

Consultation

Consultation 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 are consulting on Bowdun Offshore Wind Farm Limited's application 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 welcome responses from electricity generation licence holders, landowners and the public. We would also welcome responses from other stakeholders and the public.

This document outlines the scope, purpose and questions of the consultation and how you can get involved. Once the consultation is closed, we will consider all responses. We want to be transparent in our consultations. We will publish the non-confidential responses we receive alongside a decision on next steps on our website at [ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations). If you want your response – in whole or in part – to be considered confidential, please tell us in your response and explain why. Please clearly mark the parts of your response that you consider to be confidential, and if possible, put the confidential material in separate appendices to your response.

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1. Introduction

Section summary

Paragraph 10 of Schedule 4 to the Electricity Act 1989 allows authorised persons to enter and survey land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with the carrying on of activities which the licence holder is authorised by their licence to carry on.

We have received an application from Bowdun Offshore Wind Farm Limited for the Authority's consent to their exercise of statutory rights of entry on land mentioned above.

We are consulting on whether stakeholders and the public agree with our proposed approach. We will consider views, evaluate our minded to position, and come to a final decision within two weeks of the consultation's closure.

Background

1.1 As explained in our previous consultations on matters related to Standard Licence Condition (SLC) 15 (4), 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 are we consulting on

- 1.2 We have 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, SLC 15(4) of the generation licence.
- 1.3 We are consulting on whether stakeholders and the public agree with our proposed approach to granting such consent to the licensee.

Next steps

- 1.4 Subject to responses to this consultation, we will consider views and evaluate our minded to position regarding these before coming to a final decision within two weeks of the consultation's closure.

2. The Application

Section summary

In February 2023, BOWFL received a generation licence. On August 15, 2024, they applied for Authority consent 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 boring to understand the subsoil.

The application shows ongoing discussions with the landowner about compensation. The developer plans intrusive ground investigations on the proposed cable route, substation, and landfall locations within a week to aid in designing a safe and economical solution.

A related publication from 2014 is the consultation on Triton Knoll Offshore Wind Farm Limited's application for the Authority's consent to its exercise of statutory rights of entry on land, which highlighted the need for amendments to SLC 15(4), which were made in 2015. These extended the rights of generation licence holders to survey land for electric line works with Authority consent. This amendment allows licensees to ascertain land suitability for various electric line activities.

BOWFL's application

- 2.1 BOWFL was granted a generation licence in February 2023. On 15 August 2024, BOWFL made two applications for the Authority's consent to exercise their statutory rights of entry on land in Laurencekirk, Aberdeenshire under paragraph 10 of Schedule 4 to the 1989 Act for the purpose of ascertaining whether the land would be suitable for the installation, inspection, maintenance, adjustment, repair, alteration, replacement or removal of electric lines to connect BOWFL with the national electricity transmission system, the electrical plant associated with them, and any structures for housing or covering such plant. One of these applications was subsequently withdrawn.
- 2.2 The remaining application was for consent to exercise their statutory rights of entry on an area of land in Arbuthnott, Laurencekirk, and they estimate that this work would last one week.
- 2.3 They state that they require pedestrian and vehicular access to and from this land and want to carry out ground investigation works including searching and boring to ascertain the nature of the subsoil at the trial pit and borehole locations identified on the plan(s) enclosed within their application.

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- 2.4 The Application and subsequent documentation provided by BOWFL indicates that they have held meetings with and had continued correspondence with the landowner in question.
- 2.5 The Application also indicates that the Developer plans to conduct intrusive Ground Investigation works on the Bowdun cable route, substation and landfall locations within an approximate 1-week time frame. These works are to assist their engineering team with reliable information to design an economic and safe solution.

Context and related publications

- 2.6 A relevant related publication that may be useful to respondents is the [consultation](#) on Triton Knoll Offshore Wind Farm Limited's application for the Authority's consent to its exercise of statutory rights of entry on land under section 10 of and paragraph 10 of Schedule 4 to the 1989 Act as applied by SLC 15(4) of the generation licence, from July 2014. This application was eventually withdrawn, however it highlighted that SLC 15 (4) did not include the ability of generation licence holders to exercise compulsory entry powers to survey suitability of land, with consent from the Authority, for the additional purpose of electric line works.
- 2.7 Following this, an amendment was made SLC 15 (4) that took effect on 23 October 2015, and an [update to Ofgem procedure](#) for dealing with requests for Authority consent under SLC 15 of the electricity generation licence was published in January 2016.
- 2.8 In particular, the modifications to SLC 15(4) extended the ability of generation licence holders to exercise compulsory entry powers to survey suitability of land, with consent from the Authority, for the additional purpose of electric line works.
- 2.9 Following this amendment, SLC 15 (4) of the generation licence provides:
- "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.”

3. The Authority's View

Section summary

The 1989 Act permits licensees to authorise person(s) to enter and survey any land for the purpose of ascertaining whether the land would be suitable for use for any purpose connected with activities permitted by their generation licence. Fourteen days of notice must be given to the occupier, alongside evidence of authority if requested, and 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. SLC 15(4) states that licensees must apply for Authority consent before exercising their statutory rights.

Amendments to SLC 15(4) – effective from October 2015 - extended the ability of licensees to exercise these statutory entry powers for the additional purpose of electric line works.

Considering this amendment, the Authority's minded-to position is 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).

