



SPR EA1N and EA2 PROJECTS

DEADLINE 8 – POST HEARING SUBMISSIONS (ISH 15) DRAFT DCOS

Interested Party: SASES **PINS Refs:** 20024106 & 20024110

Date: 25 March 2021

Issue: 1

Agenda Item 2

1. It was noted that the Applicants had not entered into discussions with SASES since earlier ISHs. SASES noted that it would make further submissions in writing on points of detail, but sought to identify certain broad points which remained unaddressed.
2. The comments of Suffolk County Council in respect of “onshore preparation works” were endorsed.
3. On specific provisions, SASES noted:
 - a. Article 4: the power to maintain should be constrained to the development as constructed, rather than to the envelope assessed in the ES.
 - b. Article 7: SASES is disappointed that the Applicants have not adopted SASES’s proposed changes to this article, and specifically the requirement to use best practicable means to avoid causing a nuisance through the operation of the proposed development. Given that the Applicants have accepted the need for s 61 consents in the construction phase, which will necessitate a demonstration of best practicable means, there is no reason why such means should not be required throughout the operation.
 - c. Article 27(11)(a): SASES is concerned to ensure that this provision covers maintenance outside of the maintenance periods specified, as anticipated through the measures in the OLEMS and the OODMP. This should be reflected on the face of the Orders. SASES remains concerned about the achievability of the required growth rates and the workability of the “adaptive planting regime”. SASES also have further comments on the OLEMS and the OODMP set out at the end of this submission.
 - d. Schedule 1:
 - i. SASES remains deeply concerned about the specified power output of 100MW. The generating stations are proposed to make a greater contribution to renewable energy generation. If this is not secured, the benefits of the possible generating capacity cannot be weighed in favour of the proposals. Since the figure is materially lower than the minimum provided for in the

Crown Estate agreement for lease, there is no reason why this figure should not be increased;

- ii. SASES is concerned about the power to widen roads in paragraph (a) of the associated development with Works 6 to 37. General road widening has not been assessed and may cause harm.

e. Requirements:

- i. SASES maintains that additional requirements are needed to limit the use of the operational access road to use in association with the proposed development to avoid other, unassessed, effects arising from its use;
- ii. Similarly the use of the cable sealing end compounds (CSECs) should be constrained to the authorised development and not permit the use of that infrastructure for other projects;
- iii. The changes to requirement 12 are welcomed. However:
 - 1. The CSECs need to be addressed in the design principles document;
 - 2. The 16m height parameter for the CSECs is incorrect. This height relates only to the gantries, and this should be made clear to prevent far larger structures than have been assessed coming forward;
 - 3. The heights in requirement 12 should refer to both finished ground levels and AOD figures, to ensure that the development remains within the assessed envelope;
- iv. Requirements 23 and 24 have been addressed separately in submissions relating to noise. The Applicants now accept that construction works should only take place between 0800 and 1800 on weekdays; and 0800 to 1300 on Saturdays. This should be reflected in the requirements. The submissions by ESC in respect of the “emergency” works are adopted;
- v. Noise requirements are addressed in ISH12 and related submissions;
- vi. Requirements 38 and 43 are still inadequate to address the broad concerns about the delivery of multiple NSIPs by multiple undertakers including NGV. There is still no provision to deal, for example, with the sharing of responsibility for landscape and flood mitigation provisions. It is unclear how responsibilities under the requirements will be shared between the two generating station undertakers and National Grid. If the National Grid substation was to be built under a non-Scottish Power DCO, as is envisaged by requirement 38, there is no explanation as to how works such as landscaping and drainage which are required for the National Grid substation will be delivered, as it is possible that the grid connection works will be commenced under that other DCO before the Applicants’ works. It is highly regrettable that these matters remain unaddressed so late in the examination. Further there remains the broader point about ensuring that

the delivery of both projects is coordinate to minimise the construction period and the disturbance caused by it. This is a practical issue for the delivery of these projects which has not been addressed by the Applicants save for in the very limited way in these requirements.

