

NEGOTIATIONS AND WIDER INVOLVEMENT

**The Orsted Hornsea Project Three (UK) Limited (Ferry Road, Hartlepool)
Compulsory Purchase Order 2023**

STATEMENT OF EVIDENCE

**MICHAEL MCCONNELL
GROUP PROPERTY DIRECTOR
PD TEESPORT LIMITED**

1. **QUALIFICATIONS AND EXPERIENCE**

1.1 My name is Michael McConnell and am Group Property Director of the PD Ports Group, of which PD Teesport Limited (PDT) forms part. I have been a Chartered Surveyor for over 30 years.

1.2 I have been in my role since February 2007 this involving the management of the tenanted portfolio and all property acquisitions and disposals on behalf of the PD Group.

2. **INTRODUCTION AND SCOPE OF EVIDENCE**

2.1 The structure of my statement of evidence is set out in paragraph 2.3 below.

2.2 In broad terms my statement will provide details of negotiations and discussions between PDT and Orsted.

2.3 My statement of evidence is structured as follows:-

- Section 3 sets out the background to this Statement;
- Section 4 sets out details of negotiations between PDT and Orsted;
- Section 5 sets out my views on Orsted's consideration of alternative sites for the ANS works;
- Section 6 sets out my summary and conclusions;
- Section 7 is the declaration for my statement.

3. **BACKGROUND**

3.1 Orsted Hornsea Project Three (UK) Limited (Orsted) received planning consent under a Development Consent Order (DCO) for the Hornsea Three Offshore Windfarm Project in December 2020. Under the DCO and the wider scheme further works are required relating to a 'Kittiwake Implementation Management Plan' ("KIMP") and the provision of 'Alternative Nesting Structures' ("ANS") for Kittiwakes.

3.2 Around December 2021 I was advised by a member of my team that Orsted had purchased the former yacht club site at Hartlepool despite having been advised the site did not have any access rights to and from the adopted highway through PDT owned land.

3.3 In January 2022 I was made aware that contractors from Orsted had trespassed upon PDT land for parking and access purposes.

- 3.4 A Cease and Desist Letter was issued to Orsted (**Appendix 1**) informing it to stop using PDT land.
- 3.5 Prior to this, my team had advised Orsted that its proposed use of the former yacht club site for kittiwake mitigation was not viewed as being compatible with the adjoining port operations. In particular, PDT was concerned that the use of the former yacht club site to provide a nesting site for kittiwake:
- 3.5.1 Would lead to an increase in deposits of guano over parts of the port which are used for open storage;
 - 3.5.2 Could constrain future development at the port where this gave rise to concerns about the potential impact on the newly introduced kittiwake population;
 - 3.5.3 Could (as a result of the above) act as a disincentive to businesses considering the use of land at the port, which would in turn affect the port's role in seeking to drive regeneration in the wider area.
- 3.6 In addition, we did not wish to grant access rights through the middle of our private estate, because of the potential conflict with the security of the port and our need to maintain flexibility in the way different parts of the port are used.
- 3.7 The area upon which Orsted's contractors had trespassed was private operational port land for which the port has always retained its private status.
- 3.8 Whilst the port operations function does not support the proposed use by Orsted of the former yacht club site, the proposed compulsory purchase on the part of Orsted of interests through our private estate severing part of the estate from the rest is not in my opinion an appropriate use of port land. More detailed reasons for this are provided in the evidence of Mr Beach.

4. **NEGOTIATIONS**

- 4.1 In February 2022, Orsted submitted a planning application to the local authority (Hartlepool Borough Council) to demolish the existing structures on the former yacht club site and change the use to kittiwake mitigation.
- 4.2 PDT objected to the planning application as it did not feel the proposed use of the yacht club site was compatible with port operations.
- 4.3 Orsted made a number of financial proposals to PDT to withdraw our objection and to grant Orsted separate access rights over PDT land. Our objection remained.
- 4.4 In May 2022, following a high level meeting between PDT and Orsted, an alternative site at North Gare (which is within PDT's ownership) was proposed by PDT. A copy of this correspondence is attached at **Appendix 2**.

- 4.5 On 28 June 2022 Hartlepool Borough Council rejected the Orsted planning application. When Orsted appealed against this, PDT wrote to the Planning inspectorate to restate its objections. A copy of that letter (which included copies of our previous written objections, as sent to the Borough Council) is attached at **Appendix 3**.
- 4.6 On 28 June 2022, Ian McKenna, Land and Property Manager at Orsted wrote to PDT advising it was intending to utilise Electricity Act powers to compulsorily acquire an interest in PDT land. A copy of this letter is attached at **Appendix 4**.
- 4.7 On 13 July 2022, I responded to the letter seeking clarification as to why Electricity Act powers were deemed appropriate and requesting details of the alternative sites that had been considered by Orsted for the kittiwake mitigation. No response was received from Orsted. A copy of this letter is attached at **Appendix 5**.
- 4.8 In March 2023 Orsted obtained planning permission on Appeal for the change of use for the former yacht club site.
- 4.9 On 19 June 2023, Orsted presented a letter threatening Compulsory Purchase if PDT did not agree to its terms. A copy of this letter is attached at **Appendix 6**.
- 4.10 Since we had still not received a response to the points raised in my letter of 13 July 2022 and since we still did not have visibility as to the processes which Orsted had been following in respect of site selection, a Freedom of Information Request was submitted on 23rd August 2023 ("the FOIR").
- 4.11 Following the FOIR, PDT has continued to write to Orsted to outline alternative locations and further interrogate Orsted's site selection process. Examples of this correspondence are attached at **Appendix 7**.

5. **CONSIDERATION OF ALTERNATIVES**

- 5.1 PDT has suggested a number of potential alternative artificial nesting sites from both within the PD Ports portfolio and beyond to Orsted but have not been provided with full reasoning why these may not be appropriate.
- 5.2 Even assuming the former yacht club site is the only possible alternative nesting site for kittiwakes the area of our land over which Orsted wishes to exercise compulsory purchase powers is not the only possible access route for Orsted. Its access requirements to the former yacht club site could be better achieved through negotiation of access around the outer edge of the port estate rather than the suggested route. Copies of my correspondence to Orsted suggesting a more appropriate access route are attached at **Appendix 8**.
- 5.3 In Orsted's selection process, it has outlined to PDT its ranking criteria. Orsted was aware long before it purchased the land that access to the former yacht club

site was through operational port land. Access is integral to use and I question Orsted's ranking of the subject site; using its own ranking criteria must surely mean it should have been ranked 'Black (showstopper to development)' or 'Red (significant level of constraints, low suitability of site)' rather than 'Green'. A copy of my correspondence requesting full details and clarification of this is attached at **Appendix 9**.

5.4 The Industry Nature Conservation Association (INCA) at PD Ports request has provided an Advice Note highlighting potential locations for ANSs. A copy of this Advice Note is attached at **Appendix 10**.

5.5 Both areas of land shown edged red are within PDT ownership and we would consider that these are more appropriate for use for kittiwake mitigation due to their distance from the port operational area, and the fact that they would not require Orsted and its agents to access those sites via the port operational area.

5.6 Subject to reasonable terms and conditions PDT would be prepared to make alternative sites available to Orsted.

6. **SUMMARY AND CONCLUSIONS**

6.1 PDT has suggested a number of potential alternative artificial nesting sites to Orsted, both within the PD Ports ownership and otherwise, but we have not been provided with full reasoning as to why these may not be appropriate. Even if the current site for the ANS were to be the most appropriate site, I do not consider that the proposed access rights are appropriate in respect of either their location nor the terms of such access rights. We have sought to engage with Orsted to better understand their rationale in respect of site selection but clarification has not been forthcoming.

6.2 I do not believe there is a compelling case in the public interest for Orsted to acquire by compulsion rights over the area outlined in the proposed Compulsory Purchase Order bearing in mind the alternatives available to Orsted without the need for compulsory acquisition through the middle of an operational port estate.

7. **DECLARATION**

7.1 I believe that the facts stated in this statement of evidence are true and I confirm that the opinions expressed in this statement of evidence are my true and professional opinions.



Michael McConnell

9 January 2024

Appendix 1

Orsted Hornsea Project Three (UK) Limited
5 Howick Place,
London,
SW1P 1WG

Your Ref: Company Secretary
Our Ref: SJON/2007872-68
Please quote this when replying

By Special Delivery and Email

Date: 21 January 2022
Please ask for: Jonathan Smith
Ext:
Direct Dial: +44 191 2339713
E-mail: Jonathan.smith@dwf.law
Direct Fax: 0333 320 4440

Dear Sirs

Estate Owner: PD Teesport Limited
Access Road: Ferry Road, Hartlepool
Request to Cease and Desist use of Ferry Road, Hartlepool
Notification of intention to issue court proceedings – Letter of claim
Urgent

We act on behalf of PD Teesport Limited. Our client is the owner of Hartlepool Dock and whose title can be found under HM Land Registry title numbers CE120759 and CE38719. This includes the roadway known as Ferry Road.

It is understood that you have purchased the area of land and building which houses the old yacht club at Hartlepool just off from Ferry Road. This property is registered under HM Land Registry title number CE147445.

You may not be aware of the historic dialogue that has existed between our client and the predecessors in title to your land. In particular, you are seemingly unaware of historic discussions that have taken place since 2010 between our client and the predecessors to your title regarding access rights to your land. In short, there is no vehicular or other access afforded to the landowner of your land over Ferry Road. There is no such access rights noted on your title nor have any been created through long use.

The only reference to access is found at Entry 3 of the Property Register which states as follows:

'A Transfer dated 9th December 1998 made between (1) Hartlepool Yacht Club Limited and (2) Hartlepool Renaissance Limited is expressed to grant the following right: "together with the benefit of such right of way as the Transferor has over the access road between Ferry Road, Hartlepool and the Property".'

Importantly, this is not confirmation that you have any rights over Ferry Road. This is simply recording that a transfer in 1998 stated that whatever right of access might exist is also transferred to the incoming owner. It is

not confirmation of such a right and there is no evidence that such a right exists. Indeed our client is not a party to that document.

We are informed that previously it has been suggested that land could benefit from prescriptive rights. This is incorrect for at least the following reasons (which are not exhaustive):

- a) The Port has formally objected to the use of Ferry Road on a number of occasions. It repeats such objections to your recent activities as outlined below. Accordingly, the use of the road cannot be said to have been without objection and therefore could not create a prescriptive right;
- b) The Port closes all of its roads once a year and therefore the use of the road has not been 'uninterrupted'. This practice has been ongoing for decades. Accordingly, a prescriptive right cannot be asserted.

This is the definitive position. Against this backdrop, we outline the illegal use of Ferry Road by you.

Unauthorised use

Notwithstanding Middleton Road, Slake Terrace and part of Ferry Road being an adopted highway, Ferry Road within the above HM Land Registry title numbers is a private roadway and our client does not consent to its use. As outlined above, you have no legal right to use this.

Our client has witnessed construction and other traffic travelling the road to carry out what appear to be preliminary investigative works at your land and as a means of general access. We also note that there has been a planning application made for the development of an Artificial Nesting Structure for Kittiwakes.. Accordingly, based on your current behaviour, we anticipate that you plan to use the road for the passage of personnel and construction traffic in the coming months, as well as for general use.

This is not permitted. Your actions to date constitute a trespass, as does the parking of vehicles on Ferry Road. You are not entitled to pass over the roadway on any terms. Accordingly, any access to the land should take place through alternate routes.

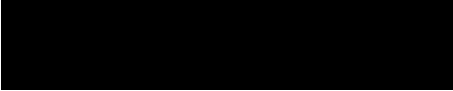
Next Steps

We require comfort that you will stop travelling over Ferry Road. It is not acceptable for you to access the land through that roadway.

If this access continues unabated then our client will have to take such steps as are necessary to prevent the access from taking place. This may involve court proceedings for injunctive relief without further recourse to you and if such steps are necessary then the costs of such an application will be sought from you.

We trust that this is not necessary and look forward to hearing from you urgently and in any event, within the next 7 days.

Yours faithfully



DWF Law LLP

Appendix 2

Catey Oliver

From: Catey Oliver
Sent: 03 May 2022 16:34
To: Luke Bridgman
Cc: DUNCL@orsted.com
Subject: Orsted - Kittiwake - Artificial Nesting Structures
Attachments: North Gare.docx

Luke

Thank you for your time earlier. As promised, please see the attached plan showing the site at North Gare; apologies for the extracts but wanted to get this over to you today.

I trust this assists and please do not hesitate to get in touch should you need any further information.

Best regards

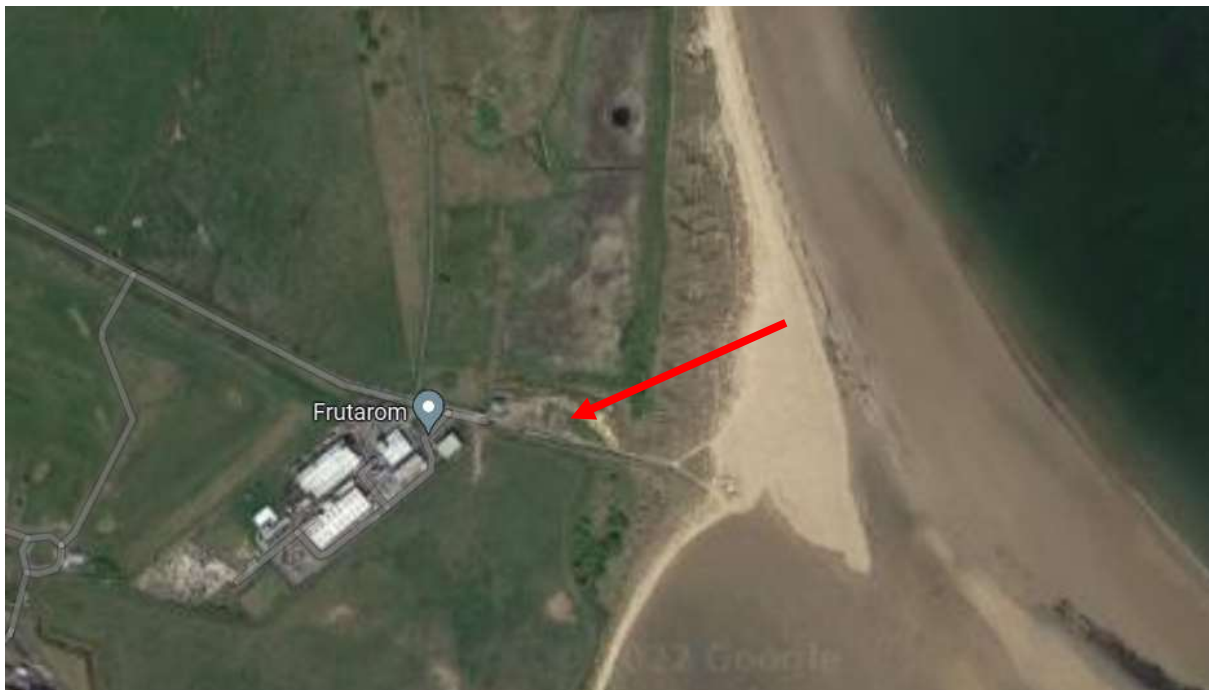
Catey



Catey Oliver
Estates Surveyor

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Appendix 3



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The Planning Inspectorate
Room 3D
Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Our Ref. 21/246

6 December 2022

Dear Sir/Madam,

RE: Town and Country Planning Act 1990
APP/H0724/W/22/3309272: Appeal by Orsted Hornsea Project Three (UK) Ltd
Site Address: The Old Yacht Club, Ferry Road, HARTLEPOOL, Durham, TS24 0AE

We act on behalf of PD Teesport Ltd and write to confirm that they continue to maintain their objection to the proposed development. During the course of the refused planning application, we submitted two letters of objection to the Local Planning Authority (LPA) and made representations to the planning committee (copies enclosed). The points made in these submissions continue to be relevant and we would request that they are given full consideration in the determination of the appeal.

