



Meeting note

Project name	East Anglia ONE North and East Anglia TWO
File reference	EN010077 and EN010078
Status	Final
Author	The Planning Inspectorate
Date	16 July 2019
Meeting with	Scottish Power
Venue	Rivergate, Temple Quay, Bristol
Meeting objectives	Project update meeting and review of draft documents
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 of the Planning Act 2008 (the PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Project update

The Applicant provided a project update including their proposed submission date of 25 October 2019. Should the application be accepted for examination, and subject to any section 51 advice which may be issued by the Inspectorate, the Applicant intends to issue the section 56 notification to open the relevant representations on 23 November 2019, for both projects.

When discussing potential timeframes post-submission, the Inspectorate advised that there is no statutory timeframe for the pre-examination stage, and that the Government guidance¹ notes this point, and only expects that the preliminary meeting could be held between six weeks and two months from the end of the relevant representation deadline. The Inspectorate advised the Applicant that the pre-examination period may take longer than the anticipated time periods set out in the above guidance due to the scale of both projects, and also taking into account the Christmas period.

The Applicant confirmed they will seek flexibility in the draft DCOs on the precise locations of the onshore substations required for both projects. The Inspectorate advised the Applicant that where options are being considered for either project, to ensure that the corresponding Environmental Statement presents an assessment of the worst-case scenario in each technical assessment undertaken.

East Anglia TWO Draft documents

The Inspectorate reviewed the following draft documents for the East Anglia TWO (EA2) project only, provided to the Inspectorate in May 2019.

- Habitats Regulation Assessment
- Consents and Licences under other legislation
- Consultation Report
- Section 42 consultee list
- Land plans
- Works plans
- Statement of Reasons
- Extract of Book of Reference and Rights Sought
- Draft Development Consent Order
- Explanatory Memorandum
- Interface document

A brief discussion of the Inspectorate's comments on the draft documents was held. Detailed comments are provided in the Table below. The Inspectorate confirmed that the

¹ Guidance for the examination of applications for development consent, March 2015

advice provided relates only to the EA2 proposal, as no draft documents were received in regard to East Anglia ONE North (EA1N). A letter was issued to the Inspectorate by the Applicant detailing the differences and similarities between the EA2 and EA1N proposals.

Interface Document

The Inspectorate confirmed that it has no further comments to make on the precise layout or formatting of the interface documents and consider that these will be for the Applicant to decide, although it would be advisable to take comment from key stakeholders. The Inspectorate confirmed the understanding that a copy of the documents would be submitted within the application for both EA1N and EA2. The 'Guide to the Application' for each application should clearly show how the interfacing documents sit within the application and relates to the rest of the submissions.

A general but important comment the Inspectorate made is that the usefulness and purpose of the document must always be forefront. In some cases there may be few differences/similarities between the projects (e.g. onshore project description may involve few differences but offshore environmental data may contain few similarities) and the Applicant should consider the usefulness of the interfacing document – that if it itself is becoming very long and technical, requiring a lot of cross-referencing to different parts of the application, the Inspectorate would suggest its usefulness had become compromised.

In summary, the Inspectorate advised that the interfacing document approach may work well and be helpful to stakeholders for some parts of the application but not others, and careful consideration should be given to the extent of use of this approach.

Specific decisions/ follow-up required?

The following actions were agreed:

- The Inspectorate and the Applicant will continue to hold monthly conference calls until the submission of the applications.
- The Inspectorate to provide written comments on draft application documents to the Applicant.

The Proposed East Anglia Two Offshore Wind Farm

Section 51 Advice – draft Application Documents provided by Scottish Power Renewables for the Inspectorate’s review

This advice relates solely to matters raised upon the Inspectorate’s review of the draft application documents submitted by Scottish Power Renewables (“the Applicant”), and not the merits of the proposal. The advice is limited by the time available for consideration, and raised without prejudice to the acceptance or otherwise of the eventual application. It is provided to assist the preparation of the next iteration.

Abbreviations used

PA2008	<i>Planning Act 2008</i>	BoR	<i>Book of Reference</i>	dDCO	<i>draft Development Consent Order</i>
EM	<i>Explanatory Memorandum</i>	ExA	<i>Examining Authority</i>	SoS	<i>Secretary of State</i>
The Inspectorate	<i>Planning Inspectorate</i>	SoR	<i>Statement of Reasons</i>		

General Drafting points

1. The Applicant should ensure that when the draft development consent order (dDCO) is finalised (ahead of submission) all internal references and legal footnotes are checked and that the drafting follows best practice in Advice Note (AN) 13 and 15 and any guidance on statutory instrument drafting.
2. A thorough justification should be provided in the Explanatory Memorandum (EM) for every Article and Requirement, explaining why the inclusion of the power is appropriate in the specific case. The extent of justification should be proportionate to the degree of novelty and/ or controversy in relation to the inclusion of that particular power.
3. Notwithstanding that drafting precedent has been set by previous DCOs, whether or not a particular provision in this DCO application is appropriate will be for the Examining Authority (ExA) to consider and examine taking account of the facts of this particular DCO application and having regard to any views expressed by the relevant authorities and interested parties.

