

Submission ID: 9935

Please find attached the written summaries of Orsted Hornsea Project Four Limited's oral case at Issue Specific Hearings 1 and 2.

Orsted Hornsea Project Four Limited is engaging with the Applicant to prepare a statement of common ground.



Hornsea Project Four

Written Summary of Orsted Hornsea
Project Four Limited's Oral Case at
Issue Specific Hearing 1

Deadline: 1, Date: 26 May 2022

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1.1	Issue Specific Hearing 1 (ISH1) on the scope of the Proposed Development for the Net Zero Teesside Project took place on 10 May 2022 at 2pm and was held in person at the Lecture Theatre, Higher Education Block, Redcar and Cleveland College, Corporation oad, Redcar, TS10 1EZ and virtually, with attendees attending via Microsoft Teams.....	3
1.2	The ISH1 broadly followed the agenda published by the Examining Authority (the ExA) on 11 April 2022 (The Agenda).	3
1.3	The ExA, the Applicant, and the stakeholders (including Orsted Hornsea Project Four Limited) discussed the Agenda items which broadly covered the areas outlined below:.....	3
1.4	Orsted Hornsea Project Four Limited’s participation in ISH1 was focused on Agenda Item 5 - the components of the Net Zero Teesside Project, specifically the potentially very serious, adverse consequences delivery of the proposed CCUS scheme as a whole could have on Hornsea Project Four Offshore Windfarm.	3

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1 Introduction

- 1.1 Issue Specific Hearing 1 (ISH1) on the scope of the Proposed Development for the Net Zero Teesside Project took place on 10 May 2022 at 2pm and was held in person at the Lecture Theatre, Higher Education Block, Redcar and Cleveland College, Corporation Road, Redcar, TS10 1EZ and virtually, with attendees attending via Microsoft Teams.
- 1.2 The ISH1 broadly followed the agenda published by the Examining Authority (the ExA) on 11 April 2022 (The Agenda).
- 1.3 The ExA, the Applicant, and the stakeholders (including Orsted Hornsea Project Four Limited) discussed the Agenda items which broadly covered the areas outlined below:
 - 1.3.1 The need for the Proposed Development;
 - 1.3.2 The Proposed Development in the context of the Net Zero Strategy;
 - 1.3.3 The components of the Net Zero Teesside Project, including an overview about the offshore elements of the project, their timing and why they are not included in the DCO application;
 - 1.3.4 The alternative technologies considered and alternative connection routeing and corridors considered; and
 - 1.3.5 The Extent of the CO2 Gathering Network.
- 1.4 Orsted Hornsea Project Four Limited's participation in ISH1 was focused on Agenda Item 5 - the components of the Net Zero Teesside Project, specifically the potentially very serious, adverse consequences delivery of the proposed CCUS scheme as a whole could have on Hornsea Project Four Offshore Windfarm.

Table 1: Summary of Orsted Hornsea Project Four Limited's Oral Submissions at the Issue Specific Hearing 1.

Item	ExA Question/Context for discussion	Hornsea Project Four Offshore Wind Farm Submission
<i>Agenda Item 5 - the components of the Net Nero Teesside Project</i>		
5	<p>The ExA noted that the application provides in a number of places that the export pipeline and storage facility is going to be subject to separate consent applications under the Petroleum Acts and the Energy Acts. They questioned why the offshore elements were not included in this DCO application.</p> <p>The Applicant's position was that the offshore elements would be consented by the North Sea Transmission Authority (NSTA) (with the consent of the Offshore Petroleum Regulator for Environment Decommissioning (OPRED) required for any consent granted under the Offshore Oil and Gas Exploration, Production, Unloading and Storage (Environmental Impact Assessment) Regulations).</p>	<p>Scott McCallum, Partner and Solicitor, Shepherd and Wedderburn LLP, on behalf of Orsted Hornsea Project Four Limited (Hornsea Four), set out the position of Hornsea Four on the need to assess the impacts of the Proposed Development as a whole on the Hornsea Four Offshore Wind Farm project, as follows:</p> <ul style="list-style-type: none"> • Hornsea Four Offshore Wind Farm is a nationally significant infrastructure project (NSIP) which is just under 3 months in to its DCO examination. • Despite the fact that the main area identified for the offshore storage of carbon generated from this carbon capture and storage scheme (the endurance store) materially overlaps with the area proposed for Hornsea Four Offshore Wind Farm (and over which Hornsea Four holds an Agreement for Lease with the Crown Estate); and despite the fact that it has been argued on behalf of the Applicant within the Hornsea Four examination that no offshore wind infrastructure can be allowed to be sited within that Overlap Area, effectively seeking sterilisation of this area, the Applicant has placed no information before the ExA on the potentially very serious impacts of the delivery of the Proposed Development on another NSIP. • Whilst the Applicant has chosen to compartmentalise its consent applications, it remains important to identify within this DCO

