

Date: 12 November 2024
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Five Estuaries Case Team
Planning Inspectorate
Via Portal

Dear Case Team,

FIVE ESTUARIES OFFSHORE WIND FARM (EN010115)
SUFFOLK COUNTY COUNCIL (IP reference: 20049304)
SCC DEADLINE 3 SUBMISSIONS

Please find attached Suffolk County Council's Deadline 3 submissions. These consist of the following:

- 1) SCC D3 Issue Specific Hearing 3 Post-Hearing Submission
- 2) SCC D3 Issue Specific Hearing 4 Post-Hearing Submission

If I can be of any further assistance, please do not hesitate to contact me.

Yours faithfully,



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Suffolk County Council (20049304)

Issue Specific Hearing 3 Post-
Hearing Written Submission

Five Estuaries (EN010115)

Deadline 3

12 November 2024

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Glossary of Acronyms

<i>AIL</i>	<i>Abnormal Indivisible Load</i>
<i>AONB</i>	<i>Area of Outstanding Natural Beauty</i>
<i>CTMP</i>	<i>Construction Traffic Management Plan</i>
<i>DCO</i>	<i>Development consent order</i>
<i>EACN</i>	<i>East Anglia Connection Node</i>
<i>EA1N</i>	<i>East Anglia ONE North</i>
<i>EA2</i>	<i>East Anglia TWO</i>
<i>EIA</i>	<i>Environmental Impact Assessment</i>
<i>ES</i>	<i>Environmental Statement</i>
<i>ExA</i>	<i>Examining Authority</i>
<i>ExQ1</i>	<i>Examining Authority's First Written Questions</i>
<i>ISH</i>	<i>Issue Specific Hearing</i>
<i>LBBG</i>	<i>Lesser Black-Backed Gull</i>
<i>LIR</i>	<i>Local Impact Report</i>
<i>NSIP</i>	<i>Nationally Significant Infrastructure Project</i>
<i>OCTMP</i>	<i>Outline Construction Traffic Management Plan</i>
<i>SMO</i>	<i>Special movement order</i>
<i>STGO</i>	<i>Special type general order</i>
<i>VE</i>	<i>Five Estuaries Offshore Wind Farm</i>
<i>WTG</i>	<i>Wind turbine generator</i>

"SCC" refers to Suffolk County Council.

Purpose of this Submission

The purpose of this submission is to provide a written summary of representations made by Suffolk County Council (SCC) at Issue Specific Hearing 3 (ISH3) held on 29 and 30 October 2024. Examination Library references are used throughout to assist readers.

Item	Suffolk County Council’s Summary of Oral Case and responses to questions	References
1	Welcome, introductions, arrangements for the Hearing	
	<p>Suffolk County Council were represented by the following team in person:</p> <ul style="list-style-type: none"> - Michael Bedford KC, Barrister, Cornerstone Barristers - Isaac Nunn, Senior Planning Officer (NSIPs), Suffolk County Council - Zachary Farndon, Planning Officer, Suffolk County Council - Clara Peirson, Graduate Project Officer, Suffolk County Council 	
2	Purpose of Issue Specific Hearing 3	
	SCC did not make any representations on this Item.	
3	Matters for discussion at this Hearing	
3.1	Effects for Farming	
	SCC did not make any representations on this Item.	

3.2 Effects for Socio economic and residential living conditions	
	<p>During discussions on fishing matters, the Applicant stated that they are seeking consent to have a range of options in terms of turbine numbers and turbine sizes, rather than consent to pursue a scheme with either 41 large or 79 small turbines. SCC sought clarification regarding the matter at this time, as although SCC has no issue relating to commercial fishing, there are wider implications of this point for matters which do concern SCC.</p> <p>Paragraph 1.5.8 of the Applicant’s Offshore Project Description in Part 2 Chapter 1 of the Environmental Statement (ES) [APP-069] states:</p> <p><i>“Up to 41 large or up to 79 smaller WTGs are planned for VE. A range of WTG models will be considered; however, they are all likely to follow the traditional WTG design with three blades and a horizontal rotor axis.”</i></p> <p>This is followed by Table 1.8: Design envelope for WTGs. This table sets out parameters. The first row is number of WTGs, and the design envelope is small WTG with an entry of 79 and large WTG with an entry of 41. So, whilst clarification is always helpful, in fairness not only to the question asked of the Applicant on this matter by the Examining Authority (ExA), but also to our understanding, there is certainly some of the Applicant’s material which did appear to indicate that it was a straight choice. Certainly, that was also our understanding of the oral exchanges during ISH1 and ISH2.</p>
3.3 Effects for Navigation and Shipping	
	<p>SCC did not make any representations on this Item.</p>
3.4 Effects for Landscape, Visual and Seascape	
	<p>SCC notes that the Seascape landscape visual assessment is concerned with the taller wind turbine generators, and that they have been assessed on the basis that there would be no more than 41 such turbines. It is therefore important to ensure that that upper parameter is secured in the development</p>

