



**SCOTTISHPOWER  
RENEWABLES**

# **East Anglia ONE North and East Anglia TWO Offshore Windfarms**

## **Submission of Oral Case**

### **Compulsory Acquisition Hearing 1 on 1<sup>st</sup> December 2020: The Applicant's Strategic Case**

Applicants: East Anglia TWO Limited and East Anglia ONE North Limited

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**Applicable to East Anglia ONE North and East Anglia TWO**



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## Glossary of Acronyms

BEIS	Department for Business, Energy and Industrial Strategy
DCO	Development Consent Order
ExA	Examining Authority
ISH	Issue Specific Hearing
MMO	Marine Management Organisation
NE	Natural England
NPS	National Policy Statement
RSPB	Royal Society for the Protection of Birds
SoCG	Statement of Common Ground



## Glossary of Terminology

Applicants	East Anglia ONE North Limited and East Anglia TWO Limited
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
National Grid infrastructure	A National Grid substation, cable sealing end compounds, cable sealing end (with circuit breaker) compound, underground cabling and National Grid overhead line realignment works to facilitate connection to the national electricity grid, all of which will be consented as part of the proposed East Anglia TWO project Development Consent Order but will be National Grid owned assets.
National Grid substation	The substation (including all of the electrical equipment within it) necessary to connect the electricity generated by the proposed East Anglia TWO / East Anglia ONE North project to the national electricity grid which will be owned by National Grid but is being consented as part of the proposed East Anglia TWO project Development Consent Order.
Projects	The East Anglia ONE North project and the East Anglia TWO project.



# 1 Introduction

1. This document is applicable to both the East Anglia ONE North and East Anglia TWO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23 December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again.
2. Compulsory Acquisition Hearing 1 for the East Anglia ONE North Offshore Windfarm and East Anglia TWO Offshore Windfarm Development Consent Order (DCO) Applications (references EN010077 and EN010078, respectively) were run jointly and took place virtually on 1<sup>st</sup> December 2020 at 2:00pm.
3. The Hearing ran through the items listed in the agendas published by the ExA on 24 November 2020. The Applicants gave substantive oral submissions at the Hearings and these submissions are set out within this note.
4. Speaking on behalf of the Applicants were:
  - a. Mr Colin Innes, partner at Shepherd and Wedderburn LLP;
  - b. Mr Stephen Hubner, partner at Shepherd and Wedderburn LLP;
  - c. Miss Stephanie Mill, senior associate at Shepherd and Wedderburn LLP;
  - d. Mr Brian McGrellis, onshore consents manager for the East Anglia TWO and East Anglia ONE North projects;
  - e. Mr Kieran Mirner, senior project manager at ScottishPower Renewables; and
  - f. Mr Harry Hyde, associate director at Dalcour Maclaren.

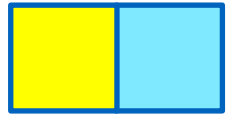


## 2 Agenda Item 3: The Applicants' Strategic Case

### 2.1 Public interest in delivery of new offshore wind capacity

#### 2.1.1 National Policy Statements ("NPS")

5. The Planning Act 2008 makes provision for NPSs. NPSs are designed to set the policy framework for determination of NSIP applications. They integrate the UK Government's objectives for infrastructure capacity and development with its wider economic, environmental and social policy objectives, including climate change goals and targets, in order to deliver sustainable development.
6. NPSs are produced by the UK Government and set out national policy against which proposals for major infrastructure projects will be assessed against and decided on.
7. Section 3.1 of the Overarching National Policy Statement for Energy (EN-1) provides the key section on the need and justification for further generation capacity. It states in paragraph 3.1.3 that all applications for development consent for infrastructure covered by the energy NSIPs (which includes offshore wind projects) should be assessed *"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"*.
8. Paragraph 3.3.10 goes on to say that *"the Government is committed to increasing dramatically the amount of renewable generation capacity"*. Offshore wind power is the main source of renewable energy deliverable at a scale which is able to meet the capacity required. Renewable energy from the combustion of biomass and waste continue to play a role but electricity from wave and tidal power are not yet established at scale in the UK.
9. This need for offshore wind is urgent as demonstrated in paragraph 3.3.15 of EN-1 which states: *"In order to secure energy supplies that enable us to meet our obligations for 2050, there is an urgent need for new (and particularly low carbon) energy NSIPs to be brought forward as soon as possible, and certainly in the next 10 to 15 years, given the crucial role of electricity as the UK decarbonises its energy sector"*.
10. Paragraph 3.3.23 of EN-1 also concludes that the UK will require 59GW of new electricity generation by 2025 to ensure energy security and resilience.
11. The policy imperative set out in EN-1 establishes that the early delivery of the projects would be in the public interest.



12. In addition to policy set out in EN-1, the development of further policy and legislation relating to climate change has further intensified the needs case.

### 2.1.2 Climate Change Act 2008

13. The Climate Change Act 2008 set the framework for the UK to transition to a low-carbon economy with the following objectives:
- A reduction of 34% in greenhouse gases (below 1990 levels) by 2020; and
  - A reduction of 80% in greenhouse gases (below 1990 levels) by 2050.
14. In May 2019, the UK Parliament declared a 'climate change emergency'. On 27 June 2019, the UK Government's Climate Change Act 2008 (2050 Target Amendment) Order 2019 came into force. This amended the Climate Change Act 2008 to adopt the Committee on Climate Change's recommendation and meant the UK became the first major economy in the world to commit to net-zero greenhouse gas emissions by 2050.
15. The Committee on Climate Change produced a Progress Report in June 2020 that stated whilst it is clear net-zero is a Government priority, the steps taken thus far do not equate to 'adequate progress.' The report states there is potential for more than 75 GW of offshore wind farms to be operational by 2050 and reiterates the aim should be for 40GW of offshore wind by 2030.

