



Hornsea Project Four

Applicant's response Rule 17 letter dated 11 August 2022

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1 Introduction

- 1.1.1.1 On 11 August 2022 the Examining Authority (ExA) issued a request under Rule 17 to Orsted Hornsea Project Four Limited and other stakeholders, requesting further information and comments as part of the Hornsea Project Four Examination Process. This letter provides a response to the points raised by the ExA in their request, which is broken into constituent parts for ease of response in Table 1 below.

Reference	Stakeholder's Written Representation	Applicant's Response
1	<p>Question for the Applicant:</p> <p>The RSPB [REP6-067] has highlighted an outbreak of Highly Pathogenic Avian Influenza in seabird populations along the east coast of the UK, leading to exceptionally high levels of mortality at some colonies.</p> <p>Does this have any implications for the assessments undertaken for this Application in the context of robustness of the populations to additional mortality, the baseline figures used in the assessment and whether the relevant European site qualifying feature bird populations can continue to be considered in favourable conservation status?</p>	<p>Avian influenza is an external factor that has the potential to reduce seabird populations over the lifespan of the project. However, in doing so this external factor would also equally reduce the number of seabirds included within the ornithological baseline environment for not only Hornsea Four, but all other Offshore WindFarm (OWF) developments whose baseline characterisation data was collected prior to such external factors taking effect.</p> <p>This would result in a net reduction in not only the baseline number so of birds, but the level of predicted impact from all OWFs and therefore should not be included or considered when drawing conclusions from EIA and HRA assessments for specific projects.</p> <p>While it has been communicated (via the RSPB in our Statement of Common Ground (SoCG) Meeting on 03 August 2022) to the Applicant that avian influenza has had a detrimental effect on some species and sites (e.g. gannet at the Bass Rock), the impacts upon other seabird species at Flamborough and Filey Coast (FFC) Special Protection Area (SPA) is yet to be fully established. Therefore, the conservation status of FFC SPA and the seabird assemblage currently remains unchanged.</p>
2	<p>Question for the Applicant and Natural England:</p> <p>What, if any, are the implications for this Application of the July 2022 Defra consultation (https://consult.defra.gov.uk/hpma/consultation-onhighly-protected-marine-areas) regarding the potential designation of Inner Silver Pit South as a Highly Protected Marine Area?</p>	<p>The northern section of Inner Silver Pit is already within a MPA/ MCZ. The MCZ Cefas ITT Survey in 2013 acoustic data supports the designation of the Inner Silver Pit area as a geological feature of interest within the Holderness Offshore MPA/ MCZ (JNCC, 2012). This MCZ lies approximately 753 m to the south of the nearshore section of the offshore ECC at its closest point and is designated for its geological/ geomorphological features, broadscale marine habitat and marine species.</p> <p>The Applicant's MCZ assessment presented in A5.2.3: Marine Conservation Zone Assessment (APP-070) concludes that "there will be no significant risk to the site achieving the sort of conservation objectives that are likely to be set out for the Holderness Offshore MCZ site". This conclusion is reached for all stages of the Hornsea Four project.</p> <p>The proposed Silver Pit South HPMA is located to the south of Holderness Offshore MCZ and therefore significantly further from the Hornsea Four ECC at its closest point - 60.08 km from the array and 51.53 km from the ECC.</p>

