



**SCOTTISHPOWER
RENEWABLES**

East Anglia ONE North and East Anglia TWO Offshore Windfarms

Applicants' Comments on Tessa Wojtczak's Deadline 10 Submissions

Applicant: East Anglia TWO and East Anglia ONE North Limited

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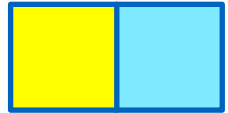
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Applicable to East Anglia ONE North and East Anglia TWO



Revision Summary

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01	07/06/2021	Paolo Pizzolla	Lesley Jamieson / Ian Mackay	Rich Morris

Description of Revisions

Rev	Page	Section	Description
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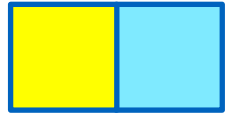


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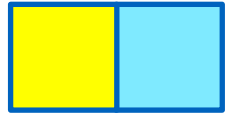
Glossary of Acronyms

AONB	Area of Outstanding Natural Beauty
AQMA	Air Quality Management Area
CoCP	Code of Construction Practice
DCO	Development Consent Order
EIA	Environmental Impact Assessment
ES	Environmental Statement
ESC	East Suffolk Council
ETG	Expert Topic Group
HGV	Heavy Goods Vehicle
IAQM	Institute of Air Quality Management
LVIA	Landscape and Visual Impact Assessment
NRMM	Non-Road Mobile Machinery
PEIR	Preliminary Environmental Information Report
PRoW	Public Right of Way
SCC	Suffolk County Council
SPA	Special Protected Area



Glossary of Terminology

Applicant	East Anglia TWO Limited / East Anglia ONE North Limited
East Anglia ONE North project	The proposed project consisting of up to 67 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia ONE North windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
East Anglia TWO project	The proposed project consisting of up to 75 wind turbines, up to four offshore electrical platforms, up to one construction, operation and maintenance platform, inter-array cables, platform link cables, up to one operational meteorological mast, up to two offshore export cables, fibre optic cables, landfall infrastructure, onshore cables and ducts, onshore substation, and National Grid infrastructure.
East Anglia TWO windfarm site	The offshore area within which wind turbines and offshore platforms will be located.
Horizontal directional drilling (HDD)	A method of cable installation where the cable is drilled beneath a feature without the need for trenching.
Heavy Goods Vehicle (HGV)	A term for any vehicle with a Gross Weight over 3.5 tonnes. This assessment also uses the term HGV as a proxy for HGVs and buses / coaches recognising the similar size and environmental characteristics of the respective vehicle types.
Jointing bay	Underground structures constructed at intervals along the onshore cable route to join sections of cable and facilitate installation of the cables into the buried ducts.
Landfall	The area (from Mean Low Water Springs) where the offshore export cables would make contact with land, and connect to the onshore cables.
Onshore cable route	This is the construction swathe within the onshore cable corridor which would contain onshore cables as well as temporary ground required for construction which includes cable trenches, haul road and spoil storage areas.
Onshore cables	The cables which would bring electricity from landfall to the onshore substation. The onshore cable is comprised of up to six power cables (which may be laid directly within a trench, or laid in cable ducts or protective covers), up to two fibre optic cables and up to two distributed temperature sensing cables.
Onshore development area	The area in which the landfall, onshore cable corridor, onshore substation, landscaping and ecological mitigation areas, temporary construction facilities (such as access roads and construction consolidation sites), and the National Grid Infrastructure will be located.
Onshore infrastructure	The combined name for all of the onshore infrastructure associated with the proposed East Anglia TWO / East Anglia ONE North project from landfall to the connection to the national electricity grid.
Transition bay	Underground structures at the landfall that house the joints between the offshore export cables and the onshore cables.



1 Introduction

1. This document presents the Applicants' comments on the Written Representations submitted by Tessa Wojtczak at Deadline 10 as follows:
 - **Section 2** - Response to Applicants' Comments at Deadline 9 on my Deadline 8 Written Representation (REP10-071);
 - **Section 3** - Response to Applicants' Comments on Written Statement of Oral Case Compulsory Acquisition Hearing 3 (REP10-072); and
 - **Section 4** - Response to the Applicants' Comments on Action Point from Compulsory Acquisition Hearing 3 (REP10-073).


