



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

Agenda for Compulsory Acquisition Hearings 3 (CAHs3): Remaining Matters Relating to Compulsory Acquisition and Temporary Possession

- Date and time:** **Thursday 18 March 2021 at 10.00am**
This agenda applies to each project separately, but matters pertaining to 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:** **9.20am**
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:** **10.00am**
- Purpose:** To enable the ExA for each application to hear remaining matters relating to compulsory acquisition (CA) and temporary possession (TP), both in respect of the original applications and the changes.
- Hearing guidance:** please see **Annex A** to this agenda
- Participants:** It would assist the ExAs if the following persons attend and participate:
- the Applicants;
 - Suffolk County Council (SCC);
 - East Suffolk Council (ESC);
 - EDF Energy Nuclear Generation Ltd (Sizewell B);
 - National Grid Electricity Transmission (NGET);



- Network Rail Infrastructure Ltd;
- NNB Generation Co (SZC) Ltd;
- St Peter's Theberton PCC;
- Michael Mahony;
- Ben Fulbrook of Landmark Chambers representing Michael Mahony;
- Tessa Wojtczak.

The challenges posed to participation by the current public health controls are acknowledged. The ExAs will manage participation with flexibility, taking careful account of the additional care responsibilities that some invitees will have.

Participants are requested to contact the Planning Inspectorate by noon on **Thursday 11 March 2021** to confirm their attendance.



Agenda for CAHs3 – Thursday 18 March 2021

09.20am	Arrangements Conference
	Registration by the case team

10.00am	Compulsory Acquisition Hearings 3
1.	Welcome, introductions and arrangements for these Compulsory Acquisition Hearings 3
2.	<p>ExAs’ opening remarks – the purposes of the hearings</p> <p>To enable the ExA for each application to hear remaining matters relating to compulsory acquisition and temporary possession, whether in respect of either or both of the original applications and/or the changes.</p> <p>In particular, the ExA will hear and inquire into the following for each application:</p> <ul style="list-style-type: none">a) Any further changes to either application submitted at Deadline 7;b) Whether diligent enquiry has resulted in all persons, whether affected directly or indirectly, being listed in the correct part of each Book of Reference;c) Any remaining objections, both from Affected Persons and additional Affected Persons;d) Application of the Compulsory Acquisition Regulations and consequent effects on the timetable(s) for the examination of either or both applications;e) The compulsory acquisition and related provisions as presented within the draft Development Consent Order (DCO);f) Whether the statutory 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



	<p>g) Whether there is a compelling case in the public interest for the compulsory acquisition provisions following the hearing of individual CA and TP objections.</p>
3.	<p>The Book of Reference</p> <p>Reference will be made to the latest version of each Book of Reference [REP7-021] and Schedule of Changes [REP7-022].</p> <p>The Applicants to explain what measures have been taken, particularly since the start of these Examinations, to ensure that all persons affected by each application, whether directly or indirectly, are included in the correct part(s) of each Book of Reference.</p>
4.	<p>To hear remaining objections from Affected Persons</p> <p>Statutory Undertakers will be heard at Item 6 of this agenda.</p> <p>The ExAs will hear from any persons not already heard 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 their individual interests in relation to:</p> <ul style="list-style-type: none">• compulsory acquisition (CA) of land and/or rights; and/or• temporary possession (TP) of land and/or rights. <p>and then from the Applicants in response.</p>
5.	<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 onshore Land Plan [REP7-004], to the tracked versions of the dDCOs [REP7-007] and to draft Protective Provisions submitted by other parties.</p>



	<p>The ExAs will hear from the Applicants and other parties on:</p> <ul style="list-style-type: none">a) Extent of acquisition sought: how each dDCO relates to the other East Anglia dDCO in the various possible consent, construction and operational programme situations, including:<ul style="list-style-type: none">i) the need for a 70m wide cable corridor for each project;ii) the extent of rights sought for realignment of NGET lines at Moor Farmiii) operational land and landscaping at the NGET and EA substations siteiv) the bend in the cable alignment at Wardens Trust;v) connection at Broom Covertvi) works accesses at Aldringham;vii) works at Marlesfordviii) the need to justify costs to Ofgem as part of the evaluation process; andix) the need or otherwise for falling away provisions[REP4-014].b) 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;c) Whether the DCOs exclude the application of a compensation provision or modify it beyond what is necessary to enable that provision to be applied;d) Whether protective provisions are in a satisfactory form and one that is agreed with the relevant parties;e) Article 19 (time limit for exercise of compulsory acquisition powers) in view of the recent proposal to amend Requirement 1; andf) Any other relevant outstanding matters relating to the articles.
6.	<p>Statutory conditions and general principles</p> <p>The ExAs will hear from the Applicants and other parties as to</p> <ul style="list-style-type: none">a) Whether consideration has been given to all reasonable alternatives to compulsory acquisition (CA) and temporary possession (TP); and then



