

**To The Planning Inspectorate.
Deadline 10 Submission.**

Personal ref: EA1N. IP: 20024031 / AFP : 132. EA2. IP: 20024032. / AFP 0134.

My response to Applicants Comments(REP9-025) on my Written Statement of Oral Case CAH 3 (REP8-247).

2.2 Applicants Responses to Written Statement of Oral Case CAH 3 (REP8-247).
Agenda Item 3 – Book of Reference.

1. In their response as to whether Wardens Trust and any of the personnel associated with it should have the status of Affected Person within the Examination (and be included in the Book of Reference), The Applicants refer to **section 2.5 of Appendix 2** of the **Applicants’ Responses to Hearing Action Points (REP8-093)**.

However, first I’d like to look at information provided in **Section 2.4** of that document, **Reasoning for the Exclusion of the Wardens Trust as a Category 3 Claimant.**

2.3.20.the Applicants has (sic) satisfied its duty to consult with and identify all parties that may be classified as falling within Category 3 under Section 44 and 57 of the Planning Act 2008.

2.4. 21. In considering the Wardens Trust as potential Category 3 claimants, they were included in the initial search area and also included post-assessment of the PEIR information. They received all the relevant notification and consultation up until and including Section 42. (my underlining).

This is problematic because not clear. What or who precisely is meant by the term “they” in these remarks, as in “they received all the relevant notification and consultation up to and including Section 42”?

Are the Applicants explicitly stating that that notification and consultation up until Section 42 took place with Wardens Trust itself?

I understand there to be no record on the part of Wardens Trust of any such communication at this stage at all. Would the Applicants be able to produce copies, or a record, of such notification and consultation with Wardens Trust? It’s clear the Trust should fall within the categories of those consulted in line with Section 42.

(This matter will arise again in more detail in relation to the **Applicants’ Response to Action Points from CAH3**, which I address in a separate submission at Deadline 10.)

It is understood that the Applicants were in contact with a land agent from 2018 in respect of Ness House interests, but this of course is an entirely separate matter. The Applicants have made clear in recent submissions that there should be no confusion between the separate interests of the landowner at Ness House, represented by their Power of Attorney, and the interests of Wardens Trust, which have been separately represented by their Chair, although a single individual occupies both roles. Please see **Applicants’ Comments on SEAS’ Complaint (REP9-010) Point 4:**

It is important at the outset to recognise that Dr.Gimson has appeared before the Examination representing different interests. On one hand, he has a Power of Attorney for a relative who owns land within the Order Limits and over which the Applicants would seek rights. In addition, Dr Gimson is also a Trustee of the Wardens Trust. It is important in considering his position to understand which interest he is representing at any particular time. The two are separate and distinct. (my underlining).

Point 14:

It is important to draw the distinction of Dr. Gimson acting under Power of Attorney and Dr. Gimson acting as a Trustee of the Wardens Trust.

In the light of these clear distinctions and others in the same document submitted by The Applicants, one concludes that in the sentence quoted above, “ they received all the relevant notification and consultation up to and including Section 42”, The Applicants cannot here be referring to any communication through a land agent with Dr. Gimson acting under Power

of Attorney for a relative owning land within the Order Limits over which The Applicants would seek rights, as that role is separate and distinct from any role connected with Wardens Trust.

If it is being claimed here by The Applicants that they have directly involved Wardens Trust since this early stage of Consultation, as a separate interest from that of the landowner at Ness House, it would be helpful to know more about the nature and timings of that communication. That would help to throw light on the process outlined here of Wardens Trust being initially taken into consideration for, and subsequently excluded from Category 3, or indeed any, rights or interests in the Order Land “ *only at the final assessment of Category 3 claimants* “, as stated in **2.4.21**.

2.4.25 states that “ *given the scale and temporary nature of the works in proximity to the Wardens Trust, The Applicants concluded there was no potential for a claim to compensation that would arise from any impact on property value or from any potential nuisance that would give rise to an impact on property value.*

I’m not aware that any claim has been made with respect to the property value. Representations have been made on the basis that the Trust would not be in a position to carry out its services to its community of vulnerable users. Moreover, since the term “temporary” is a highly flexible and misleading one in this context, the potential long duration of these effects would result in the Trust’s works ceasing altogether. This is an issue nowhere addressed in the Applicants’ responses. The response evades the question.

The Applicants, in reiterating their position in relation to parties/ properties that do have a right of access along the track at Plot 12, fail to address the important point that vulnerable visitors to Wardens, denied those rights as pedestrians, would be obliged to share a narrow single lane access with traffic going in both directions in order to leave the site at all for recreation. That would of course be so unsafe as to be impossible.

