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23 February 2021

Dear Sirs

Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010

Application by East Anglia ONE North Limited for an Order Granting Development Consent for the Proposed East Anglia ONE North Offshore Windfarm Order; and

Application by East Anglia TWO Limited for an Order Granting Development Consent for the Proposed East Anglia TWO Offshore Windfarm Order

I write further to the above.

In this letter:

“the Applicants” shall mean East Anglia ONE North Limited and East Anglia TWO Limited;

“the Commissioners” shall mean the Crown Estate Commissioners;

“Draft DCOs” shall mean the Applicants’ draft development consent orders (both reference 3.1, Version 04, dated 3rd February 2021); and

“Orders” shall mean the East Anglia ONE North Offshore Windfarm Order and the East Anglia TWO Offshore Windfarm Order 2021 once made by the Secretary of State.

As part of the Examinations in respect of the applications for the Orders, we are advised by the Applicants that the Examining Authority has enquired as to whether the Commissioners are satisfied that the drafting of the “Crown rights” wording in the Draft DCOs is appropriate. The “Crown rights” wording is included at Article 41 of the Draft DCOs.

Subject to:

1. the addition of the word ‘take’ to the “Crown rights” wording in the Orders at Article 41 (or any equivalent Article), as shown below:

“41.— (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 upon 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)—

TL 23.02.2021

(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 land which 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.

(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.”

; and

2. the Commissioners agreeing with the Applicants a position which would provide the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers in respect of third party interests in Crown land forming part of the Crown Estate may be exercised

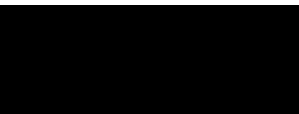
the ‘Crown rights’ wording is agreed.

In relation to the second matter, the Commissioners disagree with any 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 will work with the Applicants in order to agree a position so as to be able to provide consent pursuant to section 135(1) of the Act prior to the Orders being granted.

I trust that the Commissioners will be kept informed as to progress regarding the Orders as the Examinations progress.

Yours sincerely



Jonathan Treadaway
Senior Legal Counsel

For and on behalf of the Crown Estate Commissioners