		<p>process (i) the impact of all necessary scheme components when assessing the acceptability of the whole project, (ii) the likelihood of other necessary consents being forthcoming in the context of those impacts, and (iii) whether mitigations are possible and necessary in order to make the scheme as a whole acceptable.</p> <ul style="list-style-type: none">• There is a need to identify full project impacts and implications (including on Hornsea Four Offshore Wind Farm) to ensure all material considerations are being weighed in the balance.• There is also a specific environmental impact assessment regulations requirement to consider these impacts.• The Applicant's Statement of Combined Effects (application reference APP346) at paragraph 24.8.4 rightly acknowledges the principles of the EIA process and the need to consider the 'project as a whole'. When reporting on the effects of the offshore scheme, however, that document (and the rest of the Environmental Statement and other Application documents) fails to identify the potential effects on Hornsea Four Offshore Wind Farm. This is, in our submission, a deficiency in the Environmental Statement that the Applicant should be asked to remedy.• The information before the ExA must be updated to properly reflect the effects of the carbon capture and storage project as a whole on Hornsea Four Offshore Wind Farm, and these impacts must be fully examined and weighed in the balance when making a
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		<p>decision in respect of the Net Zero Teeside Development Consent Order application.</p> <ul style="list-style-type: none"> Discussions on co-existence have been ongoing for a number of years. It was confirmed that Hornsea Four is willing to seek to agree a Statement of Common Ground with the Applicant which may assist in highlighting the current differences in view of the extent to which the benefits of both NSIPs can be realised and the information which is relevant to decision making on this application.
5	<p>The ExA sought an update on the commercial agreement between the parties.</p>	<p>Mr McCallum on behalf of Hornsea Four explained that negotiations are continuing to establish whether there can be coexistence within the Overlap Area. Hornsea Four's position is that this is possible, whereas the Applicant's position is that full exclusion in the Overlap Area is required.</p> <p>BP Exploration Operating Company Limited (BP), as proposed operator of the carbon dioxide store being promoted by Northern Endurance Partnership, and Hornsea Four as developer of the Hornsea Four Offshore Wind Farm are party to an interface agreement with The Crown Estate (originally entered into among (1) The Crown Estate Commissioners; (2) National Grid Twenty Nine Limited; and (3) Smart Wind Limited on 14 February 2013. It was confirmed that this agreement remains in place, however it has been argued by BP at the Hornsea Four examination that the Hornsea Four DCO should extinguish that agreement. Hornsea Four strongly disagree with BP's arguments in this regard.</p>

