



The Planning Inspectorate

REPORT OF EXAMINING INSPECTOR APPOINTED ON 19 OCTOBER 2012 TO DISCHARGE FUNCTIONS UNDER SECTION 127 PLANNING ACT 2008

DETAILS

Development Consent Order – The Able Marine Energy Park
Development Consent Order 2013

Date of Section 127 application – 10 October 2012

Statutory Undertaker – Anglian Water

Relevant Land – plots numbers 04012, 04013, 04016, 04018 and 04019

Representations – RRP052, WRR012, REP004, REP029, CAI033, CAI034, PDC047, PDC059, APP055

Anglian Water has apparatus and rights to keep apparatus in the relevant land. The applicant states that it does intend to remove any apparatus [APP055, para 182.]

Article 42 of Schedule 1 of the DCO now states -42 —(1) The undertaker may only exercise powers to extinguish the rights of, remove or reposition the apparatus belonging to statutory undertakers under this Part if such extinguishment, removal or repositioning is necessary for carrying out the authorised development.

This is linked to a protective provision for Anglian Water in Part 11 of Schedule 9 of the DCO, which states –

89. The Company will only exercise its powers of compulsory acquisition over the interests of Anglian Water in the Order land as a last resort and following consultation with Anglian Water and the resolution of any arbitration under article

In view of the protective provisions which provide that Able Marine Energy Park will only extinguish existing rights if new rights have been agreed I consider that the relevant land may be acquired and not replaced without serious detriment to the carrying on of the undertaking.

RECOMMENDATION

I recommend that the Secretary of State issues a certificate in respect of the relevant land under section 127 (2) (b) in the form annexed and that a notice in the form annexed is published as required by Section 127 (7).

Robert Upton

Robert Upton
Section 127 examiner

The Able Marine Energy Park Development Consent Order 2013

The Planning Act 2008

Certificate under Section 127 (2) (b)

1. The Able Marine Energy Park Development Consent Order 2013 which has been submitted by Able Marine Energy Park to the Secretary of State includes the land described in the schedule.

2. The land was acquired by the statutory undertaker (Anglian Water) for the purpose of their undertaking and the Secretary of State is satisfied that it is used for the purposes of the carrying out of their undertaking.

3. The Secretary of State in exercise of his powers under section 127 of the Planning Act 2008 certifies that the land described in the schedule can be purchased without serious detriment to the carrying on of the undertaking.

SCHEDULE

Plot No 04012	All interests in 5558.72 square metres of land comprising trees, shrubbery, hedgerows, drain and bed thereof, scrubland and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04013	All interests in 9771.99 square metres of land comprising drain and bed thereof, scrubland and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04016	All interests in 3651.11 square metres of land comprising drain and bed thereof, trees, shrubbery and hardstanding to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04018	All interests in 934.59 square metres of land comprising drain and bed

	thereof, trees, shrubbery, pond and bed thereof and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04019	All interests in 55.65 square metres of land comprising hardstanding and public footpath (FP 50) to the east of Rosper Road, North Killingholme, Immingham.

The Able Marine Energy Park Development Consent Order 2013

The Planning Act 2008

Notice under Section 127 (7)

1. The Able Marine Energy Park Development Consent Order 2013 which has been submitted by Able Marine Energy Park to the Secretary of State includes the new rights described in the schedule.
2. The land over which new rights are to be acquired was acquired by the statutory undertaker (Anglian Water) for the purpose of their undertaking and the Secretary of State is satisfied that [it is used] for the purposes of the carrying on of their undertaking.
3. Notice is hereby given that the Secretary of State in exercise of his powers under section 127 of the Planning Act 2008 has certified that the new rights described in the schedule can be purchased without serious detriment to the carrying on of the undertaking.
4. Notice of authorisation of compulsory acquisition of the new rights will be made by the prospective purchaser (Able Marine Energy Park) in accordance with Section 134 of the Planning Act 2008.

SCHEDULE

Plot No 04012	All interests in 5558.72 square metres of land comprising trees, shrubbery, hedgerows, drain and bed thereof, scrubland and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04013	All interests in 9771.99 square metres of land comprising drain and bed thereof, scrubland and hardstanding to the east of Rosper Road and Burkinshaw's Covert, North Killingholme, Immingham.
Plot No 04014	NOT IN BoR
Plot No 04016	All interests in 3651.11 square metres of land comprising drain and bed thereof, trees, shrubbery and

	hardstanding to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04018	All interests in 934.59 square metres of land comprising drain and bed thereof, trees, shrubbery, pond and bed thereof and scrubland to the east of Rosper Road, North Killingholme, Immingham.
Plot No 04019	All interests in 55.65 square metres of land comprising hardstanding and public footpath (FP 50) to the east of Rosper Road, North Killingholme, Immingham.

The Able Marine Energy Park Development Consent Order 2013

The Planning Act 2008

Notice under Section 127 (7)

1. The Able Marine Energy Park Development Consent Order 2013 which has been submitted by Able Marine Energy Park to the Secretary of State includes the land described in the schedule.
2. This land was acquired by the statutory undertaker (Anglian Water) for the purpose of their undertaking and the Secretary of State is satisfied that it is used for the purposes of the carrying out of their undertaking.
3. Notice is hereby given that the Secretary of State in exercise of his powers under section 127 of the Planning Act 2008 has certified that the land described in the schedule can be purchased without serious detriment to the carrying on of the undertaking.
4. Notice of authorisation of compulsory acquisition of the new rights will be made by the prospective purchaser (Able Marine Energy Park) in accordance with Section 134 of the Planning Act 2008.

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