turbine generator to have a maximum rotor of up to 288 metres rather than the consented maximum of up to 215 metres;
- to add an option for the offshore platforms to be fixed to the seabed using monopole foundations as well as the consented multi-leg or gravity base type foundations;
- to restrict the combined number of monopole foundations for the wind turbine generators and platform to the existing number of 200; and
- to increase the maximum generating capacity to 1.4 GW from the consented 1.2 GW.

All other DCO parameters remain unchanged, including hammer energy, site boundary and rotor swept area. These changes are summarised below in Table 1.

Table 1: Proposed consent amendments.

No	Parameter	As Consented	Refined Project Design Non-Material Application
1	Wind Turbine Rotor Diameter	215 metres	288 metres
2	Offshore Platforms Foundation type	Gravity base or multileg foundations	Gravity base, multileg or monopole foundations. Monopole foundations may be up to 12m in diameter
3	Maximum number monopoles Combined number of WTG and offshore platform monopoles	200	200 (i.e. no change)
4	Generating capacity Increase of maximum generating capacity up to 1.4 gigawatts (GW)	1.2 GW	1.4 GW

1.3 Scope of Assessment

Upon receiving the application and supporting documentation (including the Environmental Report²), the Secretary of State consulted all relevant stakeholders. Further clarification and information from the Applicant, Natural England and the Marine Management Organisation (MMO) to inform the Secretary of State's HRA was also sought on 29 November 2018. All of the consultation responses received have been considered in preparing this HRA.

The Applicant's original change application included a request to increase the permitted hammer energy for the installation of the wind turbine and sub-station piles. However, the Applicant subsequently withdrew this part of the application in a letter to BEIS on the 8 February 2019. All other aspects of the change application remain as originally submitted.

In undertaking this HRA for the change application, the Secretary of State has cross-referenced the HRA published for the grant of the original DCO (the "2015 HRA").³ Given the nature of the requested changes to the DCO, the Secretary of State considers the requested changes have the potential to impact protected sites designated since the publication of the 2015 HRA. This includes the designation of the Flamborough and Filey Coast Special Area of Conservation (SPA) and the designation of the Southern North Sea candidate Special Area of Conservation (cSAC). This HRA contains the Secretary of State's conclusions on the effects of the 2015 Order – including the changes requested within the change application – on protected habitats and species within these two sites.

For the remainder of this document, the development consented under 2015 Order, and the proposed changes requested within this change application, will be referred to as "the Project".

2 Habitats Regulation Assessment (HRA)

Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ("the Habitats Directive") and Council Directive 2009/147/EC on the conservation of wild birds ("the Birds Directive") aim to ensure the long-term conservation of certain species and habitats by protecting them from the possible adverse effects of plans and projects.

The Habitats Directive provides for the designation of sites for the protection of habitats and species of European importance. These sites are called Special Areas of Conservation ("SACs"). The Birds Directive provides for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the EU. These sites are called Special Protection Areas ("SPAs"). SACs and SPAs are collectively termed European sites and form part of a network of protected sites across Europe. This network is called Natura 2000.

In the UK, the Habitats Regulations and the Wildlife and Countryside Act 1981 transpose the Habitats and Birds Directives into national law as far as the 12nm limit of territorial waters. Beyond territorial waters, the Offshore Marine Habitats Regulations serve the same function for the UK's offshore marine area. The change application covers areas within and outside the 12nm limit so both sets of Regulations apply.

² <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010051/EN010051-002275-SOWF-DCO%20NMC%20Application%20June%202018%20-%20Appendix%20-%20Supporting%20Information-Environmental%20Report.pdf>

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010051/EN010051-000215-6.1%20ES%20Chapter%201%20Introduction.pdf>

Regulation 63 of the Conservation of Habitats and Species Regulations 2017 provides that:
....before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

And that: *In the light of the conclusions of the assessment, and subject to regulation 64 [IROPI], the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*

Regulation 28 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 contains similar provisions:

Before deciding to undertake, or give any consent, permission or other authorisation for, a relevant plan or project, a competent authority must make an appropriate assessment of the implications of the plan or project for the site in view of that site's conservation objectives.