Another of our client's concerns that we would also highlight at this stage, is that the appeal site is not included within the Development Consent Order (DCO) for the Hornsea Three Offshore Windfarm development, which appears to be affecting the appellant's approach to delivering the required mitigation, both in terms of site selection and use of purported compulsory purchase powers. There is concern that less harmful and more appropriate solutions are not being pursued, as these would require a time-consuming amendment to the DCO.

As set out in our enclosed submissions, our client continues to have significant concerns that Orsted are proposing to erect the structures adjacent to the Port and how this may affect our client's port operations, which are of regional importance.

These concerns were raised with the appellant shortly after their first contact with our client and they have been provided every opportunity to address them. Our client's concerns have been clear and consistent ever since Orsted first contacted them about the project. However, despite the willingness of our client to fully engage in constructive discussions, the appellant has failed to take this opportunity.

Indicative of this, is the most recent exchange with the appellant in June/July 2022. The appellant contacted our client to serve a purported statutory notice pursuant to the Electricity Act in relation to the appellant's plans to try and use compulsory purchase powers to acquire land rights necessary to deliver their (as yet unapproved) proposals. A copy of the letter has been enclosed. The attempted use of these powers acknowledges the fact that

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Registered Address: Gateway House (as above)



the section of access road off Ferry Road, is owned by our client and is therefore private land. It should be noted that access to the Old Yacht Club over PD Teesport Limited's private land is not permitted.

Our client replied to the serving of the purported statutory notice two weeks later. The reply raised concerns with the lawfulness of the powers being used by the appellant to pursue the compulsory purchase. This is in reference to the understanding that the proposed acquisition relates to proposed habitat mitigation proposals associated with the appellant's Hornsea Three Offshore Windfarm development, which benefits from a DCO. Our client referred the appellant to Government guidance, which states that "*Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power when a specific power is not available.*" In light of this guidance, it seems odd to our client that any land required for the delivery of species mitigation was not delivered and promoted as part of the appellant's DCO.

Our client does not accept that Electricity Act compulsory acquisition powers are suitable as they relate to acquisitions connected with construction and operation of generating stations and not species mitigation. Additionally, in any event under the Acquisition of Land Act the port is itself a protected statutory undertaking and that the land over which the applicant would require access is operational port land.

This all links back to the concern raised earlier that more appropriate solutions are not being pursued by the appellant.

The response also reminded the appellant of their concerns with the proposed development's impact on port operations. A copy of the letter has been enclosed. Our client attempted to further engage in discussions with the appellant, and requested details of alternative sites that have been considered for the required species mitigation. However, there has been no further comments or information from the appellant some 4 ½ months on.

It is important to highlight this lack of meaningful engagement from the appellant, because their Statement of Case places significant weight on the urgency of the proposed development and how it is critical to the delivery of the Hornsea Three Offshore Windfarm.

Our client remains unconvinced that this site is the only solution available to provide the required mitigation to the proposed wind farm development. The appellant has always been aware of the need to deliver artificial nesting structures before the operation of their wind farms. Our client has also been very clear from the outset of their concerns, which still remain. Therefore it is important that the appellant's ever-increasing need for a quick decision is not afforded weight in the determination of the appeal.

In making this point, we would make the observation that the planning committee's decision to refuse the application was back on the 22 June 2022. The appeal was submitted on the 18 October 2022, some 4 months later.



Appellant's Statement of Case

The Statement of Case does not introduce any new significant pieces of evidence to support the proposed development, so the previous submissions made by PD Ports in relation to the proposed development continue to be fully relevant. However, there are several comments that are made in the Appeal Statement that are worth commenting on in further detail. Using the paragraph numbering in the Appeal Statement, we would comment as follows.

Section 3.1 - Site Selection

Our client has repeatedly asked the appellant for more information on their site selection process to understand why the appeal site had been chosen. Was it driven by land price, location, etc? The Appeal Statement sets out details of a three stage process that was undertaken, starting from a wide ranging area of search, which covers parts of East Anglia and the north-east England. We understand that the appellant is undertaking a similar search process in relation to their Hornsea Four Offshore Windfarm. The appellant's website includes maps of the search areas (copies enclosed), which we understand are the same areas for the required Hornsea Three mitigation. The maps were used to support a consultation exercise undertaken by the appellant last year in specific relation to Hornsea Four Compensation Measures. Other material used by the appellant included a Consultation Leaflet, a copy of which has been enclosed. Interestingly it identifies both offshore and onshore nesting as options for mitigation and advises that a site search exercise was ongoing.

The details of the appellant's three stage site search process include no details of the amount of sites that were identified at each stage, why sites were ruled in or out, or the scoring attributed to their chosen criteria (e.g. was land price more important than planning policy or impact on existing land uses).

It also describes the stage 3 process as including "*exhaustive investigations*", along with a "*desk-based appraisal of planning constraints (including consideration of designated sites, proximity to sensitive receptors and relevant planning policies)*" (our emphasis). Despite the exhaustive investigations, it would appear that the first time the appellant was made aware that the site and surrounding area was allocated for port related employment use was when it was raised in our first letter of objection for PD Ports in March 2022. By this stage, the appellant had already purchased the site, as confirmed at section 3.1.14 of their Appeal Statement. The question has to be asked how the site would have scored in the appellant's site search exercise, had the employment allocation been identified.

The site search section of the Appeal Statement goes on to conclude that the appeal site "*was the only short-listed location that was considered to be both suitable and available*". If this is the case, how does the appellant propose to deliver the remainder of the compensation sites required for Hornsea Three? Section 2.1.1.9 of the Appeal Statement confirms that the appeal site is "*one of the four locations that will host ANS (Artificial Nesting Structures) and is the first to have been submitted for planning determination*". Again, if the mitigation is so urgent, why haven't the other sites progressed? If the appellant's site search exercise only identified one available site, how does it expect to deliver the remainder of the mitigation for Hornsea Three, let alone Hornsea Four. Will there be a requirement for additional ANS at the River Tees? Could offshore mitigation provide a less harmful solution, which appears to be the preference for Hornsea Four?

These questions continue to be unanswered by the appellant. On the contrary, the queries and uncertainty have increased during the planning process.

Section 1.2 – Reasons for Refusal

The appellant states that the Council's Economic Regeneration Manager had no objection to the proposed development and refers to a short section of their comments. However, a full reading of their consultation responses, as set out in the committee report, show that they had concerns that the development could hinder future development, investment and jobs at Hartlepool Port, which they confirm is of great importance to the town.

Section 7.2.1.14 – Designation thresholds for a SPA

The existing habitat designations on Teesside already provide a significant constraint to development and our client continues to positively engage and work with the relevant authorities. During the consideration of the application, we raised concern that the compensation measures have no connection with any development proposed locally, or regionally. The proposed wind farm development is a significant distance from the Tees and Hartlepool Coastline. We would highlight the fact that the development itself does not introduce significant ecological enhancements (as referred to by some of the consultees) but rather mitigates harmful effects elsewhere. The development itself actually results in some local harm to ecology, as confirmed in the supporting Ecological Appraisal.

The Appeal Statement makes brief reference to the designation thresholds for a SPA and the status afforded to sites required as compensatory measures.

The 'Response to Objections' letter submitted by the appellant during the consideration of the planning application, suggests that irrespective of the artificial nesting structures, the number of kittiwakes nesting on PD Ports infrastructure is likely to increase. This is based on the technical note prepared by NIRAS. It also refers to the estimated occupancy of the artificial nesting structure as being 40%, which would be the equivalent of 400 breeding pairs.

We would add that were the structures to be occupied at full capacity, there would be a total of 1,000 breeding pairs.

Reference is then made to the designation thresholds for Special Protection Areas (SPA), which for kittiwakes would be around 3,800 breeding pairs. Considering the capacity of the nesting structures, alongside the statement that the numbers of breeding kittiwake in Hartlepool are increasing naturally through the use of existing buildings/structures, there must be a real possibility that the SPA threshold is met in the future, thereby introducing additional significant constraints on existing and future development. The trends table at figure 2.6 of the NIRAS technical note (dated 8 April 2022) submitted by the appellant during the consideration of the application, supports this view, which would result in significant impacts on our client's port operations, which are of regional importance.

We would also highlight the following statement in the NIRAS technical note:

"It is considered unlikely that the ANSs will be designated as a Special Protection Area in their own right. It is acknowledged that the National Planning Policy Framework affords sites required as compensatory measures equivalent protection as the Habitats Sites however the latest joint guidance to competent authorities (February 2021) does not require designation but instead states designation as something that may be required."

This suggests that the introduction of the habitat will/may have the equivalent protection afforded to it comparable to a SPA. Indeed the policy position (rather than the guidance) suggests it will. We have seen nothing to allay this potentially very significant constraint for our client. Again, further uncertainty over the impact of the development on our client's operation.

Section 8.1.1.3 – Ferry Road

The Appeal Statement states that *"it is important to point out that access along Ferry Road has been enjoyed by numerous previous owners of the Site since it was first occupied by the Yacht Club in 1958"*. This is not correct. We would reiterate that the section of access road off Ferry Road, is owned by our client and is therefore private port land. It is also subject to annual closure orders, with the road always closed each year, as confirmed in the enclosed notices. These notices are only a selection and are not exhaustive but provide evidence of the annual road closures.

Section 9.2 - Freeport Zone

Throughout the Appeal Statement there is repeated reference to Freeport Zones in attempting to play down the attractiveness of the allocated employment land for investment. However, this is perhaps indicative of the appellant's lack of understanding of the local economy and how potentially harmful their proposed development could be.

As set out in our client's letter to the planning committee members, the confirmation of the Port of Hartlepool as a Freeport Customs Zone has not in itself resulted in any discernible benefits to Hartlepool, with the Port already having operated largely on the same basis. Therefore this has not resulted in 'simplified planning rules and tax relief incentives' as suggested in the Appeal Statement. On the contrary, with other localities both within Tees Valley and beyond now benefitting from the more lucrative Freeport Tax Zone allocation (rather than the Custom Zone statues at the Port of Hartlepool), the competition to attract new jobs and private sector funding into the town has become even stiffer. Even a perception by a potential inward investor that the introduction of a Kittiwake nesting facility adjacent to the Port may have detrimental implications on commercial activity could be the reason why a decision is taken to go elsewhere.

It is disappointing that the appellant continues to dismiss these genuine concerns on the potential impact on the wider employment allocation, the operation of existing businesses and the delivery of local employment opportunities.

These are at the heart of rebuilding local communities.



Therefore, it is essential that this wider economic and social impact is fully understood and factored into when determining the appeal and introducing additional constraints to the delivery of essential development.

Conclusion

In conclusion, our client continues to have significant concerns with the proposed development, which is required to compensate the impacts of a development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The development itself will not provide any direct human benefits to new businesses and the economy of Teesside. Our client also remains unconvinced of the robustness of the site selection process, despite providing the appellant every opportunity to explain it in further detail.

The principle of the proposed development is in direct conflict with the Local Plan, with the site being located within land specifically allocated for port related development, which is a sector that is key to delivering the Borough's targets for employment growth.

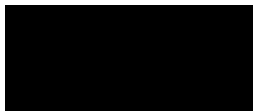
There are also significant concerns with the introduction of a habitat, which may have the same status as a SPA, into a location allocated for port related employment development. Our client continues to raise these concerns with the appellant, alongside the fact that our client will not permit access to the site.

The proposed development will introduce greater constraints, greater uncertainty and greater delays to existing businesses operating and looking to invest in the locality; and be viewed as a constraint to businesses looking to invest in the area. All as the result of a development required to compensate the impacts of a development located many miles away.

Our client therefore remain of the view that the appeal should be dismissed.

We trust that these and our previous comments will be given full consideration in the determination of the appeal.

Yours faithfully



Kevin Ayrton MRTPI, **Associate**

- Enc. Original Letter of Objection dated 14/02/2022
- Second Letter of Objection dated 10/06/2022
- Letter to Committee Members dated 17/6/2022
- Letter from Orsted with purported statutory notice
- Letter from PD Ports to Orsted in reply to serving of purported statutory notice
- Maps of Hornsea Four Offshore Windfarm Compensation Measures Search Area



Hornsea Four Offshore Windfarm Targeted Consultation Leaflet
Road Closure Notices

Cc Catey Oliver – PD Ports Ltd
Michael McConnell – PD Ports Ltd



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Laura Alderson
Development Control
Hartlepool Borough Council
Civic Centre, Level 1
Hartlepool
TS24 8AY

Our Ref. 21/246

14 March 2022

Dear Mrs Alderson,

RE: H/2022/0009 – Planning Application for the demolition of existing structure and construction of artificial nesting structures for kittiwakes and associated infrastructure at the Old Yacht Club, Ferry Road, Hartlepool, TS24 0AE

We act on behalf of PD Teesport Ltd and write to object to the above planning application. Our client has significant concerns that Orsted are proposing to erect the structures adjacent to the Port and how this may affect our client's port operations, which are of regional importance.

The site is located at the Old Yacht Club at Hartlepool Docks. The submitted site location plan shows the red line extending partly along Ferry Road, which then extends to the west before connecting to Slake Terrace.

Part of Ferry Road is owned by PD Teesport Limited and is therefore private land. It should be noted that access to the Old Yacht Club over PD Teesport Limited's private land is not permitted.

To confirm, there is no vehicular or other access afforded to the landowner of the Old Yacht Club over Ferry Road and there are no such access rights noted on the Land Registry Title nor have any been created through long use.

It is proposed to erect Artificial Nesting Structures for kittiwakes. These will comprise two large structures, including a tower that is over 21 metres in height. The submission states that the development will provide a capacity for a total of 1,384 nesting spaces.

These structures are required to compensate the impact of a proposed off-shore windfarm development (Hornsea Three). PD Teesport Ltd recently submitted a representation in relation to a consultation for Hornsea Four Offshore Wind Farm, which is similar in scale and impact to Hornsea Three. These wind farms will be sited to the east of Flamborough Head (Humber coast) in the North Sea. There is a need to provide compensation measures to offset the impacts upon the kittiwake population, which is a feature of the Flamborough and Filey Coast SPA.

Therefore, future applications may be made for additional nesting structures.

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Registered Address: Gateway House (as above)



The LPA will note that the proposed wind farm development is a significant distance from the Tees and Hartlepool Coastline. The Hornsea 3 development itself will not provide any direct human benefits to new businesses and the economy of Teesside.

Key Considerations

The Development Plan comprises the Hartlepool Local Plan (2018). The Policies Map confirms that the application site is located within an allocated employment site, specifically EMP4a (Specialist Industries – Hartlepool Port). Policy EMP4a states that the land is committed for port related industrial development; and renewable energy manufacturing. The allocation reflects the Local Plan's Locational Strategy (LS1) to deliver strong economic growth.

These policies are based on the Council's evidence base, which includes the Tees Valley Combined Authority's Strategic Economic Plan, which targets 25,000 net jobs across the Tees Valley for the period 2016-2026, including 290 jobs per year in the Borough of Hartlepool. A key sector in meeting this new jobs target, is port-related development. Indeed, since the adoption of the Local Plan, the commitment to delivering growth in this sector has continued to grow and gain Government support.

