



## **East Anglia ONE North Offshore Wind Farm and East Anglia TWO Offshore Wind Farm**

### **Agendas for Issue Specific Hearings 14 (ISHs14): Biodiversity and Habitats Regulations Assessment (HRA)**

**Date:** **Tuesday 16 and Wednesday 17 March 2021**

**Arrangements Conference:** **9.20am (both days)**

*Participants must join the Arrangements Conference in order to register and be permitted access to the virtual Issue Specific Hearings.*

**Hearing start time:** **10.00am (both days)**

**Venue:** **Virtual hearings via Microsoft Teams**

*Full instructions on how to join online or by phone will be sent to parties registered to attend, shortly before the hearings.*

**Hearings Guidance:** Please see Annex A of these Agendas.

**Invited Participants:** The ExAs invite participation by:

- the Applicants;
- Natural England (NE);
- Marine Management Organisation (MMO);
- Suffolk County Council (SCC);
- East Suffolk Council (ESC);
- The Wildlife Trusts (TWTs);
- Whale and Dolphin Conservation (WDC);
- Suffolk Coast and Heath AONB Partnership;
- Substation Action Save East Suffolk (SASES);
- Suffolk Energy Action Solutions (SEAS); and,
- Save Our Sandlings (SOS).



Invitees have been requested to attend to participate in hearings on the basis that their representations raise important and relevant issues bearing on the positions of others, which can be most efficiently and fairly addressed by round table involvement. The challenges posed to participation by the current public health controls are acknowledged. The ExAs will manage participation with flexibility, taking careful account of the additional care responsibilities that some invitees will have.

Invitees are requested to contact the Planning Inspectorate by **noon on Thursday 11 March 2021** to confirm their attendance.



**Agendas for ISHs 14  
Day 1 - Tuesday 16 March 2021**

<b>9.20am</b>	<b>Arrangements Conference</b>
	Registration by the case team

<b>10.00am</b>	<b>Issue Specific Hearings 14 – Day 1: Offshore Ornithology</b>
<b>1.</b>	<b>Welcome, introductions and arrangements for these Issue Specific Hearings 14</b>
<b>2.</b>	<b>Overarching HRA matters</b>  <i>a. Reports on the Implications for European Sites</i> <i>b. HRA position: points of clarification</i> <i>c. Use of time remaining in Examinations</i>  <i>The Applicants, NE, MMO and any other relevant participants will be invited to comment.</i>
<b>3.</b>	<b>Red-Throated Diver (RTD) of the Outer Thames Estuary SPA</b>  <i>a. Project alone effects</i> <i>i. Update on the positions of NE and the Applicants (having regard to submissions at D6 and D7).</i>  <i>b. In-combination effects</i> <i>i. Update on the positions of NE and the Applicants (having regard to submissions at D6 and D7).</i>



	<p><i>c. Matters raised in legal submissions relating to displacement of RTD</i></p> <ul style="list-style-type: none"><li>i. To the extent that it is necessary, consideration of matters raised in legal submissions from Natural England and the Applicants [REP4-089], [REP6-020], [REP7-070].</li></ul> <p><i>d. Mitigation</i></p> <ul style="list-style-type: none"><li>i. Including RTD Best Practice Protocol version 2 [REP7-045].</li></ul> <p><i>e. Monitoring</i></p> <ul style="list-style-type: none"><li>i. In-Principle Monitoring Plan version 3 [REP6-016].</li><li>ii. DCO/DML security, with reference to [REP7-007].</li></ul> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>4.</b>	<p><b>Kittiwake, Gannet, Razorbill, Guillemot and Seabird Assemblage of the Flamborough and Filey Coast SPA</b></p> <p><i>a. In-combination effects</i></p> <ul style="list-style-type: none"><li>i. Update on the positions of NE and the Applicants (having regard to submissions at D6 and D7).</li></ul> <p><i>b. Monitoring</i></p> <ul style="list-style-type: none"><li>i. In-Principle Monitoring Plan version 3 [REP6-016].</li></ul> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>5.</b>	<p><b>Lesser Black-Backed Gull of the Alde Ore Estuary SPA</b></p> <p><i>a. In-combination effects</i></p> <ul style="list-style-type: none"><li>i. Update on the positions of NE and the Applicants (having regard to submissions at D6 and D7).</li></ul>