		<p>Hereward Phillpot, QC, on behalf of the Applicant responded to advise that the Applicant would wait to understand Hornsea Four's position on the way in which the overlap is relevant to the application, and would take the opportunity to respond. It was submitted on behalf of the Applicant that the examination into the Hornsea Four proposal is considering a great deal of technical information and legal argument about the Overlap Area, and the competing positions about whether co-existence is possible, and that this is not something which should be re-litigated in this process. Mr Phillpot confirmed the Applicant would look into and respond to concerns raised by Hornsea Four as to whether potential decisions in the Hornsea Four examination are adequately dealt with within the material, and stated that it may also be appropriate to consider whether there is anything which arises in relation to the Applicant's DCO and any provision that needs to be made in the Applicant's DCO as a result of that analysis.</p> <p>In response, Mr McCallum on behalf of Hornsea Four submitted that it may well be that the issue of co-existence and overlap can be dealt with by appropriate provisions within the Applicant's DCO that in some way link the outcomes and contain reciprocal obligations in the Applicant's DCO to the outcomes decided within the Hornsea Four examination, and confirmed that Hornsea Four are willing to have those discussions with the Applicant to try to find a solution.</p> <p>Mr McCallum, on behalf of Hornsea Four advised that if agreement cannot be reached on an appropriate mechanism</p>
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		<p>within the DCO to resolve this issue, there are two main concerns:</p> <ol style="list-style-type: none">1 There is likely to be a timing issue. There is an ongoing examination for Hornsea Four Offshore Wind Farm which is just under 3 months in to that process. A decision on the Hornsea Four application will therefore not be available to the ExA for the Proposed Development within the timescales that it has to report to the Secretary of State. If there is any delay to the Hornsea Four Offshore Wind Farm DCO process, there may be no decision on the Hornsea Four Offshore Wind Farm DCO when the Proposed Development is being determined by the Secretary of State.2 Hornsea Four's position is that it is necessary that the ExA understand the impacts on Hornsea Four Offshore Wind Farm when making a recommendation on the application for the Net Zero Teeside DCO. Given the technical nature of some of the points in dispute and of the information submitted into the Hornsea Four DCO process to date, in order to make a recommendation, the ExA in the Net Zero Teeside DCO may need to hear technical evidence and be able to question that evidence. <p>Mr McCallum noted that without an appropriate mechanism in the DCO which would impose controls on the CCUS scheme necessary to give effect to any conclusions under the Hornsea Four DCO process, it is not clear how this issue can be overcome without some element of duplication of</p>
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		technical evidence on impacts and potential mitigations within the Net Zero Teeside DCO examination.
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Hornsea Project Four

Written Summary of Orsted Hornsea
Project Four Limited's Oral Case at
Issue Specific Hearing 2

Deadline: 1, Date: 26 May 2022

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1	Introduction	3
1.1	Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) for the Net Zero Teesside Project took place on 11 May 2022 at 10am and was held in person at the Lecture Theatre, Higher Education Block, Redcar and Cleveland College, Corporation Road, Redcar, TS10 1EZ and virtually, with attendees attending via Microsoft Teams	3
1.2	The ISH2 broadly followed the agenda published by the Examining Authority (the ExA) on 11 April 2022 (The Agenda)	3
1.3	The ExA, the Applicant, and the stakeholders (including Orsted Hornsea Project Four Limited) discussed the Agenda items which broadly covered the areas outlined below:	3
1.4	Orsted Hornsea Project Four Limited's participation in ISH2 was focused on Agenda Item 5 – the Protective Provisions in Schedule 12 of the dDCO, specifically the need for protective provisions in the Net Zero Teesside DCO for the benefit and protection of Hornsea Project Four Offshore Windfarm. ...	3

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1 Introduction

- 1.1 Issue Specific Hearing 2 (ISH2) on the draft Development Consent Order (dDCO) for the Net Zero Teesside Project took place on 11 May 2022 at 10am and was held in person at the Lecture Theatre, Higher Education Block, Redcar and Cleveland College, Corporation Road, Redcar, TS10 1EZ and virtually, with attendees attending via Microsoft Teams.
- 1.2 The ISH2 broadly followed the agenda published by the Examining Authority (the ExA) on 11 April 2022 (The Agenda).
- 1.3 The ExA, the Applicant, and the stakeholders (including Orsted Hornsea Project Four Limited) discussed the Agenda items which broadly covered the areas outlined below:
 - 1.3.1 Articles and Schedules of the dDCO (excluding Schedules 2, 12, 13 and 14);
 - 1.3.2 Schedule 2 of the dDCO - Requirements and Schedule 13 Procedure for Discharge of Requirements;
 - 1.3.3 Schedule 12 of the dDCO - Protective Provisions;
 - 1.3.4 Schedule 14 of the dDCO - Documents and Plans to be Certified;
 - 1.3.5 Consents, Licences and Other Agreement; and
 - 1.3.6 Statements of Common Ground relevant to the DCO.
- 1.4 Orsted Hornsea Project Four Limited's participation in ISH2 was focused on Agenda Item 5 - the Protective Provisions in Schedule 12 of the dDCO, specifically the need for protective provisions in the Net Zero Teesside DCO for the benefit and protection of Hornsea Project Four Offshore Windfarm.