And that:

In the light of the conclusions of the assessment, and subject to regulation 29 [IROPI], the competent authority may agree to the plan or project only if it has ascertained that it will not adversely affect the integrity of the European offshore marine site or European site (as the case may be).

This change application is not directly connected with, or necessary to, the management of a European site or a European marine site. The Habitats Regulations require that, where the project is likely to have a significant effect (“LSE”) on any such site, alone or in-combination with other plans and projects, an appropriate assessment (“AA”) is carried out to determine whether or not the project will have an adverse effect on the integrity of the site in view of that site’s Conservation Objectives. In this document, the assessments as to whether there are LSEs, and, where required, the AAs, are collectively referred to as the HRA.

This report was compiled using evidence from the application documents and consultation responses, which are available on the Planning Inspectorate’s Nationally Significant Infrastructure Project web pages⁴. In particular:

- Applicant’s letter, supporting documentation (including Environmental Report) and shadow HRA;
- Consultation responses;
- Statements of common ground from the Applicant with MMO and Natural England; and
- Original 2015 HRA

Key information from these documents is summarised and referenced in this report.

⁴ <https://infrastructure.planninginspectorate.gov.uk/projects/yorkshire-and-the-humber/dogger-bank-teesside-a-sofia-offshore-wind-farm-formerly-dogger-bank-teesside-b-project-previously-known-as-dogger-bank-teesside-ab/?ipcsection=overview>

3 Likely Significant Effects Test

Under regulation 63 of the Habitats Regulations and Regulation 28 of the Offshore Regulations the Secretary of State must consider whether a development will have an LSE on a European site, either alone or in combination with other plans or projects.

The purpose of this test is to identify any LSEs on the two European sites that may result from the project subject to the change application and to record the Secretary of State's conclusions on the need for an AA and his reasons for including activities, sites or plans and projects for further consideration in the AA.

The Secretary of State has considered the potential impacts of the change application on all relevant interest features, taking into account their conservation objectives, of the two new protected sites listed above to determine whether there will be LSEs in the context of the Habitats Regulations. The Secretary of State recognises that powers are in place for decommissioning effects to be addressed fully by the relevant authorities prior to decommissioning, and in light of more detailed information on decommissioning processes and environmental conditions at that time. The Secretary of State therefore considers that it is reasonable not to include a detailed discussion on decommissioning impacts in this report and notes that decommissioning is not a barrier to the change application being granted.

3.1 Flamborough and Filey Coast SPA ("FFC SPA")

In August 2018 the Secretary of State for the Department of Environment, Food and Rural Affairs (DEFRA) formally designated the Flamborough and Filey Coast (FFC) as an SPA. This SPA is located approximately 100km from the Sofia development. The 2015 HRA considered the FFC as a potential SPA.

Consultees have not recommended that any further assessment is carried out in respect of this SPA to support this application (e.g. Statement of Common Ground with Natural England⁵), however, as the site has been designated since the original DCO decision, the SPA is addressed in this HRA.

3.1.1 Project Alone

This SPA represents an extension to the existing Flamborough Head and Bempton Cliffs SPA and new species were added to the citation list. The new full list of features includes black-legged Kittiwake, northern gannet, common guillemot and razorbill. The site also qualifies due to its seabird assemblage: during the breeding season the area regularly supports 215,750 individual seabirds including black-legged kittiwake, northern gannet, common guillemot, razorbill and northern fulmar.

Wind farms can present a range of risks to birds, including collision with turbine blades, direct disturbance through habitat loss and indirect disturbance through displacement effects from the infrastructure (including barrier effects).

