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Publication to project page only

Our Ref: EN010078

Date: 4 March 2020

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Dear Sir/ Madam

**Planning Act 2008 – Sections 91 and 93, and The Infrastructure Planning  
(Examination Procedure) Rules 2010 – Rules 9 and 15**

**Application by East Anglia TWO Limited for an Order Granting Development  
Consent for the East Anglia TWO Offshore Wind Farm**

**Agendas for Early Hearings to be Held on 25 and 26 March 2020**

My letter of 21 February 2020 (the Rule 6 Letter)<sup>1</sup> included procedural decisions to hold certain early hearings in the first week of the Examination. Annex F to the Rule 6 Letter provided notice of these hearings. The purpose of this letter is to advise of the Agendas for these hearings. The hearings are as follows:

- **Issue Specific Hearing 1 on Project Description and Options (ISH1)** on Wednesday 25 March 2020 at The Britten Studio, The Hoffman Building, Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP to start at 10.00am, the Agenda for which is set out at **Annex A** to this letter;
- **Issue Specific Hearing 2 on Habitats Regulations Assessment (HRA), Mitigation, IROPI<sup>2</sup> and Examination Contingencies (ISH2)** on Wednesday 25 March 2020 at The Britten Studio, The Hoffman Building, Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP to start at 3.30pm, the Agenda for which is set out at **Annex B**; and
- **Open Floor Hearing 1 (OFH1)** on Thursday 26 March 2020 at The Britten Studio, The Hoffman Building, Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP to start at 10.00am, the Agenda for which is set out at **Annex C**.

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<sup>1</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-001747-EA2%20Rule%206%20Letter%20and%20Annexes%20\(ExA%20Post%20Finalisation\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010078/EN010078-001747-EA2%20Rule%206%20Letter%20and%20Annexes%20(ExA%20Post%20Finalisation).pdf)

<sup>2</sup> IROPI – imperative reasons of overriding public interest. See **Annex B** for further information.

These hearings are being held in parallel with hearings for the East Anglia ONE North Examination. For an explanation of the relationship between this Examination and that Examination, please see Annex A to the Rule 6 Letter.

If you wish to make oral representations at any of these hearings, please contact the Case Team using the contact details at the top of this letter. We will need to receive notice of your attendance **no later than Tuesday 10 March 2020**.

It will help the management of these hearings and benefit everyone if you also:

- tell us whether you wish to speak at one or more hearing (if you wish to speak at more than one then you must individually identify each hearing at which you wish to speak);
- if you are also an Interested Party in respect of the East Anglia ONE North Examination, whether you wish to speak at in respect of that application too;
- tell us on which agenda items you intend to speak, listing points you wish to make; and
- notify us of any special requirements you may have (eg disabled access, hearing loop etc).

Additional notifications of further hearings proposed to be held later in the Examination (and agendas for these) will be provided as the Examination proceeds.

Yours faithfully

*Rynd Smith*

### **Lead Member of the Panel of Examining Inspectors**

#### **Annexes**

- A** Agenda for Issue Specific Hearing 1 on Project Description and Options (ISH1)
- B** Agenda for Issue Specific Hearing 2 on Habitats Regulations Assessment (HRA), Mitigation, IROPI and Examination Contingencies (ISH2)
- C** Agenda for Open Floor Hearing 1 (OFH1)

This communication does not constitute legal advice.

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

### Agendas for Issue Specific Hearings 1 (ISHs1): Project Description and Options (Onshore)

<b>Date:</b>	<b>Wednesday 25 March 2020 (morning and early afternoon)</b>
<b>Time:</b>	<b>10.00am</b> Hearing room opens from 9.30am
<b>Venue:</b>	The Britten Studio, the Hoffman Building, Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP
<b>Access and Parking:</b>	<b>Access</b> For venue, access and parking details see: <a href="#">Snape Maltings access plan</a>  <b>Private transport</b> Free parking at the venue  <b>Public transport</b> Train to Saxmundham or Wickham Market then taxi recommended. Bus services are limited For more transport information see: <a href="https://snapemaltings.co.uk/your-visit/how-to-get-here/">https://snapemaltings.co.uk/your-visit/how-to-get-here/</a>

### Purpose of Issue Specific Hearings 1 (ISHs1)

ISHs1 in the Examinations of East Anglia ONE North and East Anglia TWO are being held **in parallel** for the following purposes:

- To enable the Examining Authorities (ExAs) to inquire into and establish clarity in respect of the Applicants' approach to onshore site selection for each project, with relation to the Rochdale Envelope<sup>1</sup>, design considerations, the assessment of alternatives and the need for those elements of each development as applied for onshore.
- To consider and establish clarity regarding the potential implications for each project of decisions of the Secretary of State (due within the timescales of this Examination) in respect of other proposed Offshore Wind Farms (OWFs) in the North Sea.
- To consider and clarify the possible need for any change(s) to either or both projects as applied for.
- To consider and to establish clarity as to the provision of information on these matters in the application documents, whether any additional information

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<sup>1</sup> See Planning Inspectorate [Advice Note 9](#): Rochdale Envelope



might be required and to make such procedural arrangements as might be required for this purpose.

