



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 6 - 24 February 2021

**East Suffolk Council's Response to Examining Authority's Action Points Following
Issue Specific Hearings 7, 8 and 9**

The table below details East Suffolk Council's (ESC) responses in relation to action points raised during Compulsory Acquisition Hearing 2 (CAH2), Issue Specific Hearing 7 (ISH7), Issue Specific Hearing 8 (ISH8) and Issue Specific Hearing 9 (ISH9).

No.	Action Point	Party	Deadline	East Suffolk Council's Comments
CAH2 Hearing Actions Points – 16 February 2021				
2	<p>Details of Wardens Trust and Ness House private landholding interests Wardens Trust to provide details of all relevant leases and any other relevant land interests. Dr Gimson to provide any relevant landholding details held in a private capacity on behalf of Mrs EP Gimson. East Suffolk Council are asked to make private water supply records available.</p> <p>(NB. Any confidential information in these documents will be redacted before publication.)</p>	Wardens Trust, East Suffolk Council and Dr Gimson on behalf of Mrs EP Gimson	D6	ESC has received confirmation from the Applicants that the information in relation to the private water supply has been provided by the landowner and therefore the records held by ESC are not required to be provided.
ISH7 Hearing Action Points – 17 February 2020				
	No Actions identified for ESC.			
ISH8 Hearing Action Points – 18 February 2021				
2	Applicant's 'think-piece'. Applicants to set out their position in respect of action 1 as a 'think-piece' by D6, to enable NE to set out its position by	Applicants Natural England,	D6 D7	ESC notes this action.

	D7 and enable further responses including from LAs and AONB Partnership by D8.		SCC, ESC, AONB Partnership		
3	Final policy positions Parties to set out final positions in relation to policy considerations in relation to EA2 seascapes effects before the end of the examinations. If positions have not changed it is sufficient to reference previous submissions and say that there has been no change.		Applicant Natural England SCC, ESC, AONB Partnership	D6	<p>ESC notes the submissions in relation to this matter from the Applicants (REP2-008) and Natural England (REP3-120). ESC Supports Natural England’s submissions on this matter.</p> <p>The relevant National Policy Statements are EN-1 and EN-3 in relation to seascape. Paragraph 5.9.12 of EN-1 is particularly key as this states that:</p> <p><i>“The duty to have regard to the purposes of nationally designated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The aim should be to avoid compromising the purposes of the designation and such projects should be designed sensitively given the various siting, operational, and other relevant constraints...”</i></p> <p>The natural beauty and special qualities of the Area of Outstanding Natural Beauty are the expression for the reasons for its designation.</p> <p>ESC considers that the approach taken by other Examining Authorities, for example as has been highlighted by Natural England in relation to the Navitus Bay decision, is sound. The constituent parts of the AONB are as important as the AONB as a whole.</p>

ISH9 Hearing Action Points – 19 February 2021				
1	<p>Norfolk Vanguard High Court decision (18 February 2021) Applicants and IPs who wish to make initial observations regarding the recent decision to quash the SoS’ decision on the above proposed development are invited to do so to assist the ExAs’ consideration of the judgement.</p>	Applicants and all IPs	D6	<p>The Norfolk Vanguard DCO decision was challenged on the grounds that the Secretary of State did not fully evaluate the cumulative impacts between the project and its ‘sister’ project Norfolk Boreas at Necton and failed to give adequate reasons in relation to this issue. The High Court subsequently quashed the decision on 18 February 2021.</p> <p>The decision by the High Court to quash the Norfolk Vanguard DCO highlights the importance of decision makers fully and robustly considering cumulative impacts of projects, and not deferring consideration of this matter to a later date unless this can be sufficiently and appropriately justified.</p> <p>As requested by the Examining Authority ESC has sought to make initial comments and highlight specific elements of the decision which are considered to have relevance for the current examinations.</p> <p>In the judgement it was noted:</p> <p><i>“Absent any rational justification, cumulative impacts of both projects had to be evaluated by the decision maker when considering whether to grant a DCO in each case, even accepting that in some cases less information about the second project may be available when deciding whether to approve the first”</i> (paragraph 130).</p>

				<p>The judgement also highlights the potential use of Rochdale envelopes to cater for the absence of more detailed information.</p> <p>The High Court found that the:</p> <p><i>“Defendant’s approach has had the effect, absent consideration of those cumulative effects, of making it easier to obtain consent for Vanguard, and providing a ‘foot in the door’ making it easier to obtain consent for Boreas. Although there is no evidence that NVL sought those outcomes, the Vanguard DCO decision has had a ‘precedent effect’ for decision-making in relation to Boreas, upon which, understandably, NVL has relied heavily in the Boreas examination”</i> (paragraph 135).</p> <p>ESC considers that this decision highlights some important factors of relevance to the current examinations. ESC recognises that the Applicants have undertaken a cumulative impact assessment identifying the significant effects arising as a result of the EA1N and EA2 developments in-combination in their Environmental Statements. ESC and other Interested Parties however have continued to raise concerns regarding the lack of cumulative assessment in relation to the known future projects in receipt of a grid connection offers at Friston if the National Grid substation is consented under these DCOs.</p>
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2	<p>Changes to dDCOs currently under discussion/preparation</p> <p>The Applicants and Interested Parties intending to submit proposed revisions to the dDCOs are reminded to adopt the</p>		Applicants, All IPs	See (PD-031)	<p>ESC notes this action and has provided a separate response in relation to the questions posed by the Examining Authority in their commentary on the draft DCOs.</p>

	process and timings set out in the ExAs Commentaries on the dDCOs.				
5	<p>Obligations and Agreements: Engagement with town and parish Councils</p> <p>East Suffolk Council are reminded that if they intend to engage with town and parish Councils (or any other community representatives/ civil society organisations) around the content of any obligations, agreements or MoUs, this engagement needs to have occurred at the latest and effects on drafting taken into account by D8.</p>		ESC	D8	ESC notes the Examining Authority’s comments. The Council is not intending to undertake consultation on the agreements at this stage but has endeavoured to ensure there is a degree of flexibility in their drafting. We will be discussing the funds and expenditure of the funds with the local communities post consent should either or both of the DCOs be granted.
9	<p>East Suffolk Council: Other Agreements and Obligations</p> <ul style="list-style-type: none"> • A proposed draft Section 111 Agreement to be submitted at D6. An executed agreement to be in place and presented to the examination by D8. • A Proposed MoU in relation to Environmental Exemplars to be submitted to the examination by D8. 		Applicants ESC	D6/D8	<p>ESC has provided a copy of the draft s111 Agreements in its response to the Examining Authority’s commentary on the draft DCOs.</p> <p>ESC notes the request to provide the proposed MoU to the examination by Deadline 8.</p>
10	<p>Other consents</p> <ul style="list-style-type: none"> • Interested Parties requested to inform the ExAs in the circumstances of any difficulties between parties in 		Applicants SCC ESC IPs	D7/D8	ESC notes this request from the Examining Authority.

	<p>negotiating necessary licenses and agreements outside of the dDCO by D7.</p> <ul style="list-style-type: none"> • Applicants requested to submit a full and final list of 'other consents' marked with amendments in tracked changes at D8. 				