



## **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 Summary of Oral Case - Issue Specific Hearing 7**

ESC Summary of Oral Case - Issue Specific Hearing 7 (17 February 2021) – Biodiversity and Habitat Regulations Assessment

Examining Authority's Question	East Suffolk Council's Summary of Oral Case	References
<b>Agenda Item 1 – Welcome, introductions and arrangements for these Issue Specific Hearings 7</b>		
<b>Agenda Item 2 – Effects on terrestrial ecology</b>		
<p>a) Hundred River</p> <ul style="list-style-type: none"> <li>i. Priority deciduous woodland – wet woodland</li> <li>ii. Adjacent meadow and hairy dragonfly</li> <li>iii. Watercourse crossing method statement</li> </ul>	<p>i. It is noted that the Extended Phase 1 survey (Extended Phase 1 Habitat Survey (Part 1 of 2) and Figure 22.4c) which informs the Onshore Ecology Chapter (Chapter 22, Section 22.6.1.4) of the Environmental Statement (ES) does not record this area as wet woodland, it is recorded as Broadleaved Woodland – Semi Natural. Following a site visit by East Suffolk Council (ESC) and Suffolk County Council (SCC) prior to Issue Specific Hearing 7, we agree with the habitat characterisation of area as set out in the ES. We do not consider that the area within the red line boundary is wet woodland as defined by the JNCC.</p> <p>MAGIC Map identifies this area as being Deciduous Woodland on the</p>	<p>i. Environmental Statement Chapter 22 (Onshore Ecology) [APP-070]</p> <p>6.3.22.3 Environmental Statement - Appendix 22.3 - Extended Phase 1 Habitat Survey (Part 1 of 2) [APP-503]</p> <p>6.2.22.4 Environmental Statement - Figure 22.4a-f - Extended Phase 1 Habitat Survey Results [APP-277]</p> <p>JNCC Wet Woodland definition  <a href="https://data.jncc.gov.uk/data/2829ce47-1ca5-41e7-bc1a-871c1cc0b3ae/UKBAP-BAPHabitats-64-WetWoodland.pdf">https://data.jncc.gov.uk/data/2829ce47-1ca5-41e7-bc1a-871c1cc0b3ae/UKBAP-BAPHabitats-64-WetWoodland.pdf</a>                      (accessed 16/02/2021).</p> <p>MAGIC Map  <a href="https://magic.defra.gov.uk/MagicMap.aspx">https://magic.defra.gov.uk/MagicMap.aspx</a>                      (accessed 16/02/2021).</p>

	<p>Priority Habitat Inventory. Whilst it is acknowledged that the area is proposed to be partially crossed with a narrowed working width (16.1m/27.1m), nevertheless if open cut trenching is utilised then there will be loss of a UK Priority habitat in this area.</p> <p>The mitigation hierarchy must be applied in considering this impact. If the impact cannot be avoided or fully mitigated (e.g. by the use of an alternative crossing construction technique) then it must be compensated. We understand that compensation planting is proposed (in Work No.24). Please see our comments in relation to b) v. below on this.</p> <p>ii. ESC has no specific comments on this point. This is a concern which has been raised by Natural England.</p> <p>iii. As set out in our Deadline 4 comments [REP4-059], ESC’s main concern with the proposed crossing of the Hundred River (in the absence of a viable trenchless crossing construction</p>	<p>ii. N/A</p> <p>iii. East Suffolk Council Deadline 4 Submission - Comments on the Applicants Deadline 3 submission [REP4-059]</p>
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		<p>method) is the working width stated as required. If it is accepted that a trenchless crossing technique is not feasible in this location, then any open cut crossing width must be kept to the absolute minimum. At present, whilst the Outline Watercourse Crossing Method Statement (OWCMS) [REP3-048] commits to a narrowed working width for both projects through the western woodland area it is not clear why a similar reduction cannot be achieved at the crossing if the ducts for both projects can be constructed together (as proposed at the SPA Crossing)? The requirement for each project to have a 40m crossing which is then doubled to account for both projects appears unnecessarily large, particularly when in other sensitive locations a combined width of 27.1m is being achieved.</p>	<p>Deadline 3 Submission - EA2 Outline Watercourse Crossing Method Statement - Version 01 [REP3-048]</p>
<p>b) Other terrestrial ecology</p> <ul style="list-style-type: none"> <li>i. Bats</li> <li>ii. Badgers</li> <li>iii. Noise</li> <li>iv. Air Quality</li> <li>v. Trees and hedgerows</li> <li>vi. Ecological enhancement</li> </ul>		<p>i. Bats – ESC’s primary concern for this receptor is the loss of hedgerows during construction and subsequent impact on bat commuting and foraging routes. We welcome the ongoing discussion with the Applicants on this matter and note</p>	<p>i. Deadline 3 Submission - 8.7 Outline Landscape and Ecological Management Strategy (Clean) - Version 02 [REP3-030]</p> <p>Deadline 5 Submission - EA1N&amp;EA2 Applicants' Comments on ESC's Deadline 4 Submissions [REP5-010]</p>