### 2.1.3 40GW by 2030 Pledge

16. In the Queen's speech of 19<sup>th</sup> December 2019, the UK Government stated the Government would be increasing the 30GW target. It stated that we will "increase our ambition on offshore wind to 40GW by 2030."
17. In October 2020, the Government reiterated this commitment and confirmed that by 2030, offshore wind should produce enough electricity to power every home across the UK. The confirmation of the target coincided with the Government's plans to Build Back Greener by making the UK the world leader in clean wind energy.
18. This was confirmed again by the Government in November 2020 where they announced their Ten Point Plan for a 'Green Industrial Revolution', stating that the UK is to power enough offshore wind to power every home, quadrupling how much we produce to 40GW by 2030 and supporting up to 60,000 jobs.

### 2.1.4 Additional Electricity Legislation and Policy

19. Paragraph 2.2.16 of EN-1 states that "*about a quarter of the UK's generating capacity is due to close by 2018 and new low carbon generation is required which is reliable, secure and affordable*".





20. The Schemes would contribute to the additional generation capacity that is required. This adds to security of supply
21. Affordability of electricity to consumers is a further key objective of energy policy. At the heart of the current regulatory framework are strong regulatory requirements over those parts of the industry which are not subject to competition whilst at the same time ensuring that competition can flourish where markets exist or are created. The consumer interest is reflected within the core of electricity legislation and regulation.
22. The electricity regulatory framework governs how offshore wind farms are to connect into the grid. It emphasises that capital and other cost has a close relationship with affordability and contains obligations on ensuring that connections are efficient and economic. This is highlighted in the Note on Regulatory Context submitted at Deadline 2 (REP2-003) in section 4.3 (*selection of the onshore points of connection: the CION process and offshore wind developments*) and specifically in paragraphs 173, 177 and 179.
23. The Compulsory acquisition powers are sought in relation to the connection to the grid.
24. Paragraph 4.9.2 of EN-1 states that the Government “*envisages that wherever possible, applications for new generating stations and related infrastructure should be contained in a single application ... or in separate applications submitted in tandem which have been prepared in an integrated way*”. The Applicants have brought forward the Applications together as per EN-1.
25. The NPS for Renewable Energy Infrastructure (EN-3) in paragraphs 2.6.33 to 2.6.41 recognises the unique grid circumstances with offshore wind and the requirement to have to work within the regulatory regime for offshore transmission.
26. The NPS for Electricity Networks Infrastructure (EN-5) includes grid proposals brought forwards under this and recognises the electricity regulatory framework.
27. Paragraph 2.2.1 of EN-5 states that “*electricity network companies are regulated monopolies which must respond to demand from generators and consumers of electricity by developing and maintaining economical and efficient networks*”.
28. The Applicants reported on these in their site selection process which is shown in the Connection and Infrastructure Options Note (CION) and subsequent refinements to the site selection.



29. The onshore grid connections have been developed in accordance with the requirements of the Electricity Act 1989 and the electricity regulatory framework. The grid connections would be efficient and economical.

### 2.1.5 Socio-Economic Benefits

30. As a consequence of the Government's commitment to offshore wind, on 7 March 2019, the Energy and Clean Growth Minister, Claire Perry, announced the launch of the new joint government-industry Offshore Wind Sector Deal.
31. The Sector Deal strives towards delivery of at least one-third of the country's electricity from offshore wind by 2030. The Deal states that the "*government will work collaboratively with the sector and wider stakeholders to ensure that up to 30GW of offshore wind can be delivered by 2030*" indicating government support for offshore wind. The 30GW has since been increased to 40GW of offshore wind by 2030 by the Government.
32. The Sector Deal assures certainty and stability within the industry which will deliver £48 billion of investment in UK infrastructure between now and the end of the next decade, over which time the offshore wind industry will employ 27,000 people including manufacturing jobs. Many of these jobs are highly skilled, and will be in coastal communities, where economic regeneration is most needed. This is a key component of the UK industrial strategy.
33. This is then extended by the Ten Point Plan for a 'Green Industrial Revolution' as announced by the Government in November 2020 which states that up to 60,000 jobs are to be supported in the offshore wind industry.
34. In response to the Sector Deal, the offshore wind sector has set a target of 60% lifetime UK content in domestic projects and targeting increasing UK content in the capital expenditure phase.
35. The offshore wind sector presents opportunities to create growth and economic benefits, particularly in coastal areas adapting to economic change.
36. Regional clusters are already emerging, generally located close to windfarms or areas with an oil and gas presence, such as East Anglia. Linking the clusters with educational institutions, centres for innovation or manufacturing bases can provide the conditions for innovation, drive competitiveness, increase economies of scale and productivity. The Applicants' parent company has already played an important role in helping to create a climate whereby local businesses and individuals can participate in these opportunities. The current Applications would afford an opportunity to build upon that progress.



37. The Sector Deal proposes capitalising on naturally existing clusters and providing sector leadership to create more opportunities for investment and growth in local economies.
38. The Projects will provide substantial benefits to the UK economy facilitating confidence in the UK supply chain and growing a skilled workforce as well as providing more local benefits through job opportunities and skills improvements. This has been given further emphasis in the BEIS announcements regarding Auction Round 4 (AR4) on 24 November 2020. This included a consultation on supply chain plans.
39. The Government has declared that it is imperative in the aftermath of the coronavirus pandemic to “*build back better*”, highlighting the fight against climate change and supporting green jobs (HM Government 2020). As previously discussed, the Projects would make a material contribution to the 2030 plans and are perfectly aligned with this goal.

