



Hornsea Project Four: Derogation Information

Without Prejudice Derogation Funding Statement

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Revision Summary

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Revision Change Log

<i>Rev</i>	<i>Page</i>	<i>Section</i>	<i>Description</i>
01	-	-	Submitted at Examination Application
02	12	3	Addition of Marine Recovery Fund text
02	Updated throughout	Updated throughout	Removal of gannet and explanation of the updated project position
02	4 & 5	Glossary and Acronyms	Updated glossary and acronyms to relevant terms
02	Updated throughout	Updated throughout	Updated document references
02	8	1	Updates on refined search areas
02	Updated throughout	Updated throughout	Formatting and spelling corrections
02	8	3	Update on signed Agreement for Lease with the Crown Estate
02	9	2	Updated company financial and employee details for 2021
02	11 & 12	3	Updated to reflect the compensation values including number of bycatch reduction vessels

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Glossary

Term	Definition
Agreement for Lease (AfL)	An agreement for lease (AfL) is a non-binding agreement between a landlord and prospective tenant to grant and/or to accept a lease in the future. The AfL only gives the option to investigate a site for potential development. There is no obligation on the developer to execute a lease if they do not wish to.
Contracts for Difference (CfD)	The Contracts for Difference (CfD) scheme is the government's main mechanism for supporting low-carbon electricity generation. CfDs incentivise investment in renewable energy by providing developers of projects with high upfront costs and long lifetimes with direct protection from volatile wholesale prices, and they protect consumers from paying increased support costs when electricity prices are high.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Projects (NSIP).
Effect	Term used to express the consequence of an impact. The significance of an effect is determined by correlating the magnitude of the impact with the importance, or sensitivity, of the receptor or resource in accordance with defined significance criteria.
Hornsea Project Four Offshore Wind Farm	The term covers all elements of the project (i.e. both the offshore and onshore). Hornsea Four infrastructure will include offshore generating stations (wind turbines), electrical export cables to landfall, and connection to the electricity transmission network. Hereafter referred to as Hornsea Four.
Orsted Hornsea Project Four Ltd.	The Applicant for the proposed Hornsea Project Four Offshore Wind Farm Development Consent Order (DCO).
The Secretary of State (SoS) for Business, Energy and Industrial Strategy	The ultimate decision maker with regards to Hornsea Four's application for Development Consent.

Acronyms

Acronym	Definition
AEoI	Adverse Effect on Integrity
AFL	Agreement for Lease
A/S	Aktieselskab (Danish: Joint Stock Company)
CfD	Contracts for Difference
DCO	Development Consent Order
FFC	Flamborough and Filey Coast
FID	Final Investment Decision
GCP	Kittiwake Compensation Plan

Acronym	Definition
AEoI	Adverse Effect on Integrity
GRCP	Guillemot and Razorbill Compensation Plan
LSE	Likely Significant Effect
NSIP	Nationally Significant Infrastructure Project
PINS	Planning Inspectorate
SoS	Secretary of State
SNCB	Statutory nature conservation bodies
SPA	Special Protection Area
UK	United Kingdom

