



Department
of Energy &
Climate Change

Melissa Read
Forewind Limited
Davidson House
Forbury Square
Reading
RG1 3EU

**Department of Energy & Climate
Change**

2nd Floor, Kings Building
c/o 3 Whitehall Place,
London SW1A 2AW
T: +44 (0)300 068 5770
E: giles.scott@decc.gsi.gov.uk
www.decc.gov.uk

Your ref:
Our ref: EN010021

17 February 2015

Dear Ms Read

PLANNING ACT 2008 ("the 2008 Act")

**APPLICATION FOR THE PROPOSED DOGGER BANK CREYKE
BECK OFFSHORE WIND FARM ORDER**

1. Introduction

- 1.1 I am directed by the Secretary of State for Energy and Climate Change ("the Secretary of State") to advise you that consideration has been given to the report of the Examining Authority ("the ExA"), a panel of three members led by Frances Fernandes, which conducted an examination into the application dated 21 August 2013 ("the Examination") by Forewind Limited ("the Applicant") for a Development Consent Order ("the Order") under section 37 of the 2008 Act ("the Application") for the Dogger Bank Creyke Beck offshore wind farm and related infrastructure ("the Development").
- 1.2 The Examination of the Application began on 18 February 2014 and was completed on 18 August 2014. The Examination was conducted on the basis of written evidence submitted to the ExA and was discussed at an open floor hearing on 31 March 2014, at issue-specific hearings on 2 and 4 April 2014, 3 and 5 May 2014, 1 and 16 July 2014 and at a Compulsory Acquisition Hearing held on 3 and 4 July 2014.
- 1.3 The Application is for development consent for the construction and operation of two wind farms (Dogger Bank Creyke Beck A and

B) which would be located a minimum of 131km off the east Yorkshire coast. The Development would comprise:

up to 400 turbines (each with a maximum height of 315 metres) with an installed generating capacity of up to 2400MW (up to 1200MW on each site);

up to 14 offshore platforms comprising -

up to 8 offshore collector platforms,

up to 2 offshore converter platforms,

up to 4 offshore accommodation or helicopter platforms;

up to 10 meteorological stations;

a network of inter-array cables;

up to 4 export cables to shore; and

related onshore works including underground cabling and two onshore converter stations.

- 1.4 Published alongside this letter is a copy of the ExA's Report and Findings and Conclusions ("the ExA's Report" or "ER") and annexed Errata Sheet, the Order and a note on the circumstance in which the Secretary of State's decision can be challenged in Annex A to this letter. References in this letter to "the Report" are to the ExA's Report subject to those corrections in the Errata Sheet. The ExA's findings and conclusions are set out in sections 4 – 12 of the Report and the ExA's recommendation is at paragraph 16.4.

2. Summary of the ExA's Report and Recommendation

- 2.1 The ExA assessed and considered the following principal issues during the examination:

- a. the legal and policy context for the proposed Development;
- b. the historic environment;
- c. biodiversity, the biological environment and ecology;
- d. fishing;
- e. landscape/seascape and visual effects;
- f. marine and coastal processes;
- g. onshore construction and operation effects;
- h. radar, navigation and search and rescue operations;
- i. socio-economic impacts;

- j. traffic and transportation; and
- k. compulsory acquisition.

2.2 The ExA recommended that the Order be made in the form set out in Appendix D of the Report.

3. Secretary of State's Decision on the Application

3.1 The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is a statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulation 23(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations").

4. Secretary of State's Consideration of the Application

4.1 The Secretary of State has carefully considered the Report and all other material considerations. Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the Report, and, in such cases, the reasons for his decision are to be taken as those given by the ExA in support of its conclusions and recommendations. All numbered references, unless otherwise stated, are to paragraphs of the Report.

Need and Relevant Policy for the Proposed Development

4.2 After having regard to the comments of the ExA set out in Chapter 3 of the Report, and its conclusion in paragraph 16.3(i), the Secretary of State is satisfied that, in the absence of any adverse effects which are unacceptable in planning terms, making the Order would be consistent with Energy National Policy Statements (NPS) EN-1 (the Overarching NPS for Energy) and EN-3 (the NPS for Renewable Energy Infrastructure). The Secretary of State considers that making the Order would also be consistent with EN-5 (the NPS for Electricity Networks Infrastructure) and that taken together, these NPSs set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed by the Applicant. The Secretary of State, therefore, agrees that the Development is needed.