#### 2.1.6 Regional and Local Context

40. Suffolk County Council’s Priorities for 2017 – 2021 which are relevant to the Projects include:
  - Champion the protection and enhancement of Suffolk’s natural and historic environment and adaption to climate change, to ensure benefits the environment will deliver are maximised, to economic growth and health and wellbeing now and for future generation; and
  - Build on relationships with the Local Enterprise Partnership, to support business growth and unlock potential for greater growth in Suffolk.
41. East Suffolk Council, through the Suffolk Coastal Local Plan, which was adopted on 23 September 2020, has the following key priorities:
  - To achieve diverse and prosperous economic growth in towns and rural areas to provide at least 6,500 new jobs in the Local Plan area;
  - Reduce contributions to climate change by conserving natural resources; and
  - Improve the quality and provision of all types of infrastructure to support current and future requirements.
42. The Applicants have developed strong relationships with the local Authorities in relation to these matters. They have already committed to revising the existing Memorandum of Understanding regarding business and skills engagement to include these projects. This will help the local area to fully exploit the opportunities



for individuals and businesses to participate in the offshore wind sector and aid the economic development of the region.

### **2.1.7 Conclusion**

43. Climate change is a global issue which is caused by the increase of carbon emissions into the atmosphere. The Projects would make a material contribution to the achievement of UK decarbonisation targets which is making an overall difference in reaching global commitments in mitigating climate change. By generating low carbon, renewable electricity in the UK, the Projects will also help to reduce the UK's reliance on imported energy and will increase energy supply security. The Projects have been developed to ensure that they would be cost effective and able to contribute to the aim of keeping electricity affordable for consumers.
44. There is a compelling case in the public interest for powers of compulsory acquisition to be granted to ensure that the necessary rights can be obtained in a commercially reasonable and timely manner to enable these nationally significant infrastructure projects to proceed. They would meet a pressing national need for additional renewable electricity generating capacity. This in turn supports a range of national policy objectives which have been set out above.

## **2.2 Compelling Case and statutory context**

45. Section 120 of the 2008 Act prescribes those matters which may be provided for in an order granting development consent (a "DCO"). In particular, a DCO may impose requirements in connection with the development for which consent is granted. Section 120(3) and 120(4) go on to provide that a DCO 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, which include:
- The acquisition of land, compulsorily or by agreement;
  - 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
  - The payment of compensation.
46. Section 122 of the 2008 Act provides that a DCO may include provision authorising compulsory acquisition of land, only if the Secretary of State is satisfied that:
- The land is required for the development to which the development consent relates;



- The land is required to facilitate or is incidental to that development; or
  - The land is replacement land which is to be given in exchange for commons, open spaces etc. forming part of the Order Land.
47. In responding to Agenda item 7 the Applicants will comment in more detail on the satisfaction of the requirement that there is a compelling case in the public interest for the land to be acquired compulsorily and address the considerations raised by the Compulsory Acquisition Guidance in justifying the inclusion of compulsory acquisition powers within the dDCO.
48. However, relevant to the Applicants' strategic case for inclusion of both powers of compulsory acquisition and temporary possession the Applicants note that the Compulsory Acquisition Guidance also makes specific provision that:
- In the case of land required for a project to which the development consent relates, the applicant must be able to demonstrate that the land is needed for the development and the Secretary of State must be satisfied that the land to be acquired is no more than is reasonably required for the purposes of the development; and
  - 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 that purpose and that it is proportionate.
49. The Applicants will comment further on the requirements for specific rights over the land shown on the land plans and described in the Book of Reference. At a strategic level the Applicants consider that the most effective way of limiting the final permanent change of use of land is to seek powers of temporary possession for construction and associated activities. This enables the carrying out of works without imposition of permanent rights binding use of the land and as this will enable further micro-siting and refinement of the Projects designs can limit the acquisition of land.
50. The land scheduled in the Book of Reference is considered to be both necessary and proportionate; there are no other suitable alternatives.
51. The Applicants have sought, and continues to seek, a negotiated solution to each of the identified required interests. It is the Applicants' preference to secure negotiated agreements with all identified required interests and the Applicants have made representations to each of the relevant owners on this basis. In each case the Applicants have chosen to secure land or rights in a way that minimises disruption to the relevant owners.



52. The Applicants consider that there would be significant public benefit arising from the grant of development consent resulting from the generation of much needed renewable electricity. 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

### 2.3 Justification for use of Compulsory Acquisition and Temporary Possession

53. The Order Land shown on the Land Plans 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. In order to deliver the Project, and where permanent control of land is required, the Applicants are seeking the acquisition of a combination of freehold ownership and permanent rights. However, so as to minimise the impact of the Projects on land interests the Applicants also seek powers of temporary possession where appropriate, primarily to carry out construction activities.
54. In addressing Agenda item 7 the Applicants will provide further and more detailed comment on the rights sought over land, including acquisition of the land.
55. Rights of temporary possession bring benefits in that the temporary use of land will allow
- cable installation works to be completed, 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
  - construction activities for the Projects and National Grid permanent infrastructure to be completed, including any micro-siting of this infrastructure within the land, before committing to acquiring the freehold. This is intended to reduce the amount of land affected by freehold acquisition, and reduce the impact on landowners accordingly
  - planned or unplanned maintenance of operational cables following the Projects being commissioned. This work is not anticipated to be undertaken on a regular basis so the purpose of these rights is to minimise ongoing or permanent disruption to landowners
56. It is the Applicant's preference to secure negotiated agreements with all identified required interests and the Applicants have made representations to each of the relevant owners on this basis. In each case the Applicants have chosen to secure land or rights in a way that minimises disruption to the relevant owners. In the





majority of cases terms have been agreed with land owners and the Applicants expect shortly to conclude formal agreements to secure rights of acquisition of freehold interests or permanent rights.

