

East Anglia TWO Offshore Windfarm

Appendix 1 Statutory Requirements

Consultation Report

Applicant: East Anglia TWO Limited
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Pursuant to: Section 37(3)(c) of The Planning Act 2008

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Glossary of Acronyms

DCLG	Department for Communities and Local Government
EIA	Environmental Impact Assessment
MMO	Marine Management Organisation
NSIPs	Nationally Significant Infrastructure Projects
SoCC	Statement of Community Consultation

Glossary of Terminology

Applicant	East Anglia TWO Limited.
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.
Statement of Community Consultation	The Statement of Community consultation is a document which explains how the Applicant will consult with local communities about its plans to develop the proposed East Anglia TWO offshore windfarm.

1 Statutory Requirements

1.1 The Consultation Report

1. This Consultation Report responds to one of the key requirements set out in the Planning Act, i.e. that relating to the statutory obligation on applicants to complete a process of pre-application consultation. This consultation should be undertaken with prescribed bodies, local authorities and people with an interest in the land to which the application relates (under Section 42 of the Act), with local communities (under Section 47) and through the general notification (and associated awareness raising and publicity) of a proposed application (under Section 48).

1.2 Relevant Legislation and Guidance

2. The legislation setting out the requirements for pre-application consultation for Nationally Significant Infrastructure Projects (NSIPs) such as the proposed East Anglia TWO project comprises:
 - The Planning Act 2008 (the Act) (as amended);
 - The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009 (the APFP Regulations) (as amended); and
 - The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations).
3. The three key legal requirements relating to pre-application consultation under the Act are discussed below.

1.2.1 Section 42 of the Planning Act

4. Under Section 42 of the Planning Act, the Applicant is required to consult the following about the proposed application:
 - The consultees listed in Schedule 1 of the APFP Regulations. Many of these are mandatory depending on the type of project and its geographic location. However, a number of categories of statutory consultee require a judgement to be made as to whether, and precisely which, organisations should be consulted in the particular circumstances of the development.
 - Those local authorities as described within Section 43 of the Act. Local authorities are defined as those within which the land to which the proposed application relates is located. It also includes those local authorities that share a boundary of that authority. Where the development is sited in a two-tier local

authority area, lower-tier district authorities will only need to be consulted if they share a boundary with the lower-tier district authority in which the development is sited. In this case, the relevant local authorities are:

- Waveney District Council (combined with Suffolk Coastal District Council in April 2019, to be East Suffolk Council);
 - Suffolk Coastal District Council (combined with Waveney District in April 2019, to be East Suffolk Council);
 - Babergh District Council;
 - Mid Suffolk District Council;
 - Ipswich District Council;
 - The Broads Authority;
 - Cambridgeshire County Council;
 - Suffolk County Council;
 - Norfolk County Council;
 - Essex County Council;
 - Great Yarmouth Borough Council (following combination of Suffolk Coastal District Council and Waveney District Council to be East Suffolk Council in April 2019); and
 - South Norfolk Council (following combination of Suffolk Coastal District Council and Waveney District Council to be East Suffolk Council in April 2019).
- The Marine Management Organisation (the MMO).
 - All those with an interest in land to which the application relates as described in Section 44 of the Planning Act, i.e. a person is within Section 44 if the applicant knows that the person is an owner, lessee, tenant or occupier of the land; is interested in the land or has power to sell and convey the land or to release the land; or is entitled to make a relevant claim if the order sought by the proposed application were to be made and fully implemented.
5. Each consultee must be supplied with the consultation documents and given a deadline for making representations (at least 28 days from the day after receipt of the consultation documents). Under Regulation 13 of the EIA Regulations, the consultation bodies under Section 42(a) must also be sent a copy of the Section 48 notice (referred to below).
6. Section 46 of the Planning Act provides that on or before the commencement of Section 42 consultation, the Secretary of State must be sent a copy of the same information being sent to the Section 42 consultees.

1.2.2 Section 47 of the Planning Act

7. Under Section 47 of the Planning Act, consultation must be carried out with the local community (i.e. people living in the vicinity of the land to which the application relates). The form of this consultation must be discussed in advance with the local authority or authorities within whose land the development is located. In this case, the relevant local authorities are:
 - Suffolk Coastal District Council (combined with Waveney District in April 2019, to be East Suffolk Council);
 - Suffolk County Council; and
 - MMO
8. Section 47 of the Planning Act requires the applicant to consult on the content of the draft Statement of Community Consultation (SoCC) for a minimum period of 28 days.
9. Once the SoCC has been finalised, the applicant must make the SoCC available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land (Section 47(6) of the 2008 Planning Act as amended) and also publish a notice stating where and when the statement can be inspected (Section 47(6)(a) as amended).
10. The Applicant must then carry out its consultation in accordance with the proposals set out in the SoCC.
11. In developing the SoCC, regard must be had to the EIA Regulations and relevant guidance about pre-application procedure. Regulation 12 of the EIA Regulations stipulates that the SoCC must set out whether the proposal is EIA development and, if so, how the applicant intends to publicise and consult on preliminary environmental information.

1.2.3 Section 48 of the Planning Act

12. Under Section 48 of the Planning Act and Regulation 4 of the APFP Regulations, the applicant is required to publish a notice of the proposed application in a prescribed form, in one or more local newspapers for two successive weeks and once in a national newspaper and the London Gazette. In addition, where the proposal is for an offshore windfarm, the notice must also be advertised in an appropriate fishing trade journal and Lloyd's List. The Section 48 notice must state where members of the public may view documentation relating to the application and include a deadline for representations to be made (at least 28 days from the date when the notice is last published).

1.2.4 Section 49 of the Planning Act

13. Under Section 49 of the Planning Act, the Applicant has a duty to have regard to any 'relevant responses' received as a result of the statutory consultation and publicity conducted pursuant to Sections 42, 47 and 48 outlined above. A relevant response is defined as a response from a person consulted under Sections 42, 47 and 48 that is received by the applicant before the deadline specified for a response in accordance with the relevant provision.

1.3 Relevant Guidance

14. Principles which have guided the Applicant's pre-application consultation strategy are derived from relevant guidance as set out in a number of published documents included

- DCLG document Planning Act 2008: Guidance in Pre-application Consultation (March 2015) (DCLG Guidance);
- The Planning Inspectorate Advice Note Three: EIA Consultation and Notification (August 2017. Version 7);
- The Planning Inspectorate Advice Note Six: Preparation and Submission of Application Documents (February 2016. Version 7);
- The Planning Inspectorate Advice Note Eleven: Working with Public Bodies in the Infrastructure Planning Process (November 2017. Version 4); and
- The Planning Inspectorate Advice Note Fourteen: Compiling the Consultation Report (April 2012, Version 2).