

**SCOTTISHPOWER  
RENEWABLES**

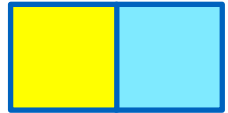
# **East Anglia ONE North and East Anglia TWO Offshore Windfarms**

## **Applicants' Comments on Tessa Wojtczak's Deadline 8 Submissions**

Applicant: East Anglia TWO and East Anglia ONE North Limited  
Document Reference: ExA.AS-15.D9.V1  
SPR Reference: EA1N\_EA2-DWF-ENV-REP-IBR-001044

Date: 15<sup>th</sup> April 2021  
Revision: Version 1  
Author: Royal HaskoningDHV

**Applicable to East Anglia ONE North and East Anglia TWO**



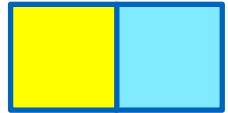
Revision Summary				
Rev	Date	Prepared by	Checked by	Approved by
01	15/04/2021	Paolo Pizzolla	Lesley Jamieson / Ian Mackay	Rich Morris

Description of Revisions			
Rev	Page	Section	Description
01	n/a	n/a	Final for submission at Deadline 9



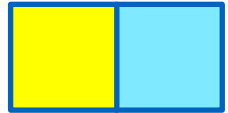
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## Glossary of Acronyms

CoCP	Code of Construction Practice
DCO	Development Consent Order
ES	Environmental Statement
ESC	East Suffolk Council
ETG	Expert Topic Group
HDD	Horizontal Directional Drilling
HGV	Heavy Goods Vehicle
IAQM	Institute of Air Quality Management
NRMM	Non-Road Mobile Machinery
SPA	Special Protected Area



## Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North 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 ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
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.
East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
Heavy Goods Vehicle (HGV)	A term for any vehicle with a Gross Weight over 3.5 tonnes. This assessment also uses the term HGV as a proxy for HGVs and buses / coaches recognising the similar size and environmental characteristics of the respective vehicle types.
Jointing bay	Underground structures constructed at intervals along the onshore cable route to join sections of cable and facilitate installation of the cables into the buried ducts.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Onshore cable route	This is the construction swathe within the onshore cable corridor which would contain onshore cables as well as temporary ground required for construction which includes cable trenches, haul road and spoil storage areas.
Onshore cables	The cables which would bring electricity from landfall to the onshore substation. The onshore cable is comprised of up to six power cables (which may be laid directly within a trench, or laid in cable ducts or protective covers), up to two fibre optic cables and up to two distributed temperature sensing cables.
Onshore development area	The area in which the landfall, onshore cable corridor, onshore substation, landscaping and ecological mitigation areas, temporary construction facilities (such as access roads and construction consolidation sites), and the National Grid Infrastructure will be located.
Onshore infrastructure	The combined name for all of the onshore infrastructure associated with the proposed East Anglia TWO / East Anglia ONE North project from landfall to the connection to the national electricity grid.
Transition bay	Underground structures at the landfall that house the joints between the offshore export cables and the onshore cables.



## 1 Introduction

1. This document presents the Applicants' comments on the Written Representations submitted by Tessa Wojtczak at Deadline 8 (REP8-046 to REP8-048).
2. This document is applicable to both the East Anglia TWO and East Anglia ONE North Development Consent Order (DCO) applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 23<sup>rd</sup> December 2019 (PD-004). Whilst this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it for the other project submission.



## 2 Comments on Tessa Wojtczak's Deadline 8 Submissions

### 2.1 Written Representation (REP8-046)

ID	Tessa Wojtczak Comment	Applicants' Comments
1	<p>These remarks apply both to East Anglia One North and East Anglia Two.</p> <p>1. Comments on Outline Code of Construction Practice .( REP7-026).</p> <p>2. Comments on Issue Specific Hearing 12 ( Noise).</p> <p>Figure 1. Email concerning purported baseline acoustic tests at [REDACTED]</p> <p>Figure 2. Aerial Photograph showing location of purported acoustic equipment at [REDACTED]</p>	Noted.
<p><b>Comments on the Outline Code of Construction Practice Rev 4 (REP7-026)</b></p>		
2	<p>These comments are primarily in relation to the issues with potential impact on the aquifer, and to the impacts of noise at Landfall site and the cable corridor route adjoining it.</p>	Noted.
3	<p><b><u>5.1.72 Control Measures.</u></b></p> <p>The final bullet point states :</p> <p><i>In the event that unexpected gross contamination is encountered (i.e. visible and olfactory evidence of hydrocarbons, spent oxide, tars or other unusual discolouration or odours, work... will cease on instruction by the site manager or delegate. The affected area will be contained and made as safe as reasonably practical pending</i></p>	<p>Should unexpected contamination be encountered during the works, the nature of any remedial action will depend on the contaminating substance identified, the associated human and environmental risk it presents and the extent of the contamination. It is not appropriate at this stage to set out constraints on what the remedial works would look like, given that flexibility of approach is required to deal with the range of different situations that may be encountered. The approach to identifying contamination during works and consulting with statutory regulators to agree action is consistent with industry practice and deemed an</p>



ID	Tessa Wojtczak Comment	Applicants' Comments
	<p><i>assessment by a suitably qualified environmental specialist. Consultation with the relevant planning authority and the environment agency will be Undertaken and agreement reached on plans for further investigation and remediation prior to any remedial action.</i></p> <p>This overview of proposed controls over work covering such an extensive aquifer is not precise. What is the remedial action?</p>	<p>appropriate mechanism for responding to unexpected contamination encountered during the works.</p>
4	<p><b>6.1. Contaminated Land and Groundwater.</b></p> <p>76. Bullet point 6 states that Hydrogeological risk assessments (will be undertaken) for any activity that could cause changes to aquifer flow or affect aquifer water quality <i>within 500 m of any ground water dependent habitats, that requires excavations below 1m within 250m of boreholes or springs, or within 250 m of a groundwater Abstraction.</i></p> <p>Again, How is this relevant given the extent of the aquifer?</p>	<p>The extent of the aquifer is not relevant here, it is the likely catchment of a water supply and the location of any associated infrastructure that matters. 250m from the source of a water supply (e.g. the Ness House well head) is a commonly accepted buffer for the avoidance of typical construction disturbance / pollution impacts. The Applicants would note that many construction projects across the UK would be unable to proceed if the extent of aquifers determined the activities that are permissible at ground level.</p>
5	<p>At Deadline 7, ( REP7-096), I identified additional boreholes on the cable corridor site not included in the Applicants' assessment, with a map and photographic evidence ( REP7-097) that are regularly used by the local farmer. I believe there are at least 4 in very close proximity to [Text redacted]. Proposed drilling and cable corridor work is dense on that area. The Applicant sought to address our concerns on the effects of HDD at Landfall on the perched aquifer with its Hydrogeological Risk Assessment (REP6-021). However, general concerns about the polluting effects on the groundwater and thereby the aquifer have not been addressed.</p>	<p>The Applicants note that a response to this comment was provided at ID5 of the <b>Applicants' Comments on Submissions Regarding the Landfall Hydrogeological Risk Assessment (REP6-021)</b> submitted at Deadline 8 (REP8-052). Regarding the information contained within REP7-097, the Applicants understand these features to be pipes associated with the landowners agricultural irrigation system and not boreholes.</p>





ID	Tessa Wojtczak Comment	Applicants' Comments
6	<p>We know that when pigs were kept on the adjacent fields for a period of several consecutive years, the quality of the water in the aquifer deteriorated significantly and had to be treated until it returned to potable status. It's difficult to believe that the industrial effects of these two projects will have a lesser impact.</p>	<p>The Applicants refer to their responses provided within the <b>Applicants' Comments on Submissions Regarding the Landfall Hydrogeological Risk Assessment (REP6-021)</b> submitted at Deadline 8 (REP8-052).</p>
7	<p><b><u>9.Noise.</u></b></p> <p>9.1.97. The Applicant seeks to mitigate noise at sensitive receptors with noise barriers/ acoustic screens.</p> <p>What are the dimensions and properties such screens and acoustic cushions? Their height is significant here and should be specified in the final CoCP.</p> <p>9.1.99 addresses sensitivities of certain properties.</p> <p>9.1.2 Onshore cable Route construction noise control.</p> <p>107.states that:</p> <p><i>additional practicable measures to reduce noise at these locations will be further explored as appropriate.</i> At this stage of the Examination, I would welcome more reasoned evidence of mitigation; this does not provide significant reassurance. I rarely understand the precise meaning of the word “ appropriate “ in the Applicants' documentation.</p>	<p>The Applicants confirm that further details on the specification of noise attenuation measures such as screens and acoustic cushions (including information regarding their height) will be contained within the final Code of Construction Practice (CoCP) prepared post-consent and submitted to the relevant planning authority for approval prior to commencement of the onshore works.</p>
8	<p><b><u>Appendix 2 Figure 1. Potential Sensitive Receptors and Areas Subject to Additional Construction Phase Controls. Map.</u></b></p> <p>In my Deadline 1 WR, I drew the Examining Authority's attention to the inaccurate identification of a Noise Monitoring Survey Location directly westward of the garden gate of [REDACTED],</p>	<p>As per <b>Appendix 23.3</b> of the ES (APP-524), the Applicants note that the property taken as the closest noise sensitive receptor to the Order limits was [REDACTED] located at the coordinates presented with <b>Table A25.3.4</b>. This was agreed prior to the surveys being undertaken with the Expert</p>



