



## 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 Commentary on draft  
Development Consent Orders

dDCO	For attention of	Matter, Issue or Question	1	2	East Suffolk Council's (ESC) Response
<b>General observations</b>					
Arts 2	Applicants, ESC, SCC	<p>Art 2(1) definitions: commence.</p> <p>Definitions of “commence” on land are limited to the first carrying out of any material operation as defined in s155 of the 2008 Act ‘other than onshore preparation works’.</p> <p>As raised in ISHs6, “onshore preparation works” means operations consisting of site clearance, demolition work, pre-planting of landscaping works, archaeological investigations, environmental surveys, ecological mitigation, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of temporary means of enclosure, creation of site accesses, footpath creation, erection of welfare facilities and the temporary display of site notices or advertisements;...’</p> <p>This is a potentially wide class of exceptions to the limitation on</p>			<p>a) ESC considers that the relevant requirements within the draft DCOs should be amended to allow details to be secured prior to works being undertaken in association with the onshore preparation works. It is welcomed that the Applicants have provided provisions for this within Requirement 16, 19 and 21. ESC has agreed with the Applicants that a requirement will be included with the draft DCOs which secures an onshore preparation works management plan. ESC is engaging with the Applicants to finalise the details of this requirement. This commitment is considered to address the Council’s request for a ‘mini’ Code of Construction Practice (CoCP). It is understood that the Applicants will update the Outline CoCP with further details of this and update the draft DCOs to reflect this commitment.</p> <p>b) It is not considered that the Environmental Statements (ESs) provide sufficient enough detailed information in relation to the onshore preparation works for it to be appropriate to allow these to go ahead ‘to the extent assessed in the ESs’.</p>

		<p>commencement. It enables substantial pre-commencement works with relevant environment effects. Detailed plans and approvals pursuant to (for example) Rs 11 (Stages of authorised development onshore), 12 (Detailed design parameters onshore) or 13 (Landfall construction method statement) (or at least relevant parts of them) might be expected to secure aspects of the environmental performance of works including site clearances, demolitions, creation of accesses, remedial groundworks, any works relevant to flooding or drainage or pre-planting in landscape works.</p> <p>a) Is it necessary to further specify that relevant aspects of plans and approvals under requirements be completed before such pre-commencement works take place? How might that be done?</p> <p>b) Alternatively, can the definition of “onshore preparation works” be amended to provide that all such works must take place ‘to the extent assessed in the ESS’?</p>		
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<p>Arts 2</p>	<p>Applicants, ESC, SCC, MMO</p>	<p>Art 2(1) definitions: environmental statement</p> <p>The “environmental statement” means the document certified as the environmental statement by the Secretary of State under article 36 (certification of plans etc.)’. There are many relevant documents with different dates and versions and further changes are likely before the end of the Examinations.</p> <p>a) The Applicants are requested to ensure that the list is accurately updated at all following deadlines.</p> <p>b) The ExAs note the proposal to implement a Schedule based on that used for the Boreas dDCO by Deadline 7– and this would provide a significant improvement.</p> <p>See also Arts 36 (certification of plans etc.)</p>		<p>a) This is a request made to the Applicants.</p> <p>b) ESC would support the provision of a schedule which would provide greater clarity regarding the list of certified documents and supporting documents and welcomes this commitment from the Applicants.</p>
<p>Arts 2</p>	<p>Applicants, ESC, SCC, MMO</p>	<p>Art 2(1) definitions: grid connection works and transmission works</p> <p>Definitions of “grid connection works” and “transmission works” include ‘any related associated development’.</p>		<p>a) ESC agrees that the term ‘related associated works’ has not been defined and therefore further clarification on this is necessary.</p>

		a) Are Schs 1 Pt 1 sufficiently clear about what the related associated development is?		
Arts 2	All IPs	Art 2(1) definitions: maintain.  This definition is wide, a matter raised at ISHs6, but is expressly limited ‘to the extent assessed in the [ESs]’. Are parties now broadly content with this drafting?		ESC notes this definition or similar has been utilised within other recent DCOs and therefore accepts the wording proposed.
Arts 2	All IPs	Art 2(1) definitions: relevant to onshore substation design  References to the “outline national grid substation design principles statement” and the “outline onshore substation design principles statement” have been removed at deadline 5. Reference to the “substations design principles statement” which is also to be a certified document have been added.  a) Are parties content that this change is appropriate and has been appropriately reflected elsewhere in the dDCOs?		a) ESC provided comments in relation to the content of the substations design principles statement at Deadline 5 (REP5-048 p5-7). The Council is content that this document supersedes the previous outline documents (APP-585 & REP1-046).  ESC is also satisfied that the term ‘substations design principles statement’ has been included within the definitions provided within Part 1 of the Orders (Interpretations), the document has been listed within Article 36 (Certification of plans etc.) and Requirement 12(2), (4), (6) and (19) have been updated to reference the document.
Arts 2	Applicants, Any Statutory	Art 2(1) definitions: statutory undertaker  In this definition, “statutory undertaker” means any person falling within section		ESC has no comments.

	<p>Undertaker, IPs</p>	<p>127(8) of the 2008 Act and a public communications provider as defined in section 151 of the 2003 Act...’.</p> <p>a) Given the different definitions of statutory undertakers as between s127 and s138 of the 2008 Act, does this definition sufficiently describe the classes of person intended to be defined as statutory undertakers for the purposes of these dDCOs?</p> <p>b) If not, the Applicants are requested to revise drafting.</p> <p>See also Arts 28.</p>		
<p>Arts 7</p>	<p>Applicants, IPs, Affected Persons</p>	<p>Defence to proceedings in respect of statutory nuisance</p> <p>Existing concerns raised at ISHs6 are noted.</p> <p>a) Any outstanding concerns at the extent or effect of the proposed defence must be submitted by Deadline 6.</p> <p>b) Arts 7(1)(a)(i) refers to the Control of Pollution Act 1974. Are relevant provisions of this legislation still on</p>		<p>a) ESC notes this request from the Examining Authority but has no comments to provide.</p> <p>b) ESC agrees that section 65 has been repealed but sections 60 and 61 remain extant.</p> <p>c) Greater precision by defining the substations would be beneficial.</p> <p>d) See (c) above</p>

