

East Anglia THREE
Offshore Windfarm

East Anglia THREE

The Crown Estate Section 135 Letter

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Letter

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22 December 2016

Dear Sirs

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

I write further to the above and our letter to you of 8 December.

In this letter:

“the book of reference” shall have the meaning given to it in the Order;

“the Commissioners” shall mean the Crown Estate Commissioners;

“Draft DCO” shall mean the Applicant’s draft development consent order – application reference 3.2 15 December 2016 Version 5; and

“Order” shall mean the East Anglia THREE Offshore Wind Farm Order once made by the Secretary of State.

As you are aware, 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 Applicant 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, 64, 65, 66 and 190 for the purpose of section 135(1) of the Act. Accordingly:

1. The following “Crown rights” wording should be included in the Order at Article 37:

“37. - (1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any portion of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to Her Majesty in right of the Crown and forming part of the Crown Estate without the consent in writing of the Crown Estate Commissioners;

(b) belonging to Her Majesty in right of the Crown and not forming part of the Crown Estate without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for Her Majesty for the purposes of a government department without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in the 2008 Act) which is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1) may be given unconditionally or subject to terms and conditions; and is deemed to have been given in writing where it is sent electronically."

2. Plots 1, 64, 65, 66 and 190 should be included in Schedule 5 and 7 of the Order.

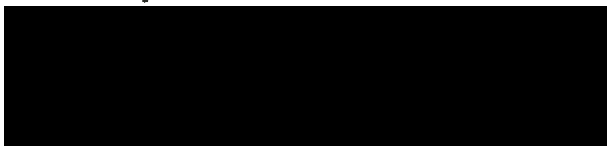
Subject to:

1. the inclusion of Article 37 in the Order as referred to above and its continuing application; and
2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act

the Commissioners confirm their consent to the following provisions of the Draft DCO, to the extent that they are included in the Order, applying in relation to Plots 1, 64, 65, 66 and 190 for the purpose of section 135(2) of the Act:

1. Articles 3, 4, 5, 6, 7, 13(3), 14, 27, 28, 30, 35 and 37;
2. Article 11(1)(b) but only in relation to Work No. 6 as defined in Part 1 of Schedule 1 to the Draft DCO;
3. Article 29 provided that and for the avoidance of doubt the Commissioners do not consent to the application of Article 29 to any agreement for leasing, lease or agreement for the construction, maintenance use or operation of the authorised project or any part of it entered into or to be entered into between the Commissioners and the undertaker or the Commissioners and any other person; and
4. in the event that any other provisions of the Order create rights benefitting the Crown the Commissioners' consent in this letter shall also apply to such provisions.

Yours sincerely



Rob Booth
General Counsel and Company Secretary
For and on behalf of the Crown Estate Commissioners