5. Modifications to the Order by the Secretary of State

5.1 In considering the draft Order submitted with the ExA's Report, the Secretary of State identified a number of issues which he

determined required modifications to be made relating to the following matters:

- the definition of `undertaker` and the benefit of the development consent;
- requirements and appeals;
- the power to make agreements;
- time limit for commencing Development
- the proposed disapplication of the Party Wall etc Act 1996;
- the restoration of the site following removal of works;
- the compulsory acquisition of rights;
- the length of time available to the Applicant before it must commence works;
- the detailed design approval onshore;
- the modification of compensation etc. enactments;
- marine mammal mitigation protocol; and
- amendments to plans approved under Marine Licences.

5.2 The amendments are considered individually below:

The definition of `undertaker` in Article 2 (interpretation)
Article 3 (development consent etc granted by Order)

5.3 The Secretary of State has amended the term “undertaker” in article 2 to provide greater clarity and certainty and to ensure that the term always has a meaning in the Order. Article 3 is also amended to provide greater clarity about which undertaker development consent is granted to.

Article 6 (requirements and appeals, etc.)

5.4 The Secretary of State has amended article 6 to ensure that the 2009 Regulations and other legislation under the 2008 Act are not displaced.

Article 9 (power to make agreements)

5.5 The Secretary of State has removed paragraphs (1), (2), (3) and (7) of article 9 as these paragraphs, which relate to the undertakers' powers to make agreements, seem unnecessary: during the examination of the Application, it was stated that if article 9 was removed, the companies to which development consent is granted would still have the ability to work together. Article 9 has a new heading to reflect the contents of the remaining provisions.

Requirement 2 (time limits)

Article 23 (time limits for exercise of authority to acquire land compulsorily)

5.6 The Secretary of State has amended Requirement 2 in Part 3 of Schedule 1 and article 23 to reduce the period by which the Development must commence (and the period within which compulsory acquisition powers must be exercised) from seven years to five years from the date on which the Order comes into force. In addition, the Secretary of State's ability to extend the period is removed, as the Secretary of State considers that any request to change the time allowed to the Undertaker to commence works should be subject of an application to amend the Order under the relevant provisions of the 2008 Act.

5.7 The decision to make this change was taken in the light of representations from local people potentially affected by the onshore cable and converter stations works, who argued that the original period allowed for the commencement of works and the exercise of compulsory acquisition powers left them in a state of uncertainty for an unjustifiably long period of time (ER 14.97 – 14.134). However, the Secretary of State notes that the Applicant argued that the difficulty of bringing such a complex project to development – particularly in relation to the offshore elements – meant that the standard five-year term for the commencement of works and the exercise of compulsory acquisition powers was too short (ER 15.17). While acknowledging the difficulties offshore, the Secretary of State does not consider that these extend to the onshore works and believes, therefore, that five years is an appropriate timescale to provide for the exercise of compulsory acquisition powers and for the commencement of the Development.

The proposed disapplication of the Party Wall etc Act 1996

5.8 The Secretary of State has removed the provision disapplying section 6 of the Party Wall etc. Act 1996, which provides for the

underpinning of adjoining buildings when excavation work is to be undertaken.

- 5.9 The Secretary of State does not consider that article 18 of the Order recommended by the ExA which, in the Applicant's view provided equivalent powers, is a like for like replacement for section 6 in that, while article 18 gives powers to the Applicant, it does not give the owner of the adjoining building the right to compel the exercise of those powers.

Restoration of site following removal of works

- 5.10 The Secretary of State has amended article 11 to give him the power to require the restoration of the site not only when offshore works are abandoned or allowed to fall into decay, but when they are removed in other circumstances.

Article 24 (compulsory acquisition of rights)

Article 34 (special category land)

- 5.11 The Secretary of State has amended article 24 to make it clear that the compulsory acquisition powers in the Order are limited to the power to acquire new rights in respect of all the plots referred to in Schedule 5 (and the division of Schedule 5 into separate Parts is eliminated). Article 24 is also amended to provide that, where new rights are acquired, these extinguish existing rights, but only to the extent that they are inconsistent with the new rights. A similar amendment is also made to article 34.