		<p>the statute book? Section 65 is understood to have been repealed?</p> <p>c) Arts 7(1)(b) (i) in (1) refers to the onshore substation of the project proposed to be authorised by the other dDCO (2) – and vice versa. Do the substations referred to here need to be defined?</p> <p>d) Is any changed drafting necessary?</p>		
Arts 17	Applicants, ESC, SCC	<p>Authority to survey and investigate the land onshore.</p> <p>In relation to this provision:</p> <p>a) Is it sufficiently clear in para (1) that the undertaker must remove any equipment etc brought onto land once the survey or investigation is completed?</p> <p>b) Are the Councils content with the deemed consent provision and timing under para (6)?</p>		<p>a) ESC notes that this provision broadly follows the Infrastructure Planning Model Provisions but agree there is no specific wording within the provision which makes it clear that the equipment brought onto land being surveyed or investigated must also be removed.</p> <p>b) ESC notes that the deemed consent provision is a departure from the Model Provisions but defers to SCC as this is a matter for the highway authority.</p>
Arts 33	Applicants, ESC	<p>Operational land for purposes of the 1990 Act</p> <p>Would the Applicants agree to prepare and submit an Operational Land Plan for each dDCO, specifically defining the land</p>		<p>a) ESC welcomes consideration of this matter by the Examining Authority. The Council considers that the submission of a plan defining the operation land during the examinations could be a potential way to constrain further permitted development. There may however be practical issues for the Applicants/future site operators which could make the</p>

		<p>deemed to be operational land and to be a certified document? This would show the extent of operational land, limited to that reasonably required for operational (as distinct from construction) purposes.</p> <p>a) Is it possible and appropriate to submit that plan during the Examinations?</p> <p>b) If not, how would its submission be secured and by whom should it be approved?</p>		<p>definition of very narrow operational land limits difficult. Furthermore, if the Plan were simply a declaratory of the present position, that would not of itself prevent expansion of what comprised operational land in the future.</p> <p>b) ESC considers that a simpler way to tackle this issue would be the removal of permitted development rights for specific works as set out below and detailed in the Council’s response to the Examining Authority’s second round of questions (2.0.2).</p> <p><i>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), no development shall be carried out under Schedule 2, Part 15, Class B (a), (d) or (f) without the submission of a formal planning application and the granting of planning permission by the local planning authority.</i></p>
Arts 34	ESC, SCC	<p>Felling or lopping of trees and removal of hedgerows</p> <p>Felling or lopping of trees and removal of hedgerows the Planning Inspectorate’s Advice Note (AN) 15 proposes that all affected hedgerows should be identified in a schedule and on a plan.</p>		<p>a) This is noted.</p> <p>b) ESC has previously raised concerns that there are inconsistencies between Schedule 11 of the draft DCOs, Annex 1 of the Outline Landscape and Ecological Management Strategy (OLEMS) (REP3-030) and the Important Hedgerows and Tree Preservation Order Plan (REP3-010). ESC has also sought clarification in relation to why some hedgerows are to be removed. The Applicants have confirmed within their REP5-010 response that Schedule 11 in the draft DCOs is correct and</p>

		<p>a) In these dDCOs, only the ‘important hedgerows’ have been identified in the Schedules.</p> <p>b) East Suffolk Council’s concerns on this matter [REP5-047] are noted. Do they suggest any changes to the drafting of the Article?</p> <p>c) Are other bodies content that this provision is adequate?</p> <p>See also Schs 11.</p>		<p>that the OLEMS and the Important Hedgerows and Tree Preservation Order Plan will be updated.</p> <p>ESC considers that all hedgerows affected by the developments need to be properly identified and assessed prior to commencement of construction works. This information will identify whether any special engineering is necessary and provide details in relation to the replacement planting mix for the removed section of hedgerow. It is considered this information will be secured through the post consent tree and hedgerow survey requirement committed to within the OLEMS. ESC is therefore content that at present the ‘important’ hedgerows have been identified and there is a mechanism in place to ensure all hedgerows affected by the developments will be identified pre-construction.</p> <p>ESC does not therefore seek any revisions to the Article.</p> <p>c) This is a question not directed at ESC.</p>
Arts 35	ESC	<p>Trees subject to tree preservation orders</p> <p>These articles are applicable to and empower extensive works to trees protected after the conclusion of the design process. However, the proposed cut-off date of 25 June 2019 is now some time into the past.</p>		<p>a) There have been no Tree Preservation Orders served within the Order Limits subsequent to 25 June 2019.</p>

		<p>a) Is the Council aware of any more recently protected trees in respect of which the powers provided here would not be appropriate and for which a reasonable design accommodation might be expected?</p>		
<p>Arts 36</p>	<p>Applicants, ESC, SCC, MMO</p>	<p>Certification of plans etc.</p> <p>These articles contain an extensive list (to para (a) to para (gg) of documents and their versions.</p> <p>a) The Applicants are requested to ensure that this list remains up to date as the Examinations progress.</p> <p>b) Are any documents missing?</p> <p>c) A number of made DCOs have substituted this approach for a succinctly drafted Article stating that the documents listed in a Schedule must be submitted to the SoS for certification and it was recently used in the Boreas dDCO. This approach enables the documents to be tabulated and for them and their version numbers to be identified with greater ease. The Applicants have committed to taking this approach by</p>		<p>a) This is a request of the Applicants.</p> <p>b) ESC seeks clarification from the Applicants in relation to the principles utilised to define which documents have been included within the certified list and which have not. ESC can then provide commentary in relation to whether any documents are missing.</p> <p>c) ESC supports the provision of a schedule which would provide greater clarity regarding the list of certified documents.</p>

		<p>Deadline 7 and this will make a significant improvement.</p> <p>See also Schedules – missing provision?</p>		
Arts 37	<p>Applicants, ESC, SCC, MMO, MCA, TH, NE, HE, EA, IPs, Affected Persons</p>	<p>Arbitration</p> <p>Arts 37 of the dDCOs are expressed (Arts 37(1) as subject to Art 40 (saving provision for Trinity House) and to the provision that the arbitration provisions do not apply to ‘any dispute or difference arising out of or in connection with any provision of this Order, unless otherwise provided for...’. Arts 37(2) provide that ‘[a]ny matter for which the consent or approval of the Secretary of State or the Marine Management Organisation is required under any provision of this Order shall not be subject to arbitration’.</p> <p>a) Is it sufficiently clear that the discharge of Requirements in Schedule 1 and as provided for in Schs 16 and/ or of Conditions to the DMLs in Schedules 13 or 14 are outside the scope of the arbitration provision?</p> <p>b) Is the Applicants’ intention as described in (a) and if not, what is the</p>		<p>a) ESC considers that the discharge of requirements is not within scope of the arbitration provisions as it has been provided for in Schedule 16 of the draft Orders. ESC would however welcome confirmation from the Applicants on this matter and suggest that the wording of the article should be amended to make this more overtly clear and avoid any uncertainty as its applicability. In addition, it is assumed that this provision is not intended to deal with disputes as to compensation and that too should be made clear. The following wording is suggested:</p> <p><i>“Subject to article 40 (saving provision for Trinity House), any dispute or difference arising out of or in connection with any provision of this Order (other than a difference which falls to be determined by the tribunal <u>or a refusal of approval which falls to be determined by the Secretary of State pursuant to article 38 and Schedule 16)</u> must, unless otherwise provided for in this Order <del>and</del> <u>or</u> unless otherwise agreed between the parties...”</i></p> <p>b) This is a question for the Applicants to answer.</p> <p>c) This is a question directed at the MMO.</p> <p>d) This is a question directed at Trinity House.</p> <p>e) As stated in a) ESC considers that the discharge of requirements is outside the scope of the arbitration provision</p>