57. All identified owners of interests have been approached and where possible agreement will be reached. Negotiations will continue, but the Applicants believe compulsory acquisition powers are justified to ensure that the Projects can be developed on reasonable commercial terms within an appropriate timescale.
58. Where land is in unknown ownership and so scheduled in the Book of Reference, the Applicants have not been able to identify the relevant holder of that interest following diligent inquiry. In such circumstances it may be necessary for the Applicants to acquire land or rights over land without conclusion of a voluntary agreement being possible. The Applicants therefore believe compulsory acquisition powers are justified to ensure that the Projects can be developed on reasonable commercial terms within an appropriate timescale.
59. The Applicants consider that there is a compelling case in the public interest for powers of compulsory acquisition and of temporary possession to be granted
  - to minimise the impact on landowners and
  - to ensure that the necessary rights can be obtained in a commercially reasonable and timely manner to enable these nationally significant infrastructure projects to go ahead to meet a pressing national need for electricity generating capacity.



## 3 Agenda Item 4: Alternatives and Design Flexibility

### 3.1 Landfall

#### 3.1.1 Technical Requirements

- 60. Horizontal Directional Drilling (HDD) will be used to install the ducts required which would accommodate up to two export cables, and two fibre optic cables for each project.
- 61. The entry pit for the HDD construction works would be located a minimum setback distance of 85m from the cliff top to ensure the integrity of the cliff is not compromised and to allow for natural coastal erosion. The ducts will be installed under the cliffs and beach at Thorpeness and will extend under the sea bed beyond the intertidal zone before 'punching out' of the sea bed.
- 62. It is anticipated that two transition bays would be installed for each project at the landfall with a setback distance of a minimum of 85m from the cliff top. Each transition bay would comprise a buried concrete-lined structure. The purpose of the transition bay at the landfall would be to provide housing for the joints between the heavily armoured offshore export cables and the onshore cables.

#### 3.1.2 Land Rights Sought

- 63. The offshore export cables will come ashore at landfall and will be installed by HDD below the surface. In the intertidal area, the beach and the cliffs, the permanent rights sought will be limited to below the surface. In the area west of the cliffs the cables will also be installed below the surface but permanent rights will include rights of access to the cable route and to divert services or utilities apparatus.
- 64. The transition bays will be buried underground, and the land would be fully reinstated following construction. Permanent rights of access are being sought for routine maintenance, non-scheduled maintenance to address faults, and, if required, for decommissioning. Routine maintenance is anticipated to consist of one annual visit (to carry out integrity testing) to each transition bay.
- 65. Temporary possession of the land will be required for a working area to support the construction of the transition bays and for the HDD operations needed to install the ducts required for the offshore export cables. This requires a fenced temporary construction compound for the HDD operations and entry pits. Temporary possession is also required for an underground water supply to facilitate construction at the landfall site.

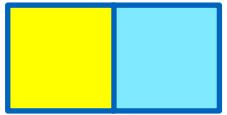




66. The final location of the transition bays and width of the cable corridor at landfall will be determined by the appropriate offshore cable corridor route to avoid the Coralline Crag. All of which will not be known until the detailed design stage and will be dependent upon the results of additional surveys and ground investigations.
67. At Deadline 2 the Applicants reduced the eastern boundary of Work No. 7, as shown on Figure 1 of the **Notice of Intent to Make Non-material or Material Changes** (REP1-039) which has been facilitated by the review and refinement of the land required within Work No. 7 to construct the Projects. The reduction allows the ongoing agricultural use of this area to continue without interruption.

### 3.2 Cable Alignments

68. In general, the Applicants are seeking rights over a corridor, the width of which is limited to 70 metres, to encompass both Projects. The exceptions to this are:
- where the cables cross the Sandlings SPA;
  - where the cables cross the Hundred River;
  - areas identified with potential archaeological interests;
  - where the onshore cable route starts at the transition bays as their locations are undefined; and
  - where a CCS is to be located.
  -
69. Within the onshore cable corridor, the area of land for the onshore cable route for each project will have a typical working width of 32m and this incorporates:
- sufficient spacing between cable trenches to ensure thermal independence,
  - temporary construction works,
  - storage space for excavated material,
  - surface water management;
  - temporary PRow diversions;
  - haul road for the safe passage of construction personnel and machinery alongside the cable trench.
70. The exceptions to the typical working width for each Project are:
- maximum of 90m or 16.1m at the SPA crossing depending on whether a trenchless technique or open trench technique is used at the SPA crossing.



- maximum of 50m to cross the Hundred River.
- maximum of 16.1m when crossing important hedgerows identified within the ***draft DCO*** (APP-023)
- maximum of 16.1m when going through woodland to the east and west of Aldeburgh Road,
- maximum of 190m to the north of a transition bay.



