

# Preliminary Meeting Note

## Summary of Key Points Discussed and Advice Given

**Application:** East Anglia Three Offshore Wind Farm

**Reference:** EN010056

**Time & Date:** 10am, 28 June 2016

**Venue:** Novotel Ipswich Centre Hotel, Gainsborough Suite, Grey Friars Road, Ipswich IP1 1UP

**Examining Authority:** Phil Asquith (Lead), Peter Braithwaite, Gavin Jones and Rynd Smith

**Planning Inspectorate:** Katherine King (Case Manager), Louise Evans (Case Officer)

*This meeting note is not a full transcript of the Preliminary Meeting. It is a summary of the key points discussed and responses given. An audio recording of the event is available on the National Infrastructure Planning website.*

### Welcome and Introductions

Phil Asquith (PA) introduced himself as the lead member of the Examining Authority (ExA), opened the Preliminary Meeting, welcomed those present and gave a brief outline of the proposed development (the East Anglia Three Offshore Wind Farm). The three other members of the ExA panel (Gavin Jones, Peter Braithwaite, and Rynd Smith) also introduced themselves.

PA introduced the members of the case team from the Planning Inspectorate who were also present (Katherine King and Louise Evans), explaining that Katherine King had taken over management of the case from Kay Sully and advising that any questions outside of the scope of the meeting should be directed to the case team.

Katherine King then outlined information regarding housekeeping matters (fire alarm regulations, use of microphones and location of facilities, as well as explaining that she had no conflict of interest with the case although was brought up in Ipswich; the onshore elements of the proposed development being close by).

PA advised that a note would be produced of the meeting, and that the audio recording would be made available on the National Infrastructure pages of the Planning Inspectorate website.

PA provided a detailed description of the elements which comprised the proposed development, both offshore and onshore, and confirmed that it is

considered to be a Nationally Significant Infrastructure Project (NSIP) under the 2008 Planning Act (PA2008), as it is a generating station that exceeds 50MW (1200MW). He also confirmed that the PA2008 in principle would allow for all of these components to be included within an application for a NSIP and for one Development Consent Order (DCO) to cover all elements.

PA set out the role of the panel, as ExA, which is to examine the application and make a report to the appropriate Secretary of State (in this case for Energy and Climate Change) with recommendations. He explained that the ExA would have up to six months to examine the proposal, three months to consider and produce the report, and that after this the SoS would have three months to make their decision.

PA then set out the purpose of the meeting, which was to consider the process that would be followed in conducting the examination. He explained that the ExA would be looking at the merits or disadvantages during the examination itself, and would not be examining the substance of the proposal at this meeting.

PA stated that the ExA had set out its proposals for the examination in the letter dated 24 May 2016 (Rule 6), and that this meeting would be the opportunity for the attendees to influence the process that the ExA intended to follow.

PA asked if all attendees had access to the Agenda of this meeting set out in Annex C of the letter of the 24 May, and confirmed that he anticipated the meeting to be concluded by lunchtime, although if necessary the meeting could re-convene after a lunch break.

PA invited those present to introduce themselves.

The following introduced themselves:

John Houghton of Bond Dickinson LLP, representing the Applicant (East Anglia Three Limited).

Victoria Redman of Bond Dickinson LLP, representing the Applicant.

Richard Britton, head of offshore UK developments for Scottish Power Renewables, representing the Applicant.

Keith Morrison, senior project manager on the East Anglia Three project for Scottish Power Renewables, representing the Applicant.

Michael Wilks from the planning team at Suffolk County Council introduced himself, mentioning that he also attended the Examination for the East Anglia One examination.

Philip Perkin from Suffolk Coastal District Council and Waveney District Council.

Nick Ward from Babergh and Mid Suffolk District Council.

Ben Elvin from Babergh and Mid Suffolk District Council.

John Forbes from Martlesham Parish Council.

Martin Barrell from the Environment Agency.

PA reminded those present that when speaking to speak into the microphone and to clearly give names and the names of the organisation being represented each time, as an audio recording of the meeting was being made.

### **The Examination Process**

PA explained that under s87 (1) of the PA2008 it is for the ExA to decide how to examine the application, although the PA2008, examination regulations and government guidance also provide a framework within which the ExA must operate.

PA set out the relevant National Policy Statements (NPS) relating to this application (Overarching National Policy Statement for Energy (EN1) and the National Policy Statement for Renewable Energy Infrastructure (EN3)), the latter containing a specific section on offshore wind schemes), and explained that it was not the ExA's role to consider the merits of the relevant NPS, but to consider the merits of the project within the parameters of these policy statements, and that the PA2008 made it clear that in taking a decision the SoS 'must decide the application in accordance with any relevant NPS' (S104 (3)). PA clarified that this was subject to the proviso that the application must not breach legal obligations, particularly international obligations, and that the adverse impact of the proposed development would not outweigh its benefits.