Displacement and disturbance, barrier effects and collision risk were all considered in the 2015 HRA and original Environmental Statement (ES). Both concluded that impacts likely to have a significant effect on the FFC SPA were displacement and disturbance to a range of species (particularly guillemot) and

⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010051/EN010051-002359-Sofia%20OWF%20Innogy%20Renewables%20UK%20Limited%20&%20Natural%20England%20-%20SoCG%20-%202015.11.18.pdf>

collision risks to northern gannet and black-legged kittiwake. The Secretary of State agrees with this original assessment and, therefore, displacement and disturbance impacts and collision risks to gannet and kittiwake species are included further within this HRA.

Natural England published conservation objectives⁶ for the FFC SPA in November 2018, these are set out in Table 2 below.

Table 2: Conservation Objectives for FFC SPA.

Conservation Objectives	<p>Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the aims of the Wild Birds Directive, by maintaining or restoring;</p> <ul style="list-style-type: none">• The extent and distribution of the habitats of the qualifying features• The structure and function of the habitats of the qualifying features• The supporting processes on which the habitats of the qualifying features rely• The population of each of the qualifying features, and,• The distribution of the qualifying features within the site.
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The total number of wind turbines used will be constrained by the rotor-swept area (unchanged in the Application). For collision, habitat loss, change, disturbance and displacement, and barrier effects, the worst case scenario assessed in the original ES would remain unchanged by the proposed amendments. Parties also agreed that the conclusions of the 2015 HRA are not affected by these proposed changes.

Within the original application for the DCO, the Applicant considered potential impacts on the FFC proposed Special Protection Area ("pSPA"), and this was included within the subsequent HRA undertaken by the Secretary of State who concluded no adverse effect on site integrity on the pSPA.

On the basis of the above, the Secretary of State considers that the changes proposed are not likely to compromise the conclusions of the existing assessments that have been used in support of this change application. The Secretary of State has therefore concluded that the changes proposed in the change application are not likely to have a significant effect on the FFC SPA when considered alone.

3.1.2 Project in Combination with Other Projects

Since the 2015 HRA, further windfarm developments have been consented which must be taken into account for an in-combination assessment of likely significant effects on the FFC SPA.

The East Anglia Three HRA⁷ was published on 7th August 2017 and it incorporated the revised site designation and population numbers together with an up to date list of projects for the in-combination assessment, including the 2015 Order. The following projects were considered by the Secretary of State in-combination using each of the project's full consented capacities and taking a tiered approach:

- Beatrice Demonstrator;
- Greater Gabbard;
- Gunfleet Sands;

⁶ <http://publications.naturalengland.org.uk/file/5534523496595456>

⁷ <https://infrastructure.planninginspectorate.gov.uk/projects/eastern/east-anglia-three-offshore-wind-farm/?ipcsection=docs>

- Kentish Flats;
- Lincs;
- London Array;
- Lynn and Inner Dowsing;
- Scroby Sands;
- Sheringham Shoal;
- Teesside;
- Thanet;
- Humber Gateway;
- Westermost Rough;
- Beatrice;
- Blyth (NaREC Demonstration);
- Dudgeon;
- East Anglia ONE;
- EOWDC (Aberdeen OWF);
- Firth of Forth Alpha and Bravo;
- Dogger Bank Creyke Beck A & B;
- Galloper;
- Hornsea Project 1;
- Inch Cape;
- Moray Firth;
- Neart na Goithe;
- Race Bank;
- Rampion;
- Dogger Bank Teesside A & B;
- Triton Knoll;
- Horsea Project 2; and
- East Anglia THREE.

There have been no further projects consented, or alterations to existing projects, that would change the conclusions of the East Anglia Three HRA.

The 2015 HRA concluded that *habitat loss and barrier effects would not have an LSE* on the qualifying species of the FFC SPA when considered in-combination with other plans or projects. The Secretary of State believes this conclusion still stands in light of this change application.

An LSE upon the qualifying species of the FFC SPA has been identified in this instance because of the potential for the Project, in-combination with other plans or projects, to increase *the risk of displacement and disturbance, and collision mortality*.