- To enable all those Interested Parties (IPs) with concerns on these matters to be in a position to make clear and up to date Written Representations (WRs) which are based on the best available information.

### **Participation, conduct and management of hearings**

These are the first ISHs to be held in these Examinations. They are being held because the ExAs wish to question the Applicants about the approach taken to site selection, the project description and options for each project onshore.

The ExAs note from Relevant Representations (RRs) that there is a substantial body of local community concern about the basis for selection of the onshore cable alignment for each project between the landing point at Thorpeness and the grid connections location at Friston. The ExAs also note suggestions that alternative grid connection locations or methods might have been or might prospectively be available, and suggestions that the relevant policy and regulatory landscape is, or may be, under review.

The ExAs therefore consider that it is important, fair and useful to establish clarity around what the Applicants have proposed and why, together with a review of the applicable policy and regulatory landscape, as early as reasonably practicable in the Examinations. A clear statement of initial case and justification is sought from the Applicants, with reference to inputs from relevant IPs and Other Persons, including NG and Ofgem.

This will enable a fair assessment as early as possible in the Examinations of whether any additional information is required from the Applicants on these matters; if so, how and when additional information should be obtained; and how IPs and Other Persons might be provided with opportunities to view and comment on that information.

Please note that ISHs are held at the discretion of the ExAs to consider matters which they consider to be important and relevant to the effective and robust examination of these applications, and consequently that the business of any ISH is limited to the matters identified in the agenda. Other ISHs have been set aside which consider other matters not listed here.

Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExAs, who may decide that in the interests of both relevance and time efficiency that such matters are not heard. It is strongly preferable that any such issues arising from IPs are brought to an Open Floor Hearing (OFH) where there is no subject matter Agenda and IPs may raise any important and relevant matter.

Participation in these hearings is subject to the ExAs' power to control the hearings.

### ***Invited Participants***

The following persons are invited to attend and participate in these hearings:



- The Applicants;
- Suffolk County Council (SCC)
- Norfolk County Council (NCC);
- East Suffolk Council (ESC);
- Suffolk Coast and Heaths AONB<sup>2</sup> Partnership;
- Natural England;
- National Grid ESO (NG);
- National Grid Electricity Transmission (NGET);
- The Office of Gas and Electricity Markets (Ofgem);
- EDF Energy Nuclear Generation Ltd (EDF);
- EDF (NNB Generation Company (SZC) Ltd) (SZC);
- The Office for Nuclear Regulation (ONR);
- Innogy Renewables UK Ltd; and
- Rt Hon Dr Thérèse Coffey MP.

Invitees are requested to contact the Planning Inspectorate by **noon on Tuesday 10 March 2020** to confirm their attendance.

Other IPs who are interested in the subject matters to be considered may also attend these hearings but must contact the Planning Inspectorate by **noon on Tuesday 10 March 2020** if they wish to be heard. A request to be heard should state in respect of which application they wish to speak (naming just one application or both applications), outline the agenda items on which they wish to speak and provide a summary outline of the issues that they wish to raise.

Other Persons (who are not already registered as IPs) who wish to raise relevant matters may also request to participate in the Examinations of these applications and to be heard orally and should contact the Planning Inspectorate by **noon on Tuesday 10 March 2020**, specifying in respect of which application they wish to speak (naming just one application or both applications), the agenda items on which they wish to speak and providing a summary outline of the issues that they wish to raise.

The ExAs have discretion about whether to hear Other Persons and the hearings will be managed in the interests of ensuring that invited persons and IPs issues are fully heard within the allotted time.

The ExAs request that invited participants and those who have requested to make oral representations attend at the appointed start time of **10am**.

### ***Hearing Guidance***

Participants may be legally represented if they wish, but the hearings will be conducted to ensure that legal representation is not required. The Applicants, IPs and Other Persons may attend with relevant expert advisers, but IPs and Other Persons may participate on an equal basis without expert advice if they wish.

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<sup>2</sup> AONB – Area of Outstanding Natural Beauty



Guidance under the Planning Act 2008 (as amended) (PA2008)<sup>3</sup> 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.

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 a person has had a fair chance to put their case.

These agendas 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 RRs and pursue lines of inquiry in the course of the discussions which are not listed on the agendas.

The hearings will run until the ExAs are content that all matters on the agendas have been addressed.

