

East Anglia THREE

Appendix 37

East Anglia THREE Evidence Plan

Consultation Report

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37 EAST ANGLIA THREE EVIDENCE PLAN

1. Presented below is the East Anglia THREE and FOUR Evidence Plan. This document was agreed by members of the evidence plan steering group as detailed in section 10 of the Consultation Report. The Plan presented below was consulted on with all members of the group prior to the report being finalised. The report presented below is the final version.

East Anglia THREE and East Anglia FOUR Offshore Windfarms

Evidence Plan

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1 EVIDENCE PLAN

1.1 Introduction

1.1.1 Aims

1. This evidence plan (hereafter ‘the Plan’) is a mechanism to help agree the information East Anglia Offshore Wind Limited (EAOW, hereafter ‘the Applicant’) needs to supply to the Planning Inspectorate (PINS) as part of a Development Consent Order (DCO) application for the East Anglia THREE and East Anglia FOUR Offshore Windfarms (East Anglia THREE and East Anglia FOUR hereafter ‘the Projects’) to help to ensure compliance with the Environmental Impact and Habitat Regulations Assessment (EIA and HRA respectively)¹.
2. The Plan will reduce the risk of the Projects being delayed by issues relating to the EIA and HRA regulations during the evolution of a proposed DCO application, by:
 - Giving greater certainty to all parties on the amount and range of evidence the Applicant should collect²;
 - Helping address and agree issues earlier on in pre-application so robust, streamlined decisions can be taken;
 - Focusing the evidence requirements so they are proportionate to the Projects’ potential impacts and costs to the Applicant are minimised; and
 - Time and resource requirements are optimised for all parties.
3. The Plan does not replace or duplicate existing requirements. The Plan will be formulated to fit with the Planning Act 2008 DCO application process, including the formal pre-application consultation processes
4. The Evidence Plan process is a non-statutory, voluntary process, and there are no legal obligations associated with it.
5. For the purposes of ensuring a legally compliant and robust consultation for both Projects, EAOW is required to formally consult on each as standalone projects. Although the Evidence Plan process is not part of the formal consultation, it will provide the audit trail for documents produced by EAOW which will be formally consulted upon. There may therefore be instances where duplication is required; however work undertaken on the Plan should cover both Projects as far as possible

¹ See Section 1.3 for note regarding key focus as being HRA.

² Accepting in this case that the bulk of the data have already been collected for these projects

to avoid any unnecessary burden on participants. Therefore, once aspects of the Plan (and any annexed documents) are agreed, the Applicant will maintain two parallel documents, one for each Project.

1.1.2 The Steering Group

6. Development of the Plan and monitoring of its subsequent progress will be undertaken by a Steering Group. This Steering Group consists of the following bodies:

- The Major Infrastructure and Environment Unit (MIEU) - will chair the group and maintain oversight of the progress of the Plan;
- EAOW (the Applicant) - will lead the drafting of the Plan and any annexed technical documents and maintain thereafter;
- Natural England: will be the lead Statutory Nature Conservation Body (SNCB) for discussing and agreeing the Plan for HRA and terrestrial and inshore EIA issues;
- The Joint Nature Conservation Committee (JNCC) – will form the lead SNCB for advising on offshore (i.e. beyond 12nm) EIA issues and will also provide advice and input into the Plan for cross border and offshore) HRA issues; and
- The Marine Management Organisation (MMO) - will provide advice and input into the Plan.

1.1.2.1 Role of group

7. The role of the Steering Group will be to:

- To oversee and discuss progress of the evidence plan process for the Projects;
- To agree resolution of any issues that emerge during the Plan process for the Projects from the Expert Topic Groups ;
- To ensure that progress is maintained and the schedule met;
- To provide sign-off for decisions of Expert Topic Groups (see paragraphs 10 and 11); and
- To suggest areas where improvements to the evidence plan process could be made (e.g. to the MIEU guidance).