Requirement 12 (detailed design approval onshore)

- 5.12 The Secretary of State has amended Requirement 12 to limit the width of the temporary construction compounds to those set out in the Environmental Statement.

Requirement 13 (detailed design approval onshore)

- 5.13 The Secretary of State has amended Requirement 13 to make it clear that only immaterial changes to the approved plans may be made with the consent of the relevant planning authority.

The insertion of a new Schedule 6 modifying compensation enactments

- 5.14 The Secretary of State has included a new Schedule 6 to the Order. This includes certain standard provisions modifying compensation enactments to make them apply where compulsory acquisition relates to newly created rights over land.

Marine mammal mitigation protocol

5.15 The Secretary of State has amended condition 9(e) of Deemed Marine Licences 1 and 2 and condition 8(1)(e) of Deemed Marine Licences 3 and 4, the effect of which is that the marine mammal mitigation protocol must be approved before licensed activities commence is not limited to preventing injury to marine mammals.

Amendments to Plans Approved Under Marine Licences

5.16 The Secretary of State has added a condition to each Deemed Marine Licence providing that plans that are required to be approved by the Marine Management Organisation (“MMO”) under the Licence include amendments subsequently approved by the MMO.

Other Drafting Changes

5.17 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments (for example, modernisation of language), changes in the interests of clarity and consistency, and changes to ensure that the Order has the intended effect.

6. Environmental Assessment Report including Habitats Regulation Assessment

6.1 The Secretary of State notes that regulation 61 of the Conservation of Habitats and Species Regulations 2010 (“the Habitats Regulations”) and regulation 25 of the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007 (“the Offshore Habitats Regulations”) require him to consider whether the proposed Development would be likely, either alone or in-combination with other plans and projects, to have a significant effect on a European site or European offshore marine site as defined in the Habitats and Offshore Habitats Regulations. If likely significant effects cannot be ruled out, then he must undertake an Appropriate Assessment (“AA”) addressing the implications for the European site in view of its conservation objectives. In the light of any such assessment, he may grant development consent only if it has been ascertained that the project will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons of overriding public interest apply.

6.2 In the case of the Development, the Secretary of State notes that the ExA considered the potential impact of the project on 5 European sites where the Applicant's conclusion of no adverse effect on integrity was disputed by Natural England, the Joint Nature Conservation Committee and the RSPB:

- Dogger Bank candidate Special Area of Conservation and Site of Community Interest (SCI);
- Farne Islands Special Protection Area (SPA);
- Flamborough Head and Bempton Cliffs SPA;
- Flamborough and Filey Coast proposed SPA; and
- Forth Islands SPA.

6.3 The Applicant considered a large number of sites at the Likely Significant Effect ("LSE") (screening) stage of their "Information for Appropriate Assessment Report". Agreement between the Applicant and Natural England in relation to LSEs and conclusions of no adverse effects on the integrity of these sites had been reached at an early stage in the Examination. The ExA, therefore, decided that, as there was no disagreement between the parties, and in order to avoid unnecessary duplication of information, these sites were not discussed within the Report on the Implications for European Sites ["RIES"] Proposed Dogger Bank Creyke Beck Offshore Wind Farm carried out by the Planning Inspectorate's Secretariat, or the ExA's Report.

6.4 The Secretary of State notes that the ExA considered evidence supplied by the relevant interested parties and examined it at issue-specific hearings and then concluded that there would not be adverse effects on the integrity of any of the European sites set out in paragraph 6.2 above either alone or in combination with other plans or projects as a result of the Development, provided that suitable mitigation was put in place. Mitigation measures have been incorporated into the Order and the Deemed Marine Licences. Natural England agreed to the conclusion of no adverse effect on all European sites for the Development alone. The organisation did, however, raise some uncertainty regarding the impacts of the proposed Development in combination with other plans or projects for the Dogger Bank SCI.

