

From: [Ní Neachtain, Aoife](#)
To: [East Anglia ONE North](#); [East Anglia Two](#)
Cc: [Burton, Louise](#); [Gibson, Alan](#); [Tabrizi, Lydia](#)
Subject: Natural England's response to the Rule 6 letters for EA2 and EA1N
Date: 13 August 2020 16:25:06
Attachments: [image001.png](#)
[EN010077 & EN010078 EA1N and EA2 Rule 6 Letter 16 July 2020 - Natural England Response.pdf](#)

Dear Sir/Madam,

Please find attached Natural England's full response to the Rule 6 letters for East Anglia ONE North and East Anglia TWO OWF projects. Please note that this response applies to both projects.

This response confirms that we will not be attending the Preliminary Meetings of 16 September and 6 October 2020.

Please note that I am shortly leaving Natural England and if there are any questions or issues on the attached letter, please contact Lydia Tabrizi on lydia.tabrizi@naturalengland.org.uk.

Kind regards,

Aoife Ní Neachtain
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Date: 13 August 2020
Our ref: 10571 & 10572
Your ref: EN010077 & EN010078



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BY EMAIL ONLY

Dear Mr Rynd Smith

Application by East Anglia ONE North Limited and East Anglia TWO for Orders Granting Development Consent for the East Anglia One North and East Anglia Two Offshore Wind Farms - Rule 6 Letters

Thank you for your consultation on the Rule 6 letter dated 16 July 2020. The following constitutes Natural England's formal statutory response.

1. Procedural changes

Natural England recognises that there have been changes to the Examination time table structure due to the current ongoing Covid-19 situation.

Natural England has also reviewed our engagement on Offshore Wind Farm (OWF) Nationally Significant Infrastructure Projects (NSIPs) over the last 18 months and have identified some changes that we will be making going forwards.

Therefore, please accept this letter as Natural England's comments in relation to the contents of the Rule 6 letters and an explanation of how Natural England proposes to provide our statutory advice to the Examining Authority (ExA) during the Examination phase of the project.

2. Attendance at Preliminary Meeting

Thank you for the invitation to the Preliminary Meeting on the 16 September and 6 October 2020. Natural England can confirm we will not attend. We hope this letter will suffice in providing our input into the Hearings.

3. Annex A - Preliminary Meeting Agenda

3.1 Item 5

Natural England notes that the Hornsea 4 application is due to be submitted in the immediate future and the Sizewell C application has been submitted. These projects will likely overlap with the Examination of the East Anglia ONE North and East Anglia TWO projects. This may have an impact on resources of those organisations involved in multiple Examinations. Furthermore, it should be noted that the Hornsea 3 decision is expected in December 2020 and this decision may have implications upon this and other similar projects.

Additionally, Natural England notes that during the Vanguard Examination additional information was submitted after the Report on the Implications for European Sites (RIES) which made the RIES partially

outdated. Natural England would recommend that this not be repeated if possible as the RIES report should include the most up-to-date information on the implications to designated sites.

3.2 Item 7

Natural England notes the request for the submission of a Statement of Common Ground (SoCG) and has been actively engaging with the Applicant to agree a SoCG. We note that the contents of a SoCG will be limited at this time as we are still working on various outstanding issues with the Applicant. Nevertheless, whilst incomplete, we will set out those areas where there is common ground with the Applicant. The SoCG will, necessarily, be subject to change over the course of the Examination.

Natural England has also developed our own Risk and Issues Log to sit beside the Applicant-led SoCG. The updated Risk and Issues Log will be provided at all Deadlines, as it may be of assistance to the ExA in understanding Natural England's current outstanding issues. This issues log is owned by Natural England and reflects our position.

Natural England note the request for updated SoCG at Deadlines throughout the Examination. However, SoCG requires a significant resource to update and agree. Therefore, we advise that the development of SoCG should not be to the detriment of the actual resolution of issues during the process and so Natural England is proposing not to issue SoCG mid-Examination. We will work with the Applicant and submit a final SoCG once all issues have been either resolved or progressed as far as possible. However, the regular update and submission of our Risk and Issues Log will assist the ExA to monitor the progress on outstanding issues.

We also note that the final SoCG is to be submitted prior to the publication of the RIES. Natural England would suggest that our response to the RIES may have potential implications for the SoCG and would suggest that provision of our final SoCG at Deadline 8 to allow inclusion of any updates as part of our review of the RIES document.

3.3 Item 8

3.3.1 Issue Specific Hearings

Natural England notes the Examination timetable has included a series of Issue Specific Hearings (ISH). Natural England does not currently plan to attend these hearings, however, this position may be subject to change. The decision on attendance at any subsequent ISH will be based on the outstanding issues, wider resource requirements and ensuring best value. However, Natural England will continue to engage with the Applicant and other interested parties throughout the Examination to ensure issues are progressed and wherever possible resolved. We are currently engaging with the Applicant during the pre-Examination period and have recently taken part in a series of workshops aimed to address outstanding issues.

