



Department for  
Business, Energy  
& Industrial Strategy

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Your ref: 1076982-Notice-201901122-1733134

06/02/2020

Dear Mrs Barker-Hall,

**ELECTRICITY ACT 1989 AND ACQUISITION OF LAND ACT 1981 – THE NATIONAL GRID VIKING LINK LIMITED (VIKING LINK INTERCONNECTOR) COMPULSORY PURCHASE ORDER 2019 (“the Order”).**

**Your client: National Grid Viking Link Limited**

1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to refer to the National Grid Viking Link Interconnector Compulsory Purchase Order 2019 (“the Order”) submitted to the Secretary of State on behalf of your client, National Grid Viking Link Limited (“the Applicant”), for consideration under section 10 of, and Paragraph 1 of Schedule 3 to, the Electricity Act 1989 (“the 1989 Act”) and Part 2 of the Acquisition of Land Act 1981 (“the 1981 Act”).
2. The objection period ended on 19 February 2019. The Secretary of State received 13 relevant objections during this period and the the Order was then submitted to the Secretary of State on 20 February 2019. The Secretary of State wrote to the Applicant informing them that a local public inquiry would be held and an Inspector – Mr Paul Clark – was subsequently appointed to oversee a local inquiry. The Order was formally accepted for consideration on 3 May 2019.
3. The Secretary of State must also seek consent from the Gas and Electricity Markets Authority (“GEMA”) where any land subject to compulsory acquisition, including rights over land, belongs to another licence holder. The Secretary of State wrote to Ofgem on 5 June 2019 requesting this.
4. Nine objections were withdrawn prior to the Inquiry. Only one of the outstanding objectors (the Canal & River Trust) attended the Inquiry. Inspections were carried out on 24 June 2019 and the Inquiry sat on 25

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and 26 June 2019 but was held open for the submission of documents until the 10 July 2019.

5. During that time, three further objections were withdrawn, leaving only one, from Triton Knoll Offshore Windfarm Limited, outstanding at the close of the Inquiry. In addition, between the final sitting of the Inquiry and its closure, three additional representations were received from persons affected by the Order. None made objections to the Order, but highlighted concerns based around compensation issues including that confirmation of the Order might remove the incentive from the Applicant to conclude voluntary agreements.
6. Triton Knoll Offshore Windfarm Limited formally withdrew their objection by a letter dated 3 December 2019.
7. An Open Space Certificate pursuant to paragraph 6(1) of Schedule 3 to the 1981 Act was issued to the Applicant by the Secretary of State for the Ministry of Housing, Communities and Local Government (“MHCLG”) on 10 July 2019 in respect of plot 01-04, and plots 01-06 to 01-11.
8. The Order does not include Crown Land and insofar as other interests are intended to be acquired on land where there are also Crown interests, the Crown interests are excluded from the Order.

**Inspector’s report:**

9. Paragraph 5(1) of Schedule 3, to the 1989 Act applies the 1981 Act to a compulsory purchase by a licence holder. The Ministry of Housing, Communities & Local Government issued updated Guidance on Compulsory purchase process and the Crichel Down Rules in July 2019 which is applicable to all compulsory purchase orders to which the Acquisition of Land Act 1981 applies. The Inspector framed his conclusions on the principles of this guidance, including: the need for the Order; the public interest; the compelling case; resources and procedural requirements and other consents.
10. The Inspector stated in his recommendation that he found the need case for the Order to be proven. He concluded, however, that he could not recommend consent for the Order at that time due to the outstanding GEMA consent but stated that the Secretary of State might wish to take the view that a short delay before making her decision would allow time for the necessary GEMA consent to be obtained.
11. There was a difference between the Inspector and the Applicant concerning the number of electricity licence holders for whom GEMA consent is required. In the event GEMA consent was provided in respect of all the statutory undertakers identified by the Inspector on 6 January 2020.

**Consideration of the Compulsory Purchase Order:**

12. In consideration of the Order, the Secretary of State has weighed up the relevant impacts of the proposed cable route and has considered whether the rights over the Order Land that are sought interfere with the human rights of those with an interest in the affected land. The Secretary of State has also considered whether, in accordance with

MHCLG “Guidance on Compulsory Purchase Process and The Crichel Down Rules for the disposal of surplus land acquired by, or under threat of, compulsion”, a compelling case for compulsory purchase in the public interest is made out, and whether any interference with the human rights of those affected is sufficiently justified and proportionate in light of the purposes for which the compulsory purchase order would be made in this instance.

