

**SCOTTISHPOWER  
RENEWABLES**

# **East Anglia ONE North and East Anglia TWO Offshore Windfarms**

## **Submission of Oral Case**

**Preliminary Meeting (Part 1) on 16 September  
2020**

Applicants: East Anglia TWO Limited and East Anglia ONE North Limited  
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**Applicable to **East Anglia ONE North** and **East Anglia TWO****



#### Revision Summary

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## Glossary of Acronyms

BEIS	Department for Business, Energy and Industrial Strategy
DCO	Development Consent Order
ExA	Examining Authority
ISH	Issue Specific Hearing
MMO	Marine Management Organisation
NE	Natural England
NPS	National Policy Statement
RSPB	Royal Society for the Protection of Birds
SoCG	Statement of Common Ground



## Glossary of Terminology

Applicants	East Anglia ONE North Limited and East Anglia TWO Limited
East Anglia ONE North project	The proposed project consisting of up to 67 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.
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.
National Grid infrastructure	A National Grid substation, cable sealing end compounds, cable sealing end (with circuit breaker) compound, underground cabling and National Grid overhead line realignment works to facilitate connection to the national electricity grid, all of which will be consented as part of the proposed East Anglia TWO project Development Consent Order but will be National Grid owned assets.
National Grid substation	The substation (including all of the electrical equipment within it) necessary to connect the electricity generated by the proposed East Anglia TWO / East Anglia ONE North project to the national electricity grid which will be owned by National Grid but is being consented as part of the proposed East Anglia TWO project Development Consent Order.
Projects	The East Anglia ONE North project and the East Anglia TWO project.



# 1 Introduction

1. This document is applicable to both the East Anglia ONE North and East Anglia TWO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23 December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again.
2. The Preliminary Meetings (Part 1) for the East Anglia ONE North Offshore Windfarm and East Anglia TWO Offshore Windfarm Development Consent Order (DCO) Applications (references EN010077 and EN010078, respectively) were run jointly and took place virtually on 16 September 2020 at 10:00am.
3. The Preliminary Meetings ran through the items listed in the agenda published by the ExA on 11 September 2020. The Applicants gave substantive oral submissions on agenda items 2 to 8 and these submissions are set out within this note.
4. Speaking on behalf of the Applicants was Mr Colin Innes, partner at Shepherd and Wedderburn LLP.

## 2 Items 2 and 3: Preliminary Meeting and Examination process

### 2.1 Flexibility in Examination Process

5. The Applicants are open to a flexible approach to Examination noting the current circumstances with respect to COVID-19 and evolving guidance. The Applicants are keen to ensure a fair Examination whereby all Interested Parties are given the opportunity to participate in the Examination whilst ensuring the health and safety of those participating.
6. The Applicants' view is that hearings should take place virtually at this stage. In the Applicants' view, virtual hearings are more likely to be able to take place in the current circumstances and occur within the Examination timetable provided. Virtual hearings would reduce the risk of persons not being able to attend hearings due to any future local or general restrictions, or persons subject to quarantine or shielding being unable to attend if a hearing were in-person.



7. In the event that it is considered necessary to hold any in-person hearings, the Applicants' view would be that a hybrid approach should be used, providing appropriate technology is available, allowing for both in-person and virtual attendance. This would allow participants to attend a venue and participate in the hearings in person if they wished (subject to government guidance in relation to COVID-19 restrictions at the time and appropriate safety measures being put in place at the venue), whilst also allowing those that are unable to or less comfortable attending in person to take part in the hearings remotely.
8. In the event that it is considered necessary for any physical hearings to take place, we would suggest that a virtual back up is provided for in the event that it could not go ahead.
9. The Applicants have secured Snape Maltings for all of the proposed hearing dates specified within the Rule 6 letter should the ExA decide to proceed with either hybrid or physical hearings.
10. In light of comments raised by Interested Parties regarding alternative hearing dates in January and February 2021 and in order to assist the ExA with finalising the Examination timetable, the Applicants have investigated availability of Snape Maltings for hearings during the weeks commencing 25 January 2021 and 1 February 2021 and have temporarily reserved these dates in case they are required.
11. The Applicants note the recent High Court case of *Sam Tingey v Secretary of State for Housing Communities and Local Government and Horsham District Council* in which it was acknowledged that Planning Court and Administrative Court judges have been able to hold remote hearings successfully, with the co-operation of Counsel and the parties and making allowance for the particular needs of court users as they arise. In the *Tingey* case it was recognised by the Deputy Judge that whilst a hearing in open court would be most appropriate in that case, it did not follow that a remote hearing would be inappropriate, unfair or contrary to the interests of justice. In that case, access to a reliable phone line was enough for the court to determine that a remote telephone hearing would be fair and reasonable.
12. At the Preliminary Meetings (Part 1) the Applicants were requested to provide information on ways to allow Interested Parties to make oral submissions where they are unable to participate in hearings virtually due to lack of, or insufficient technology. As detailed previously, the Applicants have secured Snape Maltings for all proposed hearing dates specified within the Rule 6 letter, including for Open Floor Hearings currently scheduled for the 24<sup>th</sup> and 25<sup>th</sup> February 2021.



