



# Sheringham Shoal and Dudgeon Offshore Wind Farm Extension Projects

The Applicant's Comments on Norfolk Parishes  
Movement for an Offshore Transmission Network  
Deadline 7 Submission

**Revision A**

Deadline 8

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<b>The Applicant's Comments on Norfolk Parishes Movement for an Offshore Transmission Network Deadline 7 Submission</b>	
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<b>Equinor</b>	
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## **1 The Applicant's Comments on Norfolk Parishes Movement for an Offshore Transmission Network Deadline 7 Submission**

1. Norfolk Parishes Movement for an Offshore Transmission Network submitted the following documents at Deadline 7:
  - Written Representation;
  - The Treasury Green Book; and
  - East Anglia Offshore Wind Project TWO Offshore Connections and Infrastructure Options Note.
2. This document presents the Applicant's comments on Norfolk Parishes Movement for an Offshore Transmission Network's written representation.

**Table 1 The Applicant's Comments on Norfolk Parishes Movement for an Offshore Transmission Network's Written Representation**

ID	Stakeholder Comment	Applicant Response
<b>WRITTEN REPRESENTATION - REFERENCE BY APPLICANT TO DRAFT NATIONAL POLICY STATEMENTS</b>		
1	Madam Chair, on behalf of the Norfolk Parishes Movement for an Offshore Transmission Network ("The Norfolk Parishes Movement") we wish to submit in writing the objection which we raised during the Issue Specific Hearing on 21st June 2023 in Norwich.	The Applicant refers to its response given during ISH7 and summarised at ID 9iv (H) within <b>Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 7</b> [document reference 21.3], where it highlighted that the draft national policy statements make clear that they are capable of being important and relevant considerations in the decision-making process by the Secretary of State under section 104 of the Planning Act 2008.
2	The Norfolk Parishes Movement wishes to formally complain that the Applicant has repeatedly made reference to the DRAFT Energy National Policy Statements during the course of its oral presentations to the ExA and also in writing, in particular in response to points raised by the Norfolk Parishes Movement (e.g., REP3-114) and others (e.g., REP4-041, REP5-055). It is our considered opinion that it is not appropriate for the Applicant to refer to a draft National Policy Statement for which the outcome of recent consultations is unknown and the text of which is subject to change by parliament. We further consider that the ExA should not be influenced by such draft documents or by arguments made which reference them.	
3	Our organisation is one of a number which have submitted a formal response to the consultation exercise regarding the energy National Policy Statements and run by the Department for Energy Security and Net-Zero.	
<b>WRITTEN REPRESENTATION - THE TREASURY GREEN BOOK</b>		
4	Madam Chair, on behalf of the Norfolk Parishes Movement for an Offshore Transmission Network ("The Norfolk Parishes Movement") we now provide further information relevant to the current examination of the SEP and DEP proposals.	The Applicant recognises that HM Treasury's The Green Book Guidance (updated November 2022) is commonly used in the appraisal of projects involving public funds. As stated in The Green Book " <i>The guidance is for all public servants concerned with proposals for the use of public resources, not just for analysts</i> " and that this includes public office holders. Expanding on the purpose of its guidance, The Green Book states " <i>Appraisal is the process of assessing the costs, benefits and risks of alternative ways to meet government objectives</i> ".
5	We refer to the Deadline 4 submission by The Norfolk Parishes Movement (REP4-054) which set out concerns over the legality of the approach taken by the Applicant, in conjunction with National Grid ESO and National Grid ET, in failing to properly disclose the alternative grid connection points considered for SEP and DEP and the evaluations	