<p>vii. Ecological Management Plan</p> <p>The Applicant, Natural England, ESC, SCC, SEAS and any other relevant participants will be invited to comment.</p>		<p>both the amendments that have already been made to the Outline Landscape and Ecological Management Strategy (OLEMS) [REP3-030] to help address this (particularly the use of temporary hurdles or similar to bridge hedgerow gaps during construction), and that further information is being added to the OLEMS on this matter for submission at Deadline 6 (Deadline 5 Applicant’s response to ESC Deadline 4 submission [REP5-010]).</p> <p>In addition to the above, we also have concerns about the potential for significant adverse impacts arising from operational noise at substation(s). See section iii below for further details on this.</p> <p>ii. Badgers – ESC has no specific comments but advises that up to date pre-commencement surveys (as part of relevant Ecological Management Plans) are needed to inform final mitigation measures, including any need for sett closures and appropriate compensation under Natural England licence. The Applicants have</p>	<p>ii. OLEMS [REP3-030]</p>
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	<p>committed to this in the OLEMS (REP3-030).</p> <p>iii. Noise – operational noise from substations is still an outstanding concern, particularly in relation to impacts on bats. As set out in our Deadline 5 submission [REP5-048] in response to the Applicants’ Deadline 4 Onshore Ecology Clarification Note [REP4-005], higher frequency noise outputs have not been modelled and therefore the conclusion that there will be no significant impact on bats is not supported. We are also concerned that the potentially more sensitive bat species to noise impacts have been under recorded across the survey area. Whilst we acknowledge that the bat survey techniques used to inform the ES are in accordance with published best practice guidance, they all rely either fully or in a large part on acoustic recording. As set out in our Deadline 5 submission [REP5-048] it is known that brown long-eared bats echolocate very quietly (or not at all in certain situations) and therefore are often not recorded by electronic bat detecting equipment even when</p>	<p>iii. ESC Deadline 5 Submission - ESC’s Response to Additional Information Submitted by Applicants at Deadline 4 [REP5-048]</p> <p>Deadline 4 Onshore Ecology Clarification Note [REP4-005]</p>
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	<p>present. We therefore maintain the opinion that we do not consider that it is correct to conclude that this species is completely absent from the substations area.</p> <p>Finally, we are concerned that the modelling presented in REP4-005 does not include the National Grid substation and therefore it is not clear whether there could be an even greater impact.</p> <p>For comparison, the recently published Sizewell C ES Addendum includes modelling of (construction) noise impacts at 8kHz and 22kHz with thresholds set where it is considered that noise levels would result in significant adverse impacts on roosting, foraging and commuting bats. Whilst ESC remains in discussion with EDF Energy over the detail of these thresholds, we agree with the approach taken to model the outputs at these frequencies and attempt to set thresholds above which significant impacts are considered likely to occur. Whilst it is acknowledged that there is limited published evidence on the</p>	<p>Page 174 - <a href="#">SZC ES Addendum - Main Development Site</a></p>
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	<p>impacts of noise on bats, nevertheless given the high value of the group as an ecological receptor we consider that a precautionary approach must be taken.</p> <p>iv. ESC has one unresolved concern in relation to air quality impacts on terrestrial ecology and this relates to the potential impact of emissions from non-road mobile machinery (NRMM) at the landfall area.</p> <p>ESC retains concerns which are shared by Natural England (REP4-092) regarding the magnitude of impacts predicted in the Applicants’ Air Quality Deadline 3 Clarification Note (REP3-061). It is noted that Natural England has ask some further questions of the Applicants in relation to this issue. ESC will defer to Natural England to lead on this matter to avoid duplication and ensure a consistent approach. ESC will however remain engaged in these discussions. The aim is to reach a common understanding of the potential impacts and ensure suitable and appropriate controls are secured and</p>	<p>iv. EA1N and EA2 Written Summary of Oral Case (ISH4) – REP5-028</p> <p>EA1N and EA2 Deadline 3 Air Quality Clarification Note (REP3-061)</p> <p>Outline code of Construction Practice (REP3-022)</p> <p>Deadline 3 Submission - 2.3.2 Works Plans (Onshore) (REP3-006)</p> <p>ESC LIR REP1-132</p> <p>ESC SoCG with Applicants LA02.32 REP1-072</p> <p>ESC Summary of Oral Case ISH4 (REP5-045)</p>
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	<p>included in the Outline and final Code of Construction Practice as appropriate – for example, regarding the location, number and capacity of NRMM to be used in locations close to the Sandlings SPA and Leiston-Aldeburgh SSSI.</p> <p>ESC has reviewed the Applicants' Written Summary of Oral Case (ISH4) (REP5-028). Based on the clarification provided in this document, ESC agrees that there is no requirement for Stage V NRMM plant, and either Stage IV or Stage V plant would be acceptable.</p> <p>ESC therefore recommends that, in order to ensure that the findings of the Deadline 3 Air Quality Clarification Note (REP3-061) are robust, the following controls should be applied in addition to any further recommendations from Natural England:</p> <p>a) NRMM should as a minimum comply with Stage IV emissions standards. This can be specified in the Outline Code of Construction</p>	