4. In respect of operational land (Article 33) and the existence of permitted development rights, the Applicants' response to SASES's written submissions is not accepted. The legal submissions do not address the matters raised in SASES's written submissions. SASES is not concerned with OLE, but with the substation sites. When the land which is authorised for permanent acquisition is acquired by an undertaker it will be operational land for the purposes of s 263, since it will be held for the purposes of that undertaking, and it will be deemed to benefit from a specific planning permission. "Operational land" is not limited to land within a compound fence line but could include all land which *may*, on detailed design, be within the fence line. Further it is capable of including land which is held for the purposes of supporting the use of those substations, or indeed mitigating their effects.
5. If the Applicants maintain that operational land should only be regarded as that land within the final compound fence lines, then the DCOs should reflect this. At present, Article 33 applies to all land which benefits from development consent, which includes the entirety of the land identified for permanent acquisition. This could be corrected by stating: *"For the avoidance of doubt, no land outside the fenced areas of the compounds for Works 30, 38 and 41 shall be regarded as operational land."*
6. SASES further adopts ESC's position that the very broad permitted development rights should be restricted *within* the fence lines of the compounds. This is justified because of the particular sensitivities of the Friston site in terms of landscape, flood risk, noise, heritage and other factors. The permitted development rights in question would, for example, permit the extension of a building by up to 1,000 square metres. ESC's proposed requirement is therefore fully justified and it should be imposed. It would not prevent the maintenance of the substation sites, which would be expressly authorised by Article 4 of the dDCOs.

Comments on maintenance provision of the OLEMS and the OODMP

1. In response to SASES' submissions in respect of the scope and duration of the obligations to maintain landscaping and drainage in the DCO (landscaping - requirement 15 and drainage - requirement 41) the Applicants have referred to the Outline Landscape and Ecological Management Strategy ("OLEMS") in respect of landscape and the Outline Operational Drainage Management Plan ("OODMP") in respect of drainage.
2. Whilst there have been some improvements in the maintenance provisions in both of these documents they still fall short given the importance of both landscaping and drainage systems to mitigate the serious landscape impacts and flood risk impacts which will be caused by the projects should they be consented.

OLEMS

3. The relevant obligations are set out in section 4.2 of the latest version (REP6-006/7). When considering the adequacy of these provisions it has to be remembered that the efficacy of landscape mitigation is almost entirely dependent on the growth rates relied upon by the Applicants. SASES, East Suffolk Council and others have commented on the optimistic nature of those growth rates and SASES has relied upon the report of Jon Rose Associates (which is located at the end of REP1-365). In essence it is SASES' view based on expert advice that these growth rates will not be achieved and therefore the mitigation will not be effective even with the proposed "adaptive planting management scheme". This scheme is briefly described in paragraph 161 but no objectives are specified. These are to be agreed at a later date. This is highly unsatisfactory. The objectives should be driven by the requirement at a minimum that the planting should achieve the growth rates assumed in the Environmental Statement so that the landscape mitigation set out in the Environmental Statement is delivered. Failure to achieve such objectives should be acknowledged to be an extremely serious matter and the Applicants should be obliged to do everything which is necessary or desirable to ensure that such growth rates are achieved.
4. The concern partly arises due to the significantly lower rainfall in East Anglia compared to other parts of the country. Although the Applicants included on their response to ExQ2 2.10.9 at Deadline 6 rainfall figures for Ipswich there is no analysis as to whether such rainfall is sufficient. Further the Applicants did not include any comparative data for England and the UK. Historic data are available on this Met Office website.

<https://www.metoffice.gov.uk/research/climate/maps-and-data/uk-climate-averages/u134xcy4j>

5. The data indicate the following average annual rainfall figures.

Lowestoft – 619.9mm
East Anglia – 624mm
England – 793mm
UK – 1154mm

6. As can be seen average rainfall in East Anglia is significantly below that for England and substantially below that for the United Kingdom. Arithmetically, as the average numbers for England and the UK include the East Anglia figures, the rainfall in the remainder of England and the UK is higher than 793 mm in England and 1154 mm in the UK, and the rainfall in East Anglia relatively lower.
7. It is welcomed that the Applicants now accept that maintenance is a continuous obligation. However in paragraph 170 the Applicants have referred to the "*lifetime of the onshore substation and/or National Grid substation*". It is not clear what "lifetime" means in this context. Lifetime should not mean operational lifetime as it is possible that the structures will remain in the landscape even when they cease to be operational. Therefore it needs to be clarified that lifetime means for so long as the any of the structures associated with the projects remain in the landscape.

OODMP

8. The relevant obligations are set out in section 5.4 of the latest version of this plan (REP6-017/18). There is a similar point to that made in relation to landscape maintenance. Currently inspection and maintenance is limited to the operational phase of the projects (para 123). However the flood risk caused by the projects is caused by the structures being in the landscape, not whether they are operational. So as with landscaping, the inspection and maintenance of the drainage systems should continue for as long as those structures exist in the landscape thereby causing a flood risk.

9. Further SASES' view is that the SuDS basins will be of such a size that they will be subject to the requirements of the Reservoir Act. Whilst these are legal requirements they should be referred to in the OODMP to the effect that if the drainage systems are subject to the provisions of the Reservoir Act then the maintenance regime will accord with the requirements of the Act.