

The Crown Estate

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06/12/2024 2024

Dear Sirs

**Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010
Application by Rampion Extension Development Limited ("the Applicant") for an Order Granting
Development Consent for The Rampion 2 Offshore Wind Farm Order**

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 (reference REP006-007, Rev H and dated August 2024); and

"Order" shall mean The Rampion 2 Offshore Wind Farm Order 20[XX] 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 set out in the preceding paragraph, 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 23 and 25 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 compulsory acquisition of the third party interests in Plot 1a/1, Plot 1b/1, Plot 1b/2, Plot 1/1, Plot 1/2, Plot 1/3, Plot 1/4, and Plot 1a/2 (to the extent that Plot 1a/2 forms part of The Crown Estate), 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 amended "Crown rights" wording in the Order at Article 50:

"50.— (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 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)

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- (a) *belonging to His 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 His 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 His Majesty for the purposes of a government department without the consent in writing of that government department.*

(2) Sub-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 sub-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 135(2) of the Act.

Section 135(2) consent is required for an order granting development consent to include provisions(s) to apply to Crown land or rights benefiting the Crown (other than provisions(s) authorising the compulsory acquisition of third-party interests in Crown land). 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 two agreements for lease have been entered into, and an additional agreement for lease is being entered into, in relation to such land.

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

1. the inclusion of Article 50 in the Order as referred to above and its continuing application (subject to any drafting amendments which the Secretary of State may make that do not alter the meaning or effect of the Article);
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, and
3. the Applicant or any beneficiaries of the Order 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, 5, 6(2), 19, 26, 27, 33, 34, 40, 42, 43 and 46 of the Draft DCO, to the extent that they are included in the Order, applying in relation to Crown land forming part of The Crown Estate within the Order limits including Plot 1a/1, Plot 1b/1, Plot 1b/2, Plot 1/1, Plot 1/2, Plot 1/3, Plot 1/4, and Plot 1a/2 (to the extent that Plot 1a/2 forms part of The Crown Estate) for the purpose of section 135(2) of the Act.

Yours sincerely

Signed by:

 06/12/2024

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Jonathan Treadaway

Senior Legal Counsel

For and on behalf of the Crown Estate Commissioners