

CENTRAL ASSOCIATION OF AGRICULTURAL VALUERS

Jeremy Moody



Secretary and
Adviser

Anthony Mungall
Offshore Team
Ofgem
Cornerstone
107 West Regent Street
Glasgow
G2 2BA

By e-mail: offshorelicensing@ofgem.gov.uk

28th January 2015

Dear Mr Mungall,

**Consultation on proposals to modify Standard Licence Conditions 14 and 15 of the
electricity generation licence
CAAV Consultation Response**

I write on behalf of the Central Association of Agricultural Valuers in response to the consultation paper on proposals to modify Standard Licence Conditions 14 and 15 of the electricity generation licence.

Introduction

The Central Association of Agricultural Valuers (CAAV) represents, briefs and qualifies some 2700 professionals who advise and act on the very varied matters affecting rural and agricultural businesses and property throughout Great Britain. Instructed by a wide range of clients, including farmers, owners, lenders, public authorities, conservation bodies, utility providers, government agencies and others, this work requires an understanding of practical issues.

The CAAV does not exist to lobby on behalf of any particular interest but rather, knowing its members will be called on to act or advise both Government and private interests under developing policies, aims to ensure that they are designed in as practical a way as possible, taking account of circumstances.

MARKET CHAMBERS, 35 MARKET PLACE, COLEFORD, GLOUCESTERSHIRE, GL16 8AA

Tel.: 01594 832979 Fax: 01594 810701

E-mail: enquire@caav.org.uk Website: www.caav.org.uk

Company Limited by Guarantee 398155

Our particular interest in this consultation arises because many of our members advise landowners and occupiers in relation to access to land by third parties. We also have members who act for and advise those third parties, including developers of electricity generating station.

In preparing this response we have consulted our membership generally and our technical Valuation, Compensation and Taxation Committee in particular. I set out below the CAAV response to the consultation.

Generally

While we support efforts to ensure that regulations are clear, consistent and easily understood, compulsory powers of access to land which is already in another economic use should be given only when those powers are absolutely essential and no other alternatives are available.

We understand that this proposal has been developed because of the specific set of circumstances faced by one off-shore wind farm developer which has been unable to agree terms with landowners to take access to land for surveying purposes. We question whether these proposals are a proportionate response to that situation, when other schemes have not been hindered by the lack of statutory powers. For example, HS2 Ltd has recently been able, without any statutory powers whatsoever, to negotiate sufficient access to land along the whole of the proposed route from London to Birmingham to enable it to prepare a detailed Environmental Statement. This involved individual negotiation with hundreds of land and property owners, but it was achieved because HS2 Ltd offered reasonable terms with suitable financial incentives to persuade landowners and occupiers to co-operate.

Current arrangements

Schedules 3 and 4 of the Electricity Act 1989 give certain compulsory powers of access to land and acquisition of land by electricity licence holders. When those powers were to be granted to licence holders, Parliament and the Regulator saw fit not to do so by way of a single blanket grant, but by granting different rights to the different types of licence holder. It was presumably not considered appropriate to give compulsory powers in all cases; that is a reasonable approach to take when the state is imposing itself on private property.

The powers are currently held as follows:

- **Transmission licensees:** powers apply in their entirety by statute (s.10 of the 1989 Act)
- **Distribution licensees:** powers apply in their entirety by virtue of SLC 28 of the Electricity Distribution Licence
- **Interconnector licensees:** powers apply in restricted form by virtue of SLC 7 of the Electricity Interconnector Licence
- **Generation licensees:** powers apply in restricted form by virtue of SLC 14 and 15 of the Electricity Generation Licence
- **Supply licensees:** powers do not apply at all.

Is an extension of powers necessary?

In our view it is not necessary to extend the compulsory powers any further, because developers of generating stations already have options open to them when they wish to take access to land for survey purposes for electricity lines, such as:

- Negotiation with landowners – Any organisation or body seeking to take access over third party land should seek to do so by agreement in the first instance, recognising the principles of private ownership and acknowledging that the land is almost always being put to another economic use, which will be disrupted by such access.
- Working with others – Those operators holding transmission and distribution licences already have the full range of compulsory powers available to them. It may be open to developers of generating stations to work with others to design and construct the necessary electric lines.

In our experience, those organisations with the greatest range of compulsory powers available to them generally do not behave as well in their dealings with third parties as other organisations with fewer powers. As an example we see this frequently in relation to pipeline works in land, where gas companies with relatively limited compulsory powers under the Gas Act 1986 are generally better behaved than water companies, which have more extensive compulsory powers under the Water Industry Act 1991.

The impact on landowners and occupiers

The consultation document refers to the impact on landowners and occupiers as being “limited” and “justified”. There does not appear to have been a proper consideration of the impact on those whose livelihoods depend upon the land which developers wish to take access to. Access, even for surveying purposes, is disruptive and can cause damage, particularly if it is taken when ground conditions are unsuitable or when crops or livestock are particularly prone to damage or disturbance.

Conclusions

Compulsory powers should not be extended beyond the remit originally agreed without a very strong case being made for why it is essential to do so. In this case, the proposals appear to be for the benefit of Triton Knoll Offshore Windfarm Ltd on the basis that they were unable to offer suitably attractive terms to persuade landowners and occupiers to cooperate with them over access for survey purposes. We do not consider that to be sufficient reason to extend the powers as proposed and therefore we object to the proposals as set out in your letter of 28th November.

We note that a statutory consultation is planned for the spring and would be grateful if you would please add the CAAV's name to the list of stakeholders who will be notified about it in due course.

We trust that the responses given above are helpful and would be pleased to discuss matters further if required.

Yours sincerely,

Jeremy Moody
Secretary and Adviser
Central Association of Agricultural Valuers