6.5 In order to test the ExA's conclusions and Natural England's concerns, the Secretary of State carried out a Habitats Regulations Assessment ("HRA") (including an AA) in respect of the potential impacts of the proposed Development on the integrity of the sites named above. The Secretary of State has focused on the key concerns in his HRA, given the large number of sites and features. The Applicant provides explanations as to why LSE's

were excluded for the other sites and the reasoning behind their conclusions of no adverse effect and he relies on these undisputed findings in his conclusions for those sites. His conclusions on habitats and wild bird issues have been informed by the ExA's Report, the RIES prepared by the Planning Inspectorate, the representations made by Interested Parties, and the Applicant's "Information for Appropriate Assessment Report". He has taken Natural England's concerns into account but does not consider that the Development will have an adverse effect on the integrity of the Dogger Bank SCI alone or in-combination with other plans or projects.

- 6.6 The Secretary of State's HRA report considers the impact of fishing on the Dogger Bank SCI. However, as fishing activity is ongoing and already affecting the ecology of the site and is not something new, fishing is considered as part of the background impacts on the site.
- 6.7 The Secretary of State is aware that since the close of the examination, the statutory nature conservation bodies ("SNCBs") have endorsed the findings of a report by Cook et al ("The Avoidance Rates of Collision between Birds and Offshore Turbines" – a British Trust for Ornithology Research Report No 656 for Marine Scotland Science) that suggested a 98.9% Avoidance Rate ("AR") should be adopted for northern gannets. He has considered this matter in his HRA (paragraphs 7.26 and 7.27) and, while accepting that the use of a 99% AR is less precautionary than the figure endorsed by the SNCBs, notes that, in the case of the Development, the adoption of the 98.9% AR from the study referred to above as would lead to the potential mortality of one additional gannet per annum and considers that this will not result in an adverse effect on the integrity of any of the European sites potentially affected by the Development either alone or in combination with other plans and projects. Also, given the available evidence (e.g Krijgsveld et al 2011 – see paragraph 7.22 of the HRA) which documents greater avoidance of offshore wind farms by gannets than for many other species and estimates an overall AR of 99.1% for this species, the Secretary of State is of the opinion that the use of an AR of 99% for gannets is appropriate for this species.
- 6.8 On the basis of the HRA's consideration of the issues raised, the Secretary of State agrees with the ExA's conclusions of no adverse effects on integrity in relation to the European sites listed in paragraph 6.2 above and finds no reason in respect of this issue why he should not make the Order.

6.9 A copy of the Secretary of State's HRA is attached to this decision letter and has been prepared on the basis of the ExA's Report.

Transboundary Considerations

6.10 The Secretary of State notes that the Planning Inspectorate undertook, on behalf of the Secretary of State for Communities and Local Government ("SoS CLG"), a screening exercise for transboundary impacts under regulation 24 of the 2009 Regulations. SoS CLG applied the precautionary approach set out in the Planning Inspectorate's "Advice Note 12: Transboundary Impacts Consultation" and took account of information provided by the Applicant before concluding that the proposed Development was not likely to have a significant effect on the environment in another European Economic Area ("EEA") state in relation to: fish and shellfish species, marine mammals, European sites and bird species and commercial fisheries and commercial vessels. As a result of the initial screening, Belgium, Denmark, France, Germany, Netherlands, Norway and Sweden were asked to identify whether they wished to participate in the process and, if so, whether they could provide any information on significant impacts on their states. No responses were received from the EEA states in question.

6.11 The ExA assessed the potential impacts in the light of the notifications and considered that there would not be any effects arising from the Development that would have a LSE on the environment in another EEA state (ER 3.71). The ExA was satisfied that all transboundary matters had been addressed (ER 3.72). However, the Secretary of State has also considered the matters raised and considers that the proposed Development has the potential to affect features from transboundary European sites. These features include species of marine mammals and sandbanks which are slightly covered by sea water at all times (in Netherlands, Germany, Denmark, France, Sweden, Norway and Belgium). Those marine mammal species (harbour porpoises, grey seals and harbour seals) are at increased risk of injury, disturbance and displacement as a result of construction and piling works. After careful consideration, the Secretary of State is satisfied that the Development will not have adverse impacts upon these transboundary sites. A description and evaluation of these impacts are detailed within the Secretary of State's HRA.

