



**SCOTTISHPOWER  
RENEWABLES**

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

## **Applicants' Responses to Hearings Action Points (CAH3, ISH10, ISH11, ISH12, ISH13, ISH14, ISH15)**

Applicants: East Anglia TWO Limited and East Anglia ONE North Limited

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



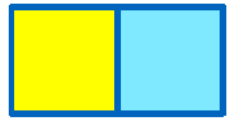
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This document is supported by the following appendices:

Appendix number	Title
1	ISH14 – Red-Throated Diver of the Outer Thames Estuary SPA: Concluding Legal Submissions
2	CAH3 Action 1 – Book of Reference
3	CAH3 Action 3 – The need for 70m cable corridor
4	Letter to St Peter's Church Theberton regarding Highways Works
5	Applicants Comments on Deadline 7 Submission by ██████████



## Glossary of Acronyms

AONB	Area of Outstanding Natural Beauty
CAH	Compulsory Acquisition Hearing
DCO	Development Consent Order
DML	Deemd Marine Licence
ECoW	Ecological Clerk of Works
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	Examining Authority
ETG	Expert Topic Group
ISH	Issue Specific Hearing
LONI	Letter of No Impediment
MMO	Marine Management Organisation
NGET	National Grid Electricity Transmission
OFTO	Offshore Transmission Owners
OLCMS	Outline Landfall Construction Method Statement
OLEMS	Outline Landscape and Ecological Management Strategy
OLMP	Outline Landscape Management Plan
SASES	Substation Action Save East Suffolk
SPA	Special Protection Area
SoCG	Statement of Comment Ground
SZC	Sizewell C
UXO	Unexploded Ordnance

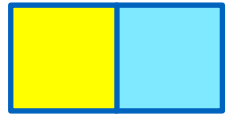


## Glossary of Terminology

Applicants	East Anglia TWO Limited / East Anglia ONE North Limited
The Councils	East Suffolk Council and Suffolk County Council
Development area	The area comprising the onshore development area and the offshore development area (described as the 'order limits' within the Development Consent Order).
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
Generation Deemed Marine Licence (DML)	The deemed marine licence in respect of the generation assets set out within Schedule 13 of the draft DCO.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
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.
Link boxes	Underground chambers within the onshore cable route housing electrical earthing links.
National Grid substation	The substation (including all of the electrical equipment within it) necessary to connect the electricity generated by the proposed East Anglia TWO / East Anglia ONE North project to the national electricity grid which will be owned by National Grid but is being consented as part of the proposed East Anglia TWO / East Anglia ONE North project Development Consent Order.
National Grid substation location	The proposed location of the National Grid substation.
Onshore cable corridor	The corridor within which the onshore cable route will be located.
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.
Onshore preparation works	Activities to be undertaken prior to formal commencement of onshore construction such as pre-planting of landscaping works, archaeological investigations, environmental and engineering surveys, diversion and laying of services, and highway alterations.
Onshore substation	The East Anglia TWO / East Anglia ONE North substation and all of the electrical equipment within the onshore substation and connecting to the National Grid infrastructure.
Onshore substation location	The proposed location of the onshore substation for the proposed East Anglia TWO / East Anglia ONE North project.
Transmission DML	The deemed marine licence in respect of the transmission assets set out within Schedule 14 of the draft DCO.



# 1 Applicants' Responses to Hearings Action Points

## 1.1 Introduction

1. This document has been prepared to address actions addressed to the Applicants arising from the Issue Specific Hearings (ISHs) held virtually on Tuesday 9<sup>th</sup> March, Wednesday 10<sup>th</sup> March, Tuesday 16<sup>th</sup> March, Wednesday 17<sup>th</sup> March and Friday 15<sup>th</sup> March 2021 and the Compulsory Acquisition Hearing (CAH) held virtually on Thursday 18<sup>th</sup> March 2021. Responses to actions addressed to the Applicants are provided in **sections 1.2 to 1.8** below.
2. This document is applicable to both the East Anglia ONE North and East Anglia TWO 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 ExA 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.





## 1.2 Applicants' Response to Issue Specific Hearing 10

3. **Table 1** responds to actions addressed to the Applicants in ISH10.

**Table 1 Applicants' Response to ISH10 Actions**

Number	Action	Applicants' Response
1	<p><b>Scope of cumulative impact assessment</b></p> <ul style="list-style-type: none"> <li>The Applicants to submit any information available to it that assists in defining the scope of cumulative impact assessment relevant to health. Correspondence relevant to the Five Estuaries scheme no longer seeking a connection at Friston should be submitted (D8). Any other relevant emerging information should be submitted at the first available opportunity (D8 or D9)</li> <li>NGESO to confirm the status of any NG connection offer made to the Five Estuaries project at Friston.</li> </ul>	<p>The correspondence from Five Estuaries has been submitted and accepted as an additional submission (AS-100).</p>
4	<p><b>Best practice in community consultation</b></p> <p>Applicant to provide an appendix to the Code of Construction Practice (CoCP) outlining the measures in respect of community consultation and engagement taken at EA1 to be implemented for EA1(N) and EA2.</p>	<p>This has been provided in <b>Appendix 3 of the Outline Code of Construction Practice</b> (an updated document has been submitted at Deadline 8, document reference 8.1).</p>
5	<p><b>Response to [REDACTED]</b></p> <p>Applicants to respond to questions raised by [REDACTED] during ISH10 in relation to the effectiveness of mitigation measures where appropriate and relevant.</p>	<p>The Applicants note that the mitigation measures proposed in relation to construction noise and air quality are set out in the <b>Outline Code of Construction Practice (OCOCP)</b> (an updated document has been submitted at Deadline 8, document reference 8.1). The mitigation measures have been informed by relevant guidance and experience of the successful implementation of such measures during the construction of other projects.</p> <p>To ensure emissions from heavy goods vehicles (HGV) are minimised through Stratford St. Andrew, in the event of an overlap of the proposed</p>



Number	Action	Applicants' Response
		<p>East Anglia TWO and East Anglia ONE North projects' construction phase with the construction of the proposed Sizewell C Nuclear Power Station (SZC), the Applicants will ensure 70% of the HGVs are of a Euro VI-standard. This requirement would only apply prior to the opening of the Two-Villages Bypass.</p> <p>Should there be no overlap with SZC, or the Two-Villages Bypass has been constructed, the CTMP co-ordinator will ensure that all HGVs are of a Euro VI standard where practicable and where specific specialised operations will allow.</p> <p>Further to the mitigation measures proposed within the original Applications, in the event that the East Anglia ONE North project and the East Anglia TWO project both be consented and then built sequentially, the Applicants have committed to installing the ducting of the second project along the whole of the onshore cable route in parallel with the installation of the onshore cables for the first project. This will include installing ducting using a trenchless technique at the landfall for both Projects at the same time.</p>



### 1.3 Applicants' Response to Issue Specific Hearing 11

4. **Table 2** responds to actions addressed to the Applicants in ISH11.

**Table 2 Applicants' Response to ISH11 Actions**

Number	Action	Applicants' Response
1	<p><b>Outline Operational Drainage Management Plan (OODMP)</b></p> <p>Updated OODMP to be submitted at D8 addressing the principles of final design to be adopted following decisions on technical issues and to include:</p> <ul style="list-style-type: none"> <li>• Clarification on the prioritisation of infiltration as 1st option for surface water management</li> <li>• Response to SCC/SASES on matters raised during the hearing, including comments on the proposed replacement 'drainage depression' affected by the proposed access road.</li> <li>• Applicants reasoning for its confidence that a pipe connection to the Friston Watercourse is feasible, achievable and deliverable.</li> <li>• Modelling taking into account outputs provided by SCC from the Friston Surface Water Management Plan.</li> <li>• Further clarity on adoption and maintenance.</li> </ul>	<p>The Applicants have submitted an updated <b>Outline Operational Drainage Management Plan</b> at Deadline 8 (document reference ExA.AS-3.D8.V4) which addresses the matters raised through oral submissions within ISH11 and requested by the ExA in Action 1 of their Hearing Action Points (EV-123a).</p>
3	<p><b>Construction drainage management</b></p> <p>Applicants to provide an Appendix to the Outline Code of Construction Practice (OCoCP) addressing those concerns raised by SCC and SASES during the hearing, including further information on how construction flood risk and drainage can be managed in practical terms. This should include a 'worst-case' assessment and analysis and the</p>	<p>The Applicants have submitted an updated <b>Outline CoCP</b> at Deadline 8 (document reference 8.1), which includes an appendix which addresses the matters raised through oral submissions within ISH11 and requested by the ExA in their Hearing Action Points.</p>



Number	Action	Applicants' Response
	<p>impact on watercourses and drainage systems crossing and impacted by the proposed development site.</p>	
4	<p><b>Assess proposal against SCC interim planning drainage guidance</b></p> <p>Applicants to consider and assess scheme against interim SCC planning drainage guidance.</p>	<p>The Applicants have primarily addressed this matter through submitting a <b>Flood Risk and Drainage Clarification Note</b> at Deadline 8 (document reference ExA.AS-13.D8.V1), however the updated <b>Outline Operational Drainage Management Plan</b> (document reference ExA.AS-3.D8.V4) also considers SCC's interim planning guidance.</p> <p>However, the Applicants note that the SCC interim planning guidance requests preliminary ground investigations to be undertaken to provide an understanding of existing ground conditions. The Applicants accept that these should have been undertaken earlier, however have now committed to detailed ground investigations post consent.</p>
5	<p><b>Outline Landscape and Ecological Management Strategy (OLEMS)</b></p> <ul style="list-style-type: none"> <li>Applicants to provide a definition of 'perching' as used in para. 135 of the OLEMS [REP6-007].</li> <li>To consider whether further assessment of the additional surface water management SuDs basin capacity to reduce flood risk for Friston is required and if so to include in the revision of the OLEMS.</li> </ul>	<p>The Applicants have updated the <b>Outline Landscape and Ecological Management Strategy</b> (OLEMS) at Deadline 8 (document reference 8.7) to clarify their meaning of 'perching' and have provided additional information with regard to the infiltration / SuDS basin capacity in light of updates to the <b>Outline Operational Drainage Management Plan</b> made at Deadline 8 (document reference ExA.AS-1.D6.V3).</p>



## 1.4 Applicants' Response to Issue Specific Hearing 12

5. **Table 3** responds to actions addressed to the Applicants in ISH12.

**Table 3 Applicants' Response to ISH12 Actions**

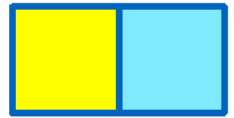
Number	Action	Applicants' Response
1	<p><b>Outline Code of Construction Practice (OCoCP): ambient noise levels at Friston</b></p> <p>Applicant to submit a revised OCoCP at D8, prepared following consultation with ESC and SASES technical experts, to include or address:</p> <ul style="list-style-type: none"> <li>• An Appendix based on the Cobbing Report [REP7-041] providing a process to address the interpretation of BS5228 in relation to Control of Pollution Act 1974 (COPA) s61 approval, ensuring the undertaker will require the relevant contractor(s) to apply for s61 approval.</li> <li>• Final revisions to the baseline data in respect of ambient noise levels.</li> <li>• The materiality of works in relation to COPA and need for s61 approval for relevant onshore preparation works.</li> <li>• Table 5 of the Cobbing Report (p14) [REP7-041] sets out working times, averaging periods, LOAELs and SOAELs derived from HS2 which were generally accepted: a means of incorporating and securing this table with the OCoCP should be provided.</li> <li>• Consideration should be given to OCoCP measures to control the hours within which construction traffic movement would be permitted, which were proposed to be different to the hours set out in Table 5 of the Cobbing Report.</li> </ul>	<p>The Applicants have updated the <b>OCoCP</b> for Deadline 8 (document reference 8.1) in light of the oral submissions made at ISH12 and the associated Hearing Action Points. For the version of the <b>OCoCP</b> submitted at Deadline 8 the Applicants requested comments from both ESC and SASES regarding the section on noise. Where comments were received, the Applicants reviewed these and incorporated reasonable suggestions into the drafting of the <b>OCoCP</b>.</p>



