



National Infrastructure
Planning
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer
Services: 0303 444 5000
e-mail: ThanetExtension@planninginspectorate.gov.uk

To all Interested Parties, Statutory
Parties and Other Persons

Your Ref:

Our Ref: EN010084

Date: 9 April 2019

Dear Sir/ Madam

**The Planning Act 2008 – Sections 51 and 89
The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule
8(3) and Rule 9**

**Material Change to an Application by Vattenfall Wind Power Limited for an
Order Granting Development Consent for the Thanet Extension Offshore
Wind Farm**

Procedural Decisions and Amended Examination Timetable

I am writing to you to advise of procedural decisions taken by the Examining Authority (ExA) and changes to the Timetable for the Thanet Extension Offshore Wind Farm Examination.

You have received this letter because the law requires that where an Examination Timetable is changed, all persons already involved in the Examination together with all persons entitled to be notified of the acceptance and Examination arrangements for the application must be notified. Further information about your status in the Examination is set out below.

This letter provides you with procedural decisions about the Examination process, an amended Examination Timetable, and other important information about the Examination responding to a request by the Applicant for a **Material Change** to their Application made at Deadline 4 (D4) and more fully documented at Deadline 4B (D4B). The purpose of the Material Change in summary is to introduce a Structures Exclusion Zone (SEZ) in the proposed offshore array area as additional mitigation for shipping and navigation safety concerns raised during the Examination and to secure this in the draft Development Consent Order (dDCO). The change proposal has been tested by the Applicant in terms of its navigation and broader planning and environmental effects. **Annex A** to this letter provides links to documents submitted by the Applicant describing the change that it seeks.

As a consequence of the Material Change request, the Examining Authority (ExA) has made Procedural Decisions (PD) about the way the change to the application will be examined. It has amended the timetable attached to the Rule 8(3) Letter of 4 April 2019 (the 'PD of 4 April 2019'). The consolidated Examination Timetable attached at **Annex B** amends the Examination Timetable of 4 April 2019 with effect from item 25 on Monday 29 April 2019.

Procedural Decisions to support these changes and the reasoning for them are set out in the balance of this letter.

Procedural Decisions and reasons

Amendment of the PD and Examination Timetable of 4 April 2019

The PD and the Examination Timetable of 4 April 2019 have been amended. It remains in force up to Deadline 5, item 25 on Monday 29 April 2019 (D5), after which additional changes to enable the effects of the Material Change to be examined come into effect. The Examination Timetable in **Annex B** consolidates all timetable provisions arising from the PD of 4 April 2019 and from this PD that are now in force.

ExA procedural decision on Material Change

The ExA has considered the Material Change request made by the Applicant at D4 together with the supporting documents submitted at D4 and D4B. The relevant documents are recorded in **Annex A**. It has decided to accept the SEZ proposal as a material change to the submitted Application. The amended Timetable (**Annex B**) provides an opportunity for all existing Interested Parties (IPs) and Other Persons (OPs) involved in the Examination to comment on the Material Change. The ExA has provided the Applicant with advice under s51 PA2008 (**Annex C**) about the procedural consequences of the change for persons who are not already involved in the Examination, in summary asking the Applicant to notify and consult such persons for a period no less than 30 days and to notify such persons of their opportunity to request to participate in the Examination by Deadline 6 (D6) if they wish. The Applicant has been requested to provide the ExA with a report recording the material change consultation process and responses to consultation received, by D6.

Procedural reasoning

The Applicant submitted a Material Change request at D4 that was not fully documented. The ExA made a PD on 4 April 2019 requiring the Applicant to submit the remaining documents to enable it to make this procedural decision by D4B. Those documents have now been received and considered by the ExA.

In deciding to accept the Material Change request, the ExA has amended the Examination Timetable to ensure that IPs and OPs already participating in the Examination are aware of the change documents and have an opportunity to comment on them. It has advised the Applicant to notify and consult relevant persons who are not already involved in the Examination. It has provided an opportunity for any such persons who wish to become involved in the Examination to do so at D6. It has asked the Applicant to report on this consultation process and responses to it and it has provided a means whereby IPs and OPs participating in the Examination can comment on that report. In providing the Applicant with advice about the extent and duration of the consultation process, the ExA has been

mindful that it must be at least as inclusive as that required for pre-application consultation for a Nationally Significant Infrastructure Project¹ and at least as long as the minimum period provided for consultation on an Environmental Statement (ES)².