Units

Unit	Definition
km	kilometre
kV	kilovolt
GW	Gigawatt
MW	Megawatt

1. Introduction

- 1.1.1.1 This Funding Statement forms part of the suite of documents in support of the Kittiwake Compensation Plan and the Guillemot and Razorbill Compensation Plan (together the “Compensation Plans”) for the Flamborough and Filey Coast (FFC) Special Protection Area (SPA).
- 1.1.1.2 This Funding Statement is supplemental to the [\(E1.1 CA Volume E1.1 Funding Statement \(REP2-018\) as updated and submitted at Deadline 7\)](#) which forms part of the Application.
- 1.1.1.3 It has been developed in response to the Development Consent Order (“DCO”) Decision letter issued by the Secretary of State for the Department of Business, Energy and Industrial Strategy on 31st December 2020 on matters relating to the delivery of compensatory measures for the Hornsea Three Offshore Wind Farm (Hornsea Three). The Secretary of State (SoS) clarified the importance of (i) identifying the potential for adverse impacts on the integrity of designated sites during the pre-application period and (ii) considered the need for derogation of the Habitats Regulations during the examination where there is potential for Adverse Effect on Integrity (AEol). The SoS further expected Applicants and statutory nature conservation bodies (SNCB’s) to engage constructively during the pre-application period and on these matters, include possible compensatory measures, for consideration during the examination. The SoS was clear that this does not necessarily require that agreement is reached between the Applicant and the SNCB’s on the potential for significant adverse impacts on designated sites and evidence relating to derogation can be provided on a “without prejudice” basis, as the final decision on such matters remains for the SoS.¹
- 1.1.1.4 The Applicant is submitting a “without prejudice derogation case” which forms part of the Application. Its purpose is to provide, without prejudice, information to demonstrate that the Article 6(4) derogation tests could be met for Hornsea Four if it is necessary to rely upon them to authorise the offshore wind farm.
- 1.1.1.5 Following submission of its DCO application, the Applicant has revisited its conclusion of no adverse effect on integrity (AEol) in respect of the kittiwake feature of the Flamborough and Filey Coast Special Protection Area (FFC SPA) from Hornsea Four in combination with other plans and projects. The Applicant maintains its position of no AEol for kittiwake alone or in combination for all other qualifying species (guillemot and razorbill) of the FFC SPA and for all other European Sites. The Applicant has however retained within this document the compensation measures in support of the kittiwake feature as this document is consistent with the general project funding statement [\(REP2-018\)](#). Natural England in their response at Deadline 6 have also confirmed [\(REP6-055\)](#) that subject to resolving some minor discrepancies in the data, they can confirm AEol can be ruled out alone or in combination for gannet at FFC SPA. The without prejudice derogation case has therefore been withdrawn for gannet.

¹ See para 6.3 and 6.4 of the letter of the Department for Business, Energy & Industrial Strategy Decision Letter for Hornsea dated 31 December 2020. Available [here](#)

- 1.1.1.6 The Kittiwake Compensation Plan (KCP) (Revision 3 of [B2.7 FFC SPA: Kittiwake Compensation Plan](#) (to be submitted at Deadline 7)) sets out the proposed compensation pursuant to Article 6(4) of the Habitats Directive² relating to the project alone effects on the kittiwake population designated at the FFC SPA and how this will be secured and delivered. The proposed compensation is set out within the KCP. If required the Applicant will implement an onshore artificial nesting structure designed specifically for kittiwake within search zones identified on the east coast of England or the Applicant will construct a new structure offshore or repurpose an existing oil and gas platform or similar for nesting kittiwake, with repurposing as the Applicant's preference. An additional resilience measure to enhance fish habitat is also proposed.
- 1.1.1.7 The Guillemot and Razorbill Compensation Plan (GRCP) (Revision 3 of [B2.8 FFC SPA: Guillemot and Razorbill Compensation Plan](#) (to be submitted at Deadline 7)) sets out the proposed compensation pursuant to Article 6(4) of the Habitats Directive relating to project alone effects on those species and how this will be secured and delivered. The proposed compensation is set out within the GRCP. If required the Applicant will implement predator eradication at specific locations to benefit guillemot and razorbill and/or bycatch reduction measures to benefit guillemot and razorbill. An additional resilience measure to enhance fish habitat is also proposed.
- 1.1.1.8 This Funding Statement should be read in conjunction with the Compensation Plans.
- 1.1.1.9 This Funding Statement has been prepared taking into consideration guidance from Defra 2012 Guidance³, Defra Best Practice Guidance for developing compensatory measures in relation to Marine Protected Areas 2021 (in consultation),⁴ EC 2018 Managing Natura 2000 sites⁵, (Guidance) the Planning Inspectorate's Advice Note Ten⁶, and Tyldesley and Chapman's Habitats Regulations Assessment (HRA) Handbook⁷. The EC 2018 guidance states that the following criteria must be considered when developing compensatory measures:
- The financial feasibility of the measures according to the timing required; and
 - The financing programme to be approved during the necessary period to guarantee the success of the measure.
- 1.1.1.10 In addition, the guidance states that "*all necessary provisions, technical, legal or **financial**, necessary to implement the compensatory measures must be completed before the plan or project implementation starts...*".

