



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 8 - 25 March 2021

**East Suffolk Council's Response to Examining Authority's Action Points Following Issue Specific Hearing 9
and 15**

The table below details East Suffolk Council’s (ESC) responses in relation to outstanding action points raised during Issue Specific Hearing 9 (ISH9) and action points raised during ISH15.

No.	Action Point		Party	Deadline	East Suffolk Council’s Comments
ISH9 Outstanding Hearing Action Point – 19 February 2021					
9	<p>East Suffolk Council: Other Agreements and Obligations</p> <ul style="list-style-type: none"> • A proposed draft Section 111 Agreement to be submitted at D6. An executed agreement to be in place and presented to the examination by D8. • A Proposed MoU in relation to Environmental Exemplars to be submitted to the examination by D8. 		Applicants ESC	D6/D8	<p>ESC provided a copy of the draft s111 Agreements in appendix 3 of the Council’s response to the Examining Authority’s second round of written questions (REP6-079).</p> <p>ESC has signed and returned the s111 Agreements to the Applicants for their signatures. It is understood that the Applicants will submit copies of the signed s111 Agreements into the examinations at Deadline 8 as requested.</p> <p>ESC noted the request from the Examining Authority to submit the Environmental Exemplar Memorandum of Understanding into the examinations at Deadline 8. Unfortunately, this document has not yet been signed, the Council however understands that the Applicants will be submitting an unsigned version of the document at Deadline 8. ESC will liaise with the Applicants in order to facilitate the submission of a signed version of this document into the examinations by Deadline 9.</p>
ISH15 Hearing Actions Points – 19 March 2021					
2.	Responses to Applicants Revised Preferred dDCOs		Interested Parties	D9	ESC notes this request and will provide comments at Deadline 9.

	Responses to be provided to Applicants' final Draft DCOs.		(Ips) and Affected Persons (APs)		
4.	<p>Quality assurance of Schedules with local content</p> <p>SCC and ESC are asked to alert the Applicants of any remaining quality assurance issues relating to the local content of Schedules 2 to 7 inclusive (place, road and path names, reference numbers, distances etc.), in sufficient time for these to be considered by the Applicants for potential incorporation into revised dDCOs to be submitted at D8.</p>		SCC and ESC	Prior to D8 (discussion between parties)	<p>ESC will defer to SCC in relation to the accuracy of Schedules 2 to 6 of the draft Development Consent Orders (DCOs) as they relate to local highway authority matters.</p> <p>Schedule 7 relates to 'Land in which only new rights etc. may be required'. ESC supports the removal of Plot 3 but considers the Applicants would be better placed to review the accuracy of the remainder of the contents of this schedule.</p>
5.	<p>Schedules 17: Documents to be certified</p> <p>Having regard to the Applicants' dDCOs submitted at D8, provide any final comments on the documents (and document versions) to be included in Schedule 17.</p>		All IPs	D9	ESC notes this request and will provide any comments at Deadline 9.
6.	Substation Permitted Development (PD) rights		Applicants, SCC, ESC and SASES	D8	ESC has provided a response in Appendix 1 of this document.

	Provide any examples of precedent for the limitation or removal of PD rights for similar infrastructure developments together with final positions on the appropriateness or otherwise on limiting PD rights.			
10.	<p>Requirements on noise</p> <p>Applicant to share technical conclusions with ESC and SASES, with a view to reaching agreement with all parties and submission of final drafting by the Applicants at D8.</p>	Applicants ESC SASES	Prior to D8 (discussion between the parties) Submission at D8	<p>ESC notes this request from the Examining Authority and has continued discussions with the Applicants in relation to operational noise and Requirement 27 of the draft DCOs. Although due to professional disagreements it is not possible to agree all matters in relation to operational noise, the Applicants and ESC have been able to agree the content and wording of Requirement 27.</p> <p>Further details regarding this agreed position has been set out in the Council’s Deadline 8 submissions and within ESC’s Statement of Common Ground with the Applicants submitted at Deadline 8.</p>

Appendix 1 – ESC Position on Permitted Development Rights

Operational Land

- 1.1. ESC considers that whether land falls within the definition of operational land, in particular whether under section 263(2) of the Town and Country Planning Act 1990 it is comparable with land in general or comparable to land held for the purposes of the undertaking, will be highly fact sensitive. As stated within ESC's Summary of Oral Case for ISH15 submitted at Deadline 8, it is not possible at this stage to determine what will be the exact extent of the operational land for the life of the project.
- 1.2. ESC however considers that the definition of operational land could be applicable to land both inside and outside of the substation and cable sealing end compounds. It is considered that there are likely to be areas of land outside of the compound areas upon which buildings are not sited which could qualify e.g. access roads, parking areas etc. In addition to this, it is also agreed with the Applicants, that the land within the compounds will also meet the definition of operation land. This land may include areas where buildings or electrical equipment are not sited.
- 1.3. It is therefore considered possible that extensions to, or entirely new, buildings and infrastructure could occur without control, save in so far as the Environmental Impact Assessment Regulations are engaged.
- 1.4. It is not agreed as the Applicants contended at ISH15 that the definition of operational land is only confined to the fenced compound areas.