PA explained that the process was to be inquisitorial and not adversarial, and that the role of the ExA would be to focus on evidence and justification, and not assertion. PA stated that whilst it was appropriate at the relevant representation stage for issues of concern to be listed, when submitting written evidence once the examination had started, any concerns need to be evidenced.

The examination process would primarily be a written one, and the main body of evidence informing judgements and recommendations would come from submissions made by the Interested Parties (written representations, responses to written representations, local impact reports from local authorities, statements of common ground and answers to questions from the ExA). These representations or responses should set out the reasons for supporting or opposing the application, and provide reasons for disagreeing. PA explained that the ExA has a responsibility to probe, test and assess this evidence.

PA stated that there was scope within the examination process for hearings. Any Interested Party can request an Open Floor Hearing (OFH), and if a request was made it may be accommodated. All Interested Parties would, subject to the

ExA's powers of control over the conduct of the hearing, have the opportunity to make oral representations about the application.

PA explained that the decision to hold an Issue Specific Hearing (ISH) is for the ExA, and would be held if the ExA decided that it was necessary to ensure adequate examination of an issue, or to provide an Interested Party with a fair chance to put its case. If an ISH was to be held the expectation would be that questions would be set by the ExA, and a specific agenda would be issued in advance. PA stated that there may be a mix of broad and specific question areas, and that although it was not normal to allow cross examination during an ISH, the ExA may consider cross examination to be useful if, for example, if there was a dispute between experts on a specific issue.

PA confirmed that the ISH on the draft DCO to be held the following day, as well as any other hearings that the ExA decided to hold, would be held on a without prejudice basis, and did not imply that the ExA had reached any judgements or conclusions about whether the DCO should be made, but that there is a need to present to the SoS with a DCO which is fit for purpose, in the event that, she should decide that the proposal is acceptable and that consent should be made. PA explained that Interested Parties were able to participate without prejudicing their position on the application process overall, and that even if they were opposed to the proposal they would not be compromising their position by engaging in the process or suggesting amendments to the DCO.

It was confirmed that the DCO for the proposed development provides for compulsory acquisition (CA), and a CA Hearing had been included in the examination timetable, with a deadline for requests to be heard. If an affected person makes a request to be heard, a CA hearing will be held.

PA confirmed that as part of the examination process the ExA would be conducting both unaccompanied and accompanied site inspections, the purpose of these being to see features of the proposal within the context of the evidence put forward, and that an unaccompanied site inspection of the cable landfall, cable route and the site for the substation from public vantage points would be carried out later that day.

PA stated that if anyone intended to attend the accompanied site inspection there would be an opportunity to point out features relevant to the ExA's consideration but that they could not hear evidence or listen to submissions during the site inspection. PA advised that it may therefore be helpful to propose any site inspections that both identify relevant features that the ExA should see and explain why they support or undermine the case for the development. A deadline has been provided within the examination timetable for individuals to notify of their wish to attend the accompanied site inspection.

PA explained that this would be a statutory inquiry under Schedule 7 to the Tribunals, Courts and Enforcement Act 2007, and that therefore it was important to treat it with due regard to its statutory status.

PA cautioned that there was potential to award costs if a party's unreasonable behaviour causes another party to incur wasted expenditure, and that this was not said as a threat, but as a reminder. PA advised that guidance was available on the Planning Inspectorate website which provided examples of potentially unreasonable behaviour. PA also reminded the attendees to treat the examination seriously and expeditiously, and that the ExA had a duty to ensure that it was fair and open.

PA asked if there were any comments or questions on what had been said so far; none were given.

### **Principal Issues**

PA stated that an initial assessment of principal issues had been set out in Annex B to the Rule 6 letter of 24 May 2016, around which the examination was likely to focus. He advised, as set out in the letter, that it was not comprehensive or exhaustive, but a broad list within which specific matters were likely to be covered.

PA asked if there were any comments or questions relating to the list of principle issues; none were given.

### **Timetable**

PA explained that the purpose of this section of the meeting was to explain the draft timetable and consider representations on it. PA stated that no comments had been received so far in response to the draft examination timetable set out in Annex C to the Rule 6 letter of 24 May 2016.

PA advised that following the Preliminary Meeting and the ExA's consideration of any requests for modifications to the timetable, a final timetable would be issued as part of the Rule 8 letter shortly after the meeting.

