To the Examining Authority.

Deadline 8 Written Representation.

Ref: EA1N. IP: 20024031 / AFP: 132. EA2. IP: 20024032 / AFP 0134.

Statement of Oral Case Compulsory Acquisition Hearing 3.

Agenda Item 3. Book of Reference.

There was discussion at Compulsory Acquisition Hearing as to whether Wardens Trust and any of the personnel associated with it should have the status of Affected Person within this Examination, which the Applicant denies on the basis that the Trust has not been shown to have an interest in the order land. Mr Smith for the Panel pointed out the range of other category interests at this site listed in the Book of Reference who have rights in Plots 12 and 14 for access. The Applicants put forward the position that Wardens has access rights only on the track running adjacent to to Plot 13, Sizewell Hall Road, which is outside the order limits.

Leaving out Plot 12 for the moment, as far as I can see, Plot 14 runs along part of the main by way from Sizewell to Thorpeness. Assuming you are associated with Wardens business, as you emerge from the track adjacent to Plot 13, you will need to pass through 14 if you wish to turn left to . Thorpeness and return.

[redacted]. I have, as an AFP, access rights to Plot 14. Why wouldn't the people who manage and visit Wardens have the same rights? The Applicants position in failing to recognise this seems to argue that the Trust has no right to be visited or to function as a community resource, which doesn't seem logical or reasonable.

This judgement has another bearing on the people visiting Wardens, whom we know to be vulnerable.

Part of the respite offered is free access to the countryside, to the lanes and walks directly from the Trust, including the track, Plot 12

According to the Applicants position, those groups of children and anyone with them, having no rights in Plot 12, will have to move along the single lane access track by Plot 13, negotiating or waiting for the traffic passing both ways as they go. That simply isn't feasible. Effectively they will be confined to the site.

The Applicants describes the due diligence on these matters as having been robust to date. They have also claimed that Wardens has effectively come late to the table.

I'd like to point out that, on the 26th March 2019, in my Response to SPRs Stage Four consultation, I referred to Wardens Trust, its work with vulnerable children and adults, their particular sensitivity to the effect of noise pollution and lighting, the importance of access to the tracks and lanes, the need for emergency access, and our dependence on the aquifer, in an email that was acknowledged on the 27th of March 2019 . I've put the same case throughout this examination and at no point has

the Applicant responded. It is not clear to me why SPRs legal representatives should be responding now as if all this information has only recently come to their attention.

Agenda Item 5, a) iv, the bend in the Cable alignment at Wardens Trust.

At Compulsory Acquisition Hearing 2, Mr Smith, Panel Lead, asked why the cable corridor route at plot 13 on the Land Plans (REP1-004) takes a sharp angle eastwards towards the residences and Wardens Trust, instead of moving straight from plot 10 to plot 14.

Brian McGrellis for the Applicants responded that the two primary factors were the residential properties and Wardens Trust to the east and the proximity of the SPA to the west and that the result of their deliberations on these two factors was that they were keen to maintain a 200 meter separation distance from the Sandlings SPA. But what is not clear is whether SPR were taking Wardens Trust and its specific character into account at all at that point.

The present route, as it first enters into the examination library, seems to have been set on 22 August 2019 (APP-085).

However, there is an earlier version of this map dated 11 February 2019 which appeared in the hard copy of the Applicants' documentation, titled " Extract of East Anglia Two and East Anglia One North Proposed Onshore Development Area. " I've been unable to find it in the examination library, but I did include a photo of the hard copy in my deadline six submission (REP6-212).

This earlier route does move slightly eastwards from plot 10 but at a much more gradual trajectory, staying west of the pond referenced by Mr Smith on plot 13 rather than East as it does now, and joining Sizewell Hall Road at plot 14, thereby maintaining a greater distance from the residences, and not directly abutting Wardens Trust playing field as it does now.

What is the reason for altering the route in the period between February and August 2019?

The applicant may again state the necessity to observe the buffer zone to the SPA and I will return to that shortly.

In fact the Applicant responded at CAH 3 that this change was after Consultation. I believe this to refer to Section 42 of the Planning Act, which places a duty on the Promoter to consult about a proposed application with various categories, one of which is " people within the categories set out in Section 44." This identifies certain parties that a promoter is legally obliged to consult " owners, tenants, lessees or occupiers of the land. "

At point 13 of the Planning Act it is stated that such Consultation should be proportionate.

In the Applicants Consultation Report, Statutory Requirements (APP-30) , The Planning Act is quoted at 1.2.1, 4:

" a number of categories of Statutory consultee require a judgement to be made as to whether, and precisely which, organisations should be consulted in the particular circumstances of the development ".

Also including:

" All those with an interest in land to which the application relates as described in Section 44 of the Planning Act, i.e. a person is within Section 44 if the Applicant knows that the person is an owner, lessee, tenant or occupiers of the land; is interested in the land or has power to sell or convey the land or to release the land; or is entitled to make a relevant claim if the order sought by the proposed application were to be made and fully implemented.

And at 5:
each consultee must be supplied in the Consultation documents and given a deadline for making representations."

I haven't been able to review all of APP- 31, Compliance, which documents the Applicants' Compliance with these statutory requirements. I would however ask the ExA, from my limited familiarity with this Act:

a. If they are content that compliance has been fully achieved in respect of the landowner, if not in respect of Wardens whose status I know to be under consideration at this point, although I believe that due diligence should have brought Wardens' interests to light by this point, and

b. If appropriate judgement has been fully brought to bear in this particular case, and whether Consultation in respect of the route of the cable corridor at Plot 13at that stage of the proceedings, between February and August 2019, has been proportionate.

