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Keith Morrison
East Anglia Three Ltd

Your Ref:

Our Ref: EN010056

Date: 15 December 2015

Dear Mr Morrison

Planning Act 2008 (as amended)

Application by East Anglia THREE Limited for an Order Granting Development Consent for the East Anglia THREE Offshore Wind Farm

Section 51 advice

The Secretary of State made the decision on 15 December 2015 that the application for the proposed East Anglia Three offshore wind farm has satisfied the acceptance tests under s55 of the Planning Act 2008 (PA 2008). The Planning Inspectorate's acceptance checklist has been published on our website today. The Inspectorate did note some observations in relation to the application. This letter contains advice to you provided under s51 of the PA 2008.

S42(1)(a) Consultees

On the basis of the information provided it appears that some consultees identified by the Inspectorate as potentially prescribed by section 42(1)(a) have been omitted from the applicant's consultation.

These are:

- Highways England Historical Railway Estates
- Hutchinson Ports (UK) Ltd
- Scotland Gas Networks Plc
- Southern Gas Networks Plc
- Utility Assets Ltd
- Wales and West Utilities Ltd

Given the individual circumstances of this case, and taking a precautionary approach to ensure that all persons potentially affected by are given the opportunity to participate fully in the examination of the application, the Inspectorate would suggest that the Applicant may wish to include the above bodies are amongst those on whom

they serve notice of the accepted application under s56 (2)(a) of PA2008.

Book of Reference (BoR)

Part 3 persons do not appear to be in Part 1:

In reviewing the submitted BoR, it has been noted that the DCLG guidance (September 2013) 'Planning Act 2008: guidance related to procedures for the compulsory acquisition of land' has not been followed.

It appears that in the Book of Reference persons recorded in Part 3 do not appear in Part 1. A part 3 person may become an interested party because the applicant sends them a s56(2)(d) notification and they will then be able to participate in the examination. However, if DCLG guidance is not followed a part 3 person's name will not be in part 1 of the book of reference and the name will not therefore be given in a section 59 notice. As a consequence that person will not acquire the status of "affected person" under s92 of the PA 2008 and will be deprived of the right to call for a compulsory acquisition hearing and to make oral representations about extinguishment, suspension or interference with their right over the land.

So that the interests of part 3 persons are not prejudiced in the examination you are therefore advised to ensure that documentation is attached to the certificate of compliance with s59 which provides the names, addresses for service and contact details of any part 3 persons not identified in part 1 of the book of reference which was submitted with the application.

BoR Plots and descriptions:

The plots and descriptions listed in part 1 of the Book of Reference have been checked for consistency with the plots shown on the land plans and there are a number of minor points which have been identified in section 3.3(i) of the s.55 checklist. For ease of reference, we advise that these amendments are made to the Book of Reference and submitted in advance of the examination.

The Draft Development Consent Order (DCO)

An issue has been identified with the page numbering in the draft DCO. For example, page 62 is followed by page 50. The Inspectorate would suggest this is corrected before the examination.

Local authorities under categories A, B, C & D

The consultation report identifies that all A, B, C & D authorities which were identified by the Inspectorate were consulted on the application. However, there are several instances within the Consultation Report in which the local authorities under s43 have not been identified correctly. For example, the applicant has not identified any correct Category 'D' Local Authorities although it is noted the Category 'D' authorities have been consulted as Category 'C' authorities (with the exception of the Broads Authority). For further examples please refer to Section 2.3 *Did the applicant consult the following about the proposed application: s42(1)(b) each local authority within s43 of the S55 Checklist.*

The Inspectorate would suggest that the Applicant may wish to include the above bodies amongst those on whom they serve notice of the accepted application under s56 (2)(a) of PA2008, ensuring that they are listed by their correct category in order to avoid confusion.

Relevant Representations (RRs) period

In relation to the opening of RRs, the applicant is referred to paragraph 45 of the DCLG guidance on examination of applications for development consent which states '*Rarely, applicants may wish to delay the start of the examination of an accepted application. Such a delay may be appropriate, depending on the circumstances, but should be kept to the minimum period necessary. This will limit the risk that the application, including pre-application consultation and environmental information, will no longer be sufficiently current to form the basis of an examination. The Secretary of State's expectation is that Examining Authorities will not normally agree to postpone the start of the examination for longer than three months*'.

Yours sincerely

Kay Sully

Kay Sully
Case Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.