	<p>consent order (DCO) or a control document. SCC is currently in dialogue with the Applicant on this issue, which has so far been productive, and SCC is awaiting some further information from the Applicant, particularly on how the upper parameter of the swept path of the rotor area impacts on the ability to have a particular number of turbines. SCC notes that this parameter has not been changed to reflect the reduced maximum height of the WTGs (370m), which leads SCC to question whether it was calculated by reference to 41 taller WTGs or 79 smaller WTGs (or some other number of WTGs) or on some different basis altogether. SCC thinks it would be helpful to the Examining Authority to allow that informal dialogue to carry on, because it will hopefully lead to either a common position being reached or at least a very narrow area of disagreement.</p> <p>SCC’s assessment based on the material that has been presented in terms of the seascape and visual impacts of the different permutations of the arrays, is that the lesser number of the larger turbines is likely to represent the worst case, and that therefore should be the outer limits of the assessment. SCC is particularly concerned about the impact on the national landscape of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (AONB), which is within SCC’s administrative area. As SCC has said in its relevant representations [RR-107] and local impact report (LIR) [REP2-046], whilst SCC has assessed that in both main scenarios – both up to 41 larger turbines and up to 79 smaller turbines – the impacts would fall below the level of a significant adverse effect in environmental impact assessment (EIA) terms, SCC does not consider that that is sufficient to support a conclusion that either would therefore be acceptable. SCC makes this point in the context of the national landscape, where SCC considers that the obligation, in both policy and in legislation, is to minimise harm and to compensate for any residual harm. SCC set out in section seven of its local impact report [REP2-046] its full comments in relation to that (see paragraphs 7.26 and 7.33 to 7.37). But SCC considers that leaving both a more harmful and a less harmful option on the table would not fulfil the objective of minimising harm and therefore will require a specific justification. SCC is not claiming dogmatically that it is not possible for such a justification to be provided. Rather, SCC does not consider that in the material that the Applicant has thus far provided, that there has been an adequate justification. Even if such a justification were to be provided. SCC contends that there will be residual harm no matter whichever permutation comes to fruition, though to varying</p>	
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<p>extents. This residual harm will require compensatory measures so that the Applicant, and in due course, the Secretary of State, are able to satisfy the new positive duty now to be found in section 85 of the Countryside Rights of Way Act, 2000. SCC recognises that the Applicant has not yet been able to respond to SCC’s LIR or its responses to the Examining Authority’s First Written Questions (ExQ1) but looks forward to these responses and will review its position accordingly.</p> <p>In relation to lighting, SCC recognised during the hearing that the impact would likely be greater, especially at nighttime, in the scenario of smaller and more numerous turbines, but maintained that the scenario with fewer, taller turbines represents the overall worst-case scenario in SCC’s view.</p> <p>Regarding cumulative effect assessment of the visual impact of the onshore substation, SCC made the point that all relevant aspects of the Norwich to Tilbury project, including the East Anglia Connection Node (EACN) and associated pylons, should be accounted for in the assessment to preserve the integrity of the Rochdale envelope as required by EIA policy and legislation.</p> <p>SCC has addressed the new statutory duty which requires statutory bodies to seek to further the purposes of designated landscapes in its local impact report but has also addressed it specifically by volunteering an answer to question SLV.1.04. SCC apologises for the fact that in its response to the ExQ1 [REP2-047] question SLV.1.04 is wrongly referenced as SLV 1.01, but it is hopefully clear from the content that question SLV.1.04 was being addressed. That answer details both the nature of the statutory duty and what SCC thinks it entails.</p> <p>In its response to ExQ1 SLV.1.04 [REP2-047], SCC has referred to the one example of a project which had to meet this strengthened duty which is the Sheringham and Dudgeon Extension Projects. SCC does not consider that as matters stand, all possible steps have been taken by the Applicant to further the purposes of the national landscape. Of course, SCC recognises that it is not an absolute duty, but</p>	
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<p>nevertheless, SCC claims that it is not good enough for the Applicant to say that that there will inevitably be adverse impacts from an offshore wind farm on a national landscape, and so nothing more should be done. It is incumbent on the Applicant to do that which is practicable, both to minimise those impacts and therefore to conserve natural beauty, or where it is not possible to minimise any further because of operational or other constraints, then for the Applicant to see what can be done to offset the residual harm by enhancing the natural beauty of the national landscape, which can be achieved by undertaking, or contributing to undertaking, initiatives within the national landscape that would serve to enhance its natural beauty. Whilst SCC is not claiming that this duty is one of the most important aspects of a ‘showstopper’ to the making of a development consent order, SCC does see it as very significantly raising the bar in terms of what is acceptable due to the difference between the current and former wording of the duty, which has changed to a new positive duty, which places obligations both on the statutory undertaker and on the decision maker to be satisfied that as much as practicable has been done to further the purposes of the natural beauty of the national landscape. SCC is looking for a recognition from the Applicant that it needs to do more than it has previously done, and that it needs to engage primarily with the partnership through the management plan for the national landscape to see what practical measures can the Applicant either take or contribute towards, which would achieve the objective of offsetting the residual harm, and so showing that they have indeed sought to further the purposes of conserving and enhancing natural beauty. SCC is looking for some movement from the Applicant side rather than a disinclination to engage, which seems to be the current position.</p> <p>SCC made the following point in relation to the Applicant’s suggestion that there are no residual impacts on the national landscape from the proposal. It is important to distinguish between impacts for the purposes of environmental impact assessment and likely significant effects and impacts for the purposes of affecting the national landscape for the purposes of discharging the new statutory duty. SCC did not understand the Applicant's material to be suggesting that there are no residual impacts; rather, that the Applicant has graded all residual impacts as being below the level of likely significant effect. It may be that the difference in positions is due the interpretation of the nature of the new statutory duty, but SCC does not see that duty as limited to only considering likely significant effects in EIA terms. SCC will see what the</p>	
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	<p>Applicant says in its post hearing submissions on that point, but SCC may need make some further submissions in due course, because that may be where there is an area of difference in interpretation of the statutory duty. Of course, not yet being assisted by the Secretary of State having issued any guidance in relation to that matter is what can give rise to issues of interpretation such as what may be the case here.</p>	
<p>3.5 Effects for Onshore Ecology</p>		
	<p>SCC did not make any representations on this Item.</p>	
<p>3.6 Effects for Offshore Ecology</p>		
	<p>SCC identified in Section 6 of its LIR [REP2-046] the issue raised in the German Federal Maritime and Hydrographic Agency’s Relevant Representation [RR-035] in relation to the Nathusius’ pipistrelle bats and their migratory patterns. SCC acknowledges that the Applicant has not yet responded to SCC’s LIR, as this will follow at Deadline 3, but the Applicant has responded to the German Federal Maritime and Hydrographic Agency’s Relevant Representation in Section 4.3 of REP1-050. This broadly reflects the Applicant’s oral representations in ISH3, in that the Applicant suggests that there is no need to provide any mitigation. However, at the moment, SCC has not seen any specific reference from the Applicant to the material SCC refers to in its LIR [REP2-046, section 6], notably the Offshore Energy Strategic Environmental Assessment 4 and its reference to the Borselle Offshore Wind Farm which adopted, on a precautionary basis, a reduction in turbine speeds. SCC also notes that in order for the Applicant to justify its position that the area is not of a high concentration of bats, the Applicant has put forward material from an earlier study which does not directly relate to the location of these turbines, rather to the north-east of that. So, whilst inferences can be drawn, there is not a clear evidence base. SCC considers that some of the Applicant’s comments indicate that it considers that the onus of proof to show that there is an adverse effect is on other people, before the Applicant needs to do anything. SCC does not consider that this is consistent with the precautionary principle. SCC would therefore echo remarks made during ISH3 by the</p>	