2. This document is applicable to both the East Anglia TWO and East Anglia ONE North Development Consent Order (DCO) applications, and therefore is endorsed with the yellow and blue icon used to identify materially identical documentation in accordance with the Examining Authority's procedural decisions on document management of 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 Applicants' Comments on Response to Applicants' Comments at Deadline 9 on my Deadline 8 Written Representation (REP10-071)

ID	Tessa Wojtczak Comment	Applicants' Comments
1	<p>ID 1-6 relate to outstanding matters of concern in respect of details within the Outline CoCP (REP7-026) concerning potential contamination of groundwater and control measures which may have a bearing on the private water supply at Ness House and Wardens Trust.</p> <p>While I consider that this is broadly an issue still unresolved within the Examination, it appears the Applicants do not.</p> <p>I make no further comments on these issues at this stage in the Examination.</p>	Noted.
2	<p>ID 8. concerns inconsistent information concerning the location of a Noise Monitoring Survey Location.</p> <p>An email sent by the land agent acting for the landowner sent on 20 June 2018 has an attachment with an aerial screenshot provided by SPR clearly identifying the intended location of Noise Monitors west of our garden gate. As well as the identification of SPR, the screenshot identifies Gimson Land by name. (Figure 1). 2.1.8.</p>	Noted.




ID	Tessa Wojtczak Comment	Applicants' Comments
	<p>Done Gimson 2.jpeg</p> 	
3	<p>The Applicants say that as per Appendix 23.3 of the ES (APP 524), the property taken as the closest noise sensitive receptor to the Order Limits is [REDACTED], which is located at the [REDACTED]s significantly further away than [REDACTED], which is within metres of the Cable Corridor route. It is identified as CCR1</p> <p>Table A25.3.4 identifies the closest address to the Receptor Identifier CCR1 as being Courtyard Cottage. (Figure 2)</p>	<p>Whilst it is difficult to understand which properties are being referred to due to the redaction of addresses, the Applicants have reviewed the geographic coordinates of noise sensitive receptor locations against the Ordnance Survey 'AddressBase Plus' geographic information system (GIS) dataset, and note that the property address of CCR1 is The Coach House (part of Ness House Cottages). Regardless of the address, the Applicants still note that the location of CCR1 represents the nearest premises used as a dwelling-house to the Order limits and therefore represents a worst-case for the purposes of undertaking the assessment of construction phase noise impacts. To confirm, the distances from each of the dwelling-houses listed within the</p>



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	<p>25.3.4 Onshore Cable Route Study Area</p> <p>11. Measurements were conducted at 19 receptor locations in the onshore route study area are detailed within Table A25.3.4 and on Figure 25</p> <p>Table A25.3.4 Baseline Noise Monitoring Locations – Onshore Cable Route Study A</p> <table border="1" data-bbox="271 499 1151 965"> <thead> <tr> <th>Receptor identifier</th> <th>Address (NEAREST)</th> <th>X</th> <th>Y</th> </tr> </thead> <tbody> <tr> <td>CRR1</td> <td>[REDACTED]</td> <td>647543</td> <td>261202</td> </tr> <tr> <td>CRR2</td> <td>[REDACTED]</td> <td>647105</td> <td>261997</td> </tr> <tr> <td>CRR3</td> <td>[REDACTED]</td> <td>647163</td> <td>262434</td> </tr> <tr> <td>CRR4</td> <td>[REDACTED]</td> <td>646246</td> <td>262320</td> </tr> <tr> <td>CRR5</td> <td>[REDACTED]</td> <td>645472</td> <td>261777</td> </tr> <tr> <td>CRR6</td> <td>[REDACTED]</td> <td>645359</td> <td>262023</td> </tr> <tr> <td>CRR7</td> <td>[REDACTED]</td> <td>645725</td> <td>261244</td> </tr> <tr> <td>CRR8</td> <td>[REDACTED]</td> <td>645330</td> <td>260584</td> </tr> </tbody> </table>	Receptor identifier	Address (NEAREST)	X	Y	CRR1	[REDACTED]	647543	261202	CRR2	[REDACTED]	647105	261997	CRR3	[REDACTED]	647163	262434	CRR4	[REDACTED]	646246	262320	CRR5	[REDACTED]	645472	261777	CRR6	[REDACTED]	645359	262023	CRR7	[REDACTED]	645725	261244	CRR8	[REDACTED]	645330	260584	<p>Ordnance Survey address dataset within the vicinity of CCR1 to the nearest point of the Order limits are:</p> <ul style="list-style-type: none"> • The Coach House, Sizewell, Leiston, IB16 4UB (CCR1) – 109m; • Ness House, Sizewell, Leiston, IB16 4UB – 153m; • The Court Yard Cottage, Sizewell, Leiston, IB16 4UB – 172m; and • Wardens Hall, Sizewell, Leiston, IB16 4UB (The Wardens Trust) – 114m.
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4	<p>However, on Figure 25.2 (APP-305) dated 4.3.21 The Applicants clearly show CCR1 at the west of [REDACTED]. (Figure 3 below.).</p>	<p>Noted. Please refer to the Applicants' comments at ID3 above.</p>																																				