The proposed development is in direct conflict with the employment allocation. Not only would the development result in the loss of specifically allocated land for port related industrial development, but our client also has significant concerns over the impact on the wider employment designation at Hartlepool Docks, through the introduction of a new habitat into the allocated employment land.

The application has not been supported by any information to justify this clear conflict with the Local Plan.

Whilst our client has previously raised concerns with Orsted, there is nothing in the submitted planning application to provide them with any confidence that the introduction of the habitat will not have a detrimental impact on their current and future operations, including the expansion into new markets.

There are also other unknowns:

- Were alternative sites considered closer to the windfarm development? Why introduce a constraint on existing and future port related development when there are no local or regional benefits and there would appear to be many other possible locations that are suitable and located closer (and therefore of greater value) to the source of the need for development in the first place?
- Has the increase in volume of the guano been taken into consideration (in general and on surrounding structures / port operations and storage of product)? We are aware that other such bird populations in the UK and abroad sees an enormous amount for guano deposits in the immediate and outlying areas over years, which can be a hazard to people and structures. Would Orsted be accountable for clean up outside of their immediate site?
- Do these type of structures / kittiwake populations draw enthusiasts (concerns about the public accessing private land)? We note that the consultation response from the Council's countryside officer is seeking



some element of interpretation for the public, and the Planning Statement refers to the inclusion of a panoramic viewing tower.

These all need further consideration, as they relate back to the conflict with both the site's and Hartlepool Dock's allocation for port related employment to deliver the Borough's target for employment growth.

We have also reviewed the consultation responses that have been made in relation to the planning application and it is evident that these relate to the proposed development in isolation, however no consideration has been given to the impact on the wider employment allocation, the operation of existing businesses and the delivery of local employment opportunities.

These are at the heart of rebuilding local communities. This is particularly so, considering that we understand that the requirement for the onshore nesting compensation will require an operational period for a minimum of 35 years once construction is complete. The existing habitat designations on Teesside already provide a significant constraint to development and our client continues to positively engage and work with the relevant authorities. Therefore, it is essential that this wider economic and social impact is fully understood and factored into when determining the application and introducing additional constraints to the delivery of essential development.

This is similar to the 'agent of change' principle referred to in paragraph 009 of the national Planning Practice Guidance and paragraph 187 of the NPPF.

Other Matters

Our client also has concerns in respect of the potential impact from the physical structures proposed on their IT infrastructure. They have a 40m mast located at Hartlepool Dock that provides the network and system connectivity at Hartlepool Dock together with point to point data connectivity from Hartlepool to South Gare.

This point to point data connectivity is also required for their Business Continuity Management system with regard to data connectivity at Teesport/Tees Dock should the fibre connection at Teesport fail by way of a WiFi signal to South Gare and on to Hartlepool.

The 21m structure proposed may well interfere with our client's connectivity.

Conclusion

In conclusion, our client has significant concerns with the proposed development, which is required to compensate the impacts of a development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The development itself will not provide any direct human benefits to new businesses and the economy of Teesside.



The principle of the proposed development is in direct conflict with the Local Plan, with the site being located within land specifically allocated for port related development, which is a sector that is key to delivering the Borough's targets for employment growth.

There are also significant concerns with the introduction of a habitat into a location allocated for employment development, along with our client's current and future operations. Our client has previously raised these with the applicant and the documentation submitted in support of the application does nothing to allay these concerns.

On a final point, we have also highlighted the fundamental issue of part of Ferry Road being owned by PD Teesport Limited and access is not permitted.

We trust that these comments will be given full consideration in the determination of application. Please do not hesitate to contact me should you have any queries with any of the points raised.

Yours sincerely

A solid black rectangular box used to redact the signature of the sender.

Kevin Ayrton MRTPI, **Associate**

Cc Catey Oliver – PD Ports



01325 469 236



info@elgplanning.co.uk



www.elgplanning.co.uk

Stephanie Bell
Development Control
Hartlepool Borough Council
Civic Centre, Level 1
Hartlepool
TS24 8AY

Our Ref. 21/246

10 June 2022

Dear Ms Bell,

RE: H/2022/0009 – Planning Application for the demolition of existing structure and construction of artificial nesting structures for kittiwakes and associated infrastructure at the Old Yacht Club, Ferry Road, Hartlepool, TS24 0AE

As you are aware, we act on behalf of PD Teesport Ltd and wrote to the LPA on the 14 March to object to the above planning application. Since submitting the objection, our client has continued to engage with the applicant (Orstead) and provide them the opportunity to address their concerns, which have been clear and consistent ever since Orstead first contacted them about the project. However, despite ongoing discussions, our client's concerns set out in our previous letter remain. We therefore request that these continue to be given full consideration.

We note that additional information has been submitted as part of the planning application, which includes:

- Response to Objections letter prepared by Orstead.
- Response to Objections technical note prepared by NIRAS.
- Employment Land Policy Statement prepared by LDA Design.

Employment Land

The Employment Land Policy Statement acknowledges that the application site and Hartlepool Dock is allocated for employment use, specifically for specialist industries. Policy EMP4a states that the land is committed for port related industrial development, and renewable energy manufacturing. The allocation reflects the Local Plan's Locational Strategy (LS1) to deliver strong economic growth.

The Employment Land Policy Statement also refers to pre-application discussions, quoting the Council's pre-application response¹ that *'the proposals are acceptable in principle'*. The 'Response to Objections' letter prepared by Orstead also refers to the pre-application response, which stated *'the Council's Planning Policy section note that the location chosen is an area of unallocated land within the Hartlepool Local Plan Policies Map'*. We would reiterate that

¹ Whilst the Employment Land Policy Statement says the pre-application response is appended to the report, it is not included in the version available on the Council's website.

Gateway House, 55 Coniscliffe Road, Darlington, Co. Durham, DL3 7EH



alongside the pre-application enquiry with the Council, our client was also corresponding with the applicant and clearly advised them that they did not support the proposed use nor the use of its land for access purposes.

However, despite what was said by the Council at pre-application stage on a without prejudice basis, and in light of the consultee comments made on the planning application, we understand that the planning policy consultation response to the pending application has identified conflict with the employment allocation, which the submitted additional information is attempting to address.

The Employment Land Policy Statement aims to downplay the impact of the loss of employment land in the context of the wider availability of employment land in the Borough. However, the fact is the site (and surrounding land) was included in the specialist employment allocation, and the Local Plan is up to date. Indeed, since its adoption, measures have been taken to further enhance the attractiveness of the site and surrounding area for economic growth.

Considering the importance of economic growth and regeneration for the Borough's future strategy, it will be important to understand the views of the Council's economic and regeneration teams.

Ongoing Uncertainty

The applicant is aiming to off-set the harm from this development against the benefits of compensating the impacts of a separate development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The proposed wind farm development is a significant distance from the Tees and Hartlepool Coastline.

Our client remains unconvinced that this site is the only solution available to provide the required mitigation to the proposed wind farm development. The applicant has always been aware of the need to deliver artificial nesting structures before the operation of their wind farms. Our client has also been very clear from the outset of their concerns, which still remain. Therefore it is important that the applicant's ever-increasing need for a quick decision is not afforded weight in the determination of the application.

The 'Response to Objections' letter prepared by Orstead, suggests that irrespective of the artificial nesting structures, the number of kittiwakes nesting on PD Ports infrastructure is likely to increase. This is based on the technical note prepared by NIRAS. It also refers to the estimated occupancy of the artificial nesting structure as being 40%, which would be the equivalent of 400 breeding pairs.

We would add that were the structures to be occupied at full capacity, there would be a total of 1,000 breeding pairs.

Reference is then made to the designation thresholds for Special Protection Areas (SPA), which for kittiwakes would be around 3,800 breeding pairs. Considering the capacity of the nesting structures, alongside the statement that the numbers of breeding kittiwake in Hartlepool are increasing naturally through the use of existing



buildings/structures, there must be a real possibility that the SPA threshold is met in the future, thereby introducing additional significant constraints on existing and future development. The trends table at figure 2.6 of the NIRAS technical note support this view, which would result in significant impacts on our client's port operations, which are of regional importance.

We would also highlight the following statement in the NIRAS technical note:

'It is considered unlikely that the ANSs will be designated as a Special Protection Area in their own right. It is acknowledged that the National Planning Policy Framework affords sites required as compensatory measures equivalent protection as the Habitats Sites however the latest joint guidance to competent authorities (February 2021) does not require designation but instead states designation as something that may be required.'

This suggests that the introduction of the habitat will/may have the equivalent protection afforded to it comparable to a SPA. Indeed the policy position (rather than the guidance) suggests it will. We have seen nothing to allay this potentially very significant constraint for our client. Again, further uncertainty over the impact of the development on our client's operation.

Based on the information submitted it would appear that there is no guarantee that the nesting structures will be occupied by kittiwakes. It is understood that they could be occupied by a different breed of bird, where the associated impacts have not been considered. Therefore another area of uncertainty for our client.

Conclusion

In conclusion, our client continues to have significant concerns with the proposed development, which is required to compensate the impacts of a development located to the east of Flamborough Head in the North Sea. The compensation measures have no connection with any development proposed locally, or regionally. The development itself will not provide any direct human benefits to new businesses and the economy of Teesside.

The principle of the proposed development is in direct conflict with the Local Plan, with the site being located within land specifically allocated for port related development, which is a sector that it key to delivering the Borough's targets for employment growth.

There are also significant concerns with the introduction of a habitat, which may have the same status as a SPA, into a location allocated for employment development. Our client continues to raise these concerns with the applicant, alongside the fact that our client will not permit access to the site. However the additional documentation submitted in support of the application have not addressed them.

We trust that these and our previous comments will be given full consideration in the determination of application. Please do not hesitate to contact me should you have any queries with any of the points raised.



Yours sincerely



Kevin Ayrton MRTPI, **Associate**

Cc Catey Oliver – PD Ports

17 June 2022

Sent by email only: mikeyoung@hartlepoolconservatives.com

Mike Young
Vice Chair
c/o Civic Centre
Hartlepool
TS24 8AY

Dear Councillor Young

H/2022/0009-Planning Application for the demolition of existing structure and construction of an artificial nesting structure for kittiwakes and associated infrastructure at the Old Yacht Club, Ferry Road, Hartlepool, TS24oAE

PD Teesport Limited as the Statutory Harbour Authority, the owner of the Port of Hartlepool including land over which the applicant is proposing to access its proposed development, would wish the Members of the Planning Committee of Hartlepool Council to consider the contents of this letter.

Over the last 10 years the activities of PD Ports have resulted in the attraction of over £1.4 billion investment and over 22,000 jobs into the Tees Valley economy. This is a track record that we will build on as we further our commitment to customers, sustainability and communities; a commitment that will continue to deliver for the Tees Valley and the nation.

Towards the end of last year following 18 months of discussions, we persuaded Strabag to contractually commit to invest in Hartlepool creating over 100 new jobs. More recently JDR Cables, who we first attracted to Hartlepool in 2008, announced a further £3 million investment in the Port. We continue to seek to attract new inward investment into Hartlepool competing on an international, national and regional basis.

The confirmation of the Port of Hartlepool as a Freeport Customs Zone has not in itself resulted in any discernible benefits to Hartlepool, with the Port having already operated largely on the same basis. This new status has not influenced any of the recent investment, including £650,000 of our own capital which we are currently spending on upgrading one of our buildings in order to attract additional business. With other localities both within Tees Valley and beyond now benefitting from the more lucrative Freeport Tax Zone allocation, the competition to attract new jobs and private sector funding into the town has become even stiffer. Even a perception by a potential inward investor that the introduction of a Kittiwake nesting facility adjacent to the Port may have detrimental implications on commercial activity could be the reason why a decision is taken to go elsewhere.

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During the consideration of the planning application, we have submitted two letters of objection. The second one was recently submitted in response to additional information that has been submitted by the applicant. Our objection sets out how we continue to have significant concerns with the proposed development, which we have consistently relayed to the applicant ever since they first approached us about the project.

The Committee Report acknowledges the conflict with the employment land allocation. This is in reference to Policy EMP4a in the Local Plan, which states that the land (and surrounding area) is committed for port related industrial development, and renewable energy manufacturing. The allocation reflects the Local Plan's Locational Strategy (LS1) to deliver strong economic growth.

This policy is consistent with PD Ports' strategy to grow our business and its contribution to the Tees Valley and wider UK economy, playing a critical role supporting the Government's levelling-up agenda. In doing so, we have also made important progress towards achieving our long-term vision to establish the River Tees as the UK's most successful port region by 2050.

The Council's Economic Development Officer (EDO) recognises the potential impacts on economic development in raising an objection to the proposed development.

Despite our concerns and those raised by the EDO, the recommendation is to approve the application. This appears to be based on comments from the Council's ecologist and Natural England that the development won't have an impact on economic development. It is noted that the ecologist's comments describe the proposal as '*a rare example of a development totally focused on biodiversity*'. However, the reality is that the development is being pursued to mitigate the impacts of development east of Flamborough Head in the North Sea.

The comments from Planning Policy recognise our concerns, and those of the EDO. Indeed, they state that they '*consider the continued use and future development of The Port to be significant in sustaining and enhancing the boroughs economy and way of life*'. However, they then go on to side with the views of Council's ecologist and Natural England in terms of the potential impacts on the Port's current and future operations. We would suggest that we (and the EDO) are best placed to advise on this point. We also note the use of the words and phrases by the consultees include 'hope', 'should not' and 'likely', which are used in considering whether the development will impact on port operations and economic development. It is evident that uncertainty remains, even where no objections have been raised.

The final Planning Policy comments and their recommendation are based on the view that the Council's Economic Growth Manager has raised no objection. However, we understand from the committee report that the Council's Economic Develop team maintain their objection. We would therefore refer back to the previous comment from Planning Policy where they advise that if 'the economic development team are still of the view that the Kittiwakes could prevent The Port developing to its full potential then Planning Policy would not support the proposal'.

The existing habitat designations on Teesside already provide a significant constraint to development and our client continues to positively engage and work with the relevant authorities. The designations include the Teesmouth and Cleveland Coast SPA. These designations are afforded significant protection in the determination of planning applications, along with influencing decisions to invest in the locality. The application is proposing to introduce an additional habitat for a species that it not currently a qualifying feature for the SPA. As it is being introduced as a compensatory measure for adverse effects on habitats sites off the Flamborough Head (Flamborough and Filey Coast SPA), it may have the equivalent protection afforded to it comparable to a SPA. Indeed, the policy position (rather than the guidance) suggests it will.

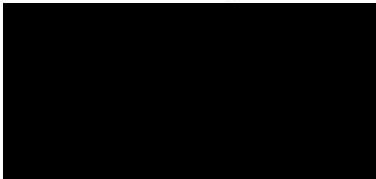
This will introduce greater constraints, greater uncertainty and greater delays to existing businesses operating and looking to invest in the locality and be viewed as a constraint to businesses looking to invest in the area. All as the result of a development required to compensate the impacts of a development located many miles away.

We would therefore stress that we continue to have significant concerns with the proposed development and request that these are given full consideration in the determination of the application.

