

East Anglia THREE  
Offshore Windfarm

East Anglia THREE

# Statement of Reasons (Version 3)

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East Anglia THREE Limited

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Statement of Reasons for seeking powers of Compulsory Acquisition

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## 1 Introduction

- 1.1 This Statement of Reasons (the **Statement**) relates to the powers of compulsory acquisition sought in the application by East Anglia THREE Limited (the **Applicant**) to the Secretary of State under the Planning Act 2008 (the **2008 Act**) for powers to construct and operate an offshore electricity generating station of up to 1,200 MW generating capacity (the **Application**).
- 1.2 The Application comprises a Nationally Significant Infrastructure Project (**NSIP**) being an offshore windfarm and its associated infrastructure, within the area of sea known as Zone 5 under The Crown Estate's Round 3 licensing process.
- 1.3 The Applicant is seeking to assemble in its ownership the land and associated rights over land included in the draft Development Consent Order (the **Order**) (Document 3.1). This land is required for the East Anglia THREE Offshore Windfarm and is referred to in this Statement as the **Order Land**.
- 1.4 Section 122 of the 2008 Act provides that an order granting development consent may include provision authorising compulsory acquisition of land (or rights over land), only if the decision maker in respect of the Application is satisfied that:
- 1) The land is required for the development;
  - 2) The land is required to facilitate or is incidental to the development; or
  - 3) The land is replacement land for commons, open spaces, etc.
- 1.5 The Application includes a request for the Secretary of State to grant powers of compulsory acquisition pursuant to section 122 of the 2008 Act.

### Relationship with the East Anglia ONE Offshore Windfarm

- 1.6 The offshore array is located in the East Anglia Zone in the North Sea, which is being developed as a number of individual windfarms, each of which will require the appropriate statutory consents and approvals. The East Anglia ONE Offshore Windfarm was the first to be proposed within the East Anglia Zone and a decision was made by the Secretary of State to grant development consent for this application in June 2014 (**East Anglia ONE**). The East Anglia THREE Offshore Windfarm (**East Anglia THREE**) comprises the next stage of development in the East Anglia Zone.
- 1.7 The option to include the onshore cable ducts for future projects was included in the application for East Anglia ONE as associated development. That consent permits the onshore cable ducts for two subsequent projects to be laid at the same time as the laying of the onshore cables for East Anglia ONE. East Anglia THREE has adopted the same landfall point as East Anglia ONE. As for East Anglia ONE, East Anglia THREE will also connect to the National Grid onshore transmission network at Bramford in Suffolk. Accordingly, East Anglia THREE will follow the same connection route and cable corridor as East Anglia ONE.

- 1.8 Therefore, the application for East Anglia THREE includes any further works to pull the onshore cables through any (previously laid) onshore ducts.
- 1.9 The Applicant has sought to retain flexibility to construct some components of the Project using a two phased approach. However, the export cable (both offshore and onshore) will be constructed under a single phase. Under a two phased approach the array would be constructed in two phases, each consisting of up to 600MW, as would the onshore substation/ converter station.

#### Purpose of the Statement

- 1.10 As part of the Application, the Applicant is required to submit to the Secretary of State a Statement of Reasons prepared in accordance with the requirements of Regulation 5(2)(h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the **APFP Regulations**).
- 1.11 This Statement explains why the powers of compulsory acquisition sought in the Order are necessary to implement East Anglia THREE (the **Project**). Throughout its content, it demonstrates that there is a compelling case in the public interest to grant those powers.
- 1.12 The Department for Communities and Local Government's guidance on compulsory acquisition published in September 2013 provides advice on the content of the Statement. Annex 2 of the Department for Communities and Local Government's now superseded guidance on compulsory acquisition of February 2010 (the **Guidance**) provided a detailed checklist of what a Statement of Reasons should include. Whilst this Guidance has been superseded, the Applicant still considers that the Guidance is helpful, and this Statement has been drafted to reflect that advice. Paragraph 45 of the September 2013 guidance cross refers to The ODPM circular 06/2004 Compulsory Purchase and the Crichel Down Rules which contained further general guidance on matters related to compulsory acquisition. That guidance was replaced on 29 October 2015 and the Applicant has had regard to the replacement guidance.
- 1.13 A substantial amount of information regarding baseline conditions, site selection, the proposed development, environmental impact and other relevant matters has been included in the documents which accompany the Application. This Statement should be read alongside these documents, which are listed in Schedule 1.
- 1.14 In relation to the compulsory acquisition powers sought as part of the Application, this Statement should be considered together with the following documents:
- 1.14.1 Document 4.2 which contains an explanation of how the proposals contained in the Order for compulsory acquisition will be funded (the **Funding Statement**);
  - 1.14.2 The plans showing the land which would be acquired, (the **Land Plans**) (Document 2.2); and

- 1.14.3 The book of reference scheduling all owners, lessees, tenants and occupiers, those with other interests in the land and those entitled to make relevant claims (the **Book of Reference**) (Document 4.3).

Structure of the Statement

1.15 The following sections of this Statement reflect Annex 2 of the Guidance and include:

- A summary of the Applicant's purpose in seeking to acquire the Order Land for the Project (section 3);
- A description of the Order Land (section 4);
- Details of the relevant policy in support of the Application (section 5);
- The Applicant's justification for compulsory acquisition, by reference to the Guidance and the requirements of Article 1 of the First Protocol to the European Convention on Human Rights and Article 8 (sections 6, 7 and 9);
- Any special considerations affecting the land to be compulsorily acquired (section 8);
- Other powers of compulsory acquisition being sought under the Order (section 10) and other consents (i.e. in addition to the Order) that would need to be obtained to implement the proposals for the use and development of the Project (section 11); and
- Any other information of interest to someone affected by the Order (section 13).

## **2 Summary**

- 2.1 The Crown Estate originally awarded the right to develop approximately 7,200 MW of wind capacity off the coast of East Anglia, known as Zone 5, under the Round 3 Offshore Wind Licensing Arrangements or more commonly the East Anglia Zone.
- 2.2 East Anglia ONE was the first windfarm to be consented in the East Anglia Zone and the Project comprises the next stage of development in the East Anglia Zone.
- 2.3 East Anglia THREE is the second windfarm to be developed in the East Anglia Zone, and is being developed by ScottishPower Renewables. East Anglia THREE has adopted the same landfall point as East Anglia ONE and, as for East Anglia ONE, will also connect to the National Grid onshore transmission network at Bramford in Suffolk.
- 2.4 The Application contains proposals for the onshore and offshore elements of East Anglia THREE. The option to include the onshore cable ducts for future projects was included in the application for East Anglia ONE as associated development to minimise disruption to local communities. This allows the onshore cable ducts for East Anglia THREE to be laid at the same time as the laying of the onshore cables for East Anglia ONE. The consent for East Anglia ONE did not permit the laying of cables for East Anglia THREE, only the ducts into which cables would be laid if consented by a subsequent application. The Application for East Anglia THREE therefore includes any works to pull the onshore cables through any (previously laid) onshore ducts, and other cable laying works that may be required to install the cables between the ends of the cable ducts laid under the East Anglia ONE Order and the converter station or substation(s) for East Anglia THREE, and between that converter station or substation(s) and the National Grid substation at Bramford.
- 2.5 The Applicant has sought to retain flexibility to construct some components of the Project using a two phased approach. However, the export cable (both offshore and onshore) will be constructed under a single phase. Under a two phased approach the array would be constructed in two phases each consisting of up to 600MW, as would the onshore substation/ converter station.
- 2.6 The Project directly responds to the urgent need to decarbonise the UK energy supply and enhance the UK's energy security and diversity of supply identified in the Government's statement of national policy in NPS EN-1 and EN-5. The proposed development would make a significant contribution towards the achievement of the Government's renewable energy targets.
- 2.7 All of the Order Land, shown on the Land Plan and described in the Book of Reference, is required either for the purposes of the Project, to facilitate the same, or for purposes incidental thereto. In order to deliver the Project, the Applicant is seeking the acquisition of a combination of freehold ownership, permanent rights (such as rights of access as well as rights for the installation of cables) and temporary rights during construction.
- 2.8 The Applicant seeks rights to pull through the East Anglia THREE cables through the ducts installed as part of East Anglia ONE. This requires a working cable corridor width of 75 metres.

- 2.9 The pull of the East Anglia THREE cables through the ducts installed as part of East Anglia ONE would happen as part of one continuous operation over an estimated period of 29 weeks (**Single Phase**).
- 2.10 The Applicant will continue to seek to acquire rights and interests to deliver the Project by agreement where possible on appropriate commercial terms. Seeking compulsory acquisition powers whilst, in parallel, negotiations to acquire interests continue, is in accordance with both general practice and paragraph 25 of the Guidance. Land included in the Order has been scheduled in the Book of Reference even where agreement has been reached. This is to ensure that, if any minor interests such as easements, rights of way, restrictive covenants or similar interests are discovered that have not previously been negotiated away, powers are available to override those interests. It also reflects that minor interests may still be outstanding and not waived and therefore have to be extinguished or overridden by the available statutory process. In such circumstances a relevant claim may be made and accordingly scheduling of the interests in land is necessary.
- 2.11 The Applicant seeks to compulsorily acquire the freehold of certain plots of land where permanent control of the land is required or where the interference with the interests of the existing owners is such that acquisition of a lesser interest would not be appropriate. The acquisition of rights is sought over the majority of the plots of land. Some plots of land are only required for temporary possession to allow construction of the Project. The majority of the plots along the cable route are required for temporary possession during construction, and are also then required for the acquisition of permanent rights to operate, retain, maintain and repair the cables and works once the extent of the permanent areas are known following completion of construction.
- 2.12 The Applicant's purpose in acquiring the Order Land compulsorily, if required, in accordance with the provisions of the 2008 Act, is to secure the lands and rights required to construct and then operate East Anglia THREE within a reasonable commercial timeframe.
- 2.13 The Applicant considers that a compelling case in the public interest for powers of compulsory acquisition exists. This is set out further in section 7 of this Statement.



### 3 The Application

- 3.1 The Crown Estate originally awarded the right to develop approximately 7,200 MW of wind capacity off the coast of East Anglia, known as Zone 5, under the Round 3 Offshore Wind Licensing Arrangements or more commonly the East Anglia Zone. The development rights are subject to securing the necessary consents from statutory bodies for the construction, operation and eventual decommissioning of the offshore wind farms that will be located within Zone 5.
- 3.2 Within Zone 5 a number of offshore windfarms have been identified which will connect via a landfall at Bawdsey to the National Grid at an existing substation in Bramford in Suffolk, where sufficient capacity has already been secured through agreement with National Grid Electricity Transmission (**NGET**).
- 3.3 The first windfarm for which development consent was sought, East Anglia ONE, was consented in June 2014. The option to include onshore cable ducts for future projects was included in the application for East Anglia ONE. This permits the onshore cable ducts for two subsequent projects to be laid at the same time (if practicable) as the laying of the onshore cables for East Anglia ONE.
- 3.4 East Anglia THREE is the next stage of development in the East Anglia Zone, and is located approximately 69km from its nearest point to the port of Lowestoft on the East Anglian coast covering an area of approximately 305 km<sup>2</sup>.
- 3.5 In order to minimise the disruption to local communities, the associated development comprising onshore infrastructure for East Anglia ONE included both East Anglia ONE cables and substation together with up to eight onshore cable ducts for future projects to be laid at the same time as the laying of the onshore cables for East Anglia ONE.
- 3.6 The Application seeks to pull cables for East Anglia THREE through ducts to be laid as part of East Anglia ONE and the delivery of up to two onshore substations.
- 3.7 The Applicant is currently considering both a High Voltage Direct Current (**HVDC**) and a Low Frequency Alternating Current (**LFAC**) electrical solution for East Anglia THREE. A decision on the final electrical solution for the Project will be made post-consent during the final design stage of the Project.
- 3.8 Onshore, East Anglia THREE would require up to 12 buried cables (four single core cables for HVDC or four sets of three core cables, i.e. 12 cables in total for the LFAC solution) with bundled fibre optic (**FO**) cables which would transport electricity to the connection point with the National Grid at Bramford substation in Suffolk. As the cables will be laid within the pre-installed ducts for the HVDC solution one cable will be installed within each of the four ducts. For the LFAC solution one set of three core cables will be laid in each duct. The HVDC solution will require onshore converter station(s) and the LFAC solution will require onshore substation(s). The LFAC substation(s) will require a slightly larger (6.67%) compound area for the onshore substation(s).