## 4 Agenda Item 5: Additional Land and/or Rights

### 4.1 Request for the Inclusion of Additional Land

71. The Applicants confirm that a request for the inclusion of additional land was made at Deadline 1. The Application for the Inclusion of Additional Land (REP1-037) provided details of the additional land and rights sought, including details of the land interests affected together with the rationale for the change.
72. Regulation 5 of Compulsory Acquisition Regulations require the applicant to submit details of the proposed provision in the form of a book of reference or, a supplement to the book of reference and be accompanied by:
- a land plan identifying the land required as additional land, or affected by the proposed provision; and
  - a statement of reasons as to why the additional land is required and a statement to indicate how an order that contains the authorisation of the compulsory acquisition of the additional land is proposed to be funded.
73. The Applicants consider that the Application complies with the requirements of Regulation 5 and is therefore sufficient as it was accompanied by:
- Updated Book of Reference (document reference 4.3, REP1-015);
  - Schedule of Changes to the Book of Reference (document reference 4.3.1, REP1-016);
  - Updated Land Plans (Onshore) (document reference 2.2, REP1-004);
  - Updated Statement of Reasons (document reference 4.1, REP1-006);
  - Updated Funding Statement (document reference 4.2, REP1-008).
74. The Application engaged section 123(4) of the Planning Act 2008 and triggered the requirements of the CA Regulations. This is because consent had not been obtained by every person with an interest in the additional land to the inclusion of it within the DCO.

### 4.2 Book of Reference

75. The Applicants confirm that the Book of Reference is up to date.
76. An updated version of the Book of Reference was submitted at Deadline 1 and captured the changes proposed within the Application for Additional Land.



#### 4.3 Compulsory Acquisition Regulations 2010

77. Regulation 7 notices have now been sent to consultees together with maps showing the location of the additional land. The notices will be with consultees prior to the publication of the final newspaper notice on 14<sup>th</sup> December.
78. Where the Applicants have email addresses for consultees, an e-mail has also been sent.
79. The consultees comprise of:
- the local authorities;
  - each person within Category 1, Category 2 and Category 3 (as defined by section 57 of the Planning Act 2008) in relation to the additional land;
  - the stakeholders listed in Schedule 2 of the CA Regulations where the circumstances in Column 2 are met.
80. In order to comply with the Examining Authorities' Procedural Decision 23 recommending that the Applicants carry out the consultation recommended in Advice Note 16, the Applicants are also consulting:
- all other persons listed in the updated Book of Reference;
  - the onshore stakeholders listed in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (to the extent not already captured by the CA Regulations).
81. The Applicants do not intend to consult offshore stakeholders in respect of the additional land on the basis that the changes do not affect the interests of those stakeholders.
82. Regulation 8 notices have been published in the following newspapers:
- East Anglian Daily Times (local newspaper) on 7<sup>th</sup> and 14<sup>th</sup> December;
  - The Times (national newspaper) on 7<sup>th</sup> December; and
  - The Gazette on 7<sup>th</sup> December.
83. It is proposed that the consultation period (and therefore the period for Relevant Representations) will run until 13<sup>th</sup> January 2021 to coincide with Deadline 4 of the Examination.
84. A copy of the documents associated with the additional land application are available on the East Anglia ONE North and East Anglia TWO project pages of the Planning Inspectorate's website.



85. A hard copy of the documents was made available for inspection at Sizewell-cum-Leiston Town Council in the week commencing 7 December and will remain there until the close of Examination in April. In light of the current public health situation, it will be necessary to make an appointment to view the documents and full details of how to do that are set out within the Regulation 7 and Regulation 8 notices.
86. Site notices are not strictly required for this consultation exercise however the Applicants installed site notices in the vicinity of the additional land on 7<sup>th</sup> December to tie in with the first newspaper publication.
87. Within 10 working days immediately following the end of the consultation period, the Applicants will provide to the Secretary of State:
- a notice of the persons who the applicant, after making diligent inquiry, knows are interested in the additional land or any part of that land; and
  - a certificate of compliance.

#### 4.4 Potential Effects on Examination Timetables

88. The Applicants do not consider that the Application for Additional Land will materially affect the Examination timetables for the Projects as it is considered that there will be sufficient time following the close of the consultation period (at Deadline 4) for the Examining Authorities to hold a compulsory acquisition hearing if required and to examine the changes in light any relevant representations received at Deadline 4.

#### 4.5 Case for Additional Land

##### 4.5.1 Expansion of Order Limits at Work No. 7

89. The Applicants wish to extend the Projects' Order limits at the southern extent of Work No. 7 as shown on Figure 1 of the ***Application for the Inclusion of Additional Land*** (REP1-037), to facilitate the construction, use and subsequent removal of a temporary underground water supply from an existing underground water supply at Thorpeness Road, to Work No. 8.
90. This temporary underground water supply will support the trenchless technique activities undertaken at Work No. 8 which are required to bring the offshore export cables ashore. Water supplied to Work No. 8 from this temporary water supply will reduce the number of heavy goods vehicles (HGVs) travelling to Work No. 8 along the public road network and temporary haul road and will reduce noise and air quality impacts from the displaced HGV movements.
91. This change will also reduce the Projects' interaction with Sizewell Gap, which was considered at the time of submission of the Applications, to be the most appropriate point of connection to the portable water supply in the area. Through



consultation with EDF Energy Nuclear Generation Limited (operators of the Sizewell B Nuclear Power Station), during the preparation of **Statement of Common Ground** (SoCG) (REP1-076) and the **Outline Sizewell Gap Construction Method Statement** (REP1-041), both submitted at Deadline 1, the Applicants have reassessed alternative options to secure a potable water connection.

