

**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on East Suffolk Council's Deadline 8 Submissions

Applicant: East Anglia TWO and East Anglia ONE North Limited
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Applicable to East Anglia ONE North and East Anglia TWO



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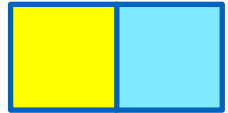
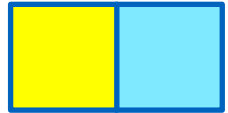


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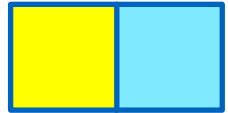
Glossary of Acronyms

AONB	Area of Outstanding Natural Beauty
BS	British Standard
CoCP	Code of Construction Practice
COPA	Control of Pollution Act 1974
CPNVMP	Construction Phase Noise and Vibration Management Plan
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
ESC	East Suffolk Council
LOAEL	Lowest Observed Adverse Effect Level
NOEL	No Observed Effects Level
NPPF	National Planning Policy Framework
NRMM	Non-Road Mobile Machinery
NSIP	Nationally Significant Infrastructure Project
OCoCP	Outline Code of Construction Practice
OLEMS	Outline Landscape and Ecological Management Strategy
SASES	Substation Action Save East Suffolk
SCC	Suffolk County Council
SCHAONB	Suffolk Coast and Heaths Area of Natural Beauty
SDNP	South Downs National Park
SEAS	Suffolk Energy Action Solutions
SOAEL	Significant Observed Adverse Effect Level
SPA	Special Protected Area
TAMO	Turbine Area Mitigation Option



Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North Limited
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
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.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.



1 Introduction

1. This document presents the Applicants' comments on East Suffolk Councils (ESC) Deadline 8 submissions as follows.
 - ESC's Summary of Oral Case for ISH10 (REP8-153);
 - ESC's Summary of Oral Case for ISH11 (REP8-152);
 - ESC's Summary of Oral Case for ISH12 (REP8-146);
 - ESC's Summary of Oral Case for ISH14 (REP8-147);
 - ESC's Summary of Oral Case for ISH15 (REP8-149);
 - ESC's Response to Outstanding Hearing Action Point ISH8 (REP8-144);
 - ESC's Response to Hearing Action Points ISH9 and ISH15 (REP8-148);
 - ESC's Response to Hearing Action Points ISH12 (REP8-145); and
 - Response to Applicants' Additional Information Submitted at Deadline 7 (REP8-151).

2. The Applicants note that within ESC's Summary of Oral Case for ISH13 (REP8-150) ESC defer to Suffolk County Council (SCC) on such matters. As such, the Applicants have not provided a response to the comments provided by ESC within that submission.

3. This document is applicable to both the East Anglia TWO and East Anglia ONE North DCO applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 23rd December 2019 (PD-004). Whilst this document has been submitted to both Examinations, if it is read for one project submission there is no need to read it for the other project submission.



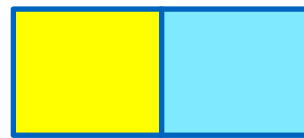
2 Comments on East Suffolk Council's Deadline 8 Submissions

2.1 East Suffolk Council's Summary of Oral Case for ISH10 (REP8-153)

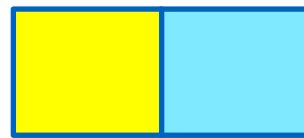
ID	ESC Comment	Applicants' Comments
Agenda Item 2 – Policy discussion		
1	<p>ESC considers the relevant national policy in relation to health and wellbeing is set out in Overarching National Policy Statement for Energy (EN-1). The relevant sections of the EN-1 have been outlined below:</p> <ul style="list-style-type: none"> • Section 4.10 Pollution control and other environmental regulatory regimes • Section 4.13 Health • Section 5.2 Air quality and emissions • Section 5.10 Land use including open space, green infrastructure and Green Belt • Section 5.11 Noise and vibration • Section 5.14 Waste management • Section 5.15 Water quality and resources <p>National Policy Statement for Electricity Networks Infrastructure (EN-5) provides policy guidance in relation to electric and magnetic fields (EMFs) in Section 2.10.</p> <p>In relation to local planning policy, the East Suffolk Council Local Plan contains the following policies which are of relevance:</p> <ul style="list-style-type: none"> • Policy SCLP10.3 – Environmental Quality 	Noted.



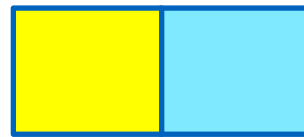
ID	ESC Comment	Applicants' Comments
	<ul style="list-style-type: none"> Policy SCLP11.2 – Residential Amenity 	
Agenda Item 4 – Health and Social Wellbeing		
2	<p>ESC has not made any specific representations in relation to mental health during these examinations and defers to Public Health England and other public health bodies on this matter.</p> <p>ESC has however made representations to these examination in relation to the impacts of the projects on air quality and noise during the construction and operational phases. These matters have been discussed within separate issue specific hearings (ISH2, ISH4 and ISH12). It is recognised however that the Examining Authority are particularly interested in matters of mental health and therefore ESC has only sought to provide a summary of the Council's current position on these matters.</p> <p>Air quality – The Applicants demonstrated that the proposed developments would not have a significant adverse effect on health and wellbeing through the Environmental Statements (ESs). ESC has reviewed the ESs, and secured clarifications on a number of aspects.</p> <p>The Applicants have committed to ensuring that 70% of HGVs for the projects will comply with Euro VI standards in the event that the construction of the projects overlaps with Sizewell C construction. This commitment is secured within the Outline Construction Traffic Management Plan (paragraph 64, REP6-009) and Outline Code of Construction Practice (OCoCP) (paragraph 112, REP7-025). ESC's evaluation indicates that this will be sufficient to ensure that there is no significant risk of adverse effects on health due to emissions to air from HGV traffic as a result of the proposed developments in</p>	<p>The Applicants welcome this summary of matters from ESC.</p> <p>Regarding Non-Road Mobile Machinery (NRMM) emissions controls, the Applicants have clarified within the Outline Code of Construction Practice (Outline CoCP) submitted at Deadline 8 (REP8-017) the commitment to, where possible, comply with Stage IV standards or later.</p>



ID	ESC Comment	Applicants' Comments
	<p>combination with the proposed Sizewell C development, even at the most vulnerable locations close to the A12. Compliance with this requirement will be monitored as the construction programmes progress.</p> <p>ESC continues to seek confirmation of the Applicants' approach in relation to Non Road Mobile Machinery (NRMM). It is ESC's understanding that the Applicants will commit to using NRMM with Stage IV emission controls or better. Based on the information in the ESs, this will ensure that there is no significant risk of adverse effects on health due to emissions to air from NRMM. However, this commitment does not yet seem to be clearly identified in any documentation.</p> <p>Dust – The management of dust is secured through the CoCP and Requirement 22. The OCoCP (REP7-025) has been updated and now provides a specific commitment to identify areas within the CoCP which are sensitive to dust impacts and provide comprehensive measures to address this. ESC considers that these measures will be sufficient to avoid adverse impacts on health and wellbeing due to dust from construction activities.</p> <p>ESC also welcomes the commitment by the Applicants within the OCoCP to provide additional measures in areas of the Order Limits within a set distance of a residential property.</p> <p>Noise – The noise Issue Specific Hearing (ISH12) was held on 11 March 2021 where matters in relation to both operational and construction noise were discussed. ESC refers to its Oral Summary of Case for ISH12 submitted at Deadline 8 for a detailed account of the Council's current position on these matters.</p>	



ID	ESC Comment	Applicants' Comments
	<p>Land contamination – ESC considers that the OCoCP contains sufficient control measures in relation to the discovery of unexpected contaminants. The OCoCP is also supported by Requirement 18 which secures a written scheme in relation to the potential release of contaminants. These measures are considered sufficient to avoid adverse impacts on health.</p> <p>The OCoCP and final CoCP also secure a stakeholder communications plan which will provide further details regarding engagement during the construction phase. This includes the appointment of a community liaison officer providing a single point of contact for residents. ESC fully supports this commitment and considers that effective engagement with the local community has an important role in helping to keep local communities informed in relation to the construction of the projects.</p> <p>ESC has had experience of the operation of the community liaison structure proposed by the Applicants in relation to the delivery of East Anglia One (EA1) which was granted a Development Consent Order in 2014. The offshore cables made landfall at Bawdsey, the onshore cables then travelled 37km terminating at a substation in Burstall near Bramford. ESC considers that the community liaison structure has been an effective tool during the construction works providing the community with a single point of contact through which information can be provided and questions can be addressed.</p>	



2.2 East Suffolk Council's Summary of Oral Case for ISH11 (REP8-152)

ID	ESC Comment	Applicants' Comments
Agenda Item 2 – Policy framework in relation to flood risk and drainage		
3	<p>ESC considers the relevant national policy in relation to flood risk and drainage is set out in Section 5.7 'Flood Risk' of the Overarching National Policy Statement for Energy (EN-1). EN-1 states that energy projects over 1 hectare should be accompanied by a flood risk assessment and provides the minimum requirements for this. EN-1 also highlights that priority should be given to the use of sustainable drainage systems and that the project should be appropriately flood resilient and resistant. National Policy Statement for Renewable Energy Infrastructure (EN-3) does not contain a specific section on flood risk in relation to offshore wind. Finally, National Policy Statement for Electricity Networks Infrastructure (EN-5) also does not contain a specific section on flood risk but refers back to EN-1 in paragraph 2.4.2 regarding the need for the Environmental Statement (ES) to assess the resilience of the project to climate change.</p> <p>In terms of the National Planning Policy Framework (NPPF) the key relevant paragraphs are 155 to 165. The NPPF identifies that development should be made safe for its lifetime without increasing flood risk elsewhere and that major development should incorporate sustainable drainage systems.</p> <p>Planning Practice Guidance contains a section on 'Flood Risk and Coastal Change' which is relevant.</p> <p>ESC's Local Plan contains local policies of relevance including:</p> <ul style="list-style-type: none"> • Policy SCLP3.4 'Proposals for Major Energy Infrastructure Proposals' – which seeks to ensure that appropriate flood 	Noted.



ID	ESC Comment	Applicants' Comments
	<p>risk measures which include the effects of climate change are incorporated into projects to protect the site during construction, operational and decommissioning stages.</p> <ul style="list-style-type: none"> • Policy SCLP9.5 'Flood Risk' – this policy emphasises that developments should exhibit the three main principles of flood risk, in that they should be safe resilient and should not increase flood risk elsewhere. • Policy SCLP9.6 'Sustainable Drainage Systems' – requires sustainable drainage systems to be integrated into landscaping schemes and green infrastructure provision and contribute to design quality of the scheme. <p>The Suffolk Flood Risk Management Strategy is also relevant which sets out guiding principles on tackling flooding. One of the key objectives is to prevent an increase in flooding as a result of new development by ensuring that sustainable drainage systems are properly considered and incorporated into works.</p>	
Agenda Item 3 – Flood risk and drainage during construction		
4	ESC defers to SCC as the Lead Local Flood Authority on these matters.	Noted.
Agenda Item 4 – Operational flood risk and drainage		
5	ESC defers to SCC as the Lead Local Flood Authority on these matters.	Noted.
Agenda Item 5 – Any other business relating to the Agenda		



ID	ESC Comment	Applicants' Comments
6	<p>Requirement 22 of the draft Development Consent Orders (DCOs) secures the Code of Construction Practice (CoCP) which includes a surface water and drainage management plan and a flood management plan in relation to the construction works.</p> <p>Requirement 41 of the draft DCOs secures the operational drainage management plan. ESC supports the wording of both the requirements which identifies the relevant planning authority as the discharging authority. Requirement 41 identifies SCC and the Environment Agency as consultees.</p> <p>In relation to Requirement 41, ESC fully recognises the vital importance of designing and implementing an appropriate and functional drainage scheme. This is an essential component of the design process and fundamental to the successful operation of the site. The operational drainage scheme is a key component feeding into and affecting the overall design of the site. It is considered that to aid the holistic approach to site design and ensure consistency ESC should remain the discharging authority. SCC's role as the Lead Local Flood Authority is however fully recognised and ESC would not seek to discharge this requirement without their agreement. ESC would like to make it clear that it is not that site design would be prioritised over the design and implementation of an acceptable drainage strategy, the strategy is a fundamental component part.</p> <p>This approach is also in line with the NPPF which identifies that sustainable drainage systems should where possible provide multifunctional benefits and local policy (SCLP9.6) which seeks the integration of drainage solutions into site design and solutions to</p>	Noted.

Applicants' Comments on ESC's Deadline 8 Submissions

15th April 2021



ID	ESC Comment	Applicants' Comments
	<p>complement the overall landscaping scheme and deliver other environmental improvements.</p> <p>ESC considers it should remain the discharging authority for this requirement for the reasons set out above.</p>	

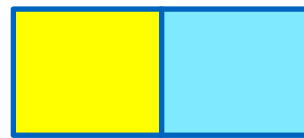


2.3 East Suffolk Council's Summary of Oral Case for ISH12 (REP8-146)

ID	ESC Comment	Applicants' Comments
Agenda Item 2 – Noise from construction works		
7	<p>a) Transmission Connection Location – Friston</p> <p>a. Local Background</p> <p>The Council retains some concerns regarding the length of the ambient noise measurements which formed the basis for the assessment criteria, as set out in the Local Impact Report (paragraph 19.10, REP1-132). However, the Council also accepts that this is unlikely to have affected the construction noise criteria that were adopted and are satisfied that these limits can be enforced appropriately through the final Code of Construction Practice (CoCP) and the section 61 of Control of Pollution Act 1974 (COPA) consent process.</p> <p>b. Specific construction processes</p> <p>The Council's concerns are relatively broad and not necessarily related to a specific construction phase, sub-phase, or process. However, it is relevant within this part of the agenda to discuss ESC's position in relation to the technical methodology.</p> <p>During pre-application engagement and detailed in the Local Impact Report (paragraph 19.14, REP1-132), the Council raised concerns regarding proposals for Saturday afternoon construction activity. This has been satisfactorily addressed in Section 3.1 of the OCoCP (REP7-026) which states that construction activity on Saturdays would be restricted to 0700-1300hrs.</p> <p>Working hours are be controlled by Requirements 23 and 24 of the draft Development Consent Orders (DCOs) which confirm that</p>	<p>a)a. Noted.</p> <p>a)b. Noted. Following further engagement with ESC and Substation Action Save East Suffolk (SASES), the Applicants have provided further details on construction hours and 'core working hours' within the updated Outline CoCP submitted at Deadline 8 (REP8-017).</p> <p>The Applicants have also made a slight amendment to the wording of Requirements 23 and 24 of the draft DCO submitted at Deadline 8 (document reference 3.1) to address ESC's request for a prior approval process for such activities required to be undertaken outside of the specified construction hours that are not listed within subparagraphs a) to d) of the respective DCO Requirements.</p> <p>a)c. The Applicants welcome ESC's agreement on the approach to identifying and controlling construction noise at sensitive receptors.</p> <p>a)d. The Applicants welcome ESC's summary of matters relating to the control of construction noise and are pleased that an agreeable approach has been reached regarding the inclusions of the incorporation of LOAELs and SOAELs within the Outline CoCP submitted at Deadline 8 (REP8-017).</p> <p>b)a. Noted.</p> <p>b)b. Noted.</p> <p>b)c. The Applicants appreciate ESC's confirmation that it is satisfied with the approach set out to secure additional construction noise controls for those sensitive receptors identified within close proximity to the onshore works.</p>