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	<p>identified on the map referenced above as CCR1. This point was also raised by [REDACTED] at ISH 4 Day 2.</p> <p>To quote from my Deadline 1 submission:</p> <p><b><u>“ 6. Noise and vibration management. ExAQ 1.4.34 Baseline Measurements Flaw/ inaccuracy in assessment studies.</u></b></p> <p>On 20 June 2018 I was notified via my landlord’s agent of the Applicant’s proposal to place 3 briefcase sized noise monitors and 1.5 metre poles in the hedge/ scrubby trackside areas for noise monitoring at some point for 7 days commencing at some point in the next 3 weeks. Please see attached email screenshot.</p> <p>An aerial photo was attached showing clearly that the monitors would be sited directly at the bottom of our garden, with a picture of the monitors in question . These are the monitors identified as CCR 1 in Appendix 2, Figure 1. In fact, as the Baseline Noise Monitoring Tables show (APP-524) they are identified with another property at a different location, [REDACTED]</p> <p>[Please refer to REP8-246 for images referred to above]</p> <p>These monitors did not appear.</p>	<p>Topic Group (ETG) for noise, which comprised the Environmental Health Officer for East Suffolk Council at the time.</p> <p>For CCR1, the noise monitoring equipment was positioned near to the west façade of [REDACTED]</p> <p>The Applicants note that there appears to have been a miscommunication to Ms Wojtczak during the course of consultation regarding the baseline noise surveys. The Applicants only ever undertook (and indeed intended to undertake) attended short-term monitoring at the landfall and onshore cable route receptors, whereby equipment was deployed under supervision by the surveyor for a period of 30-minutes during the day and for a period of 15-minutes during the night time. Due to the parameters of the survey timings, it is entirely possible that residents of neighbouring properties did not witness the surveyor or survey equipment. Furthermore, given the siting of the survey on the west façade of [REDACTED] it is noted that the view of any such survey from [REDACTED] would have been obscured by the cottages located between the survey location and that property.</p>
9	<p>In the Applicants Environmental Statement APP-524 6.3.25.3 Table A25.3.4 Baseline Noise Monitoring Locations Onshore Cable Route Study Area, [Text redacted] and [Text redacted] are the only 2 properties cited as the location of noise receptors. ([Text redacted] is identified as the address closest to CRR1 on that Table. The period of monitoring is identified as being on 3/7/2018 from 13.08.40 to 13.36.40).</p>	<p>Noted. The Applicants agreed with the ETG prior to undertaking the baseline noise surveys that [REDACTED] (CCR1) was the closest noise sensitive receptor to the Order limits and considered to be representative of the properties clustered within that general area.</p>



ID	Tessa Wojtczak Comment	Applicants' Comments
10	<p>[Text redacted] are significantly further away from the construction site, and one of them is a holiday let and not permanently inhabited. This failure to provide correct information and identify different properties means that our households, at a distance of one modest sized field from the proposed Landfall and encircled by cable corridor works, set down etc, have been excluded from Baseline Noise Monitoring information provided to the ExA, except for a period of half an hour, and there are no studies pertaining to the impact upon them of the works, vehicle and personnel movement. Can the Applicant explain why?"</p>	<p>The Applicants note that all receptors identified within the assessment have been categorised as Threshold A receptors, as defined in British Standard BS5228:2009 +A1:2014. This is the most stringent receptor threshold category in terms of the adopted assessment methodology set out within the BS5228:2009 +A1:2014 (the ABC method), providing the lowest noise threshold for which the Applicants assessed the potential for noise impacts to arise (as set out within <b>Chapter 25</b> of the ES (APP-073)).</p> <p>As per the Applicants' Comments at ID8 and ID9 above, the Applicants agreed the noise sensitive receptor locations with the ETG prior to undertaking the surveys and consider CCR1 to be representative of the baseline sound levels and the predicted construction noise levels (as modelled) for the properties clustered within that general area.</p>
11	<p>At ISH 4, Day 2, Session 2 [REDACTED] raised this point. Alistair Baxter for the Applicant replied</p> <p><i>Just from memory that survey every location along the land for and along the cable corridor route was categorised as threshold which is the lowest so actually undertaking a survey at that property would not of made a material difference.</i></p>	<p>Noted. However, the Applicants note that Ms Wojtczak's account of Alasdair Baxter's oral submission deviates from the transcript, which states:</p> <p><i>"Just from memory from that survey, every location along the landfall and along the cable route corridor was categorised as threshold a which is the lower the lowest threshold within British Standard five to eight [sic]. So, actually undertaking a survey at a particular property would not have affected he classification of that property has a threshold value and therefore would not have made a material difference to the to the assessment. So, it will already be been classified as a particularly quiet area applicable to threshold a British Standard five to eight [sic], and that was done within the assessment".</i></p> <p>Please refer to the Applicants' comments above.</p>
12	<p>The point is that the Applicants documentation is claiming that they did make such a survey at this property.</p>	<p>The Applicants confirm that they have undertaken attended short-term baseline noise surveys at CCR1 [REDACTED], which is considered representative of the other nearby properties which are further from the Order limits), and subsequently modelled the predicted construction noise levels at</p>



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		CCR1, which again are considered representative of what is likely to be experienced by the nearby properties.
13	Despite this point being raised on both these occasions, and the significance of Wardens Trust having become more visible in recent weeks, the Applicant has not amended or corrected the information in the important OCoCP. It's a detail but does show a relaxed approach to the accuracy of the documentation which they are placing before the ExA and on public record.	<p>The Applicants note that the <b>Outline CoCP</b> (document reference 8.1) is a management plan which sets out the requirements to which the Applicants and their contractors must adhere with and the measures which must be implemented during the construction phase. The <b>Outline CoCP</b> is not an assessment. An assessment of construction phase noise has been presented within <b>Chapter 25</b> of the ES (APP-073).</p> <p>The <b>Outline CoCP</b> was updated further at Deadline 8 to include further measures specifically for the Wardens Trust, which will also benefit the properties represented by CCR1.</p> <p>To be clear, the Applicants consider that both the assessment of potential construction phase noise impacts and the measures set out within the <b>Outline CoCP</b> are robust, proportionate and sufficient.</p>
14	I'd like to underline here that in making their earlier site selection and Landfall Cable Corridor routing decisions, the Applicants appear not to have been aware of Wardens Trust at all and have therefore not taken its particular characteristics into consideration on many counts, Noise being one of them. This suggests that the original decision making process, undertaken without complete knowledge, is flawed.	The Applicants do not concur that the site selection process was flawed and have had regard to the proximity of the Order limits to residential properties and other premises from the outset, as explained within <b>Chapter 4</b> of the ES (APP-052). Furthermore, the Applicants would note that community engagement is a two way process. The Applicants have been in discussions with Agents instructed by one of the Trustees at the Wardens Trust since 2018.
15	<b><u>Surface water and drainage management plan 10.1.8.</u></b> Please see remarks for 11.1.2 and 11.1.4 below.	Noted. Please refer to the Applicants' Comments at ID16 and ID17.
16	<b><u>11.1.2 Pollution Prevention.</u></b>	The measures set out within <b>Section 11.1.2</b> of the <b>Outline CoCP</b> (document reference 8.1) in relation to pollution prevention in respect of surface water and