	<p><i>b. Monitoring</i></p> <p>i. In-Principle Monitoring Plan version 3 [REP6-016].</p> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>6.</b>	<p><b>The Applicants' 'without prejudice' HRA derogation case</b></p> <p><i>a. The Applicants' version 2 HRA derogation case [REP6-044], with reference to NE's [REP7-071] and responses to ExQ2.</i></p> <p>i. Alternative solutions.</p> <p>ii. Imperative Reasons of Overriding Public Interest (IROPI).</p> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>7.</b>	<p><b>Compensatory measures</b></p> <p><i>a. The Applicants' Offshore Ornithology Without Prejudice Compensation Measures ([REP6-045] and REP6-046]), having regard to NE's [REP7-071] and responses to ExQ2.</i></p> <p>i. Content</p> <p>ii. DCO/DML security: Articles 44 and Schedules 18 Parts 1-6 [REP7-007].</p> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>8.</b>	<p><b>Any other offshore ornithology matters</b></p> <p><i>The Applicants, NE, RSPB, MMO and any other relevant participants will be invited to comment.</i></p>
<b>9.</b>	<p><b>Close of Day 1 – ISH14 Adjourned</b></p>



**Agenda for ISHs 14  
Day 2 - Wednesday 17 March 2021**

<b>9.20am</b>	<b>Arrangements Conference</b>
	Registration by the case team

<b>10.00am</b>	<b>Issue Specific Hearings 14 (resumed) – Day 2: Marine Mammals and Terrestrial Ecology</b>
<b>10.</b>	<b>Welcome and introductions</b>
<b>11.</b>	<b>Marine mammals</b>  <i>a. Harbour porpoise of the Southern North Sea SAC: project alone effects</i> i. Update on the positions of NE and MMO. ii. DCO/DML security, with reference to [REP7-007 and REP7-008], including: <ul style="list-style-type: none"><li>• updated condition 16 of Schedule 13 and condition 12 of Schedule 14 ('UXO Clearance'), including provision for 'close out report'; and,</li><li>• new condition 27 of Schedule 13 and condition 23 of Schedule 14 ('Control of piling and UXO detonations').</li></ul> iii. Inclusion of Unexploded Ordnance (UXO) clearance activities within the DMLs: latest position of the MMO (with reference to [REP7-068]).  <i>b. Harbour porpoise of the Southern North Sea SAC: in-combination effects</i> i. Update on positions of NE and MMO. ii. In-Principle Site Integrity Plans version 3 [REP7-032]: scope and content.



	<p>iii. In-Principle Site Integrity Plans [REP7-032]: DCO/DML security, with reference to [REP7-007 and REP7-008], including:</p> <ul style="list-style-type: none"> <li>• new condition 26 of Schedule 13 and condition 22 of Schedule 14 ('Southern North Sea Special Area of Conservation Site Integrity Plan').</li> </ul> <p>c. <i>Draft Marine Mammal Mitigation Protocols version 3 [REP7-029]</i></p> <ol style="list-style-type: none"> <li>i. Content.</li> <li>ii. DCO/DML security [REP7-007].</li> </ol> <p>d. <i>Offshore In-Principle Monitoring Plan version 3 [REP6-016]</i></p> <ol style="list-style-type: none"> <li>i. Underwater noise monitoring provisions.</li> </ol> <p>e. <i>DCO/DML matters [REP7-007]</i></p> <ol style="list-style-type: none"> <li>i. Timescales for discharge of documents relating to UXO clearance activities: condition 16(3) of Schedule 13 and condition 12(3) of Schedule 14.</li> <li>ii. 'Co-operation' condition: updated condition 25 of Schedule 13 and condition 21 Schedule 14</li> <li>iii. Construction monitoring - cessation of piling: updated wording of condition 21(3) of Schedule 13 and condition 17(3) of Schedule 14. <ul style="list-style-type: none"> <li>• Views of MMO (with reference to [REP7-068]) and NE (with reference to para. 7 of [REP7-074]).</li> </ul> </li> </ol> <p>f. <i>Any other marine mammal matters</i></p> <p><i>The Applicants, NE, MMO, TWTs, WDC and any other relevant participants will be invited to comment.</i></p>
<p><b>12.</b></p>	<p><b>Terrestrial ecology</b></p> <p><i>Nightjar and Woodlark of the Sandlings SPA</i></p> <ol style="list-style-type: none"> <li>a. The Applicant and Natural England to provide an update on the status of outstanding areas of disagreement in relation to the Sandlings SPA crossing and the Applicant's D6 Outline Crossing Method Statement [REP6-036] and to provide an understanding of positions on this matter.</li> </ol>



	<p>b. Update on the status of outstanding areas of disagreement in relation to the crossing of the Hundred River and the Applicant's D6 Outline Watercourse Method Statement [REP6-041] and to provide an understanding of positions on this matter, including with reference to section 1.3 of [REP7-042].</p> <p><i>The Applicants, SCC, ESC and any other relevant participants will be invited to comment.</i></p>
<b>13.</b>	<p><b>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>If necessary, the Applicants will be provided with a right of reply.</p>
<b>14.</b>	<p><b>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 13.</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>
<b>15.</b>	<p><b>Closure of the hearings</b></p>





## Annex A

### **Guidance about participating in Issue Specific Hearings**

#### **Joining as a speaker**

The speakers invited to each session of each hearing are listed on page 1 of this Agenda.