ID	ESC Comment	Applicants' Comments
	<p>Saturday construction will take place between 0700-1300hrs, except for essential and/or emergency grid connection construction works. Part 3 of Requirement 22 states that the timing and duration of any such works must be approved by ESC in advance, with the exception of emergency works.</p> <p>The Council stated in the Local Impact Report (REP1-132, paragraph 19.6) that wherever there was a requirement for night-time or extended working hours, that this would need to be agreed in advance with ESC through a process to be included in the CoCP. Such a process has been outlined in the OCoCP and secured by Requirements 23 and 24 which is welcomed.</p> <p>ESC has however provided some comments regarding the wording contained within Requirements 23 and 24, most recently in writing at Deadline 6 (REP6-080) but also orally at Issue Specific Hearing 15 (ISH15). Two points were raised, the first in relation to the broad interpretation of Requirement 23 and 24 2(b), which has now been addressed by an amendment in the draft DCOs (REP7-007) to state that 2(b) only relates to internal fitting out works. The second concern ESC has raised relates to the open list of essential activities provided within the requirements. ESC considers that the Applicants should be required to seek agreement from ESC as to whether "essential activities" outside categories (a) to (d) are essential, through the approval process in (3) in addition to the duration and timing of the works. .</p> <p>ESC has been engaging with the Applicants on this matter and agreed wording to reflect this request. Subject to the inclusion of this wording within the draft DCOs, the Council is content with the wording of Requirements 23 and 24.</p>	<p>b)d. Noted. The Applicants are pleased that an approach to the control of construction noise has been agreed and have submitted an updated Outline CoCP to the Examinations at Deadline 8 accordingly (REP8-017).</p> <p>c)a. Noted.</p> <p>c)b. Noted.</p> <p>c)c. Again, the Applicants appreciate ESC's confirmation that it is satisfied with the approach set out to secure additional construction noise controls for those sensitive receptors identified within close proximity to the onshore works.</p> <p>c)d. Noted. The Applicants are pleased that an approach to the control of construction noise has been agreed and have submitted an updated Outline CoCP to the Examinations at Deadline 8 accordingly (REP8-017).</p> <p>d) Noted.</p>



ID	ESC Comment	Applicants' Comments
	<p>c. Individual receptors</p> <p>The Council considers that there are specific locations where residential properties are in close proximity to the Order Limits and therefore will be close to the construction works and activities (paragraph 19.5, Local Impact Report, REP1-132). ESC had requested that special consideration was given to these locations within the OCoCP.</p> <p>The Applicants have sought to address this by including a commitment in the OCoCP (paragraph 95, REP7-026) that the final CoCP and Construction Phase Noise and Vibration Management Plan will consider the sensitivities of residences within the vicinity of the onshore development area and that this will be submitted to ESC for approval before works progress. The Council is satisfied that Requirement 22 of the draft DCO (REP7-006) will secure these provisions.</p> <p>d. Mitigation measures and security</p> <p>ESC considers there remain some unresolved areas of uncertainty in relation to the noise prediction methodology (paragraph 19.10, Local Impact Report, REP1-132). However, the Council also acknowledge that there is inherent uncertainty in the prediction of construction noise, and the ESC is ultimately satisfied that construction noise impacts can be appropriately controlled provided noise mitigation and management measures are suitably robust.</p> <p>Section 9.1 of the OCoCP (REP7-026) sets out proposed measures for controlling construction noise and vibration.</p> <p>Within the OCoCP (REP7-026), the Applicants indicate the intention (in paragraph 94) to apply for consent under Section 61 of the</p>	



ID	ESC Comment	Applicants' Comments
	<p>COPA prior to commencement of onshore works. The Section 61 application “<i>will include works details and proposed noise mitigation measures</i>”. The Applicants state in the same paragraph that this is a proactive approach and represents industry best practice. The Council broadly agrees with this and are satisfied that Section 61 provides a defined process through which satisfactory mitigation and management measures for construction noise and vibration can be secured.</p> <p>The OCoCP (REP7-026) also states that a Construction Phase Noise and Vibration Management Plan will also be submitted to ESC for approval prior to the commencement of each stage of onshore works, which will set out specific measures for construction noise mitigation and will also consider the sensitivity of individual properties in the area. The Council is satisfied that this, in combination with the Section 61 application, should provide sufficient opportunity to ensure that appropriate mitigation measures will be in place.</p> <p>The OCoCP (paragraphs 96 and 97, REP7-026) also set out the standards and Acts of Parliament which will be adhered to, and generic best practice mitigation measures which will be implemented and controlled through the Construction Phase Noise and Vibration Management Plan. The Council is satisfied that these commitments represent a robust basis for considering and controlling potential construction noise and vibration impacts.</p> <p>In addition to the project-wide onshore mitigation measures proposed, Section 9.1.3 of the OCoCP (REP7-026) also sets out specific measures “<i>anticipated to be implemented</i>” at the onshore substation location. This includes one specific proposal for mitigating noise from construction of the substations, and a</p>	



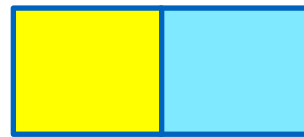
ID	ESC Comment	Applicants' Comments
	<p>commitment to consider additional practicable measures at a later stage. The Council welcomes the efforts to address specific concerns relating to particularly sensitive receptors and are satisfied that the final CoCP will provide an opportunity to ensure the final proposals are suitably robust.</p> <p>In addition to the measures secured by the outline CoCP, ESC welcomes the provision of an Onshore Preparation Works Management Plan which is to be secured by Requirement 26 of the draft DCOs (REP7-007). The outline details of the plan are provided in Appendix 1 of the OCoCP (REP7-026) and address a key concern previously raised by the Council in relation to how the onshore preparation works would be controlled.</p> <p>ESC also considers that, <i>“in addition to monitoring required to ensure that works are compliant with the relevant standards that extra monitoring will be required in particularly sensitive locations to inform the requirement for localised, site specific mitigation”</i>, as stated in the Local Impact Report (paragraph 19.13, REP1-132).</p> <p>Section 9.2. of the OCoCP (REP7-026) presents the initial proposals for noise and/or vibration monitoring during construction. The Applicants have stated (paragraph 110, REP7-026) that a decision as to whether construction noise monitoring is required will be deferred to ESC, and that the locations for such monitoring would then be agreed with ESC in advance. This will be part of the submission and approval process for the final CoCP and the Council is satisfied that this will provide the opportunity to ensure adequate monitoring.</p> <p>In addition, a further point was raised by SASES during the hearing suggesting that Lowest Observed Adverse Effect Level (LOAEL)</p>	



ID	ESC Comment	Applicants' Comments
	<p>and Significant Observed Adverse Effect Level (SOAEL) values be adopted for the control of construction noise. SASES suggested that the values adopted for the HS2 scheme are generally suitable. ESC agreed with the principles of using LOAEL and SOAEL to define impacts and the use of adopting different values for different time periods depending on sensitivity. Table 5 of the Expert Report on Noise (REP7-041) sets out working times, averaging periods, LOAELs and SOAELs, all derived from HS2, and there was agreement that the general principles of this be incorporated into the OCoCP. This resulted in an action to find appropriate means of incorporating the table into the OCoCP.</p> <p>Although ESC agreed with the incorporation of the general principles as set out above, the Council does not support the specific values having any status. The Applicants and ESC have discussed this matter post-hearing and the Applicants have agreed to provide Table 5 in a separate section relating to policy and confirmed their commitment to minimise construction noise impacts in accordance with BS5228, as already defined within the OCoCP (REP7-026). ESC is now satisfied with the means of inclusion of Table 5 within the OCoCP.</p> <p>b) Cable Corridors and Haul Roads</p> <p>a. Local background</p> <p>The local background in relation to this specific aspect of the construction is the same as for the transmission connection location and ESC therefore has no additional comments on this.</p> <p>b. Specific construction processes</p>	



ID	ESC Comment	Applicants' Comments
	<p>The Council's position on construction processes and the technical assessment methodology for this specific aspect of the construction are the same as for the transmission connection location and therefore has no additional comments on this.</p> <p>c. Individual receptors</p> <p>In relation to individual receptor locations, as set out in the Local Impact Report (paragraph 19.5, REP1-132), the Council considers that there are specific locations within the Order Limits where residential properties are relatively close to some parts of the cable routes and therefore construction activities. Specifically, paragraph 19.12 of the Local Impact Report (REP1-132), notes that <i>"there are certain points along the cable route that are extremely close to the construction works"</i> and that <i>"there may need to be an enhanced level of mitigation employed to protect residents adequately"</i>.</p> <p>The Applicants have sought to address this by including a commitment in the OCoCP (paragraph 95, REP7-026) that the final CoCP will consider the sensitivities of residences in the vicinity off the onshore development area, and that this will be submitted to ESC for approval before works progress. The Applicants have also provided a plan in Figure 1 setting out the key sensitive areas which corresponds to the areas identified by ESC in the Local Impact Report (paragraph 19.34, REP1-132) The Council is satisfied that Requirement 22 of the draft DCOs will secure this.</p> <p>d. Mitigation measures and security</p> <p>The Council's position on mitigation measures and security relating to this specific aspect of the construction is the largely the same as</p>	



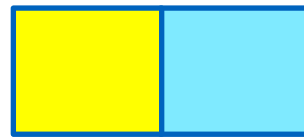
ID	ESC Comment	Applicants' Comments
	<p>for the transmission connection location, with the caveat that specific concerns exist regarding mitigation along the cabling route.</p> <p>However, in addition to the project-wide mitigation measures proposed, Section 9.1.2 of the OCoCP (REP7-026) also sets out specific measures “<i>anticipated to be implemented</i>” at specific locations and considering the sensitivities of specific properties relating to the cabling route, including commitments around working hours, the use of noise barriers, speed limits for construction traffic, plus an overarching commitment to review construction noise predictions during the detailed design of the onshore cable route and introduce additional practicable measures accordingly.</p> <p>The Council welcomes the efforts to address specific concerns relating to particularly sensitive receptors and construction locations and are satisfied that the final CoCP will provide an opportunity to ensure the final proposals are suitably robust.</p> <p>The Council also welcomes the Applicants commitment through the introduction of Requirement 26 and within the OCoCP (REP7-026) to provide an Onshore Preparation Works Management Plan to provide controls for the onshore preparation works which can be undertaken pre-commencement.</p> <p>c) Landfall</p> <p>a. Local background</p> <p>The local background in relation to this specific aspect of the construction is the same as for the substation, cable corridors and haul roads and therefore ESC has no additional comments on this.</p> <p>b. Specific construction processes</p>	



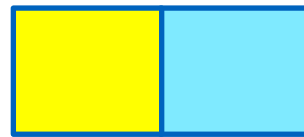
ID	ESC Comment	Applicants' Comments
	<p>The Council's position on construction processes and the technical assessment methodology for this specific aspect of the construction are the same as for the substation, cable corridors and haul roads and therefore ESC has no additional comments on this.</p> <p>c. Individual receptors</p> <p>In relation to individual receptor locations as identified within the Local Impact Report (paragraph 19.5, REP1-132), the Council considers that there are specific locations within the Order Limits where residential properties are relatively close to the proposed landfall location and therefore construction activities.</p> <p>The Applicants have sought to address this by including a commitment in the OCoCP (paragraph 95, REP7-026) that the final CoCP will consider the sensitivities of residences in proximity, and that this will be submitted to ESC for approval before works progress. The Council is satisfied that Requirement 22 of the draft DCOs will secure this.</p> <p>d. Mitigation measures and security</p> <p>The Council's position on mitigation measures and security relating to this specific aspect of the construction is the largely the same as for the substation, cable corridors and haul roads. However, in addition to the project-wide mitigation measures proposed, Section 9.1.1 of the OCoCP (REP7-026) also sets out specific measures "<i>anticipated to be implemented</i>" at specific locations and considering the sensitivities of specific properties relating to landfall, including commitments around working hours, the use of noise barriers, positioning of construction plant and equipment, plus an overarching commitment to review construction noise predictions</p>	



ID	ESC Comment	Applicants' Comments
	<p>during the detailed design of the landfall works and explore additional practicable measures accordingly.</p> <p>The Council welcomes the efforts made by the Applicants to address specific concerns relating to particularly sensitive receptors and construction locations and are satisfied that the final CoCP will provide an opportunity to ensure the final proposals are suitably robust.</p> <p>d) The Highway Network/Traffic Noise</p> <p>ESC has no specific comments to make regarding this matter.</p>	
Agenda Item 3 – Operational noise		
8	<p>a) At the Transmission Connection Location - Friston</p> <p>a. Local background</p> <p>ESC maintains that the Friston area is typical of a very quiet rural environment and that the introduction of a new industrial noise source at the levels currently proposed, above the background sound levels would represent a permanent change to the character of the noise climate in the area.</p> <p>The Applicants have assessed the impact of the substations using with British Standard BS4142 as agreed in consultation with ESC prior to submission. BS4142 compares an A-weighted noise rating level from the proposed source, modified according to a list of specific acoustic features, against a representative background sound level.</p> <p>The single figure background sound levels presented by the Applicants are not agreed by ESC as being representative of the</p>	<p>a)a. As referred to in ESC's comment, whilst there remains technical disagreement on the background noise levels adopted for the onshore substation locations, this matter has been discussed between the Applicants and ESC and falls away in light of the commitment to an Operational Noise Design Report (as set out within the Substations Design Principles Statement (REP8-082) and secured through and update to the wording of Requirement 12 of the draft DCO (document reference 3.1), both submitted at Deadline 8).</p> <p>a)b. Noted. The Applicants understand that, in light of the commitment to the pre-commencement submission and approval of an Operational Noise Design Report as referred to in the Applicants comment at a)a, the matter of applying acoustic corrections for perceived tones falls away.</p> <p>a) Noted.</p>



ID	ESC Comment	Applicants' Comments
	<p>typical night-time sound climate around Friston. Based on the Council's analysis of the Applicants' own survey data, ESC considers the background sound levels should be revised down to 27 dB LAF90 at SSR2, 24 dB LAF90 at SSR3 and 29 dB LAF90 at SSR5 or the lowest of these values (24 dB LAF90). This analysis is detailed in Appendix 4 of the Local Impact Report (REP1-132) and based solely on the noise survey data supplied by the Applicants. This was not based on the short-term validation measurements taken during the Council's night-time visit to site. The position on background sound levels is not affected by any comments raised in the Applicants' Deadline 7 submissions (REP7-041, REP7-057) which will be addressed in separate representations.</p> <p>As requested by the Examining Authority, ESC and the Applicants have been discussing operational noise and the areas of disagreement following the hearing. Although the Council and the Applicants remain in disagreement in relation to the background sound levels, notwithstanding this position, the Applicants have confirmed the operational noise limits currently proposed within Requirement 27 of the draft DCOs have been set at the lowest level currently achievable. The Applicants have also committed to providing an Operational Noise Control Plan prior to the construction of the substations which will be agreed with ESC and secured by updates to Requirements 12 and 27. This plan will provide details in relation to the operational noise at the detailed design stage and commits to adopting Best Practicable Means to reduce the noise levels further at this stage providing mitigation measures do not add unreasonable costs, delays to the projects or result in adverse environmental impacts. Based on this new information and commitments, ESC now accepts the rating noise limits provided at this stage within Requirement 27, notwithstanding</p>	<p>a)d. Noted. The Applicants understand that the matter of applying acoustic corrections for perceived tones falls away for the reasons set out in the Applicants comment at a)b.</p> <p>b) Noted.</p>



ID	ESC Comment	Applicants' Comments
	<p>the disagreement with the Applicants on the background sound levels.</p> <p>b. Operational processes</p> <p>ESC has expressed concern with the Applicants' predicted operational noise rating levels, particularly with regards to the absence of any correction for tonality of other characteristic features.</p> <p>The Applicants have supplied a copy of the East Anglia One operational noise assessment which states that the sound emissions from transformers and reactors at substations typically contain most of their acoustic energy at 100 Hz. This statement agrees with ESC's position that the substation equipment at Friston is likely to generate significant levels of tonal noise at source. However, the Applicants have not supplied any of the 1/3 Octave band data measured around the substation site which would be required to test for tonality at source or otherwise substantiate the position that no feature correction for tonality is required. There is precedent in assessments for other similar onshore substation projects to include a feature correction for tonality where information on the proposed equipment is not yet available.</p> <p>ESC has continued to engage with the Applicants after ISH12 as requested by the Examining Authority. The Applicants have now committed to providing a pre-commencement Operational Noise Control Plan based on the detailed substation design which will include 1/3 Octave band analysis of the final design proposals. This report will require approval from ESC and therefore the Council is now satisfied that the concerns associated with the lack of</p>	