	<p>ExA regarding seeking engagement from Natural England, noting their present attempt to pass the buck, as it were, because it was not their point. SCC would certainly wish to see something more coherent from the Applicant in terms of showing that the risk raised by the German Federal Maritime and Hydrographic Agency is a risk that either can be properly discounted on the basis of robust evidence, or that on a precautionary principle approach that a mitigation measure is brought into effect to deal with it. SCC considers this matter to have not been adequately addressed thus far.</p>	
<p>3.7 Effects for Terrestrial Traffic and Transportation</p>		
	<p><u>Control documents</u></p> <p>It remains of concern to SCC as to the approach that's been taken to the assessment of terrestrial traffic as now set out in the updated chapter eight of the Environmental Statement, in [REP1-018], but noting that the following position has not changed from the application version. Paragraph 8.1.1 makes it clear that the focus has been on traffic to and from the onshore elements of the project, and not all traffic, including that required to construct and service the offshore elements. SCC touched on this at ISH1, and notes that the examining authority initially had a question TT.1.01 in the initial draft of ExQ1, but that then was superseded on the basis that the Examining Authority considered that that had been addressed through what the Applicant had provided. After looking at what the Applicant has provided since, and during ISH1, SCC remains concerned that whilst the Applicant has said that there won't be any material impacts on the local road network within Suffolk, there are not measures in the control documents to deliver that outcome. The Applicant may be correct in claiming that if things happen as has been assessed, then there would not be concerns in terms of impacts on the Suffolk local highway network and that traffic would either stay within Essex or be using the strategic road network and so not of concern to SCC. The problem is that the message in the supporting documents is not carried forward into the control document. SCC can accept the Applicant's approach, if there are control measures to deliver that approach. Given the current stage of the examination, SCC does not suggest that further assessment work needs to be done, instead, SCC would like to see the Applicant's approach delivered in the control mechanisms.</p>	

SCC has specified what details it expects in relevant control documents in its LIR, including the following examples. As stated in paragraphs 8.13 to 8.23 of SCC's LIR [REP2-046] regarding Abnormal Indivisible Loads (AILs), SCC is looking for some assurance that the Applicant is going to deliver on what has been said in such documents as [REP2-029] regarding AILs, and also in relation to traffic associated with ports. SCC has indicated a request for a port construction traffic management plan. SCC also considers that there needs to be reference to the Lesser Black-Backed Gull (LBBG) compensation area works. In the supporting material, there is reference to the limited time duration of those works which is nowhere then reflected in the Construction Traffic Management Plan (CTMP). SCC has made this point in more detail in its response to question TT.1.01 of ExQ1, and in paragraphs 8.9 and 8.24 of its LIR [REP2-046], which also include a request for details regarding the logistical plans of the Orford Ness works to be included in the CTMP, so that SCC is assured that there are no adverse impacts resulting from these works and that relevant policies from local plans are adhered to, such as Policy SCLP3.4, Policy SCLP7.1 and Policy SCLP7.2.