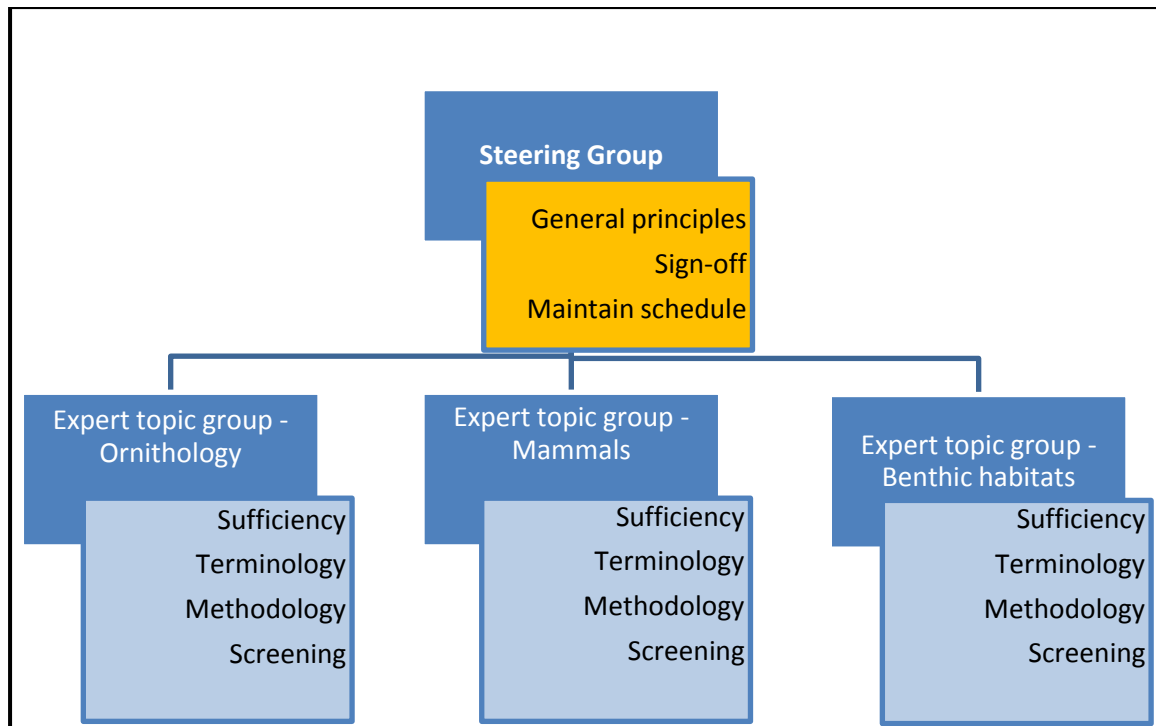
1.1.2.2 Meeting frequency

8. The Steering Group will meet at the start of the process; half way through the timeframe for agreeing this document and after this document has been agreed (see Section 1.4). Following agreement of this document, meeting frequency will be agreed by the Steering Group.

1.1.3 Expert Topic groups

9. To discuss the detail of the Plan topics it will be necessary to convene separate groups of experts from relevant bodies. These groups will meet at a frequency determined by the needs of any technical issues which emerge.
10. These groups will have the following functions:
 - Agree the relevance, appropriateness and sufficiency of data for the specific assessment (including both site specific and contextual, determine whether to continue or halt specific survey work and / or analysis);
 - Agree the methods for data analysis;
 - Agree worst case parameters for the assessment(s);
 - Agree methods for assessment(s) (including where possible interpretation of impact and levels of significance); and
 - Agree whether and when to change the evidence requirements and collect additional evidence, including how this should be collected and analysed, updating the plan and timetable as necessary; and
11. The process will be iterative and each group will work through the above functions and agree as much as they can during the pre-application period, with any outstanding areas of disagreement clearly documented.