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
1.	General draft DCO (dDCO)		The Applicant should ensure that all cross references within the dDCO are checked and corrected where necessary/relevant, this includes references to any plans.
2.	General DCO		The Applicant will be asked to maintain a list of all plans and other documents that will require SoS certification (including plan/document references), updated throughout the examination process, and supplied to the ExA before the close of the examination.
3.	General DCO		The dDCO is proposed to be a SI and so should follow the statutory drafting conventions. The dDCO (and any subsequent revisions) should be in the form required by the statutory instrument template (see Planning Inspectorate AN15) and validated as such using the current SI template, including detailed footnotes to all statutory references.
4.	General DCO: references to Part 1 of the 1961 Act		Some Articles make provision for compensation <i>to be</i> determined under Part 1 of the 1961 Act. It is acknowledged that a provision in this form is in the various Model Provisions and is commonplace in DCOs and other Orders. However, Part 1 of the 1961 Act only relates to compensation for compulsory acquisition. In order for there to be certainty that it would apply in other situations (e.g. the temporary use of land under Articles 27 & 28), then, if not already done, should a modification be included as with the other compensation provisions in the intended (currently unseen) Schedule 8? If not, why not?

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
5.	General DCO		Applicant should ensure all legislative references throughout the dDCO are to extant legislation.
6.	General DCO		There should be no unpopulated gaps in the dDCO submitted with the application.
7.	General DCO	<i>Where any parts of the Order limits will be identical to those in a proposed draft DCO for the separate East Anglia ONE North Offshore Wind Farm</i>	<p>The Applicant should consider:</p> <ul style="list-style-type: none"> - Can corresponding works in both dDCOs be given the same Work Numbers in both dDCOs?; - If both dDCOs contain identical works, adding into the dDCO obligations on the undertaker to notify the Secretary of State, the relevant local planning authorities and any relevant statutory bodies/requirement consultees as to which DCO works are being commenced, before they are commenced (together with a prohibition on those works being commenced under a DCO if they've already been commenced under the other DCO); - How to draft (in both dDCOs) compulsory acquisition powers and the inter-relationships between them.
8.	Page 3 preamble		If s131 or s132 of the PA 2008 will apply, this should be included in the preamble – see s131(3)(b) and s132(2)(b).
9.	A2(1)	Interpretation	Definition of 'authorised development' includes "any other development authorised by this Order...."

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
			<p>“authorised project” definition includes ‘ancillary works’ in addition to the ‘authorised development’.</p> <p>Do the ancillary works therefore not constitute development within s32 PA 2008? If they don’t then does Part 2 of Schedule 1 need to include an express prohibition on it authorising any works constituting development within s32 PA 2008?</p>
10.		Interpretation	Definitions of “commence” and “maintain” are likely to be examined thoroughly in any examination.
11.		Interpretation	Definition of “environmental statement” – if the application is accepted, the Applicant will need to consider if the definition should be updated (for example if further documents are submitted) throughout the examination.
12.		Interpretation	Definitions of “grid connection works” and “transmission works” include ‘any related associated development’. Is Schedule 1 clear as to any such development associated with these works?
13.		Interpretation	Is a definition of “relevant highway authority” required?
14.		Interpretation	“land plan” and “works plan” – should these be plural, i.e. ‘plans’? Also, these will need to be certified. They should, therefore, be listed individually in the DCO.
15.	A3	<i>Development consent etc. Granted by the Order</i>	‘scheduled works’ is undefined. Precision/definition is required here.

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
16.	A5	<i>Benefit of the order</i>	Exclusions from requirement for Secretary of State's consent likely to be examined closely if the application is accepted for examination. Also, as currently drafted, the exclusions appear to apply to transfer of benefit of deemed marine licences too – is that the intention?
17.	A6(2)	<i>Regarding temporary possession</i>	Are all of these provisions actually capable of being disapplied? See for example sections 18(3) and 19(3).
18.	A7	<i>Control of Pollution Act 1974</i>	Section 65 has been repealed.
19.	A15	<i>Discharge of Water</i>	Has the Environment Agency been consulted in regard to this Article? It would be helpful if the EM stated if the Environment Agency consents to its inclusion in the DCO.
20.	A16	<i>Survey and investigate</i>	Is a provision required to obliging the undertaker to remove survey apparatus after surveys etc. completed?
21.	A17	<i>Protective Works to Buildings</i>	Ensure that all relevant plots are included in the Book of Reference (BoR)
22.	A18	<i>Compulsory acquisition of land</i>	Because it is subject to other Articles, it appears that there will be few plots to which this applies.
23.	A20	<i>Compulsory Acquisition of rights</i>	Paragraphs (1) and (2) may need to be refined so that they are limited to the rights and restrictions identified in the BoR (not simply purposes in Article 18 and Schedule 7 respectively).

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
24.	A21	<i>Overriding or extinguishment</i>	What is actually intended? – overriding or suspension or extinguishment of rights? Requires clarity/precision both here and in the EM. Also to whom does notice need to be provided under Article 21(6)(a)?
25.	A22, 23 & 25	<i>Application of compulsory purchase legislation</i>	There have been relatively recent changes to the relevant compulsory acquisition legislation. The applicant should ensure reference is made to the most up to date legislation.
26.	A24	<i>2nd line refers to Article 20</i>	Is this required?
27.	A27(1)(e)	<i>'or any mitigation works or operation'</i>	What is meant by mitigation? Mitigation of what?
28.	A27(2)	<i>Temporary Use of Land</i>	Notice period of 14 days, when Article 28 has 28 days. Is there justification for these being different?
29.	A28(11)(b)	<i>Cross reference to article 25</i>	However, the EM refers to article 27, not 25
30.	A29	<i>Statutory undertakers</i>	Potential conflict between "Order limits" and "Order land", both within this Article and between this Article and Articles 18 & 21 (& 20 if relevant). Paragraph (a) rights to CA land as well as rights, could this paragraph just cross refer to main powers in Articles 18 and 20 instead of repeating the main compulsory acquisition powers?