13. The Applicants consider that it will be possible to utilise the spaces booked at Snape Maltings to set up a laptop enabled with Teams to allow digitally disadvantaged participants to attend and speak at a scheduled time in the event they are unable to participate from home due to technological restrictions. The space could also be utilised to project the live stream onto a screen for participants and Interested Parties to view in the event they are unable to live stream from home. These provisions will take cognisance of the COVID-19 restrictions in place at the time relating to indoor gatherings / events and as such it is anticipated that, should they be able to be hosted, numbers will be restricted by appointment to allow appropriate social distancing and therefore should only be utilised by those Interested Parties who cannot otherwise participate.
14. The Applicants have made a hard copy of the application documents available to those that cannot access them online and these are available at Leiston-cum-Sizewell Town Council's offices.

## 2.2 Offshore transmission review

15. With regards to the requests for the Department for Business, Energy and Industrial Strategy (BEIS) offshore transmission review to be taken into consideration, the Applicants welcome the Energy Minister's announcement on 15th July 2020 regarding a review into the existing offshore transmission regime. This review aims to address the barriers the regime presents to further significant deployment of offshore wind, with a view to achieving net zero ambitions. This review will be led by BEIS and is split into two workstreams with different timescales. These are defined as medium term and long term workstreams.
16. An update will be published by the end of this year, with a view to providing clarity for an enduring approach in 2021. However, it is understood this update will not provide conclusions for the medium-term workstream nor implement changes to the existing regime. No date is provided as to when the outputs of the review will be published or implemented.
17. The timetable for the significant reform required to establish a new regulatory and technical framework for an offshore transmission network is likely to take a number of years. The Applicants have submitted applications for development consent for the East Anglia ONE North and East Anglia TWO Projects (the Projects) and are currently at the Preliminary Meeting stage of the consents process with the Examinations due to start in early October.
18. The National Policy Statement (EN-3) for Renewable Energy Infrastructure states at paragraph 2.6.34 that "*Applicants for consent for offshore wind farms will have to work within the regulatory regime for offshore transmission networks established by Ofgem. Under the regime offshore transmission will be a licensed activity regulated by Ofgem*".





19. The Applicants have progressed the Projects in line with the regulatory regime for offshore transmission networks established by Ofgem.
20. National Grid, in conjunction with offshore developers including ScottishPower Renewables, coordinated a study to look at an offshore ring main, and in 2015 it published its report 'Integrated Offshore Transmission Project (East) Final Report: Conclusions and Recommendations,'<sup>1</sup>. It examined, in the context of the East Anglia, Hornsea and Dogger Bank Round 3 Zones, the potential for offsetting the need for new onshore infrastructure by establishing an integrated design approach to the connection of these generation zones. This approach would include the use of inter-connection between offshore zones (via offshore transmission assets) and optimising connections to the onshore transmission system. The findings outlined a number of issues associated with a potential offshore ring main and concluded that in relation to an offshore ring main, "... *the project team does not believe it would be economic and efficient to progress with the development of an integrated design philosophy or delivery of anticipatory assets at this time*".
21. Changes to a coordinated approach on offshore transmission would require regulatory change to deliver it and it is likely to be subject to public procurement. Given the considerable time periods that would be involved in developing this, the Applicants have a legitimate expectation that the Projects will be considered within the current regulatory framework in light of paragraph 2.6.34 of NPS EN-3.
22. The Applicants' note representations from Interested Parties requesting a suspension of the Projects' Examinations until such time as the BEIS Review has been completed. This would result in unacceptable delays to the Projects which would prevent them from achieving their objective of delivering much needed renewable energy within the current proposed timescales and contributing to net zero ambitions and the UK Government's target of 40GW of offshore wind energy by 2030.
23. We therefore do not agree that the Examination of the Projects can or should be delayed until completion of the BEIS Offshore Transmission Network Review.