Your status in the Examination and future notifications

This letter has been sent to you because you (or the body you represent) fall within one of the categories in s88(3) of the Planning Act 2008 (PA2008).

If you have made a Relevant Representation, have a legal interest in the land affected by the application or are a relevant local authority (reference numbers beginning with 'TEOW-000', 'TEOW-AFP', 'TEOW-S57' or '2001'), you have a formal status as an Interested Party in the Examination.

Interested Parties will receive notifications from the Planning Inspectorate about the Examination throughout the process and may make written and oral submissions regarding the application.

If you are a Statutory Party (ie body specified in the relevant regulations supporting the PA2008) but have not made a Relevant Representation (reference number beginning with 'TEOW-SP') you will not automatically be an Interested Party. However, you may still notify the Planning Inspectorate that you wish to be treated as an Interested Party at any point during the Examination.

Statutory Parties who have not made a Relevant Representation and do not notify us of their wish to become an Interested Party **will not** receive further correspondence in relation to the examination of this application except where matters subject to general notice (such as a timetable change) become necessary.

If you are not an Interested Party or a Statutory Party (ie a body specified in the relevant regulations supporting the PA2008), you have received this letter because you were invited to the Preliminary Meeting or to participate in the Examination as an Other Person³ further to your request and/ or because it appeared to us that the Examination could be informed by your participation. Other Persons have a reference number beginning with 'TEOW-OP'. If you are an Other Person you are not an Interested Party. We have agreed that Other Persons may participate in the Examination and will receive notifications from the Planning Inspectorate on the same basis as if they were an Interested Party.

If you are unsure of your status within the Examination, please do not hesitate to contact the Case Team using the details at the top of this letter. Information regarding the formal status of Interested Parties and how you can get involved in the process is set out in the Planning Inspectorate's Advice Note 8 series, available here: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>.

¹ The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP 2009)

² The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs 2017)

³ An Other Person is a person who is not an Interested Party (IP) who has been invited to participate in the Examination by the ExA

Award of costs

You should be aware of the possibility of the award of costs against parties who behave unreasonably.

To assist understanding of what 'unreasonable behaviour' means in the context of an Examination under the PA2008, you may find it helpful to read the government guidance 'Awards of costs: examinations of applications for development consent orders' (July 2013)⁴. It is in everyone's interest that information is brought forward as early as possible in the examination process, so you are encouraged to do so.

Management of information

The Planning Inspectorate has a commitment to transparency. Therefore, all information submitted for this project (if accepted by the ExA) and a record of any advice which has been provided and all examination documents are published at: <https://infrastructure.planninginspectorate.gov.uk/projects/South%20East/Thanet-Extension-Offshore-Wind-Farm/>

Annex D to the **Rule 8 Letter** of **18 December 2018** advises of locations where electronic documents can be inspected if you do not have access to your own computer or equivalent device. Those locations have not changed.

Please note that in the interest of facilitating an effective and fair examination, we consider it necessary to publish some personal information. To find out how we handle your personal information, please view our Privacy Notice.

We look forward to continuing to work with all parties in the examination of this application.

Yours faithfully

Rynd Smith

Lead Member of the Examining Authority

Annexes

- A** Material Change: Document Summary
- B** Amended Examination Timetable
- C** Material Change: Publicity and Consultation by the Applicant: Advice under s51 PA2008

⁴ <https://www.gov.uk/government/publications/awards-of-costs-examinations-of-applications-for-development->

Material Change: Document Summary

The Material Change seeks to introduce a Structures Exclusion Zone (SEZ) to the Application which would prevent the location of permanent structures in part of the offshore array area and to secure this in the draft Development Consent Order (dDCO). The purpose of the change is to mitigate alleged adverse effects on shipping and navigational safety raised in written representations and in oral submissions at ISH2 and ISH6.

The Applicant's Material Change request was submitted in its cover letter to the ExA at Deadline 4 (D4) [[REP4-001](#)] on pages 2 and 3 ('*Structures Exclusion Zone (SEZ) and the Applicant's further submissions at [what was then] Deadline 4A*').

The Applicant's cover letter for D4 recorded the following supporting documents submitted at D4 as describing the Material Change.