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
			Note the different definitions of statutory undertakers between s127 and s138 PA 2008. Does DCO definition of “statutory undertaker” in Article 2(1) require any amendment in this regard?
31.	A35	<p>Felling or lopping of trees and removal of hedgerows</p> <p><i>'(4) The undertaker may, for the purposes of the authorised project—</i></p> <p><i>(a) subject to paragraph (2) above, remove any hedgerows within the Order limits that may be required for the purposes of carrying out the authorised project; and</i></p> <p><i>(b) remove the important hedgerows as are within the Order limits and specified in Part 1 of Schedule 11 (removal of important hedgerows).'</i></p>	<p>Note the first sentence in Good Practice Point 6 of the Planning Inspectorate’s Advice Note 15 which states (emphasis/underline added):</p> <p><i>'Hedgerows affected by the Proposed Development should be identified in a Schedule to and on a plan accompanying the draft DCO. The Schedule and plan could also helpfully identify those hedgerows that are 'important' hedgerows. This would enable parties such as the relevant planning authority to make submissions on the appropriateness of including such provisions, and the ExA to consider these'.</i></p> <p>Therefore, the Applicant is advised to include all hedgerows in a Schedule to the DCO and not just the important hedgerows.</p> <p>In addition, does this Article need to be made subject to Article 36?</p> <p>In paragraph (1) should 'near to' be replaced with 'encroaching upon'?</p>
32.	A36	<i>Tree Preservation Orders (TPOs)</i>	Do 'shrubs' need to remain included, or is this just in relation to trees?

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
			Can the dDCO include a Schedule listing the relevant TPOs and the relevant trees subject to them?
33.	A37	<i>Certification</i>	Each individual plan/drawing should be referenced, this can be done in a schedule if that is more elegant.
34.	A38	<i>Arbitration</i>	Paragraph (2) may be examined in detail in any examination. Consider to what extent the paragraph would be appropriate, if at all.
35.	A39	<i>Applying s78 of the 1990 Act</i>	<p>Paragraph (1) – should it only apply to Requirements under the DCO (not also to the entirety of “the development consent granted by this Order”)?</p> <p>Regarding paragraph (2), the Inspectorate considers that in this instance, the decision maker ought to be SSHCLG, as no other Government Department has infrastructure in place to process s78 appeals.</p> <p>Paragraph (3) - further definition may be required here as to “any development order” – e.g. made under what legislation?</p>
36.	A42	<i>Crown rights</i>	The Inspectorate advises that this article is discussed with the Crown Estate to understand if it is still required and if it is the most recent wording for this article.
37.	Schedule 1, Work number 5	<i>'up to two subsea export cables between Work No. 3 and Work No. 6 within the area shown on the works</i>	As currently drafted, the dDCO and EM do not appear to make reference to the two offshore cable route options and the process for determining the preferred option post-consent (for example

Draft Development Consent Order			
Q No.	Article (A)/ Requirement (R)	Extract from DCO or relevant subject matter (for ease of reference)	Comment/Question
		<i>plan including one or more cable crossings’;</i>	including any formal consultation process with certain stakeholders), if the dDCO is made.
38.	R16	<i>Highway access and improvements</i>	Should paragraph (1) require approval of (or consultation with) the relevant highway authority.
39.	R24	<i>Control of noise</i>	Refers to work number 14, is this the correct work number?
40.	Schedules - general		All blank schedules should be fully populated.
41.	Deemed Marine Licence (DML) general		Applicant should consider whether any references to “this Order” and “this Schedule” should be to “this licence” and whether references to provisions in the remainder of the dDCO should expressly refer to the that provision “of the Order” (or in the case of Schedules “to the Order”) Also do any additional definitions from the dDCO need to be repeated (e.g. “Order limits”)?
42.	DML general		DML should not authorise works or design parameters not authorised by the DCO.
43.	DML Definition of “maintain”		Should tie in with that definition in the dDCO (so far as that relates to these works)?

Draft Explanatory Memorandum			
Q No.	Paragraph	Extract from EM or relevant subject matter	Question/comment
1.	General draft EM (EM)		<p>Explanation and evidence (including the outcomes of any consultation) is required to explain why the content of each article, schedule etc to the dDCO is relevant and required for this proposal. Please refer to AN15.</p> <p>The EM should provide explanation and justification where a provision departs from a precedent (See AN13 and 15).</p> <p>This should include reference to the particular circumstances of this development and an explanation as to why this is necessary or desirable.</p> <p>The Applicant should also check that all references to legislation and guidance are accurate.</p>
2.	2.5 & 2.15	<p><i>'In light of this, the overhead line realignment works cannot be ruled out as qualifying as an NSIP. Accordingly, the works have been treated as such'. (2.15)</i></p> <p><i>2.5 'authorises development linked to the 'overhead line realignment works NSIP'</i></p>	<p>The Applicant may wish to consider providing a more certain statement in regard to why they consider this part of the proposal is a NSIP?</p> <p>Providing justification on this point is important as the PA 2008 is the only legislation through which a NSIP can be granted.</p>
3.	2.21	<i>'as well as works associated with the overhead line ...'</i>	The Applicant may wish to summarise what they are.