In addition to working to build upon our successful track record of delivering additional employment and economic benefits for Hartlepool and the wider Tees Valley, we maintain our strong commitment to the communities we are part of. As the UK's number one port operator for supporting young people, we continue to target initiatives that promote education and enable young people to achieve their aspirations. Recognising the challenges affecting schools during the pandemic, this included continuing to work with the Teesside Charity to address digital poverty, donating 20 Chromebooks to help Year 9 students studying for their GCSEs, as well as donating to the Tees Valley Education Trust. We also continue our successful partnerships with the High Tide Foundation, North East School of Shipping, Tees Valley Logistics Academy and Teesside University to back training and skills.

We would request therefore the Members of the Planning Committee give full consideration to the concerns we have raised in respect of the subject application.

Yours sincerely



Jerry Hopkinson
Chief Operating Officer and Vice Chair
Email: Jerry.Hopkinson@pdports.co.uk

BY E-MAIL, SPECIAL DELIVERY AND FIRST CLASS POST

PD Teesport Limited (CRN: 02636007)

Legal Department
17-27 Queen's Square
Middlesbrough
TS2 1AH

[By e-mail to: Michael Dowson and Catey Oliver]

28 June 2022

IMPORTANT – THIS LETTER AFFECTS YOUR LAND

Dear PD Teesport Legal Team,

LAND: THE FREEHOLD LAND ON THE NORTH-EAST AND SOUTH-WEST SIDES OF PRINCES STREET, MIDDLETON, HARTLEPOOL AS REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER: CE38719 AND ADJOINING LAND SHOWN EDGED RED ON THE ENCLOSED PLAN (THE “LAND”)

RE: REQUEST FOR INFORMATION RELATING TO THE LAND PURSUANT TO SECTION 5A OF THE ACQUISITION OF LAND ACT 1981 (THE “ALA”)

I am writing further to the recent senior level discussions that have taken place regarding Ørsted’s plans to develop the Old Yacht Club site in Hartlepool. As it has not yet been possible to reach agreement to acquire the necessary land rights from you, Ørsted is proposing to make a compulsory purchase order to acquire rights of access over the Land in connection with the generating station consented pursuant to the Hornsea Three Offshore Wind Farm Order 2020.

Ørsted Hornsea Project Three (UK) Limited (CRN: 08584210) (“**Ørsted**”) has a generation licence pursuant to the Electricity Act 1989 (the “**EA**”). Ørsted’s generation licence includes the ability to compulsorily acquire land, existing rights over land and/or create new rights over land pursuant to Section 10 of the EA and Schedule 3 to the EA to enable Ørsted to carry on the activities authorised by its licence and which relate to the construction and/or operation of a generating station.

We understand that you have an interest in the Land. To ensure the necessary details of the interests affected by our proposed compulsory purchase order can be included within the compulsory purchase order, we enclose a questionnaire for you to complete. You **must** complete and return the enclosed questionnaire to us **within 14 days of service of this letter**. We calculate your deadline to return the enclosed questionnaire to be **14th July 2022** but such date is specified strictly without prejudice to your obligation to return a completed copy of the questionnaire within 14 days of service of this letter.

Please note that, as an acquiring authority for the purposes of section 5A of the ALA pursuant to its electricity generation licence and section 10 of and paragraph 1 of Schedule 3 to the EA, this letter constitutes formal notice to you to supply information under section 5A of the ALA.

We further refer you to Section 5B of the ALA which provides that a person or entity which:-

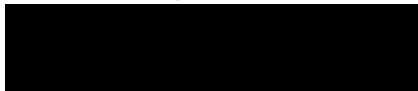
- (a) fails without reasonable excuse to comply with a notice served on them under section 5A of the ALA; or
- (b) in response to a notice served on them under section 5A of the ALA gives information which is false in a material particular, and when the person does so, they know or ought reasonably to know that the information is false,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. Please note the maximum fine under level 5 on the standard scale is currently unlimited.

If an offence under section 5B of the ALA is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person purporting to act in any such capacity, the individual, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

We trust, therefore, that you will complete and return the enclosed questionnaire to me in the enclosed prepaid envelope. Should you mislay the prepaid envelope, please return your replies to this notice to me at Orsted, 5 Howick Place, London, England, SW1P 1WG.

Yours faithfully,



Ian Mckenna
Lead Land & Property Manager
ianmk@orsted.com
Tel +447388386983

For and on behalf of Orsted Hornsea Project Three (UK) Limited (CRN: 08584210)

Enclosures:

- (1) Plan showing Land; and
- (2) Questionnaire

Our ref: MM/LH HD.15b

13th July 2022

E-mail: ianmk@orsted.com

Mr Ian Mckenna
Lead Land & Property Manager
Orsted
5 Howick Place
LONDON
SWIP 1WG

Dear Sir

LAND: THE FREEHOLD LAND ON THE NORTH-EAST AND SOUTH-WEST SIDES OF PRINCES STREET, MIDDLETON, HARTLEPOOL AS REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER: CE38719 AND ADJOINING LAND SHOWN EDGED RED ON THE ENCLOSED PLAN (THE "LAND")

RE: REQUEST FOR INFORMATION RELATING TO THE LAND PURSUANT TO SECTION 5A OF THE ACQUISITION OF LAND ACT 1981 (THE "ALA")

I refer to the notice and enclosed plan served by Orsted, purportedly pursuant to section 5A of the Acquisition of Land Act 1981. Whilst I am happy to provide information of our title to this land, which is a matter of public record, I think it is appropriate to make some observations on the powers to which you refer:

1. I understand that this proposed acquisition relates to access to a proposed habitat mitigation proposal associated with your proposed off shore wind farm, which benefits from a DCO. You will no doubt be aware that Government guidance states that *"Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power when a specific power is not available."* In light of this guidance, it seems odd to us that any land required for the delivery of species mitigation was not delivered and promoted as part of your DCO. Use of Electricity Act powers seems to us to be inappropriate in the circumstances and not in accordance with Government advice.
2. We also do not accept that Electricity Act compulsory acquisition powers are suitable in this case. They relate to acquisitions connected with your undertaking; construction and operation of generating stations. This proposal is associated with the delivery of species mitigation, which is not part of your undertaking. Whilst we appreciate the connection to the DCO requirements, we consider that this should have been addressed as part of that process and that the Electricity Act powers are not available for your intended use of the land.
3. In light of our concerns above, we are not persuaded that you have a lawful basis to exercise section 5A powers. Although we have responded to the notice, this should not be regarded as acceptance of any lawful basis for CPO intervention.

www.pdports.co.uk

Registered in England No. 02636007 as PD Teesport Limited.

Registered Office: 17-27 Queen's Square, Middlesbrough TS2 1AH.

All business undertaken by the company is subject to the PD Teesport Limited general conditions of business, the latest editions of RHA, UKWA, CMR (where applicable by law), and BIFA (for freight forwarding only), as appropriate to the service being undertaken. Copies of the conditions are available from the company on request or can be found on our website www.pdports.co.uk/legal/terms/

Separately you will also be aware that port is itself a statutory undertaker and that the land which is the subject of your notice is operational port land. As advised the title information is of public record being within Titles CE120759 and CE38719.

Notwithstanding the above, I should note that the port does not consider that the proposed site for species mitigation is appropriate for the intended purposes, given its location adjacent to operational port facilities. To this end, please would you provide me with details of the alternative sites that have been considered for this species mitigation as well as their stage of promotion (land, consents etc).

I look forward to hearing from you.

Yours faithfully,

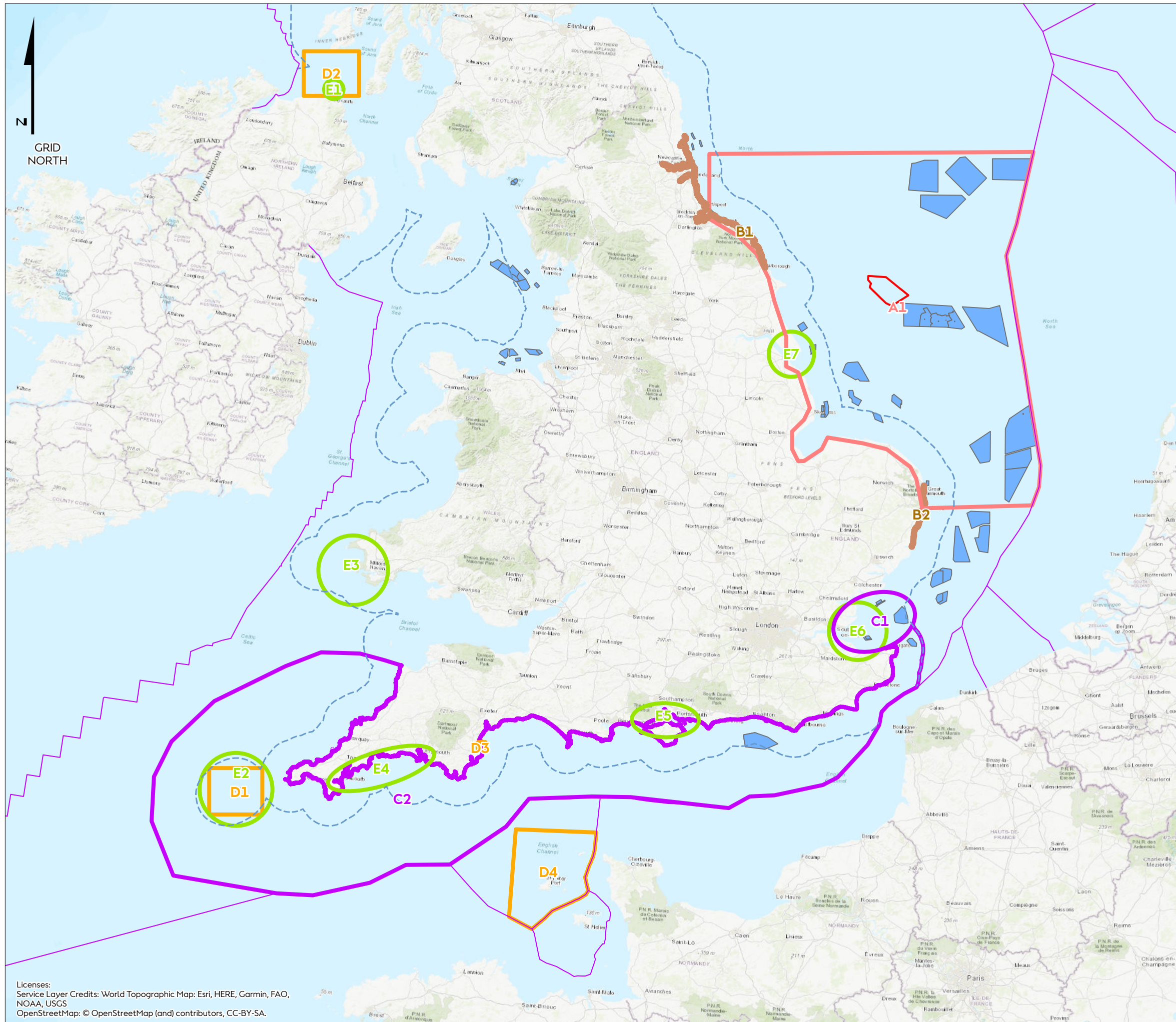
Yours sincerely



Michael McConnell
Group Property Director

Direct: +44 (0) 1642 877071

E-mail: michael.mcconnell@pdports.co.uk



Hornsea Four

Compensation Measures Areas of Search Location Plan

- Hornsea Four Array Area
- Economic Exclusion Zone Boundary
- UK Offshore Windfarms
- Compensation Measures Areas of Search**
- Offshore nesting
- Onshore nesting
- Bycatch
- Predator eradication
- Seagrass



Coordinate system: ETRS 1989 UTM Zone 31N

Scale@A3: 1:3,200,000

0 40 80 160 Kilometres

0 20 40 80 Nautical Miles

REV	REMARK	DATE
	First issue	16/07/2021

Compensation Measures Location Plan

Document no: HOW040485

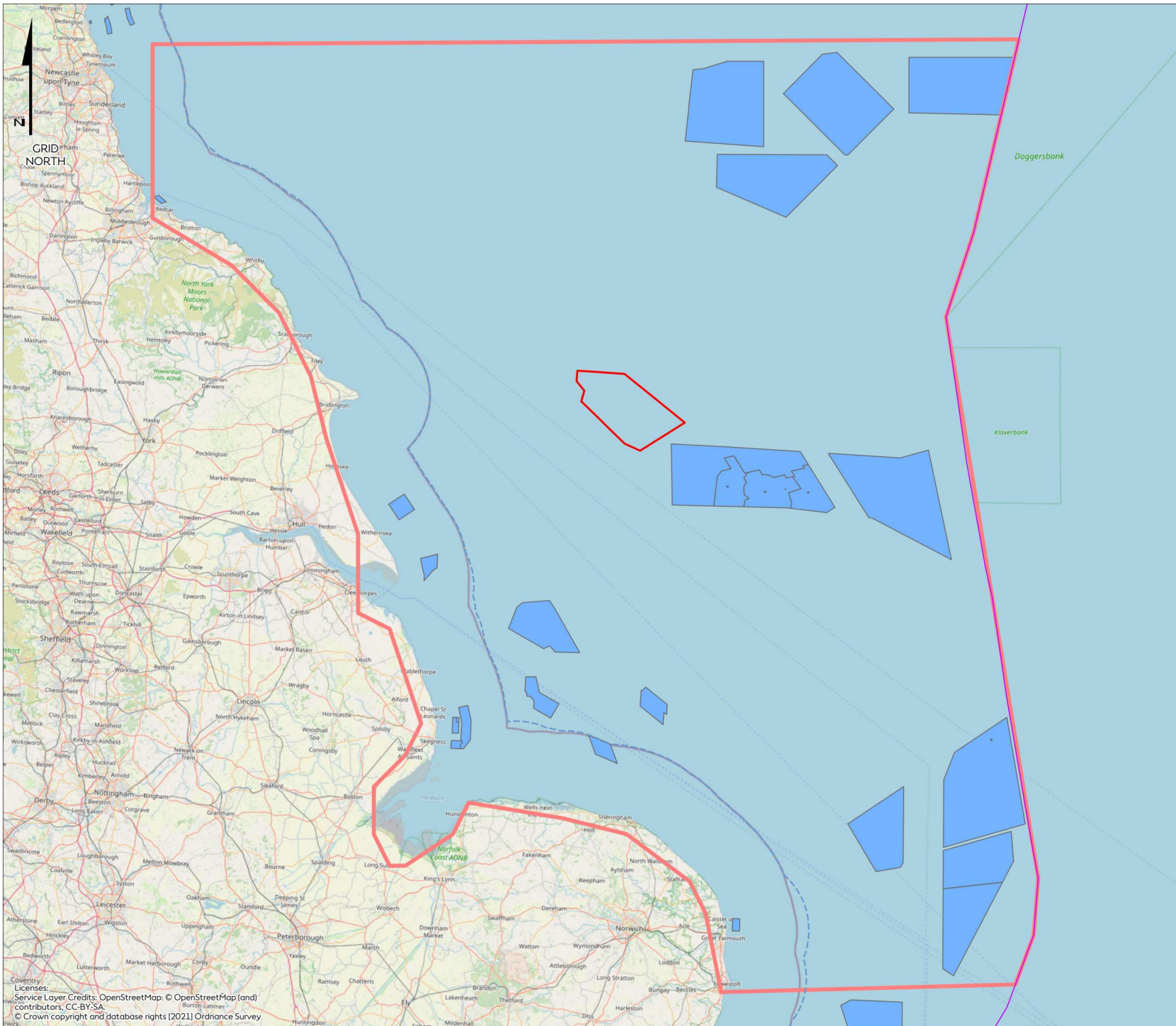
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Checked by: JOHLE