'A clear description of the change is provided in Appendix 14 [[REP4-018](#)] [including a description of the SEZ] and in the updated Offshore Works Plan (Appendix 24) [[REP4-028](#)]. The rationale for the change is also set out in Appendix 14 and consideration of policy matters are discussed further in Appendix 5 [[REP4-007](#)].'

Whilst a revised tracked changes dDCO containing references to the SEZ was also submitted at D4, this was found by the ExA to lack the intended tracked changes and the ExA asked for it to be replaced at D4B.

The Applicant's cover letter at D4 foreshadowed that a substantial body of additional documentation in support of the Material Change request would be provided at what the timetable at that time described as D4A on 9 April 2019. Having considered the effect of this timing for IPs and OPs intending to participate in ISH8, the ExA made a procedural decision (PD) requiring the Applicant to submit all remaining supporting documentation by an earlier new Deadline 4B (D4B) on 5 April 2019 and deferring the submission of responses to this material to a new Deadline 4C (D4C) on 10 April 2019.

The Material Change Documentation submitted at D4B by the Applicant and accepted for Examination is as follows:

- A Navigation Risk Assessment (NRA) Addendum (Appendix 1)
- A review of other Application Documents (Appendix 2)
- An addendum to the Environmental Statement (ES) (Appendix 3)
- Other documents supporting the SEZ:
 - An Addendum to the Report to Inform Appropriate Assessment (Appendix 4)
 - Revised Crown Land Plan (Appendix 5)
 - Revised Extinguishment of Public Rights of Navigation Plan (Appendix 6)
 - Revised Radar Line of Sight Plan (Appendix 7)
- Updated 'Guide to the Application' (Appendix 8)
- Revised tracked changes draft DCO replacing that submitted at Deadline 4 (Appendix 9)

All of these documents can be found under D4B in the [Examination Library](#).

Amended Examination Timetable

Item	Matters	Due Dates
1-18	<p>Previous Items</p> <p>Items 1 – 18D of the approved Examination Timetable published on 18 December 2018 and as amended on 1 March and 4 April 2019 have been delivered as per that Timetable and are not repeated here. Items from 18E of the Timetable on 4 April 2019 remain in force, with the additional amendments shown here in red from item 25, 29 April 2019 are additionally in force.</p>	<p>All from 11 December 2018 to 29 April 2019</p>
18E	<p>Publication by ExA of:</p> <ul style="list-style-type: none"> • The ExA's Further Written Questions (ExQ2) (Note – further questions addressing the Structures Exclusion Zone (SEZ) proposal submitted by the Applicant at Deadline 4 and other matters as required may also be published at Item 27 below.) 	<p>Wednesday 10 April 2019</p>
18F	<p>Deadline 4C</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Lists of ports, shipping, pilotage and navigation safety experts intending to appear at ISH8. • Submission of statements of evidence to be prepared by or for the Applicant and/ or IPs requesting to be heard to inform ISH8. <p>In addition to submission of these documents to the ExA, the Applicant and IPs must simultaneously electronically distribute the documents to the persons listed in Annex B to the Rule 8(3) and Rule 9 Letter of 4 April 2019.</p>	<p>Wednesday 10 April 2019 (11.59pm)</p>

Item	Matters	Due Dates
19	Accompanied Site Inspection 2 (ASI2) at the Thames Ports ¹ (itinerary available here)	Monday 15 April 2019 (all day)
20	Issue Specific Hearing 8 (ISH8) Part 1 ISH8 (Part 1) on Environmental, Shipping, Maritime, Fishing and other matters.	Tuesday 16 April 2019 (all day)
21	Issue Specific Hearing 8 (ISH8) Part 2 ISH8 (Part 2) on Environmental, Shipping, Maritime, Fishing and other matters.	Tuesday 16 April 2019 (evening)
22	Issue Specific Hearing 8 (ISH8) Part 3 ISH8 (Part 3) on Environmental, Shipping, Maritime, Fishing and other matters	Wednesday 17 April 2019 (all day)
23	Compulsory Acquisition Hearing (CAH2) CAH2	Thursday 18 April 2019 (morning)
24	Issue Specific Hearing 9 (ISH9) ISH9 on the draft Development Consent Order (dDCO)	Thursday 18 April 2019 (afternoon)
25	Deadline 5 Deadline for receipt of: <ul style="list-style-type: none"> • Revised and progress versions of SoCGs • Responses to ExA's Further Written Questions (ExQ2) • Comments on Applicant's revised dDCO • Responses to any further information requested by the ExA (specifically including any 'action points' arising from hearings) 	Monday 29 April 2019 (11.59pm)

¹ Port of Tilbury, Tilbury 2 and London Gateway Port.

