

SASES Written Summary of Submissions on Site Selection

[Agenda Item 3]

1. The question of alternatives for the onshore elements of the proposals is important and relevant to the Examination because:
 - 1.1. Consideration of reasonable alternatives is required under the Infrastructure Planning (EIA) Regulations 2017 – Regulations 14(2)(d) (and see section 4.4 of NPS EN-1);
 - 1.2. The significant adverse effects of the proposals (as detailed in the SASES Written Representations (“WRs”)) justify the consideration of alternative means and locations for connecting the proposed windfarms to the grid. There are also specific policy requirements to consider alternative locations through sequential testing for flood risk, to avoid significant adverse noise effects and to avoid harm to heritage assets etc.
2. There are 2 distinct elements to site selection in the present case: NG’s decision to offer a connection to SPR in or around Leiston [Agenda Item 3(a)]; and SPR’s site selection assessment [Agenda Item 3(b)].

NG’s decision to offer a connection to SPR in or around Leiston

3. NGESO issues connection offers. In this case the Grid Connection Agreement was made with SPR in December 2017 (ES Ch 4 at 27 [APP-0520]). The process undertaken by NG to make a connection offer in or around Leiston needs to be scrutinised (i) to understand what NG itself has done and (ii) because it has constrained SPR’s consideration of alternative sites.
4. It is no answer for SPR to say this location is where they were offered a connection.
5. The selection of the Leiston area is a matter properly within the scope of the Examination – the ExA assesses the location of connection point works and that means not just the choice of connection point within the Leiston area but the site selection of Leiston over

Bramford, or elsewhere, as the connection point. That assessment is also necessary because the DCOs seek consent for NG infrastructure (a NG NSIP) to enable the connection to be made at Friston.

6. If this first stage is not properly scrutinised then SPR's duty to consider and explain the reasonable alternatives would be avoided by the fundamental site selection being made by the developer (NG) but the application being made by SPR. These DCOs seek land and rights on behalf of NG, to enable NG to construct, own and operate the new infrastructure. Therefore, it is also no answer for SPR to say that the Applicant is not NG.
7. Instead of a proper selection exercise that satisfies the legal and policy requirements for selecting a NSIP site (the NG infrastructure is an NSIP in its own right), for instance an assessment of and consultation on the possible sites listed by Mr Green on behalf of SPR at ISH2, the grid connection offer was made using the Connection and Infrastructure Options Note ("CION") process. The CION is a high level (and to SASES at least, a very heavily redacted¹) exercise which, as Ms Isabella Tafur observed on behalf of East Suffolk Council ("ESC"), provides is an "inadequate consideration of environmental impacts".
8. Before turning to the CION process in more detail, it is necessary first to address the Electricity Act 1989 ("the EA 1989").
9. Section 9 of the EA 1989 imposes duties on licence holders, including to develop and maintain an efficient, coordinated and economical system of electricity transmission. Unlike the original connection offer at Bramford (see further below), the selection of Friston is neither efficient nor coordinated and therefore fails to comply with NG's obligations under s.9. It may not even be economical depending upon the economic model used but that is outside the scope of the submission.

¹ As requested by the ExA during ISH2, a copy of the redacted CION for the Leiston connection, as provided by NG to SASES, is attached to these submissions at Appendix 1.

10. Further, the CION assessment process for EA1N and EA2 is not compliant with NG's obligations under Schedule 9 in respect of environmental matters. Pursuant to Schedule 9(1)(1), in formulating relevant proposals, licence holders, or persons authorised to distribute, supply or participate in the transmission of electricity, shall have regard to the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest, and shall do what they reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or projects. NPS EN-5 at para 2.2.6 also refers to these duties, and para 2.2.7 requires that the licence holder explain how these duties have been discharged.

The CION Process

11. Remarkably, unlike SPR's position on cumulative impact assessment (CIA) where it sought to defer any questions on assessment of alternative NG projects to NG, Mr Green was able to provide a lengthy, if rather convoluted, account of NG's CION process at ISH2. A number of matters arise in relation to the CION, as summarised below.