7. Other Matters

Marine Management Organisation Proposed Restriction on the Timing of Cabling Works to Protect Herring Spawning

- 7.1 The Secretary of State notes that there was disagreement during the Examination over whether a condition should be included in the Order to prevent cable construction along a short section of the proposed route during a two month period each year (15 August to 15 October). The MMO argued that such a condition would protect herring spawning, but the Applicant argued that it would be disproportionate to the level of impact that the restriction would mitigate and that its imposition would reduce construction flexibility and could affect the economics of the project. The ExA recommends that the condition should not be included in the Order. The Secretary of State has considered the evidence and, in this case, supports the ExA's view that no condition should be included in the Order.

Landscape Impacts

- 7.2 In respect of onshore landscape impacts, the ExA (ER 7.20) concludes that, while there is anticipated to be a major adverse effect in respect of a small number of receptors, mitigation measures have been put in place and that the potential contribution of the Development to meeting national energy targets outweighs any individual harm. The Secretary of State agrees with the ExA's consideration in this matter and concludes that the landscape impacts of the onshore works are acceptable and do not weigh against his decision in this case.
- 7.3 For the offshore wind turbines, the ExA considers that the distance from the shore (131km) precludes any significant effect on viewers on the coast or in inshore waters. The Secretary of State agrees with this position.

Sequencing of onshore construction works (ER 9.61 – 9.63)

- 7.4 The ExA reports that a number of interested parties raised the question of why agricultural land was potentially to be disturbed twice during construction operations including cable-laying operations (once for each cable) rather than in one operation. The Applicant argued that it needed flexibility given that the projects could ultimately be built at different times and by different operators. The Applicant also confirmed that compensation would be payable to landowners along the cable route for each period of construction disturbance and that land restoration would be completed within 6 months or by the end of the next available

planting season. The ExA was satisfied, therefore, that the additional disruption caused by the sequential approach to construction was necessary. The Secretary of State accepts that the position adopted by the ExA is a reasonable one.

Crown Land

- 7.5 Section 135(2) of the 2008 Act requires consent from the appropriate Crown authority for the inclusion of any provision applying in relation to "Crown land". In the case of the Application, The Crown Estate gave its consent, by way of an agreement signed by both the Applicant and The Crown Estate and dated 13 June 2014 ("Deadline V Appendix 24 – Forewind and The Crown Estate agreed position on section 135"), to the inclusion of article 41 in the Order, which applies in relation to Crown land.
- 7.6 Section 135(1)(b) of the 2008 Act provides that an order granting development consent may include provision authorising the compulsory acquisition of an interest in Crown Land only if the appropriate Crown authority consents to the acquisition. As article 41 requires the consent of the appropriate Crown authority before an interest in Crown land may be the subject of compulsory acquisition under the Order, the Secretary of State considers that section 135(1)(b) is complied with.

Funding of Development Consent Obligations

- 7.7 The ExA, at paragraphs 14.77 – 14.88, 14.89 to 14.96 and 14.153 to 14.155, considers the arrangements that are in place to ensure the Developer is able to meet the cost of compulsory acquisition and compensation in respect of the onshore works for the Development (as well as the project more generally). The ExA notes that the Applicant has provided unilateral undertakings ("UU") executed by two Dogger Bank Creyke Beck development companies (Doggerbank Project 1 Bizco Limited and Doggerbank Project 4 Bizco Limited) in favour of East Riding of Yorkshire Council which, it argues, provide the mechanism by which compulsory acquisition powers cannot be implemented without demonstration of the financial provisions for compensation.
- 7.8 The Secretary of State notes the ExA was satisfied that the proposed mechanism was a suitable method of securing the appropriate financial provisions. The Secretary of State is aware that clause 4.2 in each of the two UUs sets out that the undertakings will become operative only if his decision letter expressly states that the obligations given by the Developer in clauses 3 and 4 of the UU are material and necessary considerations to his decision. The Secretary of State also notes

the ExA recommends that, in the event it is decided to make the Order with the compulsory acquisition provisions included in it, a statement should be included in his decision letter in accordance with clause 4.2.

- 7.9 Accordingly, for the purposes of clause 4.2 of each of the UUs, the Secretary of State states that the obligations given by Doggerbank Project 1 Bizco Limited and Doggerbank Project 4 Bizco Limited in clauses 3 and 4 of each of the UUs are a necessary and material consideration for the purposes of his decision to grant compulsory purchase powers in the Order.
- 7.10 In conclusion, the Secretary of State agrees with the ExA at ER 14.156 that the necessary frameworks are in place to ensure that the Development cannot proceed unless adequate funding is in place to ensure the cost of compulsory acquisition and compensation in respect of the onshore works for Dogger Bank Creyke Beck are secure.