3.9 The Applicant has sought to retain flexibility to construct some components of the Project using a two phased approach. As set out above, the export cable will be laid as a single phase of works although the onshore substation works may be undertaken as part of a two phased approach.

3.10 The two approaches promoted in the Application are explained further below.

#### Single Phase

3.11 Under the Single Phase approach, East Anglia THREE would be constructed in one single build period. This approach would include works to pull the onshore cables for East Anglia THREE through any previously laid onshore ducts from the landfall at Bawdsey to the new onshore substation at Bramford as part of one continuous operation, together with any associated access rights, construction compounds etc that are required for the purpose of those works.

3.12 The construction period (for both onshore and offshore works for East Anglia THREE) would commence between 2020 and 2025 and would continue for approximately 41 months. The estimated programme for the duration of the onshore works is 29 weeks.

3.13 A 75m wide working cable corridor would be required for the single phase approach.

#### Two Phases

3.14 Onshore, the two-phased (**Two Phased**) approach is proposed only for construction of the substation(s),

3.15 While up to two onshore substations would be required for the Two Phased approach, the overall size would not exceed the size of the compound for the substation for the Single Phase.

3.16 A more detailed description of the offshore works in relation to East Anglia THREE is provided in the Environmental Statement (Document 6.1), but in brief the windfarm includes up to 172 wind turbines, up to four offshore collector substations, meteorological masts and inter array cabling, up to two offshore converter substations and a subsea cable connection between and from those offshore converter substation(s) to a landfall at Bawdsey Cliffs.

#### Interaction with the East Anglia ONE Order

3.17 The East Anglia ONE Order and the Order interact in some respects with regard to the onshore connection works, namely the use by EATL of the ducts for onshore cables pre-laid by East Anglia ONE; and the use by EATL of landscaping installed by East Anglia ONE to screen the East Anglia THREE onshore substation(s).

#### **4 Description of the Order Land**

- 4.1 The Order Land represents the land and interests required for the onshore infrastructure associated with East Anglia THREE that were not secured under East Anglia ONE.
- 4.2 The key onshore components of East Anglia THREE are:
- 4.2.1 The landfall site with associated transition bays to connect the offshore and onshore cables;
  - 4.2.2 Up to four onshore electrical cables (single core in the case of HVDC solution and 3-core i.e. 12 in the case of LFAC solution);
  - 4.2.3 Up to 62 jointing bay locations each containing up to two jointing bays to be located along the cable route (the precise location and all technical details such as cable length will be determined by local factors such as topography and hydrology);
  - 4.2.4 One onshore substation compound (for up to two electrical substations or converter stations);
  - 4.2.5 Up to two onshore fibre optic cables; and
  - 4.2.6 Landscaping and tree planting around the location of the substation(s) or converter stations.
- 4.3 The Order Land comprises a route of approximately 37km from the landfall at Bawdsey Cliffs on the Suffolk coast, between Felixstowe and Orford Ness to the new substation(s) and compound at Bramford, to the north west of Ipswich. This follows the cable route for East Anglia ONE, under which the ducts for the cable for East Anglia THREE will already have been installed.
- 4.4 A total working cable corridor of up to 75 metres wide (with localised reductions in width) will be required.
- 4.5 From the point of landfall to the grid connection point at Bramford, the onshore cable corridor runs as follows:
- 4.5.1 From the landfall, the onshore cable corridor runs in a north-westerly direction crossing a local road and ditch before travelling approximately 2km through agricultural land parallel to and set back from the River Deben.
  - 4.5.2 Approximately 3.5km from the landfall, the onshore cable corridor turns in a south-westerly direction and crosses the River Deben, a Special Protected Area (**SPA**) and Site of Special Scientific Interest (**SSSI**) designated area. After crossing the river, the cable corridor runs in a westerly direction for approximately 1.25km, across agricultural land. Directly north of the settlement of Falkenham the corridor turns and travels in a north-westerly direction for approximately 1.25km.
  - 4.5.3 The onshore cable corridor continues in a northerly direction northeast of the settlement of Kirton for approximately 6.23km, travelling parallel to the River Deben. It passes east of the settlement of Newbourne and west of Waldringfield. This section

passes across agricultural land, over Ipswich Road and then bears east across the northern boundary of Waldringfield to avoid the Waldringfield Golf Course.

- 4.5.4 The onshore cable corridor then continues in a northerly direction crossing Waldringfield Road and passing Martlesham to the west, before crossing Martlesham Creek and the East Suffolk railway line south of Woodbridge. Immediately after crossing the East Suffolk railway line the onshore cable corridor turns west.
- 4.5.5 Further west, the onshore cable route crosses the A12 south west of the roundabout. Approximately 1.5km after crossing the A12 the corridor passes between the settlements of Great Bealings and Little Bealings. The onshore cable corridor continues in a westerly direction, travelling north of Ipswich and the railway, past the settlement of Playford. Along this section the onshore cable corridor passes through agricultural land with dispersed rural settlements. The onshore cable corridor arches north around the village of Tuddenham St Martin.
- 4.5.6 West of Tuddenham St. Martin, the onshore cable corridor turns in a north-westerly direction for approximately 1.25km passing under two overhead electricity lines before turning south-westerly to cross the boundary between Suffolk Coastal District and Mid Suffolk District. The corridor then travels adjacent to the overhead lines for approximately 1.25km. From here the corridor continues in a westerly direction for 3km and then crosses the A14 south of Claydon. Within the next 1.5km, while continuing to travel in westerly direction, the corridor crosses the B1113 classified road and under the Great Eastern Main Line Railway and passes north of the Suffolk Water Park.
- 4.5.7 The onshore cable corridor then travels in a south-westerly direction for approximately 3km before reaching the area for the new East Anglia THREE substation(s), which is adjacent to an existing National grid substation near Bramford. During this final section the corridor travels across agricultural land.
- 4.6 To facilitate construction, seven temporary construction compounds (Construction Consolidation Sites) will be required to provide access to the cable corridor, allow storage of bulk materials and construction plant and to accommodate site offices. The locations of the Construction Consolidation Sites are described in section 7 below. Temporary vehicular access will also be required at points along the onshore cable corridor. This would mainly be via existing roads and tracks to minimise the extent of new haul road required, except where joints are placed in remote areas.
- 4.7 The accesses required are additional locations to those required for the installation of East Anglia ONE because during the construction of East Anglia ONE a haul road will be built along the entire length of the onshore cable route. In the Order for East Anglia ONE it is stated that following construction the haul road must be removed and the disturbed land is to be returned to its pre-construction state, unless otherwise agreed with the local planning authority. During the

construction of East Anglia THREE, it will only be necessary to access the jointing bay locations for their construction and the subsequent pull through of cables. Therefore East Anglia THREE accesses are not the same as those required for East Anglia ONE. This has also provided the Applicant with the opportunity to reduce the amount of haul road required for the construction process for East Anglia THREE (although it is anticipated that approximately 18km of 5.5m wide haul road will be constructed and utilised for the East Anglia THREE construction process, so the power to acquire rights to facilitate this are included in the draft East Anglia THREE Order in anticipation of that).

- 4.8 As the onshore cabling is typically supplied on drums of up to 1,000m in length, jointing bays would be required along the cable route to join each section of the cable together. Each jointing bay will comprise a concrete box of 10m long by 3m wide by 1.3m high, buried so that the bottom of each bay is 2.5m below ground level (leaving 1.2m of clearance between the surface and the top of the jointing bay).
- 4.9 The precise location of the jointing bays would be determined during the detailed design process post the grant of consent; however indicative locations for the jointing bays are provided at Figures 5.2 to 5.11 of the Environmental Statement (Document 6.2).
- 4.10 At each jointing bay, each joint would potentially have a kiosk to provide access for testing and maintenance. The kiosk will be accessed through an access panel in a structure standing 1m above ground level, measuring 1m long by 0.75m wide.
- 4.11 Up to two onshore substations or converter stations are proposed for East Anglia THREE. The proposed site for these is to the north of National Grid's existing substation and to the east of the location of the proposed East Anglia ONE substation at Bramford. During the site selection of this location for East Anglia ONE, a key factor was to identify a space suitable for substation/converter station sites for up to two future projects (including East Anglia THREE).
- 4.12 The purpose of the new substation(s)/converter stations is to change the electrical current from HVDC or LFAC to HVAC which is used by National Grid in the electrical transmission network.
- 4.13 The onshore HVDC converter station(s) (if chosen) would be located within a single compound that would have a maximum fenced area of 3.04ha, with the building up to 25m high from existing ground level. The onshore substation(s) for the LFAC solution (if chosen) would have the same maximum fenced area and the same maximum height. For both options, the maximum footprint of the building within the fenced area would be 85m (width) x 116m (length).
- 4.14 For both HVDC and LFAC solutions up to two substations would be built under the Single Phase construction approach and one substation would be built at each phase under a Two Phased construction approach.
- 4.15 In the HVDC electrical solution, in addition to the main converter halls, the onshore converter station compound would contain electrical equipment including power transformers, switchgear, reactive compensation equipment, harmonic filters, cables, lightning protection masts, control

buildings, communications masts, backup generators, access, fencing and other associated equipment, structures or buildings.

- 4.16 The substation(s) would be enclosed by a fence surrounding the external equipment outlined above. Other infrastructure and equipment will be included within the compound such as interconnecting cables, access tracks, hard standing, car parking, water tanks, communications mast, diesel generators and welfare facilities.
- 4.17 The proposed substation(s) would be connected to the existing National Grid substation at Bramford by means of underground cables laid directly into the ground. Space will also be required for the HVAC equipment to link the substation(s) to the existing National Grid equipment
- 4.18 The final location of the equipment is subject to micro-siting at the detailed design phase due to the need to ensure safety distances are maintained between the electrical equipment and from the compound fence. The exact location of the compound fence is also reliant on detailed civil engineering works.

#### Ownership of the Order Land

- 4.19 The Book of Reference identifies those persons with an interest in the Order Land. Land is held by a number of individuals, corporations and companies. For all plots the Applicant has sought to obtain details of the relevant interests in land and served notices under section 42 of the Planning Act 2008 on owners, lessees, tenants and occupiers as well as those holders of rights over land it has identified.
- 4.20 Where the owner of interests in land or beneficiary of rights has not yet been ascertained after diligent inquiry, the Applicant will continue to seek details of the relevant party and will post site notices asking for details of the additional beneficiaries.
- 4.21 All known principal owners of the Order Land have been approached and engaged in dialogue to ascertain if they would be willing to reach agreement with the Applicant for the use of their land by way of negotiated easements for the construction and maintenance of the cable route (and in respect of the onshore substation(s) site, for freehold acquisition).

