

**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Submission of Oral Case

**Compulsory Acquisition Hearing on 16th
February 2021: Persons Affected by
Compulsory Acquisition and Temporary
Possession**

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



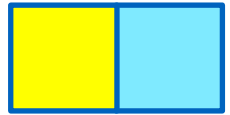
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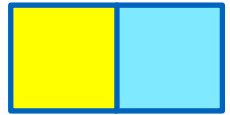
Glossary of Acronyms

AIL	Abnormal Idivisible Load
CAH	Compulsory Acquisition Hearing
DCO	Development Consent Order
EA	Environment Agency
ExA	Examining Authority
ISH	Issue Specific Hearing
SoCG	Statement of Common Ground
SPR	Socttish Power Renewables



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.
2008 Act	The Planning Act 2008.



1 Introduction

1. This document is applicable to both the East Anglia ONE North and East Anglia TWO Development Consent Order (DCO) applications (the 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 Compulsory Acquisition Hearing 2 (CAH2) for the Applications were run jointly and took place virtually on 16th February 2021 at 10:00am (Hearings).
3. The Hearings ran through the items listed in the agendas published by the ExA on 8th February 2021. The Applicants gave substantive oral submissions at the Hearings and these submissions are set out within this note.
4. Speaking on behalf of the Applicants were:
 - Mr Colin Innes, partner at Shepherd and Wedderburn LLP;
 - Mr Stephen Hubner, partner at Shepherd and Wedderburn LLP;
 - Mr Harry Hyde, associate director at Dalcour Maclaren;
 - Mr Brian McGrellis, onshore consents manager at ScottishPower Renewables (SPR); and
 - Mr Kieran Mirner, senior project manager at SPR.



2 Agenda Item 3: Objections from Affected Persons

2.1 Mr Michael Lewis

2.1.1 Record of Communication Taken Place to Date

5. Please see Annex 1 – The communication log with Mr Lewis.

2.1.2 Ownership of Highways Subsoil

6. The Applicants are not seeking to acquire the highways subsoil. The Applicants are seeking permanent rights to install water pipes to connect to the local drainage network.

2.2 Ms Elspeth Gimson (represented by Dr Alexander Gimson)

2.2.1 Water Supply

7. The Applicants have submitted a clarification note to address representations by Dr Gimson regarding the water supply at [REDACTED] at Deadline 6 (**Landfall Hydrogeological Risk Assessment** (document reference ExA.AS-12.D6.V1). The Applicants thank Dr Gimson for providing further information swiftly following the hearing.

2.2.2 Clause in the Option Agreement

8. The Applicants will submit a response to the complaint raised by SEAS and discussed by Dr Gimson at Deadline 7 however see section 2 of the Applicants' **Written Summary of Oral Case (ISH9)** (document reference ExA.SN4.D6.V1) for a summary of the factual material that was presented at ISH9 in respect of this matter.

2.2.3 Removal of Trees

9. In relation to the area of trees in the south west extent of Dr Gimson's mother's property, the Applicants will consider what assurances or commitments and will provide an update at Deadline 7.

2.3 The Wardens Trust

2.3.1 Water Supply

10. As stated previously, the Applicants have submitted a clarification note to address representations by Dr Gimson regarding the water supply at the Wardens Trust at Deadline 6 (**Landfall Hydrogeological Risk Assessment** (document reference ExA.AS-12.D6.V1).

2.3.2 Request to move the corridor further to the west

11. A number of factors were considered in the onshore cable route selection. In the area in proximity to the Wardens Trust, the two primary factors were the



residential properties to the east and maintaining, where practical, a 200m distance from Sandlings SPA to the west. The Applicants confirmed that the pond shown on the mapping was not considered as a significant constraint in the onshore cable route selection.

12. The Applicants do not consider it appropriate to move the onshore cable corridor further west.

2.3.3 Land Rights

13. The Applicants' due diligence has not indicated the Wardens Trust has land or rights that would be affected within the Order Land. The Applicants are aware of a lease that is not currently registered, and it is the Applicants' understanding the Wardens Trust's access is taken along the track that heads north. The Applicants welcome any information that would assist in clarifying this matter.

2.4 Richard Reeves

2.4.1 Access to [REDACTED]

14. The Applicants advised that the primary access to properties via Sizewell Gap will not be affected by the Projects. The by-way open to all traffic to the west of [REDACTED] will be subject to a temporary diversion for a short period of time as presented within the **Outline Public Rights of Way Strategy** (REP-024) and access to the property will be available at all times..