If your name is listed for a hearing, please join the Arrangements Conference for that hearing, at the time specified on page 1 of the Agenda. This enables arrangements to be explained and hearings to make a prompt start. If any speakers have specific requests for arrangements to respond to public health controls (for example relating to their timing of their availability), these should be raised in the Arrangements Conference. The ExAs may make reasonable adjustments to procedural arrangements.

You will receive instructions on how to join the hearing in a separate email, in advance of the event (at least 48 hours). This email will also explain what to do if you have difficulties getting connected.

#### **Joining as an observer**

If you are an Interested Party (IP) and you asked to observe, you will receive:

- a link to a livestream to watch the hearings in real time; or
- a link to the recordings of the hearings after they have concluded.

Members of the public can view and listen to the hearings on the National Infrastructure Planning Website using a livestream or a recording after they have concluded.

#### **Frequently Asked Questions**

To help you participate effectively, we have published frequently asked questions (FAQs) on virtual events. This includes an explanation as to why these hearings are being held virtually in light of the Coronavirus public health provisions:

- [Frequently Asked Questions v3.0](#)

These provide information about Microsoft Teams (the system used by the Planning Inspectorate to conduct hearings over the internet) and the digital devices and phones that can be used to join the hearing. Please read the FAQs before you join your hearing as they will help you to prepare and get the best out of your participation. Particular attention is drawn to the FAQ advice 'How do I protect my privacy in Virtual Events' and to Annex H to the Rule 6 Letters, which varies the Planning Inspectorate's National Infrastructure Privacy Policy for virtual events.



## Participation, conduct and management of Issue Specific Hearings

### *Participation by speakers*

The business of an ISH is limited to the matters identified in the Agenda. Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExAs. It is strongly preferable that any such issues arising from IPs are now made in writing by Deadline 8, where IPs may raise any important and relevant matter arising from these Agendas.

Any IPs or Other Persons who are not listed as invitees to an ISH but who wish to participate in it should contact the Planning Inspectorate by **noon on Thursday 11 March 2021**. A request to be heard should outline the items on this agenda on which they wish to speak and provide a summary of the issues that they wish to raise.

Participation is subject to the ExAs' power to control the hearings. Hearings will be managed in the interests of ensuring that the submissions of invited persons are fully heard within the allotted time.

Participants may be legally represented if they wish, but the hearings will be conducted to ensure that legal representation is not required. Parties may attend with expert advisers relevant to matters covered within these agendas but may equally participate without expert advice if they so wish.

### *Management of ISHs*

Guidance under the Planning Act 2008 (as amended) (PA2008)<sup>1</sup> and the Infrastructure Planning (Examination Procedure) Rules 2010 provides that the ExAs will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearings will be led by the ExAs.

Cross-questioning is regulated by the ExAs and is only seldom employed at hearings. Cross questioning of a person giving evidence by another person will only be permitted if the ExAs decide it is necessary to ensure that representations are adequately tested or to ensure a person has had a fair chance to put their case.

The agendas may be amended by the ExAs at the start of the hearings. Furthermore, the ExAs may wish to raise matters arising from oral submissions, and Relevant Representations (RRs), and pursue lines of inquiry in the course of the discussions which are not listed on the agendas.

The hearings will run until the ExAs are content that all matters on the agendas have been addressed. To avoid virtual event fatigue, session breaks will be provided after approximately 90 minutes of business, subject to ExA

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<sup>1</sup> 'Planning Act 2008: Guidance for the examination of applications for development consent', (DCLG March 2015).

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418015/examinations\\_guidance-final\\_for\\_publication.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418015/examinations_guidance-final_for_publication.pdf)



discretion. We anticipate closing ISHs14 by approximately 5.00pm, although an earlier close may be provided if the business on the Agenda is completed.

All participants are advised that any new evidence presented orally at these hearings should be included in post-hearing submissions including written submissions of oral case and submitted at the next relevant deadline for the application to which it relates, in order to ensure that it has been recorded accurately.

### *Contingencies*

If a hearing is unable to proceed for technical reasons, then the ExAs may adjourn incomplete business to reserved hearing time on Tuesday 23 to Friday 26 March 2021 (morning, afternoon or evening). Notice of any adjournments will be provided in the banners on the National Infrastructure Planning Website for each Application. If the hearings proceed without disruption, then these reserved hearings will not proceed.

### *Relationship between ISHs for East Anglia ONE North and East Anglia TWO*

ISH14 for the East Anglia ONE North application is being held at the same time, date and place as ISH14 for the East Anglia TWO application. The two hearings will take place as a single event and a single agenda has been prepared to cover both hearings.

Should the ExAs need to hear evidence relating to only one or other of the applications, this can be managed during the course of proceedings.

More information about how the ExAs are managing the relationship between the application for East Anglia ONE North and the application for East Anglia TWO can be found in our [Frequently Asked Questions](#).