



The Planning Inspectorate

REPORT OF EXAMINING INSPECTOR APPOINTED ON 15 OCTOBER 2012 TO DISCHARGE FUNCTIONS UNDER SECTION 127 PLANNING ACT 2008

DETAILS

Development Consent Order – The Able Marine Energy Park
Development Consent Order 2013

Date of Section 127 application – 10 October 2012

Statutory Undertaker – E.ON

Relevant Land – 04017, 04018, 04021, 04023, 04024, 04027, 04028, 04029, 05003, 05004, 05005, 05007, 05008, 05009, 05010, 05011, 05012, 05013, 05014, 05016, 05019, 05021, 05026, 05027, 05028, 05031, 05032, 05036, 05037, 05038, 05040 and 05041

Representations – RRP044, WRR008, REP009, REP031, REP032, HEA012, HEA103, PDC058

E.ON has apparatus which crosses the relevant land. The applicant has stated that it does not intend to remove this apparatus. [APP055, para 182]

Article 42 of Schedule 1 of the DCO now states -

42 —(1) The undertaker may only exercise powers to extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers under this Part if such extinguishment, removal or repositioning is necessary for carrying out the authorised development.

This is linked to a protective provision for E.ON in Part 9 of Schedule 9 of the DCO, which states –

73. Before extinguishing any existing rights for E.ON to keep, inspect, renew and maintain its infrastructure on or in the Order land, the undertaker shall, with the agreement of E.ON, create a new right to keep, inspect, renew and maintain the infrastructure in the same location that is reasonably convenient for E.ON, such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 59.

In view of the protective provisions which provide that Able Marine Energy Park will only extinguish existing rights if new rights have been agreed I consider that the relevant land may be acquired and not replaced without serious detriment to the carrying on of the undertaking.

RECOMMENDATION

I recommend that the Secretary of State issues a certificate in respect of the relevant land under section 127 (2) (b) in the form annexed and that a notice in the form annexed is published as required by Section 127 (7).

Robert Upton

Robert Upton
Section 127 examiner

The Able Marine Energy Park Development Consent Order 2013

The Planning Act 2008

Certificate under Section 127 (2) (b)

1. The Able Marine Energy Park Development Consent Order 2013 which has been submitted by Able Marine Energy Park to the Secretary of State includes the land described in the schedule.
2. The land was acquired by the statutory undertaker (E.ON) for the purpose of their undertaking and the Secretary of State is satisfied that it is used for the purposes of the carrying out of their undertaking.
3. The Secretary of State in exercise of his powers under section 127 of the Planning Act 2008 certifies that the land described in the schedule can be acquired without serious detriment to the carrying on of the undertaking.

SCHEDULE

Plot No 04017	All interests in 595.77 square metres of land comprising drain and bed thereof, trees, shrubbery and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04018	All interests in 934.59 square metres of land comprising drain and bed thereof, trees, shrubbery, pond and bed thereof and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04021	All interests in 26561.92 square metres of land comprising drain and bed thereof, trees, shrubbery, pond and bed thereof, hardstanding and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04023	All interests in 15398.91 square metres of land comprising, trees, shrubbery and hardstanding to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04024	All interests in 713.54 square metres of disused railway, track

	bed and associated structures, trees, shrubbery to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04027	All interests in 28086.98 square metres of land comprising, shrubbery, scrubland, grassland, drains and beds thereof and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04028	All interests in 250.54 square metres of land comprising a private access road off Rosper Road, North Killingholme, Immingham.
Plot No 04029	All interests in 165.21 square metres of land comprising hardstanding and parking off Rosper Road, North Killingholme, Immingham.
Plot No 05003	All interests in 597.83 square metres of land comprising grass land and shrubbery, Rosper Road, North Killingholme, Immingham.
Plot No 05004	All interests in 1175.96 square metres of land comprising shrubbery, drain and bed thereof, Rosper Road, North Killingholme, Immingham.
Plot No 05005	All interests in 33053.90 square metres of land comprising hardstanding, parking, private estate roads, industrial premises, to the north of Rosper Road and to the east of Haven Road, North Killingholme, Immingham.
Plot No 05007	All interests in 1692.14 square metres of land comprising drain and bed thereof, grassland and shrubbery, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05008	All interests in 2287.39 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham

Plot No 05009	All interests in 7921.04 square metres of land comprising hardstanding, scrubland, drain and bed thereof, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05010	All interests in 1639.19 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05011	All interests in 20024.31 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05012	All interests in 214.49 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05013	All interests in 6819.30 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham
Plot No 05014	All interests in 16791.15 square metres of land comprising hardstanding, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05016	All interests in 399.83 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05019	All interests in 3400.28 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05021	All interests in 3720.84 square metres of land comprising private roadway, footway and bridge ramp, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05026	All interests in 80.66 square metres of disused railway, track

	bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05027	All interests in 84.62 square metres of disused railway, track bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05028	All interests in 211.68 square metres of disused railway, track bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05031	All interests in 977.97 square metres of land comprising hardstanding and private access road, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05032	All interests in 5006.46 square metres of land comprising private roadway, footway, bridge ramp and hardstanding to the east of Haven Road, North Killingholme, Immingham.
Plot No 05036	All interests in 1278.70 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05037	All interests in 2019.23 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05038	All interests in 6417.56 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05040	All interests in 212.76 square metres of land comprising hardstanding and parking east of Rosper Road, North Killingholme, Immingham.