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5	<p>Applicants say that “ there appears to have been a miscommunication to Miss Wojtczak.” The information communicated to me has clearly been provided by SPR to Mr. Jennings. If there has been miscommunication, therefore, it originates with SPR and is confirmed in the inaccurate information provided on the Figure. 2.1.9 Courtyard Cottage may have been “ identified” by the Applicants as the “address closest to CCR1 on (the) Table. However, it’s easy to see that it isn’t. [REDACTED] is. This may mean that the Applicants believe the Noise surveys were carried out at Courtyard Cottage, as their Table attests, and that their own maps showing them to have been at [REDACTED] identified on Gimson land are incorrect, or that the maps</p>	<p>The Applicants have previously clarified within the Applicants’ Response to Appendix 4 of the Local Impact Report (REP3-071) that Figure 25.2 of the Environmental Statement (ES) (APP-305) shows the properties agreed as noise sensitive receptors with the Expert Topic Group (ETG) on noise, which included representatives from East Suffolk Council (ESC) (then Suffolk Coastal District Council) and the Environment Agency. The actual point where the survey equipment was deployed is expected to be slightly different to that shown on Figure 25.2 (and within the email to the land agent referred to by Ms</p>



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	<p>are correct, but for some reason the address at which they are actually located is disregarded in favour of a more distant address which shares the same postcode.</p> <p>I do understand that mistakes can occur when there is no actual familiarity with the location described. It might clarify things to take the opportunity to acknowledge and amend such an inconsistency at an early opportunity, consistent with the robustness and efficiency claimed by The Applicants. It's a minor matter within the Examination, but the Applicants' approach of consistently repeating its earlier position in response to questions, on this as on so many other counts, doesn't advance communication, takes up time for all parties without ever moving forward, and raises concern about the Applicants' ability to tolerate contradictions and inconsistencies within its own documentation.</p>	<p>Wojtczak) given site-specific constraints and permissions agreed the landowner in advance of or on the date of the survey.</p>
6	<p>The ExA , having visited the location, will be aware of the proximity of [REDACTED] to the Order Limits in comparison with [REDACTED], and will have seen that there is no sense in which the separate properties in this area ([REDACTED] being situated by the [REDACTED]) could be described as " clustered".</p>	<p>In the context of the surroundings, the Applicants maintain that the properties represented by CCR1 (The Coach House) form a cluster of dwelling houses, isolated from other properties on the fringes of Thorpeness to the south and Dower House and Sizewell Hall to the north by agricultural fields.</p>
7	<p>2.1.12. It is unlikely that that what may be experienced at Courtyard Cottage in terms of noise will be "representative of what is likely to be experienced " at Ness House. Courtyard Cottage is at a greater distance from the cable corridor and is surrounded by trees.</p> <p>The Applicants " consider that both the assessment of potential construction phase noise impacts and the measures set out within the OCoCP are robust , proportionate and sufficient."</p> <p>Given the still unamended and inconsistent information provided by SPR and the discrepancies within the methodology and recording of these Baseline Noise survey, I don't agree with that assessment.</p>	<p>As noted above, the Applicants agreed the location of the noise sensitive receptors with the ETG on noise.</p> <p>Noted, however the Applicants point to Table 19 of the Statement of Common Ground (SoCG) with ESC and Suffolk County Council (SCC) (REP8-114), which demonstrates agreement between the parties on many matters in relation to the data collecting, assessment methodology and conclusions of the construction phase noise assessment presented within Chapter 25 of the ES (APP-073).</p>