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.

### **Relationship between hearing business arising from East Anglia ONE North and hearing business arising from East Anglia TWO**

Information about the means by which the ExAs propose to manage the relationship between the Application for East Anglia ONE North and the Application for East Anglia TWO during hearings has been provided in the Rule 6 Letters as **Annexes A**. These Annexes are applicable to both applications and contain text in relation to each that is materially identical. It is not necessary to read both. Links to the **Rule 6 Letters** for each Application can be found here:

- East Anglia ONE North [Rule 6 Letter](#)
- East Anglia TWO [Rule 6 Letter](#)

These ISHs are proposed to be held **in parallel**, with **singular elements** as required. Notice has been provided of two hearings, one relating to each application, to be held on the same date, and at the same time and place (see Rule 6 Letters **Annexes F**). The hearing notices identified that, where the ExAs require, or the participants request giving reasons and the ExAs agree, that oral submissions should address just one or the other application in the singular, the ExAs can decide to hear submissions that are particular to an individual

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<sup>3</sup> '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](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf)



identified application within the broader framework of hearings held in parallel for both.

Depending on the nature of requests to be heard and their decisions about fair and efficient hearings management, the ExAs may take breaks in the hearing of business relating to both applications in parallel, to enable the hearing of singular business relating to East Anglia ONE North or East Anglia TWO if required. The ExAs will seek submissions and then announce their intended approach at Agenda Items 1<sup>4</sup>.

Depending on the number and nature of requests to be heard, the ExAs may determine to conduct singular elements of one of these hearings concurrently with singular elements of the other hearing.

Arrangements such as these may be made orally on the day of the hearings.

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<sup>4</sup> The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) Rule 14(2)



## Agendas

### 1. Welcome, introductions and arrangements for these Issue Specific Hearings 1 (ISHs1)

### 2. The Applicants' approaches to the projects

The ExAs will ask the Applicants to present the approaches taken to each project's onshore components, with respect to:

- a) the specific need for and justification of the connection infrastructure locations (landfall, cable alignments and substations/ transmission systems connections);
- b) the consideration and assessment of alternative development sites for this infrastructure;
- c) design considerations in respect of onshore substations including relationships with landscapes, existing settlements and the extent of land required; and
- d) primary drivers for the onshore Rochdale Envelopes<sup>5</sup>.

The ExAs will ask the Applicants each to provide an update on any progress in discussions on the above since submission of the Applications.

The ExAs will invite submissions from invited IPs and Other Persons who wish to raise matters in relation to this item.

The Applicants will each be provided with a right of reply.

### 3. Interfaces with other projects as siting and design considerations onshore

The ExAs will wish to explore the following matters relevant to onshore siting and design with the Applicants, invited IPs and Other Persons:

- a) relationships with nuclear operations, decommissioning and development at Sizewell;
- b) relationships with the existing East Anglia Offshore Wind Farm (OWF) developments (ONE and THREE);
- c) delayed decisions<sup>6</sup> of the Secretary of State in respect of DCO applications for other North Sea OWFs, (Norfolk Vanguard, Hornsea Project Three and Thanet Extension);
- d) relationships with other OWF operations and development (including but not limited to Greater Gabbard, Greater Gabbard Extension, Galloper, Galloper Extension and Norfolk Boreas);
- e) relationships with transmission system and interconnector operations and development;

<sup>5</sup> See Planning Inspectorate [Advice Note 9](#): Rochdale Envelope

<sup>6</sup> Decisions for all three applications are currently anticipated by 1 June 2020, see: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2020-01-23/HLWS52/>





- f) the extent to which projects and proposals are relevant to and have been identified and addressed in siting and design considerations for the proposed developments; and
- g) whether possible change in any projects might have implications for the proposed developments.

The ExAs will ask the Applicants each to provide an update on any progress in discussions on these matters since submission of the Applications.

The ExAs will invite submissions from invited IPs and Other Persons who wish to raise matters in relation to this item.

The Applicants will each be provided with a right of reply.

#### **4. The relevance or otherwise of additional or emerging siting and design considerations onshore**

The ExAs will wish to explore the following matters relevant to onshore siting and design with the Applicants, invited IPs and Other Persons:

- a) the policy foundations on grid connection: NPS EN-1 (Overarching Energy); EN-3 (Renewable Energy) and EN-5 (Electricity Networks);
- b) current and emerging policy relating to the Government's decarbonisation target, including the Ofgem Decarbonisation Programme Action Plan, the NG ESO Network Options Assessment and Future Energy Scenarios;
- c) current and emerging policy and practice in respect of the allocation process for onshore connection points; and
- d) whether the development of any 'offshore ring main' (ORM) or other alternative connection development projects which it has been argued might serve the proposed developments are now or might in relevant timescales become seriously entertained matters to which the Applicants and the SoS might reasonably have regard.