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		<p>According to Annex E of the July 2022 Defra consultation, HPMA's will take a 'whole site approach', therefore the whole marine ecosystem within the HPMA boundary will be designated for protection. The proposed protected feature description for pilot HPMA's as will be listed in the designation order is: 'The marine ecosystem, habitats and species of flora and fauna, abiotic elements, and their supporting ecosystem function and processes, including the seabed, water column and sea surface, within the site boundary.'</p> <p>As the receptors considered in the Holderness Offshore MCZ assessment are broadly the same as those within the proposed Silver Pit South HPMA, similar conclusions would apply, although there would most likely be a more minor level of impact concluded due to the more significant distance of Silver Pit South from the project (ECC) boundary.</p> <p>On this basis, there are not expected to be any implications of the July 2022 Defra consultation for the Application.</p>
3	<p>Question for the Applicant:</p> <p>In its D7 submission (which is yet to be allocated an Examination Library (EL) reference; in the interim please see Annex B), the Marine Management Organisation (MMO) comments on the Applicant's Dredging and Disposal Characterisation Report [REP6-004] and suggests that a map is required to show the locations of where sediment samples were taken (noting that some are referred to by name in paragraphs 6.2.2.2 and 6.2.3.1 to 6.2.3.3). Please signpost where such a map can be found in the Examination documents or provide one.</p>	<p>The Applicant directs the Examining Authority to Figure 2.2 of A2.2 Benthic and Intertidal Ecology (REP7-004) and Figure 3 of A5.2.1 Benthic and Intertidal Ecology Technical Report (REP-013) which present a map of the locations of where sediment samples were collected.</p>
4	<p>Question for Natural England:</p> <p>You have provided further comment and analysis in relation to the apportionment of auks to the Flamborough and Filey Coast Special Protection Area and the consequent displacement effects [REP6-056]. You continue to advocate the use of a third 'matrix', which you demonstrate to be in accordance with the joint Statutory Nature Conservation Bodies' interim displacement guidance, issued in 2022. Is it correct that the two basic matrices for the breeding and nonbreeding seasons cover a full 12-month period, and the addition of a third matrix for the discrete post-breeding season (August and September) effectively duplicates consideration of data for those</p>	

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	two months (ie 'double counting')? If not, please explain why, and, if so, what are the implications for the assessment?	
5	<p>Question for the Applicant: Can you confirm that there would only be one bridge link overall: as currently worded, the project description states that, "there will be a maximum of one bridge linking two structures", which could allow for a total of more than one bridge.</p>	<p>The Applicant considers the project description to be clear that there will be a maximum of one bridge link. Nevertheless, to avoid any further ambiguity, the ExA could include a requirement/condition in the recommended DCO and DMLs as follows:</p> <p><i>"The total number of bridge links forming part of the [authorised development/authorised project] must not exceed one".</i></p> <p>This drafting is similar to the existing condition 2(1) of Part 2 of Schedule 11 which states "The total number of offshore accommodation platforms forming part of the authorised project must not exceed one". For clarity, the term "authorised development" should be used in Schedule 1 and the term "authorised project" should be used in Schedule 11.</p>
6	<p>Question for the Maritime and Coastguard Agency: At D7, the revised draft DCO Schedule 11 Part 2 Condition 2(7) states that, "A bridge link forming part of the authorised project must be installed at a minimum height of 20 metres when measured from LAT." Are you satisfied with this proposed air draft from LAT (rather than HAT) and if not, what should it be and why?</p>	
7	<p>Question for the Applicant: REP6-004 still makes references (eg Paragraphs 3.1.3 and 3.1.3.1) to the Horizontal Directional Drilling (HDD) exit pits potentially being located within the intertidal zones despite the Applicant confirming that no HDD pits would be located landward of Mean Low Water (MLW). Please amend the document to reflect this and confirm whether the commitment to restricting HDD pits is to below MLW or Mean Low Water Springs.</p>	<p>Noted. The Applicant confirms A4.4.4 Dredging and Disposal Site Characterisation (REP6-004) has been updated at Deadline 8 to align with A1.4 Project Description (REP6-002) to remove reference to HDD exit pits being located within the intertidal zone. The Applicant can confirm that the HDD exit pit will be located below mean low water (MLW).</p>
8	<p>Question for the Applicant: Update the Schedule of Side Agreements submitted at D7 (yet to be allocated an EL reference) to clarify the state of progress with National Grid Viking Link Limited</p>	<p>Please see G6.18 the Applicant's Schedule of Side Agreements submitted at Deadline 8 for an update on the progress with National Grid Viking Link.</p>
9	<p>Question for the Applicant and Natural England: 6(g) of the draft DCO [REP5a-022] seeks to disapply section 28E of the Wildlife and Countryside Act 1981 (duties in relation to sites of scientific interest).</p>	<p>Section 28E of the Wildlife and Countryside Act 1981 imposes duties on owners and occupiers of land notified as being of special interest to refrain from activities specified in a notice given by Natural England unless those operations are carried out as part of a</p>