## 5 Policy support for the Project

- 5.1 The Project forms a key part of meeting the Government's strategy for achieving targets for renewable energy provision in the UK. The national, regional and local planning policy and guidance relevant to the Project as well as an overview of the legislative framework are set out fully in the Environmental Statement and are summarised below.

### International Framework

- 5.2 International agreement regarding action on climate change was reached through the Kyoto Protocol to the United Nations Framework Convention on Climate Change. This agreement set binding targets for the reduction of greenhouse gas emissions over the period 2008 to 2012.
- 5.3 Within Europe, Directive 2001/77/EC on "the promotion of electricity produced from renewable energy sources in the internal electricity market" sets out the need to promote renewable energy sources in order to meet Kyoto targets. This Directive committed Member States to national targets for consumption of energy from renewable sources. The UK target was 10% of electricity to be produced from renewable sources by 2010.
- 5.4 European Directive 2009/28/EC on "the promotion and use of energy from renewable sources" (the **Renewable Energy Directive**) has amended and repealed earlier European Directives on renewable energy. Article 3 and Annex 1 set mandatory targets for the share of energy to be obtained from renewable sources for each European Member State. The UK's target is to equal or exceed 15% of gross final consumption of energy from renewable sources by 2020. To achieve this, UK Government policy since 2009 has been to achieve 30% of electricity generation from renewable sources by 2020<sup>1</sup>.
- 5.5 Article 4 of the Renewable Energy Directive requires Member States to produce national renewable energy action plans, setting out national targets for key sectors, including heating and cooling, transport and electricity, and measures to achieve these targets.

### UK Framework

#### *The Climate Change Act 2008*

- 5.6 The Climate Change Act 2008 provides a framework for the UK to reduce greenhouse gas emissions in response to climate change. It puts in place a range of measures including emissions reduction targets and carbon budgets as well as establishing the Independent Committee on Climate Change. Part 1 of the Act sets out a duty to reduce UK greenhouse gas emissions to at least 80% below 1990 levels by 2050. It also requires carbon budgets to be set for UK emissions by the Secretary of State over five year periods.

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<sup>1</sup> DCLG (2010) *Consultation Paper on a New Planning Policy Statement: Planning for a Natural and Healthy Environment*; DCLG (2010) *Planning Policy Statement 5: Planning for the Historic Environment*.

## *UK Renewable Energy Policy*

- 5.7 In response to the requirement in Article 4 of the Renewable Energy Directive, the Department of Energy and Climate Change (**DECC**) published the National Renewable Energy Action Plan for the UK in July 2010 (DECC 2010)<sup>2</sup>. The plan sets out a "lead scenario" to achieve the 15% renewable energy target for 2010. This should not be seen as an upper limit to renewable energy production in the UK however. The action plan states, in relation to offshore wind development, that:

*"Offshore wind is a key area for development. We will work to develop an offshore electricity grid to support our continuing commitment to being world leaders in this technology. This new generation of offshore wind power will play a key role in meeting our 2020 target."* (section 1, page 7)

- 5.8 DECC has also published a UK Renewable Energy Roadmap<sup>3</sup>, setting out how the 2020 targets can be achieved. The Roadmap highlights the predicted contributions of different energy technologies to reach the 15% target. The Roadmap predicts that offshore wind will contribute 33 to 58 terawatt hours (**TWh**) by 2020, which would provide 14 to 25% of the 2020 target requirement of 234 TWh. This document also confirms the Government's commitment beyond 2020, indicating that the UK could reach 30 to 45% energy generation from renewable sources by 2030.

- 5.9 In December 2011, the Government published its Carbon Plan<sup>4</sup>, which sets out the policies for meeting the commitment for an 80% reduction in greenhouse gas emissions made under the Climate Change Act 2008. The document also describes the measures proposed to meet the first four carbon budgets (from 2008 to 2027). The Carbon Plan states that:

*"The power sector accounts for 27% of UK total emissions by source. By 2050, emissions from the power sector need to be close to zero."* (paragraph 43)

### Planning Act 2008

- 5.10 The 2008 Act introduced a new planning system in England and Wales for NSIPs. The new consenting regime for major infrastructure under which a development consent order may be granted to permit NSIPs to be carried out and which, if granted, may incorporate a number of other consents from different consenting regimes. A key element is the designation of a series of National Planning Statements (**NPSs**) setting out national policy in relation to specified descriptions of development which shall be taken into account by the Secretary of State for Energy and Climate Change in their consideration of the development consent applications.

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<sup>2</sup> DECC (2010) *National Renewable Energy Action Plan for the United Kingdom*

<sup>3</sup> DECC (2011) *UK Renewable Energy Roadmap*

<sup>4</sup> DECC (2011) *The Carbon Plan: Delivering Our Low Carbon Future*



5.11 The three NPSs of relevance to the Project are NPS Overarching Energy (EN-1) and NPS Renewable Energy Infrastructure (EN-3) which, amongst other matters, identify the construction of offshore generating stations in excess of 100MW as NSIPs, and NPS Electricity Networks (EN-5) which covers the electrical infrastructure in connection with EN-1.

5.12 The policy context for the development of nationally significant energy infrastructure is outlined in Part 2 of EN-1. EN-1 notes that *"energy is vital to economic prosperity and social wellbeing and so it is important to ensure that the UK has secure and affordable energy"*.

5.13 Paragraphs 3.1.3 and 3.1.4 of NPS EN-1 advise that the decision maker:

*"should... assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this (NPS)"* and;

*"should therefore give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008."*

#### Electricity Act 1989 – Schedule 9

5.14 The Applicant has fully considered its duty under Schedule 9 of the 1989 Act to have regard to the desirability of preserving natural beauty of conserving flora fauna and geological and physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and to do what it reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on such flora, fauna, features, sites, buildings or objects.

#### The Project

5.15 The Project directly responds to the urgent need to decarbonise the UK energy supply and enhance the UK's energy security and diversity of supply identified in the Government's statement of national policy in NPS EN-1 and EN-5. The proposed development would make a significant contribution towards the achievement of the Government's renewable energy targets.

5.16 In his decision letter for the East Anglia ONE application, the Secretary of State noted that there was "a compelling case for granting consent for the Development given the contribution it will make to the production of renewable energy", and that "this case is not outweighed by the potential adverse local impacts of the Development as mitigated by the proposed terms of the Order".

## **6 Compulsory Acquisition Powers and Guidance**

- 6.1 Section 120 of the 2008 Act prescribes those matters which may be provided for in an order granting development consent. Sections 120(3) and 120(4) provide that an Order may make provision relating to, or to matters ancillary to, the development for which consent is granted. The matters in respect of which provision may be made include (but are not expressly limited to) the matters listed in Schedule 5 to the 2008 Act, for example:
- 6.1.1 The acquisition of land, compulsorily or by agreement;
  - 6.1.2 The creation, suspension or extinguishment of, or interference with, interests in or rights over land (including rights of navigation over water), compulsorily or by agreement; and
  - 6.1.3 The payment of compensation.
- 6.2 Section 122 of the 2008 Act provides that an order granting development consent may include provision authorising compulsory acquisition of land (which may include rights in land), only if the decision maker in respect of the Application is satisfied that:
- (a) The land is required for the development;
  - (b) The land is required to facilitate or is incidental to the development; or
  - (c) The land is replacement land for commons, open spaces, etc (section 122(2)).
- 6.3 Section 122(3) states it is also necessary for the decision-maker to be satisfied that there is a compelling case in the public interest for the inclusion of powers of compulsory acquisition in the Order.
- 6.4 The Guidance makes it clear in respect of the section 122(2) condition that the decision maker must be in no doubt as to the purposes for which any land is to be compulsorily acquired. The Guidance requires:
- (1) In the case of land required for a project to which the development consent relates, the promoter must be able to demonstrate that the land is needed and the decision maker must be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development; and
  - (2) In the case of land required to facilitate or land incidental to the proposed development, the land to be taken should be no more than is reasonably necessary for the facilitating or incidental purpose and must be proportionate.
- 6.5 For the section 122(3) condition the decision maker must be satisfied that there is a compelling case in the public interest for the land to be acquired compulsorily. The public benefits derived from the compulsory acquisition must outweigh the private loss that would be suffered by those whose land is proposed to be acquired.

- 6.6 The Applicant submits that this Statement, and the documents provided with the Application, show that the Applicant has a clear need for the powers of compulsory acquisition it seeks and has a clear purpose in its proposed acquisition powers. The Works Plan (Document 2.4) and description of the authorised development in the Order demonstrate that the Applicant has a clear idea of what the relevant Order Lands are required for and that the acquisitions proposed are required for the Project to be constructed and used for the purpose of supporting the transmission of electricity. That the Project is in the public interest is demonstrated by the level of national policy support described in Section 5.
- 6.7 The Applicant has conducted searches and enquiries with the Land Registry in respect of ownership of land, franchises and rights; conducted numerous site visits; made enquiries of agents, surveyors and solicitors acting for those owners known to the Applicant; completed searches with the local and highways authorities; and met with the landowners and occupiers in the process of negotiation and through public consultation. In respect of companies in the Book of Reference, the Applicant has regularly searched for registered details at Companies House up to the date of the Application. The Applicant has benefited from direct contact with solicitors and surveyors acting on behalf of the owners of the onshore cable route since 2014.
- 6.8 There are also a number of plots identified in the Book of Reference where it has not been possible to identify ownership. The statement "Unknown" is given in the Book of Reference when diligent inquiry has been exhausted and it has still not been possible to provide details.
- 6.9 The Guidance provides a number of general considerations that the promoter must demonstrate to the satisfaction of the decision maker:
- 6.9.1 All reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored;
  - 6.9.2 The proposed interference with the rights of those with an interest in the land is for a legitimate purpose and is necessary and proportionate;
  - 6.9.3 The promoter has a clear idea of how it intends to use the land which it is proposing to acquire;
  - 6.9.4 There is a reasonable prospect of the requisite funds becoming available;
  - 6.9.5 The compulsory purchase of land meets the two conditions in section 122 and is therefore justified in the public interest at that time; and
  - 6.9.6 The purposes for which an order authorises the compulsory acquisition of land are legitimate and sufficiently justify interfering with the human rights of those with an interest in the land affected.

## **7 Justification for the use of powers of Compulsory Acquisition**

7.1 This section sets out below the factors that the Applicant seeks to rely on to demonstrate that the conditions in section 122 of the 2008 Act and the Guidance are satisfied. It also explains the purpose for acquisition of the relevant plots.

### Plot numbers in the Book of Reference

7.2 In the Book of Reference, the same plot numbers allocated to land for East Anglia ONE are used for East Anglia THREE over the same pieces of land where relevant for ease of identification by landowners where rights are required over the same parcels of land. Plot numbers have been allocated for additional land which was not included in East Anglia ONE using the A, B, C, D etc format and the number used corresponds with an adjacent parcel of land. Where areas of land were allocated a plot reference under East Anglia ONE but are not required for East Anglia THREE, these plot numbers are identified as 'not used' in the Book of Reference.

### Requirement for the Order Land (section 122(2) and (3))

7.3 All of the Order Land, shown on the Land Plan and described in the Book of Reference, is required either for the purposes of the Project, or to facilitate the same, or for purposes incidental thereto.

7.4 The Applicant is seeking the acquisition of a combination of freehold ownership, permanent rights (such as rights of access, repair and maintenance) and temporary rights. In relation to onshore phasing, only works at the substation(s) will be phased, and the Applicant has negotiated an agreement to acquire the freehold of this land. Some plots of land are only required for temporary possession to allow construction of the Project, and these plots appear in Schedule 7 of the Order only. The majority of the plots along the cable route are required for temporary possession during construction, and are also then required for the acquisition of permanent rights to operate, retain, maintain and repair the cables and works. These plots therefore appear in both Schedules 5 and 7 of the Order.

