

# Decision

## Decision on Bowdun Offshore Wind Farm Limited's application for the Authority's consent to its exercise of statutory rights of entry on land

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We consulted on Bowdun Offshore Wind Farm Limited's application, as required under SLC 15(4) of the generation licence, for the Authority's consent to exercise its statutory rights of entry on land under paragraph 10 of Schedule 4 of the 1989 Act, for the purposes set out in, and in accordance with, SLC 15(4) of the generation licence. We welcomed responses from electricity generation licence holders, landowners and the public. We also welcomed responses from all other stakeholders who might have had an interest in this matter.

We have decided to proceed with the Authority's minded-to position, to grant consent to the Developer to exercise those powers granted under the 1989 Act, contingent upon the purpose of the land use being stated in the amended SLC 15(4).

The Developer hereby has the Authority's consent to exercise its statutory rights of entry on the specific area of land in Arbuthnott, Laurencekirk (as detailed in the Application) under paragraph 10 of Schedule 4 of the 1989 Act, for the purposes set out in, and in accordance with, SLC 15(4) of the generation licence.

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## **Introduction**

### **Background**

Paragraph 10 of Schedule 4 to the Electricity Act 1989 ("the 1989 Act") allows a person authorised in writing by a generation licence holder to enter compulsorily on and survey land for the purpose of ascertaining whether that land is suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by its licence to carry on. Section 10(2) of the 1989 Act provides two further statutory requirements to the exercise of the right of entry in section 10(1).

### **What we consulted on**

We received an application ("the Application") from Bowdun Offshore Wind Farm Limited ("BOWFL") for the Authority's consent to exercise its statutory rights of entry on land under paragraph 10 of Schedule 4 of the 1989 Act, for the purposes set out in, and in accordance with, Standard Licence Condition (SLC) 15 (4) of the generation licence.

We consulted on whether stakeholders and the public agree with our proposed approach to granting such consent to the licensee.

### **BOWFL's application**

On August 15, 2024, BOWFL applied for Authority consent, as required by Standard Licence Condition (SLC) 15 (4), to exercise statutory rights of entry on land in Laurencekirk, Aberdeenshire, to assess its suitability for electric line works. One application was withdrawn, but the remaining one focused on land in Arbuthnott, Laurencekirk, estimating a one-week duration for the work. They require access for ground investigation, including searching and ground boring to understand the subsoil.

The application shows ongoing discussions with the landowner about compensation for inconvenience caused by the works. The developer plans intrusive ground investigations on the proposed cable route, substation, and landfall locations within an approximate 1-week time frame to aid in designing a safe and economical cabling solution.

### **Our decision-making process**

The process behind this decision involved working with our legal team to establish a minded-to position on the Application, followed by the period of consultation to invite responses from electricity generation licence holders, landowners, other stakeholders and the public.

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### Decision-making stages

Date	Stage description
09/12/2024	Stage 1: Consultation open
20/01/2025	Stage 2: Consultation closes (awaiting decision), Deadline for responses
N/A	Stage 3: Responses reviewed and published
28/02/2025	Stage 4: Consultation decision

### Next steps

Following the closure of the consultation, we have come to a final decision on the Application from BOWFL, as set out in this document.

### General feedback

We believe that consultation is at the heart of good policy development. We are keen to receive your comments about this report. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall quality of this document?
2. Do you have any comments about its tone and content?
3. Was it easy to read and understand? Or could it have been better written?
4. Are its conclusions balanced?
5. Did it make reasoned recommendations?
6. Any further comments

Please send any general feedback comments to [stakeholders@ofgem.gov.uk](mailto:stakeholders@ofgem.gov.uk).

## **1. Responses**

- 1.1 The consultation was published on December 9 2024 and closed on January 20 2025. We received one response to the consultation in this period which was considered and did not contain any representations relevant to the subject matter of the consultation.

## **2. Decision and next steps**

### **Decision**

- 2.1 We have decided to proceed with the Authority's minded-to position, to grant consent to the Developer to exercise those powers granted under the 1989 Act, contingent upon the purpose of the land use being stated in the amended SLC 15(4). See Appendix 1 for the full minded-to position.

### **Next steps**

- 2.2 The Developer hereby has the Authority's consent to exercise its statutory rights of entry on the specific area of land in Arbuthnott, Laurencekirk (as detailed in the Application) under paragraph 10 of Schedule 4 of the 1989 Act, for the purposes set out in, and in accordance with, SLC 15(4) of the generation licence.

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## **Appendix 1 – The Authority's minded-to position**

### **The Authority's minded-to position**

- A1.1 Paragraph 10 of Schedule 4 of the 1989 Act provides that the licensee can authorise person(s) to enter onto and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of the activities which the licence holder is authorised by their licence to carry on. However, the person authorised cannot enter and survey the land unless the occupier has been given 14 days of notice and, if required, the person has produced evidence of his authority. Further, this power is not exercisable in respect of land covered by a building or land upon which planning permission for a building has been granted.
- A1.2 Further, SLC 15 of the electricity generation licence requires licence holders to apply for Authority consent before exercising their statutory rights under Paragraph 10 of Schedule 4 of the 1989 Act, insofar as the exercise of those rights relates to the matters set out in SLC 15(4) a) and b).
- A1.3 The modifications to SLC 15(4) that took effect on 23 October 2015 extended the ability of generation licence holders to exercise statutory entry powers to survey suitability of land, with consent from the Authority, for the additional purpose of electric line works. SLC 15(4) now provides:
- A1.4 *"Paragraph 10 of Schedule 4 to the Act shall apply to the licensee if it obtains the consent of the Authority before exercising its rights of entry on land under that paragraph for the purpose of ascertaining whether the land would be suitable for:*
- (a) the construction or extension of a generating station; and/or*
  - (b) the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines specified in paragraph 3 above, electrical plant associated with them and any structures for housing or covering such plant, including, for the avoidance of doubt, whether these activities are carried out by the licensee or another licence holder."*
- A1.5 Considering this amendment to the licence and the exploratory rights granted to licence holders under paragraph 10 of Schedule 4 of the 1989 Act, the



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Authority's minded-to position is to grant consent to the Developer to exercise those powers granted under the 1989 Act. This consent is contingent upon the land being used for one of the above purposes stated in the amended SLC 15(4).