In response to the Applicant's position that such changes are unnecessary due to the small scale of the works in Orford Ness, SCC indicated that it is SCC's responsibility to ensure that there are no unnecessary impacts arising from this project, and that relevant development plans, such as those previously listed, are followed. As stated in paragraphs 8.9 and 8.24 of its LIR [REP2-046], SCC is concerned that unnecessary impacts may arise due to a lack of reference in the Outline Construction Traffic Management Plan (OCTMP), such as parking on public roads during peak visitor periods and placing an unnecessary amount of welfare and storage facilities in unsuitable locations. There are also risks of unforeseen unnecessary impacts arising if there is not adequate foresight and planning, such as being unable to use the ferry to cross to the site and causing vehicles to be parked in unsuitable locations such as public roads. Of course, SCC is aware that the volume of activity is expected to be low, but SCC's role in minimising impacts for Suffolk is such that there is a need, if the Applicant is right that it's not going to involve many weeks of work and not many vehicles, for that to be secured through the Construction

<p>Traffic Management Plan. It is also important for logistical details to be given in a relevant control document so that SCC can be assured that the works are well-thought out and impacts are foreseen and minimised. SCC is concerned that the Applicant is not prepared to commit to the proposition that the works will be of the limited scale specified by the Applicant. If the Applicant is prepared to commit to that, then SCC can agree that the impact will be likely to be negligible, but there is no control document that limits the Applicant either to the numbers of persons, provision of parking, implementation of welfare facilities or duration that have been referred to.</p> <p><u>Traffic and transport assessments</u></p> <p>SCC has some outstanding queries regarding the assessment of cumulative impacts of onshore traffic. SCC provided a response to the Examining Authority in its response to question TT.1.03 from ExQ1 [REP2-047] on this matter. Whilst the assessment has included reference to East Anglia TWO (EA2) Offshore Wind Farm, and that is referred to in Table 8.45 of Section Eight of the transport chapter of the ES, there is no reference to its parallel project, which is East Anglia ONE North (EA1N) which was consented at the same time. At the time of speaking, it was not clear to SCC whether both projects have been accounted for or not. The Applicant's response provided some clarity in that EA1N is included in the data stated as EA2. The Applicant has agreed to update the relevant documents which includes stating that the EA1N project has been included within the cumulative impact assessment, which should resolve this concern.</p> <p>Secondly, SCC has not seen a reason for not including other projects in the cumulative effects assessment. These include the Bramford to Twinstead grid reinforcement, which runs from the outskirts of Ipswich to the outskirts of Colchester, Essex. This project was approved as a development consent order in September of this year. SCC has not seen a reason explaining why tier two projects have been excluded as well, including Sealink, Lion Link and the Nautilus interconnector. which effectively either have landfalls in the vicinity of VE and then cable corridors or similar. SCC considers that there's a need to at least explain why they're not in a cumulative impact assessment, and potentially there's a need to bring them into a cumulative impact assessment, as SCC set out in response to ExQ1 [REP2-047]. SCC</p>	
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appreciates that the Applicant will respond to these issues regarding the cumulative impact assessment of onshore traffic in writing. SCC will review its position once this has been published.

In relation to those projects where the Applicant says there may not be traffic data available. SCC believes that it is a question of it's a moving feast in a sense that those are projects which are progressing through the pre-application processes, and more data may become available during the examination. So, it may be necessary to check periodically for such data which could feed into a cumulative assessment. It may be that there is nothing more that could be done at this stage, but it's a matter that needs to be kept under review.

AILs

The technical note on AILs [REP2-029] is helpful in terms of the information that it provides, but it does not seek in any way to function as a control document. Whilst it seems to be giving the message that there would be no expectation of utilising the Suffolk local road network, that is not explicitly stated in the document. For example, paragraph 2.2.3 that recognises that the large electrical equipment could come via the strategic road network and not be limited to Harwich. And so, then there's a question of where they will come from to access the strategic road network. Additionally, paragraph 4.3.2 notes that in relation to the cable drums, which would be category three, the largest category of the special type general order (STGO), it says they could arrive from the A12. Again, there is an issue as to what is happening to them before they get to those parts of the A12. If there are clearly written controls in the control documents, which make it clear that AILs are not going to be utilising Suffolk's local highway network, which is SCC's responsibility, then SCC would have no concerns. But the Applicant does not seem to want to commit to this, despite what it describes its intentions to be. SCC wants to see more assurance and delivery so that SCC can be confident that there will not be those impacts through AIL movements on the Suffolk local highway network.

In response to SCC's position, the Applicant viewed this position as unreasonable due to its restrictive nature, and so claimed that it infringes upon the Applicant's desire for flexibility regarding the potential