Draft Explanatory Memorandum			
Q No.	Paragraph	Extract from EM or relevant subject matter	Question/comment
4.	3.5	<p><i>'such as' and 'for example'</i></p> <p><i>'carved out'</i></p> <p><i>'this approach to the definition of commence is critical to ensure that pre-commencement activities can be carried out in a timely manner and do not hold up the construction of the project'</i></p>	<p>List them.</p> <p>'carved out' is not defined in the dDCO, but does this give an impression that it is?</p> <p>Applicant may wish to explain <u>why</u> this is time critical as suggested.</p>
5.	3.6	<p><i>'A definition of "maintain" has been added to clarify what is authorised under article 4 (power to maintain authorised project) and follows the definition in the East Anglia THREE Offshore Wind Farm Order 2017.'</i></p>	<p>As noted in a broader comment above, and in regard to AN15, the EM should state why the wording is relevant to this particular proposal.</p>
6.	4.7	<p><i>Transfer of benefit</i></p>	<p>It needs to be made clear if there are any circumstances when the MMO would not need to be consulted and whether the dDCO excludes need for Secretary of State consent to transfer DMLs in certain circumstances</p>
7.	4.9	<p><i>Transfer of benefit</i></p>	<p>Clarity needed over which work numbers benefit licence holders under Electricity Act 1989.</p>

Draft Explanatory Memorandum			
Q No.	Paragraph	Extract from EM or relevant subject matter	Question/comment
8.	4.10	Numerous references to 'a number of Orders'	The does not specify all, or the relevant examples of the orders; reference is made to East Anglia ONE (EA1) DCO and East Anglia THREE (EA3) but not others. If others are being used as precedent, the Applicant is advised to list 'all relevant' orders. There is inconsistency throughout the document. i.e. different wording in 4.10 to 4.12.
9.	4.12	Statutory nuisance	Section 65 of the 1974 Act referred to has been repealed. Should 'for which' read e.g. 'in accordance with'? Should 'obtained' be deleted? This paragraph does not deal with dDCO Article 7(1)(b). Why not?
10.	4.15	'onshore part'	dDCO Article 10 does not limit to onshore development, so why does this paragraph appear to be so limited?
11.	4.17	'local highway authority'	The relevant dDCO article refers to 'street authority'.
12.	4.29	'It is varied...' 'if indeed vesting ever occurs'	Is this misleading? This is not in dDCO Article 18. If it is meant to refer to Article 21 then this should be made clear. Also, Article 21 does not provide simply for extinguishment on entry, but the earlier of entry or vesting – be clear about this. Does this raise a question mark over Applicant's intentions and, if so, over justification for compulsory acquisition powers?

Draft Explanatory Memorandum			
Q No.	Paragraph	Extract from EM or relevant subject matter	Question/comment
13.	4.30	'powers of temporary possession'	Temporary possession is not compulsory acquisition. The EM should not conflate them.
14.	4.34	'cables, jointing bays and any ducts'	Will only be limited to these things if the BoR and dDCO Schedule 7 limit powers in that way.
15.	4.36	'are precisely drafted'	If they are then dDCO Article 20(2) should not simply refer to a 'purpose'.
16.	4.52	'within the limits of the land to be acquired'	Is this inaccurate? – current dDCO (Article 29(a)) refers to 'Order limits'.
17.	4.56	'pursuant to'	Should this also refer to s120 of and Schedule 5 to the PA 2008?
18.	4.66	'deems the requirementsas planning conditions'	Is this misleading? Surely it does not actually do that, as opposed to applying s78 to them in the same way as it applies to conditions?
19.	4.69	'taken'	That word does not appear in the relevant dDCO Article.
20.	5.16	Highway access and improvements	Does this need to be expanded to explain that it only relates to vehicular accesses?
21.	5.25	traffic	No mention made here of consultation with highway authority.
22.	5.26	'specified period after'	Specify what the period is.

Draft Explanatory Memorandum			
Q No.	Paragraph	Extract from EM or relevant subject matter	Question/comment
23.	5.27	Restoration of land	Does not refer to the need to implement as approved.
24.	5.31	'relevant planning authority'	After these words, should reference to 'or other person' be added?
25.	5.32	'principles'	Should this also refer to 'assessments'?
26.	5.33 to 5.43 and 5.69 to 5.73	Various Schedules	The Inspectorate cannot comment on these paragraphs as it has not been supplied with drafts of the Schedules to which they refer.
27.	5.46	'standalone documents'	As currently drafted, they are not entirely standalone documents as they cross refer to various dDCO provisions and rely on dDCO works plan. May need more clarity as to extent of 'standalone' status?
28.	5.52	S72 of the 2009 Act	Are 'disapplied', 'disapply' and 'disapplication' inaccurate? Is it instead a case of applying s72 except for subsections (7) and (8) if it's a transfer within dDCO Article 5? Also explain what 'limited circumstances' are referred to.
29.	5.61	'and will not give rise to significant effects that have not been assessed within the environmental statement'	Where does the condition referred to say this? The Inspectorate cannot see that it does as currently drafted.
30.	5.62	'site integrity plan'	Should reference to 'for piling' be added after these words?
31.	5.68	Reporting of impact pile driving etc.	The obligation to provide such information applies only in certain circumstances. Could this paragraph explain them?