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8	<p>2.1.19 Landfall.</p> <p>In my WR (REP8-046), I referred to the question posed by the ExA at ISH 12 (Session 3) as to the noise effects of the worst case scenario of HDD 24 hours a day at Landfall, and whether that has been appropriately assessed with reference to the Wardens Trust playing field (and activities undertaken by the Wardens Trust) and dwellings within 75 metres.</p> <p>The specific reference within the question to Wardens Trust and its activities (it is now well- established within the Examination that Wardens offers services to vulnerable children and adults with specific sensitivities and psychological/ physical/ neurological conditions) indicates that it is those particular circumstances which are to be addressed.</p> <p>However, the Applicant responds with a claim that as</p> <p><i>“ the distance between CCR1 (see Figure 25.2 of the ES, APP-305) and the as-modelled HDD entry pit is comparable to the distance between LFR2 and the as-modelled entry pit....it is anticipated that any potential night-time noise impacts associated with HDD works at CCR1 will be no greater than those predicted for LFR2 as presented within chapter 25 of the ES (APP-073). The assessment of potential nighttime noise impacts at LFR2 in the Environmental Statement concluded there would be no impact magnitude resulting in an impact of negligible significance”. (my emphases).</i></p> <p>LFR 2 refers to noise assessments apparently undertaken near a property in Thorpeness, which does not as far as I'm aware offer offer similar services to similarly disadvantaged groups. Like is not being compared with like. Furthermore, we know that this is an exceptionally quiet location and that HDD is a noisy process. It is difficult to comprehend how the night time effects can be so confidently assessed as negligible. I do note that the Applicant refers to information on the additional noise controls within the vicinity of Wardens Trust provided within the</p>	<p>The Applicants note that CCR1 was categorised as a medium-sensitivity receptor within Chapter 25 of the ES (APP-073), with an assessed construction phase noise impact of negligible significance. If the sensitivity of this receptor is increased to high, this would conclude an impact of minor significance when assessed using the matrix set out within Table 25.22 of Chapter 25 (APP-073). In Environmental Impact Assessment (EIA) terms, this is still not significant.</p> <p>However, the Applicants have committed to a number of measures regarding the Wardens Trust. As set out in Change Request: Amendment to Order Limits at Work No. 9 (Plot 13) (AS-104), the Applicants have relocated the cable corridor ~80m west to provide an additional separation distance from the Wardens Trust property.</p> <p>In addition to the relocation of the cable corridor, the Applicants have committed to the following mitigation measures during construction:</p> <ul style="list-style-type: none"> • Installation of temporary noise barriers along the onshore cable corridor where it falls within 100m of the Wardens Trust property; • A reduced speed limit of 10mph will be enforced along onshore cable corridor where it falls within 100m of the Wardens Trust property; • Construction activities taking place within the permitted working hours; and • Bespoke Best Practicable Means and the associated best practicable noise mitigation measures which