12. The main objective of the CION assessment is to select the preferred connection option that is *the most economic and efficient* design connection option for the overall benefit of the Great Britain energy consumer (see the Ofgem letter to Mr Halford dated 28 May 2019 (p1)²). That much is clear from the emphasis on economy that runs through the Applicant's Regulatory Context Note [REP2-003]; consideration of environmental issues is mentioned only a few times, (for instance paras 179 and 182) and, in the context of Ofgem, the most relevant reference is at para 130, where it is stated that "... in assessing whether expenditure is efficient, Ofgem will have regard to planning and environmental considerations."

13. Contrary to the impression given by SPR in the Regulatory Context Note [REP2-003], Ofgem does not undertake detailed scrutiny of the CION process, nor is it subject to any

² As referred to in ISH2 and attached to these submissions at Appendix 2.

robust review by Ofgem – as a general rule, Ofgem does not have a role overseeing or approving the CION assessment process (see the Ofgem letter to Mr Halford dated 28 May 2019 (p1)). Further and in particular, Ofgem is not responsible for monitoring and enforcing compliance with EA 1989 Schedule 9 matters (see the Ofgem letter to SASES dated 20 January 2020³).

14. Therefore, NG must demonstrate at this Examination that it has fulfilled the EA1989 duties when deciding where to site its infrastructure. However, NG has not discharged its duty to do so.

The evolution of the CION

15. When the DCO for EA1 was consented in 2014 it included 6 cable trenches from Bawdsley to Bramford for three planned windfarms: EA1, EA3 and EA4, a pair of trenches being allocated to each windfarm. Each pair of trenches was intended to carry 1.2GW (a total of 3.6GW). This was clearly a coordinated, economic and efficient arrangement which minimised environmental impacts.
16. In 2016, SPR was permitted to reduce the number of cable trenches to three; two for EA1 (now downsized to 714MW from 1.2GW and changed to HVAC technology from HVDC) and one to serve EA3 (the EA4 lease had been terminated), so the capacity of the cable route dropped from 3.6GW to 1.9GW. Due to the use of HVDC Bipole technology a single cable trench could now carry 1.2GW of power from EA3 and in fact EA3 was subsequently consented to generate 1.4GW of power.
17. When SPR sought to develop EA1N and EA2, NGEN's CION assessment in 2017 resulted in an offer for SPR to *connect at Bramford* as per the original plan, noting additional cable trenches would now be needed because of the previous decision to reduce provision. (The 800MW EA1N and the 900MW EA2 would take the capacity back to the 3.6GW originally agreed to be delivered at Bramford.)

³ As referred to in ISH2 and attached to these submissions at Appendix 3.

18. However, later in 2017, NGENSO re-opened the CION and directed SPR to connect to a new NGET SS at Leiston rather than Bramford, citing a cost benefit justification, but no disclosed reasons for the change. No further reasons were provided by Mr Green on behalf of SPR at ISH2 beyond it being the “most economic” option. Importantly, however, the CION (p20) also contained the proviso that if Leiston was not feasible, then an alternative (redacted) connection location (presumably Bramford⁴) *would also be considered*.

19. The CION process considered alternative locations (see the CION and the ES Ch4 at 54 [APP-052] which sets out an extract from the CION), including at Bramford – which was rejected in favour of Leiston, although it is not explained why. Further, SPR’s ES (Ch 4 Table 4.3 [APP-052]) does not provide a justification for the selection of the Leiston area, as opposed to Bramford. It should be noted that at the foot of Table 4.3 the wording concerning the “preferred option” would appear to have been taken directly from page 20 of the redacted CION. However the last sentence from page 20 has been omitted. This sentence states “*However it is recognised that this option may not be possible therefore HVAC connection to [redacted but presumed to be Bramford] will also be considered.*” At least two observations could be made from this sentence. First Leiston may not be a suitable connection site and second Bramford remains a viable connection site.

