



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

Agenda for Compulsory Acquisition Hearings 1 (CAHs1): The Applicant's Strategic Case

- Date and time:** **Tuesday 1 December 2020 at 2pm**
This agenda applies to each project separately, but the case for each project will be heard at the same time using the same agenda.
- Venue:** **Virtual hearings via Microsoft Teams**
Full instructions on how to join online or by phone will be sent to participants shortly before the hearings.
- Arrangements Conference:** **1.40pm**
Participants must join the Arrangements Conference in order to register and be admitted to the hearings in good time for a prompt start.
- Hearing start time:** **2.00pm**
- Purpose:** To enable the ExA for each application to examine the Applicant's strategic case for compulsory acquisition (CA) and temporary possession (TP). A second pair of hearings (CAH2) will be held in early 2021 to hear persons affected by the CA and TP proposals.
- Hearing guidance:** please see **Annex A** to this agenda
- Participants:** It would assist the ExA if the following persons attend and participate:
- the Applicants;
 - Suffolk County Council (SCC);
 - East Suffolk Council (ESC);
 - Anglian Water Services Ltd;



- Cadent Gas Ltd;
- EDF Energy Nuclear Generation Ltd;
- EDF (NNB Generation Co Ltd);
- Michael Mahony
- National Grid ESO (NG ESO);
- National Grid Electricity Transmission (NGET);
- National Grid Ventures (NGV);
- Network Rail Infrastructure Ltd;
- NNB Generation Co (SZC) Ltd;
- Office for Nuclear Regulation; and
- Any other persons whose land and/or rights are affected and who wish to object to either or both applications **on the basis that the Applicants have not complied with the relevant legal tests, policy and guidance** in respect of the Applications in general.

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



Agenda for CAHs 1 - Tuesday 1 December

1.40pm	Arrangements Conference
	Registration by the case team

2.00pm	Compulsory Acquisition Hearings 1
1.	Welcome, introductions and arrangements for these Compulsory Acquisition Hearings 1
2.	ExAs' opening remarks – the purposes of the hearings To enable the ExA for each application to examine the Applicant's strategic case, and whether the relevant legal tests, policy and guidance have been addressed: in particular, the ExA will inquire into the following for each application: <ul style="list-style-type: none">• The Applicant's strategic case for compulsory acquisition (CA) and temporary possession (TP) of land and/or rights;• Requests by the Applicant for additional land and/or rights;• Application of the Compulsory Acquisition Regulations and consequent effects on the timetable(s) for the examination of either or both applications;• The compulsory acquisition and related provisions as presented within the draft Development Consent Order (DCO);• Whether the conditions relating to the land being required for each proposed development, or required to facilitate or be incidental to each proposed development, are met; and



	<ul style="list-style-type: none">• Whether there is a compelling case in the public interest for the compulsory acquisition provisions overall (noting that no judgement will be made on this matter pending the hearing of individual CA and TP objections at CAHs2).
3.	The Applicant's strategic case <ul style="list-style-type: none">• For compulsory acquisition (CA) of land and/or rights; and• For temporary possession (TP) of land and/or rights.
4.	Alternatives and design flexibility <p>The Applicants to present the approach taken to the projects' onshore components and explain the need to acquire the land and rights sought for:</p> <ul style="list-style-type: none">• Landfall;• Cable alignments, including the use of temporary possession;• Each project's onshore substation, including landscaping; and• The National Grid connection substation, including the need for land and rights in respect of both this and the other East Anglia application together, where only one project is consented, and in respect of other projects with agreements to connect at Friston, and the associated landscaping in each case.
5.	Additional land and/or rights <p>Reference will be made to the Applications for the Inclusion of Additional Land [REP1-037] and to the Book of Reference (BoR) [REP1-015]:</p> <ul style="list-style-type: none">• The Applicants to confirm a request for the inclusion of additional land, that it is sufficient and that PA2008 s123(4) and the Compulsory Acquisition Regulations 2010 are engaged;• The Applicant to confirm that the BoR is up to date;• The Applicant to explain how the requirements of the Compulsory Acquisition Regulations 2010 have been or will be met;• The case for temporary possession of additional land at plot 8A in connection with a temporary water supply connection to work no 8;



