The Planning Act 2008

East Anglia One North (EA1N) and East Anglia Two (EA2) Offshore Wind Farms

Planning Inspectorate Reference: EA1N – EN010077, EA2 – EN010078

Deadline 1 - 2 November 2020

Written Representations on behalf of Suffolk County Council in respect of the Draft DCO and Associated Documents

ISSUES RAISED BY SUFFOLK COUNTY COUNCIL IN RESPECT OF THE DRAFT DCOs & ASSOCIATED DOCUMENTS

General Comments

Suffolk County Council (SCC) set out its concerns in relation to the Applicants' proposals regarding EA1N and EA2 in its Relevant Representations dated 23 January 2020. SCC has subsequently elaborated on those concerns in the detailed comments made in the Local Impact Report. SCC has also engaged with the Applicants (and continues to do so) on a series of Statements of Common Ground (SoCGs) to identify both agreed matter and matters which are not currently agreed. In addition, SCC has provided responses at Deadline 1 to the Examining Authorities' First Written Questions (ExQs1) where relevant to its matters of concern. The purpose of this document, which is a Written Representation within Regulation 10 of The Infrastructure Planning (Examination Procedure) Rules 2010 and which is submitted at Deadline 1, is to identify in one place for the assistance of the Examining Authorities SCC's continuing concerns with regard to the detailed provisions of the draft DCOs in their current form and associated documents. This Written Representation is to be read together with SCC's comments as set out in the Local Impact Report, the SoCGs, and its responses to the ExQs1) which provide further detail but SCC hopes that it is helpful to have a composite 'pulling together' of the disparate topics where it considers that changes are needed in order to address elements of the proposals that are not currently acceptable to SCC.

SCC has statutory responsibilities in respect of Highways, Public Rights of Way, Flooding and Archaeology. As currently drafted the DCO gives the responsibility for discharging requirements related to these aspects to East Suffolk Council. SCC requests that the DCO is redrafted to make it the discharging authority for those matters, so that the primary responsibility for determining the acceptability of whatever may be proposed in due course by way of discharge rests with the authority with statutory responsibility for that matter, rather than relegating that authority to consultee status only.

DCO and associated documents reference	LIR detail reference	ExQ1 detail reference	SoCG detail reference	Headline comments
FLOOD RISK				
New requirement required	Page 60			Update the draft DCOs to provide a separate new requirement in relation to operational surface water and foul drainage.
			LA-05.18	Agreed - SCC requests that the approval of the operational surface water and foul water drainage details be subject to a separate draft DCO Requirement, rather than incorporated within Requirement 14 (Landscape Management Plan) of the draft DCO. The Applicants agree to this request and will provide an updated draft DCO to the Examinations at Deadline 3.
Requirement 22	Page 60			Requirement 22 ensures a surface water and drainage management plan must be submitted for each stage of construction works prior to commencement.
			LA-05.17	Agreed -SCC's agreement relates to the wording of Requirement 22 rather than the content of the Outline CoCP (see below).
Outline Code of Construction Practice	Page 60			Some of the details contained within the Outline CoCP require further clarification
		Question 1.7.11 Page 36		SCC is not satisfied that the OCoCP provides sufficient security to secure later agreement.
Outline Landscape and Ecological Management Statement		Question 1.7.11 Page 36		SCC is not satisfied that the OLEMS provides sufficient security to secure later agreement.