92. In selecting a connection at Thorpeness Road, no interruption to the public potable water supply which supplies Sizewell B is required.
93. The Order limit amendments have been positioned adjacent to field boundaries so as to minimise disturbance to the landowners' agricultural practices and are appropriately sized to facilitate the safe construction and removal of the temporary underground water supply.
94. The additional land is located on agricultural land within the Suffolk Coasts and Heaths Area of Outstanding Natural Beauty (AONB) but does not encroach on the Sandlings Special Protection Area (SPA) or Leiston-Aldeburgh Site of Special Scientific Interest (SSSI).

#### 4.5.2 Expansion of Order Limits at Work No. 15

95. The Applicants wish to amend the Projects' Order limits to facilitate a temporary diversion of Public Right of Way E-363/027/0 at Work No. 15, as shown on Figure 2 of the **Application for the Inclusion of Additional Land** (REP1-037).
96. The Applicants did not provide for a temporary diversion given the existing network of alternative PRowWs in the area and the short construction period associated with the construction and subsequent removal of the temporary haul road which crosses the PRow.
97. This temporary PRow diversion has been included at the request of Suffolk County Council during consultation on the SoCG in order to enable continued use of the PRow (as diverted) whilst the temporary haul road at Work No. 15 is constructed, and again later when it is removed.
98. The additional land is located on agricultural land within the Suffolk Coasts and Heaths AONB but does not encroach on the Sandlings Special Protection Area (SPA) or Leiston-Aldeburgh Site of Special Scientific Interest (SSSI).

#### 4.5.3 Expansion of Order Limits at Work No 33 (High House Farm)

99. The Applicants wish to amend the Projects' Order limits at Work No. 33, to the south west of High House Farm, to facilitate the permanent diversion of PRow E-363/027/0 as shown on the Temporary Stopping up of Public Rights of Way **Plan** (APP-013) and associated landscape works.

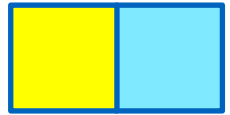


100. This permanent diversion will re-introduce the historic footpath and historic field boundary in the north western area of the Order Limits, as presented within the 1<sup>st</sup> edition historic OS map of 1883/84 (Figure 1 of the ***Outline Landscape and Ecological Management Strategy*** (APP-584)) and has been discussed with Historic England and the Councils.
101. The Applicants did not provide for this permanent diversion within the original Applications as the Order limits were aligned with an existing PRoW in the area. In consideration of updates to the ***Outline Landscape and Ecological Management Strategy*** (APP-584) to be submitted at Deadline 3, the Applicants considered it beneficial for a small addition to the Order limits to facilitate the reintroduction of this historic footpath and field boundary.
102. The additional land is located on agricultural land and does not encroach on any designated area.

#### 4.5.4 Expansion of Order Limits at Work No 33 (Woodside Barn Cottages)

103. The Applicants wish to amend the Projects' Order limits at Work No. 33, west of Woodside Barn Cottages, to facilitate an alternative route for a surface water outfall connection between the onshore substations and National Grid substation, and the Friston Watercourse at Church Road.
104. This change will provide additional flexibility to the Applicants for the optimal design of a surface water outfall to the Friston Watercourse. The original routing of the surface water outfall (to the east of Woodside Barn Cottages) will remain within the Order limits. Only one surface water connection route will be taken forward by the Applicants to construction.
105. There are potential advantages to this alternative route including the avoidance of the church or chapel ruins to the east of Woodside Barn Cottages (KND009 – Buxlow; Buxton) and, through the incorporation of additional surface water management features, the potential reduction or elimination of the surface water overflow that currently occurs along the track leading to Church Road from the fields to the north (where currently the surface water overflows along this track and over Church Road before discharging into the Friston watercourse). This would provide a wider benefit to the local community.
106. When determining the preferred surface water connection route post-consent, further environmental and engineering studies will be undertaken in order to establish the optimal surface water outfall route, which will consider constructability, hydraulic gradient, minimisation of disruption to the local community and opportunities to reduce or eliminate the surface water overflow that currently occurs along the track leading to Church Road.





107. The potential exists for this overflow to be directed into the new surface water outfall for the Projects via an interceptor or drain to the north of the track, and discharged to the Friston watercourse.
108. With regards to the setting of heritage assets, given that the construction works are temporary, and the track will be reinstated to its original finish/style, there is anticipated to be no permanent material change to the landscape following reinstatement and therefore no change to the assessment conclusions presented within **Chapter 24** (APP-072) and **Appendix 24.7** (APP-519). The works in this area will be undertaken sensitively in line with mitigation measures set out within the final Code of Construction Practice.
109. The additional land does not encroach on any designated area.

#### 4.5.5 Summary

110. In summary, the abovementioned changes to the Order Limits reflect the ongoing refinement of the Projects which seek to reduce the environmental impact of the Projects. This process will continue through the post consent and detailed design stage of the Projects.





## 5 Agenda Item 6: The Compulsory Acquisition and Related Provisions in the Draft Development Consent Orders (dDCOs) and Land Plans

### 5.1 Article 6: Application of Legislative Provisions

111. The relevant provisions of the Neighbourhood Planning Act 2017 are not yet in force and regulations required to provide more detail on the operation of the regime have not yet been made and there is no known date for implementation. There is therefore no certainty as to the requirements of the new temporary possession regime or when it is likely to come into force whereas the wording of the temporary possession provisions within the draft DCO is well established.
112. There is a lot of recent precedent in which the provisions of the Neighbourhood Planning Act 2017 have been disapplied, including in the recent Norfolk Vanguard Offshore Wind Farm Order 2020, the A19 Downhill Lane Junction Development Consent Order 2020, the Cleve Hill Solar Park Order 2020, the M42 Junction 6 Development Consent Order 2020 and the Lake Lothing (Lowestoft) Third Crossing Order 2020 as well as the Orders referred to in paragraph 4.11 of the *Explanatory Memorandum* (APP-025).

