

National Infrastructure Planning  
The Planning Inspectorate  
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**AND BY EMAIL: EastAngliaOneNorth@planninginspectorate.gov.uk and  
EastAngliaTwo@planninginspectorate.gov.uk**

29 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 17 March 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 17 March 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 further as to whether the Commissioners are content to provide consent pursuant to section 135(2) of the Planning Act 2008 on a conditional or an unconditional basis (“**section 135(2) consent**”). It would appear that the Examining Authority considers the grant of section 135(2) consent by the Commissioners to be necessary.

Section 135(2) consent is required for an order granting development consent to include provision(s) to apply to Crown land or rights benefiting the Crown (other than provision(s) authorising the compulsory acquisition of third party interests in Crown land).

As indicated in the Letter, the Commissioners disagree with any view that section 135(2) consent is required where (as here) none of the provisions in a development consent order authorise the acquisition of or interference with offshore Crown land because and on the basis that an agreement for lease has been entered into in relation to such land.

However, and without prejudice to the Commissioners’ position, subject to:

1. the inclusion and continuing application of the following “Crown rights” wording in the Orders at Article 41:

**“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 lessee or 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)—**

- (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) 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. the Commissioners being consulted further if any variation to the Draft DCOs is proposed which could affect any provisions of the Order which are subject to section 135(2) of the Act; and

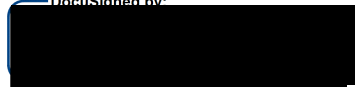
3. the Applicants or any beneficiaries of the Orders having an agreement for lease or lease from the Commissioners in respect of the offshore Crown land forming part of the Crown Estate to which the Order applies

the Commissioners confirm their consent to Articles 3,4 and 41 of the Draft DCOs, to the extent that they are included in the Orders, applying in relation to Crown land forming part of the Crown Estate for the purpose of section 135(2) of the Act.

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

Yours sincerely

DocuSigned by:



**Senior Legal Counsel**

**For and on behalf of the Crown Estate Commissioners**