ARCHAEOLOGY				
Requirement 19	Page 79			At present, SCC does not fully support the wording of DCO requirements 19 and 20, Outline Written Scheme of Investigation (OWSI) and Outline Pre-Commencement Archaeology Execution Plan (OPCAEP) and Appendix 2 of this LIR sets out required revisions to the documents.
	Appendix 2 Paragraph 2			Requirement 19 does not fully make accommodation for archaeology to be designed in advance or of alongside other pre-commencement works (such as access or ecological mitigation), although the need for this is set out and acknowledged in the OPCAEP. The requirement as proposed also does not explicitly require that pre-commencement works are undertaken in accordance with the principles set out in the outline WSI.
			LA-06.17	See under Outline Written Scheme of Investigation below.
Requirement 20	Page 79			At present, SCC does not fully support the wording of DCO requirements 19 and 20, OWSI and OPCAEP and Appendix 2 of this LIR sets out required revisions to the documents.
	Appendix 2 Paragraph 3			Requirement20 does not reflect the likely stages of archaeological work.
			LA-06.17	See under Outline Written Scheme of Investigation below.
Outline Written Scheme of Investigation	Page 79			At present, SCC does not fully support the wording of DCO requirements 19 and 20, OWSI and OPCAEP and Appendix 2 of this LIR sets out required revisions to the documents.
	Appendix 2 Paragraph 5			Given that the DCO relies on the outline WSI to shape the mitigation, there is a need for amendment to this document to make provision robust.
		Question 1.8.16 Page 41		At present, SCC does not fully support the wording of DCO requirements 19 and 20, OWSI and OPCAEP.
			LA-06.17	Not Agreed – under discussion. SCC could agree on the wording of Requirement 20 subject to the insertion of the additional text, provided the wording of Requirement 19 is amended as per LA-06.16. As it stands SCC notes that the Requirements do not explicitly reflect the staged approach to archaeological work, with evaluation preceding mitigation. The Applicants will update the ***Outline WSI*** (APP-582) to take account of the comments received from the Councils. The Applicants will review and consider amending the wording of Requirements 19 and 20 to reference the sequencing of archaeological mitigation and evaluation.

Outline Pre-Commencement Archaeology Execution Plan	Page 79			At present, SCC does not fully support the wording of DCO requirements 19 and 20, OWSI and OPCAEP and Appendix 2 of this LIR sets out required revisions to the documents.
	Appendix 2 Paragraph 5			This document should not refer to final outline WSI as there are going to be a number of WSI documents
		Question 1.8.16 Page 41		At present, SCC does not fully support the wording of DCO requirements 19 and 20, OWSI and OPCAEP.
			LA-06.16	Not Agreed – under discussion. The Applicants will review and update the Outline Pre-Commencement Archaeology Execution Plan (PCAEP) to include a section on how onshore preparation works will be managed in respect of archaeology investigation and consider whether the pre-commencement works may be undertaking in accordance with the final WSI.
			LA-06.18	Not Agreed – under discussion. The Applicants confirm that the ***Outline PCAEP*** will be updated to include management measures for working hours, noise limits and drainage, and commit that SCC is consulted prior to undertaking any early planting works.
EMERGENCY PLANNING				
New requirement required		Question 1.14.2 Page 45		Additional requirements are also necessary to protect statutory emergency arrangements.
PUBLIC RIGHTS OF WAY				
Sufficient desk-based data has been collected to inform the assessment.			LA-15.01	Not Agreed – under discussion: Applicant considering application of Design Manual for Roads and Bridges.
			LA-15.02	Not Agreed – under discussion.
			LA-15.03	Not Agreed – under discussion.
			LA-15.04	Not Agreed – under discussion.
			LA-15.06	Not Agreed – under discussion.
			LA-15.10	Not Agreed – under discussion.
Requirement 32			LA-15.10	Not Agreed – under discussion: The Public Rights of Way Strategy must be submitted and approved by the relevant Highway Authority after consultation with the relevant planning authority.
Schedule 4: Footpaths to be stopped up			LA-15.11	Not Agreed – under discussion: SCC requires the following maters should be addressed by the Applicants: • More detailed descriptions of alternative footpath listed in Schedule 4 – Footpaths to be Stopped Up; to a standard SCC format • Errors in the DCO plans and schedules to be corrected; The Applicants will review the above and where appropriate amend the draft DCO and ***Outline PRoW Strategy*** and submit updated documents at Deadline 3.

