



SPR EA1N and EA2 PROJECTS

DEADLINE 12 – CUMULATIVE IMPACT - COMMENTS ON RESPONSES TO EXQs 3

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 28 June 2021 **Issue:** 1

1. In response to ExQs 3, the Applicants and NGV made further submissions on the assessment of the cumulative impacts of the proposals with other projects.
2. SASES has emphasised throughout that the overwhelming evidence is that the DCOs would authorise the construction of a connection hub at Friston which would facilitate the connection of further projects to the grid in this location. Indeed, in answering ExQ 3.14.1, NGV appear to have accepted that proposition: “It is inevitable that any consented NGET substation asset at this location would attract interest until capacity of the NGET substation is reached. Reviews such as the Offshore Transmission Network Review (OTNR) recognise this position and the need for more coordinated solutions to come forward.”
3. In respect of the National Grid interconnector projects, there can be no doubt that it is the intention of NGV to connect at this location. This point has already been addressed in SASES’s submissions (see e.g. REP3-126 and REP9-075). The extremely limited appraisal by the Applicants (REP8-074) is legally inadequate for the reasons set out in REP9-075.
4. The complete failure to assess converter station impacts is shown to be inadequate in NGV’s response to ExQ 3.14.1 (REP11-119) which confirms that “The most efficient technical solution is to locate the converter station as close to the substation extension bays as possible... Co-location of a converter station and substation is considered to have an advantage because it reduces / avoids transmission losses”. It follows that the likely significant effects of interconnector development at Friston include both the NG substation extension, and the converter station infrastructure.
5. Further, the absence of any cumulative assessment of future windfarm connections at Friston remains a significant deficiency. NGV’s submissions at REP11-119 confirm the benefits of co-location and the need for further expansion of the NG substation should such schemes connect Friston. The fact that the North Falls proposal is considering, at risk¹, a connection location in Essex begs two questions:

¹ See Meeting Note North Falls OWF dated 7 May 2021

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010119/EN010119-Advice-00004-1-210507%20North%20Falls%20Project%20Update%20Final%20Meeting%20Note.pdf>

- a. Whether such a location could be justified by NG given the apparent need for new NG infrastructure (i.e., the absence of any identified existing connection point). If it could not be, then it is difficult to see on what basis Friston is not being considered;
 - b. Alternatively, if such a grid connection location is possible, why it has been wholly disregarded in identifying the Leiston area for a grid connection for EA1N and EA2.
6. In the first eventuality, the need for consideration of the cumulative effects of future windfarm connections at Friston is clear. In the second eventuality, the options assessments put before the examinations to date appear to be incomplete.
7. In response to the Applicants' answers to ExQ3.14, SASES notes as follows.
8. First, at 3.14.2 and 3.14.3 the Applicants suggest that landscaping mitigation is not being designed to accommodate substation expansion. This appears inconsistent with the answer to ExQ3.10.4 that "strategic landscaping would not sterilise the ability for the National Grid substation from being expanded in the future". There is no sensible distinction between designing to accommodate, and not sterilising, future development. Either the landscaping, which is intended to be retained for the life of the project, will allow for the expansion of the substation or it will not. The inconsistency serves to confirm that the Applicants do anticipate the expansion of the substation, but are not properly acknowledging that likely expansion in the assessment of the proposals which are before the examinations. NGV itself confirms (in answer to ExQ3.14.5: "the Applicants and NGV recognise there are benefits in ensuring that the design of the East Anglia TWO project and East Anglia ONE North project does not unnecessarily limit or restrict the opportunity for the Nautilus project and EuroLink project to connect to National Transmission System (NTS) at the National Grid substation".
9. Second, the Applicants acknowledge that the mitigation measures which are being contemplated in these applications may need to be altered or reversed by future expansion. This would necessarily include revised drainage solutions. None of these impacts have been assessed at all by the Applicants. It is clearly possible to assess the impact on the surface water drainage requirements of increasing the size of the NG substation.
10. Third, the answer offered by the Applicants to ExQ3.14.5 is wholly inadequate and potentially misleading. NGV has made clear its intention to use the Friston location. The need for an assessment of cumulative impacts does not depend on certainty that a "cumulative" impact will occur. The requirement is to assess the "likely significant... cumulative... effects" (see paragraph 5 of Schedule 4 to the 2017 Regulations). It is well-established that "likely" does not equate to "certain". This misunderstanding on the part of the Applicants has infected their analysis of cumulative schemes throughout. It would be a clear legal error to rely on the Applicants' approach since it has wrongly excluded cumulative schemes on the false premise that "certainty" is required to justify assessment.
11. It is far from "impossible" to assess the likely impacts because the scale and nature of those impacts are known: indeed NGV is able to cite examples of similar schemes in its own answers to the same questions. Moreover, NGV has published extensive information in respect of the Nautilus scheme, confirming for instance that "*NGV understands that typically the maximum*

land take required to facilitate extensions to NGET substations is approximately 1.3 ha (3 acres) for each connection offered at a location” and “NGET has indicated that provision for the land required to extend its substation at Friston has been provided for as part of Scottish Power Renewables proposals for the East Anglia ONE North (EAIN) and East Anglia TWO (EA2)”². In truth there is no doubt as to what is proposed by NGV, as confirmed by its own answer to ExQ3.14.5.

12. Fourth, the suggestion by both the Applicants and NGV that assessment can be deferred to a future application for development consent is plainly inconsistent with the law on the assessment of cumulative effects: see the principles described in *Pearce v SSBEIS* [2021] EWHC 326 (Admin) at [109]-[116]. Later assessment in the context of a subsequent consent does not avoid the need for assessment of the cumulative effects in the context of the first consent. In *R (Larkfleet Limited) v South Kesteven District Council* [2016] Env. L.R. 76 the Court of Appeal described the assessment of cumulative impacts and noted that³:

*“Where two or more proposed linked sets of works are in contemplation, which are properly to be regarded as distinct “projects”, the objective of environmental protection is sufficiently secured under the scheme of the Directive by consideration of their cumulative effects, so far as that is reasonably possible, in the EIA scrutiny applicable when permission for the first project (here, the link road) is sought, **combined with** the requirement for subsequent EIA scrutiny under the Directive for the second and each subsequent project.”*

13. Advice Note 17 is consistent with these legal principles. It provides no justification for the exclusionary approach adopted by the Applicants and the ExA should advise the Secretary of State that the Applicants have simply failed to assess the likely significant effects in cumulation with the other projects, including both the interconnector projects and likely windfarm development.
14. It follows that there is an absence of any proper assessment of likely significant cumulative effects. The shortfalls have been set out in SASES’s submissions to date⁴, and are confirmed by the answers to ExQ3.14.

² <https://www.nationalgrid.com/document/132456/download>

³ Emphasis added

⁴ See e.g. REP3-126 Substation Action Save East Suffolk (SASES) Deadline 3 Submission - Annex A - SASES Written Summary of Submissions on Cumulative Impact;

REP4-113 Substation Action Save East Suffolk (SASES) Deadline 4 Submission - Additional evidence relating to cumulative impact;

REP5-115 Suffolk Energy Action Solutions (SEAS) Deadline 5 Submission - Further Evidence of Cumulative Impact;

REP9-075 Substation Action Save East Suffolk (SASES) Deadline 9 Submission - Comments on National Grid Substation Extension Appraisal.