² 92/43/EEC

³ Defra (2012), Habitats and Wild Birds Directives: Guidance on the application of article 6(4) - alternative solutions, imperative reasons of overriding public interest (IROPI) and compensatory measures. December 2012.

⁴ Best Practice guidance for developing compensatory measures in relation to Marine Protected Areas (in consultation).

⁵ EC (2018). Managing Natura 2000 sites. The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC. Brussels, 21.11.2018 C(2018) 7621 final.

⁶ Planning Inspectorate (2017). Advice Note Ten: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects. November 2017, Version 8.

⁷ Tyldesley, D. and Chapman C. (2013-2019). The Habitats Regulations Assessment Handbook, 2019 edition UK: DTA Publications Limited. Note that this publication is an on-line handbook that is updated periodically.

1.1.1.11 This Funding Statement has been submitted to demonstrate that the costs associated with implementing the compensation measures will utilise the same financing arrangements in place to finance the construction of the Hornsea Four windfarm. **Section 3** sets out the estimated costs associated with the implementation of the compensation measures. An outline programme has been included in the Compensation Plans. The Applicant commits to continuing to develop the compensation measures ahead of final investment decision (FID) in line with the **Roadmaps reference** Revision 5 of **B2.7.2 Compensation measures for FFC SPA: Kittiwake Offshore Artificial Nesting Roadmap** (Deadline 7 submission), Revision 5 of **B2.7.4 Compensation Measures for FFC SPA: Kittiwake Onshore Artificial Nesting: Roadmap** (Deadline 7 submission), Revision 5 of **B2.8.2 Compensation Measures for FFC SPA: Bycatch: Roadmap** (Deadline 7 submission), Revision 5 of **B2.8.4 Compensation Measures for FFC SPA: Predator Eradication: Roadmap** (Deadline 7 submission), and Revision 5 of **B2.8.6 Compensation Measures for FFC SPA: Fish Habitat Enhancement: Roadmap** (Deadline 7 submission).

1.1.1.12 It will be necessary to acquire land and rights over land in order to develop an artificial nesting structure therefore powers of compulsory acquisition may be needed if voluntary agreements cannot be reached. The enabling powers in the Electricity Act 1989 would be used in this context. The costs associated with the land acquisition are inclusive of the costs associated with pursuing compulsory purchase powers and claims for compensation. Since submission of the Application the Applicant has refined the onshore areas of search for onshore artificial nesting (**REP6-030** and **REP6-031**). For predator eradication the Applicant has also refined its search area and focussed upon the Bailiwick of Guernsey. The Applicant has concluded that compulsory acquisition powers would not be required for a predator eradication programme.

1.1.1.13 The remainder of this document explains how Orsted Hornsea Project Four Limited (Company Registration Number 08584182 ("the Applicant") and its ultimate parent company expect Hornsea Four will be funded, including the implementation of the compensation measures and the resilience measure as set out in the Compensation Plans.

2. Corporate Structure and Assets

2.1.1.1 The Applicant is registered in England and is a wholly owned subsidiary of Orsted Power (UK) Limited, (a company incorporated in England and Wales with Company Registration No. 04984787). Orsted Power UK Limited is a wholly owned subsidiary of Ørsted A/S, a company incorporated in Denmark (Company Number 36213728). There are a number of one hundred percent owned subsidiary companies in the chain of companies between Orsted Power (UK) Limited and Ørsted A/S as shown in **Figure 1**. These companies are hereinafter referred to collectively as "Ørsted".