ID	ESC Comment	Applicants' Comments
	<p>considerations of tonality can be adequately considered at the designed design stage.</p> <p>c. Individual receptors</p> <p>The choice of receptors was agreed with ESC early in the consultation process. The impact of the predicted noise levels is assessed at individual receptors against a LOAEL of the background sound level plus 5 dB. The Council maintains that in this context, a rating level equal to the background sound level is a more appropriate figure for the LOAEL threshold. There is also precedent for this approach on other similar assessments, such as that for Vattenfall Thanet Extension.</p> <p>ESC agrees with ██████████ that BS 4142:2014+A1:2019 states that "Where background sound levels and rating levels are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background" (REP7-041). However, ESC disagrees with ██████████'s use of the thresholds from the 1997 version of the standard which was superseded in 2014 and the figures removed. This is discussed in more detail in ESC Deadline 8 responses to ██████████ report.</p> <p>Following the hearing ESC has continued to engage with the Applicants. Although the disagreement remains in relation to the LOAEL and SOAEL thresholds, ESC however agrees that the operational noise limit falls into the region between the LOAEL and SOAEL thresholds, where the Noise Policy Statement for England (NPSE) requires that "all reasonable steps should be taken to mitigate and minimise adverse effects" and Overarching National Policy Statement for Energy (EN-1) provides similar wording in paragraph 5.11.9.</p>	



ID	ESC Comment	Applicants' Comments
	<p>The Applicants confirmation that the operational noise limits have been set at the lowest level currently achievable and their commitment to provide a pre-construction Operational Noise Control Plan approved by ESC with a commitment to use Best Practicable Means to reduce the noise limits further at the detailed design stage is welcomed. Based on these commitments, notwithstanding the disagreement with the Applicants in relation to the methodology used to determine LOAEL, ESC now accept that the operational noise limits secured by Requirement 27 are at this stage, consistent with policy.</p> <p>The Council also welcomes the recent introduction of the additional monitoring location within Requirement 27 of the draft DCOs.</p> <p>d. Mitigation measures and security</p> <p>ESC maintains disagreement with the Applicants in relation to the methodology used to assess the impact of the proposed onshore substations and advised the Examining Authority that a lower limit should be imposed, unless there is confirmation that this is not achievable or commercially viable at this stage. At the time of the hearing ESC had not received confirmation that the proposed rating levels cannot be further lowered.</p> <p>ESC welcomed during the hearing the inclusion in Requirement 27 for a post-completion assessment of operational noise levels including use of the methodology in Annex D of BS4142 for assessing tonality. However, given the limited options for post installation mitigation at source or at residential receptors, ESC considered that the DCO should also secure a pre-commencement assessment based on the detailed design of the substation. There</p>	



ID	ESC Comment	Applicants' Comments
	<p>is precedent for this in the DCO for East Anglia One (Requirement 24).</p> <p>ESC advised this would require the Applicants to submit an assessment to be agreed by ESC based on the finalised detailed design of the substation to demonstrate that the operational noise limits, including any rating level corrections for tonality, are expected to be met. ESC advised during the hearing that if the Applicants were not able to commit to a pre-commencement condition of the type secured in Requirement 24 for East Anglia One, the concerns regarding low-frequency noise from the substations could be controlled via a parallel low-frequency operational noise limit as imposed at Necton in Norfolk for the Norfolk Boreas and Vanguard onshore substations.</p> <p>Following the hearing, the Applicants and ESC have continued to engage as previously discussed. The Applicants commitment to provide a pre-construction Operational Noise Control Plan which will provide 1/3 octave spectrum information is considered to have addressed the Council's concerns and therefore ESC is no longer seeking the inclusion of a low frequency criterion.</p> <p>b) Other Operational Noise Effects</p> <p>ESC has no additional comments to make.</p>	
Agenda Item 4 – Cumulative effects		
9	<p>The inclusion of the National Grid substation within an overall cumulative noise limit in Requirement 27 of the draft DCOs (REP7-007) is welcomed.</p>	<p>The Applicants appreciate ESC's confirmation that it welcomes the updates to include the National Grid substation within the wording of Requirement 27 in the draft DCO (document reference 3.1).</p>



ID	ESC Comment	Applicants' Comments
	<p>ESC has expressed concerns previously that the operational limits currently proposed, by virtue of being above the background sound level, will permanently change the sound climate in the locality. The Council is particularly concerned in relation to noise creep and the impact of future connections to the proposed substations site. This is because the operational noise impact of future developments would be assessed in the context of a new noise climate.</p> <p>ESC considers that known future connections to the National Grid substation which are reasonably foreseeable should be considered as part of the cumulative assessment. As set out in the Council's Local Impact Report (REP1-132), National Grid Ventures (NGV) has previously identified the Friston site as the connection point for their Nautilus and Eurolink projects should the National Grid substation be consented under these projects. The Applicants have not however undertaken this work.</p> <p>The Applicants commitment to ESC following the hearing to provide a pre-commencement Operational Noise Control Plan which commits to the use of Best Practicable Means to minimise the rating level further providing mitigation measures do not add unreasonable costs, delays to the projects or results in other adverse environmental impacts is welcomed and it is hoped will help to minimise the noise creep. This commitment however does not negate the need to provide a cumulative assessment of the impacts as a result of the connection infrastructure associated of the NGV projects with EA1N and EA2.</p>	<p>Regarding the assessment of cumulative impacts, the Applicants and ESC remain in disagreement on this matter and the Applicants refer to their position within Paragraph 13 of the Statement of Common Ground (SoCG) with ESC and SCC submitted at Deadline 8 (REP8-114).</p>



2.4 East Suffolk Council's Summary of Oral Case for ISH14 (REP8-147)

ID	ESC Comment	Applicants' Comments
Agenda Item 10 – Welcome and introductions		
14	ESC did not attend day 1 of ISH14. Day 1 however dealt with offshore matters which ESC defers to Natural England and the Marine Management Organisation.	Noted.
Agenda Item 11 – Marine Mammals		
15	ESC has no comments and defers to the Marine Management Organisation and Natural England.	Noted.
Agenda Item 12 – Terrestrial Ecology		
16	<p>Sandlings SPA Crossing</p> <p>a) ESC has no further comments to make in relation to Nightjar and Woodlark of the Sandlings SPA Crossing.</p> <p>Hundred River Crossing</p> <p>b) Whilst ESC welcomes the further reduction in the Hundred River crossing width for each project (to 34m per project), as set out in our previous responses (including most recently our Deadline 7 response - REP7-063) the Council considers that it remains unclear why a doubled crossing width is required for two projects when a reduced width for both projects has been achieved in other sensitive locations.</p> <p>The Applicants' explanation for the need for this greater width provided at ISH14 (day 2) is noted. The commitment made at ISH14 to including reference within the Outline Watercourse Crossing Method Statement (OWCMS – REP6-041) for the need for</p>	<p>a) Noted.</p> <p>b) Noted. The Applicants refer to the updated Outline Watercourse Crossing Method Statement submitted at Deadline 8 (REP8-084).</p>



ID	ESC Comment	Applicants' Comments
	<p>the habitat loss within the crossing area to be minimised as part of the detailed project design is welcomed.</p> <p>A comment was made during the hearing by SEAS regarding the categorisation of the woodland between the Hundred River and the Aldringham Road. ESC's comments on this matter were provided as part of the Council's Oral Summary of Case for ISH7 (REP6-075).</p>	
<p>Agenda Item 13 – Any other business relevant to the Agenda</p>		
17	<p>A comment was made during the hearing by SASES regarding the potential for ecological impacts at the substation site arising from increases in high frequency noise levels. As most recently set out in ESC's Oral Summary of Case for ISH7 (REP6-075) and the Council's Deadline 7 response (REP7-063) this remains an area of concern.</p>	<p>The Applicants provided a response to this point at ID2, Section 2.3 in the Applicants' Comments on ESC's Deadline 5 Submissions submitted at Deadline 6 (REP6-026).</p> <p>Further to this, the Applicants consider that the preparation and prior approval of an Operational Noise Design Report secured through Requirement 12 of the draft DCO (document reference 3.1) and expanded upon within the Substations Design Principles Statement submitted at Deadline 8 (REP8-082) presents an appropriate mechanism for controlling operational noise at frequencies considered to potentially affect bats.</p>



2.5 East Suffolk Council's Summary of Oral Case for ISH15 (REP8-149)

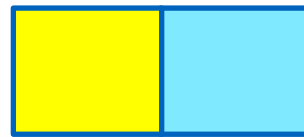
ID	ESC Comment	Applicants' Comments
Agenda Item 1A – Negotiations with Affected Persons		
18	ESC has no comments to make.	Noted.
Agenda Item 2 – Progress Position Statement by the Applicants: Changes to the Drafts in Progress since ISH9		
19	<ul style="list-style-type: none"> Article 17 'Authority to survey and investigate the land onshore' – ESC notes the additional wording inserted in the most recent draft DCOs (REP7-007) in relation to removing equipment and facilities following the completion of survey or investigatory work and supports this addition. Article 27 'Temporary use of land for maintaining authorised project' – ESC notes the update provided to the definition of 'the maintenance period' which now excludes the replacement planting period identified by Requirement 15. Article 33 'Operational land for purposes of the 1990 Act' and Permitted Development Rights. <p>ESC considers that it is not possible at this stage to determine the extent of operational land at the substations site. Whether land falls within the definition provided by section 263 with further information provided in section 264 of the Town and County Planning Act 1990 will be highly fact sensitive. ESC considers the wording within s263 potentially provides a relatively wide definition of operational land. There is scope for land on which buildings are not sited to qualify as operational land, not necessarily limited to the compounds. In any event, land within compounds will likely qualify as operational land as the Applicants confirmed during the hearing and within their REP6-067 response. The compounds are likely to include land</p>	<p>Article 17 – No further comment.</p> <p>Article 27 – The update to article 27 extends the maintenance period from five years to ten years where it relates to the maintenance of any tree or shrub for which a 10 year replacement period is specified pursuant to requirement 15.</p> <p>Article 33 – The Applicants have set out their position on the proper interpretation of operational land having regard to all the relevant provisions of the Town and Country Planning Act 1990 at Deadline 8. The location of the sites to the north of Friston do not give rise to the designation exclusions provided for in the Town and Country Planning (General Permitted Development) (England) Order 2015. The Environmental Impact Assessment (EIA) exclusion and Order conditions have been deemed appropriate by Parliament.</p> <p>Article 36 – No further comment.</p> <p>Article 37 – See Applicants' comments at ID55 in Section 2.9 below.</p> <p>Requirement 12 –The Applicants updated the Substations Design Principles Statement (REP8-082) at Deadline 8 which addresses ESC's representations regarding a clearer commitment within the Design Principles Statement to reduce the size and height of the substations during the post consent design refinement work. Specifically, the following Design Principle has been included:</p> <ul style="list-style-type: none"> Reduction of visual impact of onshore substations, National Grid substation and cable sealing end compounds: The design of the onshore substations, National Grid substation and cable sealing end



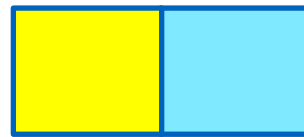
ID	ESC Comment	Applicants' Comments
	<p>upon which buildings and electrical equipment are not sited. In these circumstances, extensions or new structures/buildings could be erected without control, save where the Environmental Impact Assessment (EIA) Regulations are engaged.</p> <p>ESC therefore maintains that permitted development rights should be removed specifically in relation to the cable sealing end compounds, EA1N and EA2 substations and National Grid substation (Work No.s 30, 38 and 41). ESC suggested specific wording in paragraph 2.13 of REP7-063 which has been set out below. The Applicants however raised concerns regarding the specification of the need to apply for planning permission and therefore the wording has been amended to reflect their comments:</p> <p><i>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order), no development in connection with Work No.s 30, 38 and 41 shall be carried out under Schedule 2, Part 15, Class B (a), (d) or (f). without the submission of a formal planning application and the granting of planning permission by the local planning authority.</i></p> <p>ESC considers that the limited removal of permitted development rights is justified. If these rights are not removed such development could occur without any control. The Environmental Statements identify that the projects will result in significant adverse residual impacts on the locality of the substations site. Given the sensitivity of the site, it is not considered appropriate that further extensions and development associated within the substations and sealing end compounds should be able to occur without the implications of the development being fully and robustly considered and assessed.</p>	<p>compounds will be compliant with the maximum parameters prescribed in the draft DCO. Where cost effective and efficient to do so, the Applicants will seek to further reduce the visual extent of the onshore substations, National Grid substation and cable sealing end compounds, through appropriate equipment procurement and layout considerations.</p> <p>Requirement 13 – No further comment.</p> <p>Requirement 15 – No further comment.</p> <p>Requirement 21 – No further comment.</p> <p>Requirement 23 – No further comment.</p> <p>Requirement 26 – No further comment.</p> <p>Requirement 27 – The Applicants welcome ESC's comments and can confirm that the commitment to submit an operational noise design report is secured through Requirement 12 of the draft DCO. Further details are provided in the Substations Design Principles Statement submitted at Deadline 8 (REP8-082).</p> <p>Requirement 30 – No further comment.</p> <p>Requirement 33 – No further comment.</p> <p>Requirement 38 – No further comment.</p> <p>Requirement 41 – No further comment.</p> <p>Requirement 43 – No further comment.</p> <p>Schedule 11 – No further comment.</p> <p>Article 38 and Schedule 16 – See Applicants' comments at ID56 in Section 2.9 below.</p>



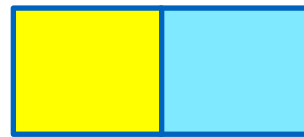
ID	ESC Comment	Applicants' Comments
	<p>The design of the substations and sealing end compounds will be subject of design refinement with the local community and local authorities engaged in this process. The ability for development to occur utilising permitted development rights as soon as the works are constructed would undermine this process.</p> <p>ESC does not wish to fetter the operator's interests and it is not considered that removal of the specific rights suggested would unfairly inhibit the operators' abilities to undertake their duties; it would however provide some appropriate controls. Although the Government has granted powers to electricity undertakers to carry out certain works through Part 15 of the Town and Country Planning (General Permitted Development) Order 2015, the ability to remove those powers is available and has not been removed. The Council considers that there are appropriate and legitimate reasons to remove these rights in the context of this site and invites the Examining Authority to do this. The removal of these rights would not impinge on the scope of the DCO, including the power of maintenance under Article 4 (which is wide but does not include extensions or entirely new buildings).</p> <p>Further comments are provided in ESC's response to the Examining Authority's Action Points for ISH15.</p> <ul style="list-style-type: none"> • Article 36 'Certification of plans etc' – ESC welcomes the update to this article which refers to the certified plans detailed in the new Schedule 17. • Article 37 'Arbitration' – in the interests of clarity ESC considers that Article 37(2) should be revised to explicitly include the relevant planning authority and the highway authority as excluded from the application of Article 37(1), 	<p>Schedule 17 – No further comment.</p> <p>Article 44 and Schedule 18 – No further comment.</p>



ID	ESC Comment	Applicants' Comments
	<p>alongside the Secretary of State and Marine Management Organisation. Although the general excluding words in Article 37(1) are noted, there is no reason to expressly exclude the Secretary of State's jurisdiction and not the relevant planning authority's, for example.</p> <ul style="list-style-type: none"> Requirement 12 'Detailed design parameters onshore' – ESC welcomes the revisions to the order and format of the requirement. <p>ESC has previously expressed comments in relation to the Design Principles Statement which would still stand. ESC supports the inclusion of an additional design principle as set out in ESC's Oral Summary of Case for ISH9 (REP6-077). ESC has also sought a clearer commitment within the Design Principles Statement to make every effort to reduce the size and height of the substations during the post consent design refinement work.</p> <p>ESC welcomes the reduction in the working width of the Hundred River crossing identified within 17(b) and the commitment to provide some additional wording within the Outline Watercourse Crossing Method Statement (REP6-041) to provide further reductions if possible post consent during design refinement work.</p> <p>Post ISH15 the Applicants have confirmed that outline details of the Operational Noise Control Plan discussed under Requirement 27 below will be provided within an updated Design Principles Statement and update to the wording of Requirement 12. ESC will review these revisions at Deadline 8.</p> <ul style="list-style-type: none"> Requirement 13 'Landfall construction method statement' – ESC welcomes the revisions to this requirement to secure monitoring and remedial works if the monitoring identifies a 	



ID	ESC Comment	Applicants' Comments
	<p>risk of exposure of the infrastructure as a result of the rate and extent of erosion at the landfall site. Outline details of the monitoring has been provided in Appendix 2 of the Outline Landfall Construction Method Statement (OLCMS – REP6-022). ESC would be content with the addition of the Marine Management Organisation and Natural England as consultees, as requested by them.</p> <ul style="list-style-type: none"> Requirement 15 'Implementation and maintenance of landscaping' – ESC welcomes the Applicants commitment that Work No.29 will be subject to a ten-year replacement planting period and looks forward to reviewing this amendment within the draft DCOs submitted at Deadline 8. ESC also welcomes the commitment within the Outline Landscape and Ecological Management Strategy (OLEMS REP6-007, paragraph 169-170) to provide details of longer-term management. Requirement 21 'Ecological Management Plan' – ESC notes the minor revisions to 21(2). The Council accepts these revisions and is now content with the wording of the requirement. Requirement 23 'Construction hours for transmission works' and 24 'Construction hours for grid connection works' – ESC welcomes the inclusion of the term 'internal' preceding fitting out works in 23(2)(b) and 24(2)(b). ESC has also been in discussions with the Applicants and agreed additional wording which secures the need for the ESC's agreement in relation to whether the activities save for those identified within 23(2) (a) to (d) and 24(2) (a) to (d) are essential as well as in relation to the duration and timing of the works. Subject to the inclusion of this wording within the draft DCOs, the Council is content with the wording of Requirement 23 and 24. 	