<p>routes for AILs. This position is also echoed in [REP2-029], which contains implications that the Applicant may not use the Port of Harwich despite it being the Applicant's primary choice of route. SCC went on to clarify that if the Applicant wishes to maintain this flexibility, then it must commit to assessing the suitability of AIL routes from Suffolk, just as it has done with the AIL route from the Port of Harwich, so that SCC, as the relevant local highway authority, can be satisfied that potential routes, as they relate to Suffolk, are fit for purpose.</p> <p>What SCC wants to see made explicit in the CTMP is what in theory ought to be implicit if it is the case that the Applicant is not intending AIL movements on the Suffolk highway network and so has not assessed the suitability of that network for that traffic; namely, that there will not be AIL movements using the local highway network within Suffolk. If that is the Applicant's intention, it's actually very easy to write that into the documentation. But at the moment SCC doesn't see that it is written in in a way which is explicit and therefore SCC continues to have a concern.</p> <p>It is the case that the Applicant hasn't assessed the suitability of routes within Suffolk in terms of their suitability to cater for AILs. There is certainly a particular corridor, the A137 south of Ipswich, which is a particular concern, but there are also other routes within Suffolk which are sensitive, which SCC would not wish to see being used without there being a proper assessment of them. And since the Applicant hasn't assessed them, SCC considers that if the Applicant wants to continue with the position that they don't require to be assessed, then it follows that there needs to be a control in the CTMP which ensures that AILs do not utilize the local highway network in Suffolk.</p> <p>The Applicant fully accepts that in relation to the one port that it has identified as the primary arrival port for particular AILs, which is Harwich, that it needs, if it is to utilize that port, to ensure that the highway network that connects that port to its centre of construction activities is suitable for the purpose. The Applicant doesn't seek to advance a proposition that any traffic that goes into Harwich is within the</p>	
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<p>capacity of Harwich and therefore, it is of no account. The Applicant recognises that in relation to that it needs to carry out the assessment work, and SCC sees no reason why this should not apply if the Applicant decides to use a Suffolk port. This point also applies to the Norfolk port of Great Yarmouth, since the construction sites are effectively only accessible from Great Yarmouth using Suffolk's local highway network. Moreover, the A12 to the north of Ipswich is not part of the strategic road network; rather, it is part of SCC's local road network. This issue is not one of what traffic can the <i>port</i> accommodate; instead, once one has left the environs of the port, the only place one goes to is the local highway network in order to reach the strategic road network, which explains why it is of concern to SCC as the relevant local highway authority.</p> <p>SCC echoes the ExA's observation that there is a cumulative issue from the number of Nationally Significant Infrastructure Projects (NSIPs) happening within or adjacent to Suffolk, which may also generate a need for abnormal indivisible loads. SCC does not see it as unreasonable to request that if the Applicant wishes to continue with the approach that its AILs would not utilise the local highway network in Suffolk, then it needs to be secured through a control document. Alternatively, if the Applicant wishes to maintain the flexibility or the fallback of potentially utilizing the local road network in Suffolk for abnormal indivisible loads, then there ought to be an assessment of the suitability of those roads. SCC identifies several potential issues regarding suitability, including the A137 south of Ipswich which has particular constraints, and so certain routes may be excluded as a result of assessments. Either way, if the Applicant wants to maintain the flexibility of potentially using Suffolk's ports, then there ought to be an assessment of the suitability of that for abnormal indivisible loads. SCC is happy to explore the debate and discussion on that through the Statement of Common Ground, but that might be a way of taking the disagreement out of the examination room and into meeting rooms elsewhere, because at the moment there does not seem to be a common meeting of minds.</p> <p>SCC is not necessarily requesting the Applicant to carry out assessments of possible AIL routes in Suffolk during the period of examination. Rather, SCC is asking that the Applicant commits to the following: once the Applicant becomes aware that it is likely that AILs will be transported through a port in Suffolk or otherwise use the Suffolk road network, and sufficient information on the likely location of origin is</p>	
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<p>available, it will assess the suitability of possible routes and conclude on which should be used, in collaboration with SCC, ensuring impacts are mitigated, before applying for approval for the particular AIL movement. This point should be seen as a natural extension of paragraph 2.3.5 of the updated OCTMP [AS-055], which says that impacts from AIL movements will be minimised. SCC believes that relevant assessment and collaboration are necessary to achieve this, as the Applicant has recognised in the case of the Port of Harwich being the location of origin for AILs, if the Suffolk local road network is to be used to transport AILs. Otherwise, there is a non-negligible chance that there will be unforeseen impacts, many of which are explored in this document, such as disruption, use of unsuitable structures, damage to street-furniture and others. The earlier this process begins, the more effective collaboration with SCC is likely to be. SCC intends for this point to extend to STGO category AILs, as it justifies in the following paragraphs.</p> <p>SCC (via Cascade) is responsible for confirming if AILs can safely pass over highway structure, such as by considering weight. Suffolk Constabulary are responsible for checking the load can navigate the route in terms of width and length although SCC assists in moving or removing highway infrastructure as necessary to accommodate.</p> <p>This preliminary work is necessary so that the Applicant can secure any additional land needed for improvement or oversailing to enable the load to pass at this stage. Not to do so could lead to a situation like which occurred for the Progress Power site where the load had to oversail and in one case traverse private land where the right to do so had not been secured in DCO, so the right had to be acquired through negotiation. Failure to secure these agreements could have left the applicant with no viable route for the load.</p> <p>It is important to reiterate that the categories of AILs SCC is concerned with includes STGO AILs which may utilise the Suffolk local highway network on behalf of the Applicant, not just transformers. This includes cable drums, of which there are 560-580 planned, and shunt reactors [REP2-029, table 1]. As the relevant local authority for the Suffolk road network, SCC must fulfil its statutory duty of ensuring the integrity of the road network is maintained and any adverse impact is assessed and mitigated. Since the Applicant has made it clear that it does not want to remove Suffolk ports as a possible route of origin for</p>	
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	<p>all the STGO AILs it wishes to transport as part of the project, proper assessment of possible routes and, where practicable, mitigation, is required by SCC in order for it to fulfil its aforementioned statutory duties as the relevant local highway authority. This point is especially pressing for cable drums, as these do not require a special movement order (SMO), and so could travel on Suffolk roads without any input from SCC.</p> <p>Moreover, the Applicant must be made aware there are a number of structures that have weight limits preventing both SMO and STGO 1, 2 or 3 movements on certain routes. Some of these are due to gaps in inspection and review of the structures but some are due to physical deterioration. An example in the press now is the A1088 bridge between Elmswell and Ixworth which was found to be weak requiring an emergency weight limit to be applied pending rebuilding that is ongoing now. Both the weight limit and reconstruction have caused significant disruption in the area. It is issues such as these which can be avoided by sensible routing via assessment and dialogue with relevant authorities, as the Applicant has done in the case of Harwich, and so demonstrates the importance of such activities.</p> <p>Since the hearing, SCC has noticed that in its technical note on AILs [REP2-029, table 1], the Applicant has omitted values, both for weight and quantity, regarding construction equipment AILs. Some clarification on the possible ranges for these values, as the Applicant has provided for the rest of the AILs needed for the proposed development, would be helpful to SCC to manage adverse impacts, including cumulative ones, arising from AIL movements, if the Applicant ends up using Suffolk roads to move AILs.</p> <p>SCC has also noticed that table 1 in the Applicant's technical note on AILs [REP2-029, table 1] measures movements as opposed to deliveries, meaning that one AIL delivery generates two movements. In the case of transformers, the Applicant states that there will be between two and four movements. Yet, in the updated OCTMP [AS-055, paragraph 2.3.3], the Applicant claims that there will be between two and four transformers, meaning that there will be between four and eight movements generated by transformers. Some clarification from the Applicant on this discrepancy would be appreciated by SCC.</p>	
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Port construction traffic management plan