		<p>intended application of arbitration to the discharge of Requirements, the operation of Schs 16 and/ or the discharge of Conditions to the DMLs?</p> <p>c) Is the MMO content that the exception from arbitration provided for it is appropriate and addresses its concerns?</p> <p>d) Is Trinity House content with the proposed saving provision in Arts 40 and that has the effect of excepting it from the arbitration provisions?</p> <p>e) Are local authorities acting as relevant planning authority or highway authority and in related capacities content that the arbitration provisions do not intrude on their powers and duties in any unexpected or unwarranted manner?</p> <p>f) Are the Environment Agency, Natural England and/ or Historic England content that their roles as advisory and regulatory authorities, as consultees and in the making of relevant expert determinations and authorisations where necessary</p>		<p>and therefore does not intrude on ESC’s powers. However, this limitation on scope would benefit from being made explicit.</p> <p>f) This is a question directed at Natural England, Historic England and the Environment Agency.</p> <p>g) This is a question directed at the Applicants.</p>
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		<p>appropriately responded to in this drafting?</p> <p>g) Is it sufficiently clear that the SoS' own determinations are not subject to arbitration?</p>		
Arts 38	ESC, SCC, EA, HE, NE, MoD, CAA, NATS	<p>Bodies discharging requirements.</p> <p>Bodies acting under Arts 38 of the dDCOs and discharging or directing under Requirements including:</p> <ul style="list-style-type: none"> <li>• The relevant planning authority;</li> <li>• The relevant highway authority;</li> <li>• Environment Agency;</li> <li>• Historic England;</li> <li>• Natural England;</li> <li>• Civil Aviation Authority;</li> <li>• ministry of Defence</li> <li>• NATS</li> <li>• Suffolk County Council (as lead local flood authority);</li> </ul> <p>Are requested to confirm that they are content with the application of Arts 38 and Schs 16. See also – Schs 16.</p>		<p>ESC has significant concerns regarding the wording of Schedule 16 and has set these concerns out within the Council's Deadline 5 submission (REP5-047, p21-23). Further comments have been provided in relation to the Examining Authority's questions on Schedule 16 below.</p>
<b>Schedule 1 – Authorised Project</b>				
Pt 1	Applicants, MMO, SCC, ESC	<p>Para 1 – the generating stations NSIPs</p> <p>The maximum height of Works Nos. 1 (the offshore generating stations)</p>		<p>ESC will defer to the Marine Management Organisation (MMO) and Natural England (NE) on this matter but considers that the maximum heights of these developments should be secured</p>

		<p>2 and 3 (offshore platforms) are not secured here, although it these values have been assessed in the ESs for SLVIA purposes. It would not be normal for them to be secured here, but neither are they secured in the DMLs (see Schs 13 generation assets).</p> <p>a) Is security already provided by another means (if so, please explain and if not please provide a view as to whether it is required):</p> <p>b) If additional drafting is required to address this point, please submit it.</p>		<p>within the DCOs either within the DMLs or within the requirements.</p>
Pt 1	Applicants, NGESO, NGET, NGV, ESC	<p>Para 2 – the electric lines (transmission) NSIP</p> <p>Is there an argument that the element of these developments relating to National Grid infrastructure is not only a separate NSIP but is potentially a separate project that should be the subject of a separate DCO? Such an approach might ensure that the effects of a range of potential grid connections were appropriately assessed and mitigations secured?</p>		<p>It is noted that NPS-EN1 states <i>“The Planning Act 2008 aims to create a holistic planning regime so that the cumulative effect of different elements of the same project can be considered together. The Government therefore envisages that wherever possible applications for new generating stations and related infrastructure should be contained in a single application to the IPC or in separate applications submitted in tandem which have been prepared in an integrated way.”</i></p> <p>ESC agrees that it is essential that the cumulative effects of different elements of the same projects should be considered together. It should not be necessary to disaggregate the Grid connection infrastructure from the transmission infrastructure as that would be contrary to the aim of the 2008 Planning Act. The full effects of all the ‘reasonably foreseeable’ future connections</p>

				<p>to the National Grid substation should be fully and robustly considered under these applications through a Cumulative Impact Assessment. However, as full assessments of the cumulative effects of the projects with future connections have not been undertaken, ESC understands the arguments put forward by other Interested Parties advocating the connection infrastructure be subject of a separate NSIP application. Although we understand these arguments, ESC remains of the view that the current approach of integrating the projects is appropriate and will help deliver a greater degree of integration in terms of the mitigation, but we maintain that a full cumulative impact assessment of the projects with the ‘reasonably foreseeable’ future connections should be undertaken.</p>
<p>Pt 3 R13</p>	<p>Applicants, ESC, NE, EDF Nuclear Generation Ltd (SZB)</p>	<p>R13: Landfall construction method statement</p> <p>Please address the following matters:</p> <p>a) Para 2 requires the method statement to be ‘implemented as approved’, but no monitoring process is defined. Should there be a monitoring provision and if so, how could it be drafted? An indicative form of drafting is set out below.</p> <p>b) Which Works should be within scope? Are elements of Works Nos.5 relevant albeit that they are seaward of HWS?</p>		<p>ESC has been engaging with the Applicants on this matter.</p> <p>a) ESC considers that the Applicants should establish a monitoring programme to compare actual shoreline change trends with as-built records to ensure that design assumptions on resilience are not compromised. If monitoring suggests there is a risk of duct or exposure of breakout connection point damage then ESC recommends the Applicants submit proposals for remediation to the planning authority, and all other relevant approval bodies, at least 12 months in advance (if possible) of action being needed.</p> <p>b) ESC has advised the Applicants that Work No.s 8 and 6 up to the point of the low water springs should be included as this would be the extent of the district council’s jurisdiction. ESC</p>