The ExAs will ask the Applicants each to provide an update on any progress in discussions on these matters since submission of the Applications.

The ExAs will invite submissions from invited IPs and Other Persons who wish to raise matters in relation to this item.

The Applicants will each be provided with a right of reply.

#### **5. Possible scope for changes to the DCO Applications**

The ExAs will review the matters emerging from Agenda Items 2 to 4 above and will ask whether there is any possible need for changes to the DCO Applications before them to accommodate any of these. If there are, the possible scope, timing and process applicable to any such changes will be explored.

The ExAs will ask for the Applicants' submissions.

The ExAs will invite submissions from invited IPs and Other Persons who wish to raise matters in relation to this item.



The Applicants will each be provided with a right of reply.

#### **6. Any other business relevant to the Agendas**

The ExAs may raise any other minor and consequential topics bearing on the project descriptions and options as is expedient, having regard to the readiness of the persons present to address such matters.

The ExAs may extend an opportunity for the Applicants, IPs and Other Persons to raise matters relevant to the project descriptions and options that they consider should be examined by the ExAs.

If necessary, the Applicants will each be provided with a right of reply.

#### **7. Procedural decisions (if required)**

The ExAs will review whether there is any need for procedural decisions about additional information or any other matter arising from Agenda items 2 – 6.

Submissions will be sought from the Applicants and any relevant IPs or Other Persons before determining whether decisions may be required, what they might address and whether particular timescales for performance are required.

If the ExAs determine to make any procedural decisions, they may make these decisions orally (subject to confirmation in writing) or may reserve their decisions to be made in writing after the closure of the hearings.

#### **8. Review of issues and actions arising**

To the extent that matters arise in respect of either or both applications which are not addressed in any procedural decisions, the ExAs will address how any actions placed on the Applicants, IPs 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. Written action lists will be published if required.

#### **9. Next steps**

#### **10. Closure of the hearings**



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

### Agendas for Issue Specific Hearings 2 (ISHs2): Habitats Regulations Assessment, Mitigation, IROPI and Examination Contingencies

<b>Date:</b>	<b>Wednesday 25 March 2020 (afternoon)</b>
<b>Time:</b>	<b>3.30pm</b> Hearing room opens from 3.00pm
<b>Venue:</b>	The Britten Studio, the Hoffman Building Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP
<b>Access and Parking:</b>	<b>Access</b> For venue, access and parking details see: <a href="#">Snape Maltings access plan</a>  <b>Private transport</b> Free parking at the venue  <b>Public transport</b> Train to Saxmundham or Wickham Market then taxi recommended. Bus services are limited For more transport information see: <a href="https://snapemaltings.co.uk/your-visit/how-to-get-here/">https://snapemaltings.co.uk/your-visit/how-to-get-here/</a>

### Purpose of Issue Specific Hearings 2 (ISHs2)

ISHs2 in the Examinations of East Anglia ONE North and East Anglia TWO are being held **in parallel** for the following purposes:

- To enable the Examining Authorities (ExAs) to inquire into elements of the Applicants' approach to Habitats Regulations Assessment (HRA) and its findings.
- To test the possible need to engage with HRA Stages 3 and 4<sup>1</sup>, including examining a possible need to set out an assessment of alternative solutions and a case justifying Imperative Reasons of Overriding Public Interest (IROPI) and (where relevant) compensation.
- To provide an opportunity for Natural England (as statutory nature conservation body) and other relevant Interested Parties (IPs), to be heard on these matters.
- To consider the potential implications for these projects of decisions of the Secretary of State (due within the timescales of this Examination) in respect of other proposed Offshore Wind Farms (OWFs) in the North Sea.

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<sup>1</sup> See Planning Inspectorate [Advice Note 10](#).



- To consider the provision of information on these matters in the application documents, whether any additional information might be required and to make such procedural arrangements as might be required for this purpose.

### **Participation, conduct and management of hearings**

These are the second ISHs to be held in these Examinations. They are being held because the ExAs wish to question the Applicants about the approach that they have taken to HRA.

The ExAs consider that it is fair and appropriate to draw matters relevant to HRA into early hearings for the following reasons. The Applicants' HRA Reports conclude that the proposed projects, when taken alone or in-combination with other plans or projects, would not adversely affect the integrity of any European site or European marine site. However, certain Interested Parties have made Relevant Representations disagreeing in principle with this position. In addition to this, the ExAs are aware that there have been recent OWF applications in respect of which decisions have been delayed by the Secretary of State to facilitate requests for and the provision of further information on the argued need for additional mitigation up to and including the possible provision of IROPI relevant to HRA<sup>2</sup>. The ExAs note that some of the sites and features pertinent to those delayed decisions would appear to be relevant to some of the sites and features in dispute in these cases.

