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Your Ref: EN010080

29<sup>th</sup> March 2019

**AND BY EMAIL: HornseaProjectThree@pins.gsi.gov.uk**

Dear Sirs

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010  
Application by Orsted Hornsea Project Three (UK) Limited ("the Applicant") for an Order  
Granting Development Consent for the Hornsea Project Three Offshore Wind Farm**

I write further to the above.

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 (Version B and dated 15 January 2019); and

"Order" shall mean The Hornsea Three Offshore Wind Farm Order once made by the Secretary of State.

As you are aware, 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 have reached a separate agreement with the Applicant which provides the Commissioners with sufficient assurance as to the way in which compulsory acquisition powers (as contained in Articles 18, 20 and 23 of the Draft DCO) may be exercised in respect of third party interests in Crown land forming part of the Crown Estate. As such, and subject to the below, the Commissioners confirm their consent to the Order containing powers compulsory acquisition of the third party interests in Plots 1-001, 1-002 and 1-003 for the purpose of section 135(1) of the Act.

The Commissioners' consent is granted subject to:

1. the inclusion and continuing application of the following "Crown rights" wording in the Order 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 licensee -

(a) 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)—

(i) 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;

(ii) 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

(iii) 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."

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/or section 135(2) of the Act.

Subject to:

1. the inclusion of Article 41 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/or 135(2) of the Act

the Commissioners confirm their consent to Articles 3 to 7, 15, 16, 17, 21, 26 to 29, 32, 33, 39 and 41 of the Draft DCO, to the extent that they are included in the Order, applying in relation to Plots 1-001, 1-002 and 1-003 for the purpose of section 135(2) of the Act.

Yours faithfully

  
Jonathan Treadaway  
Senior Legal Counsel  
For and on behalf of the Crown Estate Commissioners