Figure 1: generalised structure of groups within the Plan process



1.2 Description of the Project(s)

12. East Anglia THREE covers an area of approximately 370km² and is situated 79km from its central point to the port of Lowestoft.
13. East Anglia FOUR covers an area of approximately 359km² and is situated approximately 91km from its central point to the port of Lowestoft.
14. It is anticipated that each Project would consist of the following infrastructure:
 - Offshore wind turbines and associated foundations (anticipated to be up to 240 wind turbines, each having a rated capacity of between 5MW and 10MW, with an installed capacity of up to 1,200 MW);
 - Scour protection around foundations and on inter-array and export cables as required;
 - Offshore collector and converter stations platforms with foundations (up to five);
 - Subsea cables between the wind turbines and substation platforms;

- Subsea export cables to transmit electricity from the offshore platforms to shore;
 - Landfall at Bawdsey with onshore transition pits to connect the offshore and onshore cables;
 - Onshore underground export cables (up to four); and
 - An onshore converter station at Bramford, Suffolk.
15. EAOW will be refining the project design for the Projects during the pre-application process and will update the Steering Group if any key changes are made.

1.3 Scope of the Process

16. The Plan will cover those topics relevant to the EIA and HRA regulations i.e. those which affect:
- Features designated under the Council Directive 2009/147/EC on the conservation of wild birds (the 'Birds Directive') and Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora (the 'Habitats Directive') as implemented by the Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations the Offshore Marine Conservation (Natural Habitats & c.) Regulations 2007 (as amended) and the Wildlife and Countryside Act 1981 (as amended); and
 - Ecological features of relevance to The Infrastructure and Planning (Environmental Impact Assessment) Regulations 2009.
17. Therefore the Plan will cover potential effects upon *inter alia*:
- Ornithological interests – Special Protection Areas (SPAs and potential SPAs (pSPAs) if appropriate) and rare and vulnerable birds (as listed on Annex I of the Birds Directive), and for regularly occurring migratory species;
 - Special Areas of Conservation (SACs and candidate SACs (cSACs) if appropriate) (as listed on Annex I of the Habitats Directive);
 - Species (as listed on Annex II of the Habitats Directive);
 - Supporting species and habitats in those cases where there are potential impacts upon designated features through indirect effects (e.g. prey species); and

- Dependent upon the time and resource limitations, nature conservation features designated under other mechanisms not already accounted for under the previous categories (e.g. BAP, OSPAR, MCAA 2009, etc).
18. In addition, internationally important wetland sites designated under the Ramsar Convention 1971 (Ramsar sites) are afforded the same protection as SACs and SPAs when considering development proposals (as stated in ODPM Circular 06/2005).
19. Information collected in order to complete the Plan will therefore feed into both the EIA and HRA for nature conservation topics. The evidence base and methodologies of EIA will feed into HRA process. The following topics will be covered by the plan
- Marine Geology, Oceanography and Physical Processes;
 - Ornithology (onshore and offshore);
 - Benthic Ecology;
 - Marine Mammal Ecology;
 - Fish and Shellfish Ecology; and
 - Terrestrial Ecology
20. It is acknowledged that the primary focus of the Plan will be those topics which are included in the HRA report to be submitted by the Applicant as part of the DCO application documentation. Key principles to be agreed for HRA (e.g. the high level principles for undertaking cumulative assessment see Section 1.5) will be applicable to both EIA and HRA even if the detail is dependent upon the specific topic. If the inclusion of non-HRA issues is judged to be taking up too much time then these can be taken out of this process, and discussed in separate forums should this be required.
21. The Applicant is aware that EIA and HRA should where relevant address transboundary impacts which affect other Member States and European Economic Area (EEA) states. As far as possible the Plan will seek to address transboundary issues.