Number	Action	Applicants' Response
2	<p><b>OCoCP: construction noise at Friston village, church and other sensitive receptors</b></p> <p>Consideration of amendments to:</p> <ul style="list-style-type: none"> <li>• Include reference to specific measures to reduce adverse noise effects at St Mary's Church, Friston and its environs</li> <li>• Possible further measures to better document the process for community liaison and consultation during construction.</li> <li>• Consideration should be given to amending the current 75m buffer to a residential receptor adopted by the OCoCP as the threshold above which specific acoustic protection measures would not apply to 100m</li> </ul>	<p>The Applicants have updated the <b>OCoCP</b> at Deadline 8 (document reference 8.1) to include reference to the Church of St Mary the Virgin, Friston, as well as revised the 75m buffer to 100m and provided further information on community liaison and consultation.</p>
3	<p><b>OCoCP: noise monitoring during onshore preparation works</b></p> <p>Applicant to consider amending the OCoCP to include general noise monitoring measures to be undertaken as part of the Onshore Preparation Works Management Plan.</p>	<p>The Applicants have made minor edits to the wording of Appendix 1 of the updated <b>OCoCP</b> submitted at Deadline 8 (document reference 8.1) to ensure that noise monitoring of onshore preparation works is considered within the final onshore preparation works management plans secured under Requirement 26 of the <b>draft DCO</b> (document reference 3.1).</p>
4	<p><b>dDCO Requirements 23 and 24</b></p> <p>Consideration of revised drafting to include:</p> <ul style="list-style-type: none"> <li>• provision by the undertaker of post-event explanations of events undertaken as emergencies under the R23(2)(e) and R24(2)(e) text to ESC within a defined time period of the event; and</li> <li>• provision that events undertaken as essential activities out of hours outwith the provisions of R23(2)(a) to (d) or R24(2)(a) to (d) (the essential activities '...included but</li> </ul>	<p>The Applicants have agreed that where activities are carried out in the instance of an emergency outwith the standard construction hours in accordance with paragraph (2)(e) of requirements 23 or 24, an explanation will be provided to ESC within 5 working days following the event, which will include details on the nature of the emergency and the hours and duration in respect of which the emergency works were undertaken. It has been agreed with ESC that this will be secured through a new commitment within the Outline Code of Construction Practice.</p>



Number	Action	Applicants' Response
	<p>not limited to...') are subject to advance approval as provided for in R23(3) and R2493).</p>	<p>ESC have requested that requirements 23 and 24 are amended so that in addition to seeking approval from ESC in relation to the duration and timing of works outwith the specified construction hours, agreement must also be sought on whether or not the works are "essential".</p> <p>The Applicants have discussed this with ESC and have agreed some revised text to be included in paragraph (3) of requirements 23 and 24 to address this comment.</p>
5	<p><b>Operational noise</b></p> <ul style="list-style-type: none"> <li>Applicants to provide further evidence and appropriate examples to support its view in respect of the adequacy of assessed background noise levels and the consequences of these.</li> <li>Applicants ESC and SASES to provide final written positions explaining their technical position in relation to the assessment method and approach to background noise levels, reasons for the apparent differences of view and evidence in the technical literature upon which each view is based.</li> <li>Applicants to set out their reasons for the rejection of the background level at SSR9 and ESC and SASES to comment on whether the rejection is valid and if not, why not?</li> <li>If the value found at SSR9 is accepted, what are the implications for the approach to the control of operational noise?</li> <li>Each party to comment on the others' positions at D9.</li> </ul>	<p>The Applicants have submitted a <b>Position Statement on Noise</b> submitted at Deadline 8 (document reference ExA.AS-14.D8.V1), which addresses these Hearing Action Points.</p> <p>The Applicants will review Deadline 8 submissions made by east Suffolk Council (ESC) and SASES and respond to their respective positions regarding noise matters at Deadline 9.</p>



Number	Action	Applicants' Response
6	<p><b>Tonality, interference patterns and related operational acoustic effects</b></p> <ul style="list-style-type: none"> <li>Final submissions are requested from the Applicants, ESC and SASES in respect of the 6dB correction proposed by SASES to address the tonal characteristics of operational noise (as suggested by BS4142) explaining whether this approach is justified and if not, why not.</li> <li>Noting ESC and SASES position that a true worst case requires the application of a 6dB correction (or specific demonstration that this is not required), the Applicants are requested to either address this requirement or to set out clearly in final submissions why this is not required.</li> <li>Similar submissions are requested in respect of any other relevant characteristics of operational noise, including multiple sources and the possibility of interference patterns.</li> <li>Each party to comment on the others' positions at D9.</li> </ul>	<p>The Applicants have submitted a <b><i>Position Statement on Noise</i></b> submitted at Deadline 8 (document reference ExA.AS-14.D8.V1), which addresses these Hearing Action Points.</p> <p>The Applicants will review Deadline 8 submissions made by ESC and SASES and respond to their respective positions regarding noise matters at Deadline 9.</p>





## 1.5 Applicants' Response to Issue Specific Hearing 13

6. **Table 4** responds to actions addressed to the Applicants in ISH13.

**Table 4 Applicants' Response to ISH12 Actions**

Number	Action	Applicants' Response
2	<p><b>AIL access</b></p> <p>With reference to Agenda item 2c) and their responses to ExQ2.18.10 [PD-030], please could the Applicants clarify the basis on which the use of the haul road for AIL access to the substations site is longer than the proposed route which continues via the B1069/A1094 and the A1094/B1121 junctions and through Friston?</p>	<p>The Applicants clarify that the reference is provided in relation to a comparison between the length of the proposed Substation Operational Access road from the B1121 (approximately 1.3km) and the temporary haul road (suggested as an alternative for AIL movements) from the B1069 to the onshore substation (approximately 1.9km).</p> <p>It is considered that the Applications AIL routing strategy is proportional (noting a maximum of 4 deliveries), and has mitigated significant environmental impacts on the public highway.</p>
4	<p><b>Aldeburgh B1122</b></p> <p>Applicants to consider any potential issues with HGVs exiting the roundabout northbound on the B1122 and conflict with any vehicle parked immediately north of the yellow line restriction.</p>	<p>HGV demand through the Aldeburgh junction accessing section 3B (westward of the Hundred River) would be limited to a maximum of 10 movements per day at times where the temporary haul road from access 9 (located off the B1069) is not available Under normal network operating conditions vehicles parking north of the waiting restrictions necessitate traffic to operate a 'give-take' system of yielding to allow opposing traffic streams to pass. The link is subject to daily traffic flows of 3,383 vehicles of which 147 are HGVs.</p> <p>The Applicants' traffic management strategy would formalise the current informal traffic management situation by utilising 'Stop-Works' to stop an opposing traffic stream from conflicting with the Projects' HGVs.</p> <p>To allow the pilot vehicle operatives to stop oncoming traffic the use of the Stop-Works sign is proposed. The conditions of the use of the Stop-Works sign is prescribed in the Department for Transport publication, Traffic signs manual chapter 8 (part 1) road works and temporary situations - design (2009). Chapter 8 states:</p>



Number	Action	Applicants' Response
		<p><i>The "STOP-WORKS" sign to diagram 7031 may be used only to stop traffic for a short period during works on or near a road, <u>or during a temporary obstruction of a road</u> ..... Two "STOP-WORKS" signs may be required in circumstances such as manoeuvring plant or works vehicles.</i></p> <p>Notice of traffic control measures will be posted on-street in advance of HGV movements. The Applicant will consider if resident parking peaks can be avoided when preparing delivery schedules.</p>
5	<p><b>Cumulative effects – amendments and projects involved</b></p> <p>With reference to the Applicants' Sizewell Projects Cumulative Impact Assessment Note (Traffic and Transport) submitted at Deadline 6 [REP6-043], which has been revised so that it now takes account of both the Sizewell B Relocated Facilities Project and the revised Sizewell C project, please clarify the following:</p> <p>i) Does this latest cumulative impact assessment (CIA) result in any change to the mitigation already proposed?</p> <p>ii) Why is this?</p> <p>iii) Following the Norfolk Vanguard High Court judgment, do the Applicants consider that any other projects should be included in the CIA? and</p> <p>iv) How will the Applicants ensure that all impacts associated with all relevant activities are all properly considered, assessed and mitigated within the dDCO?</p>	<p>i) The Cumulative Impact Assessment note confirms that there will be minimal change to Sizewell C (SZC) traffic numbers and therefore no material change to the Projects and SZC cumulative impact assessment outcomes.</p> <p>ii) As a result of further engagement with SCC, the mitigation approach has been agreed. Further details are provided in response iv).</p> <p>iii) No, the Applicants have, to the extent possible on the basis of information currently available, provided a cumulative assessment of all foreseeable developments.</p> <p>iv) A robust assessment had been carried out with appropriate mitigation being identified on the basis of worst case scenarios (including worst case cumulative scenarios). Potentially necessary mitigation has been identified in a series of plans (i.e. documents 8.9 Outline Construction Traffic Management Plan, 8.10 Outline Access Management Plan, 8.11 Outline Travel Plan, Outline Port Construction Traffic Management and Travel Plan). The DCO requires final plans to be approved by SCC and through this process final mitigation will be applied on the basis of the cumulative context at that time.</p>



Number	Action	Applicants' Response
6	<p><b>Cumulative effects – AIL movements</b></p> <p>In respect of both construction and operation, would the Applicants please clarify:</p> <p>i) whether or not it is considered that there is any potential for any cumulative impacts;</p> <p>ii) given that temporary improvements to highways and structures may be needed, whether there any benefit in undertaking several AIL movements consecutively once the Applicants' and others' construction programmes are known in more detail; and</p> <p>iii) where the commitment to these views is secured.</p>	<p><b>Construction</b></p> <p>i) Paragraph 80 of Chapter 26 of the ES (APP-074) details a total of two AIL transformer deliveries per project (a total of four deliveries simultaneously). There are no AIL movements planned for NGET.</p> <p>Traffic and Transport: Deadline 1 Clarification Note (REP xx) sets out the requirement for non-special order abnormal loads and clarifies that there is a forecast peak of three vehicles per day for two months with an average of under one vehicle per day. The majority of loads will be of the scale that they can be accommodated on standard HGVs. These loads will be subject to the same project controls as HGVs (e.g. not permitted to travel through Leiston) and will travel almost entirely on the Suffolk Lorry Network. [save for 3b]</p> <p>All abnormal loads movements will be notifiable through the established application process known as Electronic Service Delivery for Abnormal Loads (ESDAL) and subject to Highways England approval and Police permission and direction. The Transformer Loads would be subject to Police escort. The OCTMP commits to following the ESDAL process.</p> <p>It is therefore considered the quantum and scale of the abnormal movements do not present a significant driver delay impact and the ESDAL controls are in place to ensure that the loads are co-ordinated with SZC to ensure there are not significant cumulative impacts.</p> <p><b>Operation</b></p>



Number	Action	Applicants' Response
		<p>The Projects' transformers are designed not to fail and should not need to be replaced during the lifetime of the Projects unless there was a catastrophic failure . Routine maintenance would not require the replacement or removal of the transformers. It is therefore expected that once the transformers are installed, there would be no requirement for AIL movements for the lifetime of the Projects.</p> <p>Notwithstanding, in the unlikely event of a failure, the Applicants advise that the lead in time for delivery is 12 – 24 months, this would provide time to agree the routes to be used with stakeholders and mitigate as necessary through the established application process known as Electronic Service Delivery for Abnormal Loads (ESDAL). During this period the substation could continue to operate albeit on reduced output.</p> <p>The AIL vehicles are equivalent track width to a single lane carriageway capable of accommodating a standard HGV (3m). In accordance with their duties as the local highway authority, SCC have classified the B1069 through Leiston as a 'Main distributor' for HGVs (<a href="https://www.suffolk.gov.uk/assets/Roads-and-transport/lorry-management/Lorry-Route-Map-Amended-MAY-17.pdf">https://www.suffolk.gov.uk/assets/Roads-and-transport/lorry-management/Lorry-Route-Map-Amended-MAY-17.pdf</a>). [insert baseline HGV movements]</p> <p>Given the routes status in the road hierarchy it is reasoned that the route would not be subject to changes that would preclude HGV movement and therefore would by definition maintain access for AIL movements. It is therefore, concluded there would not be a significant driver delay impact/cumulative impact during operations.</p>