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<sup>1</sup> National Grid, Integrated Offshore Transmission Project (East): Final Report: Conclusions and Recommendations, August 2015 (available at <https://www.nationalgrideso.com/document/125331/download>)



## 3 Item 4: Initial Assessment of Principal Issues

24. This agenda item was focussed on the initial assessment of principal issues as noted in Annex C to the Rule 6 letter dated 16 July 2020.

### 3.1 Inclusion of National Grid Infrastructure within DCO Applications

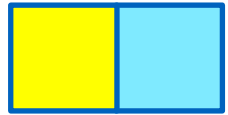
25. Comments were made at the Preliminary Meetings (Part 1) regarding the inclusion of National Grid infrastructure within the DCO Applications for the Projects.
26. New National Grid substation and National Grid overhead line realignment works (together referred to as the National Grid infrastructure) are required to connect the Projects' onshore substations to the national electricity grid.
27. Given the critical nature of the National Grid infrastructure to the Projects' viability and deliverability, the Applicants have sought to include the necessary works within the DCO Applications. By including the National Grid infrastructure within the draft DCOs, the Applicants can ensure that the necessary consents are obtained within the required timescales to reduce the risk of any delays to the delivery of the Projects as well as risks to the viability of the Projects and this is entirely within the spirit of the legislation.
28. Any delay to the consenting of the National Grid infrastructure could result in the offshore wind farm projects themselves being delayed, potentially jeopardising their competitiveness at a Contract for Difference auction or delaying financing of the Projects and ultimately delaying the development of the Projects.
29. By incorporating the National Grid infrastructure within the Projects' DCO Applications, the initial design of the National Grid infrastructure was progressed in parallel with the wider Projects' initial design.
30. This allowed the Applicants to undertake a full and robust environmental impact assessment of the National Grid infrastructure as part of the assessment of the Projects, as opposed to relying on the National Grid infrastructure being considered in the assessment of cumulative impacts with 'other projects'.
31. Furthermore, incorporation of the National Grid infrastructure within the Applications has also allowed for more effective mitigating measures to be developed for the whole of the substation area. Mitigation such as woodland planting around the substations, as presented within the **Outline Landscape and Ecological Mitigation Plan** (OLEMS) (APP-584), has benefited from all



infrastructure necessary for the Projects being defined, allowing effective and robust landscape mitigation plans to be developed.

## 4 Item 5: Habitats Regulations Assessment

32. The ExA raised a number of questions in Procedural Decision 18 of its Rule 6 Letter published on 16 July 2021 in relation to recent decisions of relevance to Habitats Regulations Assessment (HRA) and the Applicants' response to these questions can be found in ***Applicants' Response to the Rule 6 letter of 16 July 2020*** (AS-061).
33. With respect to the Deadlines by which the Applicants intend to provide updated information, the Applicants confirm:
  - that in respect of collision risk, updates to the assessments provided in the ***Information to Support Appropriate Assessment Reports*** (APP-043) will be submitted at Deadline 1; and
  - in respect of displacement of red-throated diver from the Outer Thames Estuary SPA, the Applicants intend to submit updates at Deadline 3.
34. The reason for specifying a later Deadline in respect of displacement of red-throated diver is because the Applicants received further advice from Natural England (NE) in June 2020, and the Applicants are now in the process of undertaking several workstreams as a result of this further advice and the outcomes of a workshop held on 28 July 2020 with NE, the Royal Society for the Protection of Birds (RSPB) and the Marine Management Organisation (MMO). The Applicants also aim to hold further discussions with NE, RSPB and the MMO prior to submitting an updated assessment. The Applicants wish to be realistic when specifying deadlines, and given that further work and stakeholder engagement is required in respect of this particular workstream, the Applicants consider Deadline 3 to be a realistic target for submitting the updated information.



## 5 Item 6: Timetable provision for amendments to the DCO Applications

35. Through engagement with design teams and equipment suppliers, the Applicants have continued to progress and refine the design of the East Anglia ONE North and East Anglia TWO projects since submission of the DCO Applications which has presented opportunities to reduce the environmental impacts of the Projects. This process is complemented by the SoCG process which has also identified a number of areas where amendments to the Projects could serve to reduce the environmental impact of the Projects. The Applicants are continuing to evaluate these changes as set out below.

