



**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on Ministry of Defence Deadline 6 Submissions

Applicant: East Anglia TWO and East Anglia ONE North Limited
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Applicable to East Anglia ONE North and East Anglia TWO



Revision Summary

Rev	Date	Prepared by	Checked by	Approved by
01	24/03/2021	Paolo Pizzolla	Lesley Jamieson / Ian Mackay	Rich Morris

Description of Revisions

Rev	Page	Section	Description
01	n/a	n/a	Final for submission



Glossary of Acronyms

DCO	Development Consent Order
MOD	Ministry of Defence



Glossary of Terminology

Applicant	East Anglia ONE North Limited / 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.
East Anglia ONE North / East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.



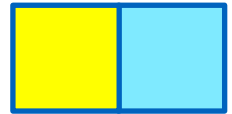
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1 Introduction

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 23rd 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 for the other project.
2. This document presents the Applicants' comments on the Ministry of Defence (MOD) Deadline 6 submission (REP6-106).

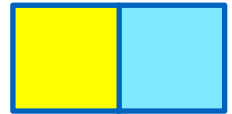


1.1 MOD Responses to ExA commentaries on the draft Development Consent Order

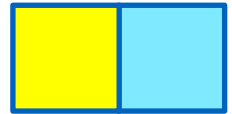
ID	Question to:	Question:	MoD Response:	Applicants' Response
Arts 38	<p>East Suffolk Council</p> <p>Suffolk County Council</p> <p>The Environment Agency</p> <p>Historic England</p> <p>Natural England</p> <p>Ministry of Defence</p> <p>Civil Aviation Authority</p> <p>NATS</p>	<p>Bodies discharging requirements</p> <p>Bodies acting under Arts 38 of the dDCOs and discharging or directing under Requirements including:</p> <ul style="list-style-type: none"> • The relevant planning authority; • The relevant highway authority; • Environment Agency; • Historic England; • Natural England; • Civil Aviation Authority; • Ministry of Defence • NATS • Suffolk County Council (as lead local flood authority); <p>Are requested to confirm that they are content with the application of Arts 38 and Schs 16.</p> <p>See also – Schs 16.</p>	<p>In response I can confirm that the MOD is content with the wording of Article 38 contained in the dDCOs and its intended application.</p>	<p>Noted</p>



ID	Question to:	Question:	MoD Response:	Applicants' Response
<p>Pt 3 R34</p>	<p>The Applicants Ministry of Defence</p>	<p>R34: Ministry of Defence surveillance operations</p> <p>Technical abbreviations 'RRH' for the term 'remote radar head' and 'RMS' for radar mitigation scheme are included in drafting, but the full terms to which they relate are not widely used in the dDCOs and are also set out in full in the relevant provision. The abbreviations appear superfluous. Can they be removed?</p>	<p>In response, I can confirm that the abbreviations identified can be removed.</p>	<p>Noted</p>
<p>Paras 1</p>	<p>The Applicants Discharging authorities (see Arts 38)</p>	<p>Applications for approvals – time period and deemed consent</p> <p>a) Are the discharging authorities content with the time period provided for applications for the discharge of requirements?</p> <p>b) If not, what should the relevant period be – and what is the justification for the change? East Suffolk Council has noted [REP5-047] considerable variability in recently made DCOs: it promotes 56 days. Would the Applicant be content with that period?</p> <p>c) Are the discharging authorities content with deemed consent provision in Paras 1(3) in the event that the discharging authority does not determine an</p>	<p>a) The MOD considers that the 56 day time period proposed by East Suffolk Council would afford greater scope to enable the determination of what may be extensive and complex submissions. This time period is also consistent with that which was defined for this purpose in the DCO that was granted to Norfolk Vanguard offshore windfarm.</p> <p>There is an established MOD radar mitigation process in place which is normally used by wind farm developers to establish a contractually based radar mitigation scheme, in conjunction with the MOD, which then serves</p>	<p>a) The Applicants have made amendments to the dDCO submitted at Deadline 7 to address this point.</p> <p>b) As above.</p> <p>c) Deemed approval mechanisms are regularly found within DCOs and the Applicants consider it necessary and appropriate to include this to ensure a decision is made within the specified period and that any remaining dispute can be dealt with without undue delay.</p> <p>d) As above.</p> <p>e) The Applicants have included additional text within Schedule 15 of the dDCO submitted at Deadline 7</p>