The ExAs seek to ensure that, however these matters and questions emerge in Examination, they provide the most complete evidence base and recommendation to the Secretary of State that they can. The ExAs wish to ensure that their recommendation reports to the Secretary of State digest all of the information necessary for the Secretary of State to make its decisions within the normal statutory timescale for decisions taken under the PA2008. To the degree that additional evidence, actions and consultations might be required to achieve this end, the ExAs seek to commence engagement with the Applicants and IPs at the outset of the Examination, to ensure that there is sufficient time remaining in the Examination period for these to be undertaken (should they prove necessary) and not deferred to occur in the decision-making process, which in turn could increase the likelihood of delayed decisions.

The business of an ISH is limited to the matters identified in the agenda. Oral submissions on other subject matters or from persons who are not IPs may only

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<sup>2</sup> If changes are proposed to an Application to address issues relevant to Habitats Regulations Assessment (HRA), the following advice notes published by the Planning Inspectorate on the National Infrastructure Planning website may be relevant in whole or part:

[Advice Note 3](#): EIA Notification and Consultation;

[Advice Note 10](#): Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects; and

[Advice Note 16](#): How to Request a Change that may be Material.

Consideration may also need to be given to requests for amendments to requirements for land or rights, and proposals for new security by provisions in the draft Development Consent Order, by planning obligations or by commercial agreements can also arise. If such matters arise, they require to be addressed within the statutory timescale for Examination.



be heard at the discretion of the ExAs. It is strongly preferable that any such issues arising from IPs are brought to an Open Floor Hearing (OFH) where there is no subject matter Agenda and IPs may raise any important and relevant matter.

Participation in the hearings is subject to the ExAs' power to control the hearings.

### ***Invited Participants***

The following persons are invited to attend and participate in these hearings:

- the Applicants;
- Natural England (NE);
- Environment Agency (EA);
- Marine Management Organisation (MMO);
- Royal Society for the Protection of Birds (RSPB);
- Suffolk Wildlife Trust (SWT);
- The Wildlife Trusts (TWTs);
- Suffolk County Council (SCC);
- East Suffolk Council (ESC); and
- Suffolk Coast and Heath AONB<sup>3</sup> Partnership.

Invitees are requested to contact the Planning Inspectorate by **noon on Tuesday 10 March 2020** to confirm their attendance.

Other IPs who are interested in HRA may attend the hearings but must contact the Planning Inspectorate by **noon on Tuesday 10 March 2020** if they wish to be heard. A request to be heard should outline the items on this agenda on which they wish to speak and provide a summary outline of the issues that they wish to raise.

Other Persons (who are not already registered as IPs) who wish to raise relevant matters may also request to participate in the Examinations and to be heard orally, contacting the Planning Inspectorate by **noon on Tuesday 10 March 2020**. A request to participate and to be heard should outline the items on this agenda on which they wish to speak and provide a summary outline of the issues that they wish to raise.

The ExAs have discretion about whether to hear Other Persons and the hearings will be managed in the interests of ensuring that invited persons and IPs issues are fully heard within the allotted time.

The ExAs request that invited participants and those who have requested to make oral representations attend at the appointed start time of **3.30pm**.

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<sup>3</sup> AONB – Area of Outstanding Natural Beauty



## **Hearing Guidance**

Participants may be legally represented if they wish, but the hearings will be conducted to ensure that legal representation is not required. The Applicants, IPs and Other Persons may attend with expert advisers relevant to HRA, ecology and related matters covered within this agenda, but IPs and Other Persons may equally participate without expert advice if they wish.

Guidance under the Planning Act 2008 (as amended) (PA2008)<sup>4</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provides 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.

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 a person has had a fair chance to put their case.

These agendas 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 Relevant Representations (RRs), and pursue lines of inquiry in the course of the discussions which are not listed on the agendas.

The hearings will run until the ExAs are content that all matters on the agendas have been addressed.

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.

### **Relationship between hearing business arising from East Anglia ONE North and hearing business arising from East Anglia TWO**

Information about the means by which the ExAs propose to manage the relationship between the Application for East Anglia ONE North and the Application for East Anglia TWO during hearings has been provided in the Rule 6 Letters as **Annexes A**. These Annexes are applicable to both applications and contain text in relation to each that is materially identical. It is not necessary to read both. Links to the **Rule 6 Letters** for each Application can be found here:

- East Anglia ONE North [Rule 6 Letter](#)
- East Anglia TWO [Rule 6 Letter](#)

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<sup>4</sup> '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](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf)



These ISHs are proposed to be held **in parallel**, with **singular elements** as required. Notice has been provided of two hearings relating to each application to be held on the same date, at the same time and place (see Rule 6 Letters **Annexes F**). The hearing notices identified that, where the ExAs require or the participants request giving reasons and the ExAs agree, that oral submissions should address just one or the other application in the singular, the ExAs can decide to hear submissions that are particular to an individual identified application within the broader framework of hearings held in parallel for both.