ID	ESC Comment	Applicants' Comments
	<ul style="list-style-type: none"> Requirement 26 'Onshore preparation works management plan' – ESC welcomes the inclusion of Requirement 26 which secures an Onshore Preparation Works Management Plan or Plans. Outline details of which have been provided within Appendix 1 of the Outline Code of Construction Practice (OCoCP – REP7-025). Requirement 27 'Control of noise during operational phase' During the hearing ESC confirmed that discussions were ongoing with the Applicants in relation to this requirement and the operational noise limits. The Applicants have confirmed that the operational limits proposed and secured within Requirement 27 are the lowest that can be achieved at present based on their discussions with suppliers. Post-ISH15 the Applicants have committed to providing an Operational Noise Control Plan prior to the commencement of construction of the project substations. This plan will provide details in relation to the operational noise at the detailed design stage and commits to adopting Best Practicable Means to reduce the noise levels further at this stage providing mitigation measures do not add unreasonable costs, delays to the projects or result in adverse environmental impacts. Based on this new information and commitments, ESC now accepts the rating noise limits provided at this stage within Requirement 27 subject to updated wording to secure this commitment. Further information on this is provided within ESC Deadline 8 submissions. Requirement 30 'Onshore decommissioning' – ESC welcome the inclusion within the requirement (1) and (3) to notify the relevant planning authority of the permanent cessation of commercial operation of the transmission 	



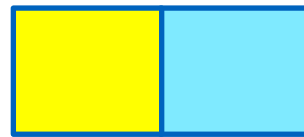
ID	ESC Comment	Applicants' Comments
	<p>works and grid connection works within 14 days. ESC also notes the inclusion of the requirement to consult the relevant highway authority.</p> <ul style="list-style-type: none"> Requirement 33 'Emergency planning arrangements' – ESC notes and is content with the revisions to the wording which has been subject of prior discussions with both ESC and SCC. Requirement 38 'Restriction on carrying out grid connection works where consented in another order' – ESC notes the restriction in relation to Work No.34. Requirement 41 'Operational Drainage Management Plan' – ESC supports the current drafting of the requirement which provides the relevant planning authority with responsibility for discharging in consultation with SCC. ESC has provided further reasoning for this in the Council's Oral Summary of Case for ISH11. Requirement 43 'Restriction on carrying out grid connection works' – ESC note the new requirement which seeks to prevent the national grid connection infrastructure being constructed without a genuine commencement on the EA1N and EA2 projects. Schedule 11 'Hedgerows' – ESC notes the inclusion of important hedgerow 28 within Part 1 which was previously omitted. Article 38 and Schedule 16 'Procedure for discharge of requirements' – <p>ESC welcomes the inclusion of 1(a) and (b) which relates to the nature of the information the Applicants must provide to the discharging authority. ESC also welcomes the amendment in 3(a) from 42 days to 56 days and recognises</p>	



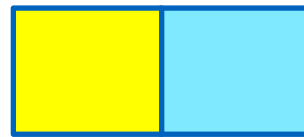
ID	ESC Comment	Applicants' Comments
	<p>the modifications the Applicants have made in relation to other time periods specified in 2.(2) and 3.(2)(d) and (e).</p> <p>ESC however remains concerned about the deemed consent provision detailed within Schedule 16. It is not considered that this provision is necessary or justified. The provision is not contained within Appendix 1 of The Planning Inspectorate's Advice Note 15: Drafting Development Consent Orders. A deemed consent provision was also not included within the recently made Hornsea Project 3 DCO, quashed Norfolk Vanguard DCO or proposed within the draft Norfolk Boreas DCO. It has therefore not been considered necessary within other recently consented DCOs for similar developments.</p> <p>In addition, it is not considered that there are any specific local circumstances that would warrant the need for a deemed consent provision. There were no significant delays caused by ESC during the discharging of the requirements associated with the EA1 DCO and no appeals lodged in relation to non-determination. The Council worked collaboratively with the Applicant to ensure the timely discharge of requirements.</p> <p>ESC understands the need to avoid unnecessary delays during the discharge of requirements process and has previously established Planning Performance Agreements to assist in ensuring this is achieved. It should be noted that the model provided in Appendix 1 of the Planning Inspectorate's Advice Note 15 provides the option of an appeal against non-determination as the suggested option.</p> <p>ESC considers that the deemed consent provision should not be included within Schedule 16 for the reasons provided above. Notwithstanding this position, should the Examining Authority consider that such a provision is necessary and justified, it is considered that the wording of</p>	



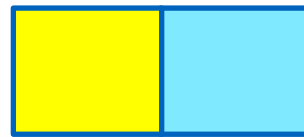
ID	ESC Comment	Applicants' Comments
	<p>the schedule should include the requirement for the Applicants to submit a 'deemed discharge notice' similar to that necessary under Article 29, Part 5 of the Town and Country Planning (Development Management Procedure) Order 2015.</p> <ul style="list-style-type: none"> • Schedule 17 'Documents to be certified' – ESC notes and supports the detailed information provided in this schedule in relation to the certified documents. • Article 44 and Schedule 18 'Compensation Measures' – ESC notes the provisions for compensatory measures provided in Parts 1-6 for kittiwake, gannet, guillemot, razorbill, lesser black backed gull and red throated diver and the commitment in 1-5(3) to consult the relevant local planning authority on the mitigation strategy. ESC defers to the Marine Management Organisation and Natural England in relation to the adequacy of the wording of in this schedule. 	
Agenda Item 3 – Protective Provisions		
20	ESC has no comments to make.	Noted.
Agenda Item 4 – Security for Technical Processes: Progress		
21	ESC has no comments to make.	Noted.
Agenda Item 5 – Agreements and Obligations: Progress		
22	<p><u>Skills, Education and Economic</u></p> <p>A skills, education, and economic development Memorandum of Understanding (MoU) has been signed by ESC, SCC and</p>	Noted.



ID	ESC Comment	Applicants' Comments
	<p>ScottishPower Renewables. The MoU was signed by ESC in June 2020.</p> <p><u>S111 Agreements</u></p> <p>There are two proposed s111 Agreements, one for the EA1N project and one for the EA2 project. These include the following:</p> <ul style="list-style-type: none"> • Sums to support ecological, landscape and habitat enhancements, improve the existing public rights of way network and strengthening existing qualities of the Area of Outstanding Natural Beauty (AONB), in the landfall to substation area – as a result of significant impacts of the projects identifies in the Landscape and Visual Impact Assessments (LVIAs) including on the AONB, disruption caused to public rights of way during construction and residual impacts on bats identified. • Sums per project to undertake landscape, environmental, access and amenity improvements and enhancements to Friston and its vicinity – due to significant impacts identified in LVIAs on landscape character, visual amenity and public rights of way during construction and operation. • Sums per project to contribute towards measures relating to the preservation and enhancement of heritage assets and their settings in Friston and its vicinity – as a result of impacts on the setting of heritage assets and loss of historic landscape character around the substations site. • Sums to support access, environmental and ecological enhancements to the AONB (EA2 project only) – due to significant residual impacts identified on the AONB from the offshore turbines, and • An administration fee. 	



ID	ESC Comment	Applicants' Comments
	<p>The content of the s111 documents has been agreed with the Applicants and copies of the draft Agreements were provided at Deadline 6 in ESC's response to the publication of the Examining Authority's second round of questions (REP6-079).</p> <p>The s111 Agreements seek to secure funding to provide compensatory measures in relation to some of the adverse impacts arising as a result of the construction and operational phases of the EA1N and EA2 projects. The Agreements have been taken into account by the Council when considering its overall position on the projects.</p> <p>ESC has signed the s111 Agreements and provided these to the Applicants for their signatures. It is understood that the Applicants will submit the signed copies of the Agreements into the examinations at Deadline 8.</p> <p><u>Tourism Fund</u></p> <p>The Applicants have agreed to contribute £150,000 to support the promotion and marketing of the East Suffolk area as a tourist destination during the construction phases of the projects. The intention is to utilise the fund over a three-year period to fund specific initiatives and campaigns designed to promote East Suffolk as a tourist destination. The Applicants have stated that the fund is to be administered by Suffolk Community Foundation.</p> <p><u>Environmental Exemplar Projects MoU</u></p> <p>ESC has also engaged with the Applicants in relation to an Environmental Exemplar MoU, this has not yet been signed by either party, but the content has been agreed. It is the intention for</p>	



ID	ESC Comment	Applicants' Comments
	<p>the MoU to be used to support projects which seek to aid the net zero transition or enhance biodiversity/encourage the appreciation of it. It is the intention to finalise the MoU and submit a signed copy before the end of the examination. However, it will not be possible to provide the signed MoU for Deadline 8, it is understood however that the Applicants will provide an unsigned version of the document at Deadline 8.</p>	
Agenda Item 6 – Consents of Parties: Progress		
23	ESC has no comments on this.	Noted.
24	ESC has no comments on this.	Noted.



2.6 East Suffolk Council's Response to Outstanding Hearing Action Point ISH8 (REP8-144)

ID	ESC Comment	Applicants' Comments
Response to the 'Think Piece' presented by the Applicants at Deadline 6		
25	<p>The Applicants have identified significant adverse impacts on the coastline of the Suffolk Coast and Heaths Area of Outstanding Natural Beauty (SC&H AONB) and there remains disagreement between the Applicants and Natural England as to the nature and extent of those significant impacts on the character and special qualities of the SC&H AONB. The Councils have had early sight of and endorse Natural England's position on this matter that will be submitted at Deadline 8.</p> <p>It is considered that, whilst the 'Think Piece' provides some useful background information on other projects and proposals that have impacted, to a greater or lesser degree, on protected landscapes, meaningful comparison is rendered problematic at best by the following issues:</p> <ul style="list-style-type: none"> • The differences in character of the respective areas • The nature of the receiving environment • The significance and sensitivity of the coast as a component of the designation • The relationship between the turbines and the viewer • The seasonal visibility of the proposed developments and consequent thresholds of sensitivity on the Suffolk coastline see Suffolk Seascape Sensitivity to offshore wind farms October 2020 - White Associates 	<p>The Applicants' 'think piece' (Appendix 3 of REP6-049) was drafted with the intention of enabling Natural England to set out its position, as requested by the ExA at Issue Specific Hearing 8, and to enable further responses including from the Councils and the Area of Outstanding Natural Beauty Partnership, which are noted.</p> <p>The Applicants have provided comments on Natural England's position in relation to this matter within the Applicants' Comments on Natural England's Deadline 7 Submissions (REP8-049).</p> <p>The Applicants note that ESC believes the 'think piece' (Appendix 3 of REP6-049) to provide some useful background information on other projects and proposals that have impacted protected landscapes, and that it acknowledges some of the limitations of comparison between projects influencing different receiving environments. Nevertheless, the Applicants consider they are useful precedents to provide a range of parameters to which the ExA should give consideration, in line with the suggestion in overarching National Policy Statement for Energy (EN-1) paragraph 5.9.19 that "<i>applicants draw attention... to any examples of existing permitted infrastructure... with a similar magnitude of sensitive receptors</i>", in order to frame the ExA's consideration of effects on the Suffolk Coast and Heaths Area of Natural Beauty (SCHAONB).</p> <p>The Applicants have provided further comment in relation to each of the following issues raised by ESC.</p>



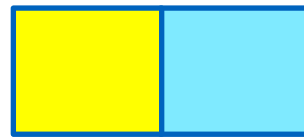
ID	ESC Comment	Applicants' Comments
	<p>Therefore, whilst the Councils again defer to the views of Natural England on this 'Think Piece', we would like to draw the Examining Authority's attention to the following issues.</p>	
26	<p>1) In Table 1 the Applicants state, under 'Geographical Relationship with Designated Landscape', that both the Rampion array and EA2 project are orientated 'parallel to the coast'. Notwithstanding this apparent common thread, it should be noted that:</p> <p>a) The coastline of the South Downs National Park (SDNP) is only about 18 Km long and is not directly offshore at the key coastal viewpoint of Beachy Head, whilst the SC&H AONB has a coastline of over 70km with EA2 directly offshore for a notable length of its designated coastline. As a result of having a significantly greater length of designated coastline, the coastal nature of the Suffolk designation and its relationship to the sea is integral to its character and special qualities, in a way that is not the case for the SDNP.</p> <p>b) Furthermore, the majority of the SDNP is in fact separated from the coast by an undesignated and well-developed coastal strip, whereas the SC&H AONB has a direct relationship with its coastal strip and adjacent seas, and the limited built environment of the Suffolk Coast and Heaths is incorporated into the designated area, and in fact contributes to the character and special qualities and cultural associations of the designation and the Suffolk Coast in general. These issues are discussed in detail in the local Seascape Typology available at https://suffolklandscape.org.uk/landscape-typology/seascape-typology/ and we draw the Examining Authority's attention to this study, which has been previously provided to the Applicants and was developed, following discussion with the Applicants, regarding the lack of local seascape characterisation material.</p>	<p>The Applicants' would refer the ExA to the Secretary of State's Decision Letter for Navitus Bay, which notes at paragraph 18 that "<i>The ExA decided that the two wind farms (Navitus Bay and Rampion) were not comparable as <u>Rampion's location was set against a section of the coast which, while under a national landscape designation, ran parallel to the wind farm</u> and not, as at Navitus, at the apex of a sector which had as its circumference the Dorset and Isle of Wight coastlines. The Secretary of State agrees with the ExA's conclusion in this matter for both the Application development and the Turbine Area Mitigation Option (TAMO)</i>".</p> <p>a) While shorter than that of the SCHAONB, Rampion was assessed as having significant effects over the majority of the South Downs National Park (SDNP) coastline (14.7km of its 18.1km coastline). The Applicants would also highlight, as noted at para 37 of the 'think piece' (Appendix 3 of REP6-049), that there is an extensive area of open south facing downs of the SDNP that extend across the inland backdrop which afford open views across the coastal plain to Rampion and its associative seascape setting. The "<i>stunning, panoramic views to the sea</i>" (SDNP Special Qualities Report) are also integral to some of its special qualities, particularly Special Quality 1 "<i>Diverse, inspirational landscapes and breathtaking views</i>". These views of the sea are appreciated at greater 'depth' inland from the SDNP due the elevation of the downs providing an amphitheatre for sea views. This is unlike the SCHAONB, which is low lying and often backed by forests and heathland and, as such, effects are confined to the immediate coastal edge.</p> <p>b) The Applicants agree that much of the SDNP is separated from the coast by an undesignated and well-developed coastal strip and that the SCHAONB</p>