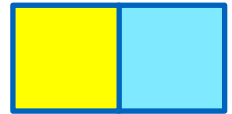
ID	Question to:	Question:	MoD Response:	Applicants' Response
		<p>application within the decision period? East Suffolk Council has noted that the deemed consent provision was not included in the made East Anglia ONE or East Anglia THREE DCOs and opposes them here on that basis. The Applicants are asked to identify specific concerns that have led to the proposed introduction of deemed consent.</p> <p>d) If not, what should the relevant procedure be – and what is the justification for the change?</p> <p>e) What specific additional information should the undertaker provide to the discharging authorities and how (for example as provided for in the made Vanguard DCO) might this be provided for?</p>	<p>to discharge a MOD radar mitigation Requirement contained in a DCO. The completion of a radar mitigation scheme between a developer and MOD can be an extensive and complex process subject to engagement with the developer. Once completed, the discharge of a subsequent application to discharge a relevant DCO Requirement that is supported by such a radar mitigation scheme can reasonably be reviewed and discharged by the MOD within the timescales indicated above. However, where such an application is made without an agreed radar mitigation scheme in place, it should be expected that the MOD would need to object. There would not be sufficient time within the timescales indicated above for a radar mitigation scheme to be produced and agreed.</p> <p>b) See answer above</p> <p>c) No, the MOD is not content with proposed deemed consent provision. If Requirements were</p>	<p>to clarify the information to be provided by the undertaker.</p>



ID	Question to:	Question:	MoD Response:	Applicants' Response
			<p>discharged because the approving authority had not made a response within the timescale, it could result in the development causing the impact that the Requirement was intended to prevent.</p> <p>d) The undertaker could make an appeal to the Secretary of State via the process set out in section 3 of Schedule 16 of the dDCOs if an approving authority has not determined an application to discharge a Requirement within the established or otherwise agreed timescale. This would ensure that the impact the Requirement is intended to prevent would be addressed.</p> <p>e) We are unable to answer this question at this point in time without details of what information would be provided by the undertaker to discharge a Requirement.</p>	
<p>Paras 2</p>	<p>Discharging Authorities (see Arts 38)</p>	<p>Further information</p> <p>a) Are discharging authorities content with the procedure, time period and deemed</p>	<p>a) The MOD is content with the procedure. The MOD requests that a 20 day time period is more appropriate than the 10 days</p>	<p>The Applicants have made amendments to the dDCO submitted at Deadline 7 which addresses this point.</p>



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		<p>satisfaction process provided for further information requests?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>	<p>currently defined in the dDCOs. The MOD is content with the deemed satisfaction process subject to the adoption of the 20 day period requested.</p> <p>b) Not applicable</p>	
<p>Paras 3</p>	<p>Discharging authorities and appeal parties (the consultees) (see Arts 38)</p>	<p>Appeals</p> <p>a) Are discharging authorities and other appeal parties (the consultees) content with the procedure and time period provided for appeals against refusals?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>	<p>a) The MOD is not content with the procedure as currently worded and time periods defined.</p> <p>b) The procedure should be amended to remove the provision included in 3 (7) that would enable an appointed person to determine an appeal without awaiting representation(s) from the discharging authority. In such circumstances the appointed person would not be appropriately informed of all the relevant information which may be a technical and complex nature.</p> <p>The timescale identified in 3(2)(d) in which a discharging authority is required to submit written representation is currently defined as 15 business days. The MOD is not content with this timescale. In view of technical and complex</p>	<p>a) and b) The Applicants have extended the time period in paragraph 3(2)(d) to 20 business days in the dDCO submitted at Deadline 7. The Applicants consider the appeal procedure and time periods to be necessary and appropriate given that these are nationally significant infrastructure projects. It is for the Secretary of State to appoint a person to determine the appeal and there is no basis for the suggestion that that person would not be able to make a decision on whether or not they had sufficient information to determine the appeal. If they were of the view that they did not have the required information then the appeal procedure (paragraph 3(4)) provides the mechanism for them to seek the required information prior to making a decision. It is open to</p>



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			nature of the subjects that may be involved, it is requested that this is increased to 40 business days.	the appeal parties to make a submission to the appointed person to the effect that they are unable to provide the required information within the designated timescales. Any such submission would be taken into account by the appointed person in deciding whether they had sufficient information. Paragraph 3(7) merely allows the appointed person to proceed to a decision in circumstances where a party has chosen to make no written representation but despite this the appointed person considers they have sufficient information. This is an important and necessary provision within the procedure as otherwise the appeal mechanism could be frustrated unnecessarily by a failure to engage.