Depending on the nature of requests to be heard and their decisions about fair and efficient hearings management, the ExAs may take breaks in the hearing of business relating to both applications in parallel, to enable the hearing of singular business relating to East Anglia ONE North or East Anglia TWO if required. The ExAs will seek submissions and then announce their intended approach at Agendas Items 1<sup>5</sup>.

Depending on the number and nature of requests to be heard, the ExAs may determine to conduct singular elements of one of these hearings concurrently with singular elements of the other hearing.

Arrangements such as these may be made orally on the day of the hearings.

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<sup>5</sup> The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) Rule 14(2)



## Agendas

### 1. Welcome, introductions and arrangements for these Issue Specific Hearings 2 (ISHs2)

### 2. The Applicants' approaches to Habitats Regulations Assessment considerations

For each of the proposed developments, the ExAs will ask the Applicant to present a summary of its understanding of the European sites, features and nature of potential effects for which its conclusion of no adverse effect on integrity is currently not agreed with Natural England (or other relevant parties).

The ExAs will ask the Applicants to provide a brief update on any progress in discussions on HRA findings since submission of the Applications.

The ExAs will ask the Applicants to set out their view of any developments or evidence in the Examination of the DCO application for the Norfolk Boreas OWF (which commenced on 12 November 2019) that could have a bearing on the HRA findings in these cases.

Taking submitted Relevant Representations as read, the ExAs will invite submissions from invited IPs (including Natural England as the statutory nature conservation body) and Other Persons who wish to raise additional matters in relation to this item.

The Applicants will be provided with a right of reply.

### 3. Implications of delayed decisions in respect of other North Sea OWF DCO Applications

The ExAs will ask the Applicants to set out their view of any inter-dependencies between the HRA process for these projects and the delayed decisions<sup>6</sup> of the Secretary of State in respect of DCO applications for other North Sea OWFs, namely: Norfolk Vanguard, Hornsea Project Three and Thanet Extension, with reference to specific European sites / European marine sites and features.

The ExAs will invite submissions from invited IPs (including Natural England as the statutory nature conservation body) and Other Persons who wish to raise matters in relation to this item.

The Applicants will be provided with a right of reply.

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<sup>6</sup> Decisions for all three applications are currently anticipated by 1 June 2020, see: <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Lords/2020-01-23/HLWS52/>





#### **4. Further mitigation, assessment of alternatives, assessment of IROPI and Examination contingencies**

The ExAs will explore any implications for the Examination timetables of a scenario in which a need arises to identify and secure further HRA mitigation measures, or to engage with HRA Stages 3 and 4<sup>7</sup>, including examining a possible need to set out an assessment of alternative solutions and a case justifying IROPI and (where relevant) compensation.

The ExAs will invite submissions from invited IPs (including Natural England as the statutory nature conservation body) and Other Persons who wish to raise matters in relation to this item.

The Applicants will be provided with a right of reply.

#### **5. Any other business relevant to the agenda**

The ExAs may raise any other minor and consequential topics bearing on HRA as is expedient, having regard to the readiness of the persons present to address such matters.

If necessary, the Applicants will be provided with a right of reply.

#### **6. Procedural Decisions (if required)**

The ExAs will review whether there is any need for procedural decisions about additional information or any other matter arising from Agenda items 2 to 5.

Submissions will be sought from the Applicants and any relevant IPs or Other Persons before determining whether a decision may be required, what it might address and whether particular timescales for performance are required.

If the ExAs determine to make any procedural decisions, they may make these decisions orally (subject to confirmation in writing) or may reserve their decisions to be made in writing after the closure of the hearings.

#### **7. Review of issues and actions arising**

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, IPs 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.

#### **8. Next steps**

#### **9. Closure of the Hearings**

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<sup>7</sup> See Planning Inspectorate [Advice Note 10](#).



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

### Agendas for Open Floor Hearings 1 (OFHs1)

<b>Date:</b>	<b>Thursday 26 March 2020 (all day)</b>
<b>Time:</b>	<b>10.00am</b> Hearing room opens from 9.00am
<b>Venue:</b>	The Britten Studio, the Hoffman Building, Snape Maltings, Snape, Saxmundham, Suffolk IP17 1SP
<b>Access and Parking:</b>	<b>Access</b> For venue, access and parking details see: <a href="#">Snape Maltings access plan</a>  <b>Private transport</b> Free parking at the venue  <b>Public transport</b> Train to Saxmundham or Wickham Market then taxi recommended. Bus services are limited For more transport information see: <a href="https://snapemaltings.co.uk/your-visit/how-to-get-here/">https://snapemaltings.co.uk/your-visit/how-to-get-here/</a>

### Purpose of the Open Floor Hearings (OFHs)

OFHs are held to discharge the Examining Authorities' (ExAs') duty to hear Interested Parties (IPs) who request to be heard.