### 5.1 Non-material changes

36. The Applicants intend to confirm the following non-material changes to the applications at Deadline 1:

- Reduction in the maximum wind turbine tip height from 300m to 282m above lowest astronomical tide (LAT);
- Increase in the minimum clearance above sea level (the 'air-draft') from 22m to 24m above mean high water springs (MHWS). As stated in the **Applicants' Response to the Rule 6 letter of 16 July 2020**, submitted at Procedural Deadline A (AS-061), the Applicants intend to submit updates to the assessments provided in the **Information to Support Appropriate Assessment Reports** (APP-043), which will incorporate the air-draft increase.

37. The Applicants are also considering a small number of non-material changes to the applications to reduce the environmental impacts of the Projects and to reflect ongoing design iterations of the Projects. The Applicants will provide an update on these changes at Deadline 1 and acknowledge that it is in all parties' interests for such changes to be submitted to the Examinations as early as possible.

38. The non-material changes under consideration include:

- Refinements to the onshore substation design to reduce the potential for environmental impacts of the Projects;
- Refinements to the Order limits and/or Work Areas to remove land which is no longer required due to ongoing refinement of the Projects or to reduce the potential for environmental impacts of the Projects;



- Refinements to the Order limits to include additional land and temporary rights to provide a temporary potable water supply to Work No. 8 (landfall) and additional temporary diversions to Public Rights of Way; and
- Refinements to the Order limits to include additional land and permanent rights to provide alternative surface water drainage infrastructure and permanent diversions to Public Rights of Way.

## 5.2 Material changes

39. The Applicants do not anticipate material changes to the Projects at this stage, nor do the Applicants consider that any of the abovementioned non-material changes alone or collectively would result in a material change to the Applications.

## 5.3 Processes for additional land or rights

40. In the event that any changes progress which seek to alter the Order limits, or the rights sought over land, the Applicants will liaise directly with any persons with an interest in the relevant land.

41. Where land rights are not being pursued due to a reduction in the Order limits, the parties with an interest in this land will be advised and written confirmation provided. The relevant land plots will also be removed from each DCO and Book of Reference.

42. Where additional land rights are sought due to an increase in the Order limits, the Applicants will comply with the provisions of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 by giving notice to prescribed parties as appropriate as well as publicising the proposed changes as specified in the Regulations.

## 5.4 Timetable for confirming changes

43. The Applicants expect that a number of non-material changes will be confirmed to the ExA at Deadline 1.

44. It is noted that some potential changes may require further time in order to refine the detail of the change due to the need for further supply chain engagement. The Applicants will keep the ExA informed of progress and expect that any final changes would be formally submitted to the ExA by Deadline 4 at the latest. The Applicants will continue to progress the consideration of these changes and where earlier submission is possible, such earlier submission(s) will be made.



## 6 Item 7: Submission deadlines

45. The Applicants wish to flag their comments on the draft Examination timetable submitted at Procedural Deadline A on 13 August 2020 in response to the Rule 6 letters of 16 July 2020 (AS-61). The Applicants request that Deadline 2 on 17 November 2020 is delayed until 24 November 2020. This is to allow sufficient time for the Applicants to prepare responses to written representations that will be received by the ExA on 2 November 2020 and presumably made available to the Applicant within 24 or 48 hours from receipt. As currently drafted, the timetable allows for a period of two weeks to prepare and finalise the comments on written representations for both Projects. The Applicants request the additional time to make sure that the comments are as detailed and helpful as possible.
46. The Applicants also wish to note the following with respect to Examination timetable requests submitted in writing by Interested Parties by Procedural Deadline A on 13 August 2020:

### **Request to postpone the Issue Specific Hearings (ISH) from w/c 30 November 2020 to w/c 7 December 2020**

47. East Suffolk Council and Suffolk County Council have both requested that the ISHs currently scheduled to take place during the week commencing 30 November 2020 are moved to the week commencing 7 December 2020 due to resourcing difficulties.
48. The Applicants assume the request relates to the ISH only and not the Compulsory Acquisition Hearings too, however this would mean hearings are split over two weeks.
49. Written submissions of oral case are due at Deadline 3 on Tuesday 15 December. Therefore, if the hearings last all week, this leaves little preparation time for these written submissions and to finalise other Deadline 3 submissions.
50. Furthermore, the Applicants note that other Interested Parties may have resourcing issues on the alternative dates proposed and would therefore request that careful consideration is given prior to amending hearing dates in case this causes difficulties for other Interested Parties.