				The Applicants note that the final (approved) PRoW Strategy, will include any refinements to temporary or permanent PRoW diversions and in sufficient detail to accurate map the new routes onto SCC's definitive map.
Public Rights of Way - extinguishment of footpaths in Schedule 4 on certification by SCC of the relevant alternative footpaths			New	Not Agreed – under discussion. The applicant is considering alternative routing.
Outline Public Rights of Way Strategy	Page 106			The principles for management in the OPRoW are broadly acceptable for taking forward to the detailed PRoW strategy. However, there is inadequate detail provided as to the phasing and duration of closures, particularly where several PRoWs are close together and the PRoWs at the substations site. SCC is concerned that there could be closures and disruption of a network of PRoW all at the same time, leaving local walkers with very limited or no access at all.
TRAFFIC AND TRANSPORT				
Requirement 16			LA-10.26	Not Agreed – under discussion. The Applicants note that Part 3, Article 13 provides the Applicants the legal right to form accesses to works, and Requirement 16 provides the mechanism for the relevant planning authority to approve the detail of the accesses to works. The construction of 'any' access requires the approval of details by the relevant planning authority in consultation with the relevant highway authority (as per Requirement 16 of the draft DCO. The Applicants will update the Outline Access Management Plan (OAMP) to include relevant clauses from the OCoCP and the OCTMP to ensure that the traffic demand is managed. SCC notes that management plans are submitted for approval before commencement of onshore works but this can exclude offsite highway works and pre construction works. For clarity the SCC would desire that management plans are agreed before any highway works including those prior to commencement are started.
Requirement 28			LA-10.27	Not Agreed – under discussion. SCC advises that in the event Sizewell C construction traffic conflicts with the Projects' onshore preparation works, the Applicant may find it difficult to deliver highway mitigation works (as the background traffic flow may be too high for daytime closures). The Applicants confirm that any highway mitigation works undertaken by the Applicants as onshore preparation works will be subject to approval by the relevant highway authority and will incorporate appropriate traffic management measures. The Applicants will continue to review the construction programme for the propose Sizewell C New Nuclear Power Station to identify any potential conflicts.

				See comments for LA 10.26
Requirement 36			To be added	Not Agreed – under discussion (Port Travel Plan)
Article 12		Question 1.5.5 Page 32		Article 12 refers to stopping up of streets of approval of accesses. It is unclear if the Applicants will liaise with emergency services with regard to temporary closures or if the local highway authority is expected to do so.
			To be added	Not Agreed – under discussion.
Article 13		Question 1.5.5 Page 32		Article 13: Technical approval of highway works is a more detailed process than planning approvals. SCC does not have the resources necessary to technically approve details within 28 days. At least double this amount of time would be required.
			To be added	Not Agreed – under discussion.
Schedule 2			LA-10.28	Not Agreed – under discussion. SCC to review the relevant content within the draft DCO and confirm their position on this statement.
Schedule 5	Page 141			The draft DCOs makes provision for streets to be stopped up (DCO Schedule 5) yet Table 26.4 states that no roads are to be fully closed to install the proposed cables under the public highway.
			LA-10.29	Not Agreed – under discussion. SCC to review the relevant content within the draft DCO and confirm their position on this statement.
Schedule 6			LA-10.30	Not Agreed – under discussion. SCC to review the relevant content within the daft DCO and confirm their position on this statement.
Speed Management Proposals not covered in DCO	Page 140			The Road Traffic Regulation Act 1984 is not legislation included within the DCO. SCC presumes that the Applicants intend that SCC uses its powers to create temporary and permanent traffic regulation orders and that SPR will enter an obligation for enable this to be done and the LHA recover its reasonable costs. This is under discussion with the Applicants.
Outline Construction Traffic Management Plan .	Page 145			The OCTMP only considers onshore construction, not port related construction or operational traffic. SCC considers that future planning applications should be aligned with the OCTMP so that the full cumulative transport impacts can be monitored, and ongoing impacts assessed.
	Page 145			The booking system for HGVs would require appropriate monitoring and reporting to SCC. SCC considers that a GPS based system that can locate and track individual vehicles is a better solution enabling proactive management of HGVs, for example in the case of interruption of the highway network and provide factual data in cases where restrictions are breached.
	Page 146			SCC considers that monitoring and reporting outputs need to be more robust to ensure compliance with the impacts assessed and hence the EIA.