ID	Tessa Wojtczak Comment	Applicants' Comments
	<p>updated Outline CoCP (REP8-017. I will comment on that below at 2.1.20. I note also that that document “ includes a commitment to apply for Section 61 Consent under the Control of Pollution Act 1974 (COPA) prior to the relevant construction works”</p>	<p>reflects the sensitive use of the Wardens Trust property set out within section 9.1.4 of the Outline Code of Construction Practice (CoCP) (document reference 8.1) will be implemented by the Applicants' contractors.</p>
9	<p>Unfamiliar with Section 61 of this Act, I find that:</p> <p><i>Construction Noise</i></p> <p><i>Under Section 61 of the Control of Pollution Act 1974 a developer may apply to the local authority for prior consent to carry out construction or demolition works. A Section 61 application will contain details of the work to be carried out, the time of the works and also details of any measures to reduce the noise from the works. By applying for prior consent under Section 61 the obligation the responsibility moves from the local authority to the applicant to provide details of the proposed working times, location, methods, plant and any steps to mitigate noise for each element of the project in advance. This offers the applicant protection from any subsequent action by the local authority under Section 60 or Section 66 of the Control of Pollution Act 1974 or under the Environmental Protection Act 1990 to impose further controls on noise from the site.</i></p> <p>As far as I understand it, then, the Applicants' response to the question of particular measures in respect of noise mitigation in the vicinity of Wardens is to seek to apply for consent to remove the local authority's responsibilities (and presumably protective powers) in this regard, thereby protecting itself from any external controls over noise and setting its own parameters.</p> <p>If I've understood this correctly, this intention doesn't provide reassurance.</p> <p>I note that in this instance the Applicants reference to CCR1 noise monitoring location is correctly identified as being at Ness House, rather than at [REDACTED] as referenced in their table</p>	<p>The Section 61 process does not remove the local authority's responsibilities. The Control of Pollution Act 1974 (COPA) provides local authorities with significant powers to control construction noise from worksites and to ensure that Best Practicable Means (BPM), as defined by Section 72 of the COPA, is used to minimise construction noise and vibration.</p> <p>The local authority can serve a notice under Section 60 of COPA on the contractor or person responsible for the works imposing requirements as to the way in which the works are to be carried out. Alternatively, the Applicants or their contractor could apply for prior consent from the local authority under Section 61 of COPA. When this process is followed, the Applicants or their contractor will submit an application to the local authority before the start of the works. The application must describe the works and all the steps to be taken to control and minimise construction noise and vibration. If the local authority considers that the application contains sufficient information, it will grant consent and may:</p> <ul style="list-style-type: none"> (a) Attach any conditions to the consent; and (b) Limit or qualify the consent to allow for any change in circumstances; and (c) Limit the duration of a consent.



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		<p>Any person who knowingly carries out the works, or permits the works to be carried out, in contravention of any conditions attached to the consent under Section 61 of the COPA will be guilty of an offence and could be prosecuted.</p> <p>The main difference between the Section 60 and 61 provisions is that the controls imposed on the works to control construction noise and vibration are agreed in advance of the works starting. This is a proactive approach and one that represents best practice because it provides a better opportunity to plan the works and the control measures, as well as providing more certainty to the Applicants, their contractors, the local authority and residents.</p> <p>There is a lot of planning that goes into works of this nature and, as one might expect, it could be very difficult to change the construction working methods and plant / equipment after the works have started. This is one of the reasons why a more proactive approach is preferred.</p>
10	<p>2.1.20 In their response here, the Applicants make reference to information on special provision made for this receptor (Wardens Trust) within the Deadline 8 updated Outline CoCP (REP8-017) at Section 9.1.4. Specific Measures at Wardens Trust, including:</p> <p>116. Point 2.</p> <p>“Installation of temporary noise barriers the onshore cable route (sic) which falls within 100 m of the Wardens Hall and the recreational field used by the Wardens Trust charity.”</p> <p>117.” In addition, for the location of onshore cable route in proximity to Wardens Hall, the applicants will reduce the working width of the onshore cable route to 16.1 m per</p>	<p>This is correct. By moving the Order limits away from the boundary of the Wardens Trust property the separation distance between the works and the Wardens Trust premises has increased by a greater distance than that achievable by narrowing the onshore cable route within the previous Order limits. As such, the Applicants have returned to the original onshore cable route width of 32m per Project within the newly aligned Order limits at this location.</p>



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	<p>project in line with the reduced working with adopted for the crossing of important hedgerows and other features, and construct on the western extent of the order limits.</p> <p>118. The above measures will reduce impacts arising from construction noise as far as practicable during the works undertaken within the vicinity of the Wardens Trust's Wardens Hall and associated amenity field.</p> <p>However, in respect of 117, I note that in the Applicants' Change Request: Order Limits at Work no.9 (Plot 13) (AS-104), at 2.2.3.17, it is stated that:</p> <p><i>“ The Outline CoCP ...will also be updated at Deadline 10 to remove text relating to the reduction of the working width of the Onshore Cable route to 16.1 (per project) when within 100 m of the Wardens Trust property. “</i></p>	