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	<p>136. States:</p> <p><i>Cable installation activities will be designed to ensure that they will not affect groundwater <b>in any significant manner</b>.</i> (my emphasis) and goes on to outline an alarming series of potential hazards that may well occur, the mitigation for which is retroactive and potentially inadequate in respect of potential effects on the Aquifer.</p>	<p>drainage management are pro-active and will either be implemented ahead of the works (e.g. pre-construction survey of water features and hydrogeological risk assessments) or are practices to be implemented when carrying out the relevant works (e.g. set back distances and other requirements for storing fuels, oils and chemicals on site in proximity to watercourses or groundwater abstraction boreholes).</p> <p>The Applicants deem the measures set out within <b>Section 11.1.2</b> of the <b>Outline CoCP</b> proportionate and sufficient to appropriately mitigate the risk of surface water pollution arising from the construction of the Projects.</p>
17	<p><b><u>11.1.4 Surface Water Drainage.</u></b></p> <p>147. <i>Land drainage systems would be maintained during construction, where possible, and reinstated on completion.</i></p> <p>The Panel has seen the puddles/ flooded access paths near Plot 8, preventing passage. "Possible" maintenance of drainage isn't adequate as a provision. Even with current drainage, there is a degree of this flooding throughout the year, with the exception of the hottest months.</p>	<p>Given that the micro-siting the onshore infrastructure will be determined during the detailed design stage post-consent the Applicants are not able to state with certainty which drains will be retained during the construction phase, hence the inclusion of 'where possible' within the paragraph of the <b>Outline CoCP</b> (document reference 8.1) referred to. However, the Applicants can commit with certainty to reinstate any land drainage system that is affected during the construction the Projects. Any affected drain will be reinstated to its original condition (in consultation with the landowner) following completion of construction.</p>
18	<p><b><u>15.Contingency Planning.</u></b></p> <p>Please see remarks above on 11.1.2 and 11.1.4.</p>	<p>Noted. Please refer to the Applicants' Comments at ID16 and ID17.</p>
<b>Issue Specific Hearing 12. Noise</b>		
19	<p><b><u>Session 3. Landfall.</u></b></p> <p>The question was posed, In consideration of the worst case scenario of of HDD 24 hours a day during certain periods and whether that has been appropriately assessed,</p>	<p>Noted. An assessment of night-time noise associated with the landfall construction at the noise sensitive receptors agreed with the Expert Topic Group (ETG) for noise (including the Environmental Health Officer for East Suffolk</p>



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	<p><i>Whilst the cable corridors component of the outline code 9.1.2 does identify certain specific human receptors. So the wardens trust playing field and dwellings within 75 m turning to the land for section 9.1.1 there is no specific reference of any particular receptor that might require any particular measure despite the fact that there are dwellings reasonably nearby and activities by the wardens trust also relatively nearby. So is the silence of the outline code on the identification of specific individual receptors and measures appropriate or is any additional wording required there.</i></p>	<p>Council (ESC) at the time) has been undertaken and is presented within <b>Chapter 25</b> of the ES (APP-073).</p> <p>It is noted that night time working is required for the landfall Horizontal Directional Drill (HDD) activities. However, the Applicants note that the distance between CCR1 (see <b>Figure 25.2</b> of the ES (APP-305)) and the as-modelled HDD entry pit is comparable to the distance between LFR2 and the as-modelled HDD entry pit.</p> <p>Therefore, it is anticipated that any potential night time noise impacts associated with HDD works at CCR1 will be no greater than those predicted for LFR2 as presented within <b>Chapter 25</b> of the ES (APP-073). The assessment of potential night time noise impacts at LFR2 in the ES concluded there would be no impact magnitude resulting in an impact of negligible significance.</p> <p>In light of submissions received concerning Wardens Trust and the neighbouring properties and in consultation with ESC, the Applicants have committed to additional controls and provided further information specifically in relation to construction noise within the vicinity of the Wardens Trust within the <b>Outline CoCP</b>, which was updated and resubmitted at Deadline 8 (REP8-017). This includes a commitment to apply for Section 61 consent under the Control of Pollution Act 1974 (COPA) prior to the relevant construction works.</p>
20	<p>I note that the Council's position was that this factor will be picked up by Section 61 application, and <i>we would expect those to be reviewed in relation to specific receptors.</i></p>	<p>In recognition of the sensitivity and conversation regarding the Wardens Trust and its users, the Applicants have made specific reference to this receptor within a separate subsection (<b>section 9.1.4</b>) of the <b>Outline CoCP</b> submitted at Deadline 8 (REP8-017). This text will be carried forward and/or refined within the final CoCP prepared post-consent to be submitted to and approved by the relevant planning authority prior to commencement of the onshore works, pursuant to Requirement 22 of the <b>draft DCO</b> (document reference 3.1).</p>
21	<p>I'm very concerned as to why these considerations in relation to specific receptors have been addressed in respect of cable corridor work but not in respect of the enormous potential noise pollution implications of HDD at Landfall, given that the "temporary" nature of the works could extend over significant periods of time and occur</p>	

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15<sup>th</sup> April 2021



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	for each project, and the presence of persons with protected characteristics at Wardens.	
22	I'd be far happier to see this addressed in any final CoCP. Again I'd question why the Applicant has not taken these factors into consideration, especially when it is known that there are persons with protected characteristics at the site.	
23	I'd also like to make the point again that there are horses located in close proximity to the site of HDD drilling, who will be immensely disturbed by the noise and vibration as it will mask one of their most effective resources for self- defence, their hearing. There is a clear risk of potential panic and injury, to themselves or those handling them, and the distress which will be caused to their owners by any impact on their health and well- being. I have no confidence that such considerations as these, which have not been addressed by the Applicant throughout the Examination, will be adequately provided for at any later drafting post – examination, particularly in the light of the inaccurate and flawed information provided by the Applicant in relation to their acoustic tests as outlined above	<p>The Applicants maintain that their assessment of potential noise impacts is not flawed and has had regard to, and indeed followed, the appropriate guidance and standards adopted for assessing noise impacts associated with the construction of infrastructure projects.</p> <p>The Applicants will consult with owners of horses occupying affected land in advance of any construction activities to discuss appropriate mitigation measures once the precise construction programme has been established.</p>
24	I'd ask that consideration be given to the presence of livestock in respect of acoustic mitigation and animal safe fencing as to Provision 3.3.52 of the OCoCP.	Given the temporary nature of the onshore works the Applicants do not consider it necessary, appropriate nor proportionate to include acoustic mitigation for livestock.
25	Finally, IAQM Guidance (IAQM 2014) states that <i>Detailed assessment is required where there are human receptors within 350 m of site boundary and/ or within 50 m of the routes used by construction vehicles on the public highway, up to 500 m from the site entrance.</i>	Noted. However, the Applicants recognise that Institute for Air Quality Management (IAQM) guidance (IAQM 2014) is not relevant for an assessment of potential noise impacts.





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26	This required assessment does not seem to appear within these applications. Late in the day, concessions may be being made on areas of concern which should have been central to the Applicants site selection from the beginning.	<p>The Applicants consider that detailed assessments for potential air quality and noise impacts have been provided within <b>Chapter 19</b> (APP-067) and <b>Chapter 25</b> (APP-073) of the ES respectively, with further clarification and information presented within subsequent submissions into the Examinations, namely (but not limited to):</p> <ul style="list-style-type: none"> <li>• The Air Quality Clarification Note submitted at Deadline 1 (REP1-040);</li> <li>• The Air Quality Clarification Note submitted at Deadline 3 (REP3-061);</li> <li>• The Noise and Vibration Clarification Note submitted at Deadline 2 (REP2-011); and</li> <li>• The Noise Modelling Clarification Note submitted at Deadline 4 (REP4-043).</li> </ul>
27	For further remarks on this latter point, please see my Deadline 8 submission in response to Action Point 10 arising from CAH 3.	Please refer to the Applicants' Comments within <b>Section 2.3</b> .