7.5 The nature of the land interests required for East Anglia THREE are as follows:

#### *Freehold title*

7.5.1 The Applicant seeks freehold title where permanent control of the land is required by the Applicant or the interference with the interests of the existing owners is such that acquisition of a lesser interest in land would not be appropriate. This applies in the location of the onshore substation(s) or converter station(s) and its associated compound and permanent landscaping (Plots 449A, 450, 453, 454, 454A, 454B and 454C, and 457–463).

#### *Permanent rights to install and pull through cables and maintain and repair ducts and cables (as detailed in Schedule 5 of the Order)*

7.5.2 These rights are sought for the Applicant:

- a) to lay and pull the East Anglia THREE cables through the ducts already installed as part of East Anglia ONE;
- b) to install the necessary jointing bays for the cables;
- c) to facilitate access for the cable pull-through; and
- d) to maintain the onshore infrastructure and associated works.

7.5.3 Permanent rights are the principal type of acquisition proposed for the majority of the Order Land, which comprises the onshore cable route. The Applicant seeks sufficient rights to construct the EA THREE works within what will be the East Anglia ONE ducts along the cable route, with associated rights of access for construction and maintenance purposes. It is anticipated that the process to secure permanent rights compulsorily will commence only after temporary possession has first been taken of the surface of the relevant Order Lands, and construction of the relevant part of the authorised project is complete.

*Permanent rights of access (as detailed in Schedule 5 of the Order)*

7.5.4 For some plots cable pull-through will not be required but a right to access the cable corridor is necessary. For the most part this will be along existing routes, but there are some points in remote areas where temporary haul roads are required and these routes are identified as temporary access tracks in the figures to the Environmental Statement. Whilst the haul roads will for the most part be temporary in duration, the right of access sought is a permanent right over land to allow the Applicant or its successors to use the same route for occasional maintenance during East Anglia THREE's operational period, as well as to secure a route for decommissioning activities. This includes both the right to improve existing access routes and to lay down hard standing.

7.5.5 Other than this right of access, there will be limited interference with the surface of the Order Land along these routes.

*Miscellaneous rights (as detailed in Schedule 5 of the Order)*

7.5.6 In addition to the principal rights for cable installation, the Applicant seeks the following rights:

- (a) to lay, maintain, repair and remove cables by pulling cables through existing ducts;
- (b) to install and improve drainage;
- (c) to pass over the land to lay, maintain, repair and remove cables and to lay hardstanding for this purpose;

- (d) to install and maintain marker posts to identify the cables, manhole covers and kiosks for maintenance;
- (e) to remove hedges, fences or other barriers to allow access to the cables;
- (f) to alter, amend or remove any pipes or apparatus which may interfere with the cable laying;
- (g) to lop or uproot any trees which may interfere with the cables;
- (h) to lay out temporary permissive paths to divert the existing public rights of way;
- (i) to remove archaeological artefacts where necessary;
- (j) to carry out any environmental mitigation and enhancement works; and
- (k) to install, construct and remove temporary welfare facilities during periods of maintenance, repair and removal of the cables.

*Temporary possession (as detailed in Schedule 7 of the Order)*

- 7.5.7 Powers of temporary possession of land are sought for two purposes. In land where activities will only be carried out during construction, or where construction plant, equipment and other apparatus will need to be laid down but no cables or other apparatus are proposed to be installed, the Order permits East Anglia THREE to take possession of this land temporarily, without the requirement to exercise permanent powers of compulsory acquisition.
- 7.5.8 A second use of temporary powers is to allow construction activities on the land where cables are to be installed, prior to any permanent rights to retain, operate, and maintain those cables being acquired compulsorily (or by agreement). The purpose of this second use is to allow East Anglia THREE to complete the cable installation works, including any micro-siting of cables within the land, before committing to acquiring permanent rights. This is intended to reduce the amount of land affected by permanent rights, and reduce the impact on landowners accordingly.

*Restrictive covenants over lands where rights are sought (as detailed in Schedule 5 of the Order)*

- 7.5.9 Restrictive covenants are also sought for the lands that will have the cables and ducts installed, to protect the cables or ducts from becoming exposed or damaged, or built over. This is necessary over the cable route to ensure the cables are not damaged by construction or excavation works or made materially harder to access in case of emergency or routine works to the cables and ducts being necessary. It is submitted that this is a justifiable use of compulsory acquisition powers to protect the nationally significant infrastructure project and to give the Applicant and its successors (including any successor offshore transmission network operator) the comfort that the cables and ducts are appropriately protected and the transmission of electricity will not be interrupted by such excavation.
- 7.5.10 Restrictive covenants are not sought over areas that are owned or used by statutory undertakers or highway lands.

Onshore works

- 7.6 The nature of the onshore works, described with reference to the nature of the proposed acquisition, and running from the landfall at Bawdsey to the connection point at Bramford, from East to West, is as follows:

*Landfall (Work Nos. 5A (which is offshore), 5B, and 6 (Plots 1-10, 10A))*

- 7.7 Plot 1 of the Order lands forms part of the foreshore of the Suffolk coastline at Bawdsey, east of Ferry Lane. It is held by The Crown Estate and is accordingly excluded from compulsory acquisition.
- 7.8 Plots 2 to 7 form part of the beach and cliff at Bawdsey. The cables will come ashore here and will be installed (Work No. 5B) within ducts which will be installed under the Order for East Anglia ONE. In the Order for East Anglia THREE, surface rights are sought over Plot 1-7 for access to the beach. These plots will be used both for construction purposes (Work No. 5B) and for permanent access to the landfall and beach area for maintenance and decommissioning. Rights are sought to lay out temporary permissive paths for public use (if applicable) as a result of the right of way over Plots 4-5 which may be affected during construction, maintenance, repair and (at some later stage) eventual removal of the cables.
- 7.9 To the west of the cliff, Plots 8 and 17 will be used to construct the offshore export cable circuits with the onshore cable circuits (Work Nos. 5B and 7). Plots 8 and 17 will also be used for temporary construction compounds (Work Nos. 5B and 7).
- 7.10 Plots 9, 10, 10A, 11, 13 and 15 of the Order lands are required for access for construction purposes (and for the use of the land as a construction compound but also for permanent access to the landfall and beach area for maintenance, repair and decommissioning) (Work No. 6).
- 7.11 Plot numbers 12, 14 and 16 are not used.

*Onshore cable corridor (Works 8 – 69, Plots 18 – 449)*

*General justification for extent of Order lands*

- 7.12 Powers to enter lands within an area of lands to be acquired or used (**LLAU**) with a width of 75 metres will be sought. The width of the LLAU reflects the width of works to install cables required for East Anglia THREE.
- 7.13 Whilst the standard permanent cable corridor easement sought post-construction (which includes the areas where restrictive covenants will apply) will be between approximately 35 and 42 metres in width, the anticipated standard working space for construction will be approximately 55 metres in width in most locations.
- 7.14 An additional 20 metres is included in the cross-section of the LLAU required, to enable the Applicant to carry out the cable installation works with the minimum of inconvenience to affected landowners, by allowing for (within the Order Limits) minor variances to the cable corridor to avoid potential engineering difficulties or to otherwise enable the construction of the Project in the stated time and with the minimum of disruption.
- 7.15 The additional 20 metres in the LLAU are also required to ensure that there is sufficient space within the Order limits for:
- 7.15.1 habitat surveys, mitigation and impact avoidance (such as newt fencing);
  - 7.15.2 accommodation works, temporary alterations to accesses and works to drainage systems and other conduits;
  - 7.15.3 visibility splays and turning space at highway crossings;
  - 7.15.4 turning radii for plant and machinery;
  - 7.15.5 laydown and compound areas;
  - 7.15.6 avoiding unknown or abandoned statutory undertakers' equipment, field drains and other local infrastructure works;
  - 7.15.7 areas, where appropriate, for footpath diversions or temporary access routes;
  - 7.15.8 avoiding difficult subsurface structures that are otherwise yet unknown including rock structures, boulders, difficult soil traps or archaeological remains;
  - 7.15.9 avoiding tree roots or avoiding the removal of trees and hedgerows;
  - 7.15.10 avoiding localised areas prone to flooding or badly drained areas; and
  - 7.15.11 spoil storage and (if needed) regarding and reprofiling areas.
- 7.16 As it cannot yet be confirmed exactly where within the 75 metre corridor the cables and ducts will be laid by East Anglia ONE, or identify accurately where only temporary possession would be sufficient, the whole of the 75 metre width of the cable corridor has been included in the LLAU. The exact location of the cables/ducts will not be finally fixed until detailed surveys have been carried out under the powers in the by East Anglia ONE Order discussed with



landowners. Possession of the relevant Order lands will therefore be taken on a temporary basis in the first instance, relying on the powers in Article 23 of the Order – the power to take possession of Order Lands for a temporary period. Once it is clear to the Applicant what land is required permanently within the LLAU and what land is needed to be occupied only on a temporary basis, then the process of compulsory acquisition for those permanent rights will commence.

- 7.17 Post construction, a permanent cable corridor of up to 42 metres in width (likely to be only 35 metres in width) is anticipated to be required for most of the cable corridor, save where construction processes or other reasons necessitate a wider permanent easement being required. Landowners whose land has been the subject of compulsory acquisition will be provided with a plan showing that part of the Order Lands required to be subject to the cable rights. This will be discussed with individual landowners in due course, or if not resolved, the notices or vesting process for the acquisition of rights pursuant to Article 17 will reflect only the area over which acquisition of permanent rights is required.
- 7.18 The permanent corridor is justified on the basis that all cables would be laid within this permanent corridor. This permanent acquisition is directly comparable, in terms of its width, with similar schemes.
- 7.19 Overall, the 75 metre width of the LLAU, with the potential for up to 40 metres in the cross-section being required only temporarily, represents a clear, justifiable, proportionate and reasonable approach to compulsory acquisition whilst allowing for delivery of East Anglia THREE in a timely manner.

#### *Route Description*

- 7.20 Between Ferry Road, Bawdsey (Plot 18 of the Order lands) and the areas of freehold acquisition proposed for the substation(s) at Bramford (at the opposite end of the cable route in and around Plot 460), the overwhelming majority of the plots are proposed to be subject to the acquisition of permanent rights to install and maintain cables (together with restrictive covenants to protect the installed cables and ducts, as detailed in Schedule 5), following possession initially being taken under the temporary powers in Article 23 of the Order. The rights proposed in Schedule 5 for these plots will allow the installation of cables within ducts using pull-through methods. A permanent right of surface access is also sought, together with restrictive covenants to protect the laid cables and ducts.
- 7.21 Plots 18–20, 22, 24, 26–43 and 52–56 (excluding Plot numbers 21, 23 and 25 which are not used) are for Work No. 8 proceeding from Ferry Lane westwards towards the River Deben estuary. The rights sought are the standard rights to install cables within the ducts, together with a right to access the cables and ducts for maintenance, and restrictive covenants to protect the cables and ducts. Rights are also sought to carry out activities connected to these rights such as to remove, store, and stockpile materials, remove fences, fell trees, and so forth. Rights are also sought throughout the Order Land to effect access over the plots and to where there is highway

(publicly maintainable or otherwise). Where public rights of way will need to be diverted as a result of the project, rights are sought to lay temporary permissive paths for public use. Rights are also sought to install, construct, use and remove temporary welfare facilities during maintenance, repair and removal of the cables.