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	<p>Natural England: Given the Explanatory Memorandum [APP-204] states that this drafting is unprecedented, do you have any comments on the proposed disapplication of section 28E of the Wildlife and Countryside Act 1981?</p> <p>Applicant: Given the only site of scientific interest that this could apply to is the River Hull Headwaters Site of Special Scientific Interest (where HDD is proposed), can you provide further justification for your proposed inclusion of this unprecedented drafting in the DCO.</p>	<p>management agreement or with the consent of Natural England. The Applicant considers that disapplication of this provision is justified as Hornsea Four has been subjected to extensive environmental impact assessment, wide ranging public consultation and has been subject to a public examination during which such matters have been addressed. Suitable controls to protect sites of special scientific interest are contained in the Outline CoCP and are secured by the requirements of the draft DCO. The imposition of the further duties under section 28E would be inappropriate in the context of this nationally significant infrastructure project, if approved. Consent under section 28E of the Wildlife and Countryside Act 1981 is not a consent prescribed for the purposes of section 150 of the Planning Act 2008. The Applicant can confirm the disapplication of this provision does have precedent in the A14 Cambridge to Huntingdon Improvement Scheme Development Consent Order 2016.</p>
10	<p>Question for the Applicant: Articles 28(12) and 29(12) of the draft DCO [REP5a-002] seek to temporarily discharge all rights, trusts and incidents in relation to Special Category Land. As such drafting is unusual, can you provide further justification as to why such drafting should be included in the draft DCO, including what rights would be temporarily extinguished and for how long.</p>	<p>As set out in the Applicant's response to FWQ DCO.1.16 (REP2-038), the Applicant has included the special category land drafting with the relevant power so that the conditions or consequential effects relating to that power are contained within the same Article. The drafting itself is not unusual and similar wording can be found in the special category land article in the National Grid (Richborough Connection Project) Development Consent Order 2017 (Article 31).</p> <p>The drafting needs to be included in the draft DCO to ensure that there are no impediments to the delivery of Hornsea Four. As set out in paragraph 9.1 of the Statement of Reasons (APP-227), the only parts of the Order land that are special category land, and therefore subject to public rights to use open space, comprise parts of the foreshore, beach and a public footpath at Fraisthorpe. The onshore export cables will be constructed using HDD or another form of trenchless technology in this location. However, there may be a need to temporarily restrict public rights to use the beach for health and safety reasons. The public rights would only be discharged for the time period that the undertaker was in possession of the special category land.</p>
11	<p>Question for the Applicant: Annex E1.1.1 of the Funding Statement submitted at D7 (yet to be allocated an EL reference) amends the average rate of inflation to 2030 to 3.7%. Provide further detail as to how this figure was established.</p>	<p>By reference to the Bank of England Monetary Policy Report August 2022 which is available at [REDACTED]</p> <p>Whilst the current annual rate of inflation is significantly higher than the UK Government's target rate of 2%, it is forecasted by the Bank of England that this will reduce and plateau</p>

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		<p>in the medium term and return to 2% by Q4 2024 and remain lower thereafter. The amended figure of 3.7% is a precautionary estimate of an increased average annual inflation measure over the full timeline of the project through implementation of land agreements, use of compulsory acquisition powers and eventual settlement of any claims arising during the time limit for exercise of compulsory acquisition powers at Article 20 of the draft DCO.</p>