PA confirmed that the timetable had been produced with regard to the statutory periods for giving notice of specific parts of the examination, in particular the notification of hearings that must be followed under the 2010 Infrastructure Planning (Examination Procedure) Rules, and that the draft timetable had adhered to these statutory periods.

PA re-iterated from his introductory comments that the ExA has a statutory duty to complete the examination within six months following the Preliminary Meeting, and that therefore the examination would close no later than Wednesday 28 December 2016.

PA asked if anyone present had any specific comments that they wished to make relating to the draft examination timetable.

Michael Wilks (Suffolk County Council) stated that the hearings scheduled between 24 and 28 October 2016 would coincide with school half-term, and therefore could potentially affect availability of staff from local authorities.

John Houghton (JH), on behalf of the Applicant, stated that a letter had been sent to the Planning Inspectorate, dated 24 June 2016, which set out comments regarding the draft timetable, which he would draw to attention at this point. The first comment was that within this letter the Applicant gave an indication of their intention to submit supplementary environmental information (SEI) in order to update the landscape and visual impact assessment in light of changes to the East Anglia One Project, which would also cover additional work being carried out on the project's traffic assessment and the Orford Inshore Recommended Marine Conservation Zone. The intention is for the Applicant to provide the additional assessment on these topics within the SEI, and for them to be submitted by deadline 2 (27 July 2016).

The second comment raised by the Applicant was that the ExA had requested the submission of annotated land plans which categorise the nature of the compulsory acquisition and rights of temporary possession required for each plot. The Applicant is arranging for these to be prepared at present and the letter proposes that these will be submitted together with the updated Book of Reference by deadline 2 (27 July 2016).

The third comment raised by the Applicant was that there was a potential Special Area of Conservation (pSAC) for harbour porpoises identified in the North Sea, and that the Applicant was proposing to submit further information to inform the Habitats Regulations Assessment (HRA). The Applicant confirmed that information would only relate to matters relating to the harbour porpoise pSAC, on the basis that the information required in connection with other Habitats Regulations issues had already been submitted with the application. The Applicant advised that in order to prepare that information it would be necessary to have regard to the final conservation objectives for the pSAC, which have not yet been published. The Applicant anticipates that the conservation objectives for this pSAC will have been published once the decision for the Hornsea Two Project has been made, which is expected to be by 16 August 2016. The Applicant confirmed that it has agreed to meet with Natural England immediately following this decision so that any matters which are identified in this decision regarding this pSAC can be considered and concluded as appropriate. To allow time for the issue of the conservation objectives and to allow time for further consultation with Natural England and the preparation of further information the applicant proposes to submit this further information by deadline 4 (Thursday 15 September 2016).

The Applicant also commented that it would welcome clarification on the precise nature of the topics of the ISHs for forward planning purposes.

PA asked if there were any questions or observations on the comments made by the Applicant; none were given.

In response to the Applicant's query on the potential issues to be covered in the ISHs, PA advised that these would be broad areas at this stage, as the ExA was still waiting the submission of written representations, local impact reports, and responses on what had been submitted, which would all influence the ISH topics, but that there were four areas for which broad indication could be given without prejudicing the position of the ExA. These issues likely to be covered in the environmental ISH were offshore ornithology and marine mammals, in particular the impact of the potential SAC or harbour porpoise, the on-land visual impact of the substation and any potential heritage impacts of the substation provision.

PA advised that the ExA would intend to give as much notice of the ISH agendas as possible, in which it could focus down on the particular issues that it felt would be beneficial to be covered within the ISH.

The Applicant confirmed that this was helpful.

PA stated that the BoR would likely require amendments, and asked the applicant for an indication of when this would be submitted.

JH, for the Applicant, stated that along with the annotated plans, an updated BoR would be submitted at deadline 2 (27 July 2016).

PA asked if there were any further questions or observations relating to the timetable; none were made. PA reiterated that the timetable would be set out formally within the Rule 8 letter which would be sent out following this meeting.

### **Procedural Decisions**

PA stated that procedural decisions have already been set out within Annex D to the ExA's letter of 24 May 2016 (Rule 6 letter), which relate to the formal acceptance by the ExA of material submitted by the Applicant and other parties during the pre-examination period. PA confirmed that this documentation has been published, with one exception, on the Planning Inspectorate's East Anglia Three project website, and any comments on these should be made as part of the Interested Parties' written representations by deadline 2 (Wednesday 27 July 2016).

The exception to the published pre-examination documents were the Applicant's letter dated 24 June 2016 previously mentioned by the Applicant, which had not yet been published.