Questions

Q1. Do you agree with our proposed approach to granting consent, in accordance with Standard Licence Condition 15(4) of the generation licence, to the licensee, Bowdun Offshore Wind Farm Limited, to exercise its statutory rights of entry on land under paragraph 10 of Schedule 4 of the Electricity Act 1989, for the purposes set out in Standard Licence Condition 15(4)?

The Authority's minded-to position

- 3.1 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.
- 3.2 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).

- 3.3 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:

"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."

- 3.4 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 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).

4. Your response, data and confidentiality

Consultation stages

Stage 1

Consultation opens 09/12/2024.

Stage 2

Consultation closes (awaiting decision). Deadline for responses 20/01/2025.

Stage 3

Responses reviewed and published 03/02/2025.

Stage 4

Consultation decision statement.

How to respond

- 4.1 We want to hear from anyone interested in this consultation. Please send your response to rhys.jenkins@ofgem.gov.uk.
- 4.2 We've asked for your feedback in each of the questions throughout. Please respond to each one as fully as you can.
- 4.3 We will publish non-confidential responses on our website at www.ofgem.gov.uk/consultations.

Your response, your data and confidentiality

- 4.4 You can ask us to keep your response, or parts of your response, confidential. We'll respect this, subject to obligations to disclose information, for example, under the Freedom of Information Act 2000, the Environmental Information Regulations 2004, statutory directions, court orders, government regulations or where you give us explicit permission to disclose. If you do want us to keep your response confidential, please clearly mark this on your response and explain why.
- 4.5 If you wish us to keep part of your response confidential, please clearly mark those parts of your response that you *do* wish to be kept confidential and those that you *do not* wish to be kept confidential. Please put the confidential material in a separate appendix to your response. If necessary, we'll get in touch with you to discuss which parts of the information in your response should be kept confidential, and which can be published. We might ask for reasons why.
- 4.6 If the information you give in your response contains personal data under the General Data Protection Regulation (Regulation (EU) 2016/679) as retained in

domestic law following the UK's withdrawal from the European Union ("UK GDPR"), the Gas and Electricity Markets Authority will be the data controller for the purposes of GDPR. Ofgem uses the information in responses in performing its statutory functions and in accordance with section 105 of the Utilities Act 2000. Please refer to our Privacy Notice on consultations, see Appendix 4.

- 4.7 If you wish to respond confidentially, we'll keep your response itself confidential, but we will publish the number (but not the names) of confidential responses we receive. We won't link responses to respondents if we publish a summary of responses, and we will evaluate each response on its own merits without undermining your right to confidentiality.

General feedback

- 4.8 We believe that consultation is at the heart of good policy development. We welcome any comments about how we've run this consultation. We'd also like to get your answers to these questions:

1. Do you have any comments about the overall process of this consultation?
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. Were its conclusions balanced?
5. Did it make reasoned recommendations for improvement?
6. Any further comments?

Please send any general feedback comments to stakeholders@ofgem.gov.uk

How to track the progress of the consultation

You can track the progress of a consultation from upcoming to decision status using the 'notify me' function on a consultation page when published on our website. Choose the notify me button and enter your email address into the pop-up window and submit.

[ofgem.gov.uk/consultations](https://www.ofgem.gov.uk/consultations)

Notify me +

Would you like to be kept up to date with *Consultation name will appear here*? subscribe to notifications:

Email*

Submit >

Once subscribed to the notifications for a particular consultation, you will receive an email to notify you when it has changed status. Our consultation stages are:

Upcoming > **Open** > **Closed** (awaiting decision) > **Closed** (with decision)

Appendices

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2	BOWFL Application to Ofgem (Redacted)	PDF

Appendix 1 – Privacy notice on consultations

Personal data

The following explains your rights and gives you the information you are entitled to under the General Data Protection Regulation (GDPR).

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the controller and contact details of our Data Protection Officer

The Gas and Electricity Markets Authority is the controller, (for ease of reference, "Ofgem"). The Data Protection Officer can be contacted at dpo@ofgem.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

As a public authority, the GDPR makes provision for Ofgem to process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

(Include here all organisations outside Ofgem who will be given all or some of the data. There is no need to include organisations that will only receive anonymised data. If different organisations see different set of data then make this clear. Be as specific as possible.)

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for (be as clear as possible but allow room for changes to programmes or policy. It is acceptable to give a relative time e.g. 'six months after the project is closed')

6. Your rights

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right to:

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- know how we use your personal data
 - access your personal data
 - have personal data corrected if it is inaccurate or incomplete
 - ask us to delete personal data when we no longer need it
 - ask us to restrict how we process your data
 - get your data from us and re-use it across other services
 - object to certain ways we use your data
 - be safeguarded against risks where decisions based on your data are taken entirely automatically
 - tell us if we can share your information with 3rd parties
 - tell us your preferred frequency, content and format of our communications with you
 - to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

7. Your personal data will not be sent overseas (Note that this cannot be claimed if using Survey Monkey for the consultation as their servers are in the US. In that case use “the Data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in term of data protection will not be compromised by this”.

8. Your personal data will not be used for any automated decision making.

9. Your personal data will be stored in a secure government IT system. (If using a third party system such as Survey Monkey to gather the data, you will need to state clearly at which point the data will be moved from there to our internal systems.)

10. More information For more information on how Ofgem processes your data, click on the link to our “[ofgem privacy promise](#)”.