	<ul style="list-style-type: none">• The case for temporary possession of additional land at plot 31 to facilitate the temporary diversion of PRoW E-363/027/0 at work no 15;• The case for additional land to be acquired freehold at plot 130 in connection with a temporary diversion of ProW E-363/027/0 at work no 33 to the south west of High House Farm;• The case for both temporary possession and permanent rights over additional land at plots 104, 104A, 104B, 104C to provide an alternative route for a surface water outfall connection between each onshore substation and the National Grid substation, and the Friston watercourse at Church Road; and• What effects the proposed changes may have on the timetable(s) for the examination of either or both applications.
6.	<p>The compulsory acquisition and related provisions as presented within the draft Development Consent Orders (dDCOs) and Land Plans</p> <p>Reference will be made to the dDCOs [APP-023] and the onshore Land Plans [REP1-004]:</p> <ul style="list-style-type: none">• In respect of CA and TP powers whether there are any material differences between the two DCOs;• Which articles engage compulsory acquisition (CA) and temporary possession (TP) powers;• How the dDCO relates to the other East Anglia dDCO in the various possible consent, construction and operational programme situations, including the need for a 70m wide cable corridor for each project, the transfer to National Grid (NG), and whether or not the NG substation is to be treated as a separate NSIP;• How each dDCO will operate in the context of other nearby projects, including other projects with agreements to connect at Friston, and the Sizewell C project, in the various possible consent, construction and operational programme situations;• Whether the dDCOs exclude the application of a compensation provision or modify it beyond what is necessary to enable that provision to be applied;• Whether protective provisions are in a satisfactory form and one that is agreed with the relevant parties, including in respect of the other East Anglia applicant;• Article 6 (application of legislative provisions); whether to include elements of the approach to temporary possession set out in the Neighbourhood Planning Act 2017; and• Article 19 (time limit for exercise of compulsory acquisition powers); justification for period of seven years;• Article 26 (temporary use of land); whether the draft DCOs provide clarity for landowners in a scenario where either or both projects are delivered in phases and/or to different programmes; and



	<ul style="list-style-type: none">• Any other relevant matters relating to the articles.
7.	<p>Statutory conditions and general principles</p> <ul style="list-style-type: none">• The Applicants to confirm that the application includes a request for compulsory acquisition in accordance with PA 2008 s123(2);• The Applicants to set out briefly whether the purposes for which the compulsory acquisition (CA) powers are sought comply with s122(2) of PA 2008;• Whether consideration has been given to all reasonable alternatives to compulsory acquisition (CA) and temporary possession (TP);• Whether the rights to be acquired, including those for temporary possession (TP), are necessary and proportionate; and• Whether, in accordance with s122(3) of PA 2008, there is a compelling case in the public interest for the compulsory acquisition proposed, both in relation to the need in the public interest for the project to be carried out and in respect of the private loss to those affected.
8.	<p>Review of the CA Schedule and related matters</p> <p>Reference will be made to the Schedule of CA and TP Objections [REP1-122], the Notice of Intent to Make Non-Material or Material Changes [REP1-039], the Onshore Land Plan [REP1-004] and the Land Plan (Offshore) [AS-002]:</p> <ul style="list-style-type: none">• The Applicants to summarise outstanding objections and progress on negotiations on alternatives to compulsory acquisition (CA);• The Applicants to advise whether any further changes are required to the Order limits for either or both projects; and• The Applicants to advise, where there is currently a choice of cable alignment offshore, which alignment is preferred and will be taken forward.
9.	<p>Funding</p> <ul style="list-style-type: none">• Reference will be made to the Funding Statement and appendices [REP1-008 to 014]