Item	Matters	Due Dates
	<ul style="list-style-type: none"> • Post hearing submissions including written submissions of oral case • Comments on any additional information/ submissions received by Deadline 4, 4B and 4C • Submission to the ExA by the Applicant of the SEZ Material Change consultation package as published • Submission to the ExA of comments on the SEZ Material Change application and related documents submitted at D4 and D4B by IPs and OPs already within the Examination 	
25A	<p>Deadline 5A</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Comments on any revised dDCO submitted by the Applicant at Deadline 5 	<p>Friday 3 May 2019 (11.59pm)</p>
26	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> • The ExA's preferred dDCO or dDCO commentary (if required) 	<p>Tuesday 7 May 2019</p>
26A	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> • Report on the Implications for European Sites (RIES) (if required) 	<p>Tuesday 14 May 2019</p>
27	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> • The ExA's Further Written Questions (ExQ3) (if required) 	<p>Thursday 16 May 2019</p>
28	<p>Deadline 6</p> <p>Deadline for receipt of:</p>	<p>Tuesday 28 May 2019 (11.59pm)</p>

Item	Matters	Due Dates
	<ul style="list-style-type: none"> • Final SoCGs • Responses to ExA's Further Written Questions (ExQ3) (if published) • Comments on responses to the ExA's Further Written Questions (ExQ2) • Comments on the ExA's preferred dDCO or dDCO commentary (if required) • Comments on the RIES (if published) • Responses to any further information requested by the ExA • Comments on any additional information/submissions received by Deadline 5 and 5A • Submission to the ExA by the Applicant of the SEZ Material Change Consultation Report (described in Annex C to the R8(3) and R9 Letter of 9 April) and any supporting documents • Submission to the ExA of comments on D5 submissions on the SEZ Material Change application by IPs and OPs already within the Examination • Submission of requests to become an IP or OP from any person responding to the Applicant's SEZ Material Change consultation package who is not already involved in the Examination • Statements of submissions by persons requesting to become an IP or OP in response to the Applicant's SEZ Material Change consultation package and who are not already involved in the Examination 	

Item	Matters	Due Dates
28A	Publication by the ExA of: <ul style="list-style-type: none"> • The ExA's Further requests for information under EPR Rule 17 (if required) 	Thursday 30 May 2019
28B	Deadline 6A Deadline for receipt of: <ul style="list-style-type: none"> • Responses to the ExA's Further requests for information under EPR Rule 17 (if required) 	Monday 3 June 2019 (11.59pm)
29	Deadline 7 Deadline for receipt of: <ul style="list-style-type: none"> • Comments on responses to the ExA's Further Written Questions (ExQ3) • Comments on responses to the ExA's Further requests for information under EPR Rule 17 (if required) • Responses to comments on the ExA's draft DCO or dDCO commentary (if required) • Responses to comments on the RIES (if published) • Responses to any further information requested by the ExA • Comments on any additional information/submissions received by Deadline 6 • Statements of matters not agreed (in circumstances where a SoCG could not be finalised by Deadline 6) • Final DCO to be submitted by the Applicant in the SI template with the SI template validation report 	Thursday 6 June 2019 (11.59pm)

Item	Matters	Due Dates
	<ul style="list-style-type: none"> • Applicant's Tracking List of SoCGs and agreements identifying any changes since Deadline 3 • Applicant's Tracking List of Application Documents and Plans identifying any changes since Deadline 3 • Applicant's Tracking List of changes to mitigation measures, identifying any changes since Deadline 3 • Submission to the ExA of comments on the SEZ Material Change Consultation Report and any supporting documents • Submission to the ExA of comments on statements of submission made at D6 by IPs or OPs who joined the Examination at that deadline • Submission to the ExA of responses to comments on D5 submissions on the Material Change application by IPs and OPs already within the Examination before D6 	
29A	<p>Deadline 8</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Submission to the ExA by the Applicant of responses to comments on statements of submission made at D6 by new IPs or OPs who joined the Examination at that deadline • Submission to the ExA by the Applicant of responses to comments on the SEZ Material Change consultation report and any supporting documents 	<p>Monday 10 June 2019 (5.00pm)</p>