2.1.1.2 Ørsted A/S is majority owned by the Danish Government (50.1%) in conjunction with the following shareholders (shareholders with less than 3% not listed):

- Andel A.M.B.A, Denmark
- The Capital Group Companies Inc, United States

- 2.1.1.3 Ørsted is one of the leading energy businesses in Northern Europe and has its headquarters in Denmark. Its employees averaged 6,836 over 2021 and in that year it generated DKK 77.7 billion (£9.0 billion) in revenue. Ørsted's well established business is based on procuring, producing, distributing and trading in energy and related products in Northern Europe. It has focused its strategy on developing, constructing and maintaining offshore wind projects throughout Northern Europe and has recently expanded into new markets in both North America and Asia. Ørsted is committed to supplying clean and reliable energy and aims to have 50 GW of installed capacity by 2030.
- 2.1.1.4 The consolidated accounts for Ørsted A/S for the year ending 31st December 2021 set out total assets of DKK 162.9 billion (£18.8 billion) and can be found attached to the project Funding Statement ([Volume E.1 Annex 1.3 Funding Statement - Ørsted Annual Report 2021 \(REP2-021\)](#)).

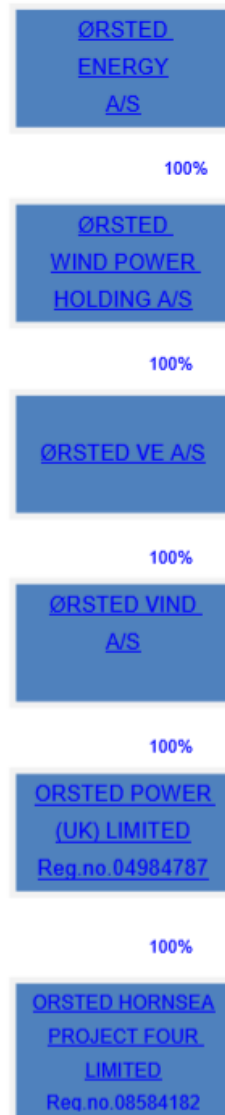


Figure 1: Orsted Corporate Structure.

3. Project cost

- 3.1.1.1 The current cost estimate for Hornsea Four is approximately £5-8 billion⁸. This cost estimate includes construction costs, operational costs, development costs, project management costs, financing costs and land acquisition costs.
- 3.1.1.2 The Applicant has a signed Agreement for Lease with The Crown Estate in relation to a 846 km² seabed area. Within this seabed area, Hornsea Four can execute up to four separate leases with The Crown Estate. The Applicant also has signed an Agreement for Lease with the Crown Estate for the export cable corridor running from the array to the shore.
- 3.1.1.3 The Applicant has estimated the costs associated with developing, constructing and operating the compensation measure as outlined in the Compensation Plans for the lifetime of the windfarm. The costs of decommissioning subject to the necessary consents are also included, in the event this should be required. The total cost for compensation has been estimated at £29.5m and includes costs associated with land acquisition and claims for compensation should they be required. The costs have been broken down below in [Table 1](#).

⁸ Estimate based on CAPEX and OPEX assumptions in the "BEIS Electricity Generation Costs (2020) using a potential project capacity of 2.6GW for calculation.

Table 1: The total suite of compensation options for all species.

	Measure	Costs (£)	Rounded costs (£M)
<i>Devex</i>	Artificial Nesting	7,036,000	7
	Bycatch		
	Predator Eradication	1,222,222	1
	Fish Habitat		
<i>CAPEX</i>	Artificial Nesting	973,080	1
	Bycatch	382,000	0.5
	Predator Eradication	397,803	0.5
	Fish Habitat	3,000,000	3
	Prey Availability Fund	500,000	0.5
<i>OPEX</i>	Artificial Nesting	7,541,369	8
	Bycatch	2,960,798	3
	Predator Eradication	3,082,975	3
	Fish Habitat	1,500,000	1.5
<i>ABEX</i>	Artificial Nesting	500,000	0.5
	Bycatch		
	Predator Eradication		
	Fish Habitat		
Total		29.5⁹	

