



**BY EMAIL ONLY to:** [alex.tresadern@pinsentmasons.com](mailto:alex.tresadern@pinsentmasons.com)

Your ref:

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21 December 2022

Dear Mr Tresadern,

**Hornsea Three Offshore Wind Farm Order 2020 – S.I. 2020/1656 (“the 2020 Order”) –  
Proposed Non-Material Change Application**

**Regulation 7(3) of the Infrastructure Planning (Changes to, and Revocation of,  
Development Consent Orders) Regulations 2011 - Written consent from the Secretary of  
State for not consulting a person or authority**

1. Thank you for your email of 8 November 2022 on behalf of Orsted Hornsea Project Three (UK) Limited (“the Applicant”). The email of 8 November 2022 included a letter as an attachment which provided details of the proposed amendments to the 2020 Order along with the Applicant’s proposed approach to the consultation. The e-mail and letter together request the Secretary of State’s consent for a limited consultation exercise for this Application.
2. The letter set out the proposed amendments as follows:

Delete the existing paragraph 3(c) of Part 1 of Schedule 14 of the Order and insert the following new text as a new paragraph 3(c):

*“an implementation timetable for delivery of four artificial nest structures that ensures all necessary compensation measures are in place to allow three full kittiwake breeding seasons in respect of two artificial nest structures prior to the operation of any turbine forming part of the authorised development, and to allow two full kittiwake breeding seasons for the other two artificial nest structures prior to the operation of any turbine forming part of the authorised development, with the KIMP*

*to specify whether the three or two breeding seasons applies to each artificial nest structure.”*

Delete the existing paragraph 4 of Part 1 of Schedule 14 of the Order and insert the following new text as a new paragraph 4:

*“The undertaker must implement the measures as set out in the KIMP approved by the Secretary of State and no operation of any turbine forming part of the authorised development may be commenced until three full breeding seasons have elapsed from the implementation of two of the artificial nest structures and two full breeding seasons have elapsed from the implementation of two of the artificial nest structures, as set out in the KIMP. For the purposes of this paragraph each breeding season is assumed to have commenced on 1 March in each year and ended on 30 September.”*

3. The letter stated that, *“taking a proportionate approach, only the MMO, NE, the RSPB, The Crown Estate and the Joint Nature Conservation Committee (“JNCC”) (the “Consultees”) should be consulted on this application, because these Consultees have played an active role in developing the ANS including their location, design, monitoring and adaptive management”*.
4. On 17 November 2022, the Applicant provided two lists setting out those consultees that were consulted under section 42 and section 56 of the Planning Act 2008 in relation to the 2020 Order. On 6 December 2022, the Applicant provided a single, merged version of the two lists it had previously sent, which included further details explaining the specific reason as to why it considered each section 42, 56, 57 and non-prescribed consultee should or should not be consulted on the proposed non-material change application.
5. The Secretary of State has considered the request under regulation 7(3) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011 (as amended) (“the 2011 Regulations”).
6. The Secretary of State considers that in addition to those parties listed at paragraph 3 above, the following parties should also be consulted on the proposed non-material change application, given their possible interest in the application:
  - Norfolk Wildlife Trust
  - The Wildlife Trusts
  - The Norfolk Farming and Wildlife Advisory Group
7. The Secretary of State agrees that those other consultees included in the list sent on 6 December 2022 need not be consulted as they are not directly affected, either because the proposed amendments will not affect their interests or because their interests relate to a different part of the scheme.
8. Accordingly, the Secretary of State gives written consent for the consultation to proceed in accordance with the details set out above, under regulation 7(3) of the Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011.

9. In taking this decision the Secretary of State notes that while those persons not proposed to be consulted on the non-material change application will not be consulted directly in relation to the change proposals, the Application will be publicised in line with the requirements in regulation 20 of the 2011 Regulations.
10. Finally, the Secretary of State's written consent in this matter should not be taken as indicating approval for any aspects of the proposed changes to the 2020 Order which fall to him for consideration and determination, or whether the proposed changes will ultimately be regarded as material or not.

Yours sincerely,

*Kerry Crowhurst*

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