		<p>c) Should Natural England be a consultee?</p> <p>d) EDF Energy Nuclear Generation Ltd (Sizewell B) (SZB) has requested to become a consultee on the landfall construction method statement submissions relating to Works Nos. 6.</p> <p>e) Is the Applicant content with these proposals and if not, why not?</p> <p>(1) No part of Works No. 6 or 8 may commence until a method statement for the construction of Works 6 or 8 has been submitted to and approved in writing by the relevant planning authority [in consultation with Natural England and EDF Energy {SZB}].</p> <p>(2) The method statement referred to in paragraph (1) must include measures for long horizontal directional drilling below the beach and cliff base at the landfall as well as measures for ongoing inspection of Works No. 6 or 8 and reporting of results to the relevant planning authority during the operation of the authorised project.</p>		<p>will defer to the MMO and NE as to whether they consider further work numbers should be within scope.</p> <p>c) ESC would have no objection should NE wish to be included as a consultee.</p> <p>d) ESC has no objections to this request although it would be unusual to have a private third party identified as a consultee, the Council understands the importance and sensitivities due to the proximity of the construction works to an operational nuclear site.</p> <p>e) This question is directed to the Applicants.</p> <p>ESC has been engaging with the Applicants regarding the suggested monitoring programme identified in a) and in relation to the current wording of Requirement 13. ESC has highlighted that the monitoring programme needs to include details of what will happen in the event the monitoring identifies a risk of exposure of the infrastructure and the process by which either proactive or reactive measures will be agreed with ESC and other relevant stakeholders and undertaken.</p> <p>The revised wording set out by the Examining Authority secures the submission and implementation of remedial works in the event of exposure. ESC therefore supports the revised wording suggested.</p>
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<p>Pt 3 R14</p>	<p>Applicants, ESC</p>	<p>R14: Provision of landscaping</p> <p>The proposal to undertake ‘pre-planting’ is potentially valuable as a form of mitigation, enabling the part establishment of some landscape enclosure before commencement. However, it also serves to reduce the level of accountability around the approval of landscape schemes. Is there a form of drafting that could enable reference of pre-commencement</p>		<p>ESC supports the Applicants commitment to early planting but has raised concerns regarding how the details of this planting will be controlled to ensure the planting is undertaken in appropriate locations and comprises acceptable planting specifications.</p> <p>ESC has been engaging with the Applicants on this matter and welcomes their commitment (expressed at Issue Specific Hearing 9) to provide an onshore preparation works management plan. It is understood that this management plan would include details of the ‘pre-planting of landscaping works’ and would need to be approved prior to those works taking place. ESC understands that the Outline Code of Construction Practice (OCoCP) will be updated to reflect this commitment and the draft DCOs revised accordingly</p>

		landscape works to the relevant planning authority and so address this concern?		to secure the approval process. Subject to the updates to the OCoCP and draft DCOs being undertaken, these measures would address the Council’s concerns.
Pt 3 R15	Applicants, ESC	<p>R15: Implementation and maintenance of landscaping</p> <p>How might drafting securing an aftercare/ replacement period for the landscaping for Works Nos. 33 in accordance with the time period for adaptive/dynamic maintenance and aftercare set out in the OLEMS [REP3-030, Section 4.2] be formed? How might this address the suspension of maintenance?</p> <p>Is a ten-year replacement period for failed woodland planting required for Works Nos. 24 and 29?</p>		<p>ESC has considered further the replanting period in relation to the substation mitigation planting and replacement woodland planting. We are now content with the provision for ten years in relation to the landscaping at Work No.33. We recognise that there may be little gained by the replacement of scattered failures among some otherwise established planting at the ten-year stage, as these are likely to be out-competed by the surrounding trees. Also, if the remaining planting had established well and required thinning or coppicing, there may be limited room for replacements.</p> <p>The OLEMS states that Work No.24 is proposed to be a new area of mixed deciduous and coniferous woodland to offset the woodland loss within Work Nos. 20 and 21. In paragraph 177 of the OLEMS it states that Work No. 29 is proposed to be planted with an equivalent area of woodland to offset the potential loss of woodland within Work No.30.</p> <p>ESC considers that a ten-year replacement period for failed woodland planting should be required for Work Nos.24 and 29. ESC therefore considers that the wording of Requirement 15 could be revised to that set out below:</p> <p>(2) Any tree or shrub planted as part of an approved landscape management plan that, within a period of five years (save in relation to Work Nos. 24, 29 and 33, for which the relevant period</p>

				is ten years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless alternative timing or a different specimen is otherwise approved by the relevant planning authority.
Pt 3 R17	Applicants, ESC	R17: Fencing and other means of enclosure  Similar issues arise to those in relation to R14. Is there a form of drafting that could enable reference of pre-commencement landscape works to the relevant planning authority and so address this concern?		ESC understands that the proposed onshore preparation works management plan would include details of the erection of temporary means of enclosures. As highlighted previously, it is understood the OCoCP will be updated to refer and provide outline details of this plan and the draft DCOs will be updated to secure an approval mechanism. Subject to these amendments taking place, the Council considers this would provide an acceptable mechanism through which any fencing requirements associated with the onshore preparation works could be agreed prior to the works occurring and ahead of Requirement 17 which engages on commencement.
Pt 3 R21	Applicants, ESC	R21: Ecological management plan  Pre-construction surveys have been added to the first para of the requirement (at Deadline 5). They have not been added to the second para, which is what the ExAs had understood East Suffolk Council had requested.  a) Would the Applicants be content to add a similar provision ('reflecting the		The amendment undertaken by the Applicants in relation to 21(1) is welcomed, we also seek the same amendment to the wording of 21(2).

		pre-construction survey results') to para (2)?		
Pt 3 R22	Applicants, ESC, SZB EDF SZC, Sizewell Sites A&B Stakeholder Group	<p>R22: Code of construction practice</p> <p>Are there any parts or elements of the code of construction practice that should apply to pre-commencement works? If so, which works should they apply to and how can drafting require their preparation, submission, approval and application to these works?</p> <p>a) SZB has requested to become a consultee on the code of construction practice in respect of the Sizewell Gap construction method statement. Is the Applicant content?</p> <p>b) Should the same standing be accorded to bodies responsible for decommissioning and new nuclear development (SZC) at Sizewell?</p>		<p>ESC expressed during Issue Specific Hearing 6 that a 'mini' CoCP should be drafted and engage in relation to the onshore preparation works. The Council has been engaging on this matter with the Applicants and they have committed to providing an onshore preparation works management plan. This plan is considered to be akin to a 'mini' CoCP. ESC considers this plan should provide controls in relation to the following matters:</p> <ul style="list-style-type: none"> <li>• Working hours</li> <li>• Timing of works</li> <li>• Lighting</li> <li>• Noise management</li> <li>• Dust management</li> <li>• Surface water drainage</li> <li>• HGV routes</li> <li>• Community Liaison contact</li> </ul> <p>It is understood that the OCoCP will be updated to make reference to the onshore preparation works management plan and provide outline details. It is also understood that the draft DCOs will be updated to provide an approval mechanism for the plan.</p> <p>a) This question is directed at the Applicants.</p> <p>b) The inclusion of private parties as specific consultees is not a typical standard approach in relation to conditions by ESC. The Council however recognises the specific circumstances due to the existence of an operating nuclear power station and the proposal for a new nuclear power station. ESC therefore has</p>