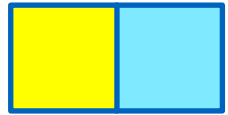
2.5 Michael Mahony

2.5.1 The hedgerows that surround Mr Mahony's property.

15. The Applicants clarified they are not seeking powers to remove the hedge that runs along the eastern side of plot 116, save the area referred to as the 'small triangle' where works may be required for access.
16. Furthermore, the hedgerows to east and west of Mr Mahony's property and indeed to the north of Mr Mahony's neighbour's property will be incorporated in the outline landscape management plan as they provide important screening and there is no intention to remove these. The Applicants will potentially look to enhance these where there are gaps to improve screening.
17. The points above are clarified in the updated Outline Landscape Management Plan submitted as part of the **Outline Landscape and Ecological Mangement Strategy** at Deadline 6 (document reference 8.7).

2.5.2 Vegetation Clearance outside the entrance to Mr Mahony's Property

18. The Applicants clarified the rights being sought to clear vegetation outside the entrance to Mr Mahony's property over plot 117A are for normal highway works like cutting back over-hanging branches and not to clear vegetation for sight lines.



NGET advised there will be the need to place road signage but this would not restrict or block the entrance to Mr Mahony's property.

2.5.3 'Small Triangle' of Mr Mahony curtilage

19. NGET advised that this land was required for scaffolding to be erected on either side of the road for protective netting as the wires are pulled across the road. Such use would be very short term, lasting for a few weeks

2.5.4 The need to seek powers in the DCO

20. NGET confirmed they completely endorse the DCO applications including powers of temporary possession over land where there is currently an easement in place. This is primarily because the rights required for the realignment works arguably extend beyond what is secured by the easement and securing powers of temporary possession will mean that there can be no challenge that rights secured under the easement for one purpose can be used for another.

2.5.5 The extent of temporary possession

21. The inclusion of temporary possession powers as drafted in the draft DCO is a standard approach. The works plans should be referred to in order to determine the area of the works.

2.6 Lisa Kenyon and Neil Kenyon

2.6.1 Communication with the Kenyons

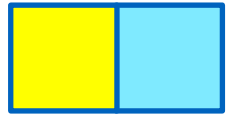
22. The Applicants can confirm they have been in contact with the Kenyons since 2018 and have explained why they were included in the DCO applications. The Applicants have been in contact with their appointed land agent regarding survey access and further advised that when the detail of the temporary possession of the land was established the Applicants would submit proposed terms for a voluntary agreement for use of land and this was acknowledged by the Kenyons' appointed land agent. The Applicants can confirm the Kenyons have been included in all statutory consultation and have been sent all appropriate notices.

2.6.2 Flood risk

23. The Applicants acknowledge that the field adjacent to the A14 at Marlesford Bridge is within Flood Zone 3A and Flood Zone 3A and this has been discussed and included in the Statement of Common Ground (SoCG) with the Environment Agency (EA) and measures have been identified to fully assess the implications of the flood risk once detail of the use of the land is established.

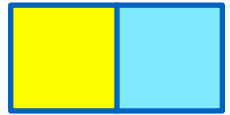
2.6.3 Works at Marlesford Bridge

24. The Applicants confirm that the works at Marlesford Bridge solely relate to the transportation of Abnormal Indivisible Loads (AILs). The route for these AILs from the reception port to the substation site should be the shortest available one, which would be from Lowestoft. In this scenario, Marlesford Bridge would not be



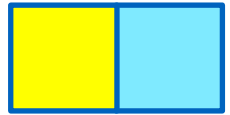
required or the land owned by the Kenyons. However, if the reception port facilities at Lowestoft are not available then Felixstowe is the next candidate port and in this scenario, there would be requirement for AIL movements over Marlesford Bridge. In the absence of a current valid statutory inspection of Marlesford Bridge, the bridge is included in case any minor works are required for use by AILs. The field adjacent is included to facilitate these works.

25. Given the flood risk associated with the field adjacent to the highway, the area of land needs to be relatively broad so there is the flexibility to microsite. The nature of the works here would be subject to discussions with the Environment Agency and an Environmental Permit. The Applicants will look to provide more detail to the landowners on the likely extent of land required for these works and the use of their field.



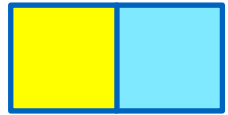
3 Agenda Item 4: The Compulsory Acquisition Regulations

26. The Applicants note that this agenda item was not covered during the Hearings as no affected persons requested to make submissions on this agenda item.