Approved by: JULCA



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Hornsea Four

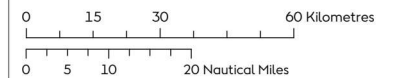
Compensation Measures Areas of Search
Offshore nesting
A1: Southern North Sea

- Hornsea Four Array Area
- Economic Exclusion Zone Boundary
- UK Offshore Windfarms
- Compensation Measures Areas of Search
- Offshore nesting



Coordinate system: ETRS 1989 UTM Zone 31N

Scale@A3: 1:1,200,000

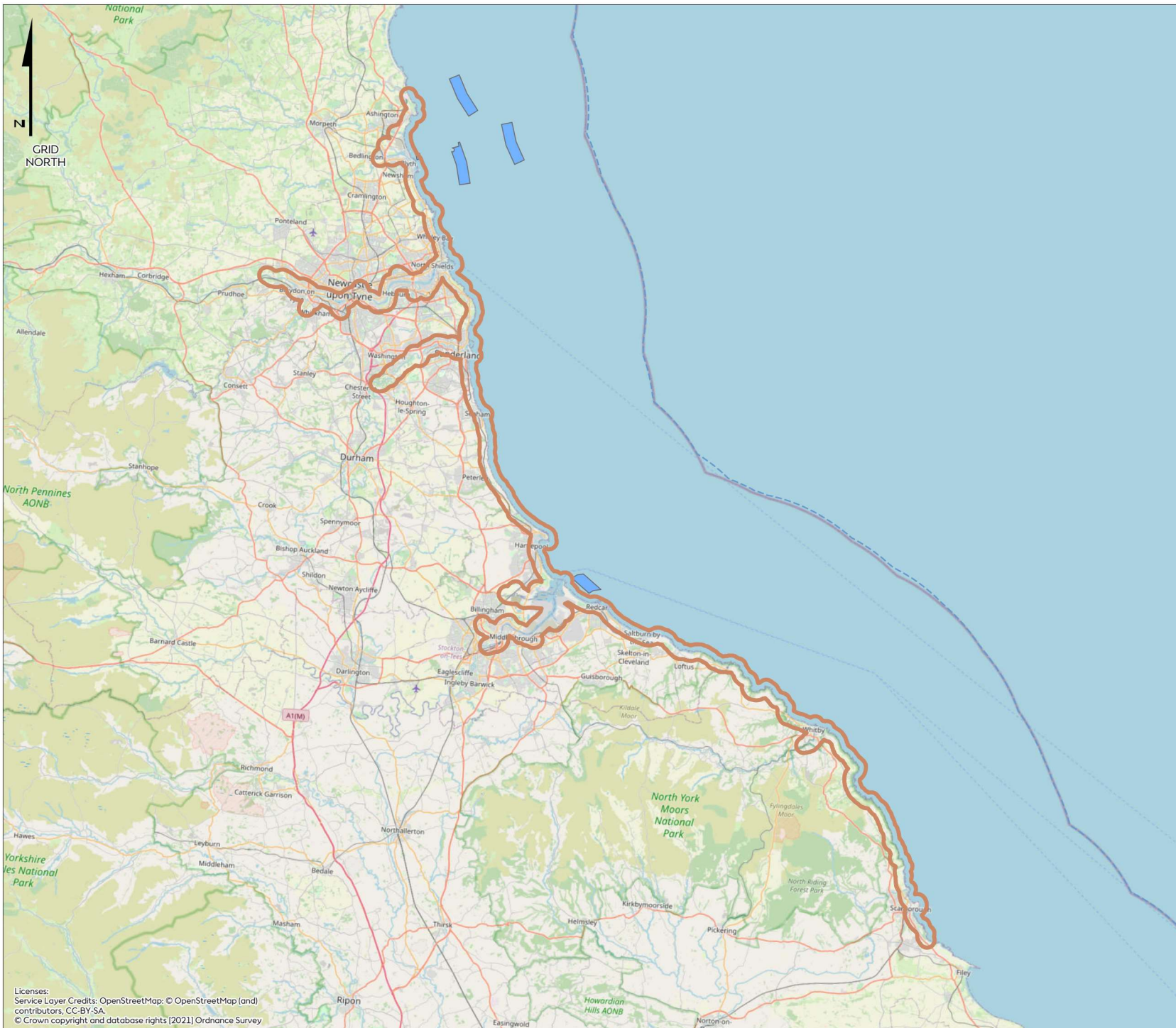


REV	REMARK	DATE
	First issue	23/07/2021

Compensation Measures Areas of Search
Document no: HOW040491
Created by: XDAOO
Checked by: JOHLE
Approved by: WATTS



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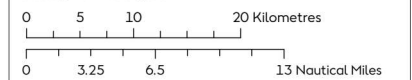
Hornsea Four

Compensation Measures Areas of Search
Onshore nesting
B1: Cayton Bay to Blyth

- UK Offshore Windfarms
- Compensation Measures Areas of Search**
- Onshore nesting



Coordinate system: ETRS 1989 UTM Zone 31N
Scale@A3: 1:500,000

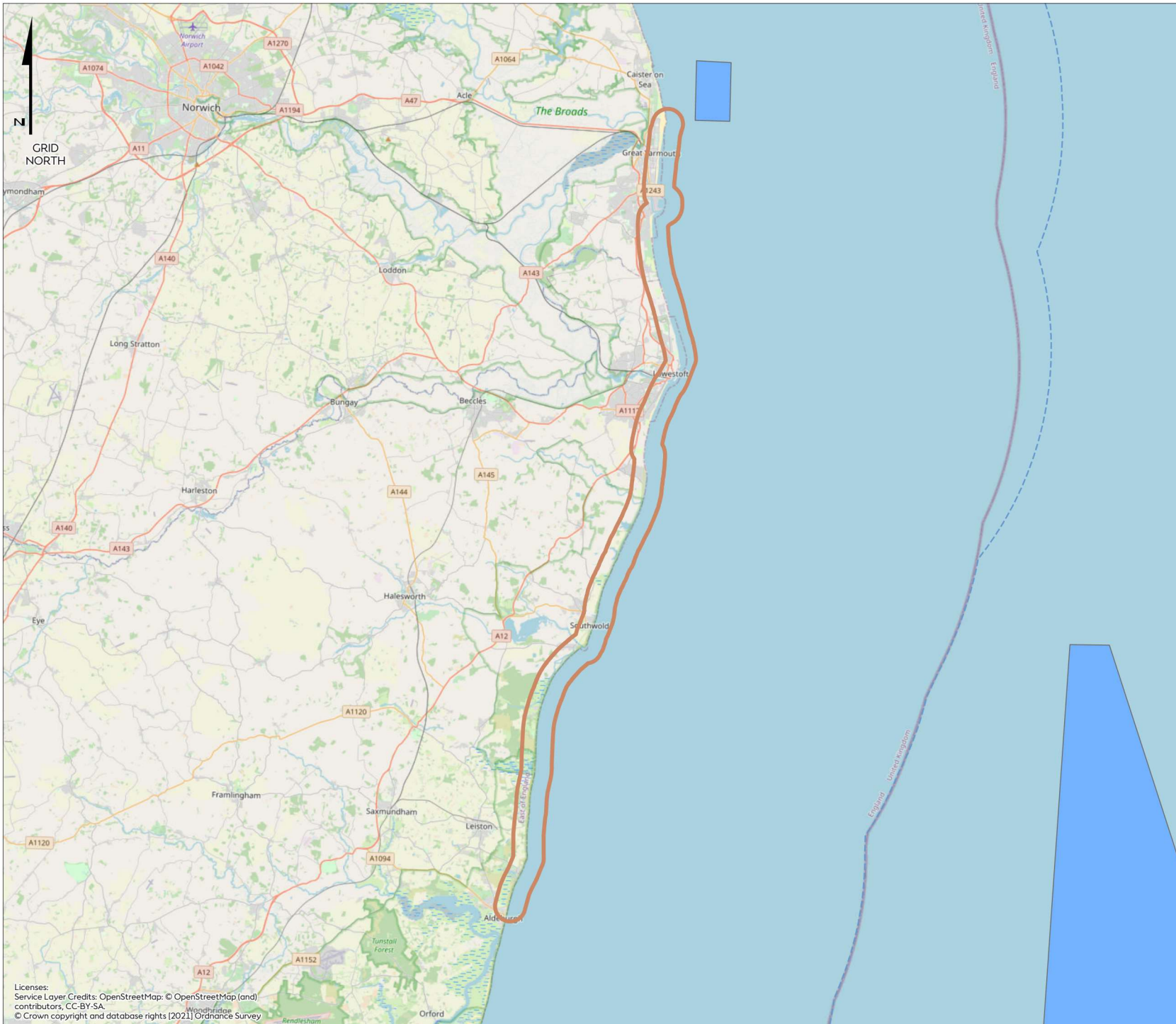


REV	REMARK	DATE
	First issue	23/07/2021

Compensation Measures Areas of Search
Document no: HOW040491
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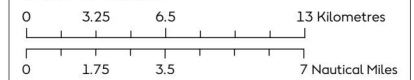
Hornsea Four

Compensation Measures Areas of Search
Onshore nesting
B2: Suffolk Coast

- UK Offshore Windfarms
- Compensation Measures Areas of Search**
- Onshore nesting



Coordinate system: ETRS 1989 UTM Zone 31N
Scale@A3: 1:250,000



REV	REMARK	DATE
	First issue	23/07/2021

Compensation Measures Areas of Search
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August
2021

Hornsea Four Targeted Consultation



Non-statutory consultation on potential
Compensation Measures for seabirds, relating
to the Hornsea Project Four Offshore Wind
Farm, 05 August – 06 September 2021

 Orsted

Introduction

This targeted consultation leaflet explains how we intend to consult with you on our proposals for Compensation Measures associated with the development of a proposed offshore wind farm for the Hornsea Project Four Offshore Wind Farm ('Hornsea Project Four') that Ørsted Hornsea Project Four Ltd ('the Applicant') is currently developing.

The Applicant recognises consultation to be a vital stage in the development of Hornsea Four. We are now undertaking non-statutory consultation on the Compensation Measures and are inviting your views on the measures proposed, as outlined in this document and the supporting information available on our website, at hornseaprojects.co.uk/hornsea-project-four/compensation-measures-consultation.

The purpose of this targeted consultation

Hornsea Four will be located in the southern North Sea and will comprise a maximum of 180 wind turbine generators, plus other offshore and onshore infrastructure required to connect Hornsea Four to the National Grid, at Creyke Beck.

The proposed measures we are consulting on are referred to in this document as "Compensation Measures". As part of the planning process for Hornsea Four, the Applicant may be required to deliver the Compensation Measures to compensate for potential impacts from Hornsea Four on certain seabird species at the Flamborough and Filey Coast (FFC)

Special Protection Area (SPA), located on the East Coast of England.

We will have regard to any consultation responses received as part of our application for a Development Consent Order (DCO) which is due to be submitted in Autumn 2021.

This targeted consultation will begin on 05 August 2021 and run until 06 September 2021. Throughout this period, we will be welcoming your comments and feedback.

Background to Ørsted

Ørsted is a renewable energy company taking tangible action to create a world that runs entirely on green energy, and is the parent company of Hornsea Four. We have invested significantly in the UK, where we develop, construct and operate offshore wind farms and innovative waste-to-energy technology.

The UK is home to the world's largest offshore wind farms and here we have 12 operational offshore wind farms that we either own or partly own, one wind farm under construction and a further three in our development pipeline. We have 1,000 offshore wind turbines installed, which produce enough green energy to power over 4.4 million UK homes a year.






Our UK offshore wind farms produce enough electricity to power over 4.4 million homes



We are currently investigating an offshore area of up to 468 km² where up to 180 wind turbines could be located



-  Wind power under construction
-  Wind power in operation
-  Wind power post-consent

The planning process

Hornsea Four has an expected generating capacity of greater than 100 megawatts (MW) and is therefore defined as a Nationally Significant Infrastructure Project (NSIP) under Section 15(3) of the Planning Act 2008 (the '2008 Act'). As such, the Applicant is required to apply for a DCO to the Planning Inspectorate (PINS), who administer the examination of applications on behalf of the relevant Secretary of State (SoS).

Following this targeted consultation on the Compensation Measures, the Applicant expects to submit an Application for a DCO to PINS in Autumn 2021. If accepted, the Application will be examined by an appointed Examining Authority, that will make a recommendation to the SoS for

Business Energy and Industrial Strategy (BEIS). The SoS will review and comment on this recommendation before determining whether to grant a DCO for Hornsea Four.

As part of the planning process, the SoS is legally required to carry out an assessment of the likely significant effects from Hornsea Four on protected sites (known as European sites or European offshore marine sites in the relevant legislation). If the SoS finds that Hornsea Four will have an adverse effects on the integrity of any European site or European offshore marine site (or adverse effects cannot be ruled out) then they must ensure that any necessary compensation measures are secured to compensate for those adverse effects.

The Applicant's position, based on its ecological assessments, is that there will be no Adverse Effect on Integrity (AEol) of the Flamborough and Filey Coast SPA. However, should the SoS disagree with that position, the Applicant is required to provide information on compensation measures to enable the SoS to grant the DCO.

The Applicant therefore proposes to provide information on compensation measures for Hornsea Four in its DCO application. The Compensation Measures listed in this document are the measures which the Applicant has identified to date via its extensive research and engagement with stakeholders, and on which we are now seeking your views.

Consultation to date on the Compensation Measures has been carried out via a series of online compensation workshops between June 2020 and August 2021. The online workshops were attended variably by Natural England, the Marine Management Organisation (MMO), the Department for Environment, Food and Rural Affairs (Defra), the Joint Nature Conservation Committee (JNCC), The Wildlife Trust (TWT), Royal Society for the Protection of Birds (RSPB), National Federation of Fishermen's Organisations (NFFO) the Planning Inspectorate (PINS), East Riding of Yorkshire Council (ERYC)

and The Crown Estate (TCE). A summary of the compensation workshops will be made available in a Record of Consultation, which will be submitted as part of our DCO application.

Consultation has also been undertaken by the Applicant on the wider Environmental Impact Assessment process and Habitat Regulations Assessment (HRA) matters which are available from the Hornsea Four Documents library at:

hornseaprojects.co.uk/hornsea-project-four/documents-library

We are currently also undertaking a series of environmental studies and assessments as part of the EIA process. Feedback received during the period will help us to refine our proposals and work towards delivering an environmentally informed design for Hornsea Four at DCO application.

¹ Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 as amended and retained by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.



Hornsea Project Four Offshore Wind Farm

Hornsea Four will be located approximately 69 km offshore and will be to the west of the operational Hornsea Project One, Hornsea Project Two (which is under construction) and Hornsea Project Three (which was awarded a DCO on 31 December 2020).

Electricity generated by the Hornsea Four offshore wind farm will be brought ashore via electrical subsea cables and connect into an onshore substation at our proposed grid connection at National Grid Creyke Beck.

Further information on Hornsea Four can be found at hornseaprojects.co.uk/hornsea-project-four



- Current DCO Order Limits (468 km²)
- Existing operational Ørsted offshore wind farms
- Under construction
- Granted consent

Who are we consulting?

We are consulting with statutory consultees who may have an interest in the proposed Compensation Measures, and certain stakeholders located in the vicinity of the land potentially affected by the measures. This consultation is also open to anyone who may be interested or in any way feel impacted by the Compensation Measures.

As well as participating in this consultation, consultees can also register their interest at our project website (hornseaprojects.co.uk/hornsea-project-four) to receive regular updates on Hornsea Four.