20. There are four points in particular to note:

20.1. Bramford is a very large existing SS and a brownfield site (serving Sizewell B and EA1 and will serve EA3), see the aerial photo at p9 of the SASES Land Use WRs [REP1-359];

20.2. SPR and NG have substantial landholdings at Bramford which could accommodate new infrastructure without requiring compulsory acquisition and – so much for the better coordination of onshore infrastructure - may not now be used;

⁴ A point made on behalf of SASES at ISH2 and not contradicted by SPR at the Hearing.

20.3. As set out above, Bramford was originally identified as the connection location for all of the East Anglia windfarms (see ES Ch 4 at para 49) and the EA 1 DCO provided for a cable corridor that would accommodate a number of other cables, for a later phase of East Anglia projects, but the project was later altered to accommodate only EA1 and EA3. New cables would therefore now need to be laid but there is no evidence of any impediment to doing so, and the route has been consented, having been the subject of EIA (including 6 trenches) and the principle already established;

20.4. Table 4.3 of the ES does make clear that Bramford could have a cable route which could avoid designations and a suitable landfall is identified. Cumulative effects at Bramford are described, but there are no high-level designations there and considerable electricity infrastructure is planned in the location. Further, there is no evidence that the Bramford cable route is constrained by the existing EA cables.

21. Therefore, NG has not explained or demonstrated that the proposed Leiston area connection is efficient and economical and coordinated (a matter of concern that has prompted the BEIS review - caused in part by the serious problems that exist in relation to the environmental and local impact of onshore infrastructure provision and coordination). Further, as set out above, NG has not demonstrated compliance with the environmental duties under Schedule 9 of the EA 1989.

22. Accordingly, the reason to select the Leiston area remains unexplained and unjustified and neither the Applicant, nor NG, has demonstrated why Bramford (*the originally intended location for connection, where a connection point already exists*) is a less acceptable location. These issues require scrutiny by the ExA to satisfy the requirements in relation to the proper consideration of reasonable alternatives (see above).

23. NG's choice means Friston will be its hub and spoke for the future connection of other major projects which is why it is particularly important that NG engage with the ExA in an open, fair and transparent way (see SASSES WRs and written submissions on CIA).

The Applicant's site selection assessment

24. Site selection is fundamental to everything. The good design advocated by EN-1 starts with site selection; the choice of the wrong site will likely cause significant adverse effects and mitigation problems. The extensive and manifest adverse impacts of the proposed development, as detailed in the SASES WRs, demonstrate that the selection of Friston is inappropriate and unjustified. (Many of the detailed areas of concern were covered in the Design, Landscape and Visual and Heritage matters during ISH2.) Properly assessed, the DCOs promote the wrong site, because the proposed development would constitute harmful and unsustainable development.
25. A key issue with SPR's assessment is that it was carried out on the basis (the criterion for Site Efficiency) that the SSs should be co-located with the NG SS (see ES App 4.2 at para 37 [APP-443] – the RAG Assessment). That constraint is unwarranted and narrowed the search for appropriate sites and, whilst it may be convenient, it is not essential and is not a necessary condition of meeting the EA 1989 requirements. When EA1 was assessed, the site selection document stated [para 3.4.6] that a search area of 5km from the Bramford SS was used as the maximum distance between NG and the SS/converter stations. Therefore, SPR's RAG assessment was wrong to only score sites 'green' where they were co-located and within 500m of overhead lines ("OHLs") and 'red' if a site was over 1km from OHLs (ES App 4.2 at para 37 [APP-443] p23).
26. It is apparent that SPR's assessment fails to distinguish between the engineering requirements of the NGET SS, and the SPR SSs. The NGET SS might be best positioned close to OHLs, whilst the SPR SSs can be up to 5km away from the NGET connection (see above)⁵. Indeed SASES understands that in the case of the IFA2 Interconnector project (located in a sensitive area) there is c10km between the SS and the NG SS. This shows that considerable effort can be made to site appropriately - if there is a willingness to do so.

⁵ As noted at ISH2, it is unclear who carried out the NG RAG. Presumably (given the content and format etc) SPR did the work, with the involvement of NG. This is a matter upon which clarification has been sought by the ExA in its Action Points published on 4 December 2020. It should be noted (ES Figure 4.5 of Appendix 4.2 [App-443]) that the NG SS option at Friston in the RAG is different to that now proposed (it is shown further to the north and west).