Extract of BoR and Menu of Rights Sought			
Q No.	Paragraph/ Section	Where relevant extract from BoR (for ease of reference)	Question/Comments
1.	Introduction	<i>First paragraph</i>	Seems rather 'wordy'. Could it be made more succinct?
2.	Introduction	Definitions of 'cables', 'jointing installations', 'adjoining land', 'terrestrial work activities'	Are all elements of each definition required on every occasion those terms are used in the BoR? If so, explain why. If not, be more precise in each relevant plot.
3.	Table of New Rights:	Each lettered right category	Are all sub-categories of each lettered category of right (and each of the purposes for them – e.g. 'construction, installation, operation, maintenance and decommissioning') required on every occasion those categories are used in the BoR? If so, explain why. If not, be more precise in each relevant plot as to which sub-categories are required.
4.		'authorised project'	Is this defined in the BoR? Seems that it needs to be.
5.		'intrusive and non-intrusive surveys'	Are defined in the BoR? Seems that they need to be.
6.		'remove archaeological artefacts... materially more difficult.....materially increase the cost.'	What does materially more difficult mean (more difficult than what)? What is a material increase in cost (and above what)? Also how does such a right relate to a Written Scheme of Investigation?

Extract of BoR and Menu of Rights Sought			
Q No.	Paragraph/ Section	Where relevant extract from BoR (for ease of reference)	Question/Comments
7.		'Z - permanent freehold acquisition'	<p>It does not seem appropriate to include this as a category of new rights in this table as, instead, it would be acquisition of an estate in land (not a right over land). Instead, for each relevant plot, in the description of land column of the BoR, the applicant should state 'all interests in [description of land]', and without the need for the word 'permanent'.</p> <p>If it relates to any Crown land then that description in that column should also expressly exclude any interest vested in the Crown.</p>
8.	General	Any blank columns for any plot	Rather than leave blank, insert the word 'none' where relevant.
9.	General	general	Follow the Government Guidance 'Planning Act 2008: procedures for the compulsory acquisition of land' including the Annex D dealing specifically with BoR guidance. For example, cross referring to relevant DCO Articles in the BoR and each person in Part 3 of the BoR should also be in Part 1 of the BoR.
10.	Part 1	general	The Applicant should refer to Regulation 7(1)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. All plots subject to <u>any</u> of the powers or rights referred to in that legislative provision should be listed in the BoR.
11.	Part 1 plot 1 for example	Crown interests	This plot refers to Crown interests but no Crown authority is listed in any column for plot 1. Why not?

Extract of BoR and Menu of Rights Sought			
Q No.	Paragraph/ Section	Where relevant extract from BoR (for ease of reference)	Question/Comments
12.	Part 2	Why are there two sub-parts (2A and 2B)?	There is no need for sub-parts. It should simply be Part 2. In any event Part 2B is currently unpopulated and has the same headings as Part 2A.
13.	Part 3	Heading of final column	The Applicant is advised to expand this, using the relevant wording in Regulation 7(1)(c) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.
14.	Part 4	Crown interests	Part 4 is currently blank. The Applicant should refer to Regulation 7(1)(d) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009. Part 4 needs to be populated for all 'land which is proposed to be <u>used</u> for the purposes of the order for which application is being made' (emphasis added).

Statement of Reasons			
Q No.	Paragraph/ Section	Where relevant, extract from [abbreviation of doc] (for ease of reference)	Question/Comments
1.	General	<i>"temporary rights"</i>	Throughout the document there are references to compulsory acquisition (CA) of temporary rights. The Inspectorate takes the view that this is not possible, as opposed to CA of permanent rights some of which may only need to be exercised temporarily. In addition, temporary possession should not be conflated with compulsory acquisition.
2.	3.2	<i>'The typical 32m working width would be widened if a trenchless technique is utilised to cross the Leiston – Aldeburgh SSSI and Sandlings SPA. The working width would also be widened to cross the Hundred River'.</i>	It doesn't state here, the extent to which the typical working width will be widened (for example this is mentioned in para 6.92 as 90m).
3.	3.6	<i>"Order Land"</i>	But in dDCO Article 29 there is reference to 'Order limits'. Needs precision.
4.	4.2	<i>"not yet been ascertained"</i>	Where this remains the case on application, 'unknown' should be entered into the relevant columns for the relevant plots in the BoR.
5.	5.9	<i>'principle'</i>	Should this be 'principal'?
6.	6.17 and 6.18	<i>'temporary possession...during construction' and 'temporary powers ...to allow construction'</i>	This section does not mention temporary possession for maintenance, but the dDCO does. Should this section, therefore, be expanded in that regard?

Statement of Reasons			
Q No.	Paragraph/ Section	Where relevant, extract from [abbreviation of doc] (for ease of reference)	Question/Comments
7.	6.44	<i>"Including land....in the event that a negotiated agreement proves difficult to enforce..."</i>	Could justification for this be expanded?
8.	6.49 to 6.52	<i>"Override Rights...."</i>	What is actually intended? Overriding or suspension or extinguishment?
9.	6.52	<i>"Article 21 allow"</i>	Article 21 of what?
10.	6.52	<i>"...to minimise compensation claims"</i>	Is that the main purpose or may it be to minimise disruption to/interference with rights (which may in turn minimise compensation claims)?
11.	6.53-6.55	(regarding reasonable alternatives)	Can these paragraphs be refined to include more evidence?
12.	6.62	<i>"for all of the reasons in this Statement"</i>	Could the Applicant summarise them here?
13.	6.62 to 6.66	(paragraphs regarding the compelling case in the public interest).	These paragraphs are short. Could they include a more detailed explanation of the compelling case? For example, reference could be made (but not limited to) chapter 8 regarding policy support.
14.	7.6	(regarding the public benefit)	Could further explanation be provided here, or references to where this explanation is included in the remainder of the document?
15.	7.8	<i>First sentence</i>	Why is no mention made of s152(3) PA 2008?