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	<p>Practice (REP3-022) Section 10.1.6.</p> <p>b) Apart from the landfall areas within Construction Work Areas No 6, 7 and 8 shown in Deadline 3 Submission - 2.3.2 Works Plans (Onshore) (REP3-006), open cut trenching should be used in preference to HDD, from the perspective of minimising the risk of air quality impacts. This applies specifically to the Sandlings SPA Crossing (Construction Work Areas No 11, 12 and 13). This supports the views on open cut trenching versus HDD previously expressed by ESC (e.g. LIR REP1-132, ESC SoCG with Applicants LA02.32 REP1-072, ESC's Summary of Oral Case from ISH1 and ISH, page 10 REP3-094)).</p> <p>v. Trees and hedgerows – We have previously raised concerns that the growth rates assumed in the ES may not be achievable and therefore regarding the likelihood that new planting will reach an acceptable condition in the time claimed by the Applicants. Whilst in relation to</p>	<p>v. Growth rate references LIR (REP1-132) paragraphs 15.22-15.26, Response to Q1.03 &amp; 1.2.75 (REP1-131), Q1.10.8 (REP2-028), ISH2 Oral Case (REP3-094).</p>
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	<p>species mitigation (particularly bats) alternative measures are being progressed to mitigate the impacts from slower growing replacement planting (see i. above), nevertheless it remains a concern that the condition of new planting may not reach an equivalent state to that being lost for longer than predicted in the ES. Woodland compensation planting – as set out in our Deadline 4 response [REP4-059], we consider that further clarification is required on the length of time that the Applicants will maintain the woodland compensation planting for (we consider that a minimum of 10 years is required). It is understood that Work No.24 will be maintained for a 10 year period, but further clarification is sought on Work No.29. Clarification is also required regarding what happens to the ownership and long-term management after this period.</p> <p>vi. Ecological enhancement – The Applicants submitted an Ecological Enhancement Clarification Note at Deadline 1 [REP1-035]. ESC made comments on this in our Deadline 2</p>	<p>Deadline 4 Submission - Comments on the Applicants Deadline 3 submission [REP4-059]</p> <p>vi. Deadline 1 Submission - Ecological Enhancement Clarification Note - Rev-01 [REP1-035]</p>
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	<p>response [REP2-029]. Whilst we understand the Applicants’ rationale behind the applicability of Biodiversity Net Gain to the projects, we do not consider that the calculations put forward in the Clarification Note demonstrate the projects will deliver ecological enhancement as set out in paragraph 5.3.4 of EN-1.</p> <p>Commentary on this was also provided in our response to the ExA’s first written questions [REP1-131]. Further comment is also provided in our Deadline 6 response to the Applicant’s Deadline 5 Comments.</p> <p>vii. Ecological Management Plan – ESC understands that the OLEMS provides the basis for the Ecological Management Plan(s), which are secured by Requirement 21 of the draft DCOs.</p> <p>ESC has made a number of comments on the content of the OLEMS and for the need for the EMP(s) to be based on up-to-date ecological surveys secured as part of Requirement 21 at Deadlines 1, 3, 4 and 5. It is</p>	<p>ESC Deadline 2 Submission - Comments on Applicant's Additional Information Submitted at Deadline 1 [REP2-029]</p> <p>ESC’s and Suffolk County Council’s Response to Examining Authority’s First Round of Written Questions [REP1-131]</p> <p>vii. ESC Deadline 1,3,4 &amp; 5 OLEMS comments REP1-131 (EXQ1), REP1-132 (LIR), REP3-094 (ISH2), REP4-059, REP5-043 (ISH3, 4, 5 &amp; 6 Action Points), REP5-044 (ISH3) and REP5-047 (ISH6)</p> <p>ESC ISH3 response (REP5-044)</p> <p>ESC DCO hearing response [REP5-047]</p>
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		<p>understood that an amendment to Requirement 21 to address this is being proposed by the Applicants. We consider that this is an important amendment to ensure that the EMP(s) are based on up-to-date information and reflect the conditions present on site at the time of the works.</p>	
<p><b>Agenda Item 3 – Effects on marine mammals (including HRA considerations)</b></p>			
<p>a) Harbour porpoise of the Southern North Sea SAC</p> <ul style="list-style-type: none"> <li>i. Project alone effects</li> <li>ii. In-combination effects</li> <li>iii. Inclusion of Unexploded Ordnance (OXO) clearance activities within the DMLs: latest positions of the MMO and the Applicants.</li> </ul> <p>b) In-Principle Site Integrity Plans</p> <ul style="list-style-type: none"> <li>i. Scope, specifically the inclusion of project-alone effects.</li> <li>ii. Content</li> <li>iii. DCO/DML security, including section 9.10 of the MMO’s Deadline 5 responses.</li> </ul> <p>c) Marine Mammal Mitigation Protocols</p>		<p>ESC has no comments and defers to Natural England and the Marine Management Organisation.</p>	