Permitted Development Rights

- 1.5. ESC has suggested that the following specific permitted development rights are removed in relation to Work No.s 30, 38 and 41, Class B (a), (d) and (f) of Part 15, Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015 (GDPO).

(a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line.
- 1.6. The Council does not wish to restrict the installation of an electric line in, on, over or under land but considers that the rights Class B (a) grants in relation to the provision of above ground infrastructure associated with the line should be controlled. This class would allow the erection of structures such as feeder or service pillars, transforming or switching stations or chambers reasonably necessary in connection with the line. The removal of these rights would not impinge on the scope of the DCOs, including the power of maintenance under Article 4 (which is relatively wide

but does not include extensions or entirely new buildings). It is unclear why both the powers in Article 4 and permitted development rights are required.

- 1.7. The limitations provided in B.1 (a) of Class B(a), Part 15, Schedule 2 of the GDPO would not provide sufficient control and do not provide limitations on the ancillary development save for a restriction on the size of a chamber provided at, above or under a highway used by vehicular traffic. This would mean that development ancillary to the installation of an electrical line could occur anywhere and be of any size. This would therefore allow development beyond that approved under the Rochdale envelopes of the current applications, without the controls in the DCOs.

(d) the extension or alteration of buildings on operational land.

- 1.8. The definition of operational land has been discussed above. ESC is of the view that although the exact extent of the operational land associated with the developments cannot at this stage be precisely defined, it is considered that land both inside and outside the compounds could meet the definition provided in section 263 of the Town and Country Planning 1990 Act.

- 1.9. B.1(c) in Class B of Part 15 provides some restrictions in respect of Class B (d), but this only restricts the height to no greater than the existing building, restricts the cubic content of the extension to less than 25% of the original building and no more than 1,000 square metres in floor space.

- 1.10. Utilising permitted development rights under Class B (d) would allow the erection of a significant extension to the existing substations and cable sealing end compounds. Although the height of the infrastructure could not exceed that set by the Rochdale envelope of the projects, the footprints provided for the substations and sealing end compounds could be exceeded significantly, without the controls of the DCOs.

- 1.11. In addition to the concern in relation to the potential for general extensions and alterations, ESC is also particularly concerned regarding the potential to provide grid connections for future projects under permitted development rights. ESC recognises that North Falls (REP7-066) and Five Estuaries (AS-100) have provided submissions to indicate that they are now pursuing grid connections away from the Friston area, the Council considers that a connection in this location by Nautilus and Eurolink Multi-purpose Interconnectors is still reasonably foreseeable. The Council wants to ensure the impacts of future grid connections are fully and robustly considered.

(f) any other development carried out in, on, over or under the operational land of the undertaking.

- 1.12. This part again refers to operational land which cannot yet be definitively defined. B.1 provides only limited controls, preventing the erection of a new building and

preventing the design or external appearance of any reconstructed or altered building being materially affected, in terms of plant and machinery the height is restricted to 15 metres or the maximum height of the plant or machinery being replaced, whichever is greater.

Environmental Statements

- 1.13. The Environmental Statements identify that the projects will have a significant adverse impact on the landscape character and visual amenity of the locality, in addition to adverse impact on the setting of heritage assets. The assessments have included consideration of the visual appearance of the substations and infrastructure which has been shown within the visualisations provided. The visualisations have provided an indication of the appearance of the infrastructure, but this is not based on a development which utilises the maximum extent of the Rochdale envelope. In addition to this Friston village to the south of the site has been subject to surface water flooding previously. Given the sensitive nature of the site, it is not considered acceptable that extensions and material alterations to the development could occur without controls when such development would potentially have consequences for the identified impacts of the projects, even if not of a scale to engage the Environmental Impact Assessment Regulations. Such development should be fully and robustly assessed through a formal process.
- 1.14. ESC is not seeking the removal of specific permitted development rights to prevent appropriate and acceptable development occurring and would not withhold consent for such development, the Council is seeking to ensure there is an appropriate level of control given the sensitive nature of the site.

Post Consent Design Refinement Process

- 1.15. If the applications are granted consent, under Requirement 12 of the DCOs which secures the Design Principles Statement (REP4-029), the final design of the substations and sealing end compounds will be established and agreed with ESC following a design refinement process and engagement with the local community. It would undermine this whole engagement process if once the substations and cable sealing end compounds are constructed, permitted development rights could be utilised to undertake alterations and modifications without any control or engagement.

Precedent

- 1.16. ESC is not aware of permitted development rights under Part 15 Class B of the GDPO being removed on other Nationally Significant Infrastructure Project applications. This does not however mean that this should not be undertaken in this instance.