## 2.2 Written Statement of Oral Case Compulsory Acquisition Hearing 3 (CAH3) (REP8-247)

ID	Tessa Wojtczak's Comment	Applicants' Comments
<b>Agenda Item 3 – Book of Reference</b>		
1	<p>There was discussion at Compulsory Acquisition Hearing as to whether Wardens Trust and any of the personnel associated with it should have the status of Affected Person within this Examination, which the Applicant denies on the basis that the Trust has not been shown to have an interest in the order land. Mr Smith for the Panel pointed out the range of other category interests at this site listed in the Book of Reference who have rights in Plots 12 and 14 for access. The Applicants put forward the position that Wardens has access rights only on the track running adjacent to Plot 13, Sizewell Hall Road, which is outside the order limits.</p> <p>Leaving out Plot 12 for the moment, as far as I can see, Plot 14 runs along part of the main by way from Sizewell to Thorpeness. Assuming you are associated with Wardens business, as you emerge from the track adjacent to Plot 13, you will need to pass through 14 if you wish to turn left to . Thorpeness and return.</p> <p>I have, as an AFP, access rights to Plot 14. Why wouldn't the people who manage and visit Wardens have the same rights? The Applicants position in failing to recognise this seems to argue that the Trust has no right to be visited or to function as a community resource, which doesn't seem logical or reasonable.</p> <p>This judgement has another bearing on the people visiting Wardens, whom we know to be vulnerable.</p>	<p>In relation to ID1, please refer to <b>section 2.5</b> of <b>Appendix 2</b> of the <b>Applicants' Responses to Hearings Action Points</b> (REP8-093) submitted at Deadline 8 which sets out the reasoning why the Applicants did not include the Wardens Trust in the Book of Reference, specifically as a Category 3 claimant.</p> <p>The Applicants have identified that there are properties (Ness House and Ness Cottages) that have a right of access along the track at Plot 12. As such, the Applicants will maintain access along this track or provide an appropriate alternative. Further details on this will be included within an updated <b>Outline CoCP</b> to be submitted at Deadline 10.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>Part of the respite offered is free access to the countryside, to the lanes and walks directly from the Trust, including the track, Plot 12</p> <p>According to the Applicants position, those groups of children and anyone with them, having no rights in Plot 12, will have to move along the single lane access track by Plot 13, negotiating or waiting for the traffic passing both ways as they go. That simply isn't feasible. Effectively they will be confined to the site.</p>	
2	<p>The Applicants describes the due diligence on these matters as having been robust to date. They have also claimed that Wardens has effectively come late to the table.</p> <p>I'd like to point out that, on the 26th March 2019, in my Response to SPRs Stage Four consultation, I referred to Wardens Trust, its work with vulnerable children and adults, their particular sensitivity to the effect of noise pollution and lighting, the importance of access to the tracks and lanes, the need for emergency access, and our dependence on the aquifer, in an email that was acknowledged on the 27th of March 2019 . I've put the same case throughout this examination and at no point has the Applicant responded. It is not clear to me why SPRs legal representatives should be responding now as if all this information has only recently come to their attention.</p>	<p>As mentioned above, the Wardens Trust is not included on the Book of Reference. However, it should be noted that it was included, along with all the other properties close by, as a receptor for the purposes of the Applicants' Environmental Statement (ES). The ES has provided appropriate impact assessment on receptors having regard to the overarching National Policy Statements in relation to Energy (EN-1), Renewable Energy Infrastructure (EN-3) and Electricity Networks Infrastructure (EN-5).</p> <p>In recognition of the sensitivity of and representations regarding the Wardens Trust and its users, the Applicants have made specific reference to this receptor within a separate subsection (<b>Section 9.1.4</b>) of the <b>Outline CoCP</b> submitted at Deadline 8 (REP8-017). This text will be carried forward into the final CoCP prepared post-consent to be submitted to and approved by the relevant planning authority prior to commencement of the onshore works, pursuant to Requirement 22 of the <b>draft DCO</b> (document reference 3.1).</p> <p>Access to properties will either be maintained, or an appropriate alternative access will be provided.</p> <p>The Applicants also note that access associated with Sizewell Gap will be maintained in line with the <b>Sizewell Gap Construction Method Statement</b> (REP8-086), this will include access by emergency vehicles.</p>



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		<p>In relation to the aquifer, the Applicants provided a <b>Landfall Hydrogeological Risk Assessment</b> (REP6-021) at Deadline 6 and subsequently responded to Ms Wojtczak's and [REDACTED] comments on that submission (REP6-021) at Deadline 8 (REP8-052).</p>
<p><b>Agenda Item 5(a) iv, the bend in the Cable alignment at Wardens Trust</b></p>		
3	<p>At Compulsory Acquisition Hearing 2, Mr Smith, Panel Lead, asked why the cable corridor route at plot 13 on the Land Plans (REP1-004) takes a sharp angle eastwards towards the residences and Wardens Trust, instead of moving straight from plot 10 to plot 14.</p> <p>Brian McGrellis for the Applicants responded that the two primary factors were the residential properties and Wardens Trust to the east and the proximity of the SPA to the west and that the result of their deliberations on these two factors was that they were keen to maintain a 200 meter separation distance from the Sandlings SPA. But what is not clear is whether SPR were taking Wardens Trust and its specific character into account at all at that point.</p> <p>The present route, as it first enters into the examination library, seems to have been set on 22 August 2019 (APP-085).</p> <p>However, there is an earlier version of this map dated 11 February 2019 which appeared in the hard copy of the Applicants' documentation, titled "Extract of East Anglia Two and East Anglia One North Proposed Onshore Development Area." I've been unable to find it in the examination library, but I did include a</p>	<p>In relation to ID3, please refer to <b>Applicants' Responses to Hearings Action Points</b> (REP8-093), <b>Written Summary of Oral Case Document Index Compulsory Acquisition Hearing 3</b> (REP8-100), <b>Outline Code of Construction Practice</b> (Outline CoCP) (document reference 8.1) and the <b>Consultation Report</b> and associated appendices (APP-029 to APP-041).</p> <p>In relation to the onshore cable routing, the Applicants can confirm that other potential energy projects were not considered.</p>



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	<p>photo of the hard copy in my deadline six submission (REP6-212).</p> <p>This earlier route does move slightly eastwards from plot 10 but at a much more gradual trajectory, staying west of the pond referenced by Mr Smith on plot 13 rather than East as it does now, and joining Sizewell Hall Road at plot 14, thereby maintaining a greater distance from the residences, and not directly abutting Wardens Trust playing field as it does now.</p> <p>What is the reason for altering the route in the period between February and August 2019?</p> <p>The applicant may again state the necessity to observe the buffer zone to the SPA and I will return to that shortly.</p> <p>In fact the Applicant responded at CAH 3 that this change was after Consultation. I believe this to refer to Section 42 of the Planning Act, which places a duty on the Promoter to consult about a proposed application with various categories, one of which is " people within the categories set out in Section 44." This identifies certain parties that a promoter is legally obliged to consult " owners, tenants, lessees or occupiers of the land. "</p> <p>At point 13 of the Planning Act it is stated that such Consultation should be proportionate.</p> <p>In the Applicants Consultation Report, Statutory Requirements (APP-30) , The Planning Act is quoted at 1.2.1, 4: "<i>a number of categories of Statutory consultee require a judgement to be made as to whether, and precisely which, organisations should be consulted in the particular circumstances of the development</i> " .</p>	



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	<p>Also including: <i>“ All those with an interest in land to which the application relates as described in Section 44 of the Planning Act, i.e. a person is within Section 44 if the Applicant knows that the person is an owner, lessee, tenant or occupiers of the land; is interested in the land or has power to sell or convey the land or to release the land; or is entitled to make a relevant claim if the order sought by the proposed application were to be made and fully implemented. And at 5: each consultee must be supplied in the Consultation documents and given a deadline for making representations.”</i></p> <p>I haven't been able to review all of APP- 31, Compliance, which documents the Applicants' Compliance with these statutory requirements. I would however ask the ExA, from my limited familiarity with this Act:</p> <ul style="list-style-type: none"> <li>a. If they are content that compliance has been fully achieved in respect of the landowner, if not in respect of Wardens whose status I know to be under consideration at this point, although I believe that due diligence should have brought Wardens' interests to light by this point, and</li> <li>b. If appropriate judgement has been fully brought to bear in this particular case, and whether Consultation in respect of the route of the cable corridor at Plot 13at that stage of the proceedings, between February and August 2019, has been proportionate.</li> </ul> <p>In the Applicants Submission of Oral Case Compulsory Acquisition Hearing Two (REP6-051), at Point 11, [REDACTED], earlier explanation of the reason for that angle at Plot 13 is reiterated with the addition of the words” where practical” in</p>	



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	<p>relation to maintaining the buffer zone. "Where practical" implies a degree of flexibility</p> <p>Point 12 states:</p> <p style="padding-left: 40px;"><i>The Applicants do not consider it appropriate to move the Onshore corridor further west.</i></p> <p>Why not? It was further west originally. In the light of the apparently new information they now have about this site, would it not be reasonable to revisit their deliberations? I'm not clear what appropriate means in this context.</p> <p>I understand the importance of the buffer zone, but I am concerned about whether it is appropriate to favour sensitive ecological receptors over vulnerable human ones.</p> <p>I contacted Natural England about the buffer zone and what flexibility there may be for a promoter. In her response [REDACTED] of NE confirms that to observe it is best practice, but that:</p> <p style="padding-left: 40px;"><i>" it Is for yourselves and the applicants to discuss alternative options to address your concerns. With the onus being on the applicant to propose suitable mitigation if the 200 meter buffer zone were to be reduced."</i></p> <p>[REDACTED] does acknowledge that it would be quite challenging but my point is the option of altering it is not ruled out and that such discussions are possible.</p> <p>A further point on this. Colin Innis for the applicant refers to the ongoing negotiations on land interest at plot 10 for geophysical and archaeological work and states that:</p>	



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	<p><i>“ insofar as the matters raised it is clear that the land interest has been in negotiation, so the landowner has in principle agreed to the routing of the cable. “</i></p> <p>If you look at the land plans (REP1-004), the position of plot 10 within the Work does not of itself imply that the route would make a sudden curve to the east. Given the breadth and extent of works to the South, plot 10 lies on a straight line from landfall to plot 14. It is not part of the curve. So I disagree that entering into a negotiation on plot 10 implies any agreement of the routine of the cable at plot 13.</p> <p>Finally on this point, I note again that Wardens playing field is shown to be Landfall option C for National Grid Ventures' Nautilus Interconnector on the map included in their July 2019 Briefing Pack. In fact a request for surveys to be undertaken for that purpose there has already been made.</p> <p>I have included the map in my Deadline 1 submission ( REP1-377, Figure 5).</p> <p>In a letter to the Applicants dated 17 April 2018, East Suffolk County Council States: “It is important that the cable Corridor can accommodate both SPR and National Grid projects and that if this cannot be achieved or will present significant loss of amenity then those site options should be dismissed. “</p> <p>This is referenced in William Halford's submission (REP3-171)</p> <p>I would ask the Examining Authority to seek the Applicants' confirmation that the cable route selection at plot 13 is not intended to accommodate any interests that National Grid ventures may have for the Nautilus project at this site.</p>	