### Participation, conduct and management of hearings

All IPs who wish to make oral representations are invited to participate in the hearings, attending at the appointed start time of 10.00am. Participation is subject to the ExAs' power to control the hearings. However, these hearings do not have subject-matter controlled agendas and participants may bring up any matters arising from the Applications that are important and relevant to decisions taken under the Planning Act 2008 (as amended) (PA2008).

Participation is therefore of most relevance to IPs who wish to raise matters of interest to them that may not be addressed in the agendas for Issue Specific Hearings (ISHs) and do not relate to the effects of proposals for the Compulsory Acquisition (CA) or Temporary Possession (TP) of land or rights over land.

IPs are entitled to attend as individuals. However, as the hearings seek to identify the planning issues that are important and relevant and on the basis that an issue once identified does not need to be repeated, individual IPs who



wish to identify the same issues as other IPs are encouraged to form groups and appoint a single spokesperson. (Agendas Items 2 below identify that groups can obtain longer speaking times.)

Requests to be heard are to be made to the Planning Inspectorate by **noon on Tuesday 10 March 2020.**

The ExAs request that the Applicants attend the hearings. The Applicants may be asked by the ExAs to address questions raised by IPs. The primary purpose of the hearings is not to enable the Applicants to make their own cases and beyond immediately necessary points of clarification any Applicants' responses to IP's oral cases should be made in writing.

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required. The Applicants and IPs may attend with expert advisers, but IPs may participate without expert advice.

Guidance under the PA2008<sup>1</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) provides that it is the ExAs that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExAs.

Cross-questioning of a person giving evidence by another person will only be permitted if the ExAs decide it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case. It is not normal OFH procedure for ExAs to permit the cross-questioning of an IP by an Applicant or an Applicant's representatives, or of an Applicant by an IP.

The agendas may be amended by the ExAs at the start of the hearings sessions. Furthermore, the ExAs may wish to raise matters arising from oral submissions, Relevant Representations and Written Representations, and pursue lines of inquiry in the course of the discussions which are not listed on the agenda.

The hearings will run until all IPs who have made a written request to be heard have made their oral representations and responded to the ExAs' exploration of the matters arising from them (Agendas Items 2).

If by ten minutes after the commencement of Agendas Items 2, no IPs have attended and sought a hearing in relation to those items or to any of the remaining agendas items, the ExAs are entitled to conclude that none wish to do so and may then proceed to Agendas Items 4 – 6 and following the conclusion of these may close the hearings with immediate effect.

If there are more IPs in attendance than can reasonably be heard in Agendas Items 3 (IPs who have not made a written request to be heard), the ExAs may make alternative arrangements to enable those IPs to make their positions

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<sup>1</sup> DCLG: 'Planning Act 2008: Guidance for the examination of applications for development consent', March 2015.

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418015/examinations\\_guidance-final\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf)



known, including arrangements for the submission of Written Representations or attendance at subsequent OFHs (subject to availability).

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, in order to ensure that it has been recorded accurately.

### **Relationship between hearing business arising from East Anglia ONE North and hearing business arising from East Anglia TWO**

Information about the means by which the ExAs propose to manage the relationship between the Application for East Anglia ONE North and the Application for East Anglia TWO during hearings has been provided in the Rule 6 Letters as **Annexes A**. These Annexes are applicable to both applications and contain text in relation to each that is materially identical. It is not necessary to read both. Links to the **Rule 6 Letters** for each Application can be found here:

- East Anglia ONE North [Rule 6 Letter](#)
- East Anglia TWO [Rule 6 Letter](#)

These OFHs are proposed to be held **in parallel**, with **singular elements** as required. Notice has been provided of two hearings relating to each application to be held on the same date, at the same time and place (see Rule 6 Letters **Annexes F**). The hearing notices identified that, where the ExAs require or the participants request giving reasons, that oral submissions should address just one or the other application in the singular, the ExAs can decide to hear submissions that are particular to an individual identified application within the broader framework of hearings held in parallel for both.

Depending on the nature of requests to be heard submitted and their decisions about fair and efficient hearings management, the ExAs may take breaks in the hearing of business relating to both applications in parallel, to enable the hearing of singular business relating to East Anglia ONE North or East Anglia TWO if required. The ExAs will seek submissions and then announce their intended approach at Agenda Items 1<sup>2</sup>.