In the Applicants Submission of Oral Case Compulsory Acquisition Hearing Two (REP6-051), at Point 11, Mr McGrellis' earlier explanation of the reason for that angle at Plot 13 is reiterated with the addition of the words" where practical" in relation to maintaining the buffer zone. " Where practical" implies a degree of flexibility.

Point 12 states:

The Applicants do not consider it appropriate to move the Onshore corridor further west.

Why not? It was further west originally. In the light of the apparently new information they now have about this site, would it not be reasonable to revisit their deliberations? I'm not clear what appropriate means in this context.

I understand the importance of the buffer zone, but I am concerned about whether it is appropriate to favour sensitive ecological receptors over vulnerable human ones.

I contacted Natural England about the buffer zone and what flexibility there may be for a promoter. In her response Louise Burton of NE confirms that to observe it is best practice, but that:

" it Is for yourselves and the applicants to discuss alternative options to address your concerns. With the onus being on the applicant to propose suitable mitigation if the 200 meter buffer zone were to be reduced."

Ms Burton does acknowledge that it would be quite challenging but my point is the option of altering it is not ruled out and that such discussions are possible.

A further point on this. Colin Innis for the applicant refers to the ongoing negotiations on land interest at plot 10 for geophysical and archaeological work and states that:
" *insofar as the matters raised it is clear that the land interest has been in negotiation, so the landowner has in principle agreed to the routing of the cable. "*
If you look at the land plans (REP1-004), the position of plot 10 within the Work does not of itself imply that the route would make a sudden curve to the east. Given the breadth and extent of works to the South, plot 10 lies on a straight line from landfall to plot 14. It is not part of the curve. So I disagree that entering into a negotiation on plot 10 implies any agreement of the routine of the cable at plot 13.

Finally on this point, I note again that Wardens playing field is shown to be Landfall option C for National Grid Ventures' Nautilus Interconnector on the map included in their July 2019 Briefing Pack. In fact a request for surveys to be undertaken for that purpose there has already been made.

I have included the map in my Deadline 1 submission (REP1-377, Figure 5).

In a letter to the Applicants dated 17 April 2018, East Suffolk County Council States:
"It is important that the cable Corridor can accommodate both SPR and National Grid projects and that if this cannot be achieved or will present significant loss of amenity then those site options should be dismissed. "

This is referenced in William Halford's submission (REP3-171).

I would ask the Examining Authority to seek the Applicants' confirmation that the cable route selection at plot 13 is not intended to accommodate any interests that National Grid ventures may have for the Nautilus project at this site.

We have heard today about the width of cable corridor enabling construction compounds and access routes, which come into " close proximity " (not fully defined) to dwellings, and yet SPR have never committed to a statutory buffer zone from residences and their gardens along the Cable Corridor route. I don't understand the reason for that, and don't think it's acceptable.

Agenda Item 10, Human Rights and the Public Sector Equality Duty (PSED).

a. Article 1 of the First Protocol to the European Convention on Human Rights (ECHR).

Dr Gimson Chair of Wardens raised the issue of our human rights to access to a safe water supply, I don't consider that the Landfall hydrogeological Risk Assessment (REP-6-021) has fully addressed concerns on that score.

I have responded to that in detail in REP 7-096, but I will say that in confining their remarks to the potential for harm to the process of HDD at the Landfall location, the Applicants have failed to assess wider aspects of construction and terrain where work is likely to interact with the very extensive aquifer in terms of cable laying, high volumes of traffic, foul and other waste and chemical contamination.

Potential Alterations to aquifer flow are not addressed, and the mitigating factors offered which purport to change a **High Risk** assessment of fuel or oil spills – **High** meaning, "*site probably not suitable for current/ future use* - to a **Negligible** one are not persuasive… relocating refuelling from Landfall, relocating storage of potentially contaminating materials, relocating welfare facilities.. they will simply move elsewhere within the same area, and the risk to groundwater will not be removed.

These measures suggest a great deal of unnecessary movement of machinery, vehicles and personnel, increasing ecological damage and health risks, and I think would be difficult to enforce over contractors during construction . So I believe the Risk Assessment offers inadequate mitigation to only part of a problem.
In making these remarks at CAH 3, I was not implying that the Applicants had failed to address the concerns about the aquifer at Ness House and Wardens; my point was that their response was a partial one in that it addressed only the potential effects of HDD at Landfall on a perched aquifer, and not the wider picture of groundwater contamination.

e. The weighing of any potential loss of ECHR rights against the public benefit if either or both DCOs are made.

In respect of Point e, I'd like to reiterate that neither ECHR Rights nor public benefit losses need be incurred if a split decision is made and Onshore infrastructure is relocated to a brownfield or other available site.

f. The PSED and consideration of the Public Sector Equality Statement.

At Compulsory Acquisition Hearing 2 Rynd Smith asked the Applicants whether specific consideration in terms of routing and Siting has been given to the use to which Wardens Trust is put, specifically in relation to the Public Sector Equality Duty, whether or not there is a view formed about the potential effects of the works on persons with potentially protected characteristics, and asked for clarification of that at point at Deadline 6. I apologise if I missed that submission and would be grateful to be directed to it, but if no such submission exists, I would say that the Applicants are not addressing their statutory duty in this regard.

For a full amplification of my position on this point, please see my Deadline 8 submission in response to ExA Action Points arising from CAH3, point 10, that I should make a submission in respect of my concern that Public Sector Equality Duty has not been met in regard to the users of Wardens, with full reference to EA1N and EA2 Public Sector Equality Statement (REP4-013).

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Tessa Wojtczak 26 March 2021.