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	<p>We have heard today about the width of cable corridor enabling construction compounds and access routes, which come into “close proximity “ ( not fully defined) to dwellings, and yet SPR have never committed to a statutory buffer zone from residences and their gardens along the Cable Corridor route. I don't understand the reason for that, and don't think it's acceptable.</p>	
<p><b>Agenda Item 10 – Human Rights and the Public Sector Equality Duty (PSED)</b></p>		
<p>4</p>	<p>a. Article 1 of the First Protocol to the European Convention on Human Rights (ECHR).</p> <p>Dr Gimson Chair of Wardens raised the issue of our human rights to access to a safe water supply, I don't consider that the Landfall hydrogeological Risk Assessment (REP-6-021) has fully addressed concerns on that score.</p> <p>I have responded to that in detail in REP 7-096, but I will say that in confining their remarks to the potential for harm to the process of HDD at the Landfall location, the Applicants have failed to assess wider aspects of construction and terrain where work is likely to interact with the very extensive aquifer in terms of cable laying, high volumes of traffic, foul and other waste and chemical contamination.</p> <p>Potential Alterations to aquifer flow are not addressed, and the mitigating factors offered which purport to change a <b>High Risk</b> assessment of fuel or oil spills – <b>High</b> meaning, “site probably not suitable for current/ future use - to a <b>Negligible</b> one are not persuasive... relocating refuelling from Landfall, relocating storage of potentially contaminating materials, relocating welfare</p>	<p>In relation to ID4 to ID6, please refer to <i>Applicants' Responses to Hearings Action Points</i> (REP8-093), <i>Written Summary of Oral Case Document Index Compulsory Acquisition Hearing 3</i> [REP8-100], <i>Outline CoCP</i> (REP8-017) and <i>The Applicants' Comments on the Submissions Regarding the Landfall Hydrogeological Risk Assessment (REP6-021)</i> (REP8-052).</p> <p>Regarding the final point that ‘the response was a partial one’, the Applicants reiterate that it is highly unlikely that construction activities at the surface will adversely impact local hydrogeology and groundwater. Excavations along the cable route will typically be 1.2m (1.7m at jointing bays), with excavations for the transition bays being up to 3m deep). Across the onshore development area, a suite of pollution prevention measures on-site during construction will work to prevent such events as the spillage of fuels or chemicals. These measures are set out in the <i>Outline CoCP</i> (REP8-017).</p> <p>In relation to the weighing of any potential loss of ECHR rights against the public benefit, if either or both DCOs are made it is the view of the Applicants that the test of proportionality is satisfied and strikes a fair balance between the public benefit sought and the interference with the rights in question. The</p>





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	<p>facilities.. they will simply move elsewhere within the same area, and the risk to groundwater will not be removed.</p> <p>These measures suggest a great deal of unnecessary movement of machinery, vehicles and personnel, increasing ecological damage and health risks, and I think would be difficult to enforce over contractors during construction. So I believe the Risk Assessment offers inadequate mitigation to only part of a problem.</p> <p>In making these remarks at CAH 3, I was not implying that the Applicants had failed to address the concerns about the aquifer at Ness House and Wardens; my point was that their response was a partial one in that it addressed only the potential effects of HDD at Landfall on a perched aquifer, and not the wider picture of groundwater contamination.</p>	<p>approach of the Applicants has been to seek minimise the acquisition of rights through the use of temporary powers in the first instance.</p> <p>The Applicants consider that there would be significant public benefit arising from the grant of development consent resulting from the generation of much needed renewable electricity. That benefit is only likely to be realised if the Order includes powers of compulsory acquisition. The significant public benefits on balance outweigh the effects upon persons who own property and rights within the Order Land.</p> <p>The Applicants consider that the inclusion of powers of compulsory acquisition in the Order would not constitute any unlawful interference with Convention Rights, specifically those set out in Article 1 of the First Protocol and Article 8, and, further, that it would be appropriate and proportionate to make the Order, including the grant of powers of compulsory acquisition.</p> <p>Within their response to CAH3 (see the <b>Applicants' Responses to Hearings Action Points</b> (REP8-093)), the Applicants have set out how the Compulsory Acquisition of land and rights has avoided issues arising from the Public Sector Equality Duty (see responses to actions 11 and 12).</p> <p>The Applicants have also identified how they have sought to identify and manage the temporary construction effects that could arise in the vicinity of the Wardens Trust. The identification and management of such matters was dealt within the response to action 13 (REP8-093).</p>
5	<p>e. The weighing of any potential loss of ECHR rights against the public benefit if either or both DCOs are made.</p> <p>In respect of Point e, I'd like to reiterate that neither ECHR Rights nor public benefit losses need be incurred if a split decision is made and Onshore infrastructure is relocated to a brownfield or other available site.</p>	
6	<p>f. The PSED and consideration of the Public Sector Equality Statement.</p> <p>At Compulsory Acquisition Hearing 2 Rynd Smith asked the Applicants whether specific consideration in terms of routing and Siting has been given to the use to which Wardens Trust is put, specifically in relation to the Public Sector Equality Duty, whether</p>	



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	<p>or not there is a view formed about the potential effects of the works on persons with potentially protected characteristics, and asked for clarification of that at point at Deadline 6. I apologise if I missed that submission and would be grateful to be directed to it, but if no such submission exists, I would say that the Applicants are not addressing their statutory duty in this regard.</p> <p>For a full amplification of my position on this point, please see my Deadline 8 submission in response to ExA Action Points arising from CAH3, point 10, that I should make a submission in respect of my concern that Public Sector Equality Duty has not been met in regard to the users of Wardens, with full reference to EA1N and EA2 Public Sector Equality Statement ( REP4-013).</p>	



## 2.3 Response to Action Points from Compulsory Acquisition Hearing 3 (CAH3) (REP8-248)

ID	Tessa Wojtczak Comment	Applicants' Comments
<b>Introduction</b>		
1	<p>Section 149 of the Equality Act 2010 creates a Public Sector Equality Duty ( PSED).</p> <p>Point 3. makes reference to the need to:</p> <p><i>b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it</i></p> <p><i>c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.</i></p> <p>And at 4:</p> <p><i>Meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.</i></p> <p>My remarks in this submission are in relation to the users of Wardens Trust , a community centre providing services to groups with protected characteristics. The Trust is situated within 75 metres of the Cable Corridor construction works and encircled by other aspects of the Construction Works, in close proximity to the HDD Landfall compound.</p> <p>See Figure 1, attached, Wardens Trust ringed in yellow.</p> <p><i>[Please refer to (REP8-248) for figures referred to above]</i></p>	<p>No further comment.</p>



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	<p>I preface the following remarks with this statement to be found on page 13 of the EA1N and EA2 Public Sector Equality Statement (REP4-013, which I will address in greater detail later in this submission</p> <p><b><i>....the site selection has avoided direct effects upon community facilities, which has therefore avoided effects upon any organisation providing a service or product aimed specifically at one or more protected characteristic groups.</i></b></p>	
<b>EA1N &amp; EA2 Public Sector Equality Statement</b>		
2	<p>SPR 'S Deadline 4 Submission, EA1N &amp; EA2 Public Sector Equality Statement ( REP4-013) states as its purpose in the Introduction, Point 2:</p> <p><i>To assist the Secretary of State in discharging its PSED by summarising the relevant baseline information and impact assessment conclusions in respect of East Anglia TWO project and East Anglia ONE North Project ( the Projects) and putting these in the context of the relevant Equality Act 2020 Requirements and objectives.</i></p> <p>At 2.2.1 of the same document, The Equality Act 2010 and the Public Sector Equality Duty, the Applicants identify the intention of the Act to prohibit discrimination on the grounds of protected characteristics. Of the nine protected characteristics listed here, those that I believe are relevant to this case in respect of the users of Wardens Trust area</p> <ol style="list-style-type: none"> <li>1. Age</li> <li>2. Disability</li> </ol>	No further comment.