3 Applicants' Comments on Response to Applicants' Comments on Written Statement of Oral Case Compulsory Acquisition Hearing 3 (REP10-072)

ID	Tessa Wojtczak's Comment	Applicants' Comments
2.2 Applicants Responses to Written Statement of Oral Case CAH 3 (REP8-247). Agenda Item 3 – Book of Reference		
1	<p>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).</p>	<p>No comments</p>
2	<p>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.</p> <p><i>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.</i></p> <p><i>2.4. 21. In considering the Wardens Trust as potential Category 3 claimants, <u>they</u> were included in the initial search area and also included post-assessment of the PEIR information. <u>They received all the relevant notification and consultation up until and including Section 42.</u> (my underlining).</i></p> <p>This is problematic because not clear. What or who precisely is meant by the term "they" in these remarks, as in "they received all</p>	<p>This is a matter for the Warden's trust.</p> <p>As part of the Applicant's due diligence process, their appointed agents issued a Land Interest Questionnaire (LIQ) to Wardens Trust at White House, Markington, Harrogate, North Yorkshire, HG3 3PQ on 28th November 2018. This address was acquired from HM Land Registry. A subsequent chaser letter was issued on 19th December 2018. The Applicant's appointed agents received a response from Mr Patrick Henry stating that correspondence should be directed to Mrs Wendy Orme, The Beeches, Littlethorpe, Ripon, North Yorkshire, HG4 3LW in her capacity as company secretary. The LIQ was subsequently resent to Mrs Orme at the address provided by Mr Henry. No response was received to this correspondence. S.42 notification dated 29th January was sent to Mrs Orme at her address cited above which is listed as the Charity's contact address on the Charities Commission website.</p>



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	<p>the relevant notification and consultation up to and including Section 42”?</p> <p>Are the Applicants explicitly stating that that notification and consultation up until Section 42 took place <u>with Wardens Trust itself?</u></p> <p>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.</p> <p>(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.)</p>	
3	<p>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:</p> <p><i>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</i></p>	No further comments



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	<p><i>Trust. It is important in considering his position to understand which interest he is representing at any particular time. <u>The two are separate and distinct.</u> (my underlining).</i></p>	
4	<p>Point 14:</p> <p>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.</p> <p>If it is being claimed here by The Applicants that they <u>have</u> 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.</p>	<p>Please see comments above on consultation with The Wardens Trust.</p> <p>The Applicant refers to the methodology for identifying Category 3 claimants as set out in Appendix 2 of the Applicants' Responses to Hearings Action Points [REP8-093] and would maintain that this provides a suitable rationale for the inclusion or exclusion of Category 3 claimants.</p>
5	<p>2.4.25 states that “ <i>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</i></p>	<p>This is a matter for the Warden's Trust. The Applicants were responding to a hearing action point in respect of whether the Applicants considered the Wardens Trust should be considered a potential Category 3 claimant and the</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p><i>from any impact on property value or from any potential nuisance that would give rise to an impact on property value.</i></p> <p>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.</p> <p>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.</p>	<p>impact on property value that could result in a claim was a consideration in this process.</p> <p>In respect to the potential impacts of the Projects on the Wardens Trust in general, the Applicants have detailed mitigation measures they would adopt as part of the Outline Code of Construction Practise [Doc Ref] and amended the order limits to site the Projects further away from the Wardens Trust.</p> <p>As stated in the Applicants' Comments on Tessa Wojtczak's Deadline 8 Submissions, the Applicants will maintain access across plot 12. It should be noted that for it is not for the Applicants to deny, or in fact grant rights across other parties' land; clearly it is for those who own the land and have the appropriate title interest to do so. For the purposes of the applications for the Projects the Applicants, through due diligence, have identified those with interests in land.</p>
6	<p>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.</p> <p>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</p>	<p>Please refer to answer in ID5.</p> <p>The Applicants maintain that they were aware of the Wardens Trust when undertaking the assessments presented within the Environmental Statement, but that it was considered as part of the cluster of properties north of Thorpeness (south of Sizewell Hall). In recognition of the representations received regarding the Wardens Trust, the Applicants have introduced specific mitigation for the Wardens Trust within the Outline CoCP (document reference 8.1) to address the concerns raised, which will also provide benefits for the neighbouring properties.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>northwards to Sizewell Gap, and take the long and busy route via Leiston and Aldringham, adding half an hour to their journey each way.</p> <p>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.</p> <p>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 “ <i>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) .</i></p> <p>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, “ <i>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) .</i> The Figure is at APP-314.</p>	<p>In addition, the Applicants have committed to a number of measures regarding the Wardens Trust. As set out in Change Request: Amendment to Order Limits at Work No. 9 (Plot 13) (AS-104), the Applicants have relocated the cable corridor ~80m west to provide an additional separation distance from the Wardens Trust property.</p> <p>In addition to the relocation of the cable corridor, the Applicants have committed to the following mitigation measures during construction:</p> <ul style="list-style-type: none"> • Installation of temporary noise barriers along the onshore cable corridor where it falls within 100m of the Wardens Trust property; • A reduced speed limit of 10mph will be enforced along onshore cable corridor where it falls within 100m of the Wardens Trust property; • Construction activities taking place within the permitted working hours; and • Bespoke Best Practicable Means and the associated best practicable noise mitigation measures which reflects the sensitive use of the Wardens Trust property set out within section 9.1.4 of the Outline CoCP (document reference 8.1) will be implemented by the Applicants' contractors.