Plot No 05041	All interests in 1639.28 square metres of land comprising hardstanding and parking east of Rosper Road, North Killingholme, Immingham.
---------------	----------------------------------------------------------------------------------------------------------------------------------------

The Able Marine Energy Park Development Consent Order 2013

The Planning Act 2008

Notice under Section 127 (7)

1. The Able Marine Energy Park Development Consent Order 2013 which has been submitted by Able Marine Energy Park to the Secretary of State includes the land described in the schedule.
2. This land was acquired by the statutory undertaker (E.ON) for the purpose of their undertaking and the Secretary of State is satisfied that it is used for the purposes of the carrying out of their undertaking.
3. Notice is hereby given that the Secretary of State in exercise of his powers under section 127 of the Planning Act 2008 has certified that the land described in the schedule can be purchased without serious detriment to the carrying on of the undertaking.
4. Notice of authorisation of compulsory acquisition of the new rights will be made by the prospective purchaser (Able Marine Energy Park) in accordance with Section 134 of the Planning Act 2008.

SCHEDULE

Plot No 04017	All interests in 595.77 square metres of land comprising drain and bed thereof, trees, shrubbery and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04018	All interests in 934.59 square metres of land comprising drain and bed thereof, trees, shrubbery, pond and bed thereof and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04021	All interests in 26561.92 square metres of land comprising drain and bed thereof, trees, shrubbery, pond and bed thereof, hardstanding and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04023	All interests in 15398.91 square

	metres of land comprising, trees, shrubbery and hardstanding to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04024	All interests in 713.54 square metres of disused railway, track bed and associated structures, trees, shrubbery to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04027	All interests in 28086.98 square metres of land comprising, shrubbery, scrubland, grassland, drains and beds thereof and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04028	All interests in 250.54 square metres of land comprising a private access road off Rosper Road, North Killingholme, Immingham.
Plot No 04029	All interests in 165.21 square metres of land comprising hardstanding and parking off Rosper Road, North Killingholme, Immingham.
Plot No 05003	All interests in 597.83 square metres of land comprising grass land and shrubbery, Rosper Road, North Killingholme, Immingham.
Plot No 05004	All interests in 1175.96 square metres of land comprising shrubbery, drain and bed thereof, Rosper Road, North Killingholme, Immingham.
Plot No 05005	All interests in 33053.90 square metres of land comprising hardstanding, parking, private estate roads, industrial premises, to the north of Rosper Road and to the east of Haven Road, North Killingholme, Immingham.
Plot No 05007	All interests in 1692.14 square metres of land comprising drain and bed thereof, grassland and shrubbery, to the south of Haven Road, North Killingholme, Immingham.

Plot No 05008	All interests in 2287.39 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham
Plot No 05009	All interests in 7921.04 square metres of land comprising hardstanding, scrubland, drain and bed thereof, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05010	All interests in 1639.19 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05011	All interests in 20024.31 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05012	All interests in 214.49 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05013	All interests in 6819.30 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham
Plot No 05014	All interests in 16791.15 square metres of land comprising hardstanding, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05016	All interests in 399.83 square metres of land comprising hardstanding and parking to the east of Haven Road, North Killingholme, Immingham.
Plot No 05019	All interests in 3400.28 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05021	All interests in 3720.84 square

	metres of land comprising private roadway, footway and bridge ramp, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05026	All interests in 80.66 square metres of disused railway, track bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05027	All interests in 84.62 square metres of disused railway, track bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05028	All interests in 211.68 square metres of disused railway, track bed and associated structures and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05031	All interests in 977.97 square metres of land comprising hardstanding and private access road, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05032	All interests in 5006.46 square metres of land comprising private roadway, footway, bridge ramp and hardstanding to the east of Haven Road, North Killingholme, Immingham.
Plot No 05036	All interests in 1278.70 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05037	All interests in 2019.23 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme, Immingham.
Plot No 05038	All interests in 6417.56 square metres of land comprising hardstanding, parking and shrubbery, to the east of Rosper Road, North Killingholme,

	Immingham.
Plot No 05040	All interests in 212.76 square metres of land comprising hardstanding and parking east of Rosper Road, North Killingholme, Immingham.
Plot No 05041	All interests in 1639.28 square metres of land comprising hardstanding and parking east of Rosper Road, North Killingholme, Immingham.