Item	Matters	Due Dates
30	The ExA is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the close of the Preliminary Meeting.	Tuesday 11 June 2019

Deadlines

Where a deadline is set on a date for the submission of any documents to the ExA, the documents must be received by the ExA by 11:59pm on that day unless the timetable makes specific alternative provision. Persons submitting documents in person are requested to ensure that they allow sufficient time for collation and transmission, to ensure that submissions do not breach this time requirement. The Planning Inspectorate office closes at 5pm and persons submitting hard copy documents in person must ensure that they are received before the office closes. Where hard copy documents are submitted by post or courier, persons submitting documents must ensure that sufficient time is allowed for delivery no later than last post on the deadline day. The acceptance of documents received after the expiry of a deadline is subject to the exercise of discretion by the ExA.

Please note that certain revised Deadlines are now subject to a requirement for the simultaneous electronic distribution of documents to relevant IPs. Further guidance on this process is provided in **Annex B**.

Publication dates

All information received will be published on the project page of the National Infrastructure Planning website as soon as practicable after each deadline for submissions. An Examination Library will be kept up to date throughout the Examination and can be accessed via the project page. Each document will be provided with a unique reference. These references will be used by the ExA during the Examination and can be obtained from:

<https://infrastructure.planninginspectorate.gov.uk/document/EN010084-000737>

Hearing agendas

We will aim to publish a detailed draft agenda for each hearing on the project page of the National Infrastructure Planning website at least five working days in advance of the hearing date. The actual agenda on the day of each hearing may be subject to change at the discretion of the ExA.

Report on the Implications for European Sites

Given that the Applicant has provided a Habitats Regulations Assessment (HRA) Report to inform an appropriate assessment with the DCO application ([\[APP-031\]](#), [\[APP-032\]](#) and [\[APP-033\]](#)), the ExA may decide to issue a Report on the Implications for European Sites (RIES) during the Examination. If issued, the RIES will be a factual account of the information and evidence provided to the ExA on HRA matters during the Examination up to the date of its issue, for the purposes of enabling the Secretary of State as competent authority to fulfil the requirements of the Habitats Regulations. It does not set out the ExA's opinion on HRA matters.

Comments on the RIES will be invited by the ExA and any received will be taken into account as part of the ExA's Recommendation to the relevant Secretary of State.

The Secretary of State may rely on the consultation on the RIES to meet its obligations under Regulation 63(3) of the Habitats Regulations and/ or Regulation 28 of the Offshore Marine Regulations.

Material Change: Publicity and Consultation by the Applicant: Advice under s51 PA2008

Publicity and Consultation Processes

The Applicant is requested to publicise the SEZ Material Change Documents providing an analogue to all processes required by:

- The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP 2009) – particularly Regulation 4; and
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs 2017) – particularly Regulation 22.

Where a process is required by the APFP 2009 or the EIA Regs 2017 alone then it should be undertaken as described in the relevant regulations. Where a process is required by both the APFP 2009 and the EIA Regs 2017, it should be undertaken to ensure compliance with the most detailed or extensive provision.

The timescale for consultation must be analogous with that described in the EIA Regs 2017 Regulation 22(3) (f) (iii) – with the deadline for responses being no less than 30 days following the date when the relevant consultee received the notice.

Opportunity for Consultees to Request to Participate in the Examination

The Applicant is requested to provide all consultees with a link to this letter and to advise them that, if they are not already involved in this Examination, by **Tuesday 28 May (Deadline 6)** they may:

- Submit a request to the ExA to become an IP or OP in this Examination; and if they do so, they may also
- Provide a statement of submissions in response to the Applicant's SEZ Material Change consultation package.

Consultation Report

The Applicant is requested to prepare a consultation report (to be referred to as the '*SEZ Material Change Consultation Report*'). The report should record:

- The dates and time periods of publicity and consultation for the SEZ Material Change;
- Copies of all notices served and lists of persons to whom notice has been sent;
- Proof of publication of notices required to be published;
- A list of all responses to the consultation; and
- A list of issues raised in responses to the consultation and the Applicant's response to those issues.

The Applicant is requested to submit the SEZ Material Change Consultation Report by **Tuesday 28 May (Deadline 6)**.