<ul style="list-style-type: none"> <li>i. Content, including alternative techniques such as low order deflagration.</li> <li>ii. DCO/DML security.</li> </ul> <p>d) Timescales for discharge of plans and documents relating to UXO clearance activities.</p> <ul style="list-style-type: none"> <li>i. Revised condition 16(3) of the generating assets DMLs and condition 12(3) of the transmission assets DMLs at Deadline 5.</li> </ul> <p>e) Construction monitoring - cessation of piling</p> <ul style="list-style-type: none"> <li>i. Update on MMO position in relation to the wording of condition 21(3) of the generating assets DMLs and condition 17(3) of the transmission assets DMLs at Deadline 5.</li> </ul> <p>f) Any other marine mammal matters.</p> <p>The Applicants, Natural England, MMO, The Wildlife Trusts, WDC and any other relevant participants will be invited to comment.</p>			
<p><b>Agenda Item 4 – Effects on fish and shellfish ecology</b></p>			

<p>a) Outstanding effects of concern on fish and shellfish ecology</p> <ul style="list-style-type: none"> <li>i. Underwater noise implications, including those arising from the inclusion of monopile foundations for offshore platforms: Section 3 of the Applicants.’ Deadline 3 Project Update Note [REP3-052] and any Deadline 4 responses to it, particularly from Natural England and the MMO.</li> <li>ii. Seasonal restrictions.</li> <li>iii. Other effects.</li> </ul> <p>b) Means of security.</p> <p>c) Any other fish and shellfish matters.</p> <p>The Applicants, the Marine Management Organisation Natural England and any other relevant participants will be invited to comment.</p>		<p>ESC has no comments and defers to Natural England and the Marine Management Organisation.</p>	
<p><b>Agenda Item 5 – Any other business relevant to the Agenda</b></p>			
<p>The ExAs may raise any other topics bearing on biodiversity and HRA as is expedient, having regard to the readiness of the persons present to address such matters.</p> <p>The ExAs may extend an opportunity for participants to raise matters relevant to the topic of these hearings that they consider should be examined by the ExAs.</p>		<p>ESC has no further comments to raise.</p>	

<p>If necessary, the Applicants will be provided with a right of reply.</p>			
<p><b>Agenda Item 6 - Procedural Decisions, Review of Actions and Next Steps</b></p>			
<p>The ExAs will review whether there is any need for procedural decisions about additional information or any other matter arising from Agenda items 2 to 8.</p> <p>To the extent that matters arise that are not addressed in any procedural decisions, the ExAs will address how any actions placed on the Applicants, Interested Parties or Other Persons are to be met and consider the approaches to be taken in further hearings, in the light of issues raised in these hearings. A written action list will be published if required.</p>			
<p><b>Agenda Item 7 – Closure of hearings</b></p>			