Special category land

- 7.11 The Secretary of State notes that section 132 of the 2008 Act provides that such a DCO should be subject to special parliamentary procedure unless he is satisfied *inter alia* that, once burdened with the right, the land will be no less advantageous to the persons in whom it is vested, other persons entitled to rights of common or other rights and the public (the “section 132(3) test”).
- 7.12 The rights to be acquired are the right to lay and maintain underground cables on a certain stretch of the beach and over Figham Common. The Applicant states that, as the cable will be laid underground, the physical appearance of the beach and Figham Common will be unaffected and that the use of the land for recreational activities will carry on uninterrupted or that the rights sought are consistent with the existing use of the land. The ExA considered that the section 132(3) test was satisfied in respect of the land at the beach and Figham Common at ER 14.60 and 14.65 and that, if the Secretary of State were so satisfied, the special parliamentary procedure is not necessary. The Secretary of State accepts the ExA’s conclusion.

8. General Considerations

Equality Act 2010

- 8.1 The Equality Act 2010 introduced a public sector “general equality duty”. This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful

discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships¹; pregnancy and maternity; religion and belief; and race. This was considered by the ExA. This matter has been considered by the Secretary of State who has concluded that there was no evidence of any harm, lack of respect for equalities, or disregard to equality issues.

Human Rights Act 1998

8.2 The Secretary of State notes that the ExA concludes that the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate extent and that the proposal would comply with section 122 of the 2008 Act. The Secretary of State considers that the ExA’s rationale for reaching its conclusion, as set out in the Report (ER 14.164), provides a justifiable basis for taking the view that the grant of development consent would not be unlawful under section 6(1) of the Human Rights Act 1998.

Section 40(1) of the Natural Environment and Rural Communities Act 2006

8.3 The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent. The Secretary of State is of the view that the Report considers biodiversity sufficiently to accord with this duty.

Marine Licences

8.4 The Order deems marine licences to have been issued under Part 4 of the Marine and Coastal Access Act 2009. In accordance with regulation 3A of the Infrastructure Planning (Decision) Regulations 2010, the Secretary of State has had regard to the need to protect the environment, the need to protect human health and the need to prevent interference with legitimate uses of the sea.

¹ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

9. Secretary of State's Conclusions and Decision

- 9.1 For the reasons given in this letter, the Secretary of State agrees with the ExA that there is a compelling case for granting consent for the Development given the national need for the proposed development and that this case is not outweighed by the potential adverse local impacts of the Development as mitigated by the proposed terms of the Order.
- 9.2 The Secretary of State has therefore decided to accept the ExA's recommendation at ER 16.4 to make the Order granting development consent on the basis of the Recommendations set out in the draft Order submitted to him by the ExA (in Appendix D to the ER), but subject to the modifications outlined in paragraphs 5.1 to 5.17 above. He confirms that, in reaching this decision, he has had regard to the local impact report submitted by East Riding of Yorkshire Council and to all other matters which he considers important and relevant to his decision as required by section 104 of the 2008 Act, including (as set out in paragraph 4.2 above) the need for the project as set out in the relevant National Policy Statements. The Secretary of State also confirms for the purposes of regulation 3(2) of the 2009 Regulations that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

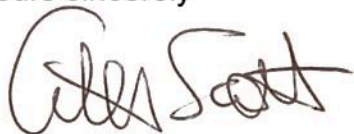
10 Challenge to decision

- 10.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached in the Annex to this letter (below).

11. Publicity for decision

- 11.1 The Secretary of State's decision on this application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the 2009 Regulations 2009.

Yours sincerely



GILES SCOTT
Head, National Infrastructure Consents

Annex A

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of 6 weeks beginning with the date when the Order is published. The Dogger Bank Creyke Beck Offshore Wind Farm Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address: <http://infrastructure.planningportal.gov.uk/projects/yorkshire-and-the-humber/dogger-bank-creyke-beck/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge, you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).