

**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Written Summary of Oral Case ISH17

**Issue Specific Hearing 17 on 28th May 2021: The
draft Development Consent Orders and Other
Matters**

Applicants: East Anglia TWO Limited and East Anglia ONE North Limited
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Applicable to **East Anglia ONE North and **East Anglia TWO****



Revision Summary				
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Description of Revisions			
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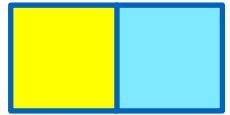
Glossary of Acronyms

BEIS	Department for Business, Energy & Industrial Strategy
DCO	Development Consent Order
DML	Deemend Marine Licence
ESC	East Suffolk Council
ExA	Examining Authority
ISH	Issue Specific Hearing
MMO	Marine Management Organisation
PD	Procedural Decision
SIP	Site Integrity Plan
UXO	Unexploded Ordnance



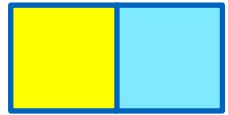
Glossary of Terminology

Applicants	East Anglia ONE North Limited and East Anglia TWO Limited
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
National Grid infrastructure	A National Grid substation, cable sealing end compounds, cable sealing end (with circuit breaker) compound, underground cabling and National Grid overhead line realignment works to facilitate connection to the national electricity grid, all of which will be consented as part of the proposed East Anglia TWO project Development Consent Order but will be National Grid owned assets.
National Grid substation	The substation (including all of the electrical equipment within it) necessary to connect the electricity generated by the proposed East Anglia TWO / East Anglia ONE North project to the national electricity grid which will be owned by National Grid but is being consented as part of the proposed East Anglia TWO project Development Consent Order.
Projects	The East Anglia ONE North project and the East Anglia TWO project.



1 Introduction

1. This document is applicable to both the East Anglia ONE North and East Anglia TWO Development Consent Order (DCO) applications (the Applications), and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's (ExA) procedural decisions on document management of 23 December 2019. Whilst for completeness of the record this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it again.
2. The Issue Specific Hearing 17 (ISH17) for the Applications were run jointly and took place virtually on 28th May 2021 at 10:00am (Hearings).
3. The Hearings ran through the items listed in the agendas published by the ExA on 12th May 2021. The Applicants gave substantive oral submissions at the Hearings and these submissions are set out within this note.
4. Speaking on behalf of the Applicants were:
 - Mr Colin Innes, partner at Shepherd and Wedderburn LLP;
 - Ms Stephanie Mill, senior associate at Shepherd and Wedderburn LLP;
and
 - Mr Brian McGrellis, onshore consents manager for the Projects.



2 Agenda Item 2: Progress Position Statement

2.1 Changes to the Draft DCO since ISH15

2.1.1 Benefit of the Order (Article 5)

5. At ISH15, the Marine Management Organisation (MMO) requested that the Applicants amend article 5 of the draft DCO to reflect the equivalent provision of the Norfolk Vanguard and Hornsea Three DCOs. The Applicants engaged with the MMO on this point and incorporated new text to reflect paragraphs (14), (15) and (16) of the Norfolk Vanguard Order to provide more certainty around the notification process and this is reflected in the draft DCO submitted at Deadline 8.
6. At Deadline 9 (in REP9-060) the MMO confirmed that it had reviewed the updates to the article and is content that the Applicant has included all necessary notifications. The MMO welcomed these additions and confirmed that it had no further comments to make on the article.

2.1.2 Crown rights (Article 41)

7. The Crown Estate requested the deletion of paragraph (2) of Article 41 on the basis that the Applicants are not seeking compulsory acquisition of any interest in Crown land and therefore the provision is not required. The Applicants made this change at Deadline 8.