ID	ESC Comment	Applicants' Comments
		<p>has limited built development in comparison, incorporated within the designated area. As noted above at a), the elevated open downland areas of the SDNP afford open views across the coastal plain to Rampion and its associative seascape setting, providing views of Rampion 'within' its seascape. Effects of this nature will not occur for the East Anglia TWO windfarm site which is viewed from the SCHAONB as 'horizon' development due the low-lying coastline and its longer distance offshore, as described in Chapter 29 of the ES (APP-076) and subsequent written representations submitted during the Examinations. The Applicants note that the Suffolk, South Norfolk and North Essex Seascape Character Assessment was adopted as the baseline for the assessment submitted within Chapter 29 of ES (APP-076).</p>
27	<p>2) Paragraph 11 states that National Parks have a higher level of protection than Areas of Outstanding Natural Beauty.</p> <ul style="list-style-type: none"> Paragraph 5.9.9 EN-1 states that 'National Parks, the Broads and AONBs have been confirmed by the Government as having the highest status of protection in relation to landscape and scenic beauty'. At no point does this or any other paragraph in National Planning Policy state that this status is higher in National Parks than it is in AONBs. The level of protection for National Parks and AONBs is the same as both National Planning Policy and primary legislation make clear. The primary statutory purpose of both National Parks and AONBs is the 'conserving and enhancing of natural beauty'. They are equivalent to National Parks in terms of their landscape quality, scenic beauty, and their planning status. 	<p>It is accepted by the Applicants that the protection given to Conserving and Enhancing the Natural Beauty is the same for both National Parks and AONBs, but the Applicants' reference in the paragraph related to the wider remit and additional statutory purpose of National Parks. The statutory purposes of National Parks are set out s5 of the National Parks and Access to the Countryside Act 1949 (as amended) and are follows:</p> <p><i>"(1)The provisions of this Part of this Act shall have effect for the purpose—</i></p> <p><i>(a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and</i></p> <p><i>(b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public."</i></p> <p>The purposes not only include Natural Beauty but also Wildlife and Cultural Heritage and "Promoting Opportunities for the Understanding and Enjoyment of the Special Qualities of those areas by the public". Recreation and access to the</p>



ID	ESC Comment	Applicants' Comments
		<p>countryside to enjoy the qualities of parks has therefore been promoted within our National Parks in line with these purposes.</p> <p>The statutory purpose of AONBs is set out in Section 82(1) of the Countryside and Rights of Way Act 2000 England as:</p> <p><i>(1)Where it appears to Natural England that an area which is in England but not in a National Park is of such outstanding natural beauty that it is desirable that the provisions of this Part relating to areas designated under this section should apply to it, Natural England may, for the purpose of conserving and enhancing the natural beauty of the area, by order designate the area for the purposes of this Part as an area of outstanding natural beauty.</i></p> <p>Therefore, (aside from the policy protections), the statutory duty to have regard to the purposes of an AONB does not include any duty to have regard to any purpose of “<i>promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public</i>”, as would apply in the context of a National Park, and therefore in this sense AONBs do not enjoy the same extent of protection as do National Parks.</p> <p>The NPPF 2019 is also informative with regard to the additional weight to be given to aspects of the protection of National Parks where it states (Paragraph 172):</p> <p><i>172. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads</i></p> <p>The NPPF makes it clear that in addition to the great weight to be given to Conserving the Natural Beauty, National Parks also attract great weight in</p>



ID	ESC Comment	Applicants' Comments
		<p>relation to additional matters with respect to the conservation and enhancement of wildlife and cultural heritage, which it does not direct to AONB. The NPPF specifically states that great weight should be given to conserving and enhancing the natural beauty of AONB but not in any other regard.</p> <p>The point is relevant largely because the consented Rampion Offshore Windfarm is an example not simply of consented infrastructure which has a similar level of impact (to which applicants are encouraged to draw attention in NPS EN1 para 5.9.19), but in fact, of consented infrastructure with greater impacts. . It is the further functions and purposes of National Parks that also need to be given great weight in any planning balance that was the reason for the statement made in the Applicants' report, as Rampion was tested against these wider purposes.</p>



2.7 East Suffolk Council's Response to Hearing Action Points ISH9 and ISH15 (REP8-148)

ID	ESC Comment	Applicants' Comments
ISH9 Outstanding Hearing Action Point – 19 February 2021		
28	<p><i>In relation to East Suffolk Council: Other Agreements and Obligations</i></p> <p>ESC provided a copy of the draft s111 Agreements in appendix 3 of the Council's response to the Examining Authority's second round of written questions (REP6-079).</p> <p>ESC has signed and returned the s111 Agreements to the Applicants for their signatures. It is understood that the Applicants will submit copies of the signed s111 Agreements into the examinations at Deadline 8 as requested.</p> <p>ESC noted the request from the Examining Authority to submit the Environmental Exemplar Memorandum of Understanding into the examinations at Deadline 8. Unfortunately, this document has not yet been signed, the Council however understands that the Applicants will be submitting an unsigned version of the document at Deadline 8. ESC will liaise with the Applicants in order to facilitate the submission of a signed version of this document into the examinations by Deadline 9.</p>	<p>The Applicants submitted signed s111 Agreements at Deadline 8 (REP8-079).</p> <p>The Applicants will submit a signed Environmental Exemplar Memorandum of Understanding at a later Deadline.</p>
ISH15 Hearing Action Points – 19 March 2021		
29	<p><i>In relation to Responses to Applicants Revised Preferred dDCOs</i></p> <p>ESC notes this request and will provide comments at Deadline 9.</p>	Noted.
30	<p><i>In relation to Quality assurance of Schedules with local content</i></p>	Noted.



ID	ESC Comment	Applicants' Comments
	<p>ESC will defer to SCC in relation to the accuracy of Schedules 2 to 6 of the draft Development Consent Orders (DCOs) as they relate to local highway authority matters.</p> <p>Schedule 7 relates to 'Land in which only new rights etc. may be required'. ESC supports the removal of Plot 3 but considers the Applicants would be better placed to review the accuracy of the remainder of the contents of this schedule.</p>	
31	<p><i>In relation to Schedules 17: Documents to be certified</i></p> <p>ESC notes this request and will provide any comments at Deadline 9.</p>	Noted.
32	<p><i>In relation to Substation Permitted Development (PD) rights</i></p> <p>ESC has provided a response in Appendix 1 of this document.</p>	See Applicants' response to Appendix 1 at ID34 to ID38 below.
33	<p><i>In relation to Requirements on noise</i></p> <p>ESC notes this request from the Examining Authority and has continued discussions with the Applicants in relation to operational noise and Requirement 27 of the draft DCOs. Although due to professional disagreements it is not possible to agree all matters in relation to operational noise, the Applicants and ESC have been able to agree the content and wording of Requirement 27.</p> <p>Further details regarding this agreed position has been set out in the Council's Deadline 8 submissions and within ESC's Statement of Common Ground with the Applicants submitted at Deadline 8.</p>	The Applicants welcome ESC's confirmation that the text of Requirement 27 of the draft DCO (document reference 3.1) is agreed.
<p>Appendix 1 – ESC Position on Permitted Development Rights</p> <p><u>Operational Land</u></p>		



ID	ESC Comment	Applicants' Comments
34	<p>1.1. ESC considers that whether land falls within the definition of operational land, in particular whether under section 263(2) of the Town and Country Planning Act 1990 it is comparable with land in general or comparable to land held for the purposes of the undertaking, will be highly fact sensitive. As stated within ESC's Summary of Oral Case for ISH15 submitted at Deadline 8, it is not possible at this stage to determine what will be the exact extent of the operational land for the life of the project.</p> <p>1.2. ESC however considers that the definition of operational land could be applicable to land both inside and outside of the substation and cable sealing end compounds. It is considered that there are likely to be areas of land outside of the compound areas upon which buildings are not sited which could qualify e.g. access roads, parking areas etc. In addition to this, it is also agreed with the Applicants, that the land within the compounds will also meet the definition of operation land. This land may include areas where buildings or electrical equipment are not sited.</p> <p>1.3. It is therefore considered possible that extensions to, or entirely new, buildings and infrastructure could occur without control, save in so far as the Environmental Impact Assessment Regulations are engaged.</p> <p>1.4. It is not agreed as the Applicants contended at ISH15 that the definition of operational land is only confined to the fenced compound areas.</p>	<p>The Applicants have set out their interpretation of operational land at Deadline 8 (see Section 3.4 of REP8-101). The land in question must be used for <i>"the purpose of carrying on their undertaking"</i>. This is specific and the wording has not used a wider expression such as <i>"related to"</i>.</p>
<u>Permitted Development Rights</u>		
35	<p>1.5. ESC has suggested that the following specific permitted development rights are removed in relation to Work No.s 30, 38 and</p>	<p>ESC are effectively calling into question the need for Permitted Development (PD) rights in respect of key national infrastructure. Class B (a) is not restricted</p>



ID	ESC Comment	Applicants' Comments
	<p>41, Class B (a), (d) and (f) of Part 15, Schedule 2 of the Town and County Planning (General Permitted Development) Order 2015 (GDPO).</p> <p><i>a) the installation or replacement in, on, over or under land of an electric line and the construction of shafts and tunnels and the installation or replacement of feeder or service pillars or transforming or switching stations or chambers reasonably necessary in connection with an electric line.</i></p> <p>1.6. The Council does not wish to restrict the installation of an electric line in, on, over or under land but considers that the rights Class B (a) grants in relation to the provision of above ground infrastructure associated with the line should be controlled. This class would allow the erection of structures such as feeder or service pillars, transforming or switching stations or chambers reasonably necessary in connection with the line. The removal of these rights would not impinge on the scope of the DCOs, including the power of maintenance under Article 4 (which is relatively wide but does not include extensions or entirely new buildings). It is unclear why both the powers in Article 4 and permitted development rights are required.</p> <p>1.7. The limitations provided in B.1 (a) of Class B(a), Part 15, Schedule 2 of the GDPO would not provide sufficient control and do not provide limitations on the ancillary development save for a restriction on the size of a chamber provided at, above or under a highway used by vehicular traffic. This would mean that development ancillary to the installation of an electrical line could occur anywhere and be of any size. This would therefore allow</p>	<p>to operational land and is constrained only by limited conditions which control the extent of overhead line works and the size of a chamber. The Council states that the PD rights should be removed in respect of works numbers. Is this the area finally occupied by the works numbers? In terms of the draft DCO there is overlap of works numbers to reflect the fact that these will be subject to final design. The difficulty in defining an area for the exclusion is problematic for a PD right which potentially applies anywhere. For example, if the PD rights are excluded from the compounds the PD rights would continue to apply in respect of land which was immediately adjacent to them. This demonstrates how this exclusion simply cannot work in practice. There is no justification for the removal of these PD rights and it would be irrational to do so.</p> <p>In terms of the other PD rights there are conditions on both (d) and (f) which have been deemed appropriate. These are both restricted to operational land. In addition, the EIA exclusion is an important one given the concerns expressed by the Council. This is a significant control on the application of any PD rights. It ensures a further proportionate control measure is in place. Any substantive extension or alteration would inevitably fall foul of this either because it, or the proposal it is connected with, would be EIA development. That is also on the premise that the operational land point could be overcome.</p>



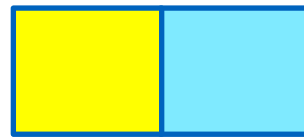
ID	ESC Comment	Applicants' Comments
	<p>development beyond that approved under the Rochdale envelopes of the current applications, without the controls in the DCOs.</p> <p><i>(d) the extension or alteration of buildings on operational land.</i></p> <p>1.8. The definition of operational land has been discussed above. ESC is of the view that although the exact extent of the operational land associated with the developments cannot at this stage be precisely defined, it is considered that land both inside and outside the compounds could meet the definition provided in section 263 of the Town and Country Planning 1990 Act.</p> <p>1.9. B.1(c) in Class B of Part 15 provides some restrictions in respect of Class B (d), but this only restricts the height to no greater than the existing building, restricts the cubic content of the extension to less than 25% of the original building and no more than 1,000 square metres in floor space.</p> <p>1.10. Utilising permitted development rights under Class B (d) would allow the erection of a significant extension to the existing substations and cable sealing end compounds. Although the height of the infrastructure could not exceed that set by the Rochdale envelope of the projects, the footprints provided for the substations and sealing end compounds could be exceeded significantly, without the controls of the DCOs.</p> <p>1.11. In addition to the concern in relation to the potential for general extensions and alterations, ESC is also particularly concerned regarding the potential to provide grid connections for future projects under permitted development rights. ESC recognises that North Falls (REP7-066) and Five Estuaries (AS-100) have</p>	



ID	ESC Comment	Applicants' Comments
	<p>provided submissions to indicate that they are now pursuing grid connections away from the Friston area, the Council considers that a connection in this location by Nautilus and Eurolink Multi-purpose Interconnectors is still reasonably foreseeable. The Council wants to ensure the impacts of future grid connections are fully and robustly considered.</p> <p><i>(f) any other development carried out in, on, over or under the operational land of the undertaking.</i></p> <p>1.12. This part again refers to operational land which cannot yet be definitively defined. B.1 provides only limited controls, preventing the erection of a new building and preventing the design or external appearance of any reconstructed or altered building being materially affected, in terms of plant and machinery the height is restricted to 15 metres or the maximum height of the plant or machinery being replaced, whichever is greater.</p>	
<u>Environmental Statements</u>		
36	<p>1.13. The Environmental Statements identify that the projects will have a significant adverse impact on the landscape character and visual amenity of the locality, in addition to adverse impact on the setting of heritage assets. The assessments have included consideration of the visual appearance of the substations and infrastructure which has been shown within the visualisations provided. The visualisations have provided an indication of the appearance of the infrastructure, but this is not based on a development which utilises the maximum extent of the Rochdale envelope. In addition to this Friston village to the south of the site</p>	<p>The concern of ESC appears to relate to an extension or material change occurring without control. That is why the EIA exclusion exists. It would potentially be captured in circumstances when either the change or extension itself may have significant effects or where it was linked to a wider EIA project. This process allows the response to be proportionate. For example, if a new piece of minor electrical plant was located in the centre of a substation it is unlikely to have any effect whereas if large electrical plant were to introduce additional visibility to a sensitive location it would be caught. These are judgements which are made regularly in the planning system.</p>



ID	ESC Comment	Applicants' Comments
	<p>has been subject to surface water flooding previously. Given the sensitive nature of the site, it is not considered acceptable that extensions and material alterations to the development could occur without controls when such development would potentially have consequences for the identified impacts of the projects, even if not of a scale to engage the Environmental Impact Assessment Regulations. Such development should be fully and robustly assessed through a formal process.</p> <p>1.14. ESC is not seeking the removal of specific permitted development rights to prevent appropriate and acceptable development occurring and would not withhold consent for such development, the Council is seeking to ensure there is an appropriate level of control given the sensitive nature of the site.</p>	
<u>Post Consent Design Refinement Process</u>		
37	<p>1.15. If the applications are granted consent, under Requirement 12 of the DCOs which secures the Design Principles Statement (REP4-029), the final design of the substations and sealing end compounds will be established and agreed with ESC following a design refinement process and engagement with the local community. It would undermine this whole engagement process if once the substations and cable sealing end compounds are constructed, permitted development rights could be utilised to undertaken alterations and modifications without any control or engagement.</p>	<p>ESC's argument fails to acknowledge the controls that exist on the exercise of the PD rights and also the EIA exclusion.</p>
<u>Precedent</u>		
38	<p>1.16. ESC is not aware of permitted development rights under Part 15 Class B of the GDPO being removed on other Nationally</p>	<p>The Applicants are also not aware of any Nationally Significant Infrastructure Projects (NSIPs) in respect of which these permitted development rights have</p>



ID	ESC Comment	Applicants' Comments
	Significant Infrastructure Project applications. This does not however mean that this should not be undertaken in this instance.	been removed. The Applicants consider that this is for good reason. The removal in respect of electricity undertakings would be wholly inappropriate for the reasons set out above and within the Applicants' previous submissions on this matter. The Applicants consider that it would set a dangerous precedent for such rights to be removed in respect of the Projects.