3.2 Southern North Sea cSAC

The Southern North Sea (SNS) cSAC is located to the east of England. This site was considered as a potential SAC in the original ES. The original ES assessed potential conservation objectives which subsequently aligned with the final conservation objectives of the SNS cSAC (Table 3). The Secretary of State has also referred to a range of documents that have been produced and published by the Joint

Nature Conservation Committee (“JNCC”) in relation to the SNS cSAC. Published documents include site selection reports, Conservation Objectives and Advice on Activities; all of which have been made available at the JNCC’s site information centre.⁸

This site stretches from the central North Sea (north of Dogger Bank) to the Straits of Dover in the south, covering an area of 36,951km². The majority of this site lies offshore, though it does extend into coastal areas of Norfolk and Suffolk crossing the 12 nautical mile boundary and hence both Natural England and JNCC are responsible for providing statutory advice.

The site’s qualifying feature is harbour porpoise. Seasonal differences in the relative use of the site have been identified based on the analyses of Heinänen and Skov (2015)⁹ which shows that harbour porpoise occur in elevated densities in some parts of the site compared to others during summer and winter. Conservation objectives for the site are set out in Table 3 below.

Table 3: Conservation Objectives for the SNS cSAC.

Conservation Objectives	<p>To ensure that the integrity of the site is maintained and that it makes an appropriate contribution to maintaining Favourable Conservation Status (FCS) for harbour porpoise in UK waters. In the context of natural change, this will be achieved by ensuring that:</p> <ul style="list-style-type: none">• Harbour porpoise is a viable component of the site;• There is no significant disturbance of the species; and• The condition of supporting habitats and processes, and the availability of prey is maintained.
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3.2.1 Project Alone and in-Combination with other Projects

The addition of monopiles as a foundation type for the offshore platform has the potential to change impacts on the SNS cSAC beyond those assessed in the original ES.

However, the total number of monopiles which is being applied for in this change application remains the same (200) as were assessed in the original ES. As the number of monopiles is cannot exceed those assessed in the original ES, there are unlikely to be significant effects over those already assessed.

Further, the Secretary of State considers that the requested change in foundation type is unlikely to alter the worst case scenario for pin pile foundations assessed in the original ES, given that the installation of pin piles generates higher frequency noise when compared to installation of monopiles. As harbour porpoise are considered a high frequency cetacean, the worst case scenario assessed in the original ES would remain unchanged by the proposed amendments.

Worse case impacts to the supporting habitats, processes and availability of prey are also unlikely to be changed from the original ES as gravity base foundation would have the largest impact to the SNS cSAC habitat as they have the largest likely footprint and therefore the potential to impact the sea bed.

⁸ <http://jncc.defra.gov.uk/page-7243>

⁹ http://jncc.defra.gov.uk/pdf/JNCC_Report%20544_web.pdf

The Secretary of State considers that the change application would not result in the project alone or in combination to have an LSE over the impacts already assessed in the original ES.

The Project is currently being reviewed as part of the Southern North Sea Review of Consents (“the Review of Consents”), which will assess any general amendments needed to existing consents as a result of the establishment of the SNS cSAC.¹⁰ This separate process, which covers multiple Southern North Sea consents considered in alone and in combination, includes a detailed review of the impacts of underwater noise on the SNS cSAC.

The Secretary of State considers that this general and dedicated process for addressing the individual and cumulative effects of existing projects on a new SAC is the appropriate mechanism for ensuring that there is no adverse effect from this Project and others on the integrity of the SNS cSAC.

To ensure that there can be no adverse effect on the integrity of the SNS cSAC before the conclusion of the Review of Consents, the Secretary of State considers it appropriate to include a condition that no offshore construction works may commence until after the conclusion of the Review of Consents process.

This HRA does not prejudice the outcome of the Review of Consents, including any changes that may be necessary to the Project’s consents or marine licences as a result of that process.