2.1.3 Compensation provisions (Article 44 and Schedule 18)

8. At ISH15, the ExA suggested that it may be sensible to clarify the context in which the word “compensation” is used in Article 44 and Schedule 18 and so the Applicants have updated the text accordingly to refer to “offshore ornithology compensation measures”.
9. The Applicants updated Schedule 18 at Deadline 8 to address a number of points that were raised at ISH14, including:
 - In each part, a new provision has been included requiring that prior to commencement, the undertaker must provide details of the cost of delivery of the relevant compensation measure and must demonstrate how this has been secured, which must be to the reasonable satisfaction of the Secretary of State;
 - In Part 3, paragraph 3(d) the text “and/or adaptive management measures” has been inserted which was omitted in error;



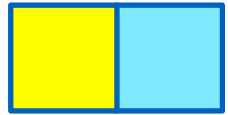
- In Parts 3, 4 and 6 which provide compensation for species that may be displaced, the timing of implementation of the compensation measures has been revised to refer to the installation of the towers comprised within the wind turbine generators rather than the operation of the turbines given that the displacement is predicted to occur as a result of the presence of the turbines rather than necessarily the operation of the turbines.
 - In Part 4, paragraphs 3, 5 and 6 have been updated to refer to an eradication programme in places rather than a general reference to compensation measures in order to reflect the equivalent text in Part 3 relating to Guillemot.
 - In Parts 2, 3, 4 and 5 the text has been updated to include the potential for ornithological by-catch measures to be considered and taken forward as a compensation measure for the relevant species.
10. At Deadline 8, Natural England requested that references to “Natural England” within Schedule 18 be amended to “the relevant nature conservation body”. The Applicants therefore updated references to Natural England within Schedule 18 accordingly within the updated draft DCO submitted on 22 April 2021.

2.1.4 Onshore design parameters (Requirement 12)

11. Following ISH12, the Applicants agreed to submit an Operational Noise Design Report setting out details of the specification of plant comprised within the onshore substation together with any noise mitigation proposed and updated modelling for approval prior to the commencement of Work No. 30. This is secured within requirement 12 and the wording has been agreed with East Suffolk Council (ESC). The requirement also states that the details provided must accord with the **Substations Design Principles Statement** (document reference ExA.AS-6.D11.V3) which sets out in more detail the information to be included within the Operational Noise Design Report.
12. At ISH15 Substation Action Save East Suffolk (SASES) requested that the maximum height of the gantries and other electrical equipment comprised within the cable sealing end compounds be listed separately in requirement 12 and so the Applicants updated requirement 12 to specify separate maximum heights for the gantries and the other electrical equipment comprised within the cables sealing end compounds.

2.1.5 Landfall construction method statement (Requirement 13)

13. At ISH15 the MMO requested to be named as a consultee in requirement 13 in respect of the landfall construction method statement and the Applicants have amended the requirement accordingly. The relevant statutory nature conservation body (i.e. Natural England) has also been named as a consultee



and the amended wording has been agreed with the MMO, Natural England and ESC.

2.1.6 Implementation and maintenance of landscaping (Requirement 15)

14. Following requests from ESC to extend the 10 year replacement planting period to woodland planting forming part of Work No. 29, the Applicants have updated Requirement 15 to extend the 10 year period to trees or shrubs planted as part of Work No. 29.

2.1.7 Construction hours (Requirements 23 and 24)

15. ESC requested that Requirements 23 and 24 be amended so that in addition to seeking approval from ESC in relation to the duration and timing of works outside the specified construction hours, agreement must also be sought on whether works that do not fall within paragraphs (2)(a) to (2)(e) of the requirements are essential.
16. The Applicants discussed this with ESC and agreed revised text which is included in paragraph (3) of Requirements 23 and 24 to address this comment.

2.1.8 Control of noise during operational phase (Requirement 27)

17. Following ISH12, the Applicants continued to engage with ESC regarding their representations, including the use of the term “standard operation” within requirement 27 and in relation to the potential for a noise report to be submitted prior to commencement.
18. In order to address the matters raised, the Applicants have included a definition of “standard operation” within requirement 27 and have also included a new paragraph in requirement 12 as mentioned above to require the submission and approval of details of the specification of plant comprised within Work No. 30 and any noise mitigation proposed, together with updated modelling prior to the commencement of Work No. 30. Both amendments to the draft DCO were agreed with ESC and were reflected in the updated draft DCO at Deadline 8.