				<p>no objections to this request if it is deemed necessary by the Examining Authority.</p>
<p>Pt Rs23 &amp; 24</p>	<p>Applicants, ESC, IPs</p>	<p>R23 &amp; 24: Hours</p> <p>Please comment on the following matters:</p> <p>a) Is there any feasible means of limiting or controlling the classes of essential activities which (following discussion at ISHs6) remain as open classes?</p> <p>b) Does the Applicant have any further observations to make on proposals for further hours limitations raised by Interested Parties at ISHs6? Proposals made included reducing hours from 0700-1900 to potentially 0800-1800 (and 0800-1300 on Saturdays) and also to the possibility of tourism/ festival-related non-working period in the summer months.</p>		<p>ESC made representations on this matter during ISH6 and set out a summary of our comments in our REP5-047 submission.</p> <p>The current drafting of the requirements identifies some activities a) to e) which are considered to meet the definition of essential but then the requirement states that the activities are not limited to those specified. This would imply that any works could be considered essential which is not acceptable.</p> <p>In addition to this the Council is concerned that the wording of 23(2)(b) and 24(2)(b) “fitting out works associated with the onshore substation” and “fitting out works associated with the national grid substation” is too vague and could incorporate many activities some of which could cause noise disturbance. It is also not clear why it is necessary to undertake these works outside the specified working hours. It is therefore considered that this activity should be removed from the requirements.</p> <p>ESC considers that it is important in addition to seeking agreement from the Council in relation to the duration and timing of the works, the Applicants should also be required to seek agreement from ESC as to whether the works are essential and therefore take place out of hours, with the exception of the categories of works identified on the face of the DCOs. As indicated above however, ESC considers that (2)(b) should be removed from both requirements.</p>

<p>PT 3 R26</p>	<p>Applicants, ESC, NGESO, NGET, NGV</p>	<p>R26: Control of Noise during Operational Phase R27: Control of noise during operational phase cumulatively with (1) and (2)</p> <p>The Applicants are requested to clarify whether drafting securing an additional monitoring location is proposed to be added to R26 [REP4-026][REP4-043], or whether the Deadline 5 changes are viewed as sufficient.</p> <p>East Suffolk Council has suggested a 'considerably lower' operational noise rating level (LAr) should be secured in both of these requirements [REP5-047]. What do they consider the value(s) should be and why?</p> <p>Is it appropriate and if so, how might the National Grid infrastructure be included within the final agreed cumulative operational noise rating level in R27?</p>		<p>ESC's analysis of the survey data (as detailed in Appendix 4 of the Local Impact Report REP1-132)) identifies the following figures should be used at each monitoring location:</p> <ul style="list-style-type: none"> <li>• SSR2 – 27 dB LAF90,5mins</li> <li>• SSR3 - 24 dB LAF90,5mins</li> <li>• SSR5 (NEW) - 29 dB LAF90,5mins</li> </ul> <p>Further justification for the above figures has been provided in the Council's Deadline 6 submission on operational noise.</p> <p>ESC therefore considers that the operational noise limits should be set as:</p> <ul style="list-style-type: none"> <li>• SSR2 – 27 dB LA,r</li> <li>• SSR3 - 24 dB LA,r</li> <li>• SSR5 (NEW) - 29 dB LA,r</li> </ul> <p>ESC considers that it is appropriate for the operational noise of the National Grid substation to be controlled as part of a limit in relation to the overall site. Notwithstanding the Applicants statements in their Noise Modelling Clarification Note (REP4-043) that there will be minimal noise sources present on the National Grid substation, ESC maintains that any noise from the National Grid substation site should be included in the cumulative noise limits imposed under Requirement 27, adding Work No. 41 after references to East Anglia ONE North or East Anglia TWO onshore substations, depending on which dDCO is considered. At present there is no limitation on the extent of noise which could be produced by this development and this is unacceptable. Furthermore, it would be logical and coherent for there to be a separate Requirement in any event for the National Grid substation.</p>
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				<p>ESC has provided detailed comments at Deadline 6 in relation to operational noise and specifically the issue of tonality and other feature corrections. The Council considers that if appropriate information cannot be provided at the Examination to address this matter, the wording of Requirements 26 and 27 should be amended to include pre-commencement and post completion requirements, expressly incorporating reference to tonal penalties, set out in the DCO for EA1. The terms of these can be found in REP5-022 and are set out below for convenience:</p> <p><i>Control of noise during operational phase</i></p> <p><i>24.—(1) No part of Work No. 39 will commence until written details that provide for the insulation of the onshore converter station against the transmission of noise and vibration have been submitted to and approved in writing by the relevant planning authority. Work No. 39 must thereafter be implemented in accordance with the approved details. The rating level of operational noise emissions (including any relevant penalties for tonal or impulsive noise in accordance with section 8 of BS4142:1997) from Work No. 39 (including transformers, air handling units and cooling fans) shall not exceed 35 dB LAeq, 5 min at Bullenhall Farm (610287, 246601) Hill Farm (609088, 245652) and Woodlands Farm (609597, 246806).</i></p> <p><i>(2) Within three months of the completion of commissioning of Work 39, the undertaker shall submit measurements to the relevant planning authority taken in the vicinity of the relevant</i></p>
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				<p><i>property or properties specified at sub-paragraph (1) to confirm the rating level of operational noise emissions do not exceed 35 dB LAeq, 5 min, including details of any remedial works and a programme of implementation should the emissions exceed the stated levels.</i></p> <p><i>(3) Measurements shall be undertaken in accordance with the equipment specifications, measurement procedures and monitoring equipment positioning guidelines outlined in sections 4, 5 and 6 of BS 4142:1997.</i></p> <p><i>(4) For the purposes of this requirement, “completion of commissioning” means the date when the circuits have been fully tested and verified that they are able to transmit their rated power capacity to the grid connection point and National Grid has issued an FON (final operation notification) to the generator.</i></p>
Pt 3 R30	ESC	<p>R30: Onshore decommissioning</p> <p>Would it assist the relevant planning authority to be notified of the relevant date on which the permanent cessation of commercial operation of the transmission and/or grid connection works occurs, for the purposes of defining more clearly and certainly when the decommissioning plans under R30(1) and (2) must be provided? Should that notification be secured?</p>		<p>ESC agrees that formal notification in writing of the permanent cessation of commercial operation of the transmission and/or Grid connection works would be welcomed and allow the Council to record this date provide certainty in relation to the date the plans must be submitted.</p> <p>This notification process should be included within the wording of the requirement.</p>

<p>Pt 3 R37</p>	<p>ESC</p>	<p>R37: Decommissioning of relevant landfall works.</p> <p>Would it assist the relevant planning authority to be notified of the relevant date on which the landfall works construction was completed, for the purposes of defining more clearly and certainly when the report under R37(1) is to be provided? Should that notification be secured?</p>		<p>ESC agrees that formal notification in writing of when the construction of the relevant landfall works have been completed would allow the Council to record this date and provide clarity regarding the dates specified within the Requirement.</p> <p>It is considered that the written notification should be secured through additional wording within the requirement.</p>
<p>Pt 3 R41</p>	<p>Applicants, EA, SCC, ESC</p>	<p>R41: Operational drainage management plan</p> <p>Would the provision be improved by the following?</p> <p>a) In para (1) drafting providing that <u>'[t]he operational drainage plan must include a timetable for implementation'</u>; and</p> <p>b) In para (2) that <u>'[t]he operational drainage management plan must be implemented and maintained as approved'</u>.</p> <p>c) Having this requirement secure and cross-refer to a newly defined Work consisting of all surface water</p>		<p>a) ESC considers that this additional wording would provide greater clarity and certainty in relation to the implementation of the drainage strategy.</p> <p>b) ESC would support the inclusion of this additional wording.</p> <p>c) ESC agrees with SCC on this matter.</p> <p>ESC fully recognises the vital importance of designing and implementing an appropriate and functional drainage scheme. This is an essential component of the design process and fundamental to the operation of the site. This is a key component feeding into and affecting the overall design of the site. It is considered that to aid this holistic approach to site design and ensure consistency ESC should remain the discharging authority. SCC's role as the Lead Local Flood Authority is however fully recognised and ESC would not seek to discharge this requirement without their agreement. ESC would like to make it clear that it is not that site design would be prioritised over the design and implementation of an acceptable drainage strategy, the strategy is a fundamental component part.</p>