Depending on the number and nature of requests to be heard submitted, the ExAs may determine to conduct singular elements of one of these hearings concurrently with singular elements of the other hearing.

Arrangements such as these may be made orally on the day of the hearings.

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<sup>2</sup> The Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) Rule 14(2)



## Agendas

### **1. Welcome, introductions and arrangements for these Open Floor Hearings 1 (OFHs1)**

### **2. Representations by Interested Parties requesting to be heard**

The ExAs may conduct this agenda item in parallel for both applications, or in singular for one application and then the other or adopt a combination of both procedures.

The ExAs will identify those Interested Parties (IPs) in attendance who have already made a written request to be heard. If no such IPs are present, the ExAs will proceed to Agenda Item 3.

IPs in attendance who have made a written request to be heard will be invited to put oral submissions to the ExAs.

- A maximum speaking time guide of five minutes per IP will be applied to submissions by individual IPs.
- Where between two and ten IPs collaborate as a group with shared representation, a maximum speaking time guide of ten minutes per group will apply.
- When more than ten IPs collaborate as a group with shared representation, a maximum speaking time guide of fifteen minutes per group will apply.

The ExAs may ask questions of any IPs and the Applicants about matters arising from written and oral submissions. If they do so during a timed oral submission, the time taken by the ExAs will not count against the maximum speaking time guide.

If requested, the Applicants will be allowed a brief summary response. A maximum speaking time guide of three minutes will be applied to these submissions.

### **3. Representations by any other IPs or Other Persons**

The ExAs may conduct this agenda item in parallel for both applications, or in singular for one application and then the other or adopt a combination of both procedures.

To the extent that there is sufficient available time remaining before the closure of the venue, any IP or Other Person in attendance who has not requested to be heard in advance of the hearing and asking to speak may be invited to put oral submissions to the ExAs or provided with a reasonable alternative means of involvement. If no such IPs are present, the ExAs will proceed to Agenda Item 4.

The ExAs will consider requests to be heard. The IPs making such requests should come prepared to demonstrate their standing as an IP (a copy of the Rule 6 letter and proof of address are sufficient).



Where the ExAs agree a request to be heard, the speaking procedures set out in Agenda Item 2 will apply, save only that the ExAs may adjust the maximum speaking time guides for individuals and groups to provide a fair distribution of the remaining time between those requesting to be heard.

If there is insufficient time remaining for all those requesting to be heard to speak, the ExAs may determine at their discretion that certain persons requesting to be heard will be provided with an opportunity to speak at a future OFH or to make a written representation by a nominated deadline.

The ExAs may ask questions of any IPs and the Applicants about matters arising from written and oral submissions. If they do so during a timed oral submission, the time taken by the ExAs will not count against the maximum speaking time guide.

If requested, the Applicants will be allowed a brief summary response. A time guide of three minutes will be applied to these submissions.

#### **4. Requests to be heard and presentations by persons who are not IPs or Other Persons**

The ExAs may conduct this agenda item in parallel for both applications, or in singular for one application and then the other or adopt a combination of both procedures.

Persons who are not IPs or Other Persons may request to be heard but have no legal right to be heard. They are heard at the discretion of the ExAs, only if there is any remaining available time for the conduct of further oral hearings after the business at Agenda Items 2 and 3 are complete. If no such persons are present, the ExAs will proceed to Agenda Item 5.

The ExAs will consider requests to be heard. To the extent that there is sufficient time remaining, each person asking to speak will be invited to put oral submissions to the ExAs. The speaking procedures set out in Agenda Item 2 will apply, save only that the ExAs may adjust the maximum speaking time guides for individuals and groups to provide a fair distribution of the remaining time between those requesting to be heard.

If there is insufficient time remaining for all those requesting to be heard to speak, the ExAs may determine at their discretion that certain persons requesting to be heard may be provided with an opportunity to make a written representation by a nominated deadline. Speaking opportunities at any future OFH cannot be guaranteed, as access to these is prioritised for IPs requesting to be heard.

The ExAs may ask questions of the speaker(s) and the Applicants about matters arising from oral submissions. If they do so during a timed oral submission, the time taken by the ExAs will not count against the maximum speaking time guide.



Recognising that any such submissions may raise material not previously provided to the Examination, the Applicants will be provided with a summary right of reply. A time guide of three minutes will be applied to these submissions.

## **5. Review of issues and actions arising**

The ExAs will address how any actions placed on the Applicants, IPs or Other Persons speaking are to be met and consider the approaches to be taken in further hearings or written procedures, in the light of issues raised in this hearing.

## **6. Next steps**

## **7. Closure of the hearing**