



East Anglia ONE North Offshore Wind Farm and East Anglia TWO Offshore Wind Farm

Agendas for Issue Specific Hearings 1 (ISHs1): Biodiversity and Habitats Regulations Assessment

Date: **Tuesday 1 December 2020**

Arrangements Conference: **9.30am**

Participants must join the Arrangements Conference in order to register and be permitted access to the virtual Issue Specific Hearing.

Hearing start time: **10.00am**

Venue: **Virtual hearings via Microsoft Teams**

Full instructions on how to join online or by phone will be sent to parties registered to attend, shortly before the hearings.

Hearings Guidance: Please see Annex A of these Agendas.

Invited Participants:

The ExAs invite participation by:

- the Applicants;
- Natural England (NE);
- Marine Management Organisation (MMO);
- Suffolk County Council (SCC);
- East Suffolk Council (ESC);
- Suffolk Wildlife Trust (SWT);
- The Wildlife Trusts (TWTs);
- Royal Society for the Protection of Birds (RSPB);
- Whale and Dolphin Conservation (WDC);



- Suffolk Coast and Heath AONB¹ Partnership;
- Substation Action Save East Suffolk (SASES)
- Suffolk Energy Action Solutions (SEAS); and,
- Save Our Sandlings (SOS).

Invitees are requested to contact the Planning Inspectorate by **noon on Thursday 26 November 2020** to confirm their attendance.

¹ AONB – Area of Outstanding Natural Beauty



Agendas for ISHs1 – Tuesday 1 December

9.30am	Arrangements Conference
	Registration by the case team

10.00am	Issue Specific Hearings 1
1.	Welcome, introductions and arrangements for these Issue Specific Hearings 1
2.	The Applicants' approach to Habitats Regulations Assessment (HRA) considerations a. For each of the proposed developments, the ExAs will ask the Applicant to present a brief summary of its understanding of the European sites, features and nature of potential effects for which its conclusion of no adverse effect on integrity is currently not agreed with Natural England (as the statutory nature conservation body). b. The ExAs will invite Natural England to confirm whether the Applicants' summaries at item (a) reflect its own understanding of the status of agreements. c. The Applicants will be provided with a right of reply.
3.	Effects on Offshore Ornithology (including HRA considerations) Questions will focus on the areas in which findings about effects are not agreed between the main parties.



a. Red-Throated Diver of the Outer Thames Estuary Special Protection Area (SPA)

- The ExAs will ask the Applicants to provide a brief update on any progress in discussions on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement.
- The ExAs will ask the Applicants to explain their position in relation to further project-level mitigation if needed, such as that suggested in the relevant representations of Natural England [RR-059].
- Natural England and any other relevant participants will be invited to comment.
- The ExAs may ask questions about the Project Environmental Management Plan (PEMP) and the In-Principle Monitoring Plan (IPMP).

b. Flamborough and Filey Coast SPA

- In relation to Kittiwake, Gannet, Guillemot, Razorbill and the seabird assemblage, the ExAs will ask the Applicants to provide a brief update on any progress in discussions on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement.
- The ExAs will ask questions about the Applicants' Offshore Ornithology Cumulative and In-Combination Collision Risk Update [REP1-047] and responses to it received at Deadline 2, including those of Natural England.
- The ExAs will explore views about the potential implications for the East Anglia ONE North and East Anglia TWO assessments of the identification by the Hornsea Project Three Offshore Wind Farm project of the Lowestoft-Aldeburgh coast as one of two 'search zones' for the siting of artificial nest structures as part of its proposed kittiwake compensation measures.
- Natural England and any other relevant participants will be invited to comment.

c. Lesser Black-Backed Gull of the Alde-Ore Estuary SPA

- The ExAs will ask the Applicants to provide a brief update on any progress in discussions on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement.
- The ExAs will ask any questions about the Applicants' Offshore Ornithology Cumulative and In-Combination Collision Risk Update [REP1-047] (including changes to the Lesser Black-Backed Gull apportioning methodology for the Alde-Ore Estuary SPA), and responses to it received at Deadline 2, including that of Natural England.
- Natural England and any other relevant participants will be invited to comment.



	<p>d. <i>Further mitigation, assessment of alternatives, assessment of IROPI and examination contingencies</i></p> <ul style="list-style-type: none">• The ExAs will explore any scenarios in which a need may arise to identify and secure further HRA mitigation measures, or to engage with HRA Stages 3 and 4², including examining a possible need to set out an assessment of alternative solutions and a case justifying Imperative Reasons of Overriding Public Interest (IROPI) and (where relevant) compensation.• Natural England and any other relevant participants will be invited to comment. <p>e. <i>Monitoring</i></p> <ul style="list-style-type: none">• The ExAs will explore the proposed pre-construction and post-construction offshore ornithological monitoring to be secured within the draft DCOs and/or DMLs, including revisions expected at Deadline 3.• Natural England, the Marine Management Organisation and any other relevant participants will be invited to comment. <p>f. <i>Other offshore ornithological matters</i></p> <ul style="list-style-type: none">• The ExAs will ask the Applicants and Natural England for an update on the status of agreement on the outcomes of the Environmental Impact Assessment (EIA) with regard to offshore ornithological matters.• The ExAs may ask any other questions arising in relation to offshore ornithology matters.• The ExAs will invite submissions from any attendees who may wish to raise other matters in relation to offshore ornithological considerations. <p>g. The Applicants will be provided with a right of reply.</p>
<p>4.</p>	<p>Effects on Marine Mammals (including HRA considerations)</p> <p>Questions will focus on the areas in which findings about effects are not agreed between the main parties.</p> <p><i>a. Harbour porpoise of the Southern North Sea SAC</i></p>

² See Planning Inspectorate [Advice Note 10](#).