		<p>drainage infrastructure (as suggested by Suffolk County Council).</p> <p>Is Suffolk County Council content that East Suffolk Council as the relevant planning authority should lead on discharge of this required (in consultation with Suffolk County Council and the Environment Agency) to ensure coordinated input on subject matters with a strong bearing overall on design and appearance?</p>		<p>ESC considers it should remain the discharging authority for this requirement for the reasons set out above.</p>
<p>Pt 3 None – missing requirement</p>	<p>Applicants, SCC, ESC, Tourism and Employment interests, IPs</p>	<p>Security for Memorandum of Understanding (MoUs)</p> <p>Suffolk County Council [REP5-058] although not agreeing necessarily that formal security is required, has proposed a form of words to secure proposed MoUs between the Councils and the Applicants on skills, education and economic development through a new requirement. The proposed wording is reproduced below. Please provide your views on it.</p> <p>See also Obligations and Agreements below.</p>		<p>ESC supports the wording suggested by SCC.</p>

		The development shall not commence until a Memorandum of Understanding (MoU) has been agreed between the Applicant, Suffolk County Council, and East Suffolk Council. The MoU shall address the arrangements for securing the dissemination of skills and the integration of the supply chain into the local economy, including working to a shared set of objectives, and shall include measures for the periodic monitoring and review of those arrangements. The development shall be undertaken in accordance with the agreed MoU (including any review thereof).		
<b>SCHEDULE 2 – streets subject to street works</b>				
From p49	SCC, ESC	Streets subject to street works  Please confirm that the streets subject to street works are in correct locations, correctly described and give rise to no other matters.  Alternatively, submit any final proposed revisions or corrections.		ESC defers to SCC on this matter.
<b>SCHEDULE 3 – Public rights of way temporarily stopped up</b>				
From p52	SCC, ESC	Public rights of way, extent of temporary stopping up and substituted temporary public rights of way.		ESC defers to SCC on this matter.

		Please confirm that the public rights of way, the extent of the proposed temporary stopping up and any substituted temporary public rights of way are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.		
<b>SCHEDULE 4 – Footpaths to be stopped up</b>				
From p66	SCC, ESC	<p>Footpaths, extent of stopping up and substituted footpaths.</p> <p>Please confirm that the footpaths, the extent of the proposed stopping up and any substituted footpaths are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>		ESC defers to SCC on this matter.
<b>SCHEDULE 5 – Streets to be temporarily stopped up</b>				
From p66	SCC, ESC	<p>Streets and extent of temporary stopping up.</p> <p>Please confirm that the streets and the extent of the proposed stopping up are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>		ESC defers to SCC on this matter.
<b>SCHEDULE 6 – Access to works</b>				

From p66	SCC, ESC	<p>Descriptions of Accesses</p> <p>Please confirm that proposed vehicular accesses are in correct locations, correctly described and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>		ESC defers to SCC on this matter.
<b>SCHEDULE 11 - Hedgerows</b>				
From p118	Applicants, ESC	<p>Pt 1: removal of important hedgerows</p> <p>Please respond to the following matters:</p> <p>a) Is it sufficient that only ‘important hedgerows’ are identified?</p> <p>b) Is any provision required for other hedgerows in the Orders lands?</p> <p>c) Please confirm that proposed hedgerow removals to be carried out are in the correct locations, as assessed in the Environmental Statements, and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p> <p>The Applicants are additionally asked to clarify the apparent conflict between documents providing for the same</p>		<p>a) ESC is content that at the pre-consent stage only the important hedgerows are identified. Post-consent and pre-construction, a more detailed assessment will be necessary. The Applicants have committed to undertaking a pre-construction hedgerow survey within the OLEMS. A mitigation plan will be produced prior to the removal of any hedgerows.</p> <p>b) The OLEMS commits to a pre-construction hedgerow survey being undertaken which will inform the mitigation plan. This survey will include all hedgerows affected by the developments.</p> <p>c) This question is considered to be best addressed by the Applicants. ESC considers that final details of all hedgerow removals will be identified as a result of the pre-construction tree and hedgerow surveys.</p> <p>d) This question is directed at the Applicants.</p>

		hedgerows being subject to removal [REP3-011], [REP3-030] and crossed with reduced width[REP3-010]. Please submit updated documents.		
	ESC	<p>Pt 2: crossings of important hedgerows with reduced working widths</p> <p>Please confirm that proposed working width reductions are in correct locations and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>		<p>It is considered that this question would be best addressed by the Applicants. The working width reductions are confirmed on hedgerows which have been identified by the Applicants as being important and where the Order Limits and important hedgerows cross perpendicular to one another.</p>
<b>SCHEDULE 12 – Trees subject to tree preservation orders</b>				
From p 122	ESC	<p>Tree Preservation Orders</p> <p>Please confirm that the correct species, locations and Tree Preservation Orders are referred to, that the works to be carried out are as assessed in the Environmental Statements and give rise to no other matters. Alternatively, submit any final proposed revisions or corrections.</p>		<p>The Onshore Ecology Chapter of the ES (APP-070) identifies Tree Preservation Order (TPO) Number: SCDC/87/00030 which lies to the west of B1122 south of Aldringham and north of Fitches Lane. Paragraph 103 describes the species as:</p> <p><i>“This area is described as several mixed deciduous and coniferous species consisting mainly of silver birch, oak, beech Fagus sylvatica, sycamore Acer pseudoplatanus, horse chestnut Aesculus hippocastanum, cherry Prunus spp., Scot’s pine, Corsican pine Pinus nigra, mixed ornamental conifers and evergreen oak Quercus ilex”.</i></p> <p>The location of TPO SCDC/87/00030 is identified on the Important Hedgerows and Tree Preservation Order Plan (REP3-010).</p> <p>ESC is content with this description provided and location identified. It should also be noted that the TPO is an area</p>