### **Requests for extensions to Deadlines 4 and 5**

51. It has been requested that Deadline 4 on 7 January 2021 and Deadline 5 on 27 January 2021 are delayed due to the Christmas holidays. Whilst the Applicants sympathise with the Interested Parties that have made written submissions on this, the Applicants are of the view that if these deadlines were substantially moved, this would have consequences on later hearings and deadlines and it





may be challenging to fit in the rest of the Examination programme which could compromise the ability to cover all of the required matters. The Applicants note that there will always be national holidays that fall within any six month period for an Examination.

52. This being said, the Applicants consider it may be possible to push Deadline 4 and Deadline 5 back one week to 14 January and 3 February respectively and hold the hearings currently scheduled for the w/c 11 January or 18 January in the latter of those two weeks. The Applicants do not consider that extending either deadline further would be appropriate as this would result in a knock on impact on all subsequent deadlines.

### **Request to postpone the January ISHs to February 2021**

53. It has been requested that the ISHs currently scheduled for either the week commencing 11 January 2021 or week commencing 18 January 2021 are moved to February 2021 if Deadline 4 is extended. The Applicants are of the view that if these ISHs are moved back to February, other hearings and deadlines scheduled subsequently will need to also be moved and it may be difficult to accommodate the remaining items within the Examination period. As such, if Deadline 4 is moved back a week, the Applicants feel that it would be preferential for the ISHs to be held during the week commencing 18 January 2021

### **Request for extension to Deadline 9**

54. Natural England have requested an extension to Deadline 9 on 1 April 2021 as the presence of the Easter holidays will reduce time available for Deadline 9. Easter Friday is 2 April 2021. The ExA have until 6 April 2021 to complete the Examination and this is the last item on the timetable. There are therefore very limited alternative options which avoid the Easter holidays whilst allowing Deadline 9 submissions to be received and published and for the Examination to close on 6 April 2021.

## **7 Item 8: Hearings and Site Inspections**

### **7.1 Site Inspections**

55. The Applicants acknowledge that due to the current global public health situation arising from COVID-19, there is a possibility that social distancing measures may still be in place when the accompanied site inspections are due to take place.

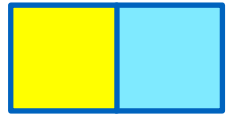


56. Site inspections are an important part of the Examination process as they allow the ExA to see features of the proposals within the context of the evidence put forward.
57. The Applicants' view is that the vast majority of the cable route and/or pinch points are visible without having to access private land however some Interested Parties may consider there to be areas which have features that need to be pointed out. We therefore would not discourage the ExA from carrying out accompanied site inspections where the ExA considers this to be appropriate.
58. The Applicants will provide details of suggested site inspection locations for consideration by the ExA at Deadline 1, acknowledging that a number of unaccompanied site inspections have already taken place in January, July and August of 2020.
59. The accompanied site inspections are currently scheduled to take place either the week commencing 11 January 2021 or 18 January 2021. The Applicants understand that the ExA has had requests from Interested Parties to hold accompanied site inspections before Christmas.
60. The Applicants are of the view that early site inspections may help the ExA familiarise themselves with certain features at an early stage of the Examination process which will then help with later hearings and further written questions.
61. In the event that the hearings scheduled for the week commencing 30 November are to proceed as physical or hybrid hearings, and if early accompanied site inspections are considered to be necessary by the ExA, then the Applicants would suggest scheduling these during the week commencing 30 November 2020, or immediately after, to coincide with the hearings being held that week as Interested Parties may already be in the area.

## **7.2 Contingency plan to supplement site inspections with virtual or digital technology**

62. The Applicants welcome the ExA's decision to commence the Examination using virtual methods and the acknowledgment within the Rule 6 Letter that it may be possible to use virtual technologies to assist with the site inspections. The Applicants are currently investigating options to support the site inspections through the submission of additional written, photographic, video or drone material if COVID-19 circumstances would make accompanied site inspections inadvisable, difficult or unduly time consuming to conduct.
63. The Applicants consider the following additional materials could be made available to enable views of inaccessible areas or areas where it is not possible to attend in person if considered necessary:





- 360 degree photographs could be obtained at key locations along the Onshore Development Area. The information can be stored and viewed online, allowing full visibility of the surroundings of the capture location.
  - A drone survey could be undertaken which would obtain high quality video footage of the Onshore Development Area. However, it should be noted that drone surveys are subject to strict guidelines and certain permissions may need to be obtained in advance (i.e. consent from the landowner in respect of the land where the drone takes off and lands).
64. Should the ExA wish, the Applicants can provide further information regarding the possibility of using virtual technologies as part of the Site Inspections submission at Deadline 1.