For all hearings we request that an agenda with times, themes and areas of discussions is provided by the Planning inspectorate at least 7 days before. Based on our experience from other NSIPs it would be helpful to Natural England and our specialists if the ISH agendas could be focused on specific questions from the ExA. This will enable us to appropriately prepare for the hearing; give due consideration to any issues both internally and externally with the Applicant beforehand; and provide robust evidence-based advice to the ExA. This will reduce the need for further discussion and advice post ISHs, prior to the next Deadline.

Our non-attendance at hearings should not be construed as a lack of concern on outstanding issues, or a lack of willingness to engage. As detailed above we are committed to proactively engaging with parties on this project and to gaining the best possible outcome.

3.3.2 Site Visits

Natural England advises that, while we rarely attend site visits, any access to designated sites will require assent from Natural England under The Wildlife and Countryside Act 1981 (as amended)

unless the visits are restricted to public rights of way this will include any visit to the Orford Ness Site of Specific Scientific Interest (SSSI). Furthermore we advise that 2 days of site visits will be needed due to the location of the proposed site visits and because of the current pandemic there is no boat available across to the Orford Ness site. Thus a site visit will be needed next year once the boat is available. In addition Natural England notes that the weather conditions are important when considering the implications for visual impacts. Therefore, should a site visit be subject to bad weather it may need to be rescheduled for another date.

Natural England has provided a list of potential site visits to the Applicant to consider and attached it for your information. Please see Appendix A to this response letter.

4. Annex C – Initial Assessment of Principal Issues

Natural England notes that the impacts to heritage coastline have not been included here. We would recommend that they should be included, potentially under item 17.

5. Annex D - Draft Examination Timetable

5.1 Response to Deadlines

Throughout the Examination it is expected that many documents will be submitted and published on the PINS website. Natural England will check all documents, however, we will only conduct detailed review and provide feedback on documents deemed relevant to our statutory function and the issues we have raised. We will advise the ExA in writing at each Deadline of which documents we have reviewed. If there is a document Natural England has not reviewed that the ExA wishes to have our opinion on then please inform us as soon as possible and we will endeavour to review ahead of the next Deadline or advise which Deadline comments could be expected. Any documents not listed within our Deadline responses should be assumed to have not undergone detailed review by Natural England.

Additionally, if the ExA wishes Natural England to have reviewed specific documents for discussion at the ISH, please advise as early as possible and no later than within the draft agenda which documents you wish to discuss so we can prepare appropriately. This will help ensure best value is obtained by all parties attending the ISH.

Unless there is a specific question posed by the ExA on another Interested Parties Relevant or Written Representations, Natural England will not provide comment on these Representations.

5.2 Examination Timetable

Natural England has some significant concerns regarding the overlap of the proposed Examination timetable with the timetables of various other projects including Boreas OWF, Sizewell C Nuclear Power Station, Hornsea Project 4 OWF and the yet undetermined project Hornsea Project 3 OWF. All of these Examinations will require specialist time and resources and will affect the in-combination advice we provide for this and other projects.

5.2.1 Deadline 4

This deadline is 7 January 2021, and is to comment on information submitted on 15 December 2020. Given the Christmas holiday period, time for review of this documentation will be highly limited. Therefore, if possible, Natural England would request this deadline be extended.

5.2.2 Deadline 5

This deadline is 27 January 2021 and is to provide post-hearing submissions and comments on submissions received at Deadline 4. If hearings take place on the week commencing 18 January 2021, time for review of documentation will be limited.

5.2.3 Deadline 9

This deadline is set on Maundy Thursday during the Easter holiday period. Again, Natural England would like to note that the presence of the holidays reduces the working days available to provide a robust review and response.

5.3 Introduction of New Deadlines

During previous Examinations ExAs have allowed Applicants to submit documents in between Deadlines, effectively introducing additional Deadlines, for example, Thanet OWF and Vanguard OWF had several half deadlines.

Please be advised that we will be working with Applicant in between Deadlines under our Discretionary Advice Service. There is an expectation that the Applicant would then submit documents into Examination at the next appropriate Deadline. Half deadlines are not helpful as we are duty bound to review documents submitted at Deadlines, which could create duplication of effort reviewing out of date documents and confuses the process within short Deadlines. Should there be documents that the Applicant wants to submit between Deadlines we suggest these are issued at the next appropriate Deadline, and we will respond at the following Deadline, or if time does not allow the subsequent Deadline.

6. Annex F - Procedural Decision 18

Natural England has responded to Procedural Decision 18 in Appendix b of this response letter.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely,

Lydia Tabrizi

Norfolk and Suffolk Team
Natural England
E-mail: Lydia.tabrizi@naturalengland.org.uk

Appendix A – Natural England Suggested Viewpoints for Site Visits

No.	Name	EA2 / EA1N	Comment
3	Covehithe	Both	Can be muddy on the track down to the beach. About a 10 minute walk from the road.
4	Southwold	Both	Town centre location – Easy access
5	Gun Hill, Southwold*	Both	Easy access.
7	Dunwich	Both	Could be missed off?
8	Dunwich Heath and Beach	Both	Easy access.
10	Sizewell Beach	EA2	Easy access.
12	Thorpeness	EA2	Easy access.
13	Aldeburgh	EA2	Town centre location - Easy access
18	Orford Ness	EA2	Needs a day to itself. National Trust need to provide access.
B	Southwold Pier*	EA2	Easy access.