	<p>b) Whether the rights to be acquired, including those for temporary possession (TP), are necessary and proportionate; and</p> <p>c) Whether the purposes for which the compulsory acquisition (CA) powers are sought comply with s122(2) of PA 2008, namely that the land to be acquired compulsorily is required for each proposed development, or is required to facilitate or is incidental to each proposed development; including:</p> <ul style="list-style-type: none">i) the need for a 70m wide cable corridor for each project;ii) the extent of rights sought for realignment of NGET lines at Moor Farmiii) operational land and landscaping at the NGET and EA substations siteiv) the bend in the cable alignment at Wardens Trust;v) connection at Broom Covertvi) works accesses at Aldringham;vii) works at Marlesford; and finally <p>d) 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.</p>
7.	<p>Review of the CA Schedule and related matters</p> <p>Reference will be made to the latest tracked version of the Schedule of CA and TP Objections submitted by the Applicants [REP7-047].</p> <p>The Applicants to summarise outstanding objections and progress on negotiations on alternatives to compulsory acquisition (CA) and temporary possession (TP).</p>
8.	<p>Funding</p> <p>Reference will be made to the revised Funding Statement and annexes [REP7-014 to 020]</p>



	<p>a) 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 programme, and the expected pipeline bidding for CfD in 2021 and subsequently; and</p> <p>b) The Applicants to present any updates to the Funding Statement, including the costs of acquisition of land and rights.</p>
9.	<p>Statutory undertakers</p> <p>Reference will be made to the tracked versions of the Applicants' responses on statutory undertakers ExQ1.3.4 [REP7-048] and to ExQ1.3.5 [REP7-050].</p> <p>The Applicants to give a brief update on</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.
10.	<p>Human rights and the Public Sector Equality Duty (PSED)</p> <p>To hear from Affected Persons and others on</p> <p>a) Article 1 of the First Protocol to the European Convention on Human Rights (ECHR);</p> <p>b) Article 6 of the ECHR;</p> <p>c) Article 8 of the ECHR;</p> <p>d) The degree of importance to be attributed to the existing uses of the land which is to be acquired;</p> <p>e) The weighing of any potential loss of ECHR rights against the public benefit if either or both DCOs are made; and</p> <p>f) The PSED and consideration of the Public Sector Equality Statement [REP4-013].</p> <p>The Applicants to respond and summarise how the measures are secured in the dDCOs.</p>



11.	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.
12.	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 3 to 11. 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.
13.	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 v3.0](#).

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 third CAHs to be held in these Examinations. They are being held following hearings at which the Applicant's strategic case for the land (CAHs1) and individual objections to land requests (CAHs2) for each application have been held. The main business of CAHs3 is to ensure that all elements of the compulsory acquisition and temporary possession requests by the Applicants and any outstanding objections to them are completely understood by the ExAs before the closure of the Examinations.

Progress on negotiations between the Applicants and Affected Persons will be reported and examined. If any additional Affected Persons (see footnote 1) request to be heard, they may be heard on any of the business that was conducted at CAHs1 (the Applicants' strategic case) and CAHs2 (individual objections), in addition to the matters raised by this Agenda.

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 these compulsory acquisition hearings.

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)¹² 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.

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

² 'Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land' (DCLG September 2013).

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

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. CAH2 will close as soon as the ExA has determined that all relevant matters have been discussed.

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 Tuesday 23 to Friday 26 March 2021 (morning, afternoon or evening). 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

CAH3 for the East Anglia ONE North application is being held at the same time, date and place as CAH3 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.

Should the ExAs need to hear evidence relating to only one or other of the applications, this will 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 v3.0](#).