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	<p>At point 5, the Applicants identify the requirement upon them to have due regard to the need to</p> <p>a) <i>Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the act.</i></p> <p>b) <i>advance equality of opportunity Between persons who share a relevant protected characteristic and people who do not share it.</i></p> <p>c) <i>Foster good relations between persons who share a relevant protected characteristic and those who do not share it.</i></p> <p>I take it however that the Applicants have a duty to observe the other aspects of Section 149, points 3 and 4 as outlined above.</p>	
<b>Intentions of SPRs document</b>		
3	<p>2.3, Scope and Approach to Assessment, at Point 9, states that this document will assist the Secretary of State in identifying</p> <p>Impacts which are predicted to result from the implementation of the Projects if consented and provides a qualitative appraisal of the likely or possible effects of these potential impacts on members of the protected characteristic groups (including) a consideration of</p> <p>a. How the Projects could interact with and affect protected characteristic groups including</p> <p>i. If they are likely to affect people with particular protected characteristics differently or disproportionately;</p>	No further comment.
4	<p>Point 10 clarifies:</p> <p><i>A disproportionate equality effect arises when an impact has a proportionately greater effect on protected characteristic groups</i></p>	A disproportionate equality effect arises when an impact has a proportionately greater effect on protected characteristic groups than on other members of the general population at a particular location. The key question therefore is



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	<p><i>than on other members of the general population <b><u>at a particular location</u></b> ( my emphasis)</i></p> <p>Points 11 and 12 elucidate further:</p> <p><i>11. A differential equality effect is one which affects members of a protected characteristic group differently differently from the rest of the population because of specific needs, or a recognised sensitivity and vulnerability associated with their protected characteristic, irrespective of the number of people affected.</i></p> <p><i>12. In some cases, protected characteristic groups could be subject to both disproportionate and differential equality effects.</i></p> <p>My position at this point is that these identified protected characteristics are entirely descriptive of the users of Wardens Trust, and as such the Applicants' duties towards them will be taken into account in their methodologies as will be outlined in this document.</p>	<p>whether or not the protected characteristics give rise to any greater vulnerability to the effects.</p> <p>The specific points of issue are detailed below.</p>
5	<p>At 2.3.1, Effects Considered, the document explains at Point 14 that it has taken into account among other factors Post Application Relevant Representations (AS-305), and estimates on the basis of this research, drawing on the "<i>professional experience of the Applicants and their consultant team</i>", that</p> <p><i>It is anticipated that , given the nature of the Projects, potential effects will be limited.</i></p> <p>At this point I refer to my own post – Application Relevant Representation (RR-907) in which I refer to the existence at this location of</p>	



ID	Tessa Wojtczak Comment	Applicants' Comments
	<p><i>“Wardens, a Charitable Trust providing services for elderly and disabled individuals and vulnerable children.”</i></p>	
6	<p>According to the methodology described above, this I information would- or should - have featured in the assessment of effects upon the Onshore human environment as listed in Table One.</p> <p>It is on the basis of the following aspects of Table 1 Effects Screening and Table 2 , Assessment, that I base my concern that the PSED has not been met in respect of the users of Wardens Trust.</p>	
<b>Table One</b>		
7	<p><b>Groundwater and Contamination</b></p> <p>Given that no significant impacts were predicted and that there are no outstanding agreements around the conclusions, <b>this topic is not considered further.</b></p> <p>While I appreciate that discussions about potential contamination to the aquifer supplying Wardens Trust are still ongoing, I believe that this duty has not as yet been discharged by the Applicant.</p>	<p>As stated in the Public Sector Equality Statement (REP4-013):</p> <p><i>Given that no significant impacts were predicted and that there are no outstanding agreements around the conclusions, this topic is not considered further.</i></p> <p>There has been no change in this position. Irrespective of the additional information provided in response to queries about the works near the landfill and the aquifer from Interested Parties, the assessment conclusions, mitigation and management measures for this topic were agreed with the Environment Agency (REP8-124) and the Councils (REP8-114).</p>
8	<p><b>Air Quality</b></p> <p>Construction effects upon protected characteristic groups or assets e.g. schools or community facilities . Operational effects were scoped out of the EIA and are not considered to have any potential equality effects.</p>	<p>Please refer to the Applicants' Comments at ID 15 below.</p>



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	<p>At Issue Specific Hearing 4, Onshore Environment, construction and operational effects, Day 2, Air Quality was assessed.</p> <p>At the beginning of that session, Charlotte Goodman for the Applicants addressed air quality impacts and how they are measured.</p> <p><i>And now these air quality standards are health- based.....and they do take into account effects on the most susceptible individuals in society. So the young, the elderly and people with health conditions ...so in terms of what effect these short term periods of congestion may have, and yes, there will be potentially higher emissions at those times. But when we look at an annual mean air Quality objective and an annual mean pollution concentration, its unlikely to have a significant effect on that total mean concentration when its only happening for short periods during the day.</i></p> <p>I understand that it is traffic that is being discussed here, but I'd like to set this against my primary concern about the individuals with protected characteristics and extreme vulnerabilities, often with breathing, at the site by the cable corridor and close to the Landfall HDD compound where they will be a high concentration of NRMMS ( Non Road Mobile Machinery) which will be in use 24 hours a day at times and which produce NoX emissions.</p> <p>At Day 2 Session 1, Ms Goodman states in respect of the non-road mobile machinery to be situated at Landfall HDD compound, of the document that was presented by the Applicants at Deadline 3,</p> <p><i>( this) was in response to a query raised by the council on potential effects on ecological receptors , particularly near the Landfall and at the crossing with Sandlings SPA. These receptors are in close proximity, potentially, to the works that are going to be undertaken</i></p>	





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	<p><i>in those areas. And therefore they were considered to be of a higher sensitivity to potential effects. And so we did a detailed dispersion modelling assessment of those effects. And those results were presented and interpreted by the ecologist because it relates to ecological receptors. Those plant effects in terms of across the rest of the Cable Corridor... in terms of human health effects are <u>not expected to be significant</u>.</i></p> <p>At this point I'd like to draw attention to the figure NRMM Emissions Assessment Scenario A Sheet 1, which identifies one particularly affected receptor, E5, <i>located immediately downwind of the Landfall HDD compound</i>. This is in the direction of Wardens Trust and the other residences at this location.</p> <p>In respect of the Applicants duties under the PSED to the users of Wardens Trust, I find it extraordinary that no particular area of human sensitivity has been identified here in respect of NRMMS, haul road traffic or cable corridor construction metres from their sleeping accommodation and outdoor recreational field. In the respect of Air quality, it appears that the Applicants have not fulfilled their PSED Requirements in respect of these users with protected characteristics.</p>	
9	<p><b>Land Use</b></p> <p>While I appreciate that there is dialogue between the Applicants and the Trustees of Wardens Trust, I certainly don't feel that the use to which the land is put here currently, in respect of the Trust's users, in terms of walking and having free access to the surrounding countryside, has been considered at all. I'd also refer back to the question as to whether in this case the public benefit outweighs the private loss, and to consider the degree of</p>	<p>The Applicants have assessed the owners and occupiers of all land that could be acquired compulsorily and have identified no groups of protected characteristics for the purposes of the Equality Act 2010. The land to be acquired is exclusively agricultural land.</p> <p>The Applicants have avoided residential titles and the onshore works are primarily located in agricultural farming land. The Projects interaction with public rights of ways is set out in the Applicants' <b>Outline Public Rights of Way Strategy</b> (REP3-024), with temporary and permanent diversions being</p>



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	<p>importance to be attributed to the existing uses of the land which is to be acquire( in terms of the neighbouring land where rights are sought) and its effects upon the Trust which will be encircled by that Work.</p>	<p>provided. The Applicants have committed to ensuring all accesses to properties are either maintained or appropriate diversions are provided throughout the construction period.</p> <p>The assessment conclusions, mitigation and management measures for land use have been agreed with the Councils (REP8-114). The only outstanding matter is with regard to the substations which is not relevant in this context.</p> <p>Whilst there are outstanding disagreements with the Councils over the assessment of the public rights of way, all matters pertaining to mitigation and other matters (regarding funding for inspections, the Code of Construction Practice (CoCP) and fencing and other means of enclosure) have been agreed. There is a single outstanding point regarding the wording of Requirement 32 of the <b>draft DCO</b> (document reference 3.1), which the Applicants consider will be resolved by Deadline 11.</p>
10	<p><b>Noise and vibration</b></p> <p>Construction or operational effects upon Protected characteristic groups or assets ( e.g. schools and community facilities).</p> <p>We do not believe that the use to which Wardens Trust is put or the extreme sensitivity of individuals with certain conditions, such as Aspergers or autism, to noise, has yet been seriously addressed. I understand that acoustic cushions are proposed; but they are presented as mitigating factors to individuals without protected characteristics, so I don't feel they offer any particular recognition of enhanced responsibility under the PSED.</p>	<p>Please refer to the Applicants' Comments at ID 17 below.</p>
11	<p><b>Traffic and Transport</b></p> <p>Disruption to public transport relied upon by Protected characteristic groups; Increased journey times/ delay effects for Relevant</p>	<p>Please refer to the Applicants' Comments at ID 18 below.</p>