SCC considers that the Applicant is misconceived in its approach regarding a port construction traffic management plan. The starting point is in the 2017 environmental impact assessment regulations. In schedule four, paragraph five, there is a requirement on the Applicant to include in the environmental impact assessment an assessment of the effects of the project, which should include the direct effects, the indirect effects, the secondary effects, and so on. The Applicant is not able to say that the traffic, which is associated both with its construction activities and with its operational activities, is not an effect of the proposal. Therefore, in principle, those effects both should be assessed and then to the extent that they give rise to any material impacts, they should be mitigated.

What the Applicant is suggesting is effectively a substitution argument, in which it agrees that it is having an effect but is substituting for something that would otherwise happen. That needs to be demonstrated if the Applicant is to assert that there is no net effect on a highway network, which has not been done. The purpose of a port construction traffic management plan is not simply to regulate activities within the port; rather, it is concerned with the interface between the port and the wider highway network. It is not clearly unprecedented, as identified in SCC's local impact report. The offshore wind farms that East Anglia ONE North and East Anglia TWO, which in overall terms are not dissimilar projects in that they are offshore in the North Sea, providing a series of wind turbines which then have to be constructed and then must be operated and maintained. In these cases, there was neither not any issue raised by the promoters of those projects, nor by the examining authority, nor by the Secretary of State in approving those requirements with the principle of a port construction management plan. It is not a relevant consideration in determining as to whether this traffic is an effect of the development or not to ask whether that traffic requires any separate development to be carried out within or around the port. That is not the test of whether something is a direct or indirect effect of the proposal. The extent of the traffic generated needs to

	<p>be assessed, and to the extent that it has material impacts, it needs to be mitigated. So, SCC considers that there is a need for such a plan.</p> <p>The position is compounded in this case because the Applicant has not settled on a port that it would use, leaving aside the reference to Harwich. So, the Applicant is not able to say, as it has done in its written submissions [REP2-026] that whatever the traffic effects are, they necessarily sit within the umbrella of the original consent for that board port because they may or may not do. This is the case because one simply does not know which port one's talking about. Some of these ports clearly have a great deal of back history. SCC suspects that many of them don't have an up-to-date planning permission which regulates them because of that back history. So, SCC continues to consider that there is a need for a port construction traffic management plan due to its view that the Applicant's approach is misconceived. SCC hopes that with sensible dialogue, an agreed position can be reached.</p>	
<p>4 Any other business</p>		
	<p>SCC did not make any representations on this Item.</p>	
<p>5 Review of matters and actions arising</p>		
	<p>SCC did not make any representations on this Item.</p>	
<p style="text-align: center;">Close of ISH 3</p>		



Suffolk County Council (20049304)

Issue Specific Hearing 4 Post-
Hearing Written Submission

Five Estuaries (EN010115)

Deadline 3

12 November 2024

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Glossary of Acronyms

<i>CTMP</i>	<i>Construction Traffic Management Plan</i>
<i>(d)DCO</i>	<i>(draft) Development Consent Order</i>
<i>ExA</i>	<i>Examining Authority</i>
<i>ISH</i>	<i>Issue Specific Hearing</i>
<i>LIR</i>	<i>Local Impact Report</i>

<p><i>WTG</i> <i>Wind turbine generator</i></p> <p><i>“SCC” refers to Suffolk County Council.</i></p>

Purpose of this Submission

The purpose of this submission is to provide a written summary of representations made by Suffolk County Council (SCC) at Issue Specific Hearing 4 (ISH4) held on 31 October 2024. Examination Library references are used throughout to assist readers.

Item	Suffolk County Council’s Summary of Oral Case and responses to questions	References
1	Welcome, introductions, arrangements for the Hearing	
	<p>Suffolk County Council were represented by the following team in person:</p> <ul style="list-style-type: none"> - Michael Bedford KC, Barrister, Cornerstone Barristers - Isaac Nunn, Senior Planning Officer (NSIPs), Suffolk County Council <p>Attending colleagues were supported by the following team virtually:</p> <ul style="list-style-type: none"> - Clara Peirson, Graduate Project Officer, Suffolk County Council 	
2	Purpose of Issue Specific Hearing 4	
	SCC did not make any representations on this Item.	