- 7.22 Plots 20A, 20F, 38A and 44-51 form Work Nos. 9, 10 and 11. These plots include rights to use, widen, and improve the access route where necessary. Rights are also included to retain and maintain existing hardstandings and lay down new, use, repair, alter and remove all hardstandings for the purposes of access to adjoining land and highway. This route (Work Nos. 9, 10 and 11) in part makes use of existing access tracks and the highway of Dukes Lane, but will also require the formation of a temporary haul road during the construction phase. Thereafter the haul road will be removed, but the right is required over the relevant order lands permanently for future access to the jointing pit at this location.
- 7.23 Plots 57–69 and 76–78 form the installation of cables under the River Deben itself (Work No. 12). Plots 70–75 are not used. Plots 64-66 are held by The Crown Estate so are excluded from compulsory acquisition. Plots 57-62 and 78 will also be used during construction as worksites to facilitate the installation of cables within the ducts.
- 7.24 Plot 80A and 82A form Work Nos. 14 and 15 respectively. These plots will be used for the temporary widening and upgrade of existing access tracks for the purposes of access to Work No. 13.
- 7.25 Conventional cable installation within ducts commences again at Plot 79 (at the eastern end of Work No. 13) and continues for several kilometres west then north up to Plot 92 (at the western end of Work No. 13). Plots 82 and 87 will also be used for the laying out of temporary permissive paths to serve as diversionary routes for public footpaths.
- 7.26 Plots 93-96 are the site of a temporary construction consolidation site and modifications to the adopted highway at Park Lane to provide vehicular access to the construction consolidation site (Work Nos. 17 and 18, which together account for both the construction consolidation site and the permanent cable works within these plots). Plots 94 and 95 are required only for the purposes of the temporary construction consolidation compound (Work No. 18).
- 7.27 Plots 97-98, 103-106 and 110 are standard cable installation plots (with Plots 96 and 98 allowing access to the highway at plot 97) (Work No. 19) and run from Park Lane, Kirton to Kirton Creek.
- 7.28 Plots 91A, 99, 100, 100A, 100B, 100C, 101, 102, 107, 117, 117A, 117B and 133 form a permanent access route to the east of the primary works (Work No. 16), principally using existing tracks, but also including some temporary works. It is required to connect Plots 111–134 (Work No. 20) (excluding Plots 117, 117A, 117B) for the cables which will pass under Kirton Creek. Plots 111-116 form the southern element of this section, with Plots 132 and 134 forming the northern element. Plots 108–109 are not used.

- 7.29 Plots 135-164 (excluding Plots 151, 151A, 152, 153 and 156A) (Work No. 21) proceed in a northerly direction across several highways from the area described in the paragraph above to Waldringfield Golf Club. Plot 156A forms temporary access to that area (Work No. 24).
- 7.30 East of Woodbridge Road, Plots 151, 151A and 152 form a further temporary construction consolidation compound (Work No. 22). Plot 153 forms temporary access to that area (Work No. 23).
- 7.31 At Plot 161, 163 and 164 (162 not being used) (Work No. 21), land next to Waldringfield Golf Club is required, to the north of Ipswich Road. The land in question forms part of a campsite and a wider area of land has been taken to allow for the optimum location of the cables and ducts with a view to minimising disturbance and disruption to the camp site.
- 7.32 Plots 165-184 (excluding Plots 175A, 181A, and 181B) are also cable installation plots (Work No. 25). They proceed in a northwest then northerly direction heading towards Martlesham Creek, over predominantly arable land. Rights are sought to effect access to the highway where relevant. Plots 175A, 181A and 181B form temporary access to that area (Work Nos. 26 and 27 respectively). Rights of access are sought over Plot 185 to enable the cable pull-through at Work No. 25. Plot 186 is not used.
- 7.33 Plots 187-198 (Work No. 28) form further cable installation plots running northwards from the west of Glebe House, over Martlesham Creek, beneath the East Suffolk railway line. Rights are sought here for standard cable pull-through works.
- 7.34 Cables will also be pulled through ducts at Plot 197, under the East Suffolk railway line (also part of Work No. 28). The rights sought here are limited to the most minimal set of rights that are considered to enable the installation, retention, and maintenance of the cables. No surface rights, nor any restrictive covenant, is sought to be acquired compulsorily over Network Rail's land.
- 7.35 To the north of the Martlesham Creek, as is standard throughout the cable route, rights are sought to effect access to the highway through these plots where relevant.
- 7.36 Plots 199-218 (excluding plots 205, 210, 212 and 214 which are not used) include powers for cable installation (Work No. 29).
- 7.37 Plots 221, 224, 226, 229 and 240 are required only temporarily for the compound during the construction period (Work Nos. 30, 31 and 32). Those Plots, together with Plots 227, 228, 230, 231, 232 and 238, comprise the temporary construction compound (Work No. 32). Plots 219, 220, 220A, 223, 227, 228, 230, 231, 232 and 238 will be used for standard cable laying (Work Nos. 30 and 32). Plots 225 and 242 are not used.

- 7.38 The next area of cable installation is under the A12 at the Martlesham junction of that road (Work No. 34). The freehold of this land is held by Highways England (Plots 246-248). A worksite will be established at Plot 245 (Work No. 34) and the cables installed, using pull-through methods, under the A12. The nature of the rights requested here are the same limited rights requested for the railway infrastructure, in that no surface rights, nor any restrictive covenant, are sought. Plots 233, 241, 242 and 247 (also Work No. 34) will allow cable installation and form access and accommodation for the work under the A12 and this will be used for construction traffic purposes. Worksite relating to these pull-through works will also be created in Plots 250 and 252 (again, Work No. 34) on the north side of the A12. Plots 235, 236 and 237 and 237A form an access to this (Work No. 33).
- 7.39 Plots 251 and 253-260 (Work No. 35) (excluding Plots 257, 258 and 269A, which form separate but connected access works within Work No. 36 and 37) proceed in a north-easterly then westerly direction from the A12 crossing. Plots 257-258 (Work No. 36) form a permanent access to the cable route from the highway known as Seckford Hall Road to the north (with temporary rights for widening and upgrading of an existing access track, see Schedule 5 for plots 257–258). Plot 259 is not used.
- 7.40 Plots 261-271 (continuation of Work No. 35) (excluding plot 268 which is not used) proceed in a westerly direction towards the Bealings. Plot 269A (Work No. 37) is a permanent access that will be sought (albeit a hard standing would be laid only for the period of the principal construction works or during, maintenance, repair or removal works) from Lodge Road itself to Plot 269 (Work No. 35).
- 7.41 Plots 272-291 (excluding Plot 282 which is not used) are for cable installation, together with restrictive covenants (Work No. 38). The plots form land between Great Bealings and Little Bealings, part of which forms the extended gardens to residential properties. Rights to effect access to the highway are also sought in order to access the land from Plot 273 (also Work No. 38).
- 7.42 From Plot 292 to Plot 347 (where the cable corridor crosses into the District of Mid-Suffolk) the plots proceed in a westerly direction to the north of Tuddenham towards the A14 (across Work Nos. 39, 40, 41, 42, 43, 44, 45, 46 and 47). Plots 292–300 are proposed for cable installation (Work No. 39) with access to the highway where relevant. Plot 301, to the south of Playford Corner, is a construction compound that is required only temporarily (Work No. 40). Plots 302-332 will be subject to standard cable installation, and pass under Butts Road, and parallel to Grundisburgh Road before turning west to Clopton Road and the River Fynn (Work No. 41). Plots 334 and 335 form Work No. 45, with Plot 336 required only temporarily for a construction compound (Work No. 46). Plots 304A (Work No. 42), 311A (Work No. 43) and 315A (Work No. 44) form accesses to Work No. 41. Plot 336 lies to the north of Westerfield Hall. Plots 337–346 (Plots 341-342 not being used) (Work No. 47) extend west then north then west again, under Cockfield Hall Lane, to reach the boundary between Suffolk Coastal District Council and Mid Suffolk Council. A working cable corridor width wider than the usual 75m is sought in respect of

- Plot 340 (Work No. 47) to allow for the safe and efficient installation of the cables under National Grid's overhead power lines. As a result, additional flexibility in the working area is required.
- 7.43 Crossing into the District of Mid-Suffolk, Plots 345-366 (Plot 361 not being used) (Work No. 48) continue to head in a westerly direction, passing through Henley Road towards the A14, which is reached immediately to the north of Progress Works, Old Ipswich Road. Plots 367-384 (excluding Plots 380-381 which are not used) form the worksites and the lands required to install the cables under the A14 (Work No. 49). The land is managed on behalf of the Secretary of State for Transport by Highways England. Discussions have been held with the predecessor to Highways England, the Highways Agency, in relation to the effecting of these works. Construction in this area will be by way of standard cable installation with a surface highway access on to Old Ipswich Road (Plots 369-370).
- 7.44 Plot 385 forms an access route required for access to the worksite and jointing works on the west side of the A14, forming part of Work No. 51, a temporary primary construction consolidation site.
- 7.45 Plot 388, to the south of the A14 is required for a construction compound only (Work No. 51), as is Plot 386 to the north of the permanent cable route (also Work No. 51). Plots 387-390 are proposed for standard cable easements (Work No. 50). Plot 391 forms a temporary access (Work No. 53) to the next cable section, which commences in Plot 392. Permanent rights are sought over this plot to install an access on a temporary basis. Rights to install cables are sought in Plots 392, 397, 399 and 400 (Work No. 52) and permanent access rights are sought over Plots 398, 401, 401A and 401B (Work No. 54) to access the cable corridor. This section of cable installation (Work No. 52) crosses under the River Gipping and the Great Eastern Main Line Railway to the east of Bramford Road. Rights to are sought over Plots 402-403 (Work No. 52) before the cable passes under Bramford Road.
- 7.46 After the cables pass under Bramford Road, rights to install cables are sought over Plots 408-412 in order to route the cables southwards from this area parallel to Bramford Road (Work No. 52).
- 7.47 Permanent rights of cable installation, maintenance, repair and removal are required for Plots 413, 414, 415, 415A and 415B to the west of Bramford Road (the northern section of Work No. 55). These lands will also be used for a worksite for construction purposes. The cable corridor will then proceed southwards from this area parallel to Bramford Road. Plots 416-422 comprise a wider area than would normally be the case (part of Work No. 55). This is because the freehold owner of this land has indicated their intention to develop glasshouses for vegetable cultivation in this area. It is not yet clear where these commercial glasshouses will be constructed, and a wider area has therefore been sought because the cable route may need to diverge or be split. The wider area of Order lands sought are therefore aimed at providing greater flexibility in accommodating the land being used for the project, whilst allowing the intended use of the land by the landowner. Plots 419-421 are not used.