1.4 Working arrangements

1.4.1 Project Timetable

22. The key dates for the Projects (at time of writing) are:
- HRA Screening Autumn 2013

- Publication of Preliminary Environmental Information (PEI) (draft Environmental Statement (ES)) and draft HRA Report – May 2014
- Submission of DCO (including final ES and Applicant’s HRA Report – November 2014)

1.4.2 Evidence Plan Timetable

23. The key dates within the Plan (at time of writing) are:

- Initial Plan Meeting – 10th January 2013
- Applicant requests Plan – February 2013
- Agree Initial Plan – June 2013
- Expert topic discussions (groups TBC) – Summer – Autumn 2013
 - Ornithology
 - Habitats (onshore)
 - Species (onshore)
 - Benthic habitats and species (including physical and coastal processes)
 - Species (offshore)
- HRA Screening – Autumn 2013
- Agree Screening Conclusions – Winter 2013
- Detailed expert topic discussions – on-going to submission of draft reports
 - TBC
- Submission of Applicant’s draft HRA Report and the PEI – May 2014
- Detailed topic discussions
- Submission of DCO – November 2014

1.4.3 Roles and responsibilities

1.4.3.1 MIEU

- Oversees and monitors the Plan process, e.g. monitoring agreement of the Plan within the 3 month timeframe, and ensures that progress of the Plan is maintained to schedule;

- If necessary, facilitates agreement of the Plan or if there are any subsequent disputes that cannot be resolved throughout the duration of the Plan process documents the background to these for audit trail purposes;
- Ensure that PINS, the Department of Energy and Climate Change (DECC), the Major Habitats and Infrastructure Group (and its technical working group) are kept informed of progress with the Plan; and
- The MIEU does not have an arbitration role.

1.4.3.2 Applicant

- Drafts and maintains the Plan on an on-going basis until delivery is agreed by steering group to be complete recognising that it is an evolving document and will be updated;
- Collects, analyses, reviews and shares evidence with other Plan participants at regular intervals. Updates the relevant SNCB(s), PINS and other consenting bodies of modifications to the Project(s). Provides a monthly update to the Steering Group on progress;
- Ensure that all reports, documents etc. are provided in a timely manner to allow review/comment within agreed time periods;
- Meets with the relevant SNCB(s) and others such as other consenting bodies and environmental NGOs to discuss progress and, if necessary, agree any changes to evidence requirements;
- Works with the relevant SNCB(s) to resolve as many issues as possible at the pre-application stage and sets out the issues agreed, or not agreed, in the Statement(s) of Common Ground, using the Plan as a mechanism to do this (as recorded in the Agreement Log, see section 1.6); and
- Finalises the evidence plan and uses it to inform its DCO application (including Environmental Statement and HRA report).

1.4.3.3 Natural England (Lead SNCB) and JNCC

- Engage with the Applicant at the start of pre-application to discuss the Project(s) possible environmental impacts with a focus on potential likely impacts on a European site(s) and their conservation objectives and EIA topics as listed in Section 1.3;

- Discuss and agree an initial Plan within 3 months (or longer if agreed) ensuring that evidence demands are proportionate to the potential impacts of the Project(s);
- Assess and review evidence provided by the Applicant at agreed regular reviews, giving written feedback on progress to timescales agreed within the Expert Topic Groups;
- Provide any relevant public domain information (e.g. conservation objectives, monitoring reports, site condition assessment data; grey literature) which they hold to inform the assessment;
- Review evidence requirements and propose changes, when applicable, which are realistic and proportionate. Clear rationale for any evidence changes will be required;
- Ensure consistency of approach to advice between these Projects and other NSIPs;
- The representative(s) on the steering group (or any expert sub-groups) can provide advice to the applicant on evidence requirements. Evidence requirements will only change following:
 - The assessment of evidence provided by the applicant identifying new areas of concern.
 - Relevant evidence, information or research coming to light that would have an impact on what information is required.
 - A material change to the NSIP proposal that is likely to change the potential impacts and therefore the evidence requirements to address these.
- Work with the Applicant to resolve as many issues as possible during pre-application, to agreed timescales, including through the Statement(s) of Common Ground. Consultation and timescales/deadlines should be agreed within Expert Topic Groups or the Steering Group.