The Applicant described the five schedules that were meant to accompany the Applicant's letter of 24 May 2016: the first schedule related to areas of the

application requiring clarification under s51 of the PA2008, in response to the S51 letter dated 15 December 2015. The second schedule, which the Applicant intended to forward on as it did not accompany the letter, related to a list of errata. The third schedule related to the status of the Statements of Common Ground (SoCGs). Schedules four and five provided a list of attendance at this meeting and the ISH on the DCO to be held on the following day.

The Applicant also confirmed that, as requested, a consolidated DCO, incorporating amendments within the Amendment Order published earlier this year in connection with the East Anglia One Project, had been prepared and was ready for submission. The Applicant offered to forward this to the ExA that day.

Rynd Smith (RS), member of the ExA, raised a query regarding the timing of the submission of this consolidated DCO, as there could be a potential impact for the DCO ISH due to be held the following day.

The Applicant advised that it had brought two hard copy versions of this DCO with them to the meeting, and could pass these to the ExA in advance of the DCO ISH, and would arrange for the electronic version to be provided as soon as possible.

PA confirmed that this would be helpful.

PA stated that, within Annex D of the 24 May 2016 letter, the ExA had requested a series of SoCGs between the Applicant and various parties on different topics; PA confirmed that the schedule of the current status of the SoCGs provided with the Applicant's letter of 24 June 2016 was very helpful, and that it covered all SoCGs as suggested by the ExA as well as SoCGs with additional groups, and asked if there were any updates to this schedule of which the ExA should be aware.

The Applicant confirmed that some meetings listed on this schedule had not taken place at the point of drafting, but that at this point all had, and matters had moved forward since. The Applicant stated that SoCGs had been arranged with the additional groups as follows:

- The Chamber of Shipping;
- The Commercial Fisheries Working Group (representing Harwich Fishermen's Association and which the ExA had already requested to enter into a SoCG with the Applicant);
- CRPMEM Nord Pas de Calais Picardie (a body representing the interests of fishermen between Dunkirk and the Bay de Somme);
- East Anglia One, as there were inter-relationship issues which had already been drawn to attention in the ExA's Schedule of Issues;
- the Eastern Inshore Fisheries and Conservation Authority; and
- Rederscentrale, a registered organisation representing the rights of ship owners in Belgium.

PA asked if the Applicant was confident that they would be able to submit signed and completed versions of the SoCGs by the deadline set out in the agenda. The Applicant confirmed that this was the objective and that this should be achieved.

PA asked the local authorities what progress had been made in relation to the production of Local Impact Reports (LIRs), and what the ExA could expect in terms of individual or joint impact reports.

Michael Wilks from Suffolk County Council confirmed that they had produced a joint LIR for the East Anglia One project, and intended the same for the East Anglia Three proposed development, to be submitted by the deadline set out by the ExA in the draft timetable.

PA asked if there were any other comments relating to the production and progress of SoCGs; none were given.

PA asked if there were any other procedural matters that any parties present wished to raise.

JH, for the Applicant, stated that he wished to draw attention to an issue related to the substance of the East Anglia Three project. Progress had been made on East Anglia One and, in the course of this, the proposals for installing the ducting for East Anglia Three had also evolved. Commercial and technical reasons had determined that a single trench would be laid for the East Anglia Three Project, and as a result a single export cable laying operation would be undertaken, with no phasing of the export cable installation. The remaining infrastructure of the offshore array and the onshore substation may still be constructed either as a single phase or in two phases.

JH, for the Applicant, stated that it proposed as part of the next iteration of the draft DCO to remove the option of phasing for the installation of the export cable. He confirmed that although this would be a relevant topic of discussion at the DCO ISH due the following day, it would be a change to the project that should be noted at this meeting. The change would be dealt with in due course by updating the DCO in order to ensure that in the case of the transmission infrastructure there would not be the option of phasing in the same way that there would be for the offshore array and onshore substation.

RS confirmed that the following day's DCO ISH would be the most appropriate place to deal with these issues as part of the work the Applicant would be doing to 'unpack' the submission draft DCO overall, and to discuss any anticipated changes, as well as any issues or concerns relating to this.

PA asked if the Applicant had any further comments relating to this; JH confirmed there were none further at present.

PA asked if there were any other procedural matters that any attendees wished to raise; none were given.

PA thanked all for attending. He stated that the ExA intended to run a thorough, constructive, friendly and good natured examination, and looked forward to the attendee's co-operation and involvement over the next six months. PA advised that the DCO ISH would start at 10am the following day, and looked forward to seeing the attendees there. The meeting closed.