An Roinn Tithíochta,
Rialtais Áitiúil agus Oidhreachta
Department of Housing,
Local Government and Heritage

Kaj Christiansen

Arklow Bank Wind Park 2
23 September 2026

Dear Kaj,

I write in relation to your application for a Derogation under Regulation 54 of the EC (Birds and Natural Habitats) Regulations 2011-2021 and wish to inform you that additional information is required under Test 2 and Test 3 to complete the assessment.

Test 2 – Additional information required.

The revised information provides a substantially more comprehensive assessment of alternative solutions. In particular, the applicant has considered the do-nothing scenario and alternatives relating to location, scale, design and layout, foundation type, installation technique, timing and sequencing, and intensity. The assessment considers whether each alternative would avoid the activity requiring derogation and whether it would avoid or reduce disturbance to Annex IV species, together with the technical, environmental and other constraints relevant to determining whether the alternative is satisfactory.

The information provided in relation to the majority of the alternatives considered is sufficient to inform the Test 2 assessment. However, clarification will be required in relation to Alternative 7 on timing and sequencing, specifically the basis for concluding that temporal restrictions would not avoid or reduce disturbance to Annex IV species despite the seasonal variation identified for individual species, and the comparative justification for the proposed timing relative to feasible alternative timing scenarios. A final conclusion on Test 2 can therefore be made following consideration of this issue.

Test 3 - Additional information required.

The applicant has not provided satisfactory evidence that the impact on conservation status has been fully considered. Based on the assessment of the application documentation, it is regarded that the applicant has not fully considered the impact of a derogation and whether it would be detrimental to the maintenance of the populations of Annex IV marine mammal species in their natural range.

Context for Test 3 remarks.

The most recent ObSERVE II 2021-2023 (Giralt Paradell, *et al*., 2024) data is not incorporated. Incorporating this data would add more recent spatially extensive coverage that could refine local density and distribution, and in particular seasonal patterns. It is recommended that the importance of the Irish Sea, particularly for harbour porpoise, and the year-round presence of this species including during summer breeding season is clearly considered throughout.

The applicant assumes relatively stable MU-scale context (section 5.3.3.13), whereas Goh *et al.* (2025) suggest regional contractions and redistribution, which strengthens the argument for a precautionary interpretation of *inadequate* status and the need to avoid adding pressure in key remaining areas.

Labelling displacement as Slight does not account for how that localized displacement interacts with the regional contractions and redistributions happening simultaneously across the Management Unit (MU) as highlighted by Goh *et al*. (2025). A slight displacement is arrived at using the lower EIA criteria and outdated data, additional analysis is needed to explore whether in an already shrinking habitat displacement may have implications for population dynamics, which could undermine conservation status for the species.

Behavioural type is not adequately considered in the assessment. A pregnant, nursing, or mother-calf pair represent highly sensitive behavioural types, whose stress and energy expenditure of displacement may impact population dynamics.

Although population trajectory, range, and habitat are discussed the impacts to the Favourable Conservation Status criteria of population dynamics, natural range and habitat availability are not explicitly mapped.

There is no discussion in the application or supporting document on the cumulative pressures or how the disturbance from piling interacts with shipping noise, other offshore wind, fisheries, seismic survey, or indeed regional contraction (Goh *et al.* 2025).

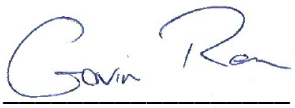
Clarification is needed to determine whether the net result on harbour porpoise conservation status from this activity will be, at worst, neutral or, at best, positive for this species. The application should also clearly specify whether the derogation is likely to have a significant negative effect on harbour porpoise population, or the future prospects for this population, or if it is likely to have a significant negative effect on this species at a national or biogeographical level. Furthermore, clarification is required as to whether the restoration of harbour porpoise conservation status could potentially be prevented by this activity.

References

Giralt Paradell, O., Canadas, A., Bennison, A., Todd, N., Jessopp, M., Rogan, E. (2024). *Aerial surveys of cetaceans and seabirds in Irish waters: Occurrence, distribution and abundance in 2021-2023.* Department of the Environment, Climate & Communications and Department of Housing, Local Government & Heritage, Ireland. 266pp.

Goh, T., Giralt Paradell, O., Jessopp, M., Rogan, E., Pirotta, E. (2025). *Multi-scale habitat modelling reveals contractions of harbour porpoise distribution within the northeast Atlantic.* Marine Environment Reserve. Article 107320,

Yours sincerely,



Gavin Rea

Derogation Administration Team
Wildlife Licencing Unit
National Parks and Wildlife Service