1.4.3.4 MMO

- Assess and evaluate evidence provided by the Applicant at agreed regular reviews, giving feedback on progress;

- Propose changes to the evidence requirements which remain proportionate and are based on findings of the evidence assessed;
- Provide any relevant public domain information (e.g. monitoring reports, grey literature) which they hold;
- The representative(s) on the steering group (or any expert sub-groups) have the authority that any agreed position within the Plan process is an agreed corporate position and not the advice of the officer only; and
- Work with the Applicant to resolve as many issues as possible during pre-application, concluded through the Statement(s) of Common Ground.

1.4.3.5 Cefas

- Provide advice as requested by MMO; and
- Represent MMO as directed by the Steering Group on relevant Expert Topic Groups.

1.4.3.6 Planning Inspectorate (National Infrastructure Directorate)

- Where possible, review and comment on the Plan.

1.4.3.7 Other consenting bodies (which may also be competent authorities)

- Drafts of the plan may be shared with any other relevant body for comment.

1.4.3.8 Inshore Fisheries and Conservation Authorities (IFCAs)

- IFCAs will be advised as to the wider schedule of the Plan process and any participation must fit within this timeframe; and
- If IFCAs agree to provide input, feedback and comment on the evidence requirements must remain proportionate and based on findings of the evidence assessed.

1.4.3.9 Environmental NGOs

- In accordance with best practice, relevant NGOs will be consulted on the Plan;
- NGOs will be advised as to the Plan programme and any participation must fit within this timeframe;
- If NGOs agree to provide input, feedback and comment on the evidence requirements must remain proportionate and based on findings of the evidence assessed; and

- The Applicant is not obliged to consult NGOs on the evidence plan and does so at its discretion.

1.4.3.10 Overseas stakeholders

- Overseas stakeholders will be treated as per NGOs.

1.4.4 Project Data

24. Any information of a confidential nature will be treated accordingly by all parties to the evidence plan.

1.4.5 Working arrangements

25. The following general principles will apply to:
- Any documents prepared for a meeting should be available within agreed deadlines and not less than 1 week prior to the meeting;
 - Documents, guidance and/or advice given should be comprehensive, clear and unambiguous;
 - Agreed deadlines for comment should be met, unless adequate notice is given;
 - In order to optimise meeting efficiency, adequate preparation is expected of all involved;
 - In order to understand the process requirements and effort, all participants should log their time spent on the Plan process; and
 - A clear communication route should be established with the Applicant's Project Manager and Lead SNCB key contacts coordinating their respective sides of the process.

1.5 Principles of the Assessment Approach

26. Each topic covered by the Plan will require the agreement of detailed method statements to underpin the analysis of the data available. However the Plan needs to set out high level generic positions applicable across all topics.

1.5.1 Characterisation data

27. The Applicant is required to provide 'information as may reasonably be required for the purposes of the assessment'. Data must be sufficient to enable an assessment of likely effect to be undertaken, this should include not only site specific data, but also any other information used in order to characterise an area/population.

28. If more data for a particular topic are requested, beyond that agreed within the Evidence Plan, consideration must be given to any cost and/or time considerations and the overall benefit to the assessment (i.e. would extra data significantly change an assessment?).
29. It should be noted that highly detailed/precise data may be necessary to develop a baseline for compliance monitoring post-consent, but this is quite separate from the data requirements for HRA (or EIA) assessment i.e. to characterise the environment.