What are we consulting on?

Our proposed Compensation Measures are:

- Offshore nesting
- Onshore nesting
- Predator eradication
- Bycatch reduction
- Fish habitat management

We are seeking feedback on these Compensation Measures which are described in more detail in the following sections. A map showing the potential areas of search of the proposed measures is included in Annex 1.

A detailed description of each measure, location maps and an impacts register are also available on our website at: hornseaprojects.co.uk/hornsea-project-four/compensation-measures-consultation

We welcome feedback to help develop our proposals regarding impacts such as, but not limited to:

- Environmental (e.g. landscape and visual amenity, local/marine ecology, wildlife)
- Economical (e.g. commercial activities such as shipping and fisheries, employment opportunities)
- Social (e.g. Public Rights of Way and noise)

More information will be available regarding technical aspects of the Compensation Measures as our proposals develop including as part of the DCO application process.

Components of our Compensation Measures

The Compensation Measures proposed by Hornsea Four are designed to offset potential impacts upon the kittiwake, gannet, guillemot and razorbill seabird species, which are features of the Flamborough and Filey Coast SPA. The Compensation Measures are intended to maintain coherence of the national site network.

The compensation measures currently being considered are presented in Table 1, and in Annex 1, which has been attached to this consultation leaflet.



Compensation Measure	Option	Location	Location ID	Kittiwake	Gannet	Guillemot	Razorbill
Offshore nesting	New	Southern North Sea	A1				
Offshore nesting	Repurposed	Southern North Sea	A1				
Onshore nesting	New	Clayton Bay to Newbiggin-by-the-Sea	B1				
		Suffolk Coast	B2				
Bycatch		Thames Estuary	C1				
		South coast of England: Broadstairs to Plymouth	C2				
		Isles of Scilly	D1				
Predator eradication		Rathlin Island, Moyle, Northern Ireland	D2				
		Torquay, Devon	D3				
		Guernsey and Alderney	D4				
Fish habitat management	Seagrass	Rathlin Island, Moyle, Northern Ireland	E1				
	Seagrass	Isles of Scilly	E2				
	Seagrass	Celtic Sea, Wales	E3				
	Seagrass	Plymouth Sound to Helford River	E4				
	Seagrass	Solent	E5				
	Seagrass	Lindisfarne	E6				
	Seagrass	Humber Estuary	E7				

Table 1: Compensation Measures, options, locations and species being compensated.

The Compensation Measures that could be delivered for kittiwake and gannet include either new or repurposed offshore nesting structures or onshore nesting opportunities. Predator eradication could be delivered at one or more of the proposed island locations for guillemot and razorbill. Bycatch mechanisms (for gannet, guillemot and razorbill) may potentially be delivered at one or more areas as will Fish Habitat Management (all species).

It is currently not anticipated that all Compensation Measures for all species will be required at all the locations being consulted upon, as identified in Table 1. The exact compensation measures, their location(s) and spatial extent will be determined during project development, as the DCO application progresses, and post-consent.

Offshore nesting

The Applicant is currently investigating the construction of an offshore artificial nest site(s) or the repurposing of existing oil and gas assets to increase the annual recruitment of black-legged kittiwake (kittiwake) into the regional population of the southern North Sea. Kittiwake have been observed readily utilising man-made structures and therefore it is considered the establishment of an artificial nest site(s) would provide a viable compensation option.

The Applicant has consulted with various oil and gas operators for the purposes of identifying opportunities to repurpose an existing offshore platform. Alternatively, the Applicant is considering

the construction of purpose-built offshore nesting platform(s).

Whether new or repurposed, the compensation structure would be located within the Southern North Sea area of search (please refer to location ID A1 in Annex 1) and comprise:

- High and steep sided structure, narrow horizontal ledge for nests, small overhang above nest
- Inaccessible to predators
- Some shelter from high winds and other adverse weather conditions; and
- Presence of other breeding kittiwakes



Onshore nesting

The artificial nesting structures will be located within one of two search zones (one in East Suffolk, and the other from Clyton Bay to Blyth). The structures will be designed to accommodate nesting pairs of Kittiwake.

Once the construction is complete, it is proposed that the site will be secured using fencing and the structures will be operational for a minimum of 35 years.

The design principles for onshore artificial nesting structures are subject to significant further development. However, the design principles of direct relevance to the size or appearance of the structures are as follows:

- Located close to water, facing out to sea
- High and steep sided structure, narrow horizontal ledge for nests
- Inaccessible to predators; and
- Overhang/roof to buffer against weather conditions



Predator eradication

Seabirds have a number of natural predators distributed across their range. Many seabirds choose to nest on remote islands which are free from ground dwelling predators. When non-native predators are introduced to these island colonies, they may have profound impacts on the native fauna. The most prevalent predator to seabirds generally are rats. Both brown and black rats are known predators of many small-bodied seabird species, however, when available, the majority of predation is focused on eggs and chicks, impacting guillemot and razorbill.

To compensate for the potential displacement impact on guillemot and razorbill from the operation of Hornsea Four, the Applicant proposes

to implement a predator eradication programme at selected guillemot and/or razorbill breeding colonies, such as Guernsey and Alderney, Isles of Scilly, Rathlin Island. Predator eradication will be undertaken using well established methods evidenced throughout the wealth of previous predator eradication examples from the UK and further afield. For ground predators, such as rats, this usually involves poison bait stations. Before any eradication schemes are actioned at a specific location, an eradication feasibility assessment will be undertaken to ensure measures can be employed to remove the invasive species and that biosecurity measures can be subsequently installed to prevent reinvasion.

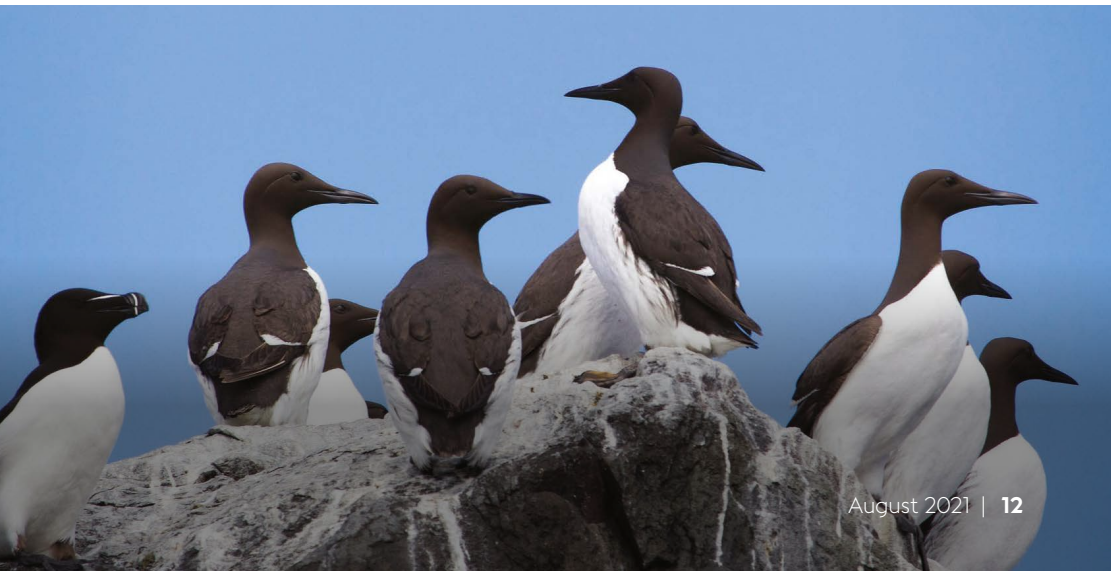
Bycatch reduction

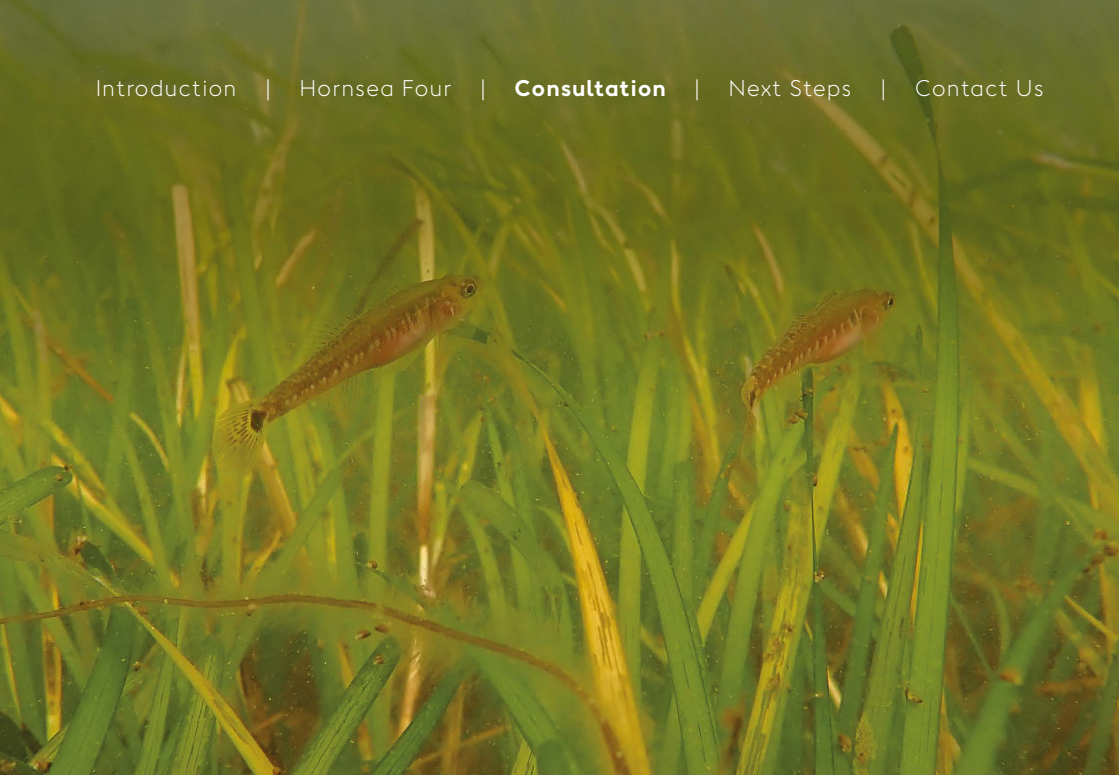
Seabirds are at risk from multiple anthropogenic threats, including as bycatch in UK fishing activities. Bycatch – the incidental capture of non-target species in fisheries – can present a significant pressure on seabird populations. To compensate against the number of seabirds, specifically razorbills and guillemots, that may be at risk of displacement from the operation of Hornsea Four, the Applicant proposes to support the overall numbers of these birds through the reduction of bird bycatch in selected UK fisheries with connectivity to the national site network.

The reduction of bird bycatch could be achieved using additional deterrent equipment attached on to fishing gear.

There are multiple types of mitigation technique that can be used to reduce the interactions of birds and fishing equipment. Each mitigation technique is more suited to specific fishing gear types and specific target bycatch species of birds. The proposed mitigation methods being considered as part of this project are above water deterrents, net lights, and net panels.

Potential fisheries with reported bird bycatch and population connectivity include the UK South coast, Cornwall, and the Thames Estuary. All of these locations are being considered for potential mitigation trails and future implementation.





Fish habitat management

Seagrass meadows are amongst the most productive marine habitats in the UK. Seagrass provides rich nursery habitat for a fifth of the world's biggest fishing species including pollock, herring and whiting, meaning their restoration can improve prey availability (Project Seagrass, 2021). Seagrass meadows provide shelter and food for juvenile fish, stabilise the sediment, reduce erosion, improve water quality, absorb excess nutrients and improve nutrient cycling, produce oxygen and store significant amounts of carbon.

The Applicant is exploring opportunities to expand existing seagrass restoration projects that are already underway in the Humber Estuary, Solent, Plymouth Sound and the Celtic Sea.

We are also seeking opportunities to create new projects with the academic community that could potentially form a resilience compensation measure. We recognise the importance of seagrass as a measure that can provide resilience to other compensation measures such as predator eradication, bycatch mitigation and provision of artificial nesting.

Next steps

Please visit our website to view our full suite of Compensation Measures consultation documents, which will be uploaded prior to the consultation commencing on 05 August 2021. This can be accessed via: hornseaprojects.co.uk/hornsea-project-four/compensation-measures-consultation. We are welcoming feedback on our proposed Compensation Measures until **06 September 2021**.

We will have regard to the feedback we have received on the Compensation Measures. You can provide responses to this consultation in the following ways:



By email to:

hornseaprojectfour@orsted.co.uk



By post to:

Hornsea Project Four Offshore Wind Farm
c/o Humphrey Laidlaw
Ørsted UK
5 Howick Place
Victoria
London
SW1P 1WG



Or via our Freephone information line:

0808 169 3030

For more information on Hornsea Four you can also visit our website:

hornseaprojects.co.uk/hornsea-project-four or follow us on

Twitter: [@OrstedUK](https://twitter.com/OrstedUK) [#HornseaProject4](https://twitter.com/HornseaProject4)

Following submission of the DCO application for Hornsea Four, there will be an opportunity for stakeholders and the public to participate in the Examination of the application.

Contact us



Send us an email:
contact@hornseaprojectfour.co.uk



Call our Freephone information line:
0808 169 3030



Visit our website:
Hornseaprojects.co.uk/Hornsea-project-four



Send us a letter:
Freepost: Hornsea Four

Should you require this document in large print, audio or braille then please contact us using the details provided.

Please note that the issues raised in any responses and other representations will be recorded in the Consultation Report and may be made public. When responding to our pre-application consultation your personal data will be stored in compliance with GDPR by Ørsted and will not be shared with third parties unless Ørsted is required to do so by law. Your personal details may however be passed on to the Planning Inspectorate to ensure that our pre-application consultation is sufficient and in line with the planning process. Please see the Privacy Notice on our website for further details.

Follow us on Twitter:
[@OrstedUK](https://twitter.com/OrstedUK) [#HornseaProject4](https://twitter.com/HornseaProject4)

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PD TEESPORT LIMITED hereby gives notice that:

1. Its private roads as listed below will be closed to all traffic on the dates indicated:

Tees Dock Road Sunday 13th October 2013

South Gare Road Sunday 20th October 2013

**Seal Sands Road
North Gare Road Sunday 27th October 2013**

2. Its private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 3rd November 2013.

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

Signed for and on behalf of PD Teesport Limited

Company Secretary



PD TEESPORT LIMITED hereby gives notice that:

1. Its private roads as listed below will be closed to all traffic on the dates indicated:

South Gare Road Sunday 28th September 2014

Tees Dock Road Sunday 5th October 2014

**Seal Sands Road
North Gare Road Sunday 12th October 2014**

2. Its private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 26th October 2014.

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

Signed for and on behalf of PD Teesport Limited

Company Secretary



PD TEESPORT LIMITED hereby gives notice that:

1. Its private roads as listed below will be closed to all traffic on the dates indicated:

Tees Dock Road Sunday 27th September 2015

South Gare Road Sunday 4th October 2015

**Seal Sands Road
North Gare Road Sunday 11th October 2015**

2. Its private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 18th October 2015.

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

Signed for and on behalf of PD Teesport Limited

Company Secretary

PD TEESPORT LIMITED hereby gives notice that:

- 1. Its private roads as listed below will be closed to all traffic on the dates indicated:**

South Gare Road	Sunday 1st October 2017
Seal Sands Road North Gare Road	Sunday 8th October 2017
Tees Dock Road	Sunday 15th October 2017

- 2. PD Teesport's private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 24th September 2017.**

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

Signed for and on behalf of PD Teesport

Company Secretary



PD TEESPORT LIMITED hereby gives notice that:

- 1. Its private roads as listed below will be closed to all traffic on the dates indicated:**

**Seal Sands Road
North Gare Road**

Sunday 29th September 2019

South Gare Road

Sunday 13th October 2019

Tees Dock Road

Sunday 20th October 2019

- 2. PD Teesport's private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 6th October 2019**

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

**Signed for and on behalf of PD Teesport
Company Secretary**



PD TEESPORT LIMITED hereby gives notice that:

- 1. Its private roads as listed below will be closed to all traffic on the dates indicated:**

Seal Sands Road North Gare Road	Sunday 27th September 2020
--	--

South Gare Road	Sunday 18th October 2020
------------------------	--

Tees Dock Road	Sunday 25th October 2020
-----------------------	--

- 2. PD Teesport's private roads at Hartlepool Dock including Kafiga Landings, Ferry Road and Greenland Road will be closed on Sunday 4th October 2020**

Tenants and boat owners with permission for access should carry with them proof of identity to ensure admission.

