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17 March 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 and our letter dated 23 February 2021.

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);

“the Letter” shall mean the letter sent by the Commissioners to the Examining Authority dated 23 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 have granted consent pursuant to section 135 of the Planning Act 2008 (“**section 135 consent**”).

Since the Letter, it has been confirmed that there is no onshore Crown land forming part of the Crown Estate which is subject to the Orders. Because of that, there is no need for the Commissioners to provide a section 135(1) consent and the position set out in the Letter no longer applies - as there is no such onshore Crown land subject to the Orders, none of the provisions of the draft DCOs authorise the acquisition of third party interests in Crown land forming part of the Crown Estate for the purpose of section 135(1).

Further, any consent of the Commissioners pursuant to section 135(2) is only needed in relation to the application of articles to onshore Crown land forming part of the Crown Estate which is subject to a Development Consent Order. Again, because in this instance there is no such onshore Crown land subject to the Orders, there is no need for the Commissioners to provide a section 135(2) consent.

Instead, the Applicants' rights and interests in the offshore Crown land are dealt with in the Agreement for Lease granted by the Commissioners.

This being said, the Draft DCOs nevertheless contain "Crown rights" wording at Article 41 as commented on in the Letter.

In circumstances such as these where the Commissioners do not need to provide section 135 consent, the Commissioners would ask that Article 41 is amended so as to omit Article 41(2), which provides:

(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.

This provision is ordinarily acceptable on the basis that the Commissioners have agreed a position with an applicant so as to be able to provide consent pursuant to section 135(1) prior to the grant of a Development Consent Order. As that consent is not needed in this case and, notwithstanding the absence of any onshore Crown land forming part of the Crown Estate being subject to the Orders, the wording should be omitted for the avoidance of any doubt and to protect the Commissioners' position.

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

Yours sincerely



Senior Legal Counsel

For and on behalf of the Crown Estate Commissioners