2.1.9 Public rights of way (Requirement 32)

19. At ISH15, SCC queried whether onshore preparation works that affect a public right of way would fall within the scope of requirement 32. The Applicants explained that the intention was for such works to be caught by the requirement however in order to clarify the position the Applicants updated the text of requirement 32 to specifically refer to onshore preparation works to make it clear that where onshore preparation works affect a public right of way, they will fall within the scope of the requirement. This amendment was agreed with SCC.

2.1.10 Public rights of way to be temporarily stopped up (Schedule 3)

20. As a result of the amendment to the Order limits at Work No. 9 to increase the separation distance between the onshore cable corridor and the Wardens Trust



property, a minor amendment to the temporary diversion proposed for PRoW E-106/025/0 was required. The description of TEMP2a was therefore amended in Schedule 3 to reflect this change.

2.1.11 Hedgerows (Schedule 11)

21. Similarly, as a result of the amendment to the Order limits at Work No. 9, the crossing of important hedgerow 4 can now be undertaken at a reduced width of 16.1m and so reference to important hedgerow 4 has been moved from Part 1 (Removal of important hedgerows) of the Schedule to Part 2 (Important hedgerows that will be crossed using a reduced working width).
22. In addition, there is no longer any requirement to remove important hedgerow 5 and so reference to important hedgerow 5 has been removed from Schedule 11.

2.1.12 Procedure for discharge of requirements (Schedule 16)

23. ESC has maintained throughout the Examination that they do not agree with the inclusion of a deemed approval provision within Schedule 16. Whilst the Applicants consider the deemed approval mechanism to be appropriate and justified for the reasons set out in section 3.1.7 of the **Applicants' Written Summary of Oral Case ISH9** (REP6-054), in order to reach agreement with ESC on the text of Schedule 16, the Applicants have removed the deemed approval mechanism from paragraph 1(4). This is reflected in the draft DCO submitted at Deadline 8.
24. As a result of removing the deemed approval mechanism from paragraph 1, the Applicants have included non-determination of an application as a ground for appeal in paragraph 3. This reflects the standard text in Appendix 1 of Planning Inspectorate Advice Note 15.

2.2 Changes to the DMLs since ISH15

2.2.1 UXO Clearance Close Out Report (Condition 16/12)

25. The MMO requested two minor changes to the Unexploded Ordnance (UXO) clearance condition, namely:
 - to include a time period for submission of the close out report in paragraph (5); and
 - to amend the word “may” to “will” in paragraph (6).
26. In addition, Natural England requested that a copy of the close out report be provided to the relevant statutory nature conservation body.
27. These changes have all been reflected in the draft DCO submitted at Deadline 8.



2.2.2 Layout Principles (Condition 17 of the Generation DML)

28. The Applicants submitted a Layout Principles Statement with which the turbine layout must accord and the design plan condition (Condition 17 of the Generation Deemed Marine Licence (DML)) has been updated to secure this. This has been agreed with the MCA and Trinity House.

2.2.3 Best Practice Protocol for Minimising Disturbance to Red-throated Diver (Condition 17/13)

29. The MMO requested that the condition securing the adoption of procedures within vessels transit corridors to minimise disturbance to red-throated diver be updated to refer to the period in respect of which the mitigation measures specified within the best practice protocol must be undertaken and this is reflected in the draft DCO submitted at Deadline 8.

2.2.4 Construction Monitoring (Condition 21/17)

30. At Deadline 7, the Applicants updated paragraph (3) of the construction monitoring condition as requested by the MMO to clarify that the reference to “significant” means “statistically significant” however at Deadline 7 Natural England advised that the word “statistically” should be removed (**Appendix F9 – All Other Matters Update** (REP7-074)).

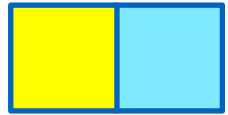
31. The MMO confirmed in ISH15 that they would be comfortable reverting back to the previous text in order to remove reference to the word ‘statistically’ from Condition 21(3) of the Generation DML and Condition 17(3) of the Transmission DML. This change was made to the draft DCO submitted at Deadline 8.

