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Our ref: Case: 10572 Consultation: 343825  
Your ref: EN010077



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**BY EMAIL ONLY**

Dear Sir/Madam

East Anglia TWO (EA2) Offshore Wind Farm

The following constitutes Natural England's formal statutory response for Examination Deadline 6.

**1. Natural England Deadline 6 Submissions**

Natural England has reviewed the documents submitted by the Applicant at Deadline 5. We would like to highlight to the Examining Authority that only new documents (version 1) or revised versions of outline documents/plans where amendments have been formally made will be responded to by Natural England at each relevant Deadline. As such, the documents Natural England is submitting at Deadline 6 are as set out in the following thematic appendices:

- EN010078 343825 EA2 Appendix A17 – Natural England's comments on EA1N & EA2 Displacement of Red-throated Diver in Outer Thames Estuary SPA [REP5-025]
- EN010078 343825 EA2 Appendix E3b – Natural England's comments on AONB [REP5-021]
- EN010078 343825 EA2 Appendix G4 – Natural England's comments on EA1N & EA2 Draft DCO
- EN010078 343825 EA2 Appendix I1e – Natural England's Risk and Issues Log
- EN010078 343825 EA2 Appendix K3 – Response to Examining Authority's Second Round of Written Questions

- EN010078 343825 EA2 Appendix K4 – Response to DCO Commentary (Second Round of Written Questions)
- EN010078 343825 EA2 Appendix K5 - Natural England's ISH8 SLVIA Oral Representation Summary Advice

## **2. Norfolk Vanguard Judgement and EA1N/EA2 and Sizewell C**

On 18<sup>th</sup> February 2021, the consent for Norfolk Vanguard was quashed by the High Court following Judicial Review, Natural England are currently considering this judgement and any impacts it may have on this or future projects. However, based on an initial review it would seem that the Norfolk Vanguard determination was quashed because of a failure to adequately consider the of cumulative visual impacts of the proposal with various onshore aspects of the Norfolk Boreas proposal.

Therefore, Natural England would recommend that the Applicant produce an cumulative visual assessment based on a 'worst case scenario' of the Sizewell C changes, in order to ensure that the Examining Authority and Secretary of State are in a position to fully consider the cumulative visual impacts of EA1N and EA2 with these changes. We do recognise that the worst case scenario could however be difficult to identify for most of the proposed Sizewell changes. For example, how would changes to how equipment and materials are moved to and from the Sizewell construction site (varying the use of road, rail and sea options) make a difference to the cumulative effect with the cable route and translate into a worst case scenario? We also acknowledge it is the case that, regardless of alterations to the transport 'mix', there would still be the major construction activity of the cabling in the same part of the AONB as the huge Sizewell construction site. This is already judged to be significant so there is little further that a new assessment can do except perhaps to more precisely quantify the nature and significance of the effect. Natural England considers there is certainly no scope for an overall reduction to a level below significant.

There is one exception to the above which could give the Applicant scope to meaningfully update their cumulative effect assessment. This is in relation to new works and structures on the beach at Sizewell. Sizewell C may apply to increase the size of a jetty, and to use an overhead conveyor belt to take material from that jetty to the main power station construction site. The Applicant could use the worst case scenario of the increased jetty (given that the size specifications of the largest jetty option are now known) to assess how these changes would interact with the beach landing construction site and works for the cable route. That would not increase the significance of the cumulative effects overall, but could show that the significant effect is now potentially further amplified at the beach and foreshore. Given the Norfolk Vanguard decision, it would be prudent for the Applicant to provide as comprehensive a cumulative impact assessment as

possible for the consideration of the Examining Authority.

### **3. Deadline 7 Responses and Attendance at Issue Specific Hearings (ISH)**

Natural England is aware that the Applicant intends on submitting nine offshore documents and eight terrestrial documents at Deadline 6. All these relate to Natural England's remit and therefore require our full consideration. Analysing and providing advice on so many documents - some of which are critical to the resolution of significant issues - and then summarising any changes to our position will be time-consuming. This will be compounded by there being only five working days between Deadline 6 and 7. Therefore, please be advised that Natural England will need to prioritise our Deadline 7 responses and so defer some of our advice on these documents to Deadline 8. We note that we will also have the REIS and at least another three Deadline 7 documents to comment on at Deadline 8.