**Signed for and on behalf of PD Teesport
Company Secretary**

Appendix 4

BY E-MAIL, SPECIAL DELIVERY AND FIRST CLASS POST

PD Teesport Limited (CRN: 02636007)

Legal Department
17-27 Queen's Square
Middlesbrough
TS2 1AH

[By e-mail to: Michael Dowson and Catey Oliver]

28 June 2022

IMPORTANT – THIS LETTER AFFECTS YOUR LAND

Dear PD Teesport Legal Team,

LAND: THE FREEHOLD LAND ON THE NORTH-EAST AND SOUTH-WEST SIDES OF PRINCES STREET, MIDDLETON, HARTLEPOOL AS REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER: CE38719 AND ADJOINING LAND SHOWN EDGED RED ON THE ENCLOSED PLAN (THE “LAND”)

RE: REQUEST FOR INFORMATION RELATING TO THE LAND PURSUANT TO SECTION 5A OF THE ACQUISITION OF LAND ACT 1981 (THE “ALA”)

I am writing further to the recent senior level discussions that have taken place regarding Ørsted’s plans to develop the Old Yacht Club site in Hartlepool. As it has not yet been possible to reach agreement to acquire the necessary land rights from you, Ørsted is proposing to make a compulsory purchase order to acquire rights of access over the Land in connection with the generating station consented pursuant to the Hornsea Three Offshore Wind Farm Order 2020.

Ørsted Hornsea Project Three (UK) Limited (CRN: 08584210) (“**Ørsted**”) has a generation licence pursuant to the Electricity Act 1989 (the “**EA**”). Ørsted’s generation licence includes the ability to compulsorily acquire land, existing rights over land and/or create new rights over land pursuant to Section 10 of the EA and Schedule 3 to the EA to enable Ørsted to carry on the activities authorised by its licence and which relate to the construction and/or operation of a generating station.

We understand that you have an interest in the Land. To ensure the necessary details of the interests affected by our proposed compulsory purchase order can be included within the compulsory purchase order, we enclose a questionnaire for you to complete. You **must** complete and return the enclosed questionnaire to us **within 14 days of service of this letter**. We calculate your deadline to return the enclosed questionnaire to be **14th July 2022** but such date is specified strictly without prejudice to your obligation to return a completed copy of the questionnaire within 14 days of service of this letter.

Please note that, as an acquiring authority for the purposes of section 5A of the ALA pursuant to its electricity generation licence and section 10 of and paragraph 1 of Schedule 3 to the EA, this letter constitutes formal notice to you to supply information under section 5A of the ALA.

We further refer you to Section 5B of the ALA which provides that a person or entity which:-

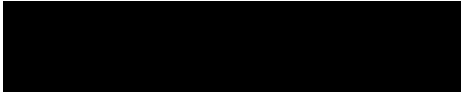
- (a) fails without reasonable excuse to comply with a notice served on them under section 5A of the ALA; or
- (b) in response to a notice served on them under section 5A of the ALA gives information which is false in a material particular, and when the person does so, they know or ought reasonably to know that the information is false,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. Please note the maximum fine under level 5 on the standard scale is currently unlimited.

If an offence under section 5B of the ALA is committed by a body corporate and it is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of a director, manager, secretary or other similar officer of the body corporate or a person purporting to act in any such capacity, the individual, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

We trust, therefore, that you will complete and return the enclosed questionnaire to me in the enclosed prepaid envelope. Should you mislay the prepaid envelope, please return your replies to this notice to me at Orsted, 5 Howick Place, London, England, SW1P 1WG.

Yours faithfully,



Ian Mckenna
Lead Land & Property Manager
ianmk@orsted.com
Tel +447388386983

For and on behalf of Orsted Hornsea Project Three (UK) Limited (CRN: 08584210)

Enclosures:

- (1) Plan showing Land; and
- (2) Questionnaire

IMPORTANT

YOU ARE REQUIRED TO COMPLETE THE INFORMATION ON THE ENCLOSED FORM AND RETURN IT TO ØRSTED HORNSEA PROJECT THREE (UK) LIMITED IN THE ATTACHED PREPAID ENVELOPE WITHIN 14 DAYS FROM ITS RECEIPT.

NOTICE PURSUANT TO SECTION 5A OF THE ACQUISITION OF LAND ACT 1981 AND SECTION 10 OF AND PARAGRAPH 1 OF SCHEDULE 3 TO THE ELECTRICITY ACT 1989

TO: PD Teesport Limited (CRN: 02636007) whose registered office is at 17-27 Queen's Square, Middlesbrough, TS2 1AH.

FROM: Ørsted Hornsea Project Three (UK) Limited (CRN: 08584210) whose registered office is at 5 Howick Place, London, England, SW1P 1WG ("**Ørsted**").

LAND: The freehold land on the north-east and south-west sides of Princes Street, Middleton, Hartlepool as registered at HM Land Registry under title number: CE38719 and adjoining land as shown for the purposes of identification only edged red on the attached plan (the "**Land**").

Please Note that should you believe that the extent of the Land as indicated on the attached plan does not accurately represent your interest(s) you should mark any difference on the plan attached to the questionnaire to be returned to Ørsted Hornsea Project Three (UK) Limited (including any separate interest if applicable).

Ørsted is the holder of an electricity generation licence pursuant to the Electricity Act 1989.

Pursuant to its electricity generation licence and section 10 of and paragraph 1 of Schedule 3 to the Electricity Act 1989, the Secretary of State for Business, Energy and Industrial Strategy may authorise Ørsted to compulsorily acquire land and/or rights over land.

This notice requiring information as to interests in land is issued by Ørsted acting under the powers conferred by section 5A of the Acquisition of Land Act 1981.

This notice concerns the identification of interests in land which may be subject to the compulsory acquisition of rights.

You are required to give the names and addresses of every person who you believe is a freeholder, lessee or tenant or occupier of the Land or any part of it and the names and addresses of every person who you believe has an interest in the Land or any part of it.

You must reply to this notice giving whatever information you have within 14 days of its receipt.

If you fail to reply, or if you deliberately or recklessly give false information, you may be committing a criminal offence for which you can be fined.

To assist in making your reply, a form and a prepaid envelope is enclosed. Should you mislay the prepaid envelope, please return your replies to this notice to Ian McKenna of Ørsted at 5 Howick Place, London, England, SW1P 1WG.

If you have any queries or difficulties with filling in this form please contact Ian McKenna by telephone to +44 73 8 8386983 or e-mail to IANMK@orsted.com.

Dated 28 June 2022

Ørsted Hornsea Project Three (UK) Limited (CRN: 08584210)

SECTION 5A OF ACQUISITION OF LAND ACT 1981

REPLY TO REQUEST FOR INFORMATION AS TO INTERESTS IN LAND

In reply to the notice dated 28 June 2022 served by Ørsted Hornsea Project Three (UK) Limited the information required as to interests in the land shown edged red for the purposes of identification only on the attached plan (the " Land") is set out below.

Should the extent of the Land (as shown on the attached plan) not accurately represent your interests please amend the plan accordingly and return to Ian McKenna with your completed questionnaire.

Please answer all sections as fully as possible, indicating "none" or "not known" if applicable. Please use typescript or block capitals. If necessary please attach additional sheets, clearly indicating to which section they refer.

Please take care that, when answering each of the following questions, your answers relate specifically to the Land and all parts of it (including any buildings on it) named in the notice.

Freeholders

Please give the name and address of each person whom you believe to be a freeholder of the Land:

.....
.....
.....
.....
.....

Lessees/Tenancies

Please give the name and address of each person whom you believe to be a leaseholder (leases of 3 years or more) or tenant (leases of less than 3 years) of the Land:

.....
.....
.....
.....
.....

Occupiers

Please give the name and address of each person whom you believe to be an occupier of the Land:

.....
.....
.....
.....
.....

Other interests

Please give the name and address of each person whom you believe to have an interest in the Land:

.....
.....
.....
.....
.....

If you have filled in the reply on behalf of a business, please state the full name of the business and your capacity

Your capacity:

Name of business:

Address of business:

.....
.....

Telephone:

I confirm that the information is correct to the best of my knowledge and belief

Signature:

Name in Capitals:

Date:

Appendix 5

Our ref: MM/LH HD.15b

13th July 2022

E-mail: ianmk@orsted.com

Mr Ian Mckenna
Lead Land & Property Manager
Orsted
5 Howick Place
LONDON
SWIP 1WG

Dear Sir

LAND: THE FREEHOLD LAND ON THE NORTH-EAST AND SOUTH-WEST SIDES OF PRINCES STREET, MIDDLETON, HARTLEPOOL AS REGISTERED AT HM LAND REGISTRY UNDER TITLE NUMBER: CE38719 AND ADJOINING LAND SHOWN EDGED RED ON THE ENCLOSED PLAN (THE "LAND")

RE: REQUEST FOR INFORMATION RELATING TO THE LAND PURSUANT TO SECTION 5A OF THE ACQUISITION OF LAND ACT 1981 (THE "ALA")

I refer to the notice and enclosed plan served by Orsted, purportedly pursuant to section 5A of the Acquisition of Land Act 1981. Whilst I am happy to provide information of our title to this land, which is a matter of public record, I think it is appropriate to make some observations on the powers to which you refer:

1. I understand that this proposed acquisition relates to access to a proposed habitat mitigation proposal associated with your proposed off shore wind farm, which benefits from a DCO. You will no doubt be aware that Government guidance states that "*Acquiring authorities should look to use the most specific power available for the purpose in mind, and only use a general power when a specific power is not available.*" In light of this guidance, it seems odd to us that any land required for the delivery of species mitigation was not delivered and promoted as part of your DCO. Use of Electricity Act powers seems to us to be inappropriate in the circumstances and not in accordance with Government advice.
2. We also do not accept that Electricity Act compulsory acquisition powers are suitable in this case. They relate to acquisitions connected with your undertaking; construction and operation of generating stations. This proposal is associated with the delivery of species mitigation, which is not part of your undertaking. Whilst we appreciate the connection to the DCO requirements, we consider that this should have been addressed as part of that process and that the Electricity Act powers are not available for your intended use of the land.
3. In light of our concerns above, we are not persuaded that you have a lawful basis to exercise section 5A powers. Although we have responded to the notice, this should not be regarded as acceptance of any lawful basis for CPO intervention.

www.pdports.co.uk

Registered in England No. 02636007 as PD Teesport Limited.

Registered Office: 17-27 Queen's Square, Middlesbrough TS2 1AH.

All business undertaken by the company is subject to the PD Teesport Limited general conditions of business, the latest editions of RHA, UKWA, CMR (where applicable by law), and BIFA (for freight forwarding only), as appropriate to the service being undertaken. Copies of the conditions are available from the company on request or can be found on our website www.pdports.co.uk/legal/terms/

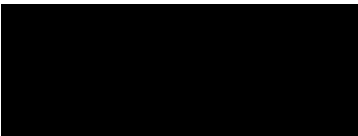
Separately you will also be aware that port is itself a statutory undertaker and that the land which is the subject of your notice is operational port land. As advised the title information is of public record being within Titles CE120759 and CE38719.

Notwithstanding the above, I should note that the port does not consider that the proposed site for species mitigation is appropriate for the intended purposes, given its location adjacent to operational port facilities. To this end, please would you provide me with details of the alternative sites that have been considered for this species mitigation as well as their stage of promotion (land, consents etc).

I look forward to hearing from you.

Yours faithfully,

Yours sincerely



Michael McConnell
Group Property Director

Direct: +44 (0) 1642 877071

E-mail: michael.mcconnell@pdports.co.uk

Appendix 6

Catey Oliver
Estates Surveyor
PD Ports
17-27 Queen's Square
Middlesbrough
TS2 1AH

19 June 2023
Our ref: HSG/AVIS

Dear Catey

**Orsted Hornsea Project Three (UK) Limited
Access to The Old Yacht Club, Hartlepool**

I am very disappointed that despite multiple phonecalls/messages left with you and emails providing suitable dates for a meeting, on your request, I have not heard anything further from you since your email dated 4th May.

As mentioned in my email dated 26th May, it is our intention to restart CPO proceedings regarding the access to the Old Yacht Club, in order to protect our wider project timelines. However, we remain committed to reaching a voluntary agreement with PD Ports for the access if we can, and to this end Orsted would like to make the following Without Prejudice and Subject to Contract offer to close out the dispute around the access to, and Orsted's use of, The Old Yacht Club:

- ❖ A one-off ex gratia payment of **£250,000** (Two hundred and Fifty Thousand Pounds) to PD Ports.

A summary of the rights that this offer will cover is as follows:

- Rights to pass with or without vehicles, plant and machinery and equipment over the existing access road to gain access to and from the Old Yacht Club site.
- Rights to lay, construct, use, maintain and upgrade an access road to the Old Yacht Club site.
- Rights to lay, construct, use, maintain, protect and access electric cables and all associated ancillary equipment and associated works, connections to other electric cables and other conducting media and all the ducts, conduits, gutters or pipes for containing them to be laid.
- Rights to connect into existing services.
- Rights to remove any obstructions on the access road or prevent works which may interfere with or damage any pipes, drains and cables.
- The rights are subject to provisions relating to diversions at the request of the landowner.

Further terms and conditions of the offer are open for discussion and the above offer remains subject to agreement of mutually acceptable terms and conditions. This offer remains open for acceptance by PD Ports for 30 days from the date of this letter.

The offer remains subject to agreement of terms within 3 months of the date of this letter and signing of the final agreements within 6 months of the date of this letter. If these timescales are

not met, we reserve the right to reduce the payment by £50,000 for every month that these deadlines are exceeded (unless the delays are the fault of Orsted or their representatives).

If the agreement deadlines are exceeded by 3 months or more, then we reserve the right to withdraw this offer completely and we will rely on the grant of the CPO to secure the necessary rights. On the grant of a CPO, the rights will be valued in accordance with the Compensation Code, and we expect the value to be nil or minimal, since PD Ports will not incur any losses through the grant of the rights.

Notwithstanding the above, we remain keen to reach a voluntary agreement with PD Ports and work with you in a positive and collaborative manner going forward.

I look forward to hearing back from you at your earliest convenience, and hope that we can come to a positive and mutually beneficial conclusion.