- 7.48 Plots 423A-423G (Work No. 56) form a new access through Dairy Farm and the surrounding buildings to access Work No. 55, and the haul road during construction. Some improvement of the road here may be necessary and as such a permanent right of access, with related rights including to widen the road and lay down hard standings is sought.
- 7.49 From Plots 422-434 (Work No. 55) the cable route proceeds in a south-westerly direction with standard cable easements and restrictive covenants being sought by the Applicant. The cable route passes under Somersham Road and Tye Lane, and then runs parallel to the existing overhead electricity distribution cables that proceed towards the Bramford National Grid Electricity Transmission Plc substation. Plot 429A (Work No. 57) forms an access to Work No. 55. At Plots 435, 438 and 440 at Millers Wood (Work No. 58), a permanent right of access is sought off the cable route at Plots 436, 437 and 439 (Work No. 59).
- 7.50 Plot 441 (Work No. 60) is a permanent access sought to plot 440 (Work No. 58) where jointing works will be located at Millers Wood, heading north from Bullen Lane. Plots 442-450 and 449A (Work Nos. 62 and 64) include permanent rights for the installation of the cables within the ducts, with the area splaying out in Plot 449 to reach the permanent converter station or substation land take and surrounding works. Plots 447 and 448 comprise accesses onto the cable route (Work No. 61A), with Plot 443 reserved for a temporary construction compound (Work No. 61).
- The onshore substation(s) and connection to the National Grid Electricity Transmission PLC network (Works 62-69 Plots 450–471B inclusive)*
- 7.51 Plots 449A and 450–463 (of which only Plots 450, 453, 454, and 457-463 are being used), as well as Plots 454A, 454B and 454C, comprise the areas of land required permanently by East Anglia THREE for the converter station or substation areas and associated landscaping (Work Nos. 62, 63, 64, 65, 67, 68 and 69). A new access will be formed on Plots 449A to 450 (Work Nos. 62 and 63). The substation will be located primarily in Plot 460 (Work No. 67).
- 7.52 Given the degree of interference with the beneficial use of the land that will be caused by the combination of construction of the substation/ converter station, cable laying (by pulling through ducts and by other direct laying methods between the end of the ducts and the East Anglia THREE substation/ converter station), the need for secure compounds and the extent of landscaping and planting required at this point, the Applicant proposes to acquire the freehold of the additional plots to minimise disruption to the landowner and also to allow an extensive programme of landscaping to be carried out.
- 7.53 Plots 464–471 and Plots 471A and 471B (Work No. 66) form the final section of permanent rights for cable installation sought in the Order. They comprise the final connection from the Applicant's substation(s) into the existing Bramford National Grid Electricity Transmission Plc substation. Because there may be a need to lay cables directly between the Applicant's substation(s) and the National Grid substation, the rights sought here allow both for installation of the cables within ducts, and for other types of installation technique.

### Negotiations with affected parties

- 7.54 The Applicant will continue to seek to acquire rights and interests by agreement where possible on appropriate commercial terms. Seeking compulsory acquisition powers whilst, in parallel, negotiations to acquire interests continue is in accordance with both general practice and paragraph 25 of the Guidance. Negotiations are in progress with all landowners, the great majority of whom are also landowners for East Anglia ONE. Negotiations with East Anglia ONE landowners are now well advanced, with commercial terms agreed with all. It is the intention of the Applicant that negotiations to acquire the new East Anglia THREE land, and the new accesses needed for East Anglia THREE, can be covered by amending the negotiated agreements already substantially progressed for East Anglia ONE.
- 7.55 The Applicant's purpose in acquiring the Order Land compulsorily, if required, in accordance with the provisions of the 2008 Act, is to secure the lands and rights required to construct and then operate East Anglia THREE within a reasonable commercial timeframe.
- 7.56 The interests in land affected are described in the Book of Reference and Land Plans. The numbers and letters indicated on the Land Plans are cross-referred to the Book of Reference.
- 7.57 It is to be noted that land has been included in the Order as being scheduled in the Book of Reference even where agreement has been reached. This is to ensure that, if any minor interests such as easements, rights of way, restrictive covenants or similar interests are discovered that have not previously been negotiated away, powers are available to override those interests. It also reflects that minor interests may still be outstanding and not waived and therefore have to be extinguished or overridden by statutory process. In such circumstances a relevant claim may be made and accordingly scheduling of the interests in land is necessary. As a result of the application of the Applicant's statutory powers the beneficiary of an interest will be entitled only to a right to compensation and not to prevent the scheme from proceeding. Including land within the Book of Reference where agreement has been reached will also assist in the event that a negotiated agreement proves difficult to enforce for any reason.
- 7.58 As is noted above negotiations are underway with each of the affected parties at the landfall, along the cable route and at the substation(s) site, and the Applicant continues to seek agreement with all relevant parties. It cannot yet however be anticipated that all of the interests in the Order Land will be acquired within a reasonable commercial timeframe and as a result the compelling case in the public interest for the promotion of the Order, so as to permit the Project to proceed is, it is submitted, in existence and the private interests of the relevant landowners should not take precedence over the compelling public interest.

### Highways subsoil

- 7.59 For all highways subsoil, the interest of the presumed owners has been scheduled in the Book of Reference. The interest of Suffolk County Council as highway authority is also scheduled, but the interest of the highway authority excluded from compulsory acquisition. The Applicant may

also seek to rely on its powers contained in Article 20 of the Order to use the land under the subsoil only and not to acquire any greater interest in that land.

#### Land in Unknown Ownership

- 7.60 There are a number of plots identified in the Book of Reference where it has not been possible to identify ownership. Accordingly notices were posted on site seeking information from the landowner prior to the commencement of the last round of consultation pursuant to section 42 of the 2008 Act. Notices as required under section 48 of the 2008 Act were also posted on site to invite consultation responses from the potential, but unknown, owners or occupiers at the same time as notices were served on known landowners under section 42.
- 7.61 Despite ongoing diligent inquiry, it has not been possible to identify all of the beneficiaries of the many third party interests in the Order lands but the Applicant will continue to attempt to identify the relevant interests where possible.

#### Need for Power to Override Rights and Easements

- 7.62 Numerous rights in the Order Land have been identified and are scheduled in the Book of Reference.
- 7.63 Whilst it is not anticipated that any beneficiaries of these rights will have a relevant claim leading to the payment of compensation it remains possible that the beneficiaries may seek to enforce rights, potentially even by applying to injunct the Project.
- 7.64 The Applicant believes it is both necessary and appropriate for the Order to include provisions allowing for the overriding and/or extinguishment of rights and covenants over the Order Land. It is submitted that the overriding of such rights is in the public interest. Without the ability to extinguish or override such rights the Project may be delayed or prevented. Compensation for any loss that can be demonstrated will be available in accordance with the Statutory Compensation Code. In any event the Applicant will seek to agree (with each of the benefitting parties it can identify) details of how access can be maintained, or substitute access provided, during the short time that construction impacts upon the relevant access where such rights are affected.
- 7.65 Whilst the powers in Article 18 allow for the over-riding or extinguishment of such rights, the Applicant anticipates that it will be able to serve a notice on the majority of the relevant beneficiaries of rights to confirm that, subject to the Applicant having the necessary protections to enable it to construct the works, the rights will not be extinguished. If agreement cannot be reached and extinguishment of rights is necessary the Applicant will offer to re-grant rights on similar terms wherever possible to minimise compensation claims.

#### Alternatives to compulsory acquisition

- 7.66 The Applicant has sought, and continues to seek, a negotiated solution to each of the identified required interests. In each case the Applicant has chosen to secure land or rights in a way that minimises disruption to the relevant owners.



- 7.67 The selection of the landfall, onshore cable corridor and substation / converter station location was determined during the development of the onshore electricity transmission works for the consented East Anglia ONE. From the outset (during the planning for the East Anglia ONE), careful routeing of the onshore electrical transmission works has set out to avoid key areas of sensitivity where possible (for example by burying the cable throughout its length to minimise visual impact; to avoid sensitive land uses such as development land, urban land and residential land, to avoid Sutton Hoo and other known designated archaeological sites and large areas of woodland). This is set out in more detail in the Environmental Statement. The land scheduled in the Book of Reference is necessary and appropriate; there are no other suitable alternatives.
- 7.68 Where land is in unknown ownership and so scheduled in the Book of Reference, the Applicant has not been able to identify the relevant holder of that interest. All identified owners of interests have been approached and agreement is being progressed in every case with landowners, both for the East Anglia ONE land and the additional areas and (where appropriate) additional rights required for East Anglia THREE. Negotiations will continue, but the Applicant believes compulsory acquisition powers can now be justified to ensure that the Project can be developed within a reasonable commercial timescale.

Availability of funds for compensation

- 7.69 The Applicant, East Anglia THREE Limited, is a wholly owned subsidiary of ScottishPower Renewables (UK) Limited (**SPR**). SPR is a subsidiary of ScottishPower Renewable Energy Limited, which in itself is a subsidiary of Scottish Power UK plc (**SPUK**).
- 7.70 SPR and SPUK are part of the Iberdrola group, one of the largest utilities in the world and the leading wind energy producer. Committed to sustainable value creation for all stakeholders, Iberdrola is focused on the Atlantic Area and has a renewables capacity of over 24,900 MW. In addition to a strong global onshore portfolio including Whitelee (the UK's largest onshore windfarm), and investment in the emerging marine energy industry, Iberdrola's global offshore wind business is managed from Glasgow and is currently progressing the development of offshore wind throughout the UK, Germany and France, cementing its position at the forefront of the renewable energy industry.
- 7.71 Details of the proposed funding for the implementation of the Project and the acquisition of land are contained in the Funding Statement (Document 4.2) which accompanies the Application.
- 7.72 In brief, the Applicant has the ability to procure the financial resources necessary to fund the works to be authorised by the Order, subject to final Board authority. These funds will meet the capital expenditure for:
- 7.72.1 The cost of acquiring the land identified in the Order; and
- 7.72.2 The cost of compensation otherwise payable in accordance with the Order.
- 7.73 The Applicant and SPUK intend to shortly enter into the agreement attached to the Funding Statement (the **Agreement**).

- 7.74 In the Agreement, SPUK undertakes to make the payments of agreed or awarded compensation direct to the relevant claimant if the Applicant has not done so.
- 7.75 The Agreement specifically states that the persons of the class specified in the Agreement may, through the provisions of the Contracts (Rights of Third Parties) Act 1999 enforce the obligation upon SPUK to place the Applicant in funds to pay compensation for expropriation, injurious affection and claims under Part 1 of the Land Compensation Act 1973 (the **1973 Act**), if such claims are valid and appropriately made. (It should be noted that the Applicant does not anticipate that any claims under the 1973 Act will arise.)
- 7.76 As a result of this mechanism, the Secretary of State can be assured that sufficient funding for payment of compensation will be available to the Applicant if compulsory acquisition powers are provided in the Order now being sought.

Compelling case in the public interest (section 122(3))

- 7.77 The Applicant considers that, for all of the reasons in the statement, a compelling case in the public interest for powers of compulsory acquisition exists.
- 7.78 The Project will contribute to the national demand for generation of power using renewable energy. The case for this is made out in Government Policy as outlined in the Statement.
- 7.79 The Applicant has sought, and will continue to seek, to negotiate acquisition of interests where possible by voluntary agreement and is seeking appropriate powers to ensure that the Project can be brought forward in a reasonable and commercial time frame.
- 7.80 The Applicant has a well worked up scheme and funding sufficient to take the Project forward.
- 7.81 In summary the Applicant considers the Project to be:
- 7.81.1 In accordance with established and emerging national policy in relation to NSIPs contained in NPS EN-1, NPS EN-3 and NPS EN-5;
  - 7.81.2 Required to meet a pressing national need for electricity generating capacity; and
  - 7.81.3 Entirely necessary and proportionate to the extent that interference with private rights is required.