Having thoroughly considered the above and the likely steps needed to resolve as many of the outstanding issues as possible before the end of the Examination, we do not feel dedicating one of those weeks to preparation for, attendance at and drafting post-hearing response for ISHs is the most effective way of achieving this. Therefore, Natural England will not be attending the March ISHs in order to prioritise the provision of our statutory written advice and resolution of issues with the Applicant. However, we would welcome ongoing engagement with the ExA through a written process, with any questions the ExA wishes to ask us being sent through a Rule 17 letter. Natural England will make best endeavours to provide comprehensive answers to all such questions for Deadline 8.

In general, Natural England's experience is that the 'Rule 17 approach' is often the most productive approach to considering and resolving issues, and is something that NE would support greater use of in future examinations. There is a risk that delaying questions until timetabled ISHs can result in very condensed attempts to resolve issues towards the end of Examination, whereas the use of Rule 17 questions facilitates the provision of timely, robust and thoroughly considered written advice in order to address issues and achieve resolution as early as possible.

### **4. Agreeing to Disagree**

Please be advised that Natural England consider it likely that for large NSIP projects, even with best endeavours, not all matters will be satisfactorily resolved during Examination, especially where there are irreconcilable differences in professional judgement. In these instances it is Natural England's view that, once it becomes apparent that further analysis or interpretation cannot resolve these differences, it falls to the ExA and then the decision-maker to exercise their judgement on the evidence presented to them and the respective merits of any interpretation of

that evidence. Natural England’s experience is that in such instances, ‘agreeing to disagree’ with the Applicant enables us to focus our efforts on addressing those matters that can be resolved in the often challenging timeframes prescribed.

## 5. ISH 7 Actions

Natural England’s update to the ISH7 actions are as follows:

	Action	Party	Deadline	NE Response
7.	<p><b>Harbour porpoise of the Southern North Sea SAC</b> In light of the Applicants’ agreement to return the scope of the SIP to the mitigation of in-combination effects only, NE to provide an update on its position in terms of the comment on the project alone effects on the SNS SAC.</p>	NE	D7	NE will provide a response at Deadline 7.
9.	<p><b>In-Principle Site Integrity Plan (IP SIP)</b> Please respond to the following questions:</p> <ul style="list-style-type: none"> <li>• Do you agree that the IP SIP provides an appropriate framework to agree mitigation measures and that the scope of the measures within the IP SIP are appropriate?</li> <li>• Are you satisfied that through the IP SIP, the Applicant will use the most appropriate measures for the Project based on best knowledge, evidence and proven available technology at the time of construction?</li> <li>• Do you have confidence that the mitigation measures contained in the IP SIP are deliverable?</li> </ul>	NE MMO	D6	Natural England notes that an updated SIP will be submitted at Deadline 6 and will provide comments on this at Deadline 7.
12.	<p><b>Timescales for discharge of plans</b> NE to provide comments on the timescales proposed for the discharge of plans and documents relating to UXO clearance activities under revised condition 16(3) of the generating assets DMLs and condition 12(3) of the transmission assets DMLs [REP5-004].</p>	NE	D6	As noted in NE Deadline 6 Appendix G4, Natural England is content with the updated timelines in the UXO conditions.
13.	<p><b>Construction monitoring – cessation of piling</b> NE to confirm whether it is content with the wording of Condition 21(3) of the generation assets DMLs and Condition 17(3) of the transmission assets in relation to the cessation of piling.</p>	NE	D6	Natural England is broadly content with the wording. However, NE is engaged in a process with MMO and the Applicant which may result in changes to the wording. Please see NE Deadline 6 Appendix G4.
17.	<p><b>Fish and Shellfish: Outstanding NE concerns</b> Applicants and NE to review the outstanding ‘amber’</p>	Applicants NE	D6	It is noted that these issues

<p>matters that have been raised by NE in its Deadline 5 Risk and Issues Log [REP5- 088]. These are (from page 49):</p> <ul style="list-style-type: none"> <li>• Matter 33: fish spawning and larval abundances – specifically Herring. Impacts on prey availability for interest features of MPAs.</li> <li>• Matter 34: tolerance to elevated suspended sediment concentrations during construction</li> <li>• Matter 35: effects on sand eel</li> <li>• Matter 36: cable burial to a minimum depth of 1.5m</li> </ul> <p>Please confirm whether these (as the Deadline 1 draft Statement of Common Ground between you suggests) are matters that are largely settled, or whether the amber status in the Risk and Issue Log indicates significant outstanding issues. If these issues are still outstanding, please record whether they are anticipated to be resolved by Deadline 8 or are matters that need to be decided by the ExAs.</p>			<p>relate to issues that the MMO raised. We support the MMO position on these matters. Natural England have updated the Risk and Issues Log at Deadline 6 to reflect this action point.</p>
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## 6. ISH 8: Seascape Actions