### 5.2 Article 19: Time Limit for Exercise of CA Powers

113. The seven-year time limit is requested in order to maximise the window for the Projects to commence construction and exercise compulsory acquisition powers, particularly in light of the uncertainties associated with the current Contracts for Difference support mechanism regime the industry operates in, which is outwith the control of the Applicants.
114. Taking into account project funding, Final Investment Decisions and contracting (all post CfD activities), a seven-year time limit is appropriate in order to ensure sufficient time for the Projects to participate in further CfD allocation rounds, should they not be successful in the immediate allocation rounds post consent.
115. It is possible that the Projects may not be able to participate in the CfD Allocation Round 4 in late 2021. A realistic assumption is that the next allocation round might be in late 2023. Based on that an example timeline is set out below:
- Q4 2023 – CfD Allocation Round 5 opens
  - Q2 2024 – CfD Allocation Round 5 awarded



- Q4 2025 – CfD Significant Financial Commitment milestone met / Final Investment Decision
- Q2 2026 – Onshore construction commences (the Applicants have assumed this will commence six months after the Financial Investment Decision to allow for placement of contracts and mobilisation)
- Q2 2028 – Onshore construction completes
- Q4 2028 – 7 year compulsory acquisition rights period elapses (assuming that the Projects obtain consent in October 2021).

This is based on the assumption that CfD Allocation Round 5 will open two years after CfD Allocation Round 4. There is no obligation for allocation rounds to be held every two years and therefore this period could be longer. An example of this is CfD Allocation Round 4 which is being held two and a half years after CfD Allocation Round 3.

116. Even where it is possible for the project to commence construction within the seven year period, it is still considered necessary for the time limit for the compulsory acquisition powers to be seven years in light of the two stage approach proposed in respect of obtaining cable rights, for example, by taking temporary possession first and then acquiring permanent rights later when there is certainty as to the final location of infrastructure. In such circumstances, the powers to compulsorily acquire permanent rights may not be exercised until late in the construction period thus necessitating the seven year period in which to exercise compulsory acquisition powers.
117. The seven year period will provide additional time to settle private agreements that properly take account of any micro-siting and other issues identified once the full pre-construction investigation programme has concluded, thereby potentially reducing the need to exercise the compulsory acquisition powers.
118. The Applicants maintain that there is a pressing need for additional renewable electricity generating capacity, and requesting a seven year period in which to exercise compulsory acquisition powers does not contradict that argument. Rather, this will provide time for the Projects to carry out works and thus minimise the final permanent impact on land and rights and will help to ensure the delivery of these much needed Projects.

### 5.3 Article 26: Temporary Use of Land

119. The Applicants would keep landowners and others with an interest in land informed of the project developments. In addition, where a land agreement is obtained by the Applicants there will be provisions on timings and notices and



where temporary possession powers or other compulsory acquisition powers are to be exercised, the requisite notice will be given.



## 6 Agenda Item 7: Statutory Conditions and General Principles

### 6.1 Application includes a request for compulsory acquisition

120. The cover letter submitted with the DCO Application confirms at paragraph 8.1 that the Applicants are seeking authority within the draft Order to acquire compulsorily land and interests and other related powers to support the delivery of the Projects. Part 5 of the draft DCO contains provisions relating to powers of compulsory acquisition.



## 7 Agenda Item 8: Review of the CA Schedule and Related Matters

### 7.1 Outstanding Objections and Progress on Negotiations on Alternatives to Compulsory Acquisition

Onshore cable corridor	
Type of agreement offered	Option Agreement and Deeds of Grant of Easement
No. of landowners	20
Status of negotiations	All 20 landowners have received terms and to date 17 are agreed. Those landowners and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly. Of the remaining three landowners, two are in the course of grant of probate and awaiting instruction for the executors to progress. The other remaining landowner has had little engagement despite being contacted by the Applicants' appointed Land Agent Dalcour Maclaren.

Onshore substation, National Grid infrastructure and surrounding areas of landscaping	
Type of agreement offered	Option Agreement and Freehold Acquisition
No. of landowners	8
Status of negotiations	Of the eight landowners, terms are agreed between the Applicants and 4 of the landowners. With respect to the four landowners for which terms are agreed, the landowners and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly. These landowners own the majority of the property identified for freehold acquisition. Of the remaining four landowners, two have instructed their appointed Land Agent not to engage with the Applicants and their appointed Land Agent Dalcour Maclaren. Terms are in negotiation with the remaining two landowners and the Applicants are hopeful that the necessary land and rights can be acquired by voluntary agreement.

Construction consolidation sites on land not being acquired freehold	
Type of agreement offered	Option Agreement and Lease
No. of landowners	6
Status of negotiations	Terms are agreed between the Applicants and all of the affected landowners. The landowners and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly.



<b>Areas of permanent ecological mitigation</b>	
Type of agreement offered	Option Agreement and Freehold Acquisition
No. of landowners	3
Status of negotiations	Of the three landowners, terms are agreed between the Applicants and two of the affected landowners. The landowners and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly. The remaining landowner has agreed a voluntary process for the Applicants to acquire rights over the land. Final terms are being negotiated and the Applicants are hopeful that the necessary land and rights can be acquired by voluntary agreement.

<b>Areas of temporary ecological mitigation</b>	
Type of agreement offered	Option Agreement and Lease
No. of landowners	1
Status of negotiations	The terms are agreed between the Applicants and the affected landowner. The landowner and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly.