	<ul style="list-style-type: none">• The Applicants to present briefly the current situation in respect of options currently available including power purchase agreements, Contracts for Difference (CfD), CfD caps and the expected pipeline bidding for CfD in 2021 and subsequently;• any updates to the Funding Statement, including parent company guarantees and the costs of acquisition of land and rights; and• Guarantee or alternative form of security.
10.	<p>Statutory undertakers, the Crown and public open space</p> <p>Reference will be made to the Applicants' responses on statutory undertakers ExQ1.3.4 [REP1-124] and to ExQ1.3.5 [REP1-125]</p> <ul style="list-style-type: none">• The current position in respect of s127 and s138 including representations made and whether there are any remaining which have not been withdrawn; and• Any other relevant outstanding matters. <p>Reference will be made to the Applicants' responses on Crown Land to ExQ1.3.3 [REP1-123]</p> <ul style="list-style-type: none">• The Applicant to confirm that there is no Crown land affected by either application.• The Applicant to confirm that there is no public open space affected by either application.
11.	<p>Human rights and the Public Sector Equality Duty (PSED)</p> <ul style="list-style-type: none">• Article 1 of the First Protocol to the European Convention on Human Rights (ECHR);• Article 6 of the ECHR;• Article 8 of the ECHR;• The degree of importance to be attributed to the existing uses of the land which is to be acquired;• The weighing of any potential loss of ECHR rights against the public benefit if either or both DCOs are made; and• The PSED.



12.	Any other business relevant to the Agenda The ExAs may raise any other topics bearing on the Applicants' strategic case for CA and/ or TP as is expedient, having regard to the readiness of the persons present to address such matters. 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.
13.	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 12. 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.
14.	Closure of the hearings



Guidance about Compulsory Acquisition 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 Compulsory Acquisition Hearings

Participation by speakers

Compulsory acquisition hearings are only for those whose land and/ or rights are directly affected. This may include persons not listed in either Book of Reference



but who have applied for and been granted Interested Party status under section 102 of the Planning Act 2008.

The Examining Authorities (ExAs) have considered carefully all representations made by Affected Persons and have decided to hold two pairs of Compulsory Acquisition Hearings in each Examination.

These are the first CAHs to be held in these Examinations. They are being held because the ExAs wish to question the Applicants about the strategic case for compulsory acquisition and temporary possession for each of the applications. They are not the place for individual objections to be heard.

Affected Persons may request to be heard at these first, strategic, hearings (CAHs1), but only on the basis that the Applicants have not complied with the relevant legal tests, policy and guidance in respect of the Applications in general. Those wishing to be heard at CAHs1 should have requested to be heard by Deadline 1, 2 November 2020.

There will be second hearings (CAHs2) in respect of both applications. These second hearings will be held to allow individual objections by Affected Persons relating to individual parcels of land and/or interests in land to be heard. Depending on the numbers of Affected Persons with individual objections requesting to be heard, these hearings may be held as a single session, or as several sessions. The ExAs will ensure that there is enough time set aside at the second hearings for all Affected Persons who notify us that they wish to speak to be heard.

Those permitted to speak at CAHs2 and who wish to be heard should request to be heard by Deadline 3, 15 December 2020.

If you are not presently listed in either Book of Reference and have not been granted Interested Party status under section 102 of the Planning Act 2008 but think that your land or rights may be directly affected, you may apply to be included and to speak at a compulsory acquisition hearing.

If you are not an Affected Person but want to object to the Applications more broadly, then you should request to be heard at an Open Floor Hearing.

Participation is subject to the ExAs' power to control the hearings. Hearings will be run so as to ensure that all submissions from those participating are fully heard within the allotted time.

Participants may be legally represented if they wish, but the hearings will be conducted so as to ensure that legal representation is not required. The Applicants and others permitted to speak may attend with relevant expert advisers, but others permitted to speak may participate on an equal basis without expert advice if they wish.



Management of CAHs

Guidance under the Planning Act 2008 (as amended) (PA2008)¹ and the Infrastructure Planning (Examination Procedure) Rules 2010 provide 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 that all persons have had a fair chance to put their case.

This agenda 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 written representations and to pursue lines of inquiry in the course of the discussions which are not listed on the agenda.

The hearings will run until the ExAs are content that all matters on the agenda have been addressed. To avoid virtual event fatigue, session breaks will be provided after approximately 90 minutes of business, subject to ExA discretion. Additional breaks may be taken during proceedings if required to enable the ExAs to deliberate on any matters arising. We anticipate closing CAHs¹ by approximately 5.00pm.

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.

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 CAHs for East Anglia ONE North and East Anglia TWO

CAH1 for the East Anglia ONE North application is being held at the same time, date and place as CAH1 for the East Anglia TWO application. The two hearings

¹ '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



will take place as a single event and a single agenda has been prepared to cover both hearings. The same is true of CAHs².

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](#)².

² https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-002443-EA2_Rule%208%20FAQs%20FINAL%20v2_1.pdf