Appendix B – Natural England’s Response to Procedural Decision 18

	Examining Authority’s Question	Natural England’s Response
1	Does the Applicant consider that there is a need to revisit its submitted Information to Support Appropriate Assessment reports in light of the Secretary of State’s decisions in respect of the Thanet Extension, Norfolk Vanguard and Hornsea Three projects?	
a.	If not, why not?	N/A
b.	If so, please could the Applicant submit an updated assessment (for example, as an addendum to the submitted HRA Report), by Procedural Deadline A? If this is not possible, please explain why not and provide at that deadline the proposed timing of provision of this information.	N/A
c.	What is the view of Natural England in relation to this question?	Natural England is in the process of reviewing these significant decisions for Hornsea Project 3 and Norfolk Vanguard. At this juncture our advice provided within our Relevant and Written Representations has not changed.
d.	Are the Applicant and Natural England able to provide an agreed position on this point? Or failing that, a summary of the main areas of disagreement?	Natural England has not been able to reach an agreement with the Applicant regarding an updated appropriate assessment. However, the response we are preparing for Deadline 1 will provide more clarity.
2.	The ExA notes that at paragraphs 7.3-7.4 of its ‘minded to grant’ letter for the Hornsea Three project, the Secretary of State states that ‘it is...important that potential adverse impacts on the integrity of designated sites are identified during the pre-application period and full consideration is given to 9 The Applicant is reminded that should any changes to the Application be proposed to address the matters identified in this Procedural Decision, it will be necessary for documentation sufficient to address the consultative processes outlined in Planning Inspectorate Advice Note 16 to be made available by Deadline 1. This is a matter that can be discussed at the Preliminary Meeting. Annex F F8 the need for derogation of the Habitat Regulations during the examination’. It goes on to encourage the provision of evidence of possible compensatory measures for consideration at the examination on a “without prejudice” basis, where disagreement remains between the Applicant and statutory nature conservation bodies on the existence of significant adverse impacts. This position is echoed in the decision letter for the Norfolk Vanguard project (see paragraphs 5.2-5.3). Given this context, does the Applicant consider that there is a need for the project before us to secure further mitigation not already provided for within the application or to engage with the derogation tests set out under stages 3 and 4 of the Habitats Directives and Regulations?	
a.	If not, why not?	N/A
b.	If so, please: i. Specify which species and site(s) this may be necessary for, and ii. explain how you propose to deal with this through the Examination process, by reference to the draft Examination Timetable.	N/A
c.	What is the view of Natural England in relation to this question?	Natural England notes the paragraphs within the Secretary of State’s minded-to-consent letter relating to Hornsea 3 OWF. Our advice provided within our Relevant and Written representation has not changed with regard to sites and features requiring assessment under the Habitats Regulations.



d.	Are the Applicant and Natural England able to provide an agreed position on this point? Or failing that, a summary of the main areas of disagreement?	Natural England has not been able to reach an agreement with the Applicant on this point. However, the response we are preparing for Deadline 1 will provide more clarity.
3.	The Examination of the Norfolk Boreas Offshore Wind Farm application has also progressed in recent months. Does the Applicant consider that any of the evidence submitted to or additional mitigation measures proposed for that project trigger a change to the in-combination assessment for the East Anglia TWO project?	
a.	Does Natural England wish to express a view on this question?	Natural England has been engaged on the Boreas OWF project Examination and has confirmed at Boreas Deadline 13, 29 July 2020, that our advice has not changed as a result of the decision on Vanguard OWF and the minded-to-consent letter issued for Hornsea Project 3 OWF. Our advice with regard to the East Anglia projects has not changed and we would refer you to our Relevant and Written representations.
b.	Are the Applicant and Natural England able to provide an agreed position on this point?	Natural England has not been able to reach an agreement with the Applicant on this point. However, the response we are preparing for Deadline 1 will provide more clarity.
4	The ExA notes that the Applicant's response to Relevant Representations [AS-036] deferred responding directly to Natural England's suggestions of project-level mitigation measures (such as raising turbine draught heights and moving the array area boundary away from SPA boundaries) until after receipt of decisions on the Norfolk Vanguard and Hornsea Three projects. Given that a decision for the former and a 'minded to grant' letter on the latter are now available, please could the Applicant now respond to these suggested project level mitigation proposed by Natural England in [RR-059]?	
		Natural England has engaged with the Applicant in a series of workshops and we have also reviewed their response to our Relevant and Written Representations. We have prepared a response to the Applicant under our Discretionary Advice Service and will be submitting it in to Examination at Deadline 1. This response will provide some clarity on this issue.
5	With a view to starting the Examination in the most up to date position, do the Applicant or Natural England wish to draw any other new information to our attention which may be important and relevant in relation to our consideration of the HRA aspects of this project at this stage?.	
		Natural England would like to note that we will be providing a further update to our position on Boreas OWF within our response to the Boreas ExA on Boreas Deadline 14, 24 August 2020 and suggest this response would be of relevance