Statement of Reasons			
Q No.	Paragraph/ Section	Where relevant, extract from [abbreviation of doc] (for ease of reference)	Question/Comments
16.	7.11	"Article 1 of Protocol"	Why does this not also refer to Articles 6 and 8 of the Convention?
17.	Chapter 8	<i>Policy support for the Application</i>	The Applicant should ensure that all policies referred to are up to date and extant.
18.	9.1	"PA 2008"	Should this be "2008 Act"?
19.	9.1	"Crown body"	Should this be "Crown authority"?
20.	9.4 to 9.7	"common land"	The sections of the PA 2008 referred to do not apply only to commons, so why do these paragraphs?
21.	9.7	<i>Whole paragraph</i>	Taking this approach is at the Applicant's own risk. Also, can the Applicant provide more justification/evidence (and, if would be helpful, legal submission) as to why the strata in question does not form part of a common and that no rights to use a common will be interfered with in any way? The Applicant should also be mindful of s139 (and in particular s139(3)) of the PA2008 and s38 of the Commons Act 2006.
22.	9.8	"if that statutory undertaker has made a representation"	PA 2008 does not limit this to representations made only by a statutory undertaker.
23.	9.8	"used for the purposes of the carrying out of the statutory undertaking"	Why has the Applicant not also referred to the circumstances set out in s127(1)(c)(ii) PA 2008?

Statement of Reasons			
Q No.	Paragraph/Section	Where relevant, extract from [abbreviation of doc] (for ease of reference)	Question/Comments
24.	9.8	<i>"undertaking without"</i>	Should this be "undertaker without"?
25.	9.10	<i>Protective Provisions</i>	The application dDCO will need to be populated with a full suite of relevant protective provisions if any are sought. Also, it would be advisable for 9.10.1 to include relevant plot numbers.
26.	Chapter 10	<i>Other powers of compulsory acquisition sought in The Order</i>	The Applicant should consider the terminology used here, as not all of those listed are powers of CA (although some may be parasitic upon powers of CA). The Applicant should also ensure that everything said about any powers/dDCO Articles referred to here is accurate.
27.	11.2	<i>"undue delay"</i>	Delay beyond when? Also, what constitutes an "undue" delay?
28.	Chapter 12	<i>Interaction with East Anglia One North</i>	It might assist the reader if this chapter was presented earlier in the document, to provide context to the request for a 70m swathe and to introduce the possibility that the works for both projects may be undertaken simultaneously or sequentially.
29.	12.2	<i>"Onshore....share the same order limits"</i>	Are any shared Order limits entirely onshore? If not, then this may need refinement.
30.	12.3	<i>"...North East Anglia..."</i>	Should this be "North and East Anglia"
31.	12.7	<i>"will be governed by protective provisions"</i>	The dDCO may require more than that alone – please see above comments on dDCO in this regard.

Statement of Reasons			
Q No.	Paragraph/Section	Where relevant, extract from [abbreviation of doc] (for ease of reference)	Question/Comments
32.	14.2	"Other land required to facilitate or land incidental to the Project"	Is there any? If so, which plots and why are CA powers appropriate for them?

Draft Land Plans			
Q No.	Land Plan Ref	Extract from Plan Key (for ease of reference)	Question/Comments
1.	General		Where there are insets, the plots are not labelled within the inset on the plan within which the inset is located itself.

Draft Consultation Report			
Q No.	Paragraph/Section	Extract from CR (for ease of reference)	Question/Comments
1.	General		It is noted that information has not been provided regarding the full statutory phase of the consultation, stage 4.
2.	General		For ease of reading it would be helpful if tables of contents to the Appendices could be provided as these are currently altogether in each individual stage.

Section 42 Consultee List	
Q No.	Question/Comments
1.	Historic England is not specified as The Historic Buildings and Monuments Commission for England
2.	Crown Estate Commissioners is not specified as The Crown Estate however the non-specific description of both is on the list.
3.	Network Rail Infrastructure Ltd are not listed as a consultee.
4.	The following parties (based on a precautionary interpretation of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 do not appear to have been consulted: Eclipse Power Network Limited, Energy Assets Networks Limited, Energy Assets Power Networks Limit, Fulcrum Electricity Assets Limited, Murphy Power Distribution Limited and Vattenfall Networks Limited.
5.	Peel Electricity Networks Limited are listed as being consulted, the Planning Inspectorate use 'Leep Electricity Networks Limited', although they appear to be the same, the Applicant should confirm this point.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
1.	N/A		It is noted that no screening matrices or integrity matrices (see Advice Note 10) have been submitted with the draft HRA document. The Applicant should submit these as part of the application.
2.	N/A		There is no statement in the documents that the proposals are not connected to or necessary for the management of any European sites. It would be helpful to include such a statement, as appropriate.
3.	General		The document is structured around the ecological habitats/species populations or species groups studied, then this information is related to European sites and their features which are deemed relevant. In general, this makes it very difficult to understand what study area(s) has been applied, what European sites have been considered and what features have been screened in or out of further assessment. A comprehensive list, which will match the matrices, of all the sites and features considered and whether they were screened in or out should be included. As it stands there is a risk to acceptance because it is not easy to ascertain if any sites or features have been omitted.
4.	General		Evidence should be provided as to any agreement reached with the relevant authorities and other stakeholders over the list of other projects and plans included in the in-combination assessment.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
5.	General, Main Document	<i>Project Details</i>	For each subject area the relevant project details are set out, however there is not a complete summary of all of the project elements, and this would be useful to include. As it stands, it is difficult to ascertain the justification behind the exclusion of certain elements from a subject area (and indeed if they have been excluded). For example, effects on marine mammals from operational underwater noise from other project elements aside from the wind turbines (e.g. offshore platforms) is excluded and no justification is provided. References to the Evidence Plan process would be very useful in this regard.
6.	Appendix 1 throughout, Main Document Paragraph 13	<i>These conclusions were agreed by Natural England in their response to Screening (Natural England 2018).</i>	The Evidence Plan process and correspondence with statutory bodies such as Natural England is referred to a number of times in Appendix 1 and the Main Document makes this statement. Evidence (such as correspondence or meeting notes) of this consultation is ideally included as an Annex to the HRA document submitted with an application, and if not, is likely to be requested early in examination should the application be accepted.
7.	Appendix 1 Glossary of Terms		It would be useful to ensure that the definition of 'Designated site' includes all types of designations treated as Natura 2000 sites by legislation and policy (e.g. proposed Special Protection Areas (pSPAs) and Ramsar sites are not mentioned here).