ID	Tessa Wojtczak Comment	Applicants' Comments
	<p>protected groups due to construction Traffic, and changes to the local road network; Road safety effects for relevant protected Characteristic groups...due to construction Traffic, severance, changes to local road and Pedestrian networks and new transport Infrastructure.</p> <p>Please see notes below on this section in <b>Table 2, Assessment</b>.</p>	
12	<p><b>Human Health</b></p> <p>Health impacts from air quality, noise, flood risk Effects. Safety and personal security.</p> <p>Please see notes below on this section in <b>Table 2, Assessment</b>.</p>	Please refer to the Applicants' Comments at ID 19 below.
13	<p><b>Landscape and Visual Aspect</b></p> <p>Although there is potential for some residual Significant impacts I.e upon both landscape and Visual receptors, there is no pathway for a Disproportionate equality effect for any of the protected characteristic groups. <b>This topic is not considered further.</b></p> <p>Not to take this aspect into further consideration fails to address the protected characteristics of users of Wardens Trust under the PSED Section 4.</p> <p>These users come to the site to benefit from the proven effects of the open spaces and natural beauty. Instead most of the land around them and very close to them will be fenced off with high barriers and acoustic cushions. Their ability to see and orient themselves in that landscape, thus feeling safe, will be hampered. It is highly likely that the fencing, blocking out light and detail, will be</p>	<p>The updated <b>Outline CoCP</b> (REP8-017) provides in <b>Section 9.1.4</b> a suite of measures specifically designed for use in proximity to the Wardens Trust in response to the issues raised by Interested Parties. These measures include fencing which would be present throughout construction to reduce, in particular, noise impacts. Whilst these would impinge upon open views to the west (where these are not already blocked by trees or hedgerows), these fences would be standard height of Herras style fencing (i.e. approximately 2m).</p> <p>At the landfall, acoustic barriers of an appropriate height and specification will be erected around the perimeter of the HDD temporary working area and/or around specific items of plant for the duration of the landfall HDD works. Note that this would be a much smaller area than the Order limits themselves and barriers would move as the HDD plant is moved dependent on the locations of the bores. This would therefore not represent the kind of enclosure of the Wardens Trust and fields envisaged by the Interested Parties.</p>



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	<p>experienced as threatening and depressing, which is the opposite of the effect they have come to experience.</p>	<p>Alternatively, and where practicable, surplus spoil arising from preparatory works will be used to form bunds around the working areas or specific items of plant to attenuate noise. This would be less visually obtrusive.</p>
14	<p><b>Tourism, Recreation and Socio- Economics</b></p> <p>Construction .. effects upon community Facilities .</p> <p>Construction ...effects <b>upon any organisation Providing a service or product aimed specifically at one or more protected characteristic groups.</b> ( my emphasis ).</p> <p>Please see my remarks under this heading below on comments on <b>Table 2, Assessment.</b></p>	<p>Please refer to the Applicants' Comments at ID 20 below.</p>
<p><b>Table 2, Assessment</b></p>		
15	<p><b>Air Quality</b></p> <p>In relation to construction effects upon protected characteristic groups or assets (e.g schools or community facilities), The Applicants state:</p> <p><i>The projects have undergone an extensive site selection process ...Key design principles relevant to this include: . Avoiding proximity to residential dwellings.....</i></p> <p><b><i>The Projects have been located in areas where there was a reduced potential to cause disturbance. On this basis, air Quality effects have been assessed as not significant.</i></b></p> <p>The Applicant goes on to outline potential standard mitigation policies, and concludes:</p>	<p>The <b><i>Applicants' Comments on SEAS' D5 Submissions</i></b> (REP6-032) provides a full response to air quality related health issues.</p> <p>In summary, air quality impacts were considered in the assessment in relation to the UK government's health-based air quality Standards and Objectives; these Standards take into account vulnerable groups. The changes in pollutant concentrations predicted to arise as a result of the Projects are negligible, and concentrations across the majority of the study area are sufficiently below the health-based Standards that it is considered that significant health effects would not occur.</p> <p>The Applicants therefore confirm the position stated in the <b><i>Public Sector Equality Statement</i></b> (REP4-013). It is noted that the Councils have agreed with the air quality assessment and that the majority of the mitigation and management measures have also been agreed with the Councils (REP8-114).</p>



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	<p><i>With these management measures in place for each of these effects, there is <b>no predicted differential or disproportionate impact to protected groups.</b></i></p> <p>In relation to residential dwellings, we know that rather than avoiding proximity to residential dwellings, at this site , the Cable Corridor takes a route bringing it into very close proximity, favouring that route over an earlier “ peer “ route which maintained a greater distance from both the dwellings and Wardens Trust.</p> <p>We know further that as recently as the CAH 3 on 18th March 2021, although they were now in full possession of the facts concerning the regular and residential presence of individuals with protected characteristics at Wardens Trust, namely those with physical and mental disabilities, the elderly , and young people, the Applicants were still adamant that it would not consider moving the corridor further west away from the infrastructure or playing field, on the basis that it would cause “ procedural delay”. I understand that very shortly after that, they may have slightly reconsidered that position. Nevertheless, on this topic, I consider that the Applicants have not and are not fulfilling their duties under the PSED, and that in respect of air quality there will be definite differential or disproportionate impact to protected groups.</p>	
16	<p><b>Water Resources and Flood Risk</b></p> <p>The Applicant here describes measures that will ensure that <i>there will be no measurable impacts on the receiving water catchment.</i></p> <p><i>With these management measures in place.. there is no predicted differential or disproportionate impact to protected groups.</i></p>	<p>Irrespective of the additional information provided in response to queries about the works near the landfall and the aquifer from Interested Parties, the assessment conclusions, mitigation and management measures for this topic were agreed with the Environment Agency (REP8-124) and the Councils (REP8-114).</p>



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	<p>In relation to potential contamination of the aquifer upon which Wardens Trust relies, either as a result of HDD ON a perched aquifer or groundwater contamination resulting from pollution caused by the works over the very extensive area of the aquifer, I don't consider that that is fully determined. Therefore I disagree that the users of Wardens, all of whom have health conditions , will not experience differential or disproportionate impacts.</p>	<p>The Applicants therefore confirm the position stated in the <b>Public Sector Equality Statement</b> (REP4-013).</p>
17	<p><b>Noise and Vibration</b></p> <p>Although the cable corridor construction will be around 75 metres from Wardens Trust, the Applicants state here that:</p> <p><i>The Projects have been located in areas where there was a reduced potential to cause disturbance. On this basis, Noise effects have been assessed as not significant.</i></p> <p>The Applicants will <i>comply with relevant legislation, requirements, standards and best practice relating to construction noise.</i></p> <p>They conclude:</p> <p><i>There is no predicted differential or disproportionate impact to protected groups.</i></p> <p>Again, Cable Corridor Work will be within metres of Wardens Trust, and HDD, for periods of 24 hours, is sited close by. And again, given the extreme sensitivity that certain mental and physical health conditions can cause to noise stimulation, resulting in fear or anger, I cannot agree with the Applicants Statement that there will be no differential or disproportionate impact to protected groups in respect of noise or vibration.</p>	<p>The updated <b>Outline COCP</b> (REP8-017) provides in <b>Section 9.1.4</b> a suite of measures specifically designed for use in proximity to the Wardens Trust in response to the issues raised by Interested Parties.</p> <p>Whilst the assessment conclusions have not been fully agreed, it is noted that the mitigation and management measures for both construction and operation phase noise have been agreed with the Councils (REP8-114).</p>



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18	<p><b>Traffic and Transport</b></p> <p>Wardens Trust is in a very isolated spot, with very limited access, as the Panel has seen.</p> <p>There are at present two access routes, one main one adjacent to Plot 13, and a track utilised by the users of Wardens on foot to access the open countryside and lanes in the vicinity, and as emergency access should the main access become blocked in any way.</p> <p>The Applicants, in failing to recognise Wardens Trust or any of its personnel as an Affected Person, thereby does not recognise any rights in the track, Plot 12, or indeed Plot 14 on the byway.</p> <p>When transporting the elderly or vulnerable, or those with mental and physical health conditions, predictability, as far as it's possible, and safety are key issues. It's important that journeys do not take longer than anticipated and that as few hold-ups as possible are anticipated. The Applicants however consider that " increased journey times/ delay effects for relevant protected groups due to construction traffic, and changes to the local road network" as not significant. The" temporary roadworks ... short -term traffic management ( e.g. traffic signals, diversions) ..will cause minor inconvenience to the travelling public and insignificant driver delays".</p> <p>These delays could have more impact upon a vehicle transporting vulnerable individuals to an isolated location with limited access options, surrounded by construction work, which has not been granted any relevant rights in that access.</p>	<p>The traffic and transport assessment considers vehicle movements, not the uses of those vehicles. Driver delay will therefore affect an emergency vehicle equally as any other, it is on this basis that the <b>Public Sector Equality Statement</b> (REP4-013) concludes:</p> <p><i>Of particular relevance to protected groups Section 26.6.1.11 and section 26.6.1.12 of Chapter 26 Traffic and Transport assess impacts relating to congestion. This assessment determines that the operation and functionality of the highway network is not significantly impacted by the Projects' traffic and therefore it is implicit that there is not an impact on emergency service response times or public transport. In addition, Section 2.2.7 of the OCTMP contains a 'Network Resilience' strategy to reduce the potential for the construction HGV traffic to have an adverse impact upon the highway network during planned and unplanned events. With these management measures in place for each of these effects, there is no predicted differential or disproportionate impact to protected groups.</i></p> <p>All matters pertaining to the assessment, mitigation and management and security through the DCO are agreed with the Councils (REP8-114).</p> <p>The Applicants have identified that there are properties (Ness House and Ness Cottages) that have a right of access along the track at Plot 12. As such, the Applicants will maintain access along this track or provide an appropriate alternative. Further details on this will be included within an updated <b>Outline CoCP</b> to be submitted at Deadline 10.</p>