Yours sincerely



Helen Gray
Senior Land & Property Manager

helgr@orsted.com
Tel +447585204585

Appendix 7

Appendix 7

Catey Oliver

From: Michael McConnell
Sent: 06 December 2023 18:30
To: Helen Gray
Cc: Catey Oliver
Subject: Orsted and Port of Hartlepool

Dear Helen,

Would you kindly advise where exactly is the site at Redcar which Orsted had purportedly investigated ? would you please provide a plan?

Your table in your BRAG exercise states “Landowner open to discussion.....” Who was the Landowner?

You are aware that PD Teesport has always been opposed to the use of our land at the Port of Hartlepool for your suggested purposes. In comparison therefore the Redcar site should clearly be a preferred one to the Port of Hartlepool.

Why therefore have Orsted seemingly dismissed that site, but instead seek to force site assembly through compulsion at the Port of Hartlepool.

I look forward to your reply.

Yours sincerely,

Michael



Michael McConnell
Group Property Director

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Catey Oliver

From: Catey Oliver
Sent: 07 December 2023 12:09
To: Helen Gray
Cc: Michael McConnell
Subject: Port of Hartlepool and former Coastwatch building

Dear Helen

Further to your reply to the request for information, I would be grateful if you can confirm whether or not Steetley Pier at Hartlepool was considered as a suitable location for the kittiwake mitigation?

Many thanks and I look forward to hearing from you.

Best regards

Catey



Catey Oliver
Estates Surveyor

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Catey Oliver

From: Catey Oliver
Sent: 12 December 2023 16:50
To: Helen Gray
Cc: Michael McConnell
Subject: Port of Hartlepool and former Coastwatch building

Good afternoon Helen

Further to your reply to the request for information, I understand the land we proposed at North Gare (the old sand yard) was discounted. It is not clear if this area is included within Table 2 you have provided; please can you confirm? In addition, I would be grateful if you can provide full details as to why this was not considered appropriate.

Many thanks

Best regards

Catey



Catey Oliver
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Catey Oliver

From: Catey Oliver
Sent: 21 December 2023 16:03
To: Helen Gray
Subject: Orsted - PDT
Attachments: river-map-2018.pdf

Good afternoon Helen

Further to our various emails, please see attached a River map showing PDT ownership at the Ports of Teesport and Hartlepool.

You can clearly see the areas marked North Gare and South Gare; these areas amount to c. 234 acres.

I would be grateful if you could advise if these areas were considered in and if so why these sites have been deemed unsuitable?

I look forward to hearing from you.

Best regards

Catey



Catey Oliver
Estates Surveyor

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Catey Oliver

From: Michael McConnell
Sent: 27 December 2023 11:33
To: Helen Gray
Cc: Catey Oliver
Subject: Hartlepool proposed compulsory purchase of Port land
Attachments: Steetley Pier in Hartlepool - Fabulous North.html

RESTRICTED CONTENT

Dear Helen

You will recall when we met at these offices some months ago I had advised that PD Teesport would consider buying the former Yacht Club property from Orsted.

As we discussed, it seems that Orsted made an opportunistic purchase of the property in the knowledge that it did not have direct access to the public highway, unless of course Orsted was proposing to use the route along the water front from the end of Ferry Road. That did not however appear to be the case since Orsted had incorrectly and unsuccessfully tried to claim after the acquisition of the former Yacht Club site that the site had access through the Port Estate.

Bearing in mind that Orsted is now seeking to secure access through compulsory acquisition of the port customs area, severing part of this area from the rest of the port, it would appear Orsted had either bought a completely landlocked property or is now dismissing access along the water front from its proposals.

If it is the former then the proposed CPO is an attempt to remedy errors made in its acquisition of the former yacht club site. Either way, would you please advise why Orsted is not proposing to access the former yacht club site alongside the water frontage from the end of Ferry Road, rather than seeking to sever port land?

The Land Registry indicates there is there is a restrictive covenant in place in respect of the yacht club site, restricting the use to that of a club house and for ancillary purposes. Restrictive covenants and access restrictions do of course have implications on land use and value.

You are also aware there are other waterside landbanks within the ownership of PD Teesport situated away from commercial port operations. North Gare/the former Leathers site and South Gare for example comprise around 233 acres. I understand that North Gare and South Gare were previously mentioned to Orsted as potential alternative options.

On the basis that Orsted withdraws the threat of the CPO and the resultant costs to both parties of the Inquiry, as well as distracting our business away from our core activities which generate economic activity and wealth for Hartlepool, PD Teesport could buy the former Yacht Club site from Orsted and lease an alternative one at say North Gare/Leathers or South Gare for ANS purposes. That would enable Orsted to obtain its objectives of the establishment of an ANS only in a locality away from secure commercial port operations and rectify the bad property deal regarding the original acquisition of the former Yacht Club site.

I have incidentally attached details of the Steetley Pier at Hartlepool. You may not be aware but this has had a kittiwake colony previously and so no doubt should presumably have ranked highly in your selection criteria if it was considered.

I look forward to hearing from you.

Kind regards,

Michael



Michael McConnell
Group Property Director

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Appendix 8

Catey Oliver

From: Michael McConnell
Sent: 05 January 2024 13:45
To: Helen Gray
Cc: Catey Oliver
Subject: RE: Hartlepool proposed compulsory purchase of Port land
Attachments: HARTLEPOOL SITE PLAN ISPS RESTRICTED AREA.pdf; Customs Warehouse Hartlepool.pdf

RESTRICTED CONTENT

Dear Helen,

I refer to my correspondence dated 27th December and note I do not appear to have heard back from you.

We do not understand why Orsted is promoting a compulsory purchase order which would amongst other things sever part of the Port Estate.

Whilst compensation is not necessarily an issue for the Inspector at the upcoming Inquiry, from the contents of your previous correspondence it seems apparent that Orsted has either not understood or had chosen to ignore the actual implications of what it is promoting. This goes beyond the original decision on the part of Orsted to purchase the former Yacht Club site in the knowledge that the site did not have access rights through the Port Estate along a route which it is now seeking to secure through compulsory purchase, having failed in its earlier claim that rights existed.

You will recall that I have previously explained to you, the area of our estate which is being threatened by the actions of Orsted is not any form of permanent access road nor an area where any third parties control access. It is private operational land. You have incorrectly assumed it is some form of dedicated open road. It is not. If you start in the wrong place, you will invariably end up in the wrong place.

To date, no one at Orsted has sought any information from PD Ports in relation to land values in the Port, whilst Orsted has also seemingly not considered alternatives which would not involve severing part of the Port Estate from the rest. It should be clear from the attached plans that at a minimum your proposal, if successful, would result in the inclusion of substantial heads of claim under severance and injurious affection, something which you seem to ignore.

Notwithstanding the fact that any act of compulsory acquisition overriding other interests is supposed to be a last resort and a compelling case in the greater public interest, then as I have previously mentioned there is an alternative route which would at least not split the Port Estate.

You will no doubt appreciate that amongst other things the statutory compensation code provides for market value in relation to the area of any Order/Vesting Declaration, plus business loss in addition to compensation for severance and injurious affection etc. For reasons which you do not appear to wish to disclose, Orsted has chosen to put all its eggs in one basket in trying to secure by compulsion an interest running through our estate rather than along the edge.

Taking basic land values alone, the nature of the Port Estate results in values considerably in excess of areas outside of it. It should not be lost on you that severing and therefore isolating part of our Estate from the rest by way of an access route would result in a compensatable loss in value of the severed land, on top of business loss claims and the loss of value of the area subject to any Order/Vesting Declaration.

Put simply, we have recently completed a letting of land within the Port Estate equating to c.£90,422/acre per annum for a 15 year term with annual RPI reviews (capped at 3.5% per annum). The proposed Orsted compulsory purchase order, assuming of course it were successful, would result in not only compensation for loss in land value for the land take, but under various other heads of claim too.

Whilst the inspector may not be concerned about the quantum of compensation, you will appreciate that he should be made aware that Orsted could easily have considered an alternative route along the edge of the customs boundary which would have helped mitigate against the damage caused by Orsted's proposals. Please therefore confirm by return what consideration Orsted had given to an access route along the outer edge of the Port Estate as part of its decision making process.

I also await to hear back from you as to the other potential ANS sites which we had suggested.

I look forward to your immediate response.

Kind regards,

Michael



Michael McConnell
Group Property Director

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From: Michael McConnell
Sent: Wednesday, December 27, 2023 11:33 AM
To: Helen Gray <HELGR@orsted.com>
Cc: Catey Oliver <catey.oliver@pdports.co.uk>
Subject: Hartlepool proposed compulsory purchase of Port land

Dear Helen

You will recall when we met at these offices some months ago I had advised that PD Teesport would consider buying the former Yacht Club property from Orsted.

As we discussed, it seems that Orsted made an opportunistic purchase of the property in the knowledge that it did not have direct access to the public highway, unless of course Orsted was proposing to use the route along the

water front from the end of Ferry Road. That did not however appear to be the case since Orsted had incorrectly and unsuccessfully tried to claim after the acquisition of the former Yacht Club site that the site had access through the Port Estate.

Bearing in mind that Orsted is now seeking to secure access through compulsory acquisition of the port customs area, severing part of this area from the rest of the port, it would appear Orsted had either bought a completely landlocked property or is now dismissing access along the water front from its proposals.

If it is the former then the proposed CPO is an attempt to remedy errors made in its acquisition of the former yacht club site. Either way, would you please advise why Orsted is not proposing to access the former yacht club site alongside the water frontage from the end of Ferry Road, rather than seeking to sever port land?

The Land Registry indicates there is there is a restrictive covenant in place in respect of the yacht club site, restricting the use to that of a club house and for ancillary purposes. Restrictive covenants and access restrictions do of course have implications on land use and value.

You are also aware there are other waterside landbanks within the ownership of PD Teesport situated away from commercial port operations. North Gare/the former Leathers site and South Gare for example comprise around 233 acres. I understand that North Gare and South Gare were previously mentioned to Orsted as potential alternative options.

On the basis that Orsted withdraws the threat of the CPO and the resultant costs to both parties of the Inquiry, as well as distracting our business away from our core activities which generate economic activity and wealth for Hartlepool, PD Teesport could buy the former Yacht Club site from Orsted and lease an alternative one at say North Gare/Leathers or South Gare for ANS purposes. That would enable Orsted to obtain its objectives of the establishment of an ANS only in a locality away from secure commercial port operations and rectify the bad property deal regarding the original acquisition of the former Yacht Club site.

I have incidentally attached details of the Steetley Pier at Hartlepool. You may not be aware but this has had a kittiwake colony previously and so no doubt should presumably have ranked highly in your selection criteria if it was considered.

I look forward to hearing from you.

Kind regards,

Michael



Michael McConnell
Group Property Director

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Appendix 9

Catey Oliver

From: Michael McConnell
Sent: 04 December 2023 16:02
To: Helen Gray
Cc: Catey Oliver
Subject: FW: Port of Hartlepool and former Coastwatch building

Dear Helen,

In response to your reply to the request for information under the terms of the Environment Information Regulations 2004, following the previous refusal on the part of Orsted to provide such information, you provided a schedule of 10 "backup sites" which have been considered. Your response included a table outlining your criteria for selection.

In respect of the "Land and Property" element, the "Black (showstoppers to development)" were "The landowner has indicated that either 1) they do not wish to consider Artificial Nesting Sites (ANS) on their property; or 2) a specific feature that we have identified (e.g. a pier) is not available for Artificial Nesting sites".

The "Red" criteria "(significant level of constraints, low suitability of site)" were "The landowner has indicated that their entire property or a specific part we have identified would not be suitable for the provision of ANS due to their current or future use of the property. OR although suitable locations exist for ANS the landowner has not responded to date to discuss if they are willing to discuss the siting of ANS".

You are aware that long before Orsted opted to purchase the former Coastwatch building at Hartlepool, it was advised that PD Teesport, which owned the Operational Port land which you are now threatening by way of compulsion, did not support your proposed use of the Coastwatch building nor the use of our land for access for such purposes.

Access is integral to use, and since you are now claiming to use statutory acquisition powers for your site assembly requirements, this must surely mean by way of your own selection criteria, the Hartlepool Coastwatch building should have been ranked 'Black' rather than 'Green'.

Please therefore explain who was responsible for the 'Green' allocation, together with evidence as to both why when exactly the 'Green' allocation was applied? As you are now seeking to rely on compulsion to secure property rights, I trust you agree, that a "Green" allocation based upon your own criteria does not stand up to any level of scrutiny.

When we met on 26th July you advised the Land and Property Team was not involved in the acquisition of the Coastwatch building. How therefore could any such "Land and Property" assessment have been undertaken if the decision to acquire had, as you had advised, already been made by the Orsted Operations Team?

As we previously discussed, the property was previously acquired for £45,000 and yet Orsted purchased it for £250,000. This would support your advice that the Orsted Land and Property Team had not been involved at the time, with Orsted having paid considerably over the odds for a property which, as you are aware, did not have access through the Port.

'Green' under your adopted criteria is "The landowner has indicated they are willing to discuss the siting of an ANS on their property...".

The proposal involved more than on property interest, and your selection criteria clearly ignored ours. Quite clearly it is therefore flawed.

In addition, the offer and acceptance of £250,000 from the other owner cannot be viewed as anything more than the owner of a landlocked property, who was looking to sell in any event ,receiving an offer considerably more than the property was worth. That cannot realistically be viewed as a “positive response from private landowner” to the proposed use by Orsted, but merely a case of that party taking the money from a party (Orsted) as it was willing to pay an excessive amount for a property with no access etc.

I should be grateful therefore to receive your full response to my questions within the next 7 days.

Yours sincerely,



Michael McConnell
Group Property Director

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Appendix 10



INCA Advice Note 2023-64

Potential locations for Kittiwake nest towers

Introduction

This Advice Note has been produced for PD Ports for the purpose of identifying potentially suitable locations within their landholdings for a structure to support nesting Kittiwakes *Rissa tridactyla*.

The main Kittiwake colony in Cleveland is on the cliffs between Saltburn and Cowbar. On Teesside nesting Kittiwakes only occur on the Conoco Phillips jetties and at Hartlepool Headland. They had also bred on the Steetley Magnesite Pier until 1995 though they may have been vulnerable there to human trespassers (Blick M., 2008). In 2022 some 380 pairs nested at various locations around Hartlepool Headland (Brown C. (ed), 2023). Counts have been undertaken on the nests on Conoco Phillips jetties since 2005, with counts for at least the last decade being undertaken annually by INCA and reported to Conoco Phillips. The number of nests on these jetties varies somewhat annually but is of very similar numbers to the combined totals for Hartlepool Headland with the majority of the nests being on Jetty 4, which is the closest to Seal Sands Peninsula.

Potential locations for nesting structures

It is considered that Kittiwakes are more likely to use new sites that are close to other Kittiwake colonies, and which are within sight of the sea. Two such locations have been identified on PD Ports land around Teesmouth and are shown with red polygons in Figure 1. Of these, the redundant jetty on the north side of Seaton Channel is approximately 1km away from the existing colony on the Conoco Phillips jetties, so is less suitable. The Seal Sands Peninsula on the south of Seaton Channel is much closer to the existing colony, at approximately 70m at its closest point. This would therefore appear to be an ideal location for an artificial Kittiwake tower.



Figure 1. Potential Kittiwake nest tower locations

References

Blick M., in Joynt G., Parker T. and Fairbrother V. (2008). *The Breeding Birds of Cleveland*. Teesmouth Bird Club.

Brown C. (ed). 2023. *Cleveland Bird Report 2022*. Teesmouth Bird Club