4 Appropriate Assessment

The purpose of this AA is to determine whether or not adverse effect on the integrity of the features of the Flamborough and Filey Coast SPA can be ruled out as a result of the change application alone or in combination with other plans and projects in view of the site’s conservation objectives and using the best scientific evidence available.

If the competent authority cannot ascertain the absence of an adverse effect on integrity within reasonable scientific doubt, then under the Habitats Regulations, alternative solutions should be sought. In the absence of an acceptable alternative, the project can proceed only if there are imperative reasons of overriding public interest (“IROPI”) and suitable compensation measures identified. Considerations of IROPI and compensation are beyond the scope of an AA.

4.1 Flamborough and Filey Coast SPA In-Combination Assessment

A likely significant effect upon the FFC SPA was identified because of the potential for the Project, in combination with other plans or projects, to increase the risk of displacement and disturbance, and collision mortality on the gannet and kittiwake interest features of the site.

4.1.1 Displacement and Disturbance

The original ES concluded that the Project had the potential to displace and disturb a number of species from the FFC SPA with the highest disturbance being likely for guillemot. The original ES and the 2015 HRA went on to conclude that there will not be an adverse effect on the integrity of the FFC SPA as the species would adapt to the removal of a portion of their foraging grounds with minor population impacts. As the number of turbines that can be installed for the Project will be the same or fewer than those assessed in the 2015 HRA, and the maximum permitted swept area is the same, the Secretary of State

¹⁰ <https://www.gov.uk/government/consultations/southern-north-sea-review-of-consents-draft-habitats-regulations-assessment-hra>

is satisfied that the changes proposed in the change application will not lead to an adverse effect on site integrity of the FFC SPA when considered in-combination with other plans or projects.

4.1.2 Collision Mortality

The East Anglia Three HRA concluded that, in-combination with other plans and projects, the EA3 project would not have an adverse effect on site integrity. The East Anglia Three HRA was written considering the current consented Sofia project specifications. As the changes proposed within this application will not cause an adverse effect above that which was previously assessed, the Secretary of State considers that the proposed changes to the Project are not likely to compromise the conclusions of the existing assessments for either the Project or East Anglia Three, that have been used in support of this change application.

The Secretary of State has therefore concluded that the changes proposed in the change application will not have an adverse effect on the integrity of the FFC SPA when considered alone or in-combination with other plans or projects.

5 Habitats Regulations Assessment Overall Conclusions

The Secretary of State has considered carefully all of the information presented within the non-material change application and the representations made by all stakeholders. The Secretary of State has concluded that the assessments made in the 2015 HRA and that for East Anglia Three are relevant to this change application. The Secretary of State considers that the Project is unlikely to have an LSE on the SNS cSAC beyond the impacts already assessed in the original ES.

Due to the existence of the Southern North Sea Review of Consents, the Secretary of State has concluded that the Review of Consents process is the appropriate mechanism to consider whether the Project and others need any amendment to their consents, including marine licences, arising from the establishment of the SNS cSAC.

To ensure that there can be no adverse effect on the integrity of the SNS cSAC from the Project before the conclusion of the Review of Consents, the Secretary of State considers it appropriate to include a condition to ensure that no offshore construction works may commence until after the conclusion of the Review of Consents process. Consequently, the Secretary of State has amended the DCO to include amend the existing DCO to include a condition that no stage of Project B Offshore Works may commence until after the decision of the Secretary of State concluding the review of consents so far as the Project is concerned.

Further, the Secretary of State considers that the project has the potential to have an LSE on the newly designated FFC SPA when considered in-combination with other plans or projects.

The Secretary of State has undertaken an AA in respect of the FFC SPA's conservation objectives to determine whether the Project, either alone or in-combination with other plans or projects, will result in an adverse effect on site integrity.

The Secretary of State has undertaken a robust assessment using all of the information available to him, including consultee responses. Having considered all of the information available to him and the mitigation measures secured through the DCO and dMLs, the Secretary of State has concluded that the changes proposed to the Project do not amount to an adverse effect alone and in combination.