2.2.5 Southern North Sea Special Area of Conservation Site Integrity Plan (Conditions 26 and 27/22 and 23)

32. The MMO requested that the Applicants include separate Site Integrity Plan (SIP) conditions for piling and UXO clearance activities. The Applicants therefore amended the SIP condition so that it applies to piling activities only and a separate condition has been inserted in respect of UXO clearance activities. The definition of the guidance has been removed from the condition and inserted in paragraph 1 of Part 1 of the DMLs.

2.2.6 Herring Spawning (Condition 29/25)

33. Following the inclusion of a new herring spawning condition in the DMLs at Deadline 7 the MMO requested that the herring spawning report include a methodology for the analysis undertaken and also requested that paragraph (3) make provision for a different timescale to be agreed for submission of the report. The Applicants updated the condition to address these comments.



34. At ISH15 and subsequently, the MMO have advised that they do not agree with the reference to “approximately 14 days” being included within the condition in case the period ends up being slightly shorter or longer than 14 days.
35. The Applicants fundamentally disagree with the suggestion that reference to “approximately 14 days” should be removed from the herring spawning condition. The reference to “approximately 14 days” is intentional to provide certainty as to the likely extent of the piling restriction whilst not being overly prescriptive and allowing for some flexibility where a slightly longer or shorter period is considered appropriate. The herring spawning period is ultimately to be determined by the MMO and so there are sufficient controls in place.
36. This text provides the Applicants with a degree of certainty as to the approximate duration of the restriction. Without this text, the MMO could seek to impose a much longer restriction within the period 1 November and 31 January and this is wholly unacceptable to the Applicants and is neither necessary or reasonable.
37. The MMO states that it considers that the wording “approximately 14 days” does not meet the ‘Five Tests’ for a condition, namely:
 - 1. The condition must be Necessary.
 - 2. The condition must Relate to the activity or development.
 - 3. The condition must be Precise.
 - 4. The condition must be Enforceable.
 - 5. The condition must be Reasonable.
38. The MMO states that the current condition is not precise enough or enforceable. The Applicants strongly disagree and consider that the reference to “approximately 14 days” provides an indication of how long the period is likely to be to provide certainty however it is ultimately for the MMO to determine the herring spawning period within the wider period of 1 November to 31 January.
39. The MMO contends that the lack of precision would make the condition unenforceable. The Applicants completely disagree. It is clear from the condition that the period is to be in the region of 14 days. In any event, it is ultimately to be determined by the MMO based on the data provided and so there are sufficient controls in place. The Applicants consider the condition to be entirely enforceable.
40. The Applicants submit that the alternative wording proposed by the MMO would not meet the tests for a condition. This is because a three month piling restriction would be completely unreasonable and entirely unnecessary.



41. The Applicants would reiterate that they do not consider any herring spawning restriction to be necessary in light of the potential impacts of the development (see REP4-019) but agreed to include the restriction at the request of the MMO and so any potential widening of the restriction is considered to be disproportionate, unnecessary and unreasonable.
42. The Applicants and the MMO are continuing to engage on this matter and during a meeting on 26th May 2021 both parties agreed to explore the possibility of substituting 'approximately 14 days' with 'up to [a specified period]'.
43. At ISH17 on the 28th May 2021, the MMO advised that it has sought advice from its scientific advisors, Cefas, on the appropriateness of this wording however, as of 7th June 2021, the MMO has not yet received a response from Cefas and the Applicants understand that the MMO will update the ExA on its position at Deadline 12 (28th June 2021). The Applicants will continue to liaise with the MMO in the interim with the aim of agreeing an appropriate amendment to the conditions for inclusion in the updated draft DCO at Deadline 12.

2.2.7 Sediment Sampling (Condition 30/26)

44. At Deadline 7, the MMO requested that a new condition be included in the DMLs in relation to sediment sampling (**Deadline 7 Submission** (REP7-068)). The Applicants agreed the text of a condition with the MMO and this has been included in the DMLs at Deadline 8.

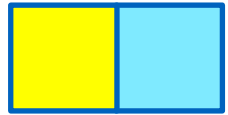
2.2.8 Completion of Construction (Condition 31/27)

45. The MMO also requested at Deadline 7 (**Deadline 7 Submission** (REP7-068)) the inclusion of a new condition requiring a Completion of Construction Close out Report in order to seek to address some of the industry issues around releasing headroom from an ornithological perspective.
46. The Applicants have therefore included a condition in the DMLs to address this matter, the wording of which has been agreed with the MMO and Natural England.

2.3 Changes to the Draft DCO in Progress

2.3.1 Removal of Plot 10

47. A reduction in the Order limits within the southern extent of Work No. 9 has been achieved by the removal of land plot 10 in its entirety from the Order limits, and minor reductions in land plots 12 and 13 (see **Deadline 11 Project Update Note** (document reference ExA.AS-12.D11.V1)).
48. Consideration of this reduction was prompted by various representations made by Dr Gimson on behalf of the Wardens Trust, seeking increased separation between the Order limits and the Wardens Trust property which this change achieves; and requests by Mr Richard Reeves and Ms Tessa Wojtczak during



informal consultation relating to the previous realignment of Work No. 9 (as narrated in **Change Request: Amendment to Order Limits at Work No. 9 (Plot 13)** (AS-104)) to remove Plot 10. Through engagement with designers and progression of the landfall outline design, the reduction in Work No. 9 will not compromise the necessary flexibility at the landfall or the deliverability of the landfall.

49. This reduction removes 25,087m² from the Order limits and is considered by the Applicants to be a non-material change.
50. Reference to Plot 10 will be removed from the next version of the draft DCO to be submitted at Deadline 12. Requirement 12(18)(e) which relates to the working width of the onshore cable route in proximity to the transition bays forming part of Work No. 8 will also be updated as the maximum working width within this area will reduce from 190m to 113m as a result of the removal of Plot 10.

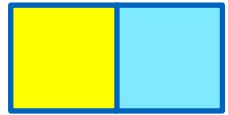
2.3.2 Consultation on Code of Construction Practice (Condition 22)

51. Following engagement with Natural England, the Applicants intend to update condition 22 of the draft DCO to make provision for consultation with the relevant statutory nature conservation body during the approval of plans comprised within the final Code of Construction Practice to the extent that they are relevant to Natural England's remit, namely:

- Surface Water and Drainage Management Plan, in respect of Work Nos. 7 to 14 and Work No. 19;
- Construction Phase Noise and Vibration Management Plan, in respect of Work Nos. 7 to 14;
- The Soil Management Plan in relation to Work No. 12 and Work No. 12A;
- Pollution Prevention and Response Plan, in respect of Work Nos. 7 to 14 and Work No. 19;
- Artificial Light Emissions Plan, in respect of Work Nos. 7 to 14; and
- The Watercourse Crossing Method Statement.

2.3.3 Offshore Ornithology Compensation Measures (Schedule 18)

52. At Deadline 9, Natural England requested that paragraph 3 within each part of Schedule 18 be amended to require the provision of information that explains ecologically why the selected location(s) for compensation measures are appropriate and likely to support successful compensation.
53. The Applicants responded to state that they do not consider such amendments are required to Schedule 18 to address this point as any location selected for



compensation measures will need to be justified as an integral part of the implementation plan (as is evident from the ***Offshore Ornithology Without Prejudice Compensation Measures*** document (document reference ExA.AS-28.D11.V3) on which the implementation plans must be based). Furthermore, the implementation plan(s) require to be approved by the Secretary of State in consultation with the relevant statutory nature conservation body (among others) thus providing the opportunity for comments on location(s) to be provided.

54. Notwithstanding the Applicants' position that this text is not required, the Applicants will amend Schedule 18 at Deadline 12 in order to address Natural England's comment.

2.3.4 Updating references to MGN543 within the DMLs

55. The MCA have now issued MGN654 which replaces MGN543 and so the Applicants intend to update references to MGN543 in the DMLs to reflect the most up to date guidance.

2.4 Changes requested to the draft DCO that the Applicants do not intend to make

2.4.1 Arbitration (Article 37)

56. ESC requested that text be included in Article 37 of the draft DCO to specifically exclude the relevant planning authority from Article 37 on the basis that the MMO and the Secretary of State have been excluded on a "for the avoidance of doubt" basis and so the same approach should be taken to ESC.
57. The Applicants disagree. Article 37(1) states that "any dispute or difference arising out of or in connection with any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration" and since Article 38 and Schedule 16 apply in respect of the discharge of requirements, it is clear that another mechanism has been provided for and therefore the arbitration provision will not apply.
58. There is no equivalent appeals process in respect of the discharge of DML conditions, and therefore paragraph (2) of Article 37 is necessary to make it clear that arbitration does not apply to any matter for which the consent or approval of the Marine Management Organisation is required under the DMLs. This is therefore not a "for the avoidance of doubt" provision and the Applicants do not consider that it should be expanded to refer to ESC who will be the relevant discharging authority in respect of a number of requirements.
59. ESC have submitted that the Secretary of State, rather than the MMO, is a more appropriate comparator to ESC however the Applicants disagree with this assertion as the Secretary of State is the ultimate decision maker in a DCO context. That said, the situation with the Secretary of State is different as the



consent or approval of the Secretary of State is required under various other provisions of the draft DCO (e.g. Article 5) and so it is necessary to specifically exclude the Secretary of State from the scope of the Arbitration provision. This is not the case with the relevant planning authority.

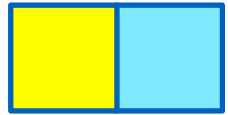
60. At ISH17, ESC confirmed that having considered the Applicants' response to previous submissions on this matter and in light of Schedule 16 applying to approvals of ESC, ESC is no longer requesting a change to Article 37.

2.4.2 Discharging authority in respect of the Operational drainage management plan (Requirement 41)

61. ESC and SCC both maintain that they should be the discharging authority in respect of requirement 41. The Applicants consider that the appropriate discharging authority should be the relevant planning authority (i.e. ESC) who have experience discharging such matters in a planning context. The local planning authority has recently formulated policy in respect of such matters in Policy SCLP 9.6. This has had regard to national policy and guidance as well as guidance from the LLFA. It is noted that the relevant planning authority will be discharging requirements in relation to drainage matters relating to construction as well as the other design requirements which have a relationship with requirement 41 (including requirements 12 and 14).
62. The Applicants note that SCC will be consulted during the approval process. The Applicants therefore do not propose to make any changes to the discharging authority specified in requirement 41.

2.4.3 Offshore Ornithology Compensation Measures (Schedule 18)

63. At ISH15 the MMO requested that a consultation period be specified within paragraph 3 of each part of the Schedule.
64. The Applicants do not consider this level of detail to be appropriate for inclusion in the Schedule. It is not standard practice to specify consultation periods within DCOs and therefore the Applicants disagree that this level of detail is required. The Applicants would also note that no consultation period is specified in the equivalent provisions of the Hornsea Three DCO compensation measures schedule.
65. As noted previously, the drafting of Schedule 18 seeks to provide a clear process and mechanism for the delivery of compensation measures with clear trigger points for delivery of that compensation and specific details in relation to timescales for consultation etc. are not considered to be appropriate for inclusion in the Schedule. Such details will be determined by the Secretary of State at the relevant time.



2.4.4 Removal of permitted development rights

66. Both ESC and SASES have requested that provision be included within the DCO to remove permitted development rights in respect of the Projects. The Applicants consider this to be inappropriate and potentially unlawful and refer to their previous submissions on this matter and their responses in the **Applicants' Responses to the ExA's Comments on the Draft DCOs** (document reference ExA.dDCO.D11.V1) at ID18 and ID20.

3 Agenda Item 3: The Potential Operation of Each dDCO as a Standalone Consent

3.1 Approach to DCO drafting

67. Each DCO has been drafted as a standalone consent that authorises the development of the relevant Project (including the National Grid infrastructure).
68. In the event that only one project is granted consent or only one project proceeds, the DCO for that Project would operate as normal. There is no need for any amendments to be made to the draft DCOs to enable them to operate as standalone consents as they were drafted on the basis of being able to operate as standalone consents whilst also dealing with any interfaces should the other project go ahead.

3.2 Overall Design and Layout Plans

69. In developing the landscape masterplan to ensure appropriate mitigation for the substation developments, the Applicants have considered ongoing land use to minimise the area of land sterilised.
70. Protective provisions within Part 5 of Schedule 10 to the draft DCO deal with the relationship between the Projects and ensure co-operation and co-ordination between the undertakers.
71. In the event that only one project proceeds, the landscape framework would remain largely the same as for the scenario where both projects proceed. If both projects proceed, they will be developed in a co-ordinated manner.
72. With respect to how overall design and layout plans might be utilised, the Applicants refer to their response on this point in the **Applicants' Responses to the ExA's Comments on the Draft DCOs** (document reference ExA.dDCO.D11.V1) at ID17.



4 Agenda Item 4: Securing ‘Good Design’ Solutions at the Friston Substations Site

4.1 Overall Design and Layout Plans

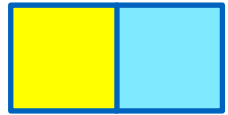
73. The Applicants refer to their response on this point in the **Applicants’ Responses to the ExA’s Comments on the Draft DCOs** (document reference ExA.dDCO.D11.V1) at ID17.

4.2 Substations Design Principles Statement

74. The Applicants refer to their response on this point in the **Written Summary of Oral Case ISH16** (document reference ExA.SN1.D11.V1) submitted at Deadline 11.

75. The measures set out in the **Substations Design Principles Statement** (document reference ExA.AS-6.D11.V3) will provide the necessary confidence to the ExA and Secretary of State that further design improvements will be implemented during the detailed design of the Projects to further reduce the environmental impact of the Projects, whilst providing the essential design flexibility for these nationally significant infrastructure projects.

76. In response to the question of whether flexibility/adaptability for alternative technologies can be incorporated within the design principles, the Applicants refer to the **Applicants’ Comments Suffolk County Council’s Deadline 9 Submissions** (REP10-008). In summary, the Applicants cannot develop alternative technology that has neither been assessed nor is within the parameters of the DCO, and inclusion of SCC’s proposed design principle would be misleading and unimplementable. The Substations Design Principles Statement provides sufficient control and flexibility to ensure an appropriately designed onshore substation and National Grid substation is developed in accordance with the design principles set out therein.



5 Agenda Item 5: Other Matters Raised in the ExA's Commentaries on the dDCOs

5.1 BEIS Review, Pathfinder Projects and the Energy White Paper

77. The Applicants note Rt Hon Dr Thérèse Coffey MP's oral submissions in the Hearings and will respond to her Deadline 10 and Deadline 11 written submissions together at Deadline 12.

5.2 Operational Land and Permitted Development Rights

78. The Applicants refer to their previous submissions on this matter and their responses in the *Applicants' Responses to the ExA's Comments on the Draft DCOs* (document reference ExA.dDCO.D11.V1) at ID18 and ID20.

5.3 Other Matters

79. The Applicants note that the other matters under this agenda item 5 were addressed to other parties during the Hearings.

6 Agenda Item 6: Protective Provisions – Final Positions

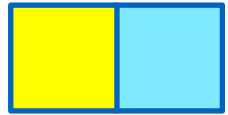
6.1 Suffolk County Council

80. The Applicants' welcome SCC's confirmation in the Hearings that the changes made to the *Outline Construction Traffic Management Plan* (REP9-003), *Outline Access Management Plan* (REP9-005) and the *Outline Travel Plan* (REP9-007) at Deadline 9 are satisfactory and that the incorporation of protective provisions in the draft DCO is no longer required.

7 Agenda Item 7: Consents of Parties – Final Positions

7.1 Crown Estate

81. Following on from their Deadline 6 submission (REP6-100), at Deadline 9 the Crown Estate stated within their *Comments on the Applicant's updated draft DCO (dDCO) submitted at Deadline 8* (REP9-054) that they:



“disagree with any view that section 135(2) consent is required where (as here) none of the provisions in a development consent order authorise the acquisition of or interference with offshore Crown land because and on the basis that an agreement for lease has been entered into in relation to such land.”

82. However, subject to the inclusion of Article 41 (*Crown rights*) in the draft DCO the Crown Estate confirmed their consent under section 135(2) stating:

“the Commissioners confirm their consent to Articles 3, 4 and 41 of the Draft DCOs, to the extent that they are included in the Orders, applying in relation to Crown land forming part of the Crown Estate for the purpose of section 135(2)”.

83. The Applicants understand that the Crown Estate’s Deadline 9 submission reflects the Crown Estate’s latest position and agree with the Crown Estate that section 135(2) consent is not required for the draft DCOs in this instance but welcome their consent should the Secretary of State consider that this is required.

8 Agenda Item 8: Other Consents – Final Positions

84. The Applicants note that this agenda item was not discussed during the Hearings.

9 Agenda Item 9: Certified Documents – Audit and Final Positions

9.1 Certified Documents: Audit

9.1.1 ExA’s Audit Request

85. The Applicants note that the ExA has requested that the Applicants undertake an audit of all certified documents to ensure that version control and citations are correct and that this work is to be submitted at Deadline 11. The ExA’s commentary on the draft DCO also states that as part of this audit of certified documents, the Applicants are requested to prepare a table that identifies the following elements:

- The name of each outline or in-principle plan and strategy;



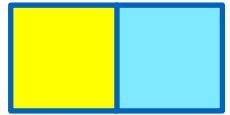
- The name of any body consulted during its preparation;
- Whether, and if so, which provisions in the dDCOs are relied upon to secure a final or detailed version of the document;
- The identity of the body approving any final or detailed version of the document; and
- The identity of any consultees engaged in the preparation or approval of the final or detailed version of the document.

9.1.2 Applicants' Position

86. For each updated version of the draft DCO, Schedule 17 is checked and updated so that it is accurate at the point in time at which that version of the draft DCO is submitted. The Applicants will however prepare a table setting out the information requested. With respect to specifying the latest versions and dates of documents as well as document reference numbers, these are stated in Schedule 17 of the draft DCO.
87. In the Hearings, the Applicants noted that this audit is requested for Deadline 11 however the next version of the draft DCO is to be submitted at Deadline 12 and so the Applicants advised that they intend to submit the audit alongside the updated draft DCO at Deadline 12 rather than at Deadline 11 so that it reflects the most up-to-date position.

9.2 Certified Documents: Final Position

88. The Applicants intend to submit final versions of certified documents listed in Part 2 of Schedule 17 (i.e. the documents specifically referenced in the provisions of the DCO) as follows:
- For documents which are undergoing technical discussion and engagement with key stakeholders, these will be submitted as soon as possible, in almost all cases by Deadline 11 (e.g. Outline Construction Traffic Management Plan, Outline Code of Construction Practice);
 - Documents which are undergoing technical discussion and engagement with key stakeholders but which require to be updated to reflect the outcome of the infiltration testing at the substation site will be submitted as soon as possible following Deadline 11 (i.e. the Outline Operational Drainage Management Plan and Outline Landscape and Ecological Management Plan); and
 - For any documents where minor updates are required (e.g. to ensure that the relevant plan(s) show the final Order limits taking into account the realignment of Work No. 9), these will be submitted at Deadline 12.



Documents that are key to any Order limits changes, such as the **Land Plans** and **Works Plans**, have been submitted at the time of the change being made, however other plans have not necessarily been re-submitted where the key details have not changed and so the Applicants will ensure that any certified documents which do not reflect the final position are updated and submitted at Deadline 12.