1.5.2 Data analysis and impact assessment

30. As part of the Plan detailed discussions will be required to agree *inter alia* the following:
 - Definition of terminology and approach (magnitude, sensitivity, uncertainty);
 - Study areas (spatial and temporal);
 - Reference populations;
 - Methodologies, analysis techniques and statistical analysis tools to be used; and
 - Apportionment of impact from receptors to designated sites.
 31. In addition, effort will be made during the pre-application process to agree:
 - Thresholds for screening (in/out); and
 - Thresholds for likely significant effect.
 32. Method statements will be produced and agreed for each topic/element of a topic, in this way each assessment will have a clear audit trail and these steps can be referred back to for the Statement(s) of Common Ground
- ### 1.5.3 Cumulative impact assessment (CIA) principles
33. Clear and transparent requirements for CIA to be provided by regulators and their advisers, this will give the Applicant comfort that there is consistency of approach between the projects and other NSIPs.
 34. The Applicant will ensure that assessments include clear audit trails so that the basis for judgements on impacts is transparent.

35. The development of the list of plans/projects for the cumulative assessment will be led by the Applicant and be iterative, up to the proposed assessment cut off point (see below).
36. Spatial boundaries should take account, both of the relevant spatial scales for individual receptors (foraging distances, migratory routes) and the spatial extent of environmental changes introduced by developments. Temporal boundaries should take account of the project life cycle and the receptor life cycles and recovery times.
37. For an assessment to be meaningful it has to be based on evidence. Where there is insufficient evidence this will necessarily preclude a meaningful quantitative assessment, as it is not appropriate for the Applicant to make assumptions about the detail of future projects in such circumstances. Inclusion of projects should be agreed where possible within Expert Topic Groups.

1.5.4 Transboundary

38. Transboundary impacts/plans or projects should be approached in the same way as any other cumulative impact and the steps above should be undertaken to ensure a transparent, auditable and proportionate assessment.
39. The Applicant will approach transboundary stakeholders in accordance with best practice and current guidance.

1.5.5 Assessment 'cut-off' point

40. In order to finalise an assessment, it will be necessary to have a cut-off period after which no more projects will be included. A reasonable cut-off point would be the date of receipt of comments upon the draft ES (PEI) (i.e. at the conclusion of the Section 42 consultation period) unless information (e.g. on cumulative projects or new ecological research) is available which would significantly alter the assessment(s).

1.5.6 Review of previous decisions within the Plan Process

41. In order to move forward, the Plan process will only revisit previous decisions when:
 - There are significant changes to the Project Design (e.g. project boundary, significant change in infrastructure required (foundation size, WTG height, introduction of new technology or technique);
 - Fundamental errors are detected in data or a previous stage of analysis;
 - Additional evidence (e.g. from the interim results of evidence collected) such as additional species and / or habitats found to be present on the site;

- Considerable new evidence (e.g. of an effect/behaviour etc.) is produced about which there is **general consensus**;
- The change suggested would alter the conclusions; or
- Any change can be agreed in a timescale that does not significantly affect the proposed project submission date.

1.5.7 Approach to mitigation

42. It is important that the expectation of what will be agreed reflects the timeline for actual construction and operation and is sufficiently flexible to allow for changes in understanding over time. In some cases it may be that some detail of design or process can be given, in other cases it may be that mitigation is not specified but the desired outcome is.

1.5.8 Approach to monitoring

43. As with mitigation, it is important that expectations around definition of future monitoring reflects the timeline for actual construction and operation and is sufficiently flexible to allow for changes in understanding over time.

1.6 Agreement Log

44. List of key decisions and agreements/agreement of annexes. This log of agreements will enable an iterative approach to be taken to generating the Statement(s) of Common Ground. In this way during the DCO examination period it will be possible to trace the decision making process back through a clear and agreed audit trail without the requirement for unnecessary reiteration of the discussions.

Table 1.1. Agreement log

Agreement				
Topic 1	Date	Relevant bodies	Annex reference	Notes
Agreement of data sufficiency	Date			e.g. highlight any parties not in agreement
Agreement of baseline status	Date			
Agreement of analysis	Date			
Agreement of assessment methodology	Date			
Agreement of effect/impact	Date			
Topic 2				

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1.7 Annexes

45. Receptor specific annexes covering specific issues outlined in (1.5) above, annex covering list of consultees to process

Appendix 37 Ends Here