Other examples of RAG deficiencies

27. Details of the many deficiencies in the RAG Site Selection Assessment are detailed in SASES WRs (including Appendices) [REP1-364]. Some particular examples are drawn out below.
28. SPR's Presentation Slides for Agenda Item 3 (p14) show a 250m buffer zone from existing development was used in the SPR site selection exercise, but it is not apparent why 250m was selected. At Bramford, 600m was the distance used for EA1. If a larger buffer had been used here, it would have eliminated the Friston site.
29. Flood Risk. (Detailed RAG issues are set out in Appendix 2 to the Site Selection WRs [REP1-354]). In the application of the sequential test for flood risk, pluvial flooding (the proposed development is in a high risk location) was erroneously excluded from the selection process, and in applying the sequential test. It should be noted that the map used in SPR's Presentation Slide 2 (and in subsequent slides) which purports to show Flood Risk Zones does *not* show surface water flood risk (see page 14, figure 1 of SASES WRs on site selection [REP1-354]).
30. Landscape and Visual Matters. Appendix 3 to the SASES Site Selection WRs [REP1-354] details numerous deficiencies and inconsistencies in the RAG assessment. Including:
- 30.1. The omission of a number of relevant missing criteria, for example: the overall amount of land required (significantly greater for the sites in the west of the study area because of the land required for the cable route); relationship to settlements (particularly remarkable in the case of the Friston options); local landscape character; the length of the access road required and its impact on the landscape resource; and the impact on important views and landmarks, such as views towards Friston Church;
- 30.2. The omission of a RAG Assessment that considered the impact of all 3 SS in one location (they were undertaken separately for the SPR and NG SSs – see above).

30.3. The use of a number of criteria that could not score ‘red’ – only ‘amber’ or ‘green’, so the conclusion in the RAG methodology that all criteria were treated equally is incorrect (see ES Ch 4 [App-052] at para 126). For example, at Friston the fact that a red score was omitted from the scoring used to assess impact on public rights of way (“PRoW”), meant that although the Friston location was one of two that would extinguish a PRoW, it scored green on this criterion for EA2 and amber for EA1N, when it should have scored red.

30.4. The RAG assessed the potential *risks to* proposed development options rather than the potential *impacts of* proposed development options.

31. Consequently, the Applicant’s approach to and assessment of site selection is fundamentally flawed and the ES does not properly consider reasonable alternatives.

SASES point on Agenda Item 3 – the “strategic justification of the Rochdale envelope and land required...”

32. This matter was raised by SASES in relation to both Agenda Items 3 and 4 (Design). In response to EXQ 1.0.17, the Applicant stated that it selected the onshore SS and NG SS locations to reflect the requirements of the DCO projects only and did not consider potential expansion of the NG SS.

33. That response appears to be inconsistent with the response given in the SoCG with NGV [REP1-062] as the land selected for the NGET SS and associated screening seems to be greater than that specifically required for EA1N and EA2 alone. Layer ‘22-05 linework’ of the OLMP dated 21 August 2019 clearly shows, as a blue outline, an area of land of unspecified purpose which can now be seen to very similar to the land shown in Figure 1 of the SoCG which is shown as NGET SS expansion for the Nautilus and EuroLink projects. Further, it should be noted that in pre-application communication, (at the Stage 1 Consultation Response – as long ago as April 2018), ESC sought the selection of a site that could accommodate both the SPR and the interconnector projects – to minimise the overall impact of the proposals.

34. SPR and/or NG has therefore considered NG requirements and it is wholly unconvincing to suggest otherwise (see also SASES WRS and submissions on CIA).

SASES

15th December 2020

APPENDIX 1

Redacted CION assessment document for EA2 (version 2.0–09/10/17) – Leiston

APPENDIX 2

Ofgem letter to Mr Halford dated 28 May 2019

APPENDIX 3

Ofgem letter to SASES dated 30 January 2020