2.8 East Suffolk Council's Response to Hearing Action Points ISH12 (REP8-145)

ID	ESC Comment	Applicants' Comments
ISH12 Hearing Action Points – 11 March 2021		
39	<p><i>In relation to Outline Code of Construction Practice (OCoCP): ambient noise levels at Friston</i></p> <p>ESC has not yet seen a specific appendix providing a process to address the interpretation of BS5228 in relation to Section 61 Control of Pollution Act 1974 (COPA) approval so cannot comment on this at this stage. ESC has however engaged with the Applicants in relation to updates to the OCoCP which reference the section s61 COPA process and is content with this document. The Council will provide a further response if necessary, at Deadline 9.</p> <p>In relation to ambient noise levels, while the Council retains some concerns regarding the length of the measurements which formed the basis for the assessment criteria, ESC also accept that this is unlikely to have affected the construction noise criteria that were adopted and is satisfied that these limits can be enforced appropriately. The Council therefore has no further comments in relation to this part of ISH12 Action 1.</p> <p>ESC notes that section 1.4 of the OCoCP (REP7-026) confirms the onshore preparation works will be subject of a standalone plan and 'Appendix 1 – Onshore Preparation Works Management Plan' provides further details. Appendix 1 includes a list of the works which the Onshore Preparation Works Management Plan will address. The Council has not however discussed with the Applicants the materiality of these works in relation to COPA and</p>	<p>The Expert Report on Noise (REP7-041) submitted at Deadline 7 explains that practical guidance on the steps that can be taken to manage construction noise are provided in British Standard BS5228-1:2014¹, which is an approved code of practice for methods of minimising noise from construction sites under the Control of Pollution Act 1974 (COPA), as defined in The Control of Noise (Code of Practice for Construction and Open Sites) (England) Order 2015².</p> <p>It follows that BS5228-1:2014 must be used as it is the code of practice approved under Section 71 of COPA.</p> <p>ESC's comments about the HS2 LOAEL and SOAEL values not having any status is curious given that HS2 is promoted by Government and represents the best expression of policy on LOAELs and SOAELs for construction noise. Notwithstanding the agreement reached on the control of construction noise through provisions within the updated Outline CoCP submitted at Deadline 8 (REP8-017), this latest position represents a reversal from the general agreement reached at ISH12.</p> <p>The measures set out within Section 9 of the Outline CoCP (REP8-017) make provision for controlling the timing of construction traffic movements within the Construction Phase Noise and Vibration Management Plan. These arrangements are separate from Section 61 consents which only relate to on-site noise controls. In addition, the LOAELs and SOAELs for different times of day set out in Table 5 of the Expert Report on Noise (REP7-041) only apply to</p>

¹ BS5228 Part 1:2009+A1:2014 *Code of practice for noise and vibration control on construction and open sites – noise*.

² See <http://www.legislation.gov.uk/en/uksi/2015/227/made?view=plain>



ID	ESC Comment	Applicants' Comments
	<p>the need for s61 approval. ESC will provide comment on the Applicants response to this action point at Deadline 9.</p> <p>In relation to Table 5 of the Expert Noise Report (REP7-041), ESC understood there to be general agreement on the principles of adopting LOAEL and SOAEL values, working times and averaging periods during the hearing. ESC considers that lower LOAEL and SOAEL values would however be appropriate in this case (such as those presented in the Standard for Highways document <i>DMRB LA 111 - Noise and vibration</i> which was previously promoted by SASES and is discussed in the Expert Report on Noise) and although in agreement with incorporating the principles ESC does not agree with the specific values having any status.</p> <p>In any case, the Applicants have updated the draft OCoCP to include Table 5 and accompanying clarifying text. The means of incorporating this information was refined in discussions between ESC and the Applicants. The Council is now satisfied with the means of inclusion in the OCoCP. In particular, ESC welcomes the move to include the table in a separate section relating to policy to reflect its inclusion as an accepted expression of policy in principle without detracting from the overarching commitment to minimise construction noise impacts in accordance with BS 5228, as already defined in the OCoCP (REP7-026).</p> <p>Under '<i>Control Measures</i>' in Section 9 (Noise and Vibration) of the OCoCP (REP7-026), there is now a clear commitment to set out the timing of construction traffic movements within the Construction Phase Noise and Vibration Management Plan, (reflective of relevant Section 61 consents) which will form part of the final Code of Construction Practice (CoCP) and will therefore be subject to an ESC approval process. ESC considers this satisfactory at this</p>	<p>construction noise from worksites and are not relevant to off-site construction traffic movements.</p>



ID	ESC Comment	Applicants' Comments
	<p>stage, but would note that the Council expects the relevant section of the Construction Phase Noise and Vibration Management Plan to appropriately consider the timing of construction vehicles and in particular how these would differ from the hours in Table 5 of the Expert Report on Noise (REP7-041) and as a result how associated noise will be controlled.</p>	
40	<p><i>In relation to Operational Noise</i></p> <p>The representative background sound levels and the methodology used to determine the Lowest Observed Adverse Effect Level (LOAEL) remain as areas of disagreement between the Applicants and ESC. ESC maintains that the LOAEL should be set at the background sound level identified as 24dB within Appendix 4 of Local Impact Report (REP1-132).</p> <p>Following the Applicants' representations at Deadline 7 (REP7-041, REP7-057), ESC is agreed with the principle that there is a lower limit where the LOAEL reaches an absolute threshold irrespective of how far below this the background sound level is. However, given the late stage this principle has been introduced by the Applicants, there is currently no agreement at where this lower limit should be set.</p> <p>As an example, if this limit were set at 24 dB LAF90 (in line with the ESC's identified background sound level at SRR3) this would render any further discussions about background sound levels between 19 and 24 dB LAF90 immaterial to the outcome of the operational noise assessment. Accordingly, ESC's interpretation of BS4142:2014 +A1 2019 would place the following baseline limits on the significance thresholds:</p>	<p>ESC suggest that they cannot provide advice on Section 11 of BS4142:2014+A1:2019 and the absolute level of sound because of the late stage has been introduced by the Applicants.</p> <p>The Applicants wish to note that the absolute sound level was considered within Chapter 25 (APP-073) and Appendix 25.5 (APP-526) of the ES as well as referred to within various representations made by the Applicants, including:</p> <ul style="list-style-type: none"> • the Applicants' Response to Appendix 4 of the Local Impact Report submitted at Deadline 3 (REP3-071); • the Noise Modelling Clarification Note submitted at Deadline 4 (REP4-043); • the Applicants' Comments on ESC's Deadline 5 Submissions (REP6-026); • the Applicants' Comments on Substation Action Save East Suffolk's (SASES) Deadline 5 Submissions (REP6-031); and • the Applicants' Position Statement on Noise submitted at Deadline 8 (REP8-039). <p>Furthermore, the Applicants consider ESC's previously recommended LOAEL and SOAEL values invalid because ESC has not had regard to the context in which the sound occurs in accordance with BS4142:2014+A1:2019.</p>



ID	ESC Comment	Applicants' Comments
	<ul style="list-style-type: none"> • LOAEL \geq 24 dB LAr (background level) • SOAEL \geq 34 dB LAr (background level plus 10 dB) <p>The operational noise limits would be below the SOAEL in all instances.</p> <p>Neither the methodology for determining LOAEL or the lower background sound level are agreed with the Applicants, who are likely to argue for higher values for the baseline limits for LOAEL and SOAEL values. However, the disagreement between ESC and the Applicants becomes one of the extent to which any receptors fall into the region between LOAEL and SOAEL thresholds, where the policy requirement in the Noise Policy Statement for England (NPSE) and replicated in the Overarching National Policy Statement for Energy (EN-1) is that all reasonable steps should be taken to mitigate and minimise adverse effects.</p> <p>The Applicants have recently confirmed that the operational noise limits have been set at the lowest levels currently achievable and committed to adopting Best Practicable Means to reduce noise levels further at the detailed design stage where mitigation measures do not add unreasonable costs, delays to the projects or result in adverse environmental impacts. The Applicants commitments in relation to the detailed design stage are understood to be secured through Requirement 12 and amendments to the Design Principles Statement and amendments to Requirement 27 to secure the provision of a pre-commencement operational noise report.</p>	<p>However, the Applicants note and welcome the agreement reached with ESC regarding the approach to controlling operational noise, as highlighted within the SoCG (REP8-114).</p> <p>ESC's confirmation that the operational limits secured in Requirement 27 of the draft DCO (document reference 3.1) are consistent with national policy requirements at this stage is also welcomed.</p>



ID	ESC Comment	Applicants' Comments
	<p>Taking all of the above into account and notwithstanding the areas of disagreement between the Applicants and ESC regarding background sound levels and the methodology used to determine the LOAEL, ESC's position is now that the operational limits secured in Requirement 27 are consistent with national policy requirements at this stage. As stated, this position is reached based on the information provided that the current rating limit is the lowest level currently achievable and due to the commitment to adopt Best Practicable Means to reduce noise levels further at the detailed design stage subject to the above caveats. ESC maintains that the operational noise rating level for the substations should be reduced to the background noise level in the event that this is found to be achievable and meets the Applicants caveats.</p>	
41	<p><i>In relation to Tonality, interference patterns and related operational acoustic effects</i></p> <p>The magnetostriction noise generation mechanism present in transformers and electrical transmission equipment mean that the equipment used in the onshore substations are highly likely to generate noise with strong tonal components at 100Hz and the related harmonic frequencies. ESC therefore agrees with SASES position that the predicted rating levels should have +6dB tonality correction applied unless it can be shown with 1/3 Octave Band analysis that tonality and other acoustic features can be sufficiently controlled to avoid the need for an acoustic feature correction. However, ESC understands that the Applicants have now committed to providing a pre-commencement Operational Noise Control Plan providing an assessment based on the detailed substation design and including 1/3 Octave band analysis of the final design proposals. This plan will require formal agreement from</p>	<p>ESC's confirmation that any concerns relating to tonality can be adequately considered at detailed design stage is welcomed.</p>

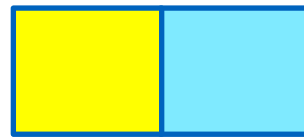


ID	ESC Comment	Applicants' Comments
	ESC, the Council are therefore satisfied that any concerns associated with the lack of consideration of tonality can be adequately considered at detailed design stage.	



2.9 East Suffolk Council's Response to Additional Information Submitted at Deadline 7 (REP8-151)

ID	ESC Comment	Applicants' Comments
Applicants' Comments on ESC's Deadline 5 Submissions (REP6-026)		
Deadline 4 Project Update Note (REP4-026)		
42	The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.	Noted.
Noise Modelling Clarification Note (REP4-043)		
43	This information was submitted by ESC at Deadline 5 (REP5-048).	Noted.
44	ESC maintains that tamped ground of the type typically found on substation sites would not normally be expected provide the level ground absorption assumed within the Applicants' revised model. However, the new proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design and requiring formal approval from ESC means that this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.	The Applicants have no further comment regarding their position on the ground absorption properties of differing ground types to that already offered within the Noise Modelling Clarification Note (REP4-043). However, the Applicants welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the Substations Design Principles Statement submitted at Deadline 8 (REP8-082).
45	ESC welcomes the inclusion of the National Grid Substation into the cumulative operational limits set out in Requirement 27 of the draft DCOs.	Noted.
46	ESC maintains that the context in this case is one of a new industrial noise source being introduced to an otherwise exclusively	Noted. The Applicants note that BS4142:2014 +A1:2019 has been used in the assessment of potential impacts of operational noise within Chapter 25 of the



ID	ESC Comment	Applicants' Comments
	<p>rural sound climate. This is a different situation to the projects identified by the Applicants, which all consist of onshore substations being introduced in areas with existing industrial or urban noise sources present (e.g. National Grid substations).</p> <p>ESC maintains that the guidance in BS8233:2014 and the Guidelines for Community Noise (WHO, 1999) set limits for internal noise levels which apply only to broadband noise from anonymous sources (e.g. continuous traffic noise) and not to the impact of new industrial sources in quiet rural locations. For noise from industrial sources BS8233:2014 states in Section 6.5.2:</p> <p><i>“Where industrial noise affects residential or mixed residential areas, the methods for rating the noise in BS4142 should be applied. BS4142 describes methods for determining, at the outside of a building:</i></p> <p><i>a) noise levels from factories, industrial premises or fixed installations of an industrial nature in commercial premises and;</i></p> <p><i>b) background noise level.”</i></p> <p>ESC and the Applicants have previously agreed that BS4142 is the appropriate methodology for assessing the impact of operational noise, a methodology based on external noise levels. This is because internal noise levels are dependent on the sound insulation performance of building envelopes in turn is entirely dependent on the construction and ventilation paths of individual buildings. An assessment of indoor noise levels in the receptors would require detailed noise break-in calculations to individual receptor properties and even then, would be subject to very significant uncertainties due to the behaviour of low frequency sound in rooms, which cannot be easily modelled. Consideration of</p>	<p>ES (APP-073). However, its position on the applicability of BS8233:2014 in considering the absolute level of sound remains unchanged from that set out within its Position Statement on Noise submitted at Deadline 8 (REP8-039).</p>



ID	ESC Comment	Applicants' Comments
	internal noise levels also excludes any assessment of the impact of noise in gardens and other outdoor spaces.	
47	The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.	Noted.
48	<p>The appropriate figures for LOAEL are not agreed between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p> <p>ESC did not omit data from the analysis of background noise levels detailed in Appendix 4 of the Joint Local Impact Report (REP1-132) and note that the Applicants' own expert reviewer confirmed (REP7-041) that the analysis presented by ESC was appropriate, albeit different to that presented by the Applicants. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>The Applicants note extensive conversations regarding LOAELs and SOAELs and the policy surrounding these at ISH12, during which it was agreed that the SOAEL values presented within the Applicants' Expert Report on Noise submitted at Deadline 7 (REP7-041) would be re-presented within an updated Outline CoCP. This has since been actioned and an updated Outline CoCP was submitted at Deadline 8 (REP8-017).</p> <p>The Applicants note that ESC has undertaken their analysis of background sound levels on a subset of the dataset provided by the Applicants, and note that ESC did not deny this in their oral submissions presented during ISH12. As stated within the Applicants Position Statement on Noise submitted at Deadline 8 (REP8-039), whilst the approach adopted by ESC is not invalid, the approach for deriving the background sound levels by the Applicants should be preferred because they have considered all the data whereas ESC have, in effect, based their analysis on a much smaller sub-set of the data and ignores other valid data sets.</p>
Applicants' Comments on Council's Deadline 3 Submissions (REP4-025)		
49	The principle of a noise exposure hierarchy is set out in the National Planning Practice Guidelines (NPPG). However, NPPG does not set fixed criteria for LOAEL level and other thresholds and instead states " <i>The subjective nature of noise means that there is not a</i>	Noted. The Applicants note their commitment to preparing and submitting an Operational Noise Design Report for approval prior to the relevant works post-consent. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the



ID	ESC Comment	Applicants' Comments
	<p><i>simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation."</i></p> <p>The LOAEL threshold of 40 dB L_{night}, outside referred to in the WHO Night Noise Guidelines for Europe relates solely to public health effects. It is not intended as a tool to assess the environmental impact of new noise sources. The appropriate methodology for this is <i>BS 4142:2014+A1:2019 "Methods for rating and assessing industrial and commercial sound"</i> which the Applicants have identified in the ES as the appropriate methodology tool for determining the LOAEL thresholds and setting operational noise levels accordingly.</p> <p>The appropriate figures for LOAEL are not agreed between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>Substations Design Principles Statement submitted at Deadline 8 (REP8-082). It is understood that this commitment overcomes the difference of opinion between ESC and the Applicants regarding the LOAELs.</p>
50	<p>ESC maintains that the magnetostriction effects inherently associated with the proposed equipment mean that the operational noise limits should be subject to a +6 dB feature correction for tonality unless there is 1/3 Octave tonality analysis to confirm otherwise. This remains an area of disagreement between the Applicants and ESC. However, the new proposal to include a pre-commencement Operational Noise Control Plan which includes an assessment based on the detailed substation design and requires formal approval from ESC means that this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>The Applicants have no further comment regarding their position on tonality but welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the Substations Design Principles Statement submitted at Deadline 8 (REP8-082).</p>