	<ul style="list-style-type: none">• The ExAs will ask the Applicants to provide a brief update on any progress in discussions on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement.• The ExAs will explore views about the potential disturbance effects of each project alone (construction, operation and decommissioning stages) with regard to underwater noise impact thresholds on the Southern North Sea SAC.• The ExAs will explore issues relating to the potential disturbance effects of each project in-combination with other plans and programmes, including updated assessments submitted at Deadline 1 [REP1-038], and any responses submitted at Deadline 2.• Natural England, the Marine Management Organisation, The Wildlife Trusts and any other relevant participants will be invited to comment. <p><i>b. Unexploded Ordnance (UXO) clearance</i></p> <ul style="list-style-type: none">• The ExAs will explore issues relating to the proposed approach of including UXO clearance activities within the Deemed Marine Licences.• Natural England, the Marine Management Organisation, The Wildlife Trusts and any other relevant participants will be invited to comment. <p><i>c. Mitigation and monitoring</i></p> <ul style="list-style-type: none">• The ExAs will raise any questions relating to the content of the draft In-Principle Site Integrity Plans and how they would be secured by the provisions of the DCO/DMLs.• The ExAs will explore matters in relation to the draft Marine Mammal Mitigation Protocols and how they would be secured by the provisions of the DCO/DMLs.• Natural England, the Marine Management Organisation, The Wildlife Trusts and any other relevant participants will be invited to comment. <p><i>d. Other marine mammal matters</i></p> <ul style="list-style-type: none">• The ExAs may ask other questions in relation to marine mammals matters.• The ExAs will invite submissions from any attendees who may wish to raise other matters in relation to marine mammal considerations. <p>e. The Applicants will be provided with a right of reply.</p>
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<p>5.</p>	<p>Effects on Subtidal and Intertidal Benthic Ecology</p> <p>Questions will focus on the areas in which findings about effects are not agreed between the main parties.</p> <p><i>a. Outer Thames Estuary Special Protection Area (SPA) as a supporting habitat for qualifying features</i></p> <ul style="list-style-type: none">• The ExAs will ask the Applicants to provide a brief update on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement• The ExAs will ask Natural England and the Marine Management Organisation to confirm whether the Applicant’s update reflects their own understanding of the status of agreements.• The ExAs will explore concerns raised by Natural England of the impact of sandwave levelling and cable protection on features of the Outer Thames Estuary SPA. <p><i>b. Sabellaria spinulosa</i></p> <ul style="list-style-type: none">• The ExAs will ask the Applicants, Natural England and the Marine Management Organisation to provide a brief update on any work ongoing to address outstanding areas of disagreement on the Outline Sabellaria Reef Management Plan [REP1-044]. <p>c. The Applicants will be provided with a right of reply.</p>
<p>6.</p>	<p>Effects on Terrestrial Ecology</p> <p><i>a. Nightjar and Woodlark of the Sandlings SPA</i></p> <ul style="list-style-type: none">• The ExAs will ask the Applicants to provide a brief update on HRA findings since Deadline 2 and any work ongoing to address outstanding areas of disagreement.• The ExAs will ask Natural England to confirm whether the Applicant’s update reflects its own understanding of the status of agreements.• The ExAs will explore the SPA crossing method and habitat reinstatement with the Applicants, Natural England, the Councils, interest groups and any other relevant participants with particular regard to outstanding concerns raised by Natural England at Deadline 1 [REP1-163] and at Deadline 2.



	<p><i>b. Onshore ornithology and other terrestrial ecology</i></p> <ul style="list-style-type: none">• The ExAs will ask the Applicants for an update on the status of agreement on the content of the Environmental Statement with regard to onshore ornithological matters and other terrestrial ecology, including but not limited to:<ul style="list-style-type: none">- Turtle dove mitigation- Nightingale mitigation- Hundred River crossing- Leiston to Aldeburgh SSSI- Protected species- Trees and woodland- Ecological enhancement- Pre-construction surveys- Cumulative/in-combination effects – projects scoped in and update following submission of the application for the Sizewell C Project.• Natural England, the Councils, interest groups and any other relevant participants will be invited to comment. <p>c. The Applicants will be provided with a right of reply.</p>
<p>7.</p>	<p>Any other business relevant to the Agenda</p> <p>The ExAs may raise any other topics bearing on biodiversity and HRA as is expedient, having regard to the readiness of the persons present to address such matters.</p> <p>The ExAs may extend an opportunity for participants to raise matters relevant to the topic of these hearings that they consider should be examined by the ExAs.</p> <p>If necessary, the Applicants will be provided with a right of reply.</p>



8.	Procedural decisions, review of actions and next steps The ExAs will review whether there is any need for procedural decisions about additional information or any other matter arising from Agenda items 2 to 7. To the extent that matters arise that are not addressed in any procedural decisions, the ExAs will address how any actions placed on the Applicants, Interested Parties or Other Persons are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in these hearings. A written action list will be published if required.
9.	Closure of the hearings



Annex A

Guidance about participating in Issue Specific Hearings

Joining as a speaker

The speakers invited to each session of each hearing are listed on page 1 of this Agenda.