Number	Action	Applicants' Response
		<p>ii) The Wynns report details three suitable vehicles in the UK capable of transporting a 280t transformer. It is therefore unlikely, that these movements could be grouped together under a single traffic management procedure. An alternative strategy is to implement structural intervention that can be rapidly deployed and dismantled as set out in the Applicant's response to WQ2.18.17.</p> <p>As detailed in Deadline 1 Traffic and Transport Clarification Note there is infrequent demand for non-order related abnormal loads and therefore a strategy to group the Projects' movements may be disproportional to any benefits to be accrued and may have a secondary adversely impact on construction programme duration. Notwithstanding, all applications for abnormal loads movements are co-ordinated through ESDAL and if timings align the Police will convoy loads to minimise delays and escorting resource.</p> <p>iii) The OCTMP commits to ESDAL for the transportation of all abnormal loads.</p>
7	<p><b>Cumulative effects – East Anglia (EA) projects case 1</b></p> <p>In the first case where, along with the other non-EA projects, each EA project proceeds separately on different timescales, would the Applicants please clarify:</p> <p>i) how it is envisaged that separate contractors will cooperate and work side by side, for instance in respect of the use of shared compounds;</p> <p>ii) whether this is realistic;</p>	<p>i) The Applicants will ensure appropriate coordination between contractors through contractual obligations to coordinate via interface agreements</p> <p>ii) It is common for contractors to have to share facilities in large scale infrastructure projects The AILs will arrive at an appropriate time to the construction programme and each delivery has to be planned and approved and directed by the police. The OCTMP commits to ESDAL for the transportation of all abnormal loads.</p>



Number	Action	Applicants' Response
	<p>iii) given that temporary improvements to highways and structures may be needed, whether there is any benefit in undertaking several AIL movements consecutively once the Applicants' and others' construction programmes are known in more detail; and</p> <p>iv) where the commitment to these views is secured.</p>	
8	<p><b>Cumulative effects– East Anglia (EA) projects case 2</b></p> <p>In the second case where, along with the other non-EA projects, each EA project proceeds separately on the same timescale, would the Applicants please clarify</p> <p>i) how it is envisaged that separate contractors will cooperate and work side by side, for instance in respect of the use of shared compounds;</p> <p>ii) whether this is realistic;</p> <p>iii) given that temporary improvements to highways and structures may be needed, whether there is any benefit in undertaking several AIL movements consecutively once the Applicants' and others' construction programmes are known in more detail; and</p> <p>iv) where the commitment to these views is secured.</p>	See response/comments for 7
9	<p><b>Cumulative effects – Sizewell Projects</b></p> <p>With reference to the Applicants' Sizewell Projects Cumulative Impact Assessment Note (Traffic and Transport) submitted at Deadline 6 [REP6-043], which has been revised so that it now takes account of both the Sizewell B Relocated Facilities Project and the revised Sizewell C project, we note</p>	<p>i) The following links are forecast to potentially significant cumulative amenity impacts.</p> <ul style="list-style-type: none"> <li>• Link 2 (the A12 through Yoxford);</li> <li>• Link 3 (the A12 through Marlesford); and</li> <li>• Link 11 (Lovers Lane).</li> </ul>

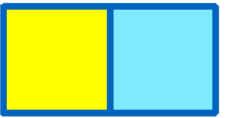


Number	Action	Applicants' Response
	<p>that this identifies potentially significant cumulative impacts at A12 Yoxford, A12 Marlesford and Lovers Lane. Would the Applicants please clarify:</p> <p>i) what mitigation measures are being put forward; and</p> <p>ii) where account has been taken of other projects such as the proposed development at Martlesham Heath, proposed improvements to the A12 between A14 Seven Hills and A1152, and other National Grid projects at or near Friston, such as Nautilus and Eurolink.</p>	<p>It should be noted these findings are consistent with those of the <b><i>Sizewell Projects Cumulative Impact Assessment (Traffic and Transport)</i></b> (REP2-009) and do not represent a change of position for the Applicants.</p> <p>With regard to Link 2 and 3, the Applicants have committed to pedestrian amenity mitigation in the form of footway improvements proportionate to the Projects' contribution to the cumulative impact. These improvements would not conflict with future schemes proposed by SZC or SCC and are secured in the OCTMP (ref xx) and will be progressed via a S278 (Highways Act 1980) agreement.</p> <p>For Link 11, SZC are proposing embedded mitigation in the form of Public Rights of Way (ProW) improvements and a signalised crossing. It has been agreed with SCC that this scheme will mitigate cumulative impacts with the Project's and is likely to be delivered prior to significant cumulative impacts manifesting. Therefore, there is no further mitigation required of the Projects at this location.</p> <p>ii) <b><u>Martlesham Heath</u></b></p> <p><i>Chapter 26, Section 26.5.7 Anticipated Trends in Baseline Condition</i>, confirms the baseline flows have been factored to the future year baseline traffic demand (year 2023) using growth factors supplied by consultants working on behalf of SCC. The factors have been derived from the East Suffolk Development Plan process taking into account the forecasts for committed and emerging development trajectories.</p> <p><b><u>A12 between A14 Seven Hills and A1152.</u></b></p> <p>A major highway scheme promoted by SCC to address congestion and highway safety. The scheme went to public consultation February to March 2021 on potential options.</p>



Number	Action	Applicants' Response
		<p>By definition the Applications did not consider these potential improvements and the assessment is based on a worst case scenario that these network improvements will not be in situ by the time of Projects' commencement.</p> <p><b><u>National Grid Projects</u></b></p> <p>The Applicant is not aware of information on future traffic demand of any potential "National Grid Project." The location ,nature and extent of infrastructure proposed is unknown. It is not therefore possible to carry out any cumulative traffic assessment.</p>
10	<p><b>Cumulative effects – methodology and planning obligations</b></p> <p>Concerns have been expressed by Suffolk County Council in respect of the Applicants' cumulative assessment methodology, for instance the assessment of individual GEART effects just below the threshold being discounted and thereby not assessed cumulatively, particularly where the cumulative effects could be significant.</p> <p>The ExAs understand that discussions between the Applicants and Suffolk County Council are progressing on these and other matters examined in items 2 and 3 of these hearings. Please would the Applicants and Suffolk County Council submit a joint document, whether as part of the Statement of Common Ground or otherwise, which concludes on all matters agreed and matters not agreed relating to traffic and transport, with particular reference to:</p> <p>i) good design outcomes;</p>	<p>The Deadline 8 SoCG between the Applicants' and SCC responds to ExA's request (document reference ExA.SoCG-2.D8.V4).</p>





Number	Action	Applicants' Response
	ii) cost sharing of proposed mitigation measures; iii) any updates to the revised mitigation measures tracking list [REP7-040] or to planning obligations [REP6-034]; iv) the nature of the mitigation legacy to be left behind; and v) how such a legacy might best be facilitated.	



## 1.6 Applicants' Response to Issue Specific Hearing 14

7. **Table 4** responds to actions addressed to the Applicants in ISH14.

**Table 5 Applicants' Response to ISH13 Actions**

Number	Action	Applicants' Response
2	<p><b>DEFRA/NE HRA Guidance</b></p> <p>In updating REP6-044 and REP6-045 for D8, Applicants to have regard to the Defra/NE Guidance entitled 'HRAs: protecting a European site' which was published on 24 Feb 2021.</p>	<p>The Applicants have reviewed this document and have updated the Derogation Case to make reference to it. The Applicants have not noted any substantive changes in guidance with this document and note that it is primarily a guide for Competent Authorities.</p>
3	<p><b>Red-Throated Diver (RTD) of the Outer Thames Estuary SPA: Concluding legal submissions</b></p> <p>The Applicants are requested to set out concluding legal submissions on the matters raised in Agenda Item 3 at Deadline 8, taking account of submissions by Andrew Fraser-Urquhart QC in ISHs14 and all submissions made by NE at Deadline 7. NE are invited to make concluding legal submissions at Deadline 8, in the light of matters put to ISHs14.</p> <p>Both the Applicants and NE are requested to make comments on each other's' concluding legal submissions at Deadline 9.</p>	<p>See <b>Appendix 1</b> of this document and <b>Applicants' Comments on NE's Deadline 7 Submissions (ExA.AS-17.D8.V1)</b>.</p>
4	<p><b>Best Practice Protocol for Minimising Disturbance to RTD</b></p> <p>Applicants to address scenarios in BPP for Minimising Disturbance to RTD if either Great Yarmouth and/or Lowestoft are not to be used for construction, operation and</p>	<p>The best practice protocol for minimising disturbance to red-throated diver has been amended to address the Action Point and submitted at Deadline 8 (ExA.AS-12.D8.V3)</p>



Number	Action	Applicants' Response
	maintenance. Also, Applicants to confirm a commitment to adhering to the minimum safe flight heights for helicopters that are referenced in section 3 of REP7-045.	
5	<b>Derogation case – alternative solutions</b> Applicants to update Figures 1 in [REP6- 044] to address points raised under item 6(a)(i) of the agenda.	The <b>HRA Derogation Case</b> has been amended to address the Action Point and submitted at Deadline 8 (ExA.AS-7.D8.V3).
6	<b>Derogation case - IROPI</b> Applicants to consider whether their IROPI submission would alter if the starting point was an acceptance of AEOI for any European sites.	The Applicants have considered this point and believe that the response is as per that given in the hearing, i.e. the scale of the effects on all of the features and sites are such that the arguments set out in Section 5 of the <b>HRA Derogation Case</b> (ExA.AS-7.D8.V3) remain valid.
7	<b>Compensation measures: guillemot and razorbill</b> Submit into the Examinations the Stanbury et al paper on preferred island sites for rat eradication, and any other supporting evidence on this question.	The <b>HRA Derogation Case</b> has been amended to address the Action Point and submitted at Deadline 8 (ExA.AS-7.D8.V3)
8	<b>Compensation measures: update</b> Submit updated Without Prejudice Compensatory Measures document, including a specific response to NE's D7 submissions either within this document or as a separate submission.	The <b>Offshore Ornithology Without Prejudice Compensation Measures</b> (ExA.AS-8.D8.V2) has been updated to reflect NE comments were possible. In addition <b>Applicants Comments on Natural England's Deadline 7 Submissions</b> (ExA.AS-17.D8.V1) provides a response to each of these points.
10	<b>Compensation measures: red-throated diver</b> In its updated Without Prejudice Compensatory Measures document, Applicants to submit data to illustrate how significant a proportion in terms of overall shipping vessel	The <b>Offshore Ornithology Without Prejudice Compensation Measures</b> (ExA.AS-8.D8.V2) has been updated to reflect this request.



Number	Action	Applicants' Response
	traffic the EA3 construction and operational vessel traffic would be.	
11	<p><b>Refinement of dDCO security for compensation measures (Sch 18)</b></p> <p>Submit final revisions to the compensation measures in the draft DCOs emerging as a consequence of discussions at ISHs14 and 15.</p>	The draft DCO submitted at Deadline 8 contains refinements to Schedule 18 emerging as a consequence of discussions at ISH14 and ISH15. See <i>Applicants' Written Summary of Oral Case (ISH14)</i> and <i>Applicants' Written Summary of Oral Case (ISH14)</i> (ExA.SN5.D8.V1 and ExA.SN7.D8.V1) for a summary of the changes made.
12	<p><b>Compensatory measures: level of compensation</b></p> <p>Applicants to address NE's advice (para 3 of REP7-071) that the level of predicted impacts requiring compensation should take a range-based approach, and should estimate the degree of compensation potentially required using the upper 95% confidence estimate of mortality instead of the mean figure.</p>	The <i>Offshore Ornithology Without Prejudice Compensation Measures</i> (ExA.AS-8.D8.V2) has been updated to reflect this request.
14	<p><b>DML condition 26 (Schedule 13) and condition 22 (Schedule 14)</b></p> <p>The Applicants to submit into both Examinations a copy of the Guidance (May 2020) referred to in the above conditions for completeness.</p>	This was submitted previously (AS-045).
15	<p><b>DML condition 27 (Schedule 13) and condition 24 (Schedule 14): control of piling and UXO detonations</b></p> <p>The Applicants and MMO to report on discussions with regard to modelling for piling in the SNS SAC in the summer period.</p>	The Applicants have submitted updated modelling in light of this request (ExA.AS-15.D8.V1). The MMO have confirmed they are content with the position on pin piles but require more information for monopiles.

## 1.7 Applicants' Response to Compulsory Acquisition Hearing 3

8. **Table 4** responds to actions addressed to the Applicants in CAH3.