				designated TPO and therefore only covers the trees which were there when the Order was served (1987) and not any more recent trees which have grown since.
<b>SCHEDULE 15 – Arbitration Rules</b>				
From p160	Applicants, IPs, Affected Persons potentially engaged in Arbitration	<p>Level of detail</p> <p>The proposed arbitration rules are at a significantly higher level of detail than those typically provided for in made DCOs (see the discussion of these in the Thanet Extension Offshore Wind Farm Recommendation Report (the Thanet Report) from page 441 (section 11.4)).</p> <p>As discussed from Para 11.4.18 in the Thanet Report, where additional detailed provisions are proposed, it is relevant to consider what ‘mischief and defect’ the new provisions address that is not already adequately managed by established law and practice in existing made DCOs.</p> <p>In the case of the East Anglia THREE made DCO, the response to that question was that additional detailed arbitration provisions were justified to respond to an overlap in licenced sea areas between the approved development and an oil</p>		<p>As stated under a previous item, it should be made clear that these rules do not apply to the processes under Schedule 16 or compensation claims. The level of detail in Schedule 15 should be justified by the Applicants; at present, it appears over-prescriptive. In the event of a narrow issue as to the meaning of a provision in the Order, for example, it would appear better for the procedure to be either agreed between the parties, or in the absence of agreement to be applied by the arbitrator on a customised basis, rather than to have rules applied on a statutory basis. In the absence of fuller justification, the more straightforward standard provision would appear preferable.</p>

		<p>and gas exploration area. The rationale for more than typically detailed arbitration provisions is not made clear for these dDCOs. However, those provisions were highly specific, whereas the provisions in this schedule are of general application to all matters subject to arbitration under Art 37.</p> <p>a) Should the proposed arbitration provisions be retained at this level of detail?</p> <p>b) Are the proposed arbitration provisions in these dDCOs necessary, justified and proportionate?</p> <p>c) Are the specific procedures and timescales appropriate and if not, how should they be amended?</p>		
<p>Para 6</p>	<p>Applicants, IPs, Affected Persons potentially engaged in Arbitration</p>	<p>Costs</p> <p>The general principle in planning proceedings (other than civil litigation) is that absent ‘unreasonable behaviour’ by a party, costs normally lie where they fall.</p>		<p>The costs provision needs to be justified by the Applicants.</p>

		<p>a) What is the justification for what is understood to be a novel approach where costs run with the event?</p> <p>b) The Applicants are requested to remove the stray bracket ‘]’ at the end of para (3).</p>		
Para 7	Applicants, IPs, Affected Persons potentially engaged in Arbitration	<p>Confidentiality</p> <p>Para 7 provides that arbitration proceedings are confidential unless agreed otherwise between the parties to the arbitration.</p> <p>a) Are there any subject matters or circumstances in which an arbitration relates to matters which are public interest matters and should be publicised?</p> <p>b) If so, how might that be provided for in drafting?</p>		It may be that the issue requiring arbitration relates to the meaning of part of the Order which may be of wider application and public utility. ESC does not at present have any wording to suggest how this might be achieved but will discuss it with the Applicants.
Para 9	Applicants, IPs, Affected Persons potentially engaged in Arbitration	<p>Emergency Arbitrator</p> <p>This is understood to be a novel provision.</p> <p>a) Has any specific mischief or harm occurred to an existing or proposed Offshore Wind Farm development</p>		ESC has no comment at present although will respond to any justification presented by the Applicants

		<p>attributable to the absence of such a provision?</p> <p>b) The Applicants are asked to clarify the basis and any precedent for the proposal to include this provision.</p>		
<b>SCHEDULE 16 – Procedure for discharge of requirements</b>				
	<p>Applicants, Discharging Authorities (see Arts 38)</p>	<p>Applications for approvals – time period and deemed consent.</p> <p>a) Are the discharging authorities content with the time period provided for applications for the discharge of requirements?</p> <p>b) If not, what should the relevant period be – and what is the justification for the change? East Suffolk Council has noted [REP5-047] considerable variability in recently made DCOs: it promotes 56 days. Would the Applicant be content with that period?</p> <p>c) Are the discharging authorities content with deemed consent provision in Paras 1(3) in the event that the discharging authority does not determine an application within the decision period? East Suffolk</p>		<p>ESC provided comments on the provisions contained in Schedule 16 in their ISH6 oral case (REP5-047).</p> <p>a) ESC considers that 42 days is an insufficient standard time period in which to discharge requirements. It is noted that this is the timescale set out in Appendix 1 of The Planning Inspectorate’s 15: Drafting Development Consent Orders. 56 days is provided when discharging planning application conditions. The need to deal promptly with applications for the discharge of NSIP requirements is understood but where the discharge process will also require consultation with external consultees, and it is also highly likely that ESC will be dealing with discharge applications for multiple projects simultaneously, a more realistic period than 42 days is required.</p> <p>This provision was not included in the recent Hornsea P3 decision, EA1 or EA3 and a period of 56 days (eight weeks) was provided in the recent Norfolk Vanguard DCO.</p> <p>b) A period of at least 56 days should be provided. ESC welcomes the Applicants commitment to provide 56 days made at ISH9.</p>