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	carried out to determine Norwich Main as the chosen Grid Connection Point.	
6	We now present to you an additional formal opinion by Charles Banner, K.C. which has been prepared on behalf of the East Anglia Pylons Limited in relation to the Great Grid Upgrade Norwich to Tilbury Project (formerly the East Anglia GREEN project) proposed by NG ESO. It refers specifically to the applicability of the Treasury Green Book1 principles and since the Green Book publication was in force at the time of the submission of the DCO application for SEP and DEP, compliance with them should have been ensured by the Applicant.	However, the examination, recommendation and decision on an application for development consent for a Nationally Significant Infrastructure Project under the Planning Act 2008 does not amount to a decision to use of public resources, evident from the fact that DCO consented projects are only constructed where funding decisions to do so are made separately. It is a longstanding principle in planning that the financial aspects of development are not generally material considerations, except where specific provision is made, for example in paragraph 58 of the National Planning Policy Framework (under the Town and Country Planning Act 1990 regime), where viability is a consideration in proposed policy or planning application decisions involving contributions to meet plan requirements, such as for social housing. Under the section 104 of the Planning Act 2008 the Secretary of State <i>“must decide the application in accordance with any national policy statement which has effect”</i> and the Overarching Energy National Policy Statement EN-1 sets clearly limited criteria for any consideration of financial viability or appraisal, establishing this is <i>“unlikely to be of relevance”</i> and stating, in paragraph 4.1.9, that:  <i>“In deciding to bring forward a proposal for infrastructure development, the applicant will have made a judgement on the financial and technical viability of the proposed development, within the market framework and taking account of Government interventions. Where the [ExA/SoS] considers, on information provided in an application, that the financial viability and technical feasibility of the proposal has been properly assessed by the applicant it is unlikely to be of relevance in [SoS] decision making (any exceptions to this principle are dealt with where they arise in this or other energy NPSs and the reasons why financial viability or technical feasibility is likely to be of relevance explained)”</i> .
7	We recognise that the ExA will already be familiar with the Green Book principles, but we consider this Opinion is important and directly relevant to the current examination in respect of SEP and DEP for the following reasons: <ul style="list-style-type: none"> <li>• The Opinion comments upon the mandatory application of the principles in the Green Book to projects which involve the use of significant new and existing public resources. The SEP and DEP projects have already involved and, if approved, will in future require, the use of significant public resources and entail the provision of objective advice by public servants to decision makers.</li> <li>• This Opinion raises further concern about the CION process carried out by the Applicant, National Grid ESO and National Grid ET and whether it was conducted correctly.</li> </ul>	
8	It is apparent that the choice of the Grid Connection Point is fundamental to the way the SEP and DEP proposals have developed and it must therefore be based on sound costing and selection principles. We are aware from a previous CION report2 for an offshore windfarm that National Grid has used flawed Least Worst Regret analysis (see page 13) for determining costs comparisons. We consider it appropriate therefore an assurance is sought from the Applicant, National Grid ESO and National Grid ET that the evaluation of alternatives for the SEP and DEP CION process will be re-done using Treasury Green Book principles.	As evidenced in the Funding Statement [REP3-017], appraisal of the SEP and DEP project has been properly assessed and no evidence has been advanced to the contrary, nor to indicate why, outside of the policies of NPSs that have effect, appraisal as described in the Green Book would be an important or relevant matter, under the terms of the Planning Act 2008 (S104(2)(d)).

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9	<p>In making your recommendation to the Secretary of State on the suitability of the SEP and DEP projects we respectfully suggest that the ExA will wish to consider carefully the implications of this formal legal Opinion so that any decision made stands up to legal challenge.</p>	<p>Nor is it important or relevant to the DCO process to consider alternatives, except in defined circumstances, since the Examining Authority and the Secretary of State is required to determine the application which is before them. As stated in paragraph 4.4.1 of NPS EN-1 (emphasis added):</p> <p><i>“As in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. <b>From a policy perspective this NPS does not contain any general requirement to consider alternatives</b>”.</i></p> <p>The SEP and DEP application, where required, has therefore fully considered alternatives, as documented in, for example, Chapter 6.1.3 of the Environmental Statement [APP-089] and in the Habitats Regulations Derogation: Provision of Evidence [APP-063]. Such consideration, however, does not amount to, and there is no requirement within the DCO regime to carry out, the full <i>“process of assessing the costs, benefits and risks of alternative ways to meet government objectives”</i> which the HM Treasury Green Book defines as its role.</p> <p>The Applicant refers to its responses to Q2.2.2.1 within <b>The Applicant's Responses to the Examining Authority's Second Written Questions</b> [REP3-101] for further information regarding alternative grid connection points and the CION process.</p>