**Table 6 Applicants' Response to CAH3 Actions**

Number	Action	Applicants' Response
1	<p><b>Books of Reference</b></p> <p>The Applicants to clarify their reasoning in respect of the exclusion of Wardens Trust as a Category 3 Party, particularly in respect of Plot 14; and also in respect of the potential exclusion of other parties whose land, while not directly affected by the authorised project, may be entitled to claim compensation for loss resulting from the implementation of either or both of the Orders and use of either or both of the authorised projects.</p>	Please see <b>Appendix 2</b> of this document for a detailed response.
2	<p><b>Crown Estate Opinion in respect of s135 of PA2008</b></p> <p>The Applicants to comment on Crown Estate correspondence received on 18 March 2021 and accepted into both Examinations at the discretion of the Examining Authorities [AS-101].</p>	The Applicants have discussed this matter with the Crown Estate and anticipate that a further submission will be made by the Crown Estate at Deadline 9.
3	<p><b>Reasoning for 70m wide cable corridor for each project separately</b></p> <p>The Applicants to submit reasoning and illustrate proposals for the use of the land required in the Orders for the cable corridor.</p>	Please see <b>Appendix 3</b> of this document for a detailed response.
4	<p><b>Highway works at St Peter's Church Theberton</b></p> <p>The Applicants in discussion with Suffolk County Council (SCC) and St Peter's Church Theberton PCC to clarify the</p>	Please see <b>Appendix 4</b> of this document for a detailed response.



Number	Action	Applicants' Response
	extent of the works proposed at St Peter's Church Theberton and reach an agreed position.	
5	<p><b>Response to comments in respect of Plot Nos 117A and 116</b></p> <p>The Applicants to respond to issues raised in [REP7-083]</p>	Please see <i>Appendix 5</i> of this document for a detailed response.
6	<p><b>Cable corridor alignment in Plot No. 13</b></p> <p>The Applicants to respond to the suggestion that the proposed cable corridor be realigned to the west to minimise the land required to be subject to temporary occupation and use and acquisition of permanent rights.</p>	<p>In response to the suggestion that the cable corridor could be realigned further to the west. The issue remains that this would bring the cable corridor closer to the Sandlings SPA, a European protected site. Any move further west may result in the requirement for increased mitigation and restrictions that could adversely impact the construction of the landfall site and render the project undeliverable.</p> <p>The Applicants appreciate this is a sensitive location and one that is challenging to find the optimal route that satisfies conflicting interests.</p> <p>The Applicants have been developing the <i>Outline Code of Construction Practice</i> and at Deadline 7 a revised version of the document was submitted (REP7-025), an updated version has also been submitted at Deadline 8 (document reference 8.1). The Applicants have sought to identify sensitive locations and commenced consideration of developing specific measures. These measures will apply at this location and the Applicants will look to install noise attenuation and acoustic barriers to the east of the cable corridor and locating the haul road to the west, a speed limit will be imposed at this location as well as individual abatement measures for equipment used in proximity to the Wardens Trust. All these measures will be included in the Applicants section 61 application to the LPA.</p> <p>The Applicants will continue to engage with the Wardens Trust with the view to explore further mitigation measures as appropriate.</p>



Number	Action	Applicants' Response
7	<p><b>Broom Covert</b></p> <p>The Applicants to provide a clear statement of the facts underlining consideration of land at Broom Covert and adjoining land as a site for the onshore substations and National Grid connection, and the reasoning behind the subsequent rejection of locating the projects at Broom Covert in favour of land north of Friston, to assist the Examining Authorities in determining whether the need for compulsory acquisition of land west of Broom Covert is both necessary and proportionate</p>	<p>Please refer to Section 4.1.5 of the Applicants <i>Written Summary of Oral Case</i> submitted at Deadline 8.</p>
8	<p><b>Statement of Reasons in relation to Plot 116</b></p> <p>The Applicants to update the Statement of Reasons to clarify the purpose for seeking rights over Plot No. 116 in relation to the temporary and permanent transmission cable realignment</p>	<p>The <i>Statement of Reasons</i> has been updated and submitted at Deadline 8.</p>
9	<p><b>Reasonable alternatives</b></p> <p>The Applicants to provide a summary of their reasoning stated orally at Agenda Item 6 in respect of the consideration of alternatives and subsequent rejection in those cases. (This may form part of the written statement of oral submissions).</p>	<p>The Applicants have included this in their <i>Written Summary of Oral Case</i> submitted at Deadline 8.(CAH3) (ExA.SN6.D8.V1).</p>
11	<p><b>Public Sector Equality Statement</b></p> <p>The Applicants to please clarify why no significant impacts have been predicted on any current use of land which the Applicants intend to acquire compulsorily.</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 characterises for the purposes of the Equality Act 2010. The land to be acquired is exclusively agricultural land.</p>
12	<p><b>Public Sector Equality Statement</b></p>	<p>The Applicants appreciate there are subtle differences between landholdings. The Applicants have, where applicable or requested, agreed bespoke measures to mitigate and reduce impacts on the</p>



Number	Action	Applicants' Response
	<p>The Applicants to please clarify how agreeing bespoke mitigation measures via (presumably individual) consultation with affected landowners justifies screening Land Use out of further assessment.</p>	<p>landowner's and occupiers enjoyment of land. The Applicants have been developing the <b>Outline Code of Construction Practice</b> and at Deadline 7 a revised version of the document was submitted. The Applicants have sought to identify sensitive locations and have developed specific mitigation measures which they will continue to refine in consultation with landowners.</p> <p>With the exception of the substation site, some landscaping and permanent ecological mitigation sites, the land required to install the onshore works only requires land on a temporary basis and land can return of its former use post construction.</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' Outline Public Rights of Way Strategy, with temporary and permanent diversions being 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 permanent acquisition of land associated with the substation site, landscaping and permanent ecological mitigation sites is all agricultural farming land.</p>
13	<p><b>Public Sector Equality Statement</b></p> <p>The Applicants to please clarify why there will be no significant impacts on the activities of the Wardens Trust and what measures the Applicants are discussing with the Trust in order to assist the Secretary of State in satisfying his Public Sector Equality Duty obligations.</p>	<p>Post CAH2 the Applicants undertook a range of further studies to evaluate the potential impact of the construction works on the Wardens Trust. A range of concerns had been expressed. The first concern was that the HDD works at landfall would impact on the water supply obtained from the well located to the south of the property leased to the Wardens Trust. Dr Gimson kindly provided the Applicants with details of the supply. The Applicants instructed further reports from technical experts to include assessment of the issue. Rigall Associates prepared a detailed HDD feasibility review (<b>Horizontal Directional Drilling Verification Clarification Note</b> (REP6-024)). They are one of the</p>





Number	Action	Applicants' Response
		<p>world's leading advisors on HDD. They have been involved in advising on the Projects since 2017 at the feasibility stage and again in 2020 to help with further design. Section 2.5 of the report considers the use of HDD through aquifers. They demonstrate that the technology can be readily used through an aquifer and that they have prior experience of similar circumstances (bottom page 10). They identify that aquifer flows are generally seaward and that most of the HDD will be under the sea. This work was followed up by the <b>Landfall Hydrological Risk Assessment</b> (REP6-021). Section 4.4 identifies and notes the sensitivities of the Wardens Trust. A full risk assessment has been undertaken and concluded that the risks to the water supply would be negligible. Notwithstanding these conclusions the applicants have offered to provide the trust with a back -up water supply for the duration of the HDD works. The landfall location is far enough away from the Wardens Trust not to be an issue. The landfall will also be subject to particular noise control measures. This is covered in paragraph 9.1.1 of the <b>Outline Code of Construction Practice</b> (REP7-025). The Wardens Trust property would be located to the east of the cable route. The Applicants have been developing the <b>Outline Code of Construction Practice</b> and at Deadline 7 a revised version of the document was submitted (REP7-025). The Applicants have sought to identify sensitive locations and commenced consideration of developing specific measures. In the context of construction noise the Applicants have committed to applying the best practicable means to the control of construction noise. The Wardens Trust have been identified as a receptor where enhanced mitigation would apply. In addition speed limits would be applied reducing speeds to 10mph. The Applicants will commit to a working width of 16.1m in the immediate vicinity of the Wardens Hall and amenity field. Further practicable measures would be identified and applied in the detailed design.</p>



## 1.8 Applicants' Response to Issue Specific Hearing 15

9. **Table 4** responds to actions addressed to the Applicants in ISH15.

**Table 7 Applicants' Response to ISH15 Actions**

Number	Action	Applicants' Response
1	<p><b>Applicants Revised Preferred Draft DCOs (dDCOs)</b></p> <p>Applicants to submit revised dDCOs taking account of all matters raised in hearings from 8 March 2021, responses to D7 and to the outcomes of any ongoing negotiations/ SoCG processes.</p>	<p>The Applicant's have submitted updated draft DCOs at Deadline 9 (document reference: 3.1).</p>
3	<p><b>Articles 2(1) and 44</b></p> <p>The Applicants are asked to consider introducing a new definition of "compensation provisions" making clear that the provisions in Art 44 and Sch 18 relate to Habitats Regulations compensatory measures and not to compensation payments for (eg) Compulsory Acquisition or Temporary Possession. Alternatively, the Applicants may wish to use of alternative drafting such as such as "Habitats Regulations compensatory measures" in Art 44 and Sch 18.</p>	<p>The Applicants have updated the drafting in Article 44 and Schedule 18 to refer to "offshore ornithology compensation measures".</p>
6	<p><b>Substation Permitted Development (PD) rights</b></p> <p>Provide any examples of precedent for the limitation or removal of PD rights for similar infrastructure developments together with final positions on the appropriateness or otherwise on limiting PD rights.</p>	<p>The Applicants do not see any reason why any of the PD rights should be removed. The Applicants are not aware of any examples of their removal in respect of electricity undertakings. Parliament has granted these rights. The limitations and conditions have been carefully crafted. Furthermore, any change that resulted in a new significant environmental effect would not be permitted. There are therefore adequate safeguards in place.</p>
7	<p><b>Discharges of requirements: Deemed consent provisions</b></p>	<p>Whilst the Applicants consider the deemed approval mechanism to be appropriate and justified for the reasons set out in section 3.1.7 of the</p>



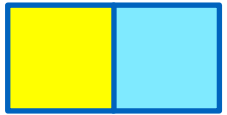
Number	Action	Applicants' Response
	Applicants are asked to set out their rationale and justification for the deemed consent provisions sought.	<b>Applicants' Written Summary of Oral Case ISH9</b> (REP6-054), in order to reach agreement with ESC on the text of Schedule 16, the Applicants have removed the deemed approval mechanism from paragraph 1(4) of Schedule 16. This is reflected in the draft DCO submitted at Deadline 8.
8	<b>Requirements 13: Landfall Construction Method Statement (LCMS)</b>  Applicants are asked to respond to proposition that both NE and MMO are named as consultees on the LCMS under Rs13.	The Applicants have amended requirement 13 to include the MMO and the relevant statutory nature conservation body (i.e. Natural England) as consultees in the approval of the landfall construction method statement.
9	<b>Red-Throated Diver (RTD)</b>  A new Condition should be provided in the Deemed Marine Licences (DMLs) (rather than in the Best Practice Protocol) regarding seasonal restrictions on vessel movements to mitigate RTD disturbance. If agreement cannot be reached then Applicants, NE and MMO to provide drafting for their preferred wording for DML Conditions.	The Applicants have amended Condition 17(1)(e)(vi) in the Generation DML and 13(1)(e)(vi) in the Transmission DML in the draft DCO submitted at Deadline 8 as follows:  <i>(vi) procedures which must be adopted within vessels transit corridors to minimise disturbance to red-throated diver during the period 1 November to 1 March (inclusive), which must be in accordance with the best practice protocol for minimising disturbance to red-throated diver</i>  The revised condition has been agreed with the MMO.
10	<b>Requirements on noise</b>  Applicant to share technical conclusions with ESC and SASES, with a view to reaching agreement with all parties and submission of final drafting by the Applicants at D8.	The Applicants have now agreed the approach to construction noise with ESC and understand that SASES' concerns have been addressed in section 9 of the CoCP
11	<b>Sizewell B</b>  Evidence is to be submitted that the proposed side agreement has been signed by both parties and/or a clear statement of outstanding areas of disagreement between the	Protective provisions are included for the protection of EDF Energy Nuclear Generation Limited in Part 7 of the draft DCO.



