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Your Ref:

By email only

Our Ref: EN010098

Date: 26 October 2021

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Dear Dr Carolan,

## **Planning Act 2008 (as amended) – Section 51**

### **Application by Ørsted Hornsea Project Four Limited for an Order Granting Development Consent for the Hornsea Project Four Offshore Wind Farm**

#### **Advice following issue of decision to accept the application for examination**

On 26 October 2021 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay close attention to its content and consider how appropriate action might be taken.

#### **GENERAL ADVICE**

##### **Clarification regarding Energy Balancing Infrastructure (EBI)**

During the acceptance stage, the Inspectorate was provided with a signposting document regarding the proposed EBI which would form part of Work No 7. To ensure clarity and consistency, consideration should be given to updating the application documents in light of the information contained within the signposting document such as deleting the erroneous references to hydrogen electrolysis and the option of the EBI being located offshore. Furthermore, the Applicant may wish to consider submitting a more detailed assessment of the EBI in relation to the potential environmental effects from accidents and disasters.

## **Ground levels in relation to the proposed Substation and EBI**

It is noted that the ground levels for the onshore substation and EBI are proposed to be set post-consent through a requirement. No maximum or minimum existing or finished ground or floor level parameters appear to be provided, only 'likely levels'. Greater clarity should be provided on how the Examining Authority (ExA) and Secretary of State (SoS) could rely on any Development Consent Order (DCO) to control this, and the basis that was adopted for each of the relevant assessments, especially the Flood Risk Assessment (FRA) (Doc A6.2.2) and the Landscape and Visual Assessment (Doc A3.4) and accompanying visualisations (Doc A6.4.1).

## **Horizontal Directional Drilling (HDD)**

The location of all HDDs is presented in the Onshore Crossing Schedule (Doc A4.4.2). However, this document is not referenced within the draft DCO (Doc C1.1). If HDD is proposed to mitigate any environmental effects the Applicant is advised to ensure that its delivery is secured.

## **Consistency Check**

A consistency check is required for the names used for outline and final plans and strategies that are relied upon in the mitigation mapping and to secure commitments. Some inconsistencies are apparent between document titles, cross references and the corresponding entries in the Commitment Register (Doc A4.5.2) and Schedule 15 of the draft DCO (Doc C1.1) (for example, the Outline Site Integrity Plan, the Outline Construction Traffic Management Plan, the Onshore Written Scheme of Investigation, the Outline Employment and Skills Plan).

## **ADVICE IN RELATION TO THE ENVIRONMENTAL STATEMENT (ES)**

### **Preliminary Environmental Information Report (PEIR)**

Parts of the ES rely on mitigation measures that are said to be set out in the PEIR or that were agreed at that stage. The PEIR is a pre-application consultation document and does not appear to have been included within the application documents. Consequently, it would not therefore be before the ExA. The ExA therefore would need an explanation of how any such assessments and commitments included in the PEIR could be examined and secured through any DCO (for example, tables 5.6 of Doc A3.5, and 6.12 of Doc A3.6).

### **Professional Expertise in relation to the ES**

The ES as currently drafted provides brief information about the expertise of the companies responsible for compiling the relevant chapter of the ES. However, given the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, consideration should be given to updating the ES to provide the necessary information in relation to the key individual experts involved in each ES topic.

### **Proportionate approach**

The 'proportionate approach' to the EIA relies for most topics on iterative, pre-application consultation with regulators and consultees. Each topic chapter in the ES refers to agreements that are said to have been reached in relation, for example, to scoping, the type of assessment, and assessment outcomes. There is also a table in each topic chapter that sets out '*...impacts not considered in detail in the ES and justification*', which – in some instances – include entries that move an issue on from the scoping opinion position through reported agreement with the relevant consultees.

As this is a unilateral record of all such agreements, to avoid specific, retrospective questioning of all such regulators and consultees, consideration should be given to summarising the agreements on which the EIA relies in signed Statements of Common Ground (SoCG) with those regulators and consultees.