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	<p>In respect of emergency services, whose ease of access here is vital, The Applicants determine that there is no impact on emergency service response times. That is difficult to imagine in this location ; indeed in the past it has been necessary that emergency help arrived by air ambulance, landing on an adjacent field. However, should these Projects receive Consent, there will be no available free terrain for a helicopter to land .</p> <p>It is not at all apparent that the Applicants, in their site selection at this point, have discharged their duty in respect of Wardens users under PSED, or have taken significant steps to recognise and fulfil that duty once they did become fully aware of the protected characteristics of visitors ( many or most of whom are residential for a period ) to Wardens Trust.</p> <p>In respect of <u>safety and personal security</u>, please note that in denying Wardens and its users rights to the track (Plot 12) , the Applicants will oblige parties of disabled visitors, some of whom will be slow in moving , to share the single lane access road adjacent to Plot 13, sharing that single track with all traffic passing both ways.</p> <p>From a safety point of view, this is not viable.</p> <p>In their assessment of the impacts of traffic and transport delays here, I can't agree that there is no predicted differential or disproportionate impact to protected groups as the Applicants conclude.</p>	
19	<p><b>Human Health</b></p> <p>I have referred above to the significant impacts of noise and vibration and the potential contamination of groundwater and consequently the Aquifer upon people with protected</p>	<p>In response to the comment regarding the aquifer, please refer to the Applicants Comments at ID 7 and ID 16 of this table above.</p>





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	<p>characteristics. Additionally, I'd reference the possibility of 24 hour lighting at the nearby HDD compound.</p> <p>The Applicants state that their careful selection of site, and other mitigation, result in “ <i>not significant effects</i>” in respect of human health. That cannot be the case in respect of the users of Wardens Trust.</p> <p>The Applicants also Reference here, as they have elsewhere in this Examination, the effects of “perceived risk”:</p> <p><i>In some cases, perception of risk may have a greater impact on health than the hazard itself.</i></p> <p>In mitigation, they propose:</p> <p><i>Strong communication and provision of information...through the production of a Stakeholder Communications Plan.</i></p> <p>Children and adults with certain conditions experience extreme anxiety when confronted with an environment both incomprehensible ( fences, large machinery, noise, groups of personnel, restricted movement) and extremely challenging to the senses. This anxiety is very real and distressing, and is not caused by a perception of risk</p> <p>It is not persuasive that a Stakeholder Communications Plan will offer alleviation to an individual experiencing these stressors in his/ her immediate environment. The Applicants are not taking into account the nature of relevant disabilities.</p> <p>On this score too I disagree with The Applicants conclusion that in respect of human health, and safety and security, there will be <i>no predicted differential or disproportionate impact to protected groups.</i></p>	<p>Regarding lighting, the Applicants positions remains as set out within the <b>Response to Hearing Actions Points</b> (REP5-026) and <b>Written Summary of Oral Case (ISH4)</b> (REP5-028).</p> <p>Communication – the updated <b>Outline CoCP</b> (REP8-017) provides in Section 9.1 a commitment to direct engagement with the Wardens Trust in relation to mitigation:</p> <p><i>In particular, the Applicant will engage with Wardens Trust, St Mary the Virgin Church in Friston, and the occupants of other noise sensitive premises in accordance with the Stakeholder Communication Plan. Information obtained from this engagement will be used to prepare specific noise control plans for each noise sensitive premises. The Applicant will require its contactors to incorporate specific noise control plans into the application(s) for prior consent under Section 61 of COPA</i></p> <p>The concerns over anxiety were discussed at length during ISH10. The Applicants further points on this issue can be found in <b>Section 4.2</b> of the <b>Written Summary of Oral Case Issue Specific Hearing 10 on 9 March 2021: Health and Social Well Being</b> (REP8-095). The Applicants recognise that communication can play a big part in reducing anxiety but does not fully alleviate this.</p> <p>All matters pertaining to mitigation in relation to human health have been agreed with the Councils through the SoCG (REP8-114).</p>



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20	<p><b>Tourism, Recreation and Socio- Economics</b></p> <p>Citing once again the “ extensive site selection process” , the Applicants include among its key design principles:</p> <p><i>The site selection process has avoided direct effects upon community facilities, places of worship, key services ...etc etc...</i></p> <p>Further: ( page 13):</p> <p><b><i>As above , the site selection has avoided direct effects upon community facilities, which has therefore avoided effects upon any organisation providing a service or product aimed specifically at one or more protected characteristic groups.</i></b></p> <p><b><i>Table 27.23 of Chapter 27 Human Health lists Health and Community Assets within 1km of the Onshore Development area.</i></b></p> <p><b><i>There are no direct effects upon these properties both of which are outwith the Projects' Onshore Development Area.</i></b></p> <p>The Applicants conclude:</p> <p><i>There is no predicted differential or disproportionate impact to protected groups.</i></p> <p>Here the Applicants fail entirely in respect of their PSED obligations to the users of Wardens Trust.</p> <p>Wardens Trust does not appear on the map. The site selection virtually encircles this community asset, coming within 75 m of it. Effects upon this particular organisation providing a service or product aimed specifically at one or more protected characteristic groups will be disastrous, and not short- lived when one bear in</p>	<p>Whilst the Applicants acknowledge that the Wardens Trust is not specifically illustrated on the figures accompanying the site selection process as set out within <b>Chapter 4</b> of the ES (APP-052), they have been aware of the Wardens Trust since before the submission of the Applications. The Applicants have had regard to the proximity of the Order limits to residential properties and other premises from the outset, as explained within <b>Chapter 4</b> of the ES (APP-052). Furthermore, the Applicants are aware of the Wardens Trust and have been in discussions with Agents instructed by one of the Trustees at the Wardens Trust since 2018.</p>



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	<p>mind the potential cumulative effect of these two Projects and other projects that will follow on, such as the National Grid Ventures' Nautilus Interconnector. The Chairman of the Trust has told the Examining Authority that it is difficult to see how the organisation can survive.</p> <p>It is difficult to understand how the robust due diligence and extensive site selection processes have failed to identify Wardens Trust as a significant community resource, especially as representations from myself and others have been referencing it and describing its activities and users since the Public Consultation process 2018- 2019, and throughout this Examination.</p> <p>The failure to include the presence and significance of Wardens Trust from the very earliest processes of site selection at Plot 13, where the Cable Corridor abuts its playing field, means that at no point have the Applicants fulfilled their requirements under PSED to its users. Once the Applicants did appear to recognise the existence and significance of the Trust, any significant attempt to move to fulfil those obligations has in my view not yet been forthcoming.</p>	
21	<p><b>At 4. Conclusions</b></p> <p>Paragraph 16 states:</p> <p><i>no differentiated or disproportionate impacts on groups with protected characteristics under the Equalities Act 2010 are predicted at any phase of the Projects.</i></p>	<p>The Applicants consider that there are no disproportionate equality effects.</p> <p>The Applicants highlight that the further commitments have been made to manage or mitigate impacts around the Wardens Trust in response to concerns raised during the examination, but that the impacts were already not significant (in EIA terms).</p>



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	<p>As the impacts on the users of Wardens have not been adequately considered, or considered at all, in all the categories referenced above, I do not think that this statement at 16 is justifiable.</p> <p>19 states:</p> <p><b><i>The Applicants recognise the potential for protected groups to have less access to Consultation processes, and therefore has built in protections through appropriate site selection and best practice management of construction and operation processes, informed by SPRS previous experience of constructing major infrastructure projects. ( my emphasis).</i></b></p> <p>It is true that protected groups have less access to Consultation. However, on this occasion, the Applicants' avowed built in protections, through careful site selection, to those protected groups has resulted in the construction works for two projects being brought within 70 metres of an important and popular resource that serves them, significant both locally and nationally, thereby placing that resource under an existential threat and failing entirely to meet the PSED in the respect of those groups with protected characteristics who have been and we hope will continue to be users of Wardens Trust.</p>	
22	<p><b>Submission</b></p> <p>On all these counts I submit that in their Equality Impact Assessment, The Applicants have not had regard to the steps needing to be taken in respect of groups with protected characteristics as users of Wardens Trust under Section 149 of the Equality Act 2010.</p>	