At **2.5.26** The Applicants provide as justification that “*the only access right that has been granted to the Wardens Trust is along the northern track outwith the Order Land.*

This does not address the very real problem of the fact that denying access to Plot 12 to users of Wardens Trust confines them to the immediate environs. We have been given the letter of the law, and apparently no other consideration is necessary.

2.5.27 addresses the Applicants reasons for excluding users of Wardens from Plot 14 on the byway. The Applicants suggest that Wardens Trust (users) can join the byway and, even if they wish to travel the short distance to Thorpeness to the south, they can travel northwards to Sizewell Gap, and take the long and busy route via Leiston and Aldringham, adding half an hour to their journey each way.

We have described the bathing days at Wardens at which vulnerable residents from all areas north and south are collected from and returned to their home in the course of the day. As the adapted vehicle only has limited space, this is done in relay to a timetable. Making that lengthy detour on each journey, which could add an hour, will considerably affect the number of people to whom that service can be made available.

2. In response to my remark that the Applicants were informed of the existence and activities of Wardens Trust as early as 2019 in the Phase 4 Consultation (although according to their assertions referred to above they were already in touch with Wardens at that point), they state “ *it should be noted that (Wardens) was included, along with all the other properties close by, as a receptor for the purposes of the Applicants’ Environmental Statement (ES) .*

The Applicants do not indicate where in the ES Wardens, as a community asset, has been included. Indeed, in their separate Comments at Deadline 9 (REP9-025) my **Response to Action Points from Compulsory Acquisition Hearing 3** (REP8-248), the Applicants acknowledge (at ID 20) that, although they were aware of Wardens Trust from an early stage, “ *Wardens Trust is not specifically illustrated on the figures accompanying the site selection process as set out within **Chapter 4 of the ES. (APP-052) .** The Figure is at APP-314.*

It is also clear that Wardens Trust is not included in Table 27.23 of **Chapter 27 Human Health (APP- 075)** which lists Health and Community Assets within 1km of the Onshore Development Area. Neither is it represented in The Applicants’ Public Sector Equality Statement. These significant omissions from the ES are inconsistent with the statement about Wardens inclusion in the ES.

In response to my point that there have been no acknowledgments of representations on behalf of Wardens made throughout the length of Examination, and as early as 2019, I note that the Applicants refer to their responses at recent Deadlines. These submissions have come late in the day, perhaps in response to more visible representations on Wardens behalf, especially as the Applicants’ current position is that they have been aware of Wardens’ interests from an early stage.

In respect of emergency access, the Applicants state that access associated with Sizewell Gap will be maintained.

Are we to assume that any emergency ambulance access from Ipswich hospital to the South will be required to negotiate the lengthy detour via Aldringham and Leiston to the north at Sizewell Gap, and then back in a southerly direction along Sizewell Hall Road? And return by the same route?

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

I have no comment on the Applicants' position as stated here in the light of their subsequent revision of this position, except in reference to the Examining Authority's Statement in their Procedural Decision 34 letter.

The Applicants have also provided evidence that the relevant Affected Persons Consent to the change (AS-103/104).

I am unclear as to whether I would be included in the category of *Relevant Affected Persons*; if I am I'd like to make it clear that in responding to the Applicants' email of 16 April 2021, which invited "*any initial comments on the proposed change*", my comments were not intended to imply either refusal or consent. Within my response, I did note that my comments were made without prejudice, and that I reserved the right to comment in detail on the proposed change at the appropriate point in the Examination, as also suggested in their email.

That part of the email has not been quoted in The Applicants' **Change Request: Order Limits at Work 9. (Plot 13).**(AS-104 3.1.21, **Feedback from this informal consultation.**

Agenda Item 10.Human Rights and the Public Sector Equality Duty.

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

To my comment that "*neither ECHR rights nor public benefit losses need be incurred if a split decision is made and Onshore infrastructure is relocated to a brownfield or other available site,*"

The Applicants respond:

"The Applicants consider that there would be significant public benefit arising from the grant of development consent resulting from the generation of much needed renewable electricity. That benefit is only likely to be realised if the Order includes powers of compulsory acquisition. The significant public benefits on balance outweigh the effects upon persons own property and rights within the order land.

It may be true that public benefit would arise if renewable energy is generated. It may be the fact that Orders must include powers of Compulsory Acquisition, and that benefit to many may outweigh effects upon persons who own property and rights within the Order land.

However the response does not address the very specific use which Wardens Trust is put, which was the topic under discussion (as we have established that Wardens does not own property within Order Land, but in my view should own rights) , nor the suggestion that a split decision would mean that neither public nor significant private losses (not of property) need be incurred.

END.