3.1.1.4 The cost estimates provided above in **Table 1** include work required ahead of FID and are specific to securing the compensation measure. In relation to artificial nesting they make provision for applications for any necessary consents and permits, land/seabed acquisition and early design and engineering work for one new offshore nesting structure using monopile rather than jacket foundations as this is considered to be the most costly option. In relation to bycatch the costs estimates include the cost of equipment, trials and the commercial agreements with fishers (8 vessels with looming eye buoys) implementing the compensation measure. In relation to predator eradication, the costs include surveys, applications for consents and agreement with landowners regarding access relating to one island. All compensation measures include the costs of stakeholder engagement. In so far as possible, cost estimates have been informed by information provided to the Applicant together with Ørsted's considerable experience with securing consents, permissions and design works particularly in relation to artificial nesting structures. Finally, a £500,000 (five hundred

⁹ This figure includes a 50% contingency applied across DEVEX, CAPEX, OPEX and APEX for each compensation measure/resilience measure not including the contribution to the marine recover fund or equivalent fund (if available) which is £500,000.

thousand pound) contribution to the Marine Recovery Fund or an equivalent fund if one is available has been included in the draft Development Consent Order.

- 3.1.1.5 Further to advice received by the Applicants Affiliate, Ørsted Hornsea Project Three (UK) Limited that it is considered highly unlikely that third party claims for disturbance will succeed, the Applicant has allocated a modest contingency in addition to the value of land acquisition for the onshore nesting structures themselves and the associated rights.
- 3.1.1.6 Funding costs for construction and operations and maintenance phases of delivery of the compensation measures include monitoring and associated data analysis, reporting and consultation with stakeholders for all compensation measures. In relation to a new artificial nesting structure the fabrication, delivery and installation of the structure has been included. The Applicant has also assessed the costs associated with the fabrication and adaptation of an existing structure together with the costs of transfer from an oil and gas operator/owner and these costs are lower than the costs of a new structure. The Applicant has therefore included the higher costs associated with a new offshore structure. For predator eradication the costs of implementing biosecurity measures have also been included. For bycatch the ongoing costs of fishers utilising the technology has been included. Additional costs have been identified to include costs associated with adaptive measures should they be required, including further consents, land agreements and engineering-related work associated with modifying or moving the artificial nest structures. Costs for monitoring have been informed by environmental consultancy firms whilst fabrication, delivery and installation have also been informed by external specialists, however, due to the newness of such an undertaking a 50% contingency has been applied to all compensation measures. Due to the 50% contingency that has been applied, it is unnecessary to update the costs included at [Table 1](#) notwithstanding the refinement of the measures since submission of the Application.

4. Capital funding

- 4.1.1.1 The Applicant has assessed the commercial viability of Hornsea Four in light of this information and is confident that Hornsea Four will be commercially viable based on the reasonable assumption that it receives the key consents it requires, including the DCO, and a Final Investment Decision ("FID") is taken, indicating the final unconditional decision of the shareholders to invest in the construction of the wind farm and associated infrastructure.
- 4.1.1.2 The Applicant is a special purpose vehicle, which currently does not have substantial assets. It is funded by its shareholder on the basis of a rolling budget looking ahead to anticipated expenditure. Although the precise funding mechanism for Hornsea Four has not been formally agreed, it has the potential to be via a mixture of funding from the Applicant's parent company combined with project financing from external investors, secured against the revenue streams of the future wind farm. This model has been successfully deployed on Ørsted projects in the past, such as the Race Bank project (573 MW, 50% of the project divested for £1.6 billion), Walney Extension project (659 MW, 50% of the project divested for £2 billion) and Hornsea One project (1,218 MW, 50% of the project divested for £3.5 billion). Ørsted has also indicated that from 2019, it expects its business activities to generate sufficient cashflows in order to finance planned portfolio investments. As a result, it may be

possible for Hornsea Four to be financed without the need for any external financing initiatives.

- 4.1.1.3 Given Ørsted's history of delivering similar projects and its proven track record of securing capital funding, it is expected that the funding mechanisms mentioned in para. 4.1.1.2 will meet the capital expenditure for Hornsea Four along with the costs of implementing the compensation measures.

5. Conclusion

- 5.1.1.1 The explanation set out in this Statement provides a robust basis for concluding that the compensation measures as set out in the Compensation Plans can be financed through the existing financial arrangements in place to develop, construct and operate Hornsea Four.