## 8 Special Considerations affecting the Order Land

### Crown Land

- 8.1 Crown Land is present in respect of land below the mean low water mark at the landfall at Bawdsey (the details of which are to be found in the Book of Reference and associated Land Plans). The Crown's interest cannot be acquired compulsorily, but an interest in land held otherwise than by or on behalf of the Crown may be acquired with the agreement of the appropriate body. These interests are described and illustrated in the Book of Reference as required by the 2008 Act (Plot 1, at the foreshore; and at the River Deben (Plots 64-66) and Martlesham Creek (Plot 190)). The Applicant intends to negotiate to acquire the necessary interests directly with the Crown and does not perceive any obvious impediment to obtaining these interests. Consent under section 135 of the 2008 Act was granted by The Crown Estate Commissioners on the basis of the terms stated in their letter of 27 June 2016 (document reference: Deadline I/DCO ISH/s135 Consent).
- 8.2 The A14 Trunk Road is no longer Crown land. This land is now owned by Highways England. Further land at the A12 highway (formerly trunk road) is also owned by Highways England. The Applicant is holding discussions with Highways England and will in due course seek a licence to install the cables and ducts for East Anglia THREE under the A14 and the A12 highways.

### Special category land – open space

- 8.3 Plots 1 to 7 of the Order Land form part of the beach and foreshore at Bawdsey, East Suffolk. The interests are scheduled in the Book of Reference. Works to install the export cables so they can connect to the transition jointing bay will be carried out by way of pull through. Surface access to the beach may be required for survey and monitoring but will not impede public access.
- 8.4 The Applicant submits that pursuant to section 132(3) of the 2008 Act the land, when burdened with the Order rights, will be no less advantageous than it was before to:
- The persons listed as the freehold and leasehold owners, tenants and occupiers in the Book of Reference (Document 4.3);
  - Any other persons entitled to rights over the beach; and
  - The public.
- 8.5 Accordingly the Secretary of State will be asked to confirm that, pursuant to section 132 of the 2008 Act, he can be satisfied that no exchange land is required. On East Anglia ONE, the Secretary of State confirmed that he was satisfied that:

*"The order land, when burdened with the order right, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common and other rights, and the public".*

The Applicant has provided a separate S132 Statement (Document 4.4) as part of the Application.

#### Statutory Undertakers

- 8.6 Statutory undertakers' operational land may be the subject of special procedures under the 2008 Act.

#### *Section 127 Planning Act 2008*

- 8.7 Section 127 of the 2008 Act applies to statutory undertakers' land held for the purposes of the undertaking if that statutory undertaker has made a representation to its relevant Secretary of State about the proposed development consent order before the completion of the examining authority's examination of the application. If that representation has not been withdrawn; and if that decision-maker is satisfied the land is used for the purposes of the carrying out of the statutory undertaking, then statutory undertakers' land may only be included for acquisition in a development consent order if the Secretary of State is satisfied that the land may be purchased and not replaced without serious detriment to the carrying on of the undertaking or it can be replaced with other land belonging to or available for acquisition by the undertaking without serious detriment to the carrying on of the undertaking. A similar provision applies to the acquisition of new rights over statutory undertakers' operational land.

#### *Section 138*

- 8.8 Section 138 of the 2008 Act is engaged by Article 25 (Statutory undertakers) of the Order. This Article will permit the compulsory acquisition of land or rights of undertakers or enable the Applicant to extinguish or relocate the rights or apparatus of statutory undertakers. Such power may only be included in the Order if the Secretary of State is satisfied the extinguishment or removal is necessary for the Project. If a representation has been made by the relevant undertaker and not withdrawn then section 138(4)(b) requires the undertakers' own Secretary of State to consent to the inclusion of the provision.
- 8.9 Article 25 of the Order is expressed to be subject to protective provisions agreed between the Applicant and the relevant undertakers. Proposed Protective Provisions form Schedule 8 to the Order, to the extent they are required. The Applicant is seeking to agree these provisions in good time before the close of the examination.

- 8.10 Details of the negotiations to date with the affected utilities to which Section 127 and/or Section 138 of the 2008 Act may apply are set out as follows:

#### *National Grid Electricity Transmission plc*

- 8.11 The Applicant has sought to negotiate to acquire the rights over land necessary for the Project from National Grid by private treaty. However, it has not been possible to reach agreement prior to the making of the Application, although the Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.12 The Applicant does not consider it necessary to replace the land over which rights are required for the Project and submits that the interest sought in land can be purchased and not replaced without serious detriment to the carrying on of the National Grid's undertaking.

*Eastern Power Networks plc*

8.13 The Applicant is seeking to negotiate to acquire the rights over land necessary for the Project from Eastern Power Networks plc by private treaty. The Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.14 The Applicant does not consider it necessary to replace the land over which rights are required for the Project and submits that the interest sought in land can be purchased and not replaced without serious detriment to the carrying on of Eastern Power Networks plc's undertaking.

*Anglian Water Services Limited*

8.15 The Applicant has sought to negotiate to acquire the rights over the land necessary for the Project from Anglian Water by private treaty. However, it has not been possible to reach agreement prior to the making of the Application, although the Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.16 The Applicant does not consider it necessary to replace the land over which rights are required for the Project and submits that the interest sought in land can be purchased and not replaced without serious detriment to the carrying on of Anglian Water's undertaking.

*Centrica plc*

8.17 The Applicant has sought to negotiate to acquire the rights over land necessary for the Project from Centrica by private treaty. However, it has not been possible to reach agreement prior to the making of the Application, although the Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.18 The Applicant does not consider it necessary to replace the land over which rights are required for the Project and submits that the interest sought in land can be purchased and not replaced without serious detriment to the carrying on of Centrica's undertaking.

*Thus Limited*

8.19 The Applicant has sought to negotiate to acquire the rights over land necessary for the Project from Thus Limited by private treaty. However, it has not been possible to reach agreement prior to the making of the Application, although the Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.20 The Applicant does not consider it necessary to replace the land over which rights are required for the Project and submits that the interest sought in land can if needed be purchased and not replaced without serious detriment to the carrying on of if Thus Limited's interests.

*Network Rail Infrastructure Limited*

8.21 In order to connect the Project to the National Grid substation at Bramford, it is necessary to install the cables within the pre-installed cable ducts under two railways owned by Network Rail. These are the East Suffolk Railway, North of Martlesham Creek and South of Woodbridge (Plot 197) and the Great Eastern Main Line at Claydon, north of Ipswich (Plot 395).

8.22 The Applicant has sought to negotiate to acquire the rights over land necessary for the Project from Network Rail by private treaty. However, it has not been possible to reach agreement prior to the making of the Application, although the Applicant will continue to progress private treaty negotiations in tandem with the compulsory acquisition process with a view to concluding an agreement as soon as possible.

8.23 In the absence of a private treaty agreement with Network Rail, it is necessary to include Network Rail's land in the Order to ensure that all the land required to deliver the Project can be assembled within the necessary timeframe. It remains the Applicant's preference and intention to acquire the rights by agreement.

8.24 The cable route will be within the pre-existing ducts under the railway line and therefore will cause minimum disruption to Network Rail's operations. The technical details will be discussed and agreed upon with Network Rail during detailed design.

8.25 The Applicant does not consider it necessary to replace the land required for the Project and submits that the interest sought in land can be purchased and not replaced without serious detriment to the carrying on of Network Rail's undertaking.

*Highway Authority*

8.26 Land held by Suffolk County Council as highway authority is also included in the Book of Reference for completeness, although the interest of the highway authority is expressly excluded from compulsory acquisition.

## 9 The Human Rights Act 1998

- 9.1 The European Convention on Human Rights (**Convention**) was incorporated into domestic law by the Human Rights Act 1998. The Convention contains Articles aimed to protect the rights of the individual (referred to as **Convention Rights**).
- 9.2 The provisions of particular relevance to the determination as to whether the Order should include compulsory acquisition powers are:
- 9.2.1 Article 1 of the First Protocol to the Convention
- This protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the relevant national and international laws and principles.
- 9.2.2 Article 6
- This entitles those affected by powers sought for the Project to a fair, public hearing.
- 9.2.3 Article 8
- This protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in the interest of national security, public safety or the economic well-being of the country.
- 9.3 The decision maker, as a public body, is under a duty to consider whether the exercise of its powers engages Convention Rights. The approach to be taken to give effect to rights under the Convention is reflected in the advice in the Guidance.
- 9.4 The Order has the potential to infringe the human rights of persons who hold interests in the Order Land. Such infringement can be authorised by law provided the appropriate statutory procedures for making the Order are followed and there is made out a compelling case in the public interest for the compulsory acquisition and the interference with the Convention Right is proportionate. On the basis of decisions of the courts, the test of proportionality is satisfied if the Order strikes a fair balance between the public benefit sought and the interference with the rights in question.
- 9.5 The Applicant has weighed the potential infringement of Convention Rights in consequence of the inclusion of compulsory powers within the Order with the potential public benefits if the Order is made.
- 9.6 The Applicant considers that there would be significant public benefit arising from the grant of development consent. That benefit is only likely to be realised if the Order includes powers of compulsory acquisition. The significant public benefits on balance outweigh the effects upon persons who own property and rights within the Order Land.

- 9.7 Those affected by compulsory acquisition may claim compensation in accordance with the Statutory Compensation Code. Through its ultimate parent companies, the Applicant has the resources to provide such compensation.
- 9.8 In accordance with Part 5 of the 2008 Act, the Applicant has consulted persons set out in the categories contained in section 44 of the 2008 Act, which include owners of the Order Land and those who may be able to make claims either under section 10 of the Compulsory Purchase Act 1965 or Part 1 of the Land Compensation Act 1973. (No persons were identified in the latter category). All scheduled interests are able to make representations to the Examining Authority and therefore the requirements of Article 6 are met.
- 9.9 Representations can be made in response to any notice given under section 56 of the 2008 Act (notifying persons of accepted application).
- 9.10 Should the Order be made, a person aggrieved may also challenge the Order in the High Court if they consider that the grounds for doing so are made out pursuant to section 118 of the 2008 Act. Affected persons have the right to apply to the Upper Tribunal (Lands Chamber), if compensation is disputed.
- 9.11 The requirements of compensation being payable for the acquisition of any interest are met. Therefore Article 1 of Protocol 1 is not contravened.
- 9.12 For the above reasons, the Applicant considers that the inclusion of powers of compulsory acquisition in the Order would not constitute any unlawful interference with Convention Rights and further that it would be appropriate and proportionate to make the Order, including the grant of powers of compulsory acquisition.



## **10 Other compulsory acquisition powers in the Order**

- 10.1 Regulation 5(2)(h) of the APFP Regulations requires a Statement of Reasons for seeking an Order to authorise “the compulsory acquisition of land or an interest in or right over land”. The question whether such powers should be granted raises questions of need and justification, proportionality, interference with property rights and interests, compensation and access to judicial process.
- 10.2 The precise wording of Regulation 5(2)(h) does not on the face of it extend beyond the outright acquisition of land or interests in or rights over land. This, however, does not capture other compulsory powers sought in the Order which similarly relate to land and will or may interfere with property rights and interests.
- 10.3 The additional powers referred to in above are the following:

### Article 8 (Street works)

- 10.3.1 This article would allow the Applicant to carry out certain specified kinds of works in specified streets.
- 10.3.2 The exercise of the powers in Article 8 could potentially interfere with private rights. The rights in question could be suspended, extinguished or otherwise interfered with. A person suffering loss from this would be entitled to claim compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

### Article 10 (temporary stopping up of streets)

- 10.3.3 This Article would enable the Applicant to temporarily to stop up, alter or divert streets. Any stopping up or other interference could not be for longer than a reasonable time. During that time the Applicant could divert traffic from the street and prevent pedestrian access along it.
- 10.3.4 The general power to prevent pedestrian access would be subject to the obligation to provide reasonable access for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion if there would otherwise be no such access.
- 10.3.5 Powers in Article 10 would be exercisable in respect of the streets or parts of streets specified in Schedule 3 to the Order. With the consent of the street authority the power could also be exercised in respect of any other street.
- 10.3.6 The exercise of Article 10 could potentially interfere with private rights, i.e. rights vested in a person rather than the public at large. In that event the right in question would be suspended. A person suffering loss due to such suspension would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 14 (Authority to survey and investigate land)

- 10.3.7 This article would enable the Applicant, for the purposes of the Order, to enter onto any land shown within the Order limits to survey and investigate the land. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 18 (Private rights)

- 10.3.8 Article 18 provides for the extinguishment of private rights over land subject to compulsory acquisition. The exercise of those powers amounts to an interference with property rights. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition. The Applicant will take particular regard to those rights of access over which the Order lands cross and where possible maintain access at all reasonable times. Where possible the Applicant will reach agreement with the relevant beneficiary of the right or if appropriate serve a prior notice under Article 18(6) of the Order to preserve the right of access. If a right of access is extinguished or overridden, the Applicant will seek to offer a re-grant of that right on similar terms to the affected party following the works being completed, with an appropriate licence for access during the time the works are carried out.