Number	Action	Applicants' Response
	parties and any final requests for amended dDCO drafting should be submitted by D8.	<p>The protective provisions contained within the draft DCO submitted at Deadline 8 are agreed subject to the conclusion of a side agreement which is in an agreed form and is in the process of being signed. .</p> <p>The Applicants expect to be able to conclude the side agreement before the close of the Examination.</p>
12	<p><b>Sizewell C</b></p> <p>Evidence is to be submitted that the proposed side agreement has been signed by both parties and/or a clear statement of outstanding areas of disagreement between the parties and any final requests for amended dDCO drafting should be submitted by D8.</p>	<p>Protective provisions have been included for the protection of NNB Generation Company (SZC) Limited in Part 8 of the draft DCO.</p> <p>The protective provisions are in an agreed form but are subject to the conclusion of a side agreement which is currently being negotiated.</p>
13	<p><b>Nuclear Decommissioning Authority, Magnox/ Sizewell A</b></p> <p>Applicants are asked to submit a Statement of Common Ground at D8 addressing (amongst other matters) agreement on dDCO content and the absence of need for Protective Provisions or other particular provisions.</p>	<p>The Applicants have submitted a signed, final SoCG with Magnox/Nuclear Decommissioning Authority at Deadline 8 (ExA.SoCG-40.D8.V1). No Protective Provisions have been requested by Magnox/Nuclear Decommissioning Authority and as can be seen from the SoCG, all matters are agreed.</p>
14	<p><b>Schedules 18</b></p> <p>NE is asked to respond to the drafting approach taken to Habitats Regulation compensatory measures in Schedules 18 of the dDCOs.</p> <p>Provide information on what, if anything, needs to be done to provide appropriate policy protection for any geographical locations that are to be subject to compensatory measures.</p>	<p>The Applicants do not consider that the areas which are chosen for compensation, by virtue of being used as such, automatically benefit from any increased status within the habitat protection regime. For a site to be classified as a Special Protection Area, a process has to be completed which considers whether that site meets certain SPA designation criteria – put simply this requires a Member State to identify and designate areas within their territory which are, at the time, most suitable for the protection of the bird species of concern based on a range of factors including (among others) the percentage of the</p>



Number	Action	Applicants' Response
		population present in that area, population size and density, breeding success, naturalness, severe weather refuges.
15	<p><b>Crown Consent under Planning Act 2008 s135(2)</b></p> <p>In relation to Agenda Item 6 (Consents of Parties), reference was made to correspondence from the Crown Estate of 17 March 2021 [AS-101]. The Applicants sought a view from the ExAs about the need for Crown consent under PA2008 s135(2) in circumstances where there is no Crown Land onshore and the only Crown interest relates to the sea bed. This matter was considered in the <a href="#">Recommendation Report (RR)</a> for the Burbo Bank Extension Offshore Wind Farm (26 June 2014) at paragraphs 6.9 – 6.20 (pgs 131-133). It was also addressed in the <a href="#">SoS' Decision Letter (DL)</a> in that case (26 September 2014) at paragraphs 46 and 47 (pg 10).</p> <p>The Applicants are asked to refer the position set out in the Burbo Bank Extension Offshore Wind Farm RR and DL to the Crown Estate for their further consideration by D8. The Crown Estate are requested to respond by D9 indicating whether they are content to provide consent under PA2008 s135(2) on a conditional or an unconditional basis.</p>	<p>The Applicants have discussed this matter with the Crown Estate and anticipate that a further submission will be made by the Crown Estate at Deadline 9.</p>



# Appendix 1



**SCOTTISHPOWER  
RENEWABLES**

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

## **ISH14 – Red-Throated Diver of the Outer Thames Estuary SPA: Concluding Legal Submissions**

Applicant: East Anglia TWO and East Anglia ONE North Limited

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Revision: Version 01

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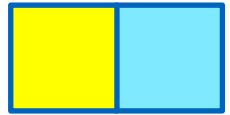
**Applicable to East Anglia ONE North and East Anglia TWO**



Revision Summary				
Rev	Date	Prepared by	Checked by	Approved by
01	25/03/2021	Shepherd and Wedderburn LLP	██████████	██████████

Description of Revisions			
Rev	Page	Section	Description
01	n/a	n/a	Final for Submission at Deadline 8





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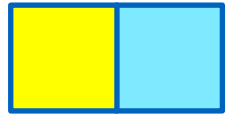
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# 1 Introduction

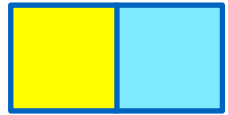
1. At ISH14 hearing the ExA requested the Applicants set out their concluding legal submissions on red-throated diver of the Outer Thames Estuary SPA. The Applicants' concluding legal submissions are set out below.



## 2 Red-Throated Diver of the Outer Thames SPA

### 2.1 “Effective Loss of Habitat”

2. NE’s first legal submission was based in large measure upon the fact that, on a number of occasions, the Applicants’ ***Displacement of Red-Throated Divers in the Outer Thames Estuary SPA*** (REP3-049) had used the phrase “effective loss of habitat” to describe an area from which a quantity of the RTD population might be displaced. As was explained in Applicants’ submissions, this phrase was identified as being one likely to confuse and it was replaced in a revised version of the RTD Displacement Report. This document (REP6-019) was sent to NE in a track-changed version.
3. In the NE reply at Deadline 6 (***Appendix A17 – Comments on Displacement of RTD in OTE Special Protection Areas Update*** (REP6-113)), there was a suggestion that the change in wording was merely in response to a recognition of the legal consequences of a scientific opinion that there was an effective loss of habitat.
4. The Applicants’ ***Displacement of Red-Throated Divers in the Outer Thames Estuary SPA*** (REP3-049) contains the first discussion of this concept by the Applicants. The first mention in paragraph 43 is of ‘*effective area of the SPA which would be subject to displacement*’, in each of the Tables 5 to 8 the column titles are ‘*effective area of displacement*’ and again in paragraph 44 the discussion ends with ‘*total effective area of the SPA estimated to be subject to displacement*’. It is only in the table headers that “effective habitat loss” is used and then a few places subsequently.
5. In the Deadline 5 version (REP5-025) this pattern is repeated and in the majority of cases it is an area of displacement that is referred to
6. Following NE’s comments and further review of the report the inconsistency was highlighted, and it was considered prudent to ensure that a consistent approach was used, hence the revised version. The Applicants provided the track change version of the report to NE so there was no attempt to conceal the change to the text.
7. The original inconsistency was a simple mistake and given the time pressures of the Examination was not picked up. There is no suppression of the original intent of the authors. The authors are clear that there is no habitat loss as the effect is temporary and dynamic (the birds are not constantly displaced from the same locations or to the same extent (as shown by the differences in results between 2013 and 2018), and the birds



- are a highly mobile species). Applicants always reserve the right to update documentation to correct errors and ensure clarity.
8. NE's insinuation that this was a change occasioned by legal need and not a true reflection of the scientific opinion is wholly unsubstantiated, and based on the account set out above, wholly incorrect.
  9. It therefore remains the position that this case is about disturbance, not habitat loss. The nature and extent of that effect is a matter for scientific evidence, not legal submission, but it is fair to observe that there is no evidence that any part of the RTD habitat will be wholly lost; all that can be demonstrated is that there will be a minor redistribution effect.
  10. This is in clear contrast to the situation in *Bagmoor Wind*<sup>1</sup>, upon which NE apparently rely (see paragraph 8 of NE's Deadline 7 submission (**Appendix 14b – Comments on Legal Submissions Concerning Displacement of Ref-Throated Diver** (REP7-070))). Although the detailed facts and reasoning of the case are somewhat difficult to discern, (see the judgment paragraph 19: "*The reporter's consideration...has rendered comprehension very difficult*"), the logic appears to be that the level of avoidance which golden eagles had in respect of onshore wind turbines would eventually lead to a complete abandonment of certain territory. It was in that context (and in a section headed "*Displacement and the Collision Avoidance Rate*") that a reference to "*lost habitat*" was made.
  11. Paragraph 9 of the NE Deadline 7 response concedes the Applicants' central point in its submissions that "*the simple fact of an element of disturbance is not of itself enough to prove adverse effect on site integrity*". Thereafter, however, the NE reply is silent as to any further submissions as to what does actually amount to an adverse effect on site integrity.
  12. It is worth remembering that this question, however, goes to the heart of the exercise which the ExA must perform: Regulation 38 of the Conservation of Offshore Marine Habitats and Species Regulations 2017 ("the Offshore Habitats Regulations) requires an appropriate assessment of whether the project will adversely affect the integrity of the SPA.
  13. In assessing this fundamental matter, regard must be had to the site's conservation objectives. Those conservation objectives are stated to be:  
  
*"to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and that **the site contributes to achieving the aims of the Wild Birds Directive**, by maintaining or restoring:*

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<sup>1</sup> *Bagmoor Wind Ltd v Scottish Ministers* [2012] CSIH 93



- (a) *the extent and distribution of the habitats of the qualifying features;*
- (b) *the structure and function of the habitats of the qualifying features;*
- (c) *the supporting processes on which the habitats of the qualifying features rely;*
- (d) *the populations of each of the qualifying features;*
- (e) *the distribution of qualifying features within the site.”*

(emphasis added)

14. The basic aim of the Wild Birds Directive is to preserve and enhance the **populations** of relevant birds. Thus the Directive provides, so far as material, as follows:

*Article 2*

*Member states shall take the requisite measures **to maintain the population of the species** referred to in Article 1 at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, **or to adapt the population of these species to that level.***

*Article 3*

1. ***In light of the requirements referred to in Article 2, Member States shall take the requisite measures to preserve, maintain or re-establish a sufficient diversity and area of habitats for all the species of birds referred to in Article 1.***

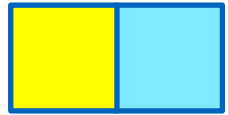
2. ...

*Article 4*

*The species mentioned in Annex I shall be the subject of special conservation measures concerning their habitat **in order to ensure their survival and reproduction in their area of distribution.***

(emphasis added)

15. The fact that the basic objective of the Directive is the preservation or enhancement of population is obvious from the passages emphasised. The consideration of habitats is clearly (“*in the light of the requirements of Article 2*”) related to the effects of changes in habitats on populations.
16. Furthermore, Regulation 28(1) of Offshore Habitats Regulations provides:



*Before deciding to undertake, or give any consent, permission or other authorisation for, a relevant plan or project, a competent authority must make an appropriate assessment of the implications of the plan or project for the site **in view of that site's conservation objectives.** (emphasis added)*

17. The use of the words “*in view of*” again demonstrates that the consideration of the stated conservation objectives is not an end in itself, but instead directed towards the ultimate aim of determining whether the population and conservation status of the relevant birds would be adversely affected.
18. Finally, it is to be noted that the courts have formulated the basis of designation of an SPA in a manner which again directs attention back to underlying population. In *Grace*<sup>2</sup>, the Court of Justice of the European Union put it like this (paragraph 35):

*The designation of a territory as an SPA **for the conservation of species entails the lasting preservation of the constitutive characteristics of the habitat in that area, the survival of the species in question and its reproduction being the objective justifying the designation of that area.***

(emphasis added)

19. Accordingly, as the Applicants have asserted, and as NE now appear to accept, the mere fact of some disturbance cannot constitute an adverse impact on the integrity of the site. Instead, the focus must be upon the effect on the population of RTDs. This is a matter upon which the Applicants have given detailed scientific evidence.
20. In assessing that evidence, it is important to note the correct interpretation of the *Akester*<sup>3</sup> case which is referred to in paragraph 12 of NE's Deadline 7 response. Whilst its views should be given careful consideration and full weight, that is a very long way from saying that those views must prevail. Indeed it was explicitly held in paragraph 105 that “*Natural England's views are not determinative of the issues between the parties*”. Furthermore, a principal reason for the success of the challenge in *Akester* was that the defendant had failed to give proper reasons for its decision to adopt a contrary position to that urged by NE (see paragraph 115).
21. In this Examination, NE's views are subjected to scrutiny and challenge based upon the best scientific knowledge in the field, as advanced by the Applicants. That evidence provides ample coherent reasons to depart from

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<sup>2</sup> *Grace v An Bord Pleanala (C-164/17) EU:C:2018:593*

<sup>3</sup> *R. (on the application of Akester) v Department for the Environment, Food and Rural Affairs [2010] EWHC 232 (Admin)*



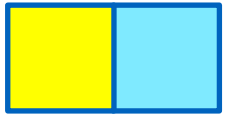
NE's views and the Applicants have no doubt that the Secretary of State will provide cogent reasons for its decisions.