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>It is also clear that Wardens Trust is <u>not</u> 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.</p> <p>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.</p>	
7	<p>In respect of emergency access, the Applicants state that access associated with Sizewell Gap will be maintained.</p> <p>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?</p>	<p>Section 3.3 of the Outline CoCP (document reference 8.1) identifies that the Applicants "<i>will maintain access over Land Plot 12 to properties including Ness House, The Coach House and Stable Cottage via a temporary diversion. This temporary diversion will likely involve first creating a temporary road in parallel to the existing access track. Traffic would then be switched to the temporary track for the short period when the cables are installed across the existing track. The Applicants will ensure the temporary diversion route is constructed to a suitable standard to accommodate emergency vehicles</i>".</p>
<p>Agenda Item 5(a) iv, the bend in the Cable alignment at Wardens Trust</p>		
8	<p>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</p>	<p>No further comments.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>34 letter. <i>The Applicants have also provided evidence that the relevant Affected Persons Consent to the change (AS-103/104).</i></p>	
9	<p>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.</p> <p>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.</p>	<p>The Applicants have sought to engage with those parties who had expressed an interest in the cable routeing in this general location prior to submitting the formal request for change to the order limits. It is acknowledged that this consultation was informal and that any party would have the opportunity to comment to the change through the Examination process. We note that you have taken this opportunity and we have considered both your latest comments and those made during the informal consultation and a further amendment to the order limits is being submitted at Deadline 11 to remove plot 10 as requested.</p>
<p>Agenda Item 10.Human Rights and the Public Sector Equality Duty</p>		
10	<p>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.</p> <p>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,"</p> <p>The Applicants respond:</p> <p><i>"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</i></p>	<p>No further comments.</p> <p>The substantive ECHR rights potentially engaged by the applications are Article 1 of the First protocol and Article 8. Article 1 is of direct relevance in the context of the compulsory acquisition of powers and rights. The Applicants have already set out in submissions why it is considered that public interest in delivering the projects outweighs the private interests of the landowners in question. It appears that Ms Wojtczak accepts that that might well be the case. Ms Wojtczak also appears to accept that Wardens Trust do not own land or have rights in the order land. Article 1 is therefore not engaged.</p>



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	<p><i>acquisition. The significant public benefits on balance outweigh the effects upon persons own property and rights within the order land.</i></p> <p>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.</p> <p>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.</p>	



4 Applicants Comments on TW comments on The Applicants' Response (REP9-025) to Action Points from Compulsory Acquisition Hearing 3 (CAH3) (REP8-248)