ID	ESC Comment	Applicants' Comments
Applicants' Comments on East Suffolk Council's Deadline 6 Submissions (REP7-057)		
Responses to Examining Authority's Commentary on the draft DCOs (REP6-080)		
51	ESC welcomes the Applicants commitment to provide an Onshore Preparation Works Management Plan secured by requirement 26 of the draft DCOs.	No further comments.
52	ESC notes and welcomes the introduction of Schedule 17 into the draft DCOs.	No further comments.
53	The amendments to the wording of Article 17 are welcomed.	No further comments.
54	ESC refers to the response provided by the Council in relation to the Examining Authority's ISH15 hearing action points submitted at Deadline 8.	Noted.
55	In the interests of clarity ESC considers that Article 37(2) should be revised to explicitly include the relevant planning authority and the highway authority as excluded from the application of Article 37(1), alongside the Secretary of State and Marine Management Organisation. Although the general excluding words in Article 37(1) are noted, there is no reason to expressly exclude the Secretary of State's jurisdiction and not the relevant planning authority's, for example.	<p>The Applicants disagree. Article 37(1) states that <i>"any dispute or difference arising out of or in connection with any provision of this Order, unless otherwise provided for, must be referred to and settled in arbitration"</i> and since Article 38 and Schedule 16 apply in respect of the discharge of requirements, it is clear that another mechanism has been provided for and therefore the arbitration provision will not apply.</p> <p>There is no equivalent appeals process in respect of the discharge of Deemed Marine Licence (DML) conditions, and therefore paragraph (2) of Article 37 is necessary to make it clear that arbitration does not apply to any matter for which the consent or approval of the Marine Management Organisation is required under the DMLs. Similarly, the Secretary of State is responsible for approvals in respect of Schedule 18 and other provisions within the DCO for which an alternative appeals process is not provided. This is therefore not a <i>"for the</i></p>



ID	ESC Comment	Applicants' Comments
		<i>avoidance of doubt</i> " provision in either case and the Applicants do not consider that it should be expanded to refer to ESC.
56	<p>ESC maintains concerns regarding the deemed consent provision provided in Schedule 16 and does not consider this is necessary or justified. The provision is not contained within Appendix 1 of The Planning Inspectorate's Advice Note 15: Drafting Development Consent Orders. More comprehensive comments have been provided within the Council's ISH15 Oral Summary of Case submitted at Deadline 8.</p> <p>ESC however notes and welcomes the amendment to the time periods for discharge, the request for information and in relation to appeals the period for making written representations and counter submissions.</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 Applicants' Written Summary of Oral Case ISH9 (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). This is reflected in the draft DCO submitted at Deadline 8 (document reference 3.1).</p>
57	<p>ESC welcomes the revisions to this requirement to secure monitoring and remedial works if the monitoring identifies a risk of exposure of the infrastructure as a result of the rate and extent of erosion at the landfall site. Outline details of the monitoring has been provided in Appendix 2 of the Outline Landfall Construction Method Statement (OLCMS – REP6-022).</p>	<p>No further comments.</p>
58	<p>ESC has engaged with the Applicants since the publication of this response and welcomes the Applicants commitment that Wok No.29 will be subject to a ten year replacement planting period and look forward to reviewing this amendment within the updated draft DCOs and Outline Landscape and Ecological Management Strategy (OLEMS).</p>	<p>No further comments.</p>



ID	ESC Comment	Applicants' Comments
59	The Council notes and is satisfied with the Applicants' explanation in relation to referencing pre-construction surveys in Requirement 21(2). We have no further comment to make on this point.	No further comments.
60	ESC welcomes the inclusion on the National Grid Substation into the operational noise limits set out in Requirement 27 of the draft DCOs. ESC comments on the Applicants Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document.	Noted. See ID82 to ID86 for the Applicants' comments in relation to submissions from ESC regarding the Expert Report on Noise submitted at Deadline 7 (REP7-041).
61	ESC notes and welcomes this update to Requirement 30 of the draft DCOs. ESC notes and welcomes this update to Requirement 37 of the draft DCOs.	No further comments.
Operational Noise Comments Deadline 6 (REP6-081)		
62	ESC comments on the Applicants Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document. ESC did not omit data from the analysis of background noise levels detailed in Appendix 4 of the Joint Local Impact Report (REP1-132) and note that the Applicants' own expert reviewer confirmed (REP7-041) that the analysis presented by ESC was appropriate, albeit different to that presented by the Applicants. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of	The Applicants note that ESC has undertaken their analysis of background sound levels on a subset of the dataset provided by the Applicants, and note that ESC did not deny this in their oral submissions presented during ISH12. As stated within the Applicants' Position Statement on Noise submitted at Deadline 8 (REP8-039), whilst the approach adopted by ESC is not invalid, the approach for deriving the background sound levels by the Applicants should be preferred because they have considered all the data whereas ESC have, in effect, based their analysis on a much smaller sub-set of the data and ignores other valid data sets.



ID	ESC Comment	Applicants' Comments
	<p>opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	
63	<p>ESC did not omit data from the analysis of background noise levels detailed in Appendix 4 of the Joint Local Impact Report (REP1-132) and note that the Applicants' own expert reviewer confirmed (REP7-041) that the analysis presented by ESC was appropriate, albeit different to that presented by the Applicants. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p> <p>Information regarding the site visit undertaken by ESC was submitted at Deadline 5.</p>	<p>Noted. However, the Applicants refer to their comment at ID62 of this table above.</p>
64	<p>ESC did not omit data from the analysis of background noise levels detailed in Appendix 4 of the Joint Local Impact Report (REP1-132) and note that the Applicants' own expert reviewer confirmed (REP7-041) that the analysis presented by ESC was appropriate, albeit different to that presented by the Applicants. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>Noted. However, the Applicants refer to their comment at ID62 of this table above.</p>
65	<p>ESC comments on the Applicants Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document.</p> <p>ESC notes that the proposed onshore substation sites for Hornsea Project Two, Hornsea Project Three and all other examples for</p>	<p>Noted. The Applicants have no further comment regarding their position on the LOAELs but welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the</p>



ID	ESC Comment	Applicants' Comments
	<p>similar DCOs provided by the Applicants are for sites adjoining existing National Grid substations and therefore a different the context to this development which is that of new industrial noise source being introduced to an exclusively rural noise climate.</p> <p>The appropriate figures for LOAEL are not agreed between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>Substations Design Principles Statement submitted at Deadline 8 (REP8-082). It is understood that this commitment overcomes the difference of opinion between ESC and the Applicants regarding the LOAELs.</p>
66	<p>The operational limits proposed by ESC were set in relation to background sound levels in accordance with the methodology adopted by Applicants in the ES (albeit based on a different definition of LOAEL in relation to the background noise level, as this relationship is not agreed between ESC and the Applicants).</p> <p>The appropriate figures for LOAEL and representative background sound levels are therefore not agreed between ESC and the Applicants. However, this difference of opinion does affect the final position which is set out in ESC's Response to Hearing Action Points ISH12 submitted at Deadline 8.</p> <p>ESC comments on the Applicants Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document.</p>	<p>Noted. The Applicants have no further comment regarding their position on the LOAELs but welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the Substations Design Principles Statement submitted at Deadline 8 (REP8-082). It is understood that this commitment overcomes the difference of opinion between ESC and the Applicants regarding the LOAELs.</p>
67	<p>ESC comments on the Applicants Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document.</p>	<p>Noted. Please refer to the Applicants' comments at ID82 to ID86 below within this table.</p>



ID	ESC Comment	Applicants' Comments
68	<p>ESC comments on the East Anglia One Operational Noise Assessment (REP5-022) in relation to this scheme are set out in submissions at Deadline 6 (REP6-081).</p> <p>ESC maintains that the magnetostriction effects inherently associated with the proposed equipment mean that the operational noise limits should be subject to a +6 dB feature correction for tonality unless there is 1/3 Octave tonality analysis to confirm otherwise. This remains an area of disagreement between the Applicants and ESC. However, the new proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design means that this difference of opinion no longer affects the final position which is set out in ESC's Response to Hearing Action Points ISH12 submitted at Deadline 8.</p> <p>ESC comments on the Applicants' Expert Report on Noise submitted at Deadline 7 (REP7-041) are set out separately in this document.</p>	<p>The Applicants have no further comment regarding their position on tonality but welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the Substations Design Principles Statement submitted at Deadline 8 (REP8-082).</p>
69	<p>The East Anglia One Operational Noise Assessment (REP5-022) does not include 1/3 Octave data for noise levels at or close to the site boundary or on the substation site, as would be required to assess the tonality of the equipment at source.</p> <p>ESC maintains that the magnetostriction effects inherently associated with the proposed equipment mean that the operational noise limits should be subject to a +6 dB feature correction for tonality unless there is 1/3 Octave tonality analysis to confirm otherwise. This remains an area of disagreement between the Applicants and ESC. However, the new proposal to include a pre-commencement Operational Noise Control Plan including an</p>	<p>Please refer to the Applicants' comments at ID68 of this table above.</p>



ID	ESC Comment	Applicants' Comments
	assessment based on the detailed substation design means that this difference of opinion no longer affects the final position which is set out in ESC's Response to Hearing Action Points ISH12 submitted at Deadline 8.	
70	ESC does not agree with the Applicants' response. However, the new proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design means that this difference of opinion no longer affects the final position which is set out in ESC's Response to Hearing Action Points ISH12 submitted at Deadline 8.	Please refer to the Applicants' comments at ID68 of this table above.
71	ESC notes that the Applicants' own expert reviewer confirmed that analysis presented by ESC was appropriate (REP7-041), albeit different to that presented by the Applicants. The subject of representative background sound levels therefore remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.	Noted. However, the Applicants refer to their comment at ID62 of this table above.
72	ESC did not omit data from the analysis of background noise levels detailed in Appendix 4 of the Joint Local Impact Report (REP1-132) and note that the Applicants' own expert reviewer confirmed (REP7-041) that the analysis presented by ESC was appropriate, albeit different to that presented by the Applicants. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.	Noted. However, the Applicants refer to their comment at ID62 of this table above.



ID	ESC Comment	Applicants' Comments
73	<p>ESC does not agree with the Applicants' response.</p> <p>ESC notes that the results of measurements taken at Bullenhall Hall Farm and on the East Anglia One substation site are not presented in 1/3 Octave Bands as would be required for tonality test to be conducted on the source levels.</p> <p>However, the new proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design and requiring formal approval from ESC means that this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>Noted. However, please refer to the Applicants' comments at ID68 of this table above.</p>
74	<p>ESC maintains that purpose of this visit was to investigate the sound climate around Friston and attempt to establish any factors which may explain why the noise environment described by the Applicants was at odds with the Council officer's and consultant's combined significant experience conducting and reviewing noise assessments in this type of rural setting. ESC does not and has not claimed that this exercise is intended to replace the unattended noise monitoring conducted by the Applicants.</p> <p>The subject of representative background sound levels therefore remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>Noted.</p>
75	<p>Noted. The subject of representative background sound levels remains unresolved between ESC and the Applicants. However, this difference of opinion no longer affects ESC's final position</p>	<p>Noted. No further comment.</p>



ID	ESC Comment	Applicants' Comments
	<p>which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	
76	<p>ESC notes that the results of measurements taken at Bullenhall Hall farm and on the East Anglia One substation site are not presented in 1/3 Octave Bands as would be required for tonality test to be conducted on the source levels. However, the new proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design and requiring formal approval from ESC means that this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p> <p>ESC maintains that the differences in relative source and receiver positions and sound climate between Friston and the Bramford EA1 site mean that the East Anglia One operational substation monitoring does not show that noise the proposed EA1N and EA2 sites will not be tonal at the receivers in Friston.</p> <p>ESC maintains that the magnetostriction effects inherently associated with the proposed equipment mean that the operational noise limits should be subject to a +6 dB feature correction for tonality unless there is 1/3 Octave tonality analysis to confirm otherwise. This remains an area of disagreement between the Applicants and ESC. However, as stated above the new commitment to provide a pre-commencement Operation Noise Control Plan requiring formal approval from ESC means that this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>The Applicants have no further comment regarding their position on tonality but welcome ESC's acceptance of the commitment to an Operational Noise Design Report to be submitted for approval prior to the relevant works. This commitment has been secured through an update to the wording of Requirement 12 of the draft DCO (document reference 3.1) and the Substations Design Principles Statement submitted at Deadline 8 (REP8-082). It is understood that this commitment overcomes the difference of opinion between ESC and the Applicants regarding corrections for tonality.</p>



ID	ESC Comment	Applicants' Comments
ESC Comments on Outline Watercourse Crossing Method Statement (REP3-048)		
77	<p>Whilst ESC welcomes the further reduction in the Hundred River crossing width for each project (to 34m per project), as set out in our previous responses (including most recently our Deadline 7 response (REP7-063)) the Council considers that it remains unclear why a doubled crossing width is required for two projects when a reduced width for both projects has been achieved in other sensitive locations.</p> <p>The Applicants' explanation for the need for this greater width provided at ISH14 (day 2) is noted. The commitment made at ISH14 to including reference within the Outline Watercourse Crossing Method Statement (OWCMS REP6-041) for the need for the habitat loss within the crossing area to be minimised as part of the detailed project design is welcomed.</p>	<p>Noted. The Applicants refer to the updated Outline Watercourse Crossing Method Statement submitted at Deadline 8 (REP8-084), which now explains that the additional working width is required to allow for safe working areas for each respective project.</p>
Applicants' Comments on ESC's Deadline 2 Submissions (REP5-010) – Ecological Enhancement Clarification Note (REP1-035)		
78	<p>As a point of clarification, the Council have never requested that a detailed ecological enhancement strategy should be developed prior to the detailed design of the project. Detailed design should include ecological enhancement details as an integral part of it. Whilst ESC acknowledges that there are potentially opportunities for ecological enhancements within the projects, it is considered that the principle of this needs to be demonstrated to meet the requirements of National Policy.</p> <p>As above, the Council notes that the Applicants now intend to provide updated calculations in relation to ecological enhancement</p>	<p>At Deadline 8, the Applicants submitted an Ecological Enhancement Clarification Note Addendum (REP8-041), refining the detail on the opportunities for ecological enhancement presented by the Projects.</p>



ID	ESC Comment	Applicants' Comments
	at Deadline 8. We therefore have no further comment on this at this time.	
Deadline 7 Project Update Note (REP7-042)		
79	ESC welcomes the removal of plot 3 from the Order Limits and notes the updating of the Land Plans (onshore). Work Plans (onshore), Location Plan (onshore) and Book of Reference to reflect this change.	Noted.
80	<p>Whilst the Council welcomes the further reduction in the Hundred River crossing width for each project (to 34m per project), as set out in our previous responses (including most recently our Deadline 7 response [REP7-063]) ESC considers that it remains unclear why a doubled crossing width is required for two projects when a reduced width for both projects has been achieved in other sensitive locations.</p> <p>The Applicants' explanation for the need for this greater width provided at ISH14 (day 2) is noted. The commitment made at ISH14 to including reference within the OWCMS (REP6-041) for the need for the habitat loss within the crossing area to be minimised as part of the detailed project design is welcomed.</p>	Noted. The Applicants refer to the updated Outline Watercourse Crossing Method Statement submitted at Deadline 8 (REP8-084).
81	<p>ESC welcomes the commitment to include the additional noise monitoring location to the north of the National Grid substation at SSR3 and the inclusion of the National Grid substation within the requirement.</p> <p>ESC has no objections to the removal of Requirement 26 given the Applicants confirmation that the onshore substations can only ever operate when the National Grid substation is operational</p>	Noted.