### **Withdrawal from the European Union (EU)**

The ES, and other application documents, are shown to have been prepared and approved during 2021 but many still refer to the withdrawal of the United Kingdom from the EU and the subsequent transitional period in the future tense (for example, section 2.2.1 of Chapter 2 of the ES (Doc A1.2)). Some references remain to EU Directives. Consideration should be given to updating the application documents in light of the final withdrawal agreement.

### **ADVICE IN RELATION TO THE HABITAT REGULATIONS ASSESSMENT (HRA)**

In the HRA Screening Matrices (Doc B2.2 Appendix B) the footnotes associated with the matrices do not always contain specific section or paragraph cross references to supporting information. For completeness the Applicant is advised to resubmit the matrices with this information.

It is noted that the SoCG between Hornsea Project 4 and Natural England: Derogation and Compensation Matters (Doc F3.4) provides a structure but that the tables within it are not populated with any information. This is drawn to the Applicant's attention in case this unpopulated document was submitted in error. The Applicant is advised to take this into account prior to submission of any further intended SoCG.

### **ADVICE IN RELATION TO THE FLOOD RISK ASSESSMENT (FRA)**

The FRA (ES Volume A6, Annex 2.2, Onshore Infrastructure Flood Risk Assessment (Doc A6.2.2) references an outdated version (2010) of the East Riding of Yorkshire Council's Level 1 Strategic Flood Risk Assessment (SFRA). However, the Evidence Plan (Doc B1.1.1) indicates that the Applicant has used the most recent version of the SFRA, published in 2019. The Applicant is advised to clarify which version has been used in the FRA and provide any necessary updates should the 2010 version have been used.

Some of the text in the Tables provided in Appendix 1 of the submitted Evidence Plan (Doc B1.1.1) is obscured. You are advised to submit revised versions showing the full text.

For elements of the proposed development located in Flood Zone (FZ) 3, the Applicant may wish to differentiate those within FZ3a or FZ3b and whether the location of the development within FZ3b has given rise to any flood compensation requirements.

The FRA (Doc A6.2.2) does not demonstrate whether options exist that could wholly avoid siting the proposed development outside of FZ3, nor does it provide details of how flood risk was taken into account in the site selection process. The Applicant may wish to provide this information to inform the ExA's application of the sequential test.

In order to inform the ExA's consideration of the exception test, the Applicant may want to confirm where in the submitted documents the demonstration that the Proposed Development would provide wider sustainability benefits to the community that outweigh the flood risk can be found.

## **OTHER MATTERS**

### **Consultees identified on a precautionary basis**

Given the individual circumstances of this case, the Planning Inspectorate advises taking a precautionary approach to consultation under s42(1)(a) of PA2008 to ensure that all persons potentially affected by, or potentially likely to have an interest in the application are given the opportunity to participate fully in the Examination of the application. On this basis, the Applicant may wish to serve notice on the bodies listed in Box 6 of the section 55 checklist when it serves notice of the accepted application under s56(2)(a) of the PA2008; unless there is a specific justification why this is not necessary.

### **Abbreviations and Acronyms**

Some of the application documents (and in particular the ES) use abbreviations and acronyms that are not included in the in-document glossary (for example ES Chapter 1.3: RPSS, SEZ, OSCG etc (Doc A1.3)). Consideration should be given to ensuring that each in-document glossary is comprehensive, or to the production of a stand-alone glossary that covers all of the application documents.

### **Minor errors and omissions**

The Applicant should note any minor errors and/ or omissions that are reflected in box 30 and elsewhere in the Acceptance Checklist.

### **Submission of updated documents**

With regard to the issues identified above, it would be helpful and assist the examination process if any other information, clarification documents or amendments made to the application documents were submitted to the Inspectorate as soon as possible and by no later than 10 working days before the Preliminary Meeting (PM), to enable them to be published on the project page of our website before the PM.

An ExA, once appointed, may ask questions regarding these matters or request updated documents unless they are provided.

Please pay close attention to the advice set out in this letter and act on it accordingly. This will contribute towards a more efficient Examination and give any future ExA comfort that the documentation is complete and accurate. We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

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Yours sincerely

*Liam Fedden*

Liam Fedden  
**Case Manager**

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