Action	Party	Deadline	NE Response
<p>1. <b>Effects of Rampion Off-shore Windfarm on South Downs National Park and potential effects of Navitus Bay Off-shore Windfarm on the heritage coast</b> Assess and compare to the EA2 ES the dimensions of effects of the Rampion and Navitus Bay offshore windfarm proposals in respect of:</p> <ul style="list-style-type: none"> <li>• their proximity to shore within the National Park (NP) and Heritage Coast (HC);</li> <li>• their extent along shore within the NP and HC;</li> <li>• their effects on the landscape character of the NP/HC onshore; and</li> <li>• their effects on seaward views from NP/HC landscapes;</li> </ul> <p>to enable an understanding of the range of parameters to which the ExA should give consideration.</p>	<p>NE</p>	<p>D7</p>	<p>As set out in ISH 8, Natural England’s view is that we have completed our statutory adviser duties, which are to assess the landscape and seascape impacts of the proposal and provide technical advice, which we have through our written representations. on EA1N and EA2 only.</p> <p><u>In addition, as set out in our Deadline 6 Appendix E3b, it remains our view that any conclusions drawn from comparing the effect of a given offshore windfarm on a particular designated landscape and the visual amenity it affords with that of another offshore windfarm on another designated landscape would be inappropriate, misleading and therefore would not provide a sound or defensible basis for decision making.</u></p> <p>In our D3 response we have already provided comments and references to relevant sections of policy interpretation for the Rampion and Navitus decision to provide a framework in order to</p>

	<p>A substantial report is not expected. Cross references to previous submissions may be made by hyperlink.</p> <p>The Applicants are asked to refer to Action 2 as a precursor to this action. NE are asked to respond to the outcome of action 2 to respond to this action.</p>			<p>help the ExA authority in their deliberations and the elements we feel appropriate from both Navitus and Rampion decisions to aid decision making for this examination.</p> <p>Natural England feels obliged to note that even if this request was one which could meaningfully progress matters, the level of analysis required to populate the proposed matrix would be substantial, especially in the context of the Examination timeframes i.e. 5 working days. Therefore, this is not a matter of available resource as was stated in the ISH8, but one of reasonableness of request.</p>
2.	<p><b>Applicant’s ‘think-piece’</b> 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 D7 and enable further responses including from LAs and AONB Partnership by D8.</p>	Applicants NE SCC ESC	D6 D7	<p>On a without prejudice basis we have revisited what the Applicant said they would provide at ISH8 for a think-piece. We understand that it is likely to focus on further planning policy interpretation and the decisions for Rampion and Navitus. Natural England considers this would not enable Action 1 to be completed, and in any event is unlikely to help resolve SLVIA concerns, as NE is unable to comment of matters of planning policy interpretation beyond the advice that we have already provided at Deadlines 3 and Deadline 6.</p>
3.	<p><b>Final policy positions</b> 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.</p>	Applicants NE SCC ESC, AONB Partnership	D6	<p>This issue is addressed in NE Deadline 6 Appendix K5 and E3b?</p>
5.	<p><b>Visual impact</b> The Applicants to address the suggestion in NPS-EN1 paragraph 5.9.19 that “applicants draw attention . . . to any examples of existing permitted infrastructure . . . with a similar magnitude of sensitive receptors”, in order to frame the</p>	Applicants NE	D6 D7	<p>Natural England will consider any submitted document. However, please note that such an exercise is unlikely to change the Natural England advice submitted to date.</p>

	ExAs consideration of effects on the AONB, by D6; and NE to respond by D7.			
6.	<p><b>Reference to Examining Authorities' Site Inspection Notes</b></p> <p>Interested Parties referring to the ExAs' understanding of seascapes issues may wish to consider the following site inspections notes in the Examinations Libraries that provide factual references to the locations inspected.</p> <ul style="list-style-type: none"> <li>• East Anglia ONE North: <a href="#">Site Inspections in the pre-examination stage.</a></li> <li>• East Anglia ONE North: <a href="#">Site Inspections in the Examination stage.</a></li> <li>• The equivalent notes have also been published in the East Anglia TWO Examination Library but as they are identical to those published in the East Anglia ONE North Examination Library, they do not need to be read twice.</li> </ul>	All informative		Noted with thanks. If NE have any comments on the site inspections notes, we will submit them at Deadline 8.

For any queries relating to the content of this letter please contact me using the details provided below.

Yours sincerely

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