Table 1: Summary of Orsted Hornsea Project Four Limited's Oral Submissions at the Issue Specific Hearing 2.

Item	ExA Question/Context for discussion	Hornsea Project Four Offshore Wind Farm Submission
<i>Agenda Item 5 - the components of the Net Nero Teesside Project</i>		
5	<p>The ExA sought a summary from the Applicant of the Protective Provisions within Schedule 12 of the dDCO, and provided the opportunity to comment to interested parties.</p>	<p>Scott McCallum, Partner and Solicitor, Shepherd and Wedderburn LLP, on behalf of Orsted Hornsea Project Four Limited (Hornsea Four), set out the position of Hornsea Four on the need for Protective Provisions for the benefit and protection of Hornsea Four, as follows:</p> <ul style="list-style-type: none"> • The Hornsea Four Offshore Wind Farm project is currently undergoing DCO examination. • Submissions have been made within the Hornsea Four examination centred on whether the Hornsea Four Offshore Wind Farm and the storage element of the Net Zero Teesside Carbon Capture and Storage (CCS) scheme can co-exist in an area offshore which both projects have identified as required for their respective proposals (the Overlap Area). • Hornsea Four has offered Protective Provisions for the benefit of the storage operator which would seek to facilitate co-existence between the two projects. However, BP Exploration Operating Company Limited (BP), as proposed operator of the carbon dioxide store being promoted by Northern Endurance Partnership, has proposed alternative Protective Provisions which would not permit any co-existence in the Overlap Area, effectively sterilising the Overlap Area of offshore wind development.

		<ul style="list-style-type: none">• There are three potential scenarios for the Hornsea Four DCO application that are relevant to the CCS project:<ul style="list-style-type: none">- Scenario 1: The Hornsea Four Offshore Wind Farm DCO is refused and there is therefore no potential interface between the projects.- Scenario 2: BP's proposed Protective Provisions are applied which would exclude any Hornsea Offshore Wind Farm infrastructure from the Overlap Area, with consequently limited interface.- Scenario 3: Hornsea Four's proposed Protective Provisions are applied for the benefit of BP, with the effect of these Protective Provisions being that, with limited exceptions, Hornsea Four is required to refrain from any wind development in the Overlap Area unless and until a suitable co-existence solution is agreed between the parties or determined by the Secretary of State (via arbitration).• In the third scenario, which is the outcome preferred by Hornsea Four, if deemed feasible and appropriate both parties may be coming forward with infrastructure in the Overlap Area. There is therefore a need for proper engagement to manage interface risks should they arise.• Hornsea Four's proposed protective Provisions put a hold on wind development in the Overlap Area and require Hornsea Four to engage with BP to establish the degree to which turbines can be accommodated in the Overlap Area.
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		<ul style="list-style-type: none">• There is no such reciprocal obligation on BP as the proposed CCS operator within the current proposed development consent provisions to engage with Hornsea Four to establish the degree to which the two projects can co-exist.• The necessary reciprocal obligation could be achieved by Hornsea Four and BP entering into a commercial side agreement to regulate co-operation between the parties, which failing there is a need for appropriately worded Protective Provisions to be included within the Net Zero Teesside DCO for the benefit and protection of Hornsea Four. These protective provisions would essentially pause the elements of the development that would be authorised by the Net Zero Teesside DCO unless and until it has been established that offshore interface issues have been agreed or determined.• Hornsea Four is committed to engaging with the Applicant on these matters to reach agreement on a solution, but in the event agreement cannot be reached, Hornsea Four will submit its proposed Protective Provisions to the ExA for their consideration.
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