## 2.2 Favourable Conservation Status

22. The Applicants are in agreement with NE that the assessment of whether or not the RTD enjoys favourable conservation status is a matter for evidence and determination by the decision maker (**Appendix 14b – Comments on Legal Submissions Concerning Displacement of Ref-Throated Diver** (REP7-070)).

## 2.3 Imperative Reasons of Overriding Public Interest (IROPI)

23. A question arose at ISH14 during discussion of the Applicants' without prejudice derogation case as to whether or not the extent of any harm to the SPA would affect the weight of public interest which would be required to establish IROPI.
24. The Applicants submit that as a matter of basic planning law, the extent of any harm must affect the weight of public interest required. Any matter within a planning judgement is a matter of balance, whereby benefit must overcome harm. In any such scenario, therefore, the extent of benefit which is required in order to secure a consent is entirely dependent upon the extent of the harm which must be overcome (and vice versa if a consent is to be refused). Such considerations necessarily apply to the IROPI balancing exercise.
25. Indeed, even the very title of the concept of Imperative Reasons of Overriding Public Interest encapsulates at this point. If something is to be "overriding" it must follow that the extent of what is required to be overridden must be considered.
26. Although the question as formulated by the ExA does not seem to have been a direct consideration in relevant caselaw, it is plain from such case law as does exist surrounding IROPI that the existence of a balancing exercise is integral to the process. Thus in *Commission v Italian Republic C-304/05 [2007] ECR I-7495*, it was adjudged that the Italian Republic, which wished to develop a skiing area which would have adverse effects on an SPA, had not performed an adequate appropriate assessment. Accordingly the court considered that it was impossible for the Italian Republic to have adequately weighed up the damage to the site against any imperative reasons of overriding public interest. Clearly then, this case encapsulated the principle that, in order to perform the IROPI balancing exercise, the extent of the harm done to the European site has to be identified.



## Appendix 2





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RENEWABLES**

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

## **CAH3 Action 1 – Book of Reference**

Applicants: East Anglia ONE North Limited and East Anglia TWO Limited

Document Reference: ExA.HA.D8.V1\_02

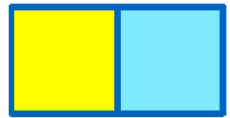
SPR Reference: EA1N\_EA2-DWF-ENV-REP-IBR-001008\_02

Date: 25th March 2021

Revision: Version 01

Author: ScottishPower Renewables

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



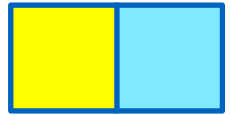
Revision Summary				
Rev	Date	Prepared by	Checked by	Approved by
01	25/03/2021	██████████	██████████	██████████

Description of Revisions			
Rev	Page	Section	Description
01	n/a	n/a	Final for submission to Examination at Deadline 8



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# 1 Introduction

1. Following Compulsory Acquisition Hearing 3 (CAH3) the Applicants were to clarify their reasoning in respect of excluding the Wardens Trust as a potential Category 3 claimant and in particular respect to plot 14.
2. Furthermore, the Applicants were to provide their reasoning for excluding any parties that may consider as potential Category 3 claimants.
3. In order to so this, firstly the Applicants will set out their approach to assessing potential Category 3 claimants and then detail how this approach was applied to the Wardens Trust.



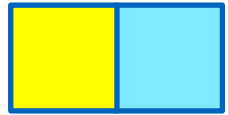
## 2 The Applicants approach to Category 3 claimants

### 2.1 Background

4. The Applicants, under Section 42 of the Planning Act 2008 (the 'Act') have a duty to consult with each party set out in the categories in Section 44. Furthermore, under Section 56 of the Act must give notice of the application to each person set out in categories in section 57. In both Section 44 and 57, one of the categories is "Category 3" and includes any persons the Applicants thinks "would or might be entitled to make a relevant claim" if the "proposed application were to be made and fully implemented".
5. A Relevant claim is defined as any of the following:
  - a. a claim for injurious affection under section 10 of the Compulsory Purchase Act 1965
  - b. a claim under Part 1 of the Land Compensation Act 1973
  - c. a claim under section 152 of the Planning Act 2008
6. For the application of compulsory acquisition powers within a Development Consent Order (DCO), under section 7 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, a "Book of Reference" (BoR) must be submitted. The BoR describes all land over which it is proposed to exercise powers of compulsory acquisition and records and categorises all those with interest in said land, as such, all persons who are deemed to be Category 3 are detailed in the BoR.

### 2.2 Legal advice and guidance

7. Under section 10 of the Compulsory Purchase Act 1965, a claim for injurious affection would relate to the Projects' construction activities, in circumstances where the project is not compulsorily acquiring the claimant's land or rights over the claimant's land but is interfering with claimant's property rights over another's land that results in loss of value in a claimant's property.
8. A claim under Part 1 of the Land Compensation Act 1973 would relate to the operation or use of the Projects with some physical factor produced by the operation/use that results in a loss of the value in a claimant's property. Physical factors under Part 1 of the Land Compensation Act 1973 include noise, vibration, smell, fumes, smoke and artificial lighting and the discharge on to the land of any solid or liquid substance.



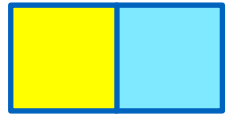
9. Section 158 of the Planning Act 2008 gives the applicant a statutory defence for nuisance. Section 152, however, does allow for injurious affection claims, subject to “McCarthy rules”, as a remedy for any party who would otherwise be able to make a claim for loss of the value in a claimant’s property caused as a result of nuisance and section 10 of the Compulsory Purchase Act 1965 then applies.
10. “McCarthy rules” for injurious affection claims:
  - a. Works must be carried out pursuant to statutory powers.
  - b. Claim must arise from “works” which would give rise to a nuisance claim but for the statutory defence.
  - c. Works must directly affect the value of claimant’s land/interest.
  - d. Applies only in the execution of works not to their use or operation.
11. It is possible for temporary interference to be enough to found a Category 3 injurious affection claim. However, this is unlikely to be the case where the works are limited in duration or where operations were a normal and usual use of land in the locality. There is no cause of action in any event unless the scale of interference is more than it is reasonable to expect a landowner to suffer.

### **2.3 The Applicants’ approach to defining Category 3 claimants**

12. In order to identify potential Category 3 claimants, the Applicants involved the following disciplines and services:
  - a. Legal – The Applicants’ appointed legal representatives provided legal advice and guidance in respect of the relevant legislation.
  - b. Environmental Consultants – The Applicants’ appointed environmental consultants advised on potential project impacts that may give rise to a claim.
  - c. Land Agency – The Applicants’ appointed land agents assessed any reduction in property value as a result of the potential impacts and carried out diligent land referencing to produce the BoR.
13. During the land referencing phase, the appointed Land Agents for the Applicants undertook an extensive due diligence including title interrogations, issuing Land Interest Questionnaires (LIQs) and deploying site notices. At this stage, parties potentially affected by the projects, including potential Category 3 claimants were identified.



14. An initial search area was devised and agreed with the appointed environmental consultants. The boundary was based on the Onshore Cable Corridor Refined Area of Search, published at Phase 3 of the Applicants' consultations with additional land to allow for potential Category 3 claimants. This was a desktop exercise and the additional land included contained potential receptors in proximity to the Onshore Cable Corridor Refined Area of Search.
15. It was known that the order limits would reduce significantly, but as the assessments were at an early stage, it was not possible to predict with any certainty where the reduction would be. The approach to land referencing incorporated significantly more parties that would ultimately be included in the final BoR. In doing so, it ensured all parties would be duly consulted with regardless of how the project design progressed.
16. For the Applicants' Phase 4 / Section 42 consultations, the Applicants published Preliminary Environmental Information Reports (PEIR) for both Projects. Relevant to the identification of Category 3 claimants, these reports included a more refined Proposed Onshore Development Area, Indicative Temporary Constructions Areas and Indicative Permanent Operation Plans.
17. With this greater level of project detail, a GIS based workshop was held to determine if any potential Category 3 claimants could be removed. A cautionary approach was still taken; however, many receptors were now at distances from the potential development they could confidently disregard. Furthermore, by assessing the potential Indicative Construction and Operational Plans some receptors could also be disregarded, for scenarios where those receptors were only in proximity to potentially less disruptive construction activities such as vegetation clearance and pre-construction access. The output of this workshop fed into the final Section 42 consultation list for all parties with land interests and those parties were duly consulted.
18. For the final Book of Reference, the Order Limits were known, and the Applicants had a greater understanding of the potential impacts of the Projects as these were assessed for the Environment Statements submitted as part of the DCO applications. With the assessment of these impacts complete and the final Order Limits drawn up, a multi-disciplinary, GIS based workshop was held to identify the final potential Category 3 claimants. Each potential receptor was assessed and figure 1.1 below shows the process of assessment undertaken at the workshop. The Applicants employed a cautionary approach to this assessment.
19. All the persons detailed as Category 3 in the final BoR were identified at this workshop.

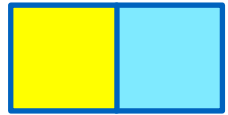


20. The Applicants have always looked to mitigate potential impacts and with the measures set out in the outline Code of Construction Practice and the process set out above, that utilises the best information available engaged with the relevant disciplines, the Applicants has satisfied its duty to consult with and identify all parties that may be classified as falling within Category 3 under Section 44 and 57 of the Planning Act 2008.

## 2.4 Reasoning for the exclusion of the Wardens Trust as a Category 3 claimant

21. In considering the Wardens Trust as potential Category 3 claimants, they were included in the initial search area and also included post assessment of the PEIR information. They received all the relevant notification and consultation up until and including Section 42. It was only at the final assessment of potential Category 3 claimants for the Book of Reference that the Wardens Trust was excluded.
22. The reasoning for excluding the Wardens Trust is set out below:
- a. The potential impact of works that are in proximity to the Wardens Trust (Work nos. 6, 8 and 9) will be temporary. Once the cables are installed and operating, they will be buried beneath the surface of the ground. Thus, in the opinion of the Applicants, there is no potential claim under Part 1 of the Land Compensation Act 1973 that some physical factor produced by the operation or use of the Projects would result in a loss of the value in the claimant's property.
  - b. With regards to section 10 of the Compulsory Purchase Act 1965, and a potential claim for injurious affection, from the Applicants' due diligence and land referencing, the Applicants concluded that Projects are not interfering with property rights of the Wardens Trust over another's land that would result in loss of value in the claimant's property. It should be noted that the Wardens Trust lease information provided by Dr Gimson at Deadline 6 did not alter the Applicants' view on this matter.
  - c. The Wardens Trust position was then assessed pursuant to Section 158 of the Planning Act 2008, and consideration given as to whether there could be a potential injurious affection claim for loss of the value in the claimant's property caused as a result of nuisance. The onshore cable is intentionally routed away from properties in this location which includes the Wardens Hall. The onshore cable does then make its way toward the field boundary as it heads north and would be in close proximity to the extent of the leased area of the Wardens Trust at the entrance to their site. It is the view of the Applicants that the mitigation measures included in the outline Code of Construction Practice, the fact that the potential works are located at the furthest extent of the leased area, and that the works will be





limited in duration, mean there is no potential claim under Section 158 of the Planning Act 2008.

23. The reasons set out above demonstrate why the Applicants did not include the Wardens Trust as a potential Category 3 claimant.
24. A cautionary approach to the assessment was applied, however, rather than simply applying rudimentary buffer distances to the works, and the Applicants assessed individual receptors against potential impacts in detail.
25. Given the scale and temporary nature of the works in proximity to the Wardens Trust, the Applicants concluded there was no potential for a claim for compensation that would arise from any impact on property value or from any potential nuisance that would give rise to an impact on property value.

## **2.5 Reasoning for the exclusion of the Wardens Trust as a Category 3 claimant particularly in respect to Plot 14**

26. As stated in the Applicants' Responses on the Document Index Wardens Trust Land Interests (REP7-058), from the review of the lease agreements it is evident that the only access right that has been granted to the Wardens Trust is along the northern track outwith the Order land and the Wardens Trust has not been identified as enjoying access rights over plot 14.
27. Plot 14 is situated on a byway open to all traffic (BOAT). The access rights secured by the Wardens Trust extend up until the same byway, along from plot 14, further to the north. It is assumed when securing access rights for the Wardens Trust, once access was secured to the byway this was deemed sufficient, as the Wardens Trust could simply use the byway like any other user at this point.
28. The closest highway is Sizewell Gap road, from the Wardens Trust it can be accessed using the access track to which the Wardens Trust secured rights and by joining the byway and travelling north all completely outwith the Order Land.

