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12 August 2016

Dear Giles

**Application by Smart Wind Limited for an Order Granting Development Consent for the Hornsea Offshore Wind Farm (Zone 4) - Project Two**

I write further to your letter of 12 July 2016 in relation to the above and in particular to the amendments proposed to the compulsory acquisition provisions contained in the draft development consent order as referred to in that letter.

The Commissioners maintain their position set out in my letter to the Secretary of State dated 19 July 2016. For the reasons set out in my letter, the Commissioners disagree with the view that section 135(1) of the Planning Act 2008 ("the Act") provides that any provision authorising the acquisition of third party interests in Crown land may only be included in a development consent order if the unconditional consent of the appropriate Crown body to the acquisition is obtained before the development consent order is made.

However and without prejudice to the Commissioners' position, the Commissioners have reached a separate agreement with the promoter which provides the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers of third party interests in Crown land forming part of the Crown Estate may be exercised. As such and subject to the below, the Commissioners confirm their consent to the compulsory acquisition of the interests in Plots 1 to 15, 17, 19, 20, 22 to 29 and 32 of the Order land for the purpose of s135(1) of the Act . Accordingly:

1. Article 39(1)(a) should remain in the development consent order;
2. Article 39(1)(b) should be deleted from the development consent order;
3. A new paragraph should be added to Article 39 of the development consent order (as suggested in Giles Scott's letter of 12 July) as follows:

"Paragraph (1) does not apply to the exercise of any right under this Order compulsorily to acquire an interest in any land that is Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown"; and

4. Plots 1 to 15, 17, 19, 20, 22 to 29 and 32 should be included in Schedule E of the development consent order.

The Commissioners also confirm their consent for the purpose of s135(2) of the Act.

The Commissioners' consents provided in this letter are conditional upon:

1. the inclusion of Article 39 in the development consent order as referred to above and the Commissioners expect to be consulted further if any variation to Article 39 is proposed; and
2. The Commissioners being consulted further if any variation to version 8 of the draft development consent order submitted into the Examination ("the Draft DCO") is proposed which could affect any other provisions of the Draft DCO which are subject to section 135(1) or 135(2) of the Act.

Yours sincerely

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Rob Booth  
General Counsel & Company Secretary