			LA-10.31	Not Agreed – under discussion. SCC is discussing possible communication arrangements with Sizewell C in relation to traffic flows and traffic management. The Applicant will produce a quarterly traffic management report for submission to SCC and will update the OCTMP (APP-586) to reflect this commitment. The Applicants note that enforcement measures are presented within the OCTMP but will update the OCTMP to include an incident management procedure / plan. SCC will suggest wording for condition surveys and funding mechanisms for repairs for consideration by the Applicants and incorporation within the OCTMP (APP-586).
Outline Travel Plan	Page 147			A monthly monitoring report should be submitted to SCC and a contribution for time and costs associated with reviewing and monitoring by SCC be paid.
		Question 1.18.65 Page 69		SCC seeks assurance that the measures within the Travel Plan also apply to workers with vans provided for their work. Note that we have comments to make on the control measures, monitoring and enforcement embedded within all management plans.
			LA-10.32	Not Agreed – under discussion. The Applicants confirm the OTP will be updated in line with LA-10.06 and LA-10.07. SCC to review and confirm their position on this statement.
Obligations	Page 148			To mitigate the various highways impacts (as listed) of the project there should be an agreement for the cost of monitoring the impacts upon the Stratford St Andrew AQMA.
		Question 1.18.3 Page 55		While not the only option we consider that planning obligations are a suitable mechanism to agree a number of matters including a Traffic Review Group.
Protective Provisions		Question 1.18.3 Page 58		SCC is concerned that the powers of the DCO constrain its ability to discharge its duty under s41 of the Highways Act (1980), specifically to inspect and maintain the highway. We note that statutory utilities have protection for their apparatus, but similar provisions have not been made for SCC's apparatus.
Code of Construction Practice		Question 1.18.19 Page 68		SCC is aware that the definition of onshore preparation works includes creation of the highway accesses, footpath creation and highway alterations but that the CoCP and associated management plans are not required to be finalised before commencement of construction. While SCC welcomes early delivery of this work it considers that the same controls should apply to the preparation works as for the main element of construction. The DCOs as submitted requires the final CTMP and CTP to be submitted prior to commencement, potentially after the pre-commencement works are undertaken.
		Question 1.18.70		Further clarification required

Outline Access Management Plan		Page 74		
			LA-10.33	Not Agreed – under discussion. The Applicants note that the draft DCO provides the legislative mechanism to construct accesses, with Requirement 16 of the draft DCO requiring SCCs approval of final access design details. The Applicants will update the OAMP to include relevant clauses from the OCoCP and the OCTMP to ensure that the traffic demand is managed. This Applicants respond to the matter of operational AIL routes at LA-10.35.
Damages to highways			LA-10.34	Not Agreed – under discussion. The Applicants will update the OCTMP with a methodology for the highways condition surveys and payments, the detail of which is not yet agreed. This matter is under discussion between the Applicants and SCC.
Operational Access Management Plan/ Operational AIL Routes	Page 143			It is apparent that the term “HGV” does not apply to Abnormal Indivisible Loads (AIL) as these will be required to travel via the B1121 through Friston to the new permanent substations access and therefore some construction traffic would use this route.
			LA-10.35	Not Agreed – under discussion. SCC has in-principle concerns with the lack of national policy to address the management of AIL routes SCC queried the concentration of operation and decommissioning phase AIL movements around the onshore substations and advised they would be seeking the AIL route is secured for future use. The Applicants confirm they are not seeking to protect AIL routes during operation or decommissioning. Rather, should AIL routes be required during operation or decommissioning, these will be agreed with the relevant authorities at the time in line with current Department for Transport processes. The Applicants are preparing a clarification note to address this matter which will be submitted to the Projects’ Examination.

WATER QUALITY AND RESOURCES				
Outline Code of Construction Practice provided for by Requirement 22	Page 153			The Outline CoCP includes measures to treat surface water runoff prior to discharge. However, some of these options do not use SuDS methods and rely on the use of proprietary products, as was the case for EA1 construction. It is unclear if the Applicants' proposals allow for sufficient space within the red line boundary for the use of SuDS to be prioritised for the purpose of surface water treatment.
	Page 153			No measures have been proposed to re-use surface water runoff to reduce the developments water supply needs, neither during construction nor operation, contrary to local policy.
SOCIO-ECONOMICS (WORKFORCE)				
				No comments
MINERALS & WASTE				
				No comments
PUBLIC HEALTH				
Requirement 22			LPA-018	Not Agreed – under discussion. Air Quality – SCC would like the AMP section of the OCoCP updated to include reference to the CTMG and monitoring of Stratford St Andrew AQMA, Noise – SCC does not agree as the CoCP does not include preparation works – see SoCG in relation to Noise.
Requirements 26 & 27			New	Not Agreed – under discussion. SCC does not agree with the wording – see SoCG on Noise for further details.