If your name is listed for a hearing, please join the Arrangements Conference for that hearing, at the time specified on page 1 of the Agenda. This enables arrangements to be explained and hearings to make a prompt start.

You will receive instructions on how to join the hearing in a separate email, in advance of the event (at least 48 hours). This email will also explain what to do if you have difficulties getting connected.

Joining as an observer

If you are an Interested Party (IP) and you asked to observe, you will receive:

- a link to a livestream to watch the hearings in real time; or
- a link to the recordings of the hearings after they have concluded.

Members of the public can view and listen to the hearings on the National Infrastructure Planning Website using a livestream or a recording after they have concluded.

Frequently Asked Questions

To help you participate effectively, we have published frequently asked questions (FAQs) on virtual events. This includes an explanation as to why these hearings are being held virtually in light of the Coronavirus public health provisions:

- [Frequently Asked Questions](#) v2.1

These provide information about Microsoft Teams (the system used by the Planning Inspectorate to conduct hearings over the internet) and the digital devices and phones that can be used to join the hearing. Please read the FAQs before you join your hearing as they will help you to prepare and get the best out of your participation. Particular attention is drawn to the FAQ advice 'How do I protect my privacy in Virtual Events' and to Annex H to the Rule 6 Letters, which varies the Planning Inspectorate's National Infrastructure Privacy Policy for virtual events.

Participation, conduct and management of Issue Specific Hearings

Participation by speakers

The business of an ISH is limited to the matters identified in the Agenda. Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExAs. It is strongly preferable that any such issues arising from IPs are brought to an Open Floor Hearing (OFH) where there



is no subject matter Agenda and IPs may raise any important and relevant matter.

Any IPs or Other Persons who are not listed as invitees to an ISH but who wish to participate in it should contact the Planning Inspectorate by **noon on Thursday 26 November 2020**. A request to be heard should outline the items on this agenda on which they wish to speak and provide a summary of the issues that they wish to raise.

Participation is subject to the ExAs' power to control the hearings. Hearings will be managed in the interests of ensuring that the submissions of invited persons are fully heard within the allotted time.

Participants may be legally represented if they wish, but the hearings will be conducted to ensure that legal representation is not required. Parties may attend with expert advisers relevant to matters covered within these agendas, but may equally participate without expert advice if they so wish.

Management of ISHs

Guidance under the Planning Act 2008 (as amended) (PA2008)³ and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that the ExAs will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearings will be led by the ExAs.

Cross-questioning is regulated by the ExAs and is only seldom employed at hearings. Cross questioning of a person giving evidence by another person will only be permitted if the ExAs decide it is necessary to ensure that representations are adequately tested or to ensure a person has had a fair chance to put their case.

The agendas may be amended by the ExAs at the start of the hearings. Furthermore, the ExAs may wish to raise matters arising from oral submissions, and Relevant Representations (RRs), and pursue lines of inquiry in the course of the discussions which are not listed on the agendas.

The hearings will run until the ExAs are content that all matters on the agendas have been addressed. To avoid virtual event fatigue, session breaks will be provided after approximately 90 minutes of business, subject to ExA discretion. We anticipate closing ISH1 by approximately 1.00pm.

All participants are advised that any new evidence presented orally at these hearings should be included in post-hearing submissions including written submissions of oral case and submitted at the next relevant deadline for the application to which it relates, in order to ensure that it has been recorded accurately.

³ 'Planning Act 2008: Guidance for the examination of applications for development consent', (DCLG March 2015).

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf



Contingencies

If a hearing is unable to proceed for technical reasons, then the ExAs may adjourn incomplete business to reserved hearing time on Friday 4 December 2020, from 10am. Notice of any adjournments will be provided in the banners on the National Infrastructure Planning Website for each Application. If the hearings proceed without disruption, then these reserved hearings will not proceed.

Relationship between ISHs for East Anglia ONE North and East Anglia TWO

ISH1 for the East Anglia ONE North application is being held at the same time, date and place as ISH1 for the East Anglia TWO application. The two hearings will take place as a single event and a single agenda has been prepared to cover both hearings. The same is true of ISHs2.

Should the ExAs need to hear evidence relating to only one or other of the applications, this can be managed during the course of proceedings.

More information about how the ExAs are managing the relationship between the application for East Anglia ONE North and the application for East Anglia TWO can be found in our [Frequently Asked Questions](#).