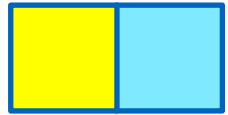
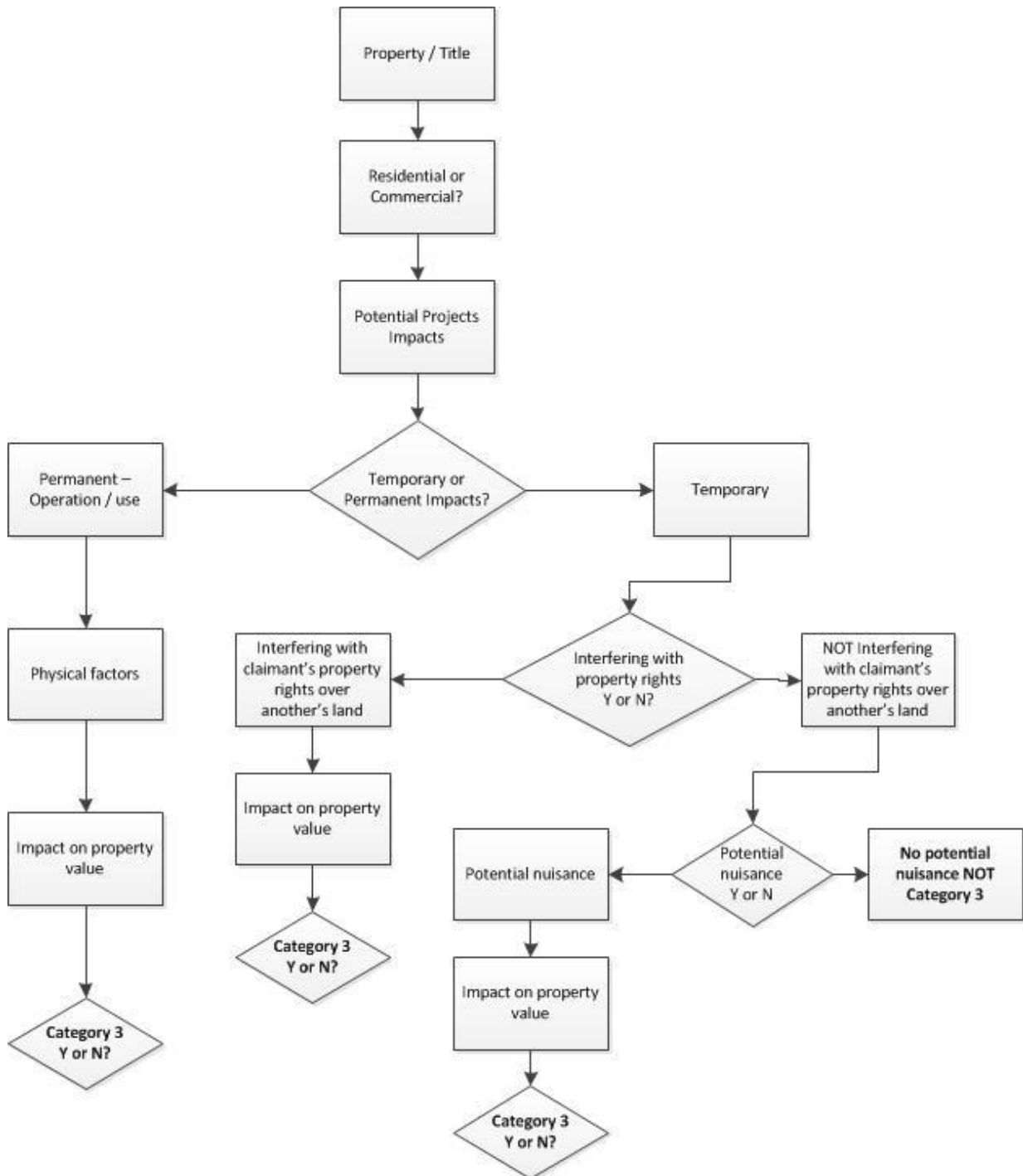
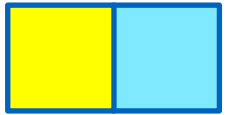


Figure 1.1 - the process of assessing potential Category 3 claimants





## Appendix 3



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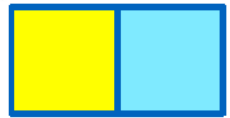
# **East Anglia ONE North and East Anglia TWO Offshore Windfarms**

## **CAH3 Action 3 – The need for 70m cable corridor**

Applicants: East Anglia ONE North Limited and East Anglia TWO Limited  
Document Reference: ExA.HA.D8.V1\_03  
SPR Reference: EA1N\_EA2-DWF-ENV-REP-IBR-001008\_03

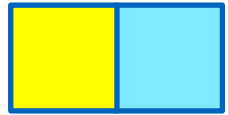
Date: 25th March 2021  
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Author: ScottishPower Renewables

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



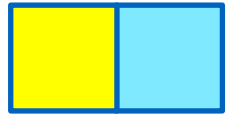
Revision Summary				
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Description of Revisions			
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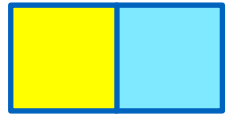
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# 1 Introduction

1. Following Compulsory Acquisition Hearing 3 (CAH3) the Applicants provide their reasoning for a 70m wide corridor would be required if only one project were to proceed. The Applicants response is set out below.

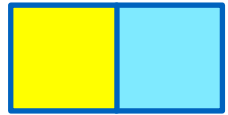


## 2 The Applicants approach to Category 3 claimants

### 2.1 The need for a 70m wide cable corridor

1. The Applicants are seeking rights over the onshore cable corridor, the width of which is generally limited to a maximum of 70 metres.. The exceptions to this are:
  - a. where a trenchless technique is proposed at the Sandlings SPA;
  - b. where the cables cross the Hundred River;
  - c. areas identified with potential archaeological interests;
  - d. where the onshore cable route starts at the transition bays as their locations are undefined;
  - e. where a CCS is to be located;
2. Onshore, both the East Anglia ONE North and the East Anglia TWO Projects share the same Order limits
3. Within the onshore cable corridor, the area of land for the onshore cable route for each project will have a typical working width of 32m and this incorporates:
  - a. sufficient spacing between cable trenches to ensure thermal independence,
  - b. room for temporary construction works,
  - c. storage space for excavated material,
  - d. surface water management;
  - e. Temporary PRow diversions
  - f. haul road for the safe passage of construction personnel and machinery alongside the cable trench.
4. The Applicants' commitment under a sequential construction scenario to install the ducting for the second project during construction of the first project, reinforces the Applicants' efforts to co-ordinate and optimise the onshore cable construction works and requires both Projects to work together to ensure that they can both be successfully delivered within the onshore cable corridor.
5. Land will be taken on a temporary basis in the first instance, and this will preferably be through voluntary agreements. Where these are not secured then



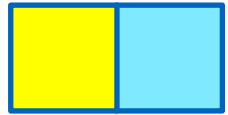


the Applicants will rely on the powers in Article 26 of the Order (temporary use of land for carrying out the authorised project). Exercise of powers of compulsory acquisition of land or rights over land will only take place once it has been determined what land is required permanently within the onshore cable corridor and what land requires to be occupied only on a temporary basis.

6. Post construction the permanent rights required to retain and carry out future works to the cables will be restricted to approximately 20m in width. The exceptions to this are:
  - a. where a trenchless technique is utilised;
  - b. where the maximum width of land required is reduced to 16.1m.
7. The requirement for permanent rights over land of approximately 20m in width for each project is justified on the basis that there would be up to six electrical cables, two fibre optic cables and two distributed temperature sensing cables per project, laid in two trenches within this permanent corridor with sufficient spacing between cable trenches to ensure thermal independence of the cable circuits, plus room for any maintenance or repair works. The width of the land over which permanent rights are sought is comparable with similar schemes.

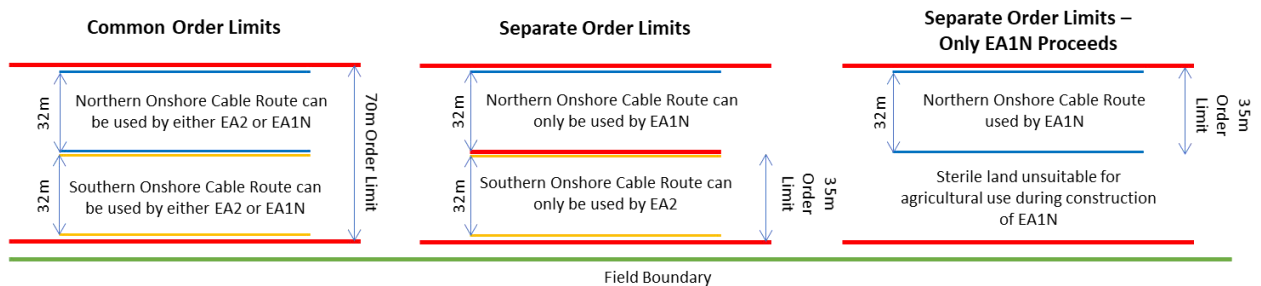
## 2.2 The need for a 70m wide cable corridor if only one project goes ahead

8. In the event that only one project were to proceed then that project would still have to carry out works within the typical 32m onshore cable route working area (save for the exceptions mentioned above).
9. The need for each project to retain a 70m cable corridor generally (save for the exceptions mentioned above) would permit the optimum routing and location of the 32m working area. If the order limits were reduced and only one project were to proceed this would restrict the ability of the relevant Applicant to position the working area (and eventual route of installed apparatus) to minimise environmental and land use impact.
10. For example, if each project's Order limits are reduced to separate 35m widths (accommodating the 32m onshore cable route plus a 3m micro-siting space) and only one Project were to proceed, this Project would be forced to utilise its designated Order limits which could be in a sub-optimal location from a land use perspective.
11. This is illustrated in the Figure below, where:
  - Left image: shows the use of common Order limits which allows the southern onshore cable route to be used by either project, ensuring that if only one



project proceeds, it can be developed within the southern onshore cable route;

- Middle image: shows a potential arrangement which defines separate Order limits to be used by each Project;
- Right image: shows that in the event of separate Order limits specified for each Project, should only East Anglia ONE North proceed, it must proceed on the predefined Order limits and does not have the ability to be located to the south, adjacent to the field boundary. The consequence of this, is that the ca. 35m width between the EA1N Order limits and the field boundary becomes sterile land during the construction period. Where common Order limits are available, the EA1N onshore cable route can move adjacent to the field boundary, minimising the land taken out of agricultural use and minimising impact on the landowner.



12.

13. In the context of a 70m cable corridor and a typical working width of 32m if there is only one project proceeding, it should be highlighted once more than the Applicants intend only to occupy land on a temporary basis to construct and install the cables and in doing so limit the extent to which permanent rights apply to the land insofar as is practical.

14. The 70m cable corridor runs predominantly over agricultural farming land and in that context the width of this land that is primarily subject to temporary possession is less impactful than if the land were identified for future development. No landowners have expressed concerns regarding this at any of the compulsory acquisition hearings.

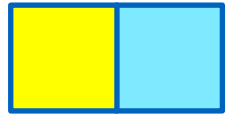
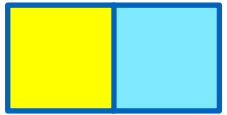


Figure 1.1 – Land plot 85, the southernly route is the optimal routing, if one project were restricted to the north (shaded blue) it would leave a narrow strip of land.





# Appendix 4



24 March 2021

Moat Farm  
Theberton  
IP16 4RS

By e-mail only:

**East Anglia TWO Limited and East Anglia ONE North Limited  
Proposed Works on Public Highway, Theberton**

Dear [REDACTED]

On behalf of East Anglia TWO Limited and East Anglia ONE North Limited (the Applicants), thank you for your email (submitted to the East Anglia TWO and East Anglia ONE North DCO Examinations) dated 22 February 2021 (REP7-085), regarding the use of the footpath through the grounds of St. Peter's Church, Theberton, and the extent of the Applicants' proposed works in the area.