ID	Tessa Wojtczak's Comment	Applicants' Comments
1	<p>1. In my Deadline 9 submission I noted in a prefacing remark the statement found on page 13 of the EA1N and EA2 Public Sector Equality Statement (PSES)(REP3-013):</p> <p><i>"...the site selection has avoided direct effects upon community facilities, which has therefore avoided effects upon any organisation providing a service or product aimed specifically at one or more protected characteristic groups."</i></p> <p>2. It has become clear throughout this Examination that Wardens Trust is a community facility/ organisation which provides a service aimed specifically at one or more protected characteristic groups, i.e. the elderly, adults and children with mental and physical disabilities.</p> <p>3. It has become apparent too how severely the effect on Wardens Trust of the proximity of the Landfall construction and the cable corridor work over an extended period (with two projects potentially being given Consent and proceeding sequentially, and the strong possibility of National Grids ' Nautilus Project and others following at the same location to connect with the same Substation) will be.</p> <p>4. It is therefore not the case that site selection has avoided effects upon any organisation providing a service or product aimed specifically at one or more protected characteristic groups.</p>	<p>This is a matter for the Warden's Trust.</p> <p>The Applicants would note that the quote Ms Wojtczak takes from the Public Sector Equality Statement (REP4-013) states that the site selection process has avoided "direct effects" upon community facilities. In the context of the site selection process this means that the footprint of the Projects does not overlap land associated with, or physically disrupt the services provided by such organisations. Further potential effects (e.g. those associated with disturbance from noise or dust generated by construction activities) have been dealt with through the EIA with site specific mitigation measures (e.g. acoustic barriers) being proposed as necessary to avoid significant adverse impacts.</p> <p>Regarding site specific mitigation, the Applicants have committed to a number of measures regarding the Wardens Trust. As set out in Change Request: Amendment to Order Limits at Work No. 9 (Plot 13) (AS-104), the Applicants have relocated the cable corridor ~80m west to provide an additional separation distance from the Wardens Trust property. It should be noted that the original separation distance was set by the need to apply a 200m buffer to the Sandlings Special Protection Area (SPA); however additional mitigation measures have been agreed with Natural England to minimise impacts on, and ensure adequate protection of the SPA.</p> <p>In addition to the relocation of the cable corridor, the Applicants have committed to the following mitigation measures during construction:</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>5. The Applicants make no comment on this point.</p>	<ul style="list-style-type: none"> • Installation of temporary noise barriers along the onshore cable corridor where it falls within 100m of the Wardens Trust property; • A reduced speed limit of 10mph will be enforced along onshore cable corridor where it falls within 100m of the Wardens Trust property; • Construction activities taking place within the permitted working hours; and • Bespoke Best Practicable Means and the associated best practicable noise mitigation measures which reflects the sensitive use of the Wardens Trust property set out within section 9.1.4 of the Outline CoCP (document reference 8.1) will be implemented by the Applicants' contractors.
2	<p>6. At ID 2 , I identify the protected characteristics of users of Wardens Trust that I believe are relevant to this case as being those of age and disability. The Applicants make no comment on this point.</p> <p>7. At ID 4, the key issue emerges here in respect of the definition and applicability of a disproportionate equality effect, and whether the Applicants have satisfied their PSED Requirements in respect of Wardens Trust. The Applicants concur that a disproportionate equality effect arises when an impact has a proportionately greater effect on protected characteristic groups than on other members of the general public at a particular location.</p> <p>8. The Applicants pose the question as to whether or not the protected characteristics give rise to any greater vulnerability to the effects, and state that the specific points of issue are detailed below.</p>	<p>This is a matter for the Warden's Trust.</p> <p>Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>9. However, I do not consider that the points of issue which the Applicants go on to address in any way consider the question of greater vulnerability associated with some of the conditions experienced by the users of Wardens. Their responses confine themselves, on occasion, to suggested mitigation; that is noted, but the mitigation does not take into account that, for example, to an individual with extreme and uncontrollable sensitivity to noise who comes to a quiet location, making the noise slightly less will not make a difference. The potential diminution of effect cannot be appreciated by such a person as it may be by someone to whom the noise is simply unpleasant or inconvenient.</p>	
3	<p>10. In the same way, I refer here to The Applicants remarks at ID19, Human Health.</p> <p>11. In the PSES, The Applicants reference the effects of “perceived risk” which may have a greater impact on health than the hazard itself. This is an argument, as they point out, that was made at ISH10, along with a discussion of the potential to mitigate “anxiety “. At ID 19, they state:” <i>The Applicants recognise that communication can play a big part in reducing anxiety, but does not fully alleviate this.</i>”</p> <p>12. