

Re: SPR EA1N and EA2 projects (Deadline 12)
Dated 28 June 2021

Interested party: Anglian Energy Planning Alliance
PINS references: 20024098 and 20024099

ABSENCE OF ADEQUATE CUMULATIVE EFFECTS ASSESSMENTS WILL INVALIDATE UNQUALIFIED CONSENT.

The Government's position has been made clear.

1. Area subject to cumulative assessment

The Examining Authority has made persistent attempts to obtain from the Applicant an adequate assessment of the cumulative effects of its proposals when combined with other projects that will potentially be sited near the onshore developments for EA1N and EA2. The Applicant's relevant developments comprise not only its proposed constructions at Friston but also the cable route from Thorpeness to Friston, its extensive shoreline works, any connection points to the National Grid network, and the multiple routes planned for construction traffic.

The area affected by potential cumulation therefore extends far beyond Friston itself, and comprises the towns of Leiston and Aldeburgh and the villages of Thorpeness, Sizewell, Aldringham, Knodishall, Snape and their surrounding areas. As emphasised in the recent *Norfolk Vanguard* judgment, the Applicant is obliged to include in its application a Cumulative Effects Assessment (CEA) of all other infrastructure projects that will be or are likely to be developed within this wide area, or that could have effects upon it. The area may be loosely defined as within the Leiston-Sizewell-Aldeburgh-Friston perimeter, and includes the potential new Sizewell C nuclear power station in addition to a number of other planned energy infrastructure projects.

2. The Applicant's failure to comply

The Applicant continues to regard this obligation as an optional extra in its applications for development consent. Its CEAs to date have been absent or perfunctory. In effect it expects the ExA to consider its applications in isolation from other imminent or likely major infrastructure projects.

It has ignored or failed to answer the ExA's enquiries on specific related matters. It has not obtained or not sought relevant information from promoters of other local infrastructure projects, including companies within National Grid group (NG) upon which its application relies, or with which it is symbiotically connected. In turn, those NG companies have declined to assist the ExA in its efforts to achieve complete transparency about forthcoming projects that will or may contribute to cumulative

effects. The Applicant's CEAs, where they exist at all, are therefore technically and legally deficient.

3. The Applicant's responses to AEPA's Deadline 9 submissions

The Anglian Energy Planning Alliance need not repeat its Deadline 9 representation on the issue of CEAs and the Applicant's repeated failure to comply with the required process. But since the Applicant has replied to that submission, we note that its replies at point 1, 2 and 6 maintain their reliance on PINS Advice Note 17 to justify their failure to obtain and include sufficient information on cumulative effects. AEPA's Deadline 6 representation dated 22 February points out at paragraph 7 that this non-statutory Advice Note 17 does not prohibit an applicant from obtaining and including such information; and at paragraph 5 sets out a list of appropriate information which even 4 months ago was already entirely capable of being obtained and included in CEAs.

The Applicants also at their points 4 and 5 challenge the statements that their proposed Friston site will be an NG strategic connection hub and will be used to connect further interconnector projects. (We regret that we mistakenly attributed the latter information to the Applicant rather than to NG, and we apologise for our inadvertent error.)

NG continues to state publicly its aim to connect future projects 'in the Leiston area'; and its most recently published mapping of planned future connections indicates both Sizewell and Friston as potential connection sites for interconnectors and other projects. Since NG has already indicated that there are capacity constraints at Sizewell that will prevent connections there, other than for the proposed Sizewell C twin nuclear reactors, any new connections must be either at or near Friston - i.e. within the area of cumulative effects for which assessments are required from the Applicant.

4. Why Cumulative Effects Assessments are indispensable

There are two crucial reasons why comprehensive CEAs are indispensable. First, they are the essential tool to measure the real-world impact of the applications on people and on places. They answer the questions that the ExA must ask on behalf of those potentially affected: For how many years, or decades, will community life be disrupted by construction works and traffic? How many vast industrial buildings will dominate the rural skyline? How many more miles of excavations will be carved through the AONB and countryside? For how long will a tsunami of infrastructure projects affect the tourism on which local economy relies?

Although the Applicant may ignore these questions, the ExA is unable to do so. Because the second reason that comprehensive CEAs are vital is that without them the ExA will be unable to provide the Secretary of State for BEIS with the information that is legally required to enable his conclusions. Unless qualified by conditions incumbent upon the Applicant, any decision to consent would be invalid and open to legal challenge for failure to consider properly all potential cumulative local effects.

5. The Government's position

Cabinet Minister Dr Therese Coffey, MP for Suffolk Coastal, has set out the position succinctly and clearly at the Issue Specific Hearing on 28 May and in her subsequent letter of 7 June.

She points out that the Applicant has not engaged with developments in Government strategy on energy and climate change. She refutes comprehensively the Applicant's claim (in Compulsory Acquisition Hearing 3, Session 4 and elsewhere) that it was adhering to Government policy when it chose Friston over alternatives because its lower construction costs outweighed its higher environmental and social impact. This misrepresentation of Government policy was also dealt with fully in AEPA's Deadline 8 submission

Dr Coffey emphasises the importance of the *Norfolk Vanguard* judgment in ensuring that Ministerial decisions on DCOs are compliant with the law, and makes plain that the Applicant is wrong to believe that the judgment is not germane to its applications. She confirms the predominant view that the applications do not take account of cumulative impact, and asks (as many other representations have asked) that the Applicant should reconsider the onshore aspects of its EA1N and EA2 applications.

Dr Coffey has asked for this reconsideration because, in her words, it would “help us fulfil the ruling given” in the *Norfolk Vanguard* judgment. By “us” she refers to the UK Government, as represented in this case by her Cabinet colleague the Secretary of State for BEIS, who must comply with the High Court ruling. The ExA will understand the significance of this request. The Applicant would be unwise to dismiss it.

6. Granting of qualified consent

Reconsideration by the Applicant would not prevent the Secretary of State from granting consent. But in the absence of adequate cumulative effects assessments such consent could only be qualified, as Dr Coffey suggests, by a distinction between the offshore and onshore aspects of the applications. The Secretary of State could fulfil the requirements of the High Court ruling by granting consent for their offshore elements, while rejecting the current onshore proposals in favour of an acceptable alternative proposal. Alternatives could include, as Dr Coffey described, “a grid connection which offers the capacity to integrate multiple projects without having a devastating impact on local communities and our precious landscapes”.

If the Applicant reconsiders and supports this approach, it will align its actions with the Government's emerging environmental and wind energy policy. If it does not, it is at risk of development consent being entirely withheld.

7. A comment on the Examining Authority's conduct

Since this may be AEPA's final written representation, we wish to record our thanks to the Chair and members of the Examining Authority for their consistent clarity,

courtesy, patience and fairness in their conduct of the examination – especially to those interested parties who, like AEPA, lack the Applicant's financial, legal and public relations resources.

Whatever the ensuing recommendation, we appreciate the scrupulous way the Authority has carried out its duties in often difficult circumstances.

Anglian Energy Planning Alliance June 28 2021