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
8.	Appendix 1 Section 9, Table 9.1	Only lists features screened in for further assessment.	Following on from the above comment, this summary table is useful but does not provide all the information necessary to understand the screening exercise. ALL sites and ALL features considered should be listed.
9.	Appendix 1, figures		Figures depicting the wider geographical context of offshore sites are not included and this would be a useful addition. The figure depicting onshore sites is referenced as Figure 1.1 but the figure itself is labelled Figure 2. The offshore figures referred to as Figure 1.2 and 7.2 but both are labelled Figure 1. Effort should be made in the final version to ensure accuracy and clear referencing.
10.	Appendix 1 Paragraph 47	<i>'For those sites where LSE cannot be excluded in Stage 1, further information to inform the assessment is prepared. The assessment will determine whether the project alone or in-combination could adversely affect the integrity of the site in view of its conservation objectives'.</i>	This paragraph seems to suggest that in-combination assessment is only carried out as Stage 2 of the HRA process, rather than at Stage 1 ('screening') as well.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
11.	Appendix 1, numerous e.g. section 3.1.2.1, 3.1.2.2, Paragraph 142	<i>'the pathway is not too long'</i>	This phrase is not given any context in most of the paragraphs where it is used, so it is not clear under what circumstances a pathway for effect is being excluded. It is understood that these circumstances will vary for different features and therefore for each site/feature assessed they should be defined/described.
12.	Appendix 1, numerous eg Table 3.2, 4.2, Paragraph 110	<i>'Table 3.2 Statutory Sites Designated for Terrestrial Ecology within 20km of the Onshore Study Area' 'only four sites are within 50km'</i>	The document should provide an explanation of why the study area(s) have been chosen and how that relates to the anticipated Zone of Influence of the proposals – cross reference to the relevant section of the Environmental Statement (ES) would be helpful to avoid duplication.
13.	Appendix 1, Paragraph 70, 98(for example), Tables 3.2, 4.2, 5.2, 6.2,7.2,8.2	<i>For all sites it is considered that given the distance from the onshore study area and the nature of the features themselves (vegetation and coastal habitats) there is no potential for significant indirect effects (e.g. disturbance from noise or light, dust) and therefore no potential for LSE. Therefore, these sites are screened out with respect to indirect effects.</i>	The document does not provide any justification behind this statement or cross refer to the ES for this information. The distance referred to is not defined or placed in ecological context on context of the anticipated project activities or their effects. This approach is repeated in other paragraphs in the draft document and should be addressed in the final version.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
14.	Appendix 1, for example Paragraph 71, Paragraph 139, 203, 221-224	<p><i>'No sites are screened in for project-alone effects; therefore it is considered that there is no pathway for in-combination effects.'</i></p> <p><i>'As there are no pathways for effects due to the project, there are no pathways for in-combination effects.'</i></p> <p><i>'The potential for disturbance at seal haul-out sites as a result of vessels is highly unlikely and has been screened out from further assessment in the HRA. As this is screened out for the project-alone effects, it is also screened out from the in-combination assessment.'</i></p> <p><i>'At this magnitude of effect it is considered that there is no potential for LSE...vessel interaction at the offshore development area' 'in-combination assessment will only consider...effects of increased vessel interaction between the port and...windfarm site'</i></p>	<p>If there is no pathway for effects or no likelihood (other than a theoretical possibility) of significant effects from the project alone then it follows that in-combination effects can be excluded from assessment.</p> <p>However, the wording in the draft reports is often unclear and occasionally suggests that an effect will occur from the project alone which will be below a level considered significant. Since the need to do an in-combination assessment is triggered by these circumstances it does not always follow that an assessment of in-combination effects is not required.</p> <p>There may be a need to revisit the wording in the document or revisit the assessment to ensure compliance with the legislation with respect to the assessment of in-combination effects.</p>

