



The Planning Inspectorate

REPORT OF EXAMINING INSPECTOR APPOINTED ON 15 OCTOBER 2012 TO DISCHARGE FUNCTIONS UNDER SECTION 127, THE PLANNING ACT 2008

DETAILS

Development Consent Order (DCO) – The Able Marine Energy Park Development Consent Order 2013

Date of Section 127 application – 10 October 2012

Statutory Undertaker – Centrica

Relevant Land – Plots 03009, 03019, 04028, 04030, 05008, 05012, 05013, 05017, 05018, 05021, 05022, 05023, 05024, 05029, 05030, 05031 and 05032

Representations – RRP062, WRR019, REP012, CAI035, HEA013, PDC045, PDC046, APP055

Centrica has apparatus which crosses 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 two protective provisions for Centrica in Part 10 of Schedule 9 of the DCO, which state –

78. Before extinguishing any existing rights for Centrica to keep, inspect, renew and maintain its infrastructure on, over or in the Order land or to cross the Order land to access its infrastructure, the undertaker shall, with the agreement of Centrica, create a new right to keep, inspect, renew and maintain the infrastructure in the same location or a new right of access that is reasonably convenient for Centrica, such agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article

80. Before extinguishing any existing rights for Centrica to pass along parcel 03009 (Station Road), the undertaker shall, with the agreement of Centrica, create a new right of way for Centrica, such

agreement not to be unreasonably withheld or delayed, and to be subject to arbitration under article 59.

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 (Centrica) 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 acquired without serious detriment to the carrying on of the undertaking.

SCHEDULE

Plot No 03009	All interests in 11964.77 square metres of land comprising private road (Station Road), grass verges, hedgerows, drain and bed thereof and hardstanding, Station Road, South Killingholme, Immingham.
Plot No 03019	All interests in 41382.82 square metres of land comprising trees, shrubbery, hedgerows, grassland (Killingholme Marshes), hardstanding and private road (Station Road), Killingholme Marshes, South Killingholme, Immingham.
Plot No 04028	All interests in 250.54 square metres of land comprising a private access road off Rosper Road, North Killingholme, Immingham.
Plot No 04030	All interests in 1918.90 square metres of land comprising a private access road off Rosper Road, North Killingholme, Immingham.
Plot No 05008	All interests in 2287.39 square metres of land comprising private roadway, drain and bed thereof,

	grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05012	All interests in 214.49 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05013	All interests in 6819.30 square metres of land comprising private roadway, drain and bed thereof, grassland and shrubbery, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05017	All interests in 263120.07 square metres of land comprising hardstanding, parking, premises, excluding electricity pylons, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05018	All interests in 23651.35 square metres of land comprising private roadways, hardstanding, grassland, shrubbery, drains and beds thereof, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05021	All interests in 3720.84 square metres of land comprising private roadway, footway and bridge ramp, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05022	All interests in 95362.61 square metres of land comprising hardstanding, parking, drains and beds thereof, bridge embankment, grassland and shrubbery to the east of Haven Road, North Killingholme, Immingham.
Plot No 05023	All interests in 8866.48 square metres of disused railway, track bed and associated structures, trees, shrubbery, drains and beds thereof to the east of Haven Road, North Killingholme, Immingham.
Plot No 05024	All interests in 139.96 square metres of disused railway, track bed and associated structures,

	bridge structure carrying private roadway and footways, to the east of Haven Road, North Killingholme, Immingham.
Plot No 05029	All interests in 16178.65 square metres of land comprising hardstanding, parking, drain and bed thereof, grassland and shrubbery, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05030	All interests in 58865.42 square metres of land comprising hardstanding, parking, drain and bed thereof, grassland, private roadway bridge embankment, premises and shrubbery, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05031	All interests in 977.97 square metres of land comprising hardstanding and private access road, to the south of Haven Road, North Killingholme, Immingham.
Plot No 05032	All interests in 5006.46 square metres of land comprising private roadway, footway, bridge ramp and hardstanding to the east of Haven 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 (Able Marine Energy Park) 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 new rights described in the schedule can be acquired 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

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Plot No 03019	All interests in 41382.82 square metres of land comprising trees, shrubbery, hedgerows, grassland (Killingholme Marshes), hardstanding and private road (Station Road), Killingholme Marshes, South Killingholme, Immingham.
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	thereof to the east of Haven Road, North Killingholme, Immingham.
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