Article 22 (Rights over or under streets)

- 10.3.9 Article 22 would enable the Applicant, where required for the construction of the Project, to use the subsoil of, or airspace over, any highway, i.e. a way of any sort over which the public have a right to pass. The powers would not extend to a subway or underground building or to cellars or similar structures forming part of a building fronting the street, but would nonetheless interfere with property rights. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

Article 23 (Temporary use of land for carrying out the authorised project)

- 10.3.10 Article 23 would enable the Applicant, for the purpose of constructing the Project to take temporary possession of certain land. "Possession" means that the Applicant could occupy and control the land to the exclusion of everyone else.

- 10.3.11 The land to which the Article applies is the land specified in columns (1) to (3) of Schedule 7 to the Order and any other land within the limits of land to be acquired or used (as shown on the land plans) so long as the Applicant has not made a declaration to vest the land in itself or entered the land following a notice of entry in advance of acquisition. The Applicant would have the power to remove buildings and vegetation from the land and construct temporary works (including accesses) and buildings on the land.
- 10.3.12 Before giving up possession of any land the Applicant would be obliged to remove all temporary works and restore the land to its condition immediately before entry, or otherwise to the owner's reasonable satisfaction.
- 10.3.13 The exercise of these powers would interfere with the property rights of owners and occupiers of the land. An owner or occupier suffering loss or damage would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.
- Article 24 (temporary use of land for maintaining the authorised project)
- 10.3.14 Article 24 would enable the Applicant to take temporary possession of certain land at any time during the maintenance period i.e. in relation to any part of the Project, five years from the date on which that part is first opened for use.
- 10.3.15 The land to which Article 24 applies is any land within the limits of land to be acquired or used as regards which possession is reasonably required for the purpose of maintaining the Project.
- 10.3.16 The exercise of the powers would interfere with the property rights of owners and occupiers of the land. An owner or occupier suffering loss or damage would be entitled to claim compensation. The amount of compensation, if not agreed, would be subject to determination in the same way as compensation for outright acquisition.
- Article 32 (Felling or lopping trees and removal of hedgerows)
- 10.3.17 This Article would enable the Applicant to fell or lop any trees or shrubs near any part of the Project so as to prevent the trees or shrubs from obstructing or interfering with the construction, maintenance or operation of the development or which may constitute a danger. A person suffering loss due to such interference would be entitled to compensation. The amount of compensation, if not agreed, would be determined in the same way as compensation for outright acquisition.

## **11 Other consents and licences**

- 11.1 Additional consents and licences are required under other legislation in addition to the Order. These are listed in Document 5.5. The principal consents that might impact on the timetable for the commencement of construction are as follows:
- 11.1.1 European Protected Species Licence – this will be sought from Natural England or the MMO after the Order is made;
  - 11.1.2 Safety Zones – if required, an application will be made to the Secretary of State after the Order is made, under the Energy Act 2004;
  - 11.1.3 Environmental Permits – these may be required, for instance for the discharge of water and the need for these will be reviewed following submission of the Application;
  - 11.1.4 Flood Defence Consent and Land Drainage consent under the Water Resources Act 1991 – both will be sought, where necessary, from the Environment Agency following making of the Order. In addition consents to alter culverts or drains or water courses may be required under the Land Drainage Act 1991. Again these will be sought following making of the Order; and
  - 11.1.5 Removal of vegetation close to or on a riverbank – under section 90A of the Water Resources Act 1991. Consent will be sought from the Environment Agency following making of the Order.
- 11.2 For these consents and the others listed in Document 5.5 it is not envisaged that there will be any undue delay or any obvious reason why consent cannot be forthcoming.

## **12 Conclusions**

- 12.1 The Applicant believes the inclusion of powers of compulsory acquisition in the Order for the purposes of the Project meets the conditions of section 122 of the 2008 Act and the Guidance.
- 12.2 The interests sought are no more than are reasonably required. Other land required to facilitate or land incidental to the Project is no more than is reasonably necessary for that purpose and is proportionate.
- 12.3 The need for the Project and the support for such projects in the relevant NPS' demonstrate a compelling case in the public interest for the required interests to be acquired compulsorily.
- 12.4 All reasonable alternatives to compulsory acquisition have been explored. Given the national and local need for the Project and the support for it found in policy, the land identified by the Applicant for the Project is the only land available for those purposes.
- 12.5 The proposed interference with the rights of those with an interest in the Order Land is for a legitimate purpose and is necessary and proportionate to that purpose.
- 12.6 The Applicant has set out clear and specific proposals of how the Order Land will be used.
- 12.7 The requisite funds are available to meet any costs of land acquisition or amount of compensation payable as a result of the use of powers of compulsory acquisition.
- 12.8 The purpose of powers of compulsory acquisition to be included in the Order justifies interfering with the human rights of those persons with an interest in the land proposed to be acquired.

## **13 Further Information**

### Funding

- 13.1 As outlined in section 6 of this Statement, the Application is also accompanied by a Funding Statement to explain how the proposed compulsory acquisition for which it seeks authorisation in the Order is proposed to be funded.
- 13.2 For the reasons set out above and in the Funding Statement, the availability of funding is not an impediment to the implementation of the Project or any part of it.

### Negotiations with the Applicant

Owners and occupiers of property affected by the Project who wish to negotiate or discuss matters of compensation should contact Keith Morrison of East Anglia THREE Limited on the following details:

Keith Morrison, Scottish Power, 4th Floor, Atlantic Quay, Glasgow G2 8JB.

E: Keith.Morrison@ScottishPower.com

### Compensation

- 13.3 Provision is made by statute with regard to compensation for the compulsory acquisition of land and the depreciation in value of properties. More information is given in the series of booklets published by the Department for Communities and Local Government entitled "Compulsory Purchase and Compensation" listed below:

- Booklet No. 1 - Compulsory Purchase Procedure.
- Booklet No. 2 - Compensation to Business Owners and Occupiers.
- Booklet No. 3 - Compensation to Agricultural Owners and Occupiers.
- Booklet No. 4 - Compensation for Residential Owners and Occupiers.
- Booklet No. 5 - Reducing the Adverse Effects of Public Development: Mitigation Works.

- 13.4 Copies of these booklets are obtainable, free of charge, from:

Communities and Local Government Publications  
Cambertown House  
Goldthorpe Industrial Estate  
Rotherham S63 9BL  
Tel: 0300 123 1124

- 13.5 In addition, the booklets are available to download for free online at:

<http://www.gov.uk/government/organisations/department-for-communities-and-local-government/series/compulsory-purchase-system-guidance>

## Schedule 1

### List of Application Documents

Doc Ref	Document	APFP Ref
<b>1 Application form</b>		
1.1	Cover letter to PINS	5(2)(q)
1.2	Application form	Section 37(3)(b), Planning Act 2008
1.3	Copies of statutory notices published in relation to East Anglia THREE Offshore Windfarm	4(2) and 5(2)(q)
<b>2 Plans</b>		
2.1	Location plan	5(2)(o)
2.2	Land plan	5(2)(i)
2.3	Special category and plan	5(2)(i)
2.4	Works plan	5(2)(j)
2.5	Access to Works Plan	5(2)(k)
2.6	Temporary stopping up of public rights of way plan	5(2)(k)
2.7	Plan of statutory/non-statutory sites or features (nature conservation)	5(2)(l)
2.8	Plan of statutory or non-statutory historic or scheduled monument sites	5(2)(m)
2.9	Plan showing any Crown land	5(2)(n)
2.10	Important Hedgerows plan	5(2)(o)
2.11	Radar line of sight coverage plan	5(2)(o)
2.12	East Anglia ONE and East Anglia THREE offshore overlay plan	5(2)(o)

Doc Ref	Document	APFP Ref
<b>3 Development Consent Order</b>		
3.1	Draft proposed Development Consent Order	5(2)(b)
3.2	Explanatory memorandum	5(2)(c)
<b>4 Compulsory Acquisition Information</b>		
4.1	Statement of Reasons	5(2)(h)
4.2	Funding Statement	5(2)(h)
4.3	Book of Reference (parts 1 to 5)	5(2)(d)
4.4	Section 132 Statement	Section 132, Planning Act 2008
<b>5 Reports and Statements</b>		
5.1	Consultation Report	Section 37(3), Planning Act 2008
5.2	Consultation Report Appendices	Section 37(3), Planning Act 2008
5.3	Statement of Engagement with Section 79(1) of the Environmental Protection Act 1990	5(2)(f)
5.4	Habitats Regulations Assessment Report	5(2)(g)
5.5	Consents and licences required under other legislation	5(2)(q)
<b>6 Environmental Statement</b>		
6.1	Environmental Statement	5(2)(a)
6.2	Environmental Statement Figures	5(2)(a)
6.3	Technical Appendices	5(2)(a)
6.4	Non-technical Summary	5(2)(a)
6.5	Scoping Opinion	5(2)(a)
6.6	Scoping Opinion	5(2)(a)



<b>Doc Ref</b>	<b>Document</b>	<b>APFP Ref</b>
6.7	Schedule of Mitigation (Onshore)	5(2)(q)
6.8	Schedule of Mitigation (Offshore)	5(2)(q)
<b>7 Additional information for specific types of infrastructure</b>		
7.1	Cable Statement	6(b)(i)
7.2	Safety Zone Statement	6(b)(ii)
<b>8 Other documents</b>		
8.1	Outline code of construction practice	5(2)(q)
8.2	Planning Statement	5(2)(q)
8.3	Design and Access Statement	5(2)(q)
8.4	Outline written scheme of investigation: Archaeology and Cultural Heritage (onshore)	5(2)(q)
8.5	Outline written scheme of investigation: Archaeology and Cultural Heritage (offshore)	5(2)(q)
8.6	Outline landscape and ecological management strategy	5(2)(q)
8.7	Outline traffic management plan	5(2)(q)
8.8	Outline travel plan	5(2)(q)
8.9	Outline access management plan	5(2)(q)
8.10	Outline offshore operations and maintenance plan	5(2)(q)
8.11	Outline navigation monitoring strategy	5(2)(q)
8.12	In principle monitoring plan	5(2)(q)
8.13	Draft Great Crested Newt licence application	5(2)(q)
8.14	Health Impact Review	5(2)(q)
8.15	Draft Marine Mammal Mitigation Protocol	5(2)(q)
8.16	Outline Temporary Works Reinstatement Plan	5(2)(q)
8.17	Offshore Construction Environmental Management Plan	5(2)(q)

Doc Ref	Document	APFP Ref
8.18	Site Characterisation Report	5(2)(q)