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/ Section	Extract from HRA Report (for ease of reference)	Question/Comments
15.	Appendix 1 Paragraph 139, Table 6.1	<i>'no pathways for effects' and 'Summary of Potential Effects'</i>	This Paragraph states that there are no pathways for effects however this appears to conflict with Table 6.1 which identifies potential effects -and therefore presumably a pathway. The comments above regarding the in-combination assessment are also relevant to consider here as the absence of a pathway for LSE OR the absence of LSE is an important distinction to make.
16.	Appendix 1, Paragraph 82	<i>'For all other sites'</i>	The actual sites concerned are not listed anywhere so it is not clear what sites have been considered. This should be addressed (see comment 3 above).
17.	Appendix 1, Paragraph 83	<i>'arable, woodland etc'</i>	Where possible information should be precise, and it would be helpful to support this statement with a reference to data in ES (for example Phase 1 habitat survey or bird survey data).
18.	Appendix 1, Paragraph 83	<i>'Although there is potential for noise disturbance of birds in the intertidal area from HDD activities, this is not considered to be a pathway for LSE, indeed disturbance of birds within the intertidal was not considered as an effect upon any SPA in the Galloper Wind Farm'</i>	This statement appears contradictory as surely the potential for noise disturbance is a pathway for effects? Does this text mean that although a pathway exists the effects are not considered likely to be significant? It is also not clear why the reference to Galloper Wind Farm is included. The final report should make this clear e.g. by relating the EA project description to the anticipated LSE.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/ Section	Extract from HRA Report (for ease of reference)	Question/Comments
19.	Appendix 1, Paragraph 112	<i>'On this basis that there is no potential for direct or indirect effects which could result in LSE, we propose to screen all SACs with benthic habitat interest features out of the HRA'</i>	A site cannot be screened out unless LSE on all the features for which it is designated can be excluded. Is it meant here that benthic ecology as a designation feature (for any site where it is a feature) is screened out i.e. a conclusion that there will be no LSE on benthic ecology? It is noted that Table 5.2 provides a list of the sites which hold these features (and Paragraph 97 sets out what designated features fall within the term 'benthic ecology') so this is adequately set out, however the text in Paragraph 112 remains misleading and would benefit from rewording.
20.	Appendix 1, Paragraph 123		This is the first paragraph where conservation objectives have been mentioned for any European sites and it is not entirely clear why. The text suggests they are being used as context for the identification of pathways for LSE, however it should be clear in each section how the screening assessment has been carried out and where possible a consistent methodology should be used. An explanation should be provided where this has not been possible.
21.	Appendix 129	<i>Atlantic salmon Salmo salar, allis shad Alosa alosa, twaite shad Alosa fallax and sea lamprey Petromyzon marinus are known to either migrate through or spend part of their lifecycle in the North Sea.</i>	These fish species are not mentioned elsewhere in the report and it is not clear whether they are features of European sites which have been considered in the screening assessment. Addressing the issue raised in comment 3 above is likely to address this issue and provide clarity on what sites have been considered and the assessment which has been carried out on each of the features for which they have been designated.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/ Section	Extract from HRA Report (for ease of reference)	Question/Comments
22.	Appendix 1, Paragraph 236	<i>In-combination assessment scope</i>	This Paragraph suggests that an in-combination assessment will be done for in-project effects, however just be clear this terminology in the context of HRA refers to the assessment of effects from other plans and projects combining with the project effects. It would be helpful to state the scope of the in-combination assessment within the document, perhaps with reference to the screening and integrity matrices.
23.	Appendix 1, Paragraph 248	<i>'breeding seabirds', 'passage waterbirds'</i>	The use of group terms like these is useful, however an explanation should be provided of these and how they apply to the actual named features for which the European sites are designated. As noted in comment 3 above, these features must be identified.
24.	Main Report, Paragraph 28	<i>'Since the HRA screening the data has been reviewed and taking into account the consultation responses, all designated sites within 100km, based on the typical foraging range of grey seal (SCOS 2017), have also been considered further in the HRA'</i>	Appendix 1 does not reflect this updated position and it is appreciated that there may be a desire to set out the original screening exercise and then provide information on updates separately in this way. Nevertheless, it would be helpful to set out the Stage 1 part of the HRA process in full somewhere in order that the information supporting the HRA can be adequately understood. The screening matrices should also reflect the screening assessment in full.
25.	Main Report, for example Paragraph 33, Table 3.1	<i>'Chapter 11 Marine Mammals'</i>	There are a number of references such as the example given, which are not clear – are these references to the ES? All references to other documents or information should be made clear in the final document.

Habitat Regulations Assessment (HRA)			
Q No.	Paragraph/Section	Extract from HRA Report (for ease of reference)	Question/Comments
26.	Main Report, for example Paragraph 219	<i>'Given the extremely small potential project-only effect on little gull it is apparent that the proposed East Anglia TWO project will not contribute to an in-combination effect'</i>	Again, the need to do an in-combination assessment is triggered by finding no LSE from the project alone. The wording of this paragraph makes it difficult to accept the basis of ruling out an in-combination assessment and suggests that the opposite would be the case. This should be revisited in the final version.
27.	Main Document, Figure 1	<i>10km study area</i>	Again, the depiction of a 10km study area is not well explained and this should be addressed in the final version. It is also not clear how this fits with the 20km study area described in Appendix 1 and this should be clarified.

General

1. [DCLG: Application form Guidance](#), paragraph 3 states: *The application must be of a standard which the Secretary of State considers satisfactory: Section 37(3) of the Planning Act requires the application to specify the development to which it relates, be made in the prescribed form, be accompanied by the consultation report, and be accompanied by documents and information of a prescribed description. The Applications Regulations set out the prescribed form at Schedule 2, and prescribed documents and information at regulations 5 and 6.*