3	Matters for discussion at this Hearing	
3.1	Discussion of the draft Development Consent Order (dDCO), involving the Applicant and other Interested Parties, including:	
	<p>a) The Applicant’s explanation of any substantive changes made to the dDCO and Explanatory Memorandum submitted at either Examination Deadlines 1 or 2, most particularly with respect to the proposed Articles and Schedules 1 (Authorised Development) and 2 (Requirements)</p> <p>SCC did not make any representations on this Item.</p> <p>b) Any local authority comments concerning the drafting of the proposed Articles and Schedules 1 and 2</p> <p>Suffolk County Council (SCC) set out some observations on provision for fees for discharging authorities in Part 2 of Schedule 2 to the draft DCO [REP1-009], noting that these observations were based on our general experience of discharging requirements of a number of DCOs, rather than a request for changes because SCC would not be the discharging authority for any of the requirements of this DCO.</p> <p>Suffolk’s general experience in relation to fees indicates a strong preference to see them dealt with by a planning performance agreement, which allows more flexibility for an appropriate recompense for the work done. But it is also SCC’s experience that, whilst it’s not unknown for made orders to include reference to the Town and Country Planning Act fees regulations, that is very much only a proxy. Those fees regulations were not drafted on the basis that they were intended to cover development consent order (DCOs) discharge of requirements. It is also SCC’s experience that depending on the nature of the project, there can be an enormous amount of work involved in the discharge of DCO requirements, which tends to lead SCC to encourage bespoke arrangements, such as planning performance agreements, to cover the costs, rather being capped at what is effectively an arbitrary figure, which was produced by the regulations for a different purpose. SCC is not the discharging authority, so made this general point from</p>	