13. In considering whether there is any interference with the human rights of those with an interest in the land affected –the Secretary of State has taken account of the compelling public interest justification for the development, and notes that there are no outstanding objections from any owners, lessees, tenants or occupiers of any of the land to be acquired.
14. The Secretary of State has taken the view that the rights over the land sought by the Applicant will interfere with the human rights of those with an interest in the land affected, particularly rights under Article 1 and 8 of the First Protocol of the European Convention on Human Rights. However, she is satisfied that the Applicant has sought to keep interference to a minimum in respect of the rights sought over the Order land and considers that any interference is necessary and proportionate. The Secretary of State also considers that any interference strikes a fair balance with the public benefit of delivering an important Interconnector scheme that will help to guarantee the UK’s future energy security.
15. The Secretary of State has therefore concluded that there would not be an unlawful interference with human rights under Article 1 of the First Protocol or in the case of a dwelling, Article 8 of the European Convention on Human Rights and that in confirming the Order there would not be a disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.
16. The Equality Act 2010 requires public authorities to have due regard in the exercise of their functions to the need to:
  - eliminate discrimination, harassment and victimisation;
  - advance equality of opportunity between persons who share a relevant protected characteristic and those who do not; and
  - foster good relations between people who share a relevant protected characteristic and those who do not.
17. The Secretary of State has considered the potential impacts of granting the Order in the context of the general equality duty and has concluded that it is not likely to result in any significant differential impacts on people sharing any of the relevant protected characteristics.

18. The Secretary of State notes that part of the project affects the Lincolnshire Wolds Area of Outstanding Natural Beauty. It is noted that this was considered carefully by East Lindsey District Council in the appeal decision letter granting planning permission for this section of the route. It was concluded that, during construction, the proposed development would have a moderate adverse impact on the character and appearance of the landscape and would also have some continuing adverse effects after completion, albeit more minor, while the new landscaping became established. However, the conclusion was that these impacts would be relatively short-lived, and no permanent or long-lasting harm would result. The Secretary of State agrees with these conclusions and has had regard to the duties under s85 of the Countryside and Rights of Way Act 2000 in confirming the Order.
19. 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 in so far as is consistent with the proper exercise of her functions. The Secretary of State has also had regard to the requirements of the Habitats Directive, as required by regulation 9(3) of the Conservation of Habitats and Species Regulations 2017, so far as they may potentially be affected by her confirmation of the Order. The Secretary of State is of the view that the Application considers biodiversity, environmental impacts and protected sites to accord with this duty.

**Secretary of State's decision on the Compulsory Purchase Order:**

20. The Secretary of State has carefully considered the intentions of the Applicant and the concerns expressed by the objectors as set out in their original objections and stated within the public inquiry. The Secretary of State notes that the Viking Link Interconnector, as a designated Project of Common Interest ("PCI") under the provisions of the EU Regulation No 347/2013 on guidelines for Trans-European Network for Energy ("TEN-E Regulation"), will increase energy security for both the United Kingdom and Denmark and will help create an integrated European energy market supporting integration of renewable energy. The Secretary of State also considers that the scheme is in accordance with national policy, as set out in National Policy Statement EN-1, as well as having regard to moving to a low carbon economy whilst maintaining security of energy supply.
21. The Secretary of State has carefully considered NGVL's Statement of Reasons that sets out a justification for the making of the Order, including whether the required funds are available to meet the costs of land acquisition and any compensation payable. The Secretary of State concludes that there is a compelling, proportionate and justifiable case in the public interest for the acquisition of the Order land to enable the construction of the onshore elements of the Viking Link interconnector

that will allow the exchange and trading of electricity between the UK and Denmark.

22. **The Secretary of State has decided to confirm the Order with minor modifications to the Order.** These modifications – which can be found at pages 423 and 425 of the Order – are in relation to the tables regarding special category land, into which reference has been added to plots (containing drains and highways) in which statutory undertakers have a presumed interest.
23. The confirmed Order is enclosed together with the plans referred to in that Order. The Order and plans are authorised on behalf of the Secretary of State.
24. Your attention is drawn to the notice obligations in section 15 of the 1981 Act, including that relating to publishing a confirmation notice in one or more local newspapers circulated in the locality of the land subject to the compulsory purchase order. The Order will become operative on the date which Notice of Confirmation is first published. It is important you advise the Secretary of State of this date. We should be grateful if you would in due course, send to the Secretary of State a copy of the pages from the local newspaper containing the Notice of Confirmation of the Order. The page should identify at the head thereof the name of the newspaper and the date of publication.
25. Section 15(6) of the 1981 Act provides that a confirmation notice shall be a local land charge and requires it to be sent to the Chief Land Registrar, and this will be the case where the order is situated in an area for which the Chief Land Registrar has given notice that he now keeps the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the Acquiring Authority should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.
26. The validity of the Secretary of State's decision may be challenged by making an application to the Planning Court. Such application must be made not later than six weeks from the date on which notice of the confirmation or making of the Order is first published in accordance with section 15 of the 1981 Act.



Yours sincerely,  
Gareth Leigh  
Head of Energy Infrastructure Planning