ID	ESC Comment	Applicants' Comments
Expert Report on Noise (REP7-041)		
82	<p>It is not correct to say that ESC's position is that "any adverse impacts should be prevented or avoided without any regard to costs or other factors".</p> <p>ESC acknowledges the policy requirements set out in paragraph 2.24 of Noise Policy Statement for England (NPSE) which states that "...all reasonable steps should be taken to mitigate and minimise adverse effects on health and quality of life whilst also taking into consideration the guiding principles of sustainable development. This does not mean that such effects cannot occur." Overarching National Policy Statement for Energy (EN-1) also contains similar wording in paragraph 5.11.9.</p> <p>Until very recently, the Applicants' position has been that the operational noise limits have been set at a level to avoid adverse impacts. However, ESC does not agree with the LOAEL thresholds proposed by the Applicants to set these operation limits and therefore suggested that lower operational noise limits should be set to avoid adverse impacts. ESC considers that the LOAEL should be set at background sound level.</p> <p>The appropriate figures for LOAEL and representative background sound levels are not agreed between ESC and the Applicants and these points are discussed in the following sections.</p>	<p>The Applicants welcome the clarification provided in relation to when the noise impact is between a LOAEL and SOAEL.</p>
83	<p>The key phrase in the wording of Section 11 of BS4142:2014+A1:2019 reproduced in the Applicants' report is "depending on context". In this case, the context is one of a new industrial noise source being introduced to an otherwise exclusively rural noise climate. ESC maintains that the lowest observed affects</p>	<p>The Applicants note that the text regarding the applicability of BS4142:2014 +A1:2019 quoted by ESC has been lifted from a response to an initial review of the noise impact assessment undertaken by ESC's consultants in November 2019. It is considered that the context in which the Applicants made that response is missing from ESC's Deadline 8 submission (REP8-151). The</p>



ID	ESC Comment	Applicants' Comments
	<p>are likely to occur with a rating level equal to the background sound level, as opposed to 5 dB above as stated by the Applicants. This is a matter of interpretation and it is not correct to say the policy or standards clearly direct towards a single definition of LOAEL over the other. For example, ESC considers the context in this situation to be different to a situation where a new industrial noise is introduced to a sound climate with contributions from other existing similar sources (e.g a new onshore substation next to an existing National Grid substation site) where a higher LOAEL threshold might be more appropriate.</p> <p>The Applicants' report discusses the note in Section 11 of BS4142:2014+A1:2019 regarding situations where background sound levels and rating levels are low. ESC raised the issue of assessing the impact where both background sound levels and rating levels are low with the Applicants during consultation in November 2019 and received the following response:</p> <p><i>"BS4142:1997 advised that the standard did not apply where background levels were below 30dBA; at the time the standard was developed and published the capability and accuracy of sound level meters was unable to cope with such low background levels. Sound level meter technology has improved considerably since that time and the latest version of BS4142 acknowledges this by removing the guidance relating to low background levels. The reviewer's comment implies that the previous guidance regarding low background levels should continue to apply, regardless of technological improvements, a position with which we fundamentally disagree, and which is not in accordance with current industry best practice."</i></p>	<p>quoted text was provided in response to comments made by ESC who were, at that time, questioning the validity of BS4142:2014+A1:2019.</p> <p>The Applicants' position on the absolute sound level was provided elsewhere in the same response document which explained how the Applicants considered the absolute level of sound in accordance with Section 11 of BS4142:2014+A1:2019. The position set out in that document is consistent with that presented in Chapter 25 (APP-073) and Appendix 25.5 (APP-526) of the ES as well as various representations made by the Applicants including:</p> <ul style="list-style-type: none"> • the Applicants' Response to Appendix 4 of the Local Impact Report submitted at Deadline 3 (REP3-071); • the Noise Modelling Clarification Note submitted at Deadline 4 (REP4-043); • the Applicants' Comments on ESC's Deadline 5 Submissions (REP6-026); • the Applicants' Comments on Substation Action Save East Suffolk's (SASES) Deadline 5 Submissions (REP6-031); and • the Applicants' Position Statement on Noise submitted at Deadline 8 (REP8-039). <p>It is not correct to suggest that the lowest observed affects are likely to occur with a rating level equal to the background sound level. BS4142:2014+A1:2019 makes it clear that this only represents an indication of the impact and that the impact must be assessed having regard to context which includes, but is not limited to, a consideration of the absolute sound level.</p> <p>Further justification that a noise rating level of 35dB represents a LOAEL or even a No Observed Effects Level (NOEL) is provided in the Applicants' Position Statement on Noise submitted at Deadline 8 (REP8-039). This demonstrates that the rating level is precautionary compared to the examples</p>



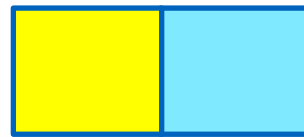
ID	ESC Comment	Applicants' Comments
	<p>Notwithstanding the Applicants' previous position on this matter, ESC agree that the standard clearly directs that "Where background sound levels and rating levels are low, absolute levels might be as, or more, relevant than the margin by which the rating level exceeds the background". However, ESC strongly disagrees with the report's author that there is no technical basis for ever setting an operational noise limits below 35 dB LAr.</p> <p>The previous version of BS4142 advised that background sound levels could be considered to be low at 30 dB LAF90 and rating levels at around 35 dB LAr rating levels. However, these thresholds were removed from the standard to allow a wider degree of interpretation depending on context. In this case, ESC considers the context of a new industrial source being introduced to an existing rural environment, and the precedent that sets for the assessment of noise from future connections in the area, provides robust reasoning for the adoption of a lower operational noise limit than would apply elsewhere.</p> <p>Had the Applicants adopted this alternative position earlier in the Examination period, or ideally before submitting the final Environmental Statement, ESC would have had the opportunity to conduct a review of the available research literature and legal precedent in order to attempt to agree an appropriate threshold with the Applicants. However, with so little of the of examination period remaining this has not been possible, and this therefore remains a matter of disagreement between the Applicants and ESC.</p> <p>This difference of opinion however no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	<p>set out in BS4142:2014+A1:2019 and the consensus opinion of the EH/1/3 Committee.</p> <p>ESC's position, that the context of a new industrial source being introduced to an existing rural environment provides robust reasoning for the adoption of a lower operational noise limit than would apply elsewhere, runs counter to BS4142:2014+A1:2019, which advises that less weight should be given where the rating level is low compared to where the rating level is high. In addition, it runs counter to the scientific evidence that adverse impacts at night depend on the absolute sound level and that there is no evidence to suggest that effects of noise indoors at night are correlated to the difference between the rating level and the external background sound level.</p> <p>However, the Applicants note the updated Substations Design Principles Statement submitted at Deadline 8 (REP8-082) and Requirement 12 of the draft DCO (document reference 3.1) provide for the submission and approval of an Operational Design Noise Report prior to construction of the onshore substation. This approach has been agreed with ESC and is understood to overcome the difference of opinion between ESC and the Applicants on this matter.</p>



ID	ESC Comment	Applicants' Comments
84	<p>In reference to the analysis of the Applicants' noise survey data presented by ESC in Appendix 4 of the Local Impact Report (REP1-132) the report's author states "<i>There is nothing wrong with their analysis and there is nothing to suggest from BS4142 that their analysis is invalid or inappropriate</i>" but goes on to suggest some reasons for using alternative statistical analysis techniques (REP7-041).</p> <p>ESC maintains that the statistical analysis presented in Appendix 4 of the Local Impact Report (REP1-132) provides more representative figures for typical background sound levels. However, ESC do agree with the report's author that at low noise levels there is point where the outcome of the assessment becomes less reliant on the precise background sound level and more reliant on the absolute rating level of the noise source. However, as discussed in the comments on Section 4.2 of the same report, ESC maintains that the specific threshold is dependent on context and the specific position presented in the report is not agreed by ESC.</p> <p>The author goes on to discuss the effect of noise from transmission lines or other unidentified sources on the noise climate in the area. ESC agrees that it is not necessary to remove or exclude intermittent noise sources from the survey data where these form part of the typical sound climate. However, ESC maintains that the Applicants could reasonably be expected to attempt to identify the dominant noise sources in order to determine whether the sample period captured a variation in sound levels which is representative of typical conditions in the onshore substation study area.</p> <p>The subject of representative background noise levels therefore remains unresolved between ESC and the Applicants. However,</p>	<p>The Applicants welcome ESC's acknowledgement that they agree with the report's author that, at low noise levels, there is point where the outcome of the assessment becomes less reliant on the precise background sound level and more reliant on the absolute rating level of the noise source. Whilst there remains technical disagreement regarding the precise LOAEL, the Applicants note the updated Substations Design Principles Statement submitted at Deadline 8 (REP8-082) and Requirement 12 of the draft DCO (document reference 3.1) provide for the submission and approval of an Operational Design Noise Report prior to construction of the onshore substation. This approach has been agreed with ESC and is understood to overcome the difference of opinion between ESC and the Applicants on this matter.</p>



ID	ESC Comment	Applicants' Comments
	<p>this difference of opinion no longer affects ESC's final position which is set out in the Response to Hearing Action Points ISH12 submitted at Deadline 8.</p>	
85	<p>The report's author implies that a variation in operational noise levels by up to 3 dB over the operational limits imposed by the DCO requirement should be seen as acceptable by the Examining Authority. This is in stark contrast to ESC's understanding of the legal responsibilities placed on the Applicants to strictly meet any operational noise limits defined in a DCO requirement.</p> <p>ESC maintains the Applicants should consider calculation uncertainty when assessing the impact of their predicted noise ratings. However, the recent proposal to include a pre-commencement Operational Noise Control Plan including an assessment based on the detailed substation design and requiring formal approval provides ESC with sufficient comfort that any concerns associated with calculation uncertainties can be adequately considered at detailed design stage.</p>	<p>The Applicants do not consider that the report implies that any exceedance above the operational noise limits would be acceptable. The limits are absolute limits that must be achieved.</p> <p>It is appropriate and acceptable to address uncertainties as part of the design process and this represents best practice on other NSIPs. The Applicants do however welcome ESC's clarification on this matter.</p>
86	<p>Section 6 correctly identifies that the Control of Pollution Act 1974 (COPA) contains provisions for the control of construction noise. Contractors have a legal duty under COPA to use Best Practicable Means (BPM) to minimise construction noise and vibration. Developers often use the provisions of Section 61 of COPA to obtain consent prior to starting works. ESC agree that this is a proactive approach and generally regarded as best practice for Nationally Significant Infrastructure Projects.</p> <p>The report also notes that practical guidance can be found in BS 5228-1:2014 on the steps that can be taken to manage construction</p>	<p>BS5228-1:2014 is the approved code of practice that must be used to inform Best Practicable Means (BPM).</p>



ID	ESC Comment	Applicants' Comments
	noise. ESC agrees that BS 5228 provides appropriate guidance on BPM construction noise mitigation.	
Outline Code of Construction Practice (REP7-025)		
87	<p>This comment relates specifically to Section 10.1.6 Measures Specific to Non Road Mobile Machinery of the Outline CoCP (REP7-025):</p> <p>This document should include undertakings to minimise the potential impact of emissions to air from Non Road Mobile Machinery (NRMM) on nearby designated habitat sites. This should include an undertaking for NRMM to be located away from designated habitat sites wherever possible, in order to prevent further damage being caused to these sites to that already identified in the Deadline 6 Onshore Ecology Clarification Note (REP6-025). It should include requirements for minimum standards for NRMM, and appropriate monitoring to confirm that the impacts on air quality at designated sites do not exceed those forecasted.</p> <p>The Outline Code of Construction Practice (OCoCP) includes an undertaking for NRMM to comply with the requirements of EU Directive 2016/1628. While this is welcomed, it needs to be clarified, as this directive applies mainly to the manufacture, approval, import and distribution of NRMM, and not to its use at a construction site. Is it intended that all NRMM used at the site will conform with the Stage V emission limits set out in Annex II of Directive 2016/1628? This diverges from comments made in the Applicants' "Submission of Oral Case for Issue Specific Hearing 7," (REP6-052) which makes the case for not adopting Stage V emission limits. It is ESC's understanding that the Applicants will</p>	<p>The Applicants have clarified within the updated Outline CoCP submitted at Deadline 8 (REP8-017) a commitment to, where possible, ensure that all NRMM complies with Stage IV standards.</p> <p>The Applicants welcome ESC's comments in relation to HGV emissions and dust controls secured through the Outline CoCP together with provisions within the Outline Construction Traffic Management Plan (REP8-021).</p>



ID	ESC Comment	Applicants' Comments
	<p>commit to using NRMM with minimum Stage IV emission limits, but this does not yet seem to be clearly identified in any documentation.</p> <p>In summary, ESC considers that clarification of the Applicants' proposals for use of NRMM is required.</p> <p>The HGV emission requirements are welcome in the OCoCP. The Council requests that requirements align with those in the Outline Construction Traffic Management Plan (OCTMP) following aforementioned amendments regarding monitoring, route choice and confirmation of 70% limit identified above.</p> <p>ESC welcomes the commitment to a comprehensive set of dust control measures for locations where potential dust impacts are greater and looks forward to confirming these through discussion around the Code of Construction Practice.</p>	
88	<p>The following comments relate to Section 9 Noise and Vibration Management of the Outline CoCP (REP7-025), specially Section 9.1 Control Measures:</p> <p>Paragraph 92 states that the main objective with regard to managing construction noise will be to minimise noise and vibration impacts to acceptable levels in accordance with BS 5228:2009+A1:2014 (or the most recent iteration). ESC considers this is correct; likewise, the placement at the start of Section 9 of this commitment would underpin the entire construction noise and vibration control strategy.</p>	<p>The Applicants note the feedback received from ESC regarding the provisions for the control of construction noise secured within previous iterations of the Outline CoCP (document reference 8.1) during engagement undertaken between Deadline 7 and Deadline 8. The Applicants have submitted an updated Outline CoCP at Deadline 8 (REP8-017) which has had regard to ESC's feedback, and it is considered that the provisions relating to construction noise are now agreed between the parties.</p>
89	<p>Paragraph 94 states that, prior to commencement of onshore works, the Applicants intend to apply for consent under Section 61 of COPA, including details of the works and proposed noise</p>	Noted.



ID	ESC Comment	Applicants' Comments
	mitigation measures. ESC agrees that this is a proactive approach and also broadly that this is considered industry best practice.	
90	Paragraph 95 states that the Construction Phase Noise and Vibration Management Plan (CPNVMP) will be submitted for approval and form part of the final CoCP. ESC welcomes the response to our previously raised concerns in the updated OCoCP (REP7-026) which confirms that the CPNVMP will consider property sensitivity in the area.	Noted. Within the updated Outline CoCP submitted at Deadline 8 (REP8-017) the Applicants have increased the sensitive works buffer from 75m to 100m in response to feedback received during ISH12.
91	Paragraph 96 identifies other British Standards and Acts which will be adhered to and which will be considered in the development of the final CoCP. This includes BS 4142:2014, the Environmental Protection Act 1990 and the Noise and Statutory Nuisance Act 1993. ESC considers this an appropriate and proportional approach.	Noted.
92	Paragraph 97 sets out typical best practicable noise mitigation measures to be implemented and controlled through the CPNVMP. These measures appear to be derived from the applicable guidance in BS 5228-1 and represent an appropriate starting point for BPM construction noise mitigation. ESC considers that other measures might be required and expect this to be considered in the final CoCP.	Noted. The updated Outline CoCP submitted at Deadline 8 (REP8-017) requires the Applicants' contractor to apply for Section 61 consent under the COPA which provides further opportunity for securing further construction noise control measures post-consent in relation to the relevant works.
93	In paragraph 99, the Applicants have made amendments to address specific concerns raised by ESC. This is welcomed. Specific noise mitigation proposals are provided for landfall construction, the onshore cable route, and onshore substation construction respectively and these seem to be proportionate and relatively well considered in relation to specific works phases. The	Noted. The Applicants confirm that such measures set out within the Outline CoCP (REP8-017) will be reflected within the final CoCP and Construction Phase Noise and Vibration Management Plan prepared and submitted to the relevant planning authority for approval post-consent prior to the commencement of any stage of the onshore works.

Applicants' Comments on ESC's Deadline 8 Submissions

15th April 2021



ID	ESC Comment	Applicants' Comments
	additional commitment to consider additional practicable measures in relation to works areas and residential receptors is also welcomed. ESC expects these measures to be developed further and confirmed in the final CPNVMP within the final COCP.	