For clarity, I have outlined below the Applicants' proposal for footway and crossing improvements within the public highway in Theberton, and hope that this additional information will assist you in better understanding our proposals and reassure you as to the nature of the proposed works.

**Need for the Works**

The Applicants' assessment of environmental impacts of the East Anglia TWO and East Anglia ONE North projects (the Projects) identified construction traffic associated with the Projects could result in potentially significant impacts upon amenity for residents walking within the village of Theberton.

Consequently, a review of the existing footway provision within the village was undertaken to understand if there were areas where permanent improvements could be made to the amenity for residents, and which in turn will improve safety for pedestrians in the long term. This review identified a number of gaps in the existing footpath provision, and in response the Applicants have developed measures to improve this.

**Proposed Works**

I have attached an annotated plan (TP-PB4842-SK007) and the proposed mitigation measures are described for you below.

The first issue identified is that whilst there is a footway through most of the village, there is a small break to the north west of Church Road. Pedestrians currently wishing to access the northern extents of the village and the Public Rights of Way from Pretty Road must therefore currently walk in the road, which is unsafe. To address this shortfall in existing provision, the Applicants' proposals seek to extend the existing footway on the southern side of the road to a point where pedestrians can safely cross the road and link up with the footway that continues on

ScottishPower Renewables, 320 St Vincent Street, Glasgow G2 5AD  
Telephone 0141 614 0000

the northern side of the road. To facilitate this crossing, a small 'landing area' is proposed on the northern side of the road to allow pedestrians to cross perpendicularly.

The second issue identified is that the footway on the northern side of the B1122 currently terminates at Church Road and as such pedestrians must step out into the road to establish if it is safe to cross Church Road to access the Church or continue along Church Road. This is inherently unsafe. Our proposals therefore include a small kerb buildout on the eastern side of Church Road to improve visibility and a small area of footway on the western side of Church Road to allow pedestrians to cross Church Road and access the Church without needing to walk in the road.

#### **St Peters Church**

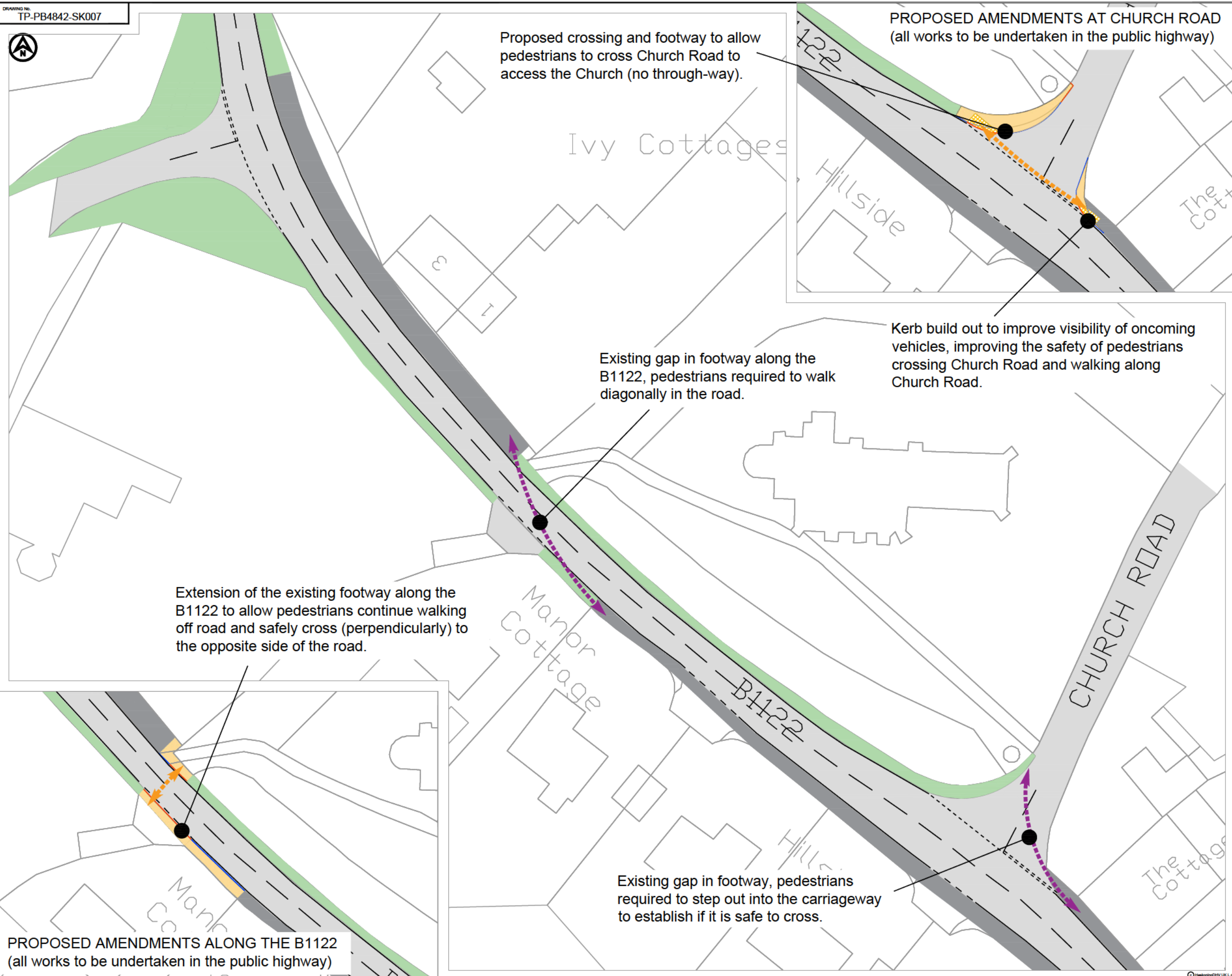
The above measures are not intended to introduce additional Public Rights of Way through St Peters Church, rather are focused entirely on the permanent improvement of pedestrian safety in the village. As works are undertaken on the public highway, no works will be undertaken within the grounds of St Peters Church, and all works will be subject to the approval of the relevant highway authority.

I trust that the above provides reassurance as to the purpose and extent of the works. Should you have any further queries, please do not hesitate to contact me as per the details below.

Yours sincerely,

  
**East Anglia TWO Limited**  
**East Anglia ONE North Limited**

Enc. Annotated plan of works (TP-PB4842-SK007)



- NOTES**
1. Do not scale from this drawing.
  2. This drawing has been based upon Ordnance Survey Maps and Royal HaskoningDHV can not guarantee the accuracy of data.
  3. All works to be undertaken in the public highway

- KEY**
- Existing footway
  - Existing verge
  - Existing road
  - Existing pedestrian desire line
  - Proposed tactile paving
  - Proposed full height kerb
  - Proposed dropped kerb
  - Proposed new footway
  - Proposed desire line

**DRAFT**

REV	DATE	DESCRIPTION	BY	CHK	APP
01		FIRST ISSUE			

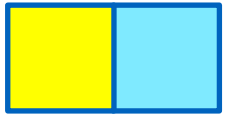


**PROJECT**  
EAST ANGLIA TWO AND EAST ANGLIA ONE NORTH

**TITLE**  
LINK 4b (B1122 - LEISTON ROAD) MITIGATION MEASURES



DRAWN	SKT	CHECKED	ADR	APPROVED	ADR
DATE	24.03.2021	1:500	AUTOGAD REF.		
DRAWING No.	TP-PB4842-SK007			REVISION	D0.1
CLIENT DWG No.					



# Appendix 5





**SCOTTISHPOWER  
RENEWABLES**

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

## **CAH Action 5 - Applicants' Comments on the Deadline 7 Submission by [REDACTED]**

Applicant: East Anglia TWO and East Anglia ONE North Limited

Document Reference: ExA.HA.D8.V1\_05

SPR Reference: EA1N\_EA2-DWF-ENV-REP-IBR-001008\_5

Date: 25<sup>th</sup> March 2021

Revision: Version 01

Author: ScottishPower Renewables

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



Revision Summary				
Rev	Date	Prepared by	Checked by	Approved by
01	25/03/2021	[REDACTED]	[REDACTED]	[REDACTED]

Description of Revisions			
Rev	Page	Section	Description
01	n/a	n/a	Final for Submission at Deadline 8



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2	<b>Applicants' comments on Deadline 7 Submission - Comments in respect of the Applicants' and National Grid's Deadline 6 Compulsory Acquisition Hearing 2 submissions</b>	3
2.1	Applicants Comments to [REDACTED] representation at Deadline 7	3



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# 1 Introduction

1. At CAH3 hearing the ExA requested the Applicants respond to and clarify points raised in the submission made by [REDACTED] at Deadline 7 [REP7-083]. The Applicants comments are set out below.



## 2 Applicants' Comments on Deadline 7 Submission by [REDACTED]

### 2.1 Table with the Applicants Comments on Deadline 7 Submission by [REDACTED]

Mr Mahony Comment	Applicants' Comments
<p>1. In this submission I have raised a number of specific points of detail. I have not sought to repeat the content of the submissions I made at Deadline 6. I maintain the position set out in such submissions.</p>	<p>Noted</p>
<p>2. ID 5 – whilst some degree of clarification has been provided which is helpful, there still remain a number of areas whether position is either unclear or unsatisfactory.</p>	<p>Noted</p>
<p>Plot 116</p> <p>3. Whilst the clarification that there is no requirement to remove hedgerows along the eastern boundary of plot 116 is welcomed the necessity to access the triangular area to the south-west of plot 116 remains disputed.</p> <p>4. Furthermore there is a reference to the “removal along the southern boundary for access/visibility” between plot 116 and 119. I was assured that there will be no need to access plot 116 from the Saxmundham Road and I do not believe this has been identified as an access point for the onshore works and it does not feature in the related travel plans, in part no doubt as it would involve construction traffic travelling along the B1121 either from Friston or Sternfield. It must be confirmed that no access will be required to plot 116 or plot</p>	<p>3. The requirement for the triangular area of land to the south-west of plot 116 was set out [REDACTED] of NGET at CAH3. To summarise, this area of land is associated with the need to have scaffolding over the Saxmundham Road during re-stringing works for safety reasons to protect users of the road. What land is required for this scaffolding is dictated by the angle at which the overhead line crosses the road and with extent and final design of these works. The final design of these works will be determined by the appointed scaffolding contractor. Depending on the final design, the scaffolding footings potentially need to be located in the triangular area to the south-west of plot 116. Such use would be very short term, lasting for a few weeks only.</p> <p>4. There will be no Heavy Goods Vehicles (HGVs) taking access to plot 116 and 115 from Saxmundham Road.</p>



[REDACTED]	Comment	Applicants' Comments
	<p>115 from the Saxmundham Road. All access should be from the substations construction site.</p> <p>5. Plots 116 and 119 are not adjacent, they are either side of the Saxmundham Road with plot 117A in between. My understanding is that the requirement is to erect scaffolding beneath the pylons lines to protect the Saxmundham Road whilst the pylon works are being conducted in the north east of plot 116. Such scaffolding by obvious necessity will need to be several metres or more above the Saxmundham Road and therefore there should be no need to remove or otherwise interfere with the hedgerow.</p>	<p>5. The removal or lopping of any hedgerow will be limited to the triangular area to the south-west of plot 116 and will be determined by final design of the scaffolding footing required.</p>
	<p>Plots 117 and 126</p> <p>6. It is welcomed that this is for maintenance purposes only but it should be expressly stated that maintenance will not involve removal of the hedgerow. Further it should be clarified that plot 117 includes plot 117A.</p>	<p>As advised in The Applicants' Submission of Oral Case following the CAH2, the rights are being sought to clear vegetation outside the entrance to [REDACTED] property over plot 117A are for normal highway works like cutting back over-hanging branches and not to clear vegetation for sight lines. NGET advised there will be the need to place road signage but this would not restrict or block the entrance to [REDACTED] property.</p> <p>Plot 117 is also required for normal highway works like cutting back over-hanging branches and not to clear vegetation for sight lines.</p>
	<p>7. The references here should be to plots 128 and 129.</p>	<p>Noted</p> <p>Plot 128: Landscaping (i.e. strengthening or planting of hedgerow trees.)</p> <p>Plot 129: Landscaping (i.e. strengthening or planting of hedgerow trees.)</p>
	<p>Paragraphs 8 to 15 refer to comments on the Summary of Oral Case by National Grid.</p>	<p>It is the Applicants understanding that NGET will also be making a submission at Deadline 8 are best placed to answer these points.</p>