<b>National Grid works</b>	
Type of agreement offered	Option Agreement and Lease of Easement or Deed of Variation
No. of landowners	5
Status of negotiations	Following the reduction in the Order limits submitted at Deadline 1 the number of new agreements required by the Applicants for the grant of permanent rights has reduced to one. The Applicants and NGET are preparing to undertake detailed analysis of the proposed works and will be looking to submit detailed terms to the landowner for these works in due course. Meanwhile, the landowner has been supplied with generic terms by the Applicants' appointed Land Agent Dalcour Maclaren. Of the four remaining landowners affected by potential temporary works, in each case rights for carrying out of the temporary works are contained within existing agreements.

<b>Outfall drainage pipe</b>	
Type of agreement offered	Option Agreement and Deeds of Grant of Easement
No. of landowners	3
Status of negotiations	Of the three landowners, terms are agreed between the Applicants and one set of affected landowners. The landowners and the Applicants have instructed their respective solicitors to negotiate and settle formal agreements accordingly. The remaining landowner has instructed their appointed Land Agent not to engage with the Applicants and its appointed Land Agent Dalcour Maclaren. The other landowner is yet to be fully established and investigations continue with the assumed owners.

**Offsite highways works**



Type of agreement offered	Licence Agreement
No. of landowners	7
Status of negotiations	The Applicants have written to the seven landowners who have been identified whose land is outwith the adopted highway and may be required for offsite highway works advising of the requirement to enter into a licence agreement in due course.

## 7.2 Offshore Cable Alignment

### 7.2.1 Flexibility Applied for Within the DCO Application

121. Two potential offshore cable corridor options for the proposed East Anglia TWO project have been incorporated within the DCO application and supporting ES. These are a northern corridor option and a southern corridor option, with both corridors having a common landfall and a common approach to landfall.
122. The East Anglia TWO DCO application includes both offshore cable corridors, however only one offshore cable corridor will be used for the proposed East Anglia TWO project.

### 7.2.2 Current position

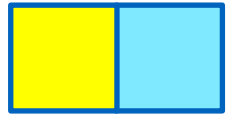
123. No further cable alignment has been undertaken at this stage. As described in paragraph 68 of Chapter 4 Site Selection and Assessment of Alternatives (APP-052):

*“Both these routes have been included within the DCO application and a final decision on which route will be taken forward to construction will be made post-consent once detailed geophysical information is obtained and layout of the East Anglia TWO windfarm site is finalised. The option chosen would represent the most economic and efficient in relation to the final wind turbine layout proposed.”*

124. At this stage collection of detailed geophysical survey data or development of the layout has not been completed.

### 7.2.3 Requirement for Flexibility

125. The layout of the East Anglia TWO windfarm site (including wind turbines, inter-array, platform link cables and offshore platform location(s)) has not yet been determined. This is due to the need for flexibility on the layout pending detailed electrical design and selection of the wind turbine model(s).
126. The final design of the East Anglia TWO windfarm site will determine the location of the offshore electrical platform(s), which will in turn determine whether the northern or southern cable corridor is adopted.



## 8 Agenda Item 9: Funding

### 8.1 Funding options available

- 127. The Applicants have not determined how the projects would be financed. This is a decision which would not be taken until the Final Investment Decision.
- 128. In that context the full range of options remain potentially available. This could include power purchase agreements bidding into future CfD rounds or other financial arrangements.
- 129. The Applicants welcome the recent announcements made by BEIS regarding the future Allocation Round 4 to take place towards the end of 2021 and in particular the commitment to double the capacity supported. In addition the government has announced further consultation on a range of matters including increasing clarity on supply chain plans.

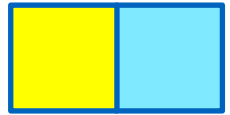
### 8.2 Updates to the Funding Statement

- 130. The Applicants continue to keep the Funding Statement under review. It has recently been reviewed and confirmed in the context of the consideration of additional land.
- 131. The Applicants will be provided with updated appraisals as required from chartered surveyors Dalcour Maclaren and if the projected costs vary then steps will be taken to revise the Funding Statement and the commitment from the Parent Company to support the Project.
- 132. There are no updates to report at the moment. These matters are kept under review as outlined above.

### 8.3 Guarantee or Alternative Form of Security

- 133. Provision is made within Article 43 of the draft DCO for a guarantee or an alternative form of security in order to ensure that there is sufficient flexibility to enable the most appropriate mechanism to be entered into at the relevant time.
- 134. It is not known at this time which form of mechanism will be put in place.





## 9 Agenda Item 10: Statutory Undertakers, the Crown and Public Open Space

### 9.1 Statutory Undertakers

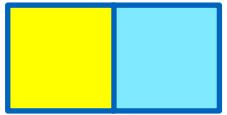
135. The Applicants will submit updated versions of **PA2008 s127 Statutory Undertakers' Land or Rights** (ExQ1.3.4) and **Statutory Undertakers Apparatus etc.** (ExQ1.3.5) at Deadline 3.

### 9.2 Crown Estate

136. The Applicants confirm that the Crown Estate does not own or have any interests in any land within the onshore Order limits. This was confirmed by the Applicants at Deadline 1 in **ExQ1.3.3: Crown Land and Consent** (REP1-123).

### 9.3 Public Open Space

137. The Applicants confirm that there is no public open space included within the Order limits.



## 10 Agenda Item 11: Human Rights and the Public Sector Equality Duty (PSED)

138. The Applicants confirmed that they would cover this agenda item in a written submission and this was raised as an action point by the ExA. Please see ***Applicants' Responses to Hearing Action Points*** (ExA.HA.D3.V1).