<p>its experience. But were SCC to be the discharging authority in this case, SCC would not be content with the terms of article five so far as the rate of fees. SCC also would not be content with the idea in paragraph 5(2) of Part 2 of Schedule 2 that if an Applicant submits an application which is rejected as being inadequate or invalid, then the fee is returned to the Applicant, since such a conclusion is only reached after spending time going through the application by the relevant local authority. It seems unjustified to expect the Applicant to have its fee returned for having submitted something that was not fit for purpose.</p> <p>At issue specific hearing two (ISH2), SCC set out some particular concerns about the scope of the development and also the timing of aspects of the work, and those particularly relate to the wind turbine generators, both the issue as to their dependency on the East Anglia Connection Node substation (EACN) for their practical utility, and the issue as to the height of turbines and the numbers of turbines, and whether there should be a choice retained within the order for the applicant to choose. SCC made those concerns in the context of impacts on the national landscape of the offshore wind turbines. SCC suggested at ISH2 and in the post hearing submissions [REP1-071], how those issues could be addressed via the addition of requirements to schedule two dealing with phasing and dealing with the Applicant's choice. SCC has not thus far put forward precise wording for those changes, and made an inquiry for the examining authority (ExA) to consider what procedural avenue such wording should be submitted by, whether through post hearing submissions, written questions or some other form. SCC will respond in due course to any Examining Authority's Question or other request for information that may come forward.</p> <p>SCC also had a question of the scope of works in terms of the choice between the large turbines but a lesser number and the smaller turbines but a greater number and as to whether that choice should be left open to the applicant or actually the development consent order should settle on what is the least harmful of the options, and only if an order were to be made authorise that least harmful one.</p> <p>SCC understands the Applicant's point that offshore wind farm developments typically consent a range of options 'up to' a worst-case scenario. What is unusual about this project is that the Applicant has put</p>	
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<p>forward upper limit parameters in Table 1 of Part 1 of Schedule 2 but has not assessed the worst cases all of its parameters, in that for the tallest wind turbine generators (WTGs) (now 370m) the Applicant has only assessed a maximum of 41 WTGs but the Applicant also wants the flexibility to provide up to 79 WTGs if they are smaller in height (up to 324 m). These two different limits for the number of WTGs (the 41 WTGs not currently being adequately secured) means that there are two cases are similar but not identical in terms of harm caused to a designated landscape which is subject to the enhanced duty to seek to further the purposes of conserving and enhancing the natural beauty of the area of outstanding natural beauty. There are two issues here. The first is that if 41 taller WTGs is the worst case that has been assessed, then it is necessary to ensure there can be no more than 41 taller WTGs provided and yet the parameters in Table 1 do not yet (explicitly) secure that outcome. The second is that if the objectives of the project can be effectively delivered by 79 smaller WTGs, there is, as matters stand, no persuasive case for causing greater harm to the national landscape by consenting 41 taller WTGs.</p> <p>Dialogue is underway between SCC and the Applicant on more detailed points regarding the calculation of the Table 1 parameters. SCC will update the ExA in due course.</p> <p>SCC reiterated several points which it raised during ISH2, which were reflected in its post-hearing written submissions [REP1-071], which have since not been addressed by the Applicant, nor reflected in updates to the draft DCO. These concern two matters on the issue of consultation regarding requirement seven in relation to the construction traffic management plan (CTMP) and requirement 16 in relation to the skills and employment strategy. For different reasons for each issue respectively, SCC considers that should be consulted, and so be named a statutory consultee by the discharging authority on the discharge of those requirements in relation to those documents, due to the potential of those plans to have impacts on Suffolk. These impacts concern both the local highway network, so far as requirements seven and the construction traffic management plan is concerned, and aspects of Suffolk's economy, so far as the wider skills and employment initiatives which are both intended to cover Essex and Suffolk are concerned. So, SCC considers that it should be consulted, but that should be by the discharging authority, not merely</p>	
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<p>during any prior engagement between the Applicant and the local authorities, because it is important that the public authority responsible for discharging is able to take into account SCC's consultation responses.</p> <p>In relation to requirement 16, which is the skills and employment strategy, the discharging authority would be Tendring District Council as the relevant planning authority, and SCC would suggest that they may not necessarily have the widest handle on county wide initiatives in Suffolk, where there's a number of development consent order projects which have either been approved or are in the process, which will also have employment and skills initiatives. As stated in SCC's representations, with the most detail and justification given in section 9 of its local impact report (LIR) [REP2-046], there is a need for a coordinated and coherent delivery strategy.</p> <p>SCC would further note that it would be helpful to be a consultee named in the requirement, rather than on the basis of a tacit agreement with the discharging authority, because it would engage the relevant provisions of Part 2 of Schedule 2 in relation to requests for information and appeals. This would ensure that any request for information by consultees is dealt with appropriately, as well as bind SCC to appropriate timescales to provide a response.</p> <p>There is also a separate matter in relation to requirements, which does not yet have a number at the moment, and which was debated at some length in ISH3. This new requirement requested by both SCC and Essex County Council is one for a port construction traffic management plan. SCC still see that as something which is needed. Were it to be something that the examining authority share our concerns about, then it would need to either be its own requirement, or it would be a plan that could be added into the management plans in requirement seven. Requirement 7 already sets out a list of management plans that must come forward, and adding a port construction traffic management plan to that list may be an equally convenient way of dealing with it.</p> <p>To summarise SCC's position regarding the DCO, there are those two wider issues about the framing of the nature of the development, where SCC would certainly welcome some guidance if the examining authority felt able to give it about procedurally, how timing wise, the examining authority would like that to</p>	
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<p>be dealt with. Secondly, there are those more specific matters on the wording of those particular requirements, where SCC hopes that the Applicant would see the sense of what SCC has said and would, revise those matters. But even if the Applicant does not do so, SCC would certainly urge the examining authority to make those recommendations in their own suggested changes.</p> <p>Regarding SCC's request for there to be a phasing restriction introduced to the DCO to ensure negative impacts on the national landscape from the WTGs would not be felt before it was known whether the Norwich to Tilbury project, which is essential for this project, would be going ahead, SCC noted that it articulated this point during its post-hearing written submissions for ISH1 [REP1-071], thereby giving the Applicant a chance to respond for deadline 2.</p> <p>SCC pointed out during the hearing that it understood the Applicant's case regarding its rejection of the notion that SCC ought to be consulted by the discharging authority on requirement 16 for skills and employment to be different from its case regarding the requirement for the CTMP. This is because the former is supposed to cover both Essex and Suffolk, so SCC would be consulted by the Applicant, and so it would be unnecessary for the discharging authority to do so as well. SCC's response to this point has been made both in its post-hearing submission for ISH2 [REP1-072], its LIR [REP2-046, paragraphs 9.31 and 9.32], and in this document below.</p> <p>In response to SCC's request to be named as a consultee for requirement seven and 16 in the DCO, the Applicant claimed that there would be 'no impact', and so no mitigation required in Suffolk on both accounts, and so no need for SCC to be named as a consultee for those requirements. In response to this, SCC rehearses a point it made during ISH3 when the Applicant made a similar point regarding seascape, landscape and visual effects. SCC did not understand the Applicant's material to be suggesting that there are no impacts; rather, that the Applicant has graded all impacts as being below the level of likely significant effect. This point applies to both highways impacts, such as those listed in the traffic and transport assessment [REP1-018], and skills and employment impacts [APP-085]. Therefore, SCC maintains that there will be impacts on Suffolk in both of these areas, and so it is warranted for SCC to be</p>	
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	<p>named as a consultee to the discharging authority for the relevant requirements to ensure that SCC is satisfied that the public interest is protected regarding these two issues as they relate to Suffolk.</p> <p>Within SCC’s LIR [REP2-046, paragraphs 9.31 and 9.32] regarding skills and employment, and in SCC’s post-hearing submission for ISH2 [REP1-071] regarding both highways and skills and employment, SCC has made the case for it being named as a consultee for both issues in the DCO respectively in detail. As SCC stated in its written submission on ISH2 [REP1-071], SCC is happy to be consulted by the Applicant during the preparation of these plans, but if that is the only consultation with the Applicant on this matter, and the Applicant doesn't yield to SCC’s points, SCC does not have a recourse to make those points to the body responsible for approving the relevant requirement. Whereas, if the discharging authority is required to consult SCC, the person to whom SCC will be making those points will be the discharging authority. SCC thinks that that is an important protection to ensure that the public interest is properly safeguarded in relation to the important issues of the integrity of the local road network and of skills and employment benefits.</p> <p style="text-align: center;">c) Examining Authority’s (ExA) questions with respect to the proposed Articles and Schedules 1 and 2</p> <p>SCC did not make any representations on this Item.</p>	
<p>3.2</p>	<p>Update with respect to the drafting of the deemed Marine Licenses included in Schedules 10 and 11 of the dDCO</p>	
	<p>SCC did not make any representations on this Item.</p>	
<p>3.3</p>	<p>Update with respect to the Protective Provisions included in Schedule 9 of the dDCO</p>	
	<p>SCC did not make any representations on this Item.</p>	

4	Any Other Business	
	SCC did not make any representations on this Item.	
5	Review of matters and actions arising	
	SCC did not make any representations on this Item.	
Close of ISH 4		