4 Agenda Item 5: The compulsory acquisition and related provisions as presented within the draft Development Consent Orders (dDCOs) and Land Plans

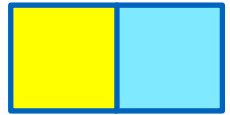
27. The Applicants agree with the oral submissions made by NGET at the Hearings on this agenda item.



5 Agenda Item 6: Statutory Conditions and General Principles

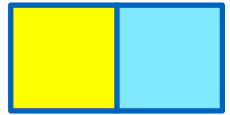
5.1 All Reasonable Alternatives to CA and TP Considered

28. A robust site selection process has been undertaken and details of the selection of the landfall, onshore cable corridor, onshore substation, mitigation areas and National Grid infrastructure locations and consideration of alternatives are set out in **Chapter 4 Site Selection and Assessment of Alternatives** of the Environmental Statement (APP-052).
29. The land scheduled in the Book of Reference is considered to be both necessary and proportionate; there are no other suitable alternatives.
30. The Applicants have sought, and continue to seek, a negotiated solution to each of the identified required interests. It is the Applicants' preference to secure negotiated agreements with all identified required interests and the Applicants have made representations to each of the relevant owners on this basis. In each case the Applicants have chosen to secure land or rights in a way that minimises disruption to the relevant owners. Terms have been agreed with the majority of affected landowners and the Applicants noted the ExA requirement that a final statement of what agreements have been concluded is required at Deadline 8.
31. Where land is in unknown ownership and so scheduled in the Book of Reference, the Applicants have not been able to identify the relevant holder of that interest following diligent inquiry. All identified owners of interests have been approached and where possible agreement will be reached. Negotiations will continue, but the Applicants believe compulsory acquisition powers are justified to ensure that the Project can be developed on reasonable commercial terms within an appropriate timescale. The Applicants referred to one example when compulsory acquisition powers might be utilised, which was land plot 109 - ownership is currently disputed and the Projects should not be delayed while the dispute is determined. Acquiring an interest in that land compulsorily means that the Projects can proceed and compensation can be paid as appropriate once ownership has been established.



6 Agenda Item 7: Review of the CA Schedule and Related Matters

32. The Applicants note that this agenda item was not discussed at the Hearings. However, updated ***Schedule of CA and TP Objections*** have been submitted at Deadline 6 (document reference ExQ1.3.2).



7 Agenda Item 8: Funding

7.1 Updates to the Funding Statement

33. The Applicants have continued to keep the Funding Statements under review. The Applicants have been provided with an updated appraisal from chartered surveyors Dalcour Maclaren and this has indicated an increase in projected costs. This is based on updated information and engagement with affected land interests. A revised Funding Statement and the commitment from the Parent Company to support the Project will be provided at Deadline 7.

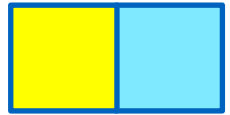
7.1.1 Guarantee

34. The Applicants, in response to a direct question from the ExA, confirmed that the guarantee referred to in Article 43 of the **draft DCO** (REP5-004) is a parent company guarantee.



8 Agenda Item 9: Statutory Undertakers

1. As a general overview, in relation to any representations made by statutory undertakers with land or rights to which section 127 of the Planning Act 2008 applies:
 - a. Cadent Gas Limited. Agreement has been reached and their representation has been withdrawn.
 - b. Anglian Water Group Limited. The Applicants and Anglian Water Group Limited have agreed protective provisions and a SoCG with Anglian Water has been submitted at Deadline 6 (document reference ExA.SoCG-39.D5.V1). They have advised the Applicants that they intend to remain as an interested party to field any questions they may receive from the ExA in relation to their interest as a sewage undertaker.
 - c. Network Rail Infrastructure Limited. Draft agreements are in a final form. Network Rail have advised they will withdraw their representation when these are signed.
 - d. Eastern Power Networks PLC. Although their representation was received later in the process, the Applicants are progressing negotiations for compromise and asset protection agreements.
 - e. National Grid Electricity Transmission plc. The protective provisions with National Grid Electricity Transmission plc are in final form and will be included in the updated **draft DCO** (REP5-004) to be submitted at Deadline 7. The principles of the side agreement are agreed and a follow up meeting has been scheduled for the 1st March.
2. Of the statutory undertakers identified to which section 138 of the Planning Act 2008 applies, the status of negotiations with National Grid Electricity Transmission plc and Eastern Power Networks PLC are set out above. The other statutory undertakers identified have not made representations or responded to our endeavours to engage.



9 Agenda Item 10: Human Rights and the Public Sector Equality Duty (PSED)

35. The Applicants note that this agenda item was dealt with alongside agenda item 3.