		<p>Council has noted that the deemed consent provision was not included in the made East Anglia ONE or East Anglia THREE DCOs and opposes them here on that basis. The Applicants are asked to identify specific concerns that have led to the proposed introduction of deemed consent.</p> <p>d) If not, what should the relevant procedure be – and what is the justification for the change?</p> <p>e) What specific additional information should the undertaker provide to the discharging authorities and how (for example as provided for in the made Vanguard DCO) might this be provided for?</p>		<p>c) ESC considers that the deemed consent provision is not appropriate as set out in our previous submission (REP5-047). It is not considered that there were any significant delays caused by ESC during the discharging of the requirements associated with EA1 or EA3 which would warrant the need for this provision. It is considered that it is necessary for the Applicants to provide a justification as to why such a provision is considered necessary.</p> <p>d) The relevant procedure should be to revert back to the default position of the model which provides a right of appeal for non-determination.</p> <p>e) ESC considers that it is important that discharge applications are accompanied by sufficient information and therefore it was considered that the wording contained within the relevant Schedule in the Norfolk Vanguard DCO provided useful text to reflect this:</p> <p><i>“a) the undertaker must give the discharging authority sufficient information to identify the requirement(s) to which the application relates;</i></p> <p><i>“b) the undertaker must provide such particulars, and the request be accompanied by such plans and drawings, as are reasonably considered necessary to deal with the application.”</i></p> <p>It is understood that the Applications are considering the inclusion of similar wording.</p>
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<p>Paras 2</p>	<p>Discharging authorities (see Arts 38)</p>	<p>Further information</p> <p>a) Are discharging authorities content with the procedure, time period and deemed satisfaction process provided for further information requests?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>		<p>a) The Council does not agree with the provision that if information is not requested within the first 10 business days that the information submitted is deemed to be sufficient. It is considered that the wording ‘as soon as reasonably practicable’ is sufficient. It is noted that this is part of the wording in the standard text set out in Appendix 1, however 10 business days is not considered sufficient time for the discharging authority to consider, assess and undertake appropriate internal and external consultations in relation to the additional information received and decide whether further information and requests are necessary. A consultee is typically provided 21 days to provide their comments, if a request for further information was provided by a consultee, under the current wording the authority would not be able to make such a request to the Applicant. It is also not considered appropriate that all further requests for information should be required to be made within this initial 10-day period.</p> <p>b) The recent Hornsea Project Three DCO did not include such provisions, neither did EA1 and EA3 DCOs. In the Norfolk Vanguard DCO if no consultations were required the discharging authority was provided with 20 business days to notify the Applicants that further information was required. In the event consultation on the requirement was necessary, the discharging authority had to notify the Applicants within 10 business days of receiving the request for information or in any event within 42 day of receipt of the application.</p>
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				<p>ESC does not consider there should be a period set when additional information must be sought. This could be counterproductive and lead to additional refusals as the opportunity to seek further information had lapsed. Notwithstanding ESC’s position, if it is considered a time period is necessary, this should be as per the Norfolk Vanguard DCO.</p>
Paras 3	Discharging authorities and appeal parties (the consultees) (see Arts 38)	<p>Appeals</p> <p>a) Are discharging authorities and other appeal parties (the consultees) content with the procedure and time period provided for appeals against refusals?</p> <p>b) If not, what should the relevant procedure and period be – and what is the justification for the change?</p>		<p>a) ESC notes that in Appendix 1 of PINS Advice Note 15, the appeals process includes a time period in which an appeal must be made (42 days), there is no such provision within Schedule 16; this should be corrected.</p> <p>b) ESC is not content with the time periods provided for the submission of written representations (15 business days) and counter submissions (10 business days). The model in Appendix 1 also provides 20 business days for parties to submit written representations and 20 business days for parties to comment on each other’s representations. Although ESC does not consider that the model’s provisions are always appropriate, in this instance it is considered that a longer period for submissions of written material would be appropriate.</p>
<b>Explanatory Note</b>				
Pages 167	ESC, SCC, Town and Parish Councils	<p>Inspection of Hard Copy Documents</p> <p>The Explanatory Note provides: ‘A copy of the plans and book of reference referred to in this Order and</p>		<p>a) ESC is content that a hard copy of the documents can be held at Woodbridge Library in the ESC Customer Services section whilst we maintain a service there. The Customer Service provision is unfortunately not available at present due to the current public health restrictions.</p>

		<p>certified in accordance with article 36 (certification of plans etc.) of this Order may be inspected free of charge at East Suffolk Council Customer Services at Woodbridge Library, New Street, Woodbridge IP12 1DT.’</p> <p>a) Are the Councils content that the hard copy documents referred to are lodged at this location?</p> <p>b) Would any other location(s) be more appropriate or convenient for access by members of local communities who cannot use digital technology?</p> <p>c) Does East Suffolk Council anticipate the maintenance of services of this nature at Woodbridge Library for the foreseeable future?</p>		<p>b) Leiston Town Council offices in Leiston could be a secondary location subject to the agreement of the Town Council.</p> <p>c) Yes.</p>
	<p>Applicants, ESC, SCC, Town and Parish Councils</p>	<p>Inspection of digital documents</p> <p>It has become commonplace for the inspection of documents to be provided for online. Whilst innovative in statutory drafting terms, might it be appropriate for an online document service or domain name to be referred to in the Explanatory Note?</p>		<p>ESC would fully support reference to an online document service.</p>
<p><b>Agreements and Obligations</b></p>				

<p>The dDCOs</p>	<p>Applicants, SCC, ESC, MMO</p>	<p>Agreements and obligations</p> <p>DCOs may be supported by agreements (including commercial agreements/ contracts or deeds under seal) and/ or Planning Obligations or other forms of statutory obligation. Relationships between parties may also be regulated by processes such as Memoranda of Understandings (MoUs) which may or may not be intended to create legal relations. For any such documents, if the SoS is to place weight upon them for a planning decision:</p> <ul style="list-style-type: none"> <li>a) their purpose and relevance to planning must be justified;</li> <li>b) the reason why their subject matters are required to be dealt with in a separate document and not on the face of the dDCOs needs to be made clear; and</li> <li>c) where to enter into force or provide security for their subject matter, they require to be executed between parties, that process must be completed, and evidence of execution</li> </ul>		<p>ESC has provided draft copies of the proposed s111 Agreements in response to the Examining Authority’s second round of questions.</p> <p>The s111 Agreements seek to secure funding to provide compensatory measures in relation to some of the adverse impacts arising as a result of the construction works and operational phases of the EA1N and EA2 projects.</p> <p>ESC did originally suggest that these funds should be secured and delivered through a s106 however this was not a matter upon which the Applicants and the Council agreed. The funds have therefore been provided through s111 Agreements.</p> <p>It is ESC’s intention that the s111 Agreements will be signed prior to Deadline 8.</p> <p>The s111 Agreements have been taken into account by ESC when considering the Council’s overall position on the projects. The Council however notes that the Applicants will not be asking the Examining Authority to accord any weight to these agreements. This is however a matter for the Examining to Authority to determine.</p>
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		<p>must be provided - before the end of the Examinations.</p> <p>The ExAs note that some such processes may relate to subject matters that are viewed as confidential between parties to them. Where for example they relate to (for example) the withdrawal of a statutory undertaker’s RR, it can be sufficient for the process to be evidenced by documents from the Applicant(s) and the statutory undertaker concerned, making clear that the agreement has been concluded and that consequently a RR has been withdrawn. However, if any reliance is placed on a process providing security for specific actions, outcomes or standards to be met that are important and relevant, then the terms of the relevant document need to be provided to the ExAs.</p> <p>A working list of all such processes and progress towards their finalisation is to be provided at Deadline 6.</p> <p>Drafts for consultation and comment between parties must be provided by Deadline 7 alongside the final dDCO. If elements of these documents are</p>		
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		<p>considered to be confidential that must (for reasons) be made clear, but the process of consultation and comment between the engaged parties must continue.</p> <p>Final positions and (where these are not confidential), final texts must be submitted for Deadline 8, synchronised with final Statements of Common Ground. Where agreements are required to be executed, this is the point at which execution must occur and be evidenced.</p>		
<p>Skills MoU</p>	<p>Applicants, SCC, ESC, Tourism and Employment interests, IPs</p>	<p>Skills, education and economic development MoUs</p> <p>The conclusion of MoUs on these matters is supported by the Applicants, East Suffolk and Suffolk County Councils.</p> <p>a) Are there any remaining arguments for an alternative form of provision or security and if so, what should that be and what should be included within it?</p> <p>b) Suffolk County Council have suggested the following text for a new Requirement [REP5-058]. Please provide your views on the need for</p>		<p>a) ESC is content with the format of the MoU as it currently stands.</p> <p>b) ESC supports the Applicants and SCC’s view that a requirement is not considered necessary; however, if it is considered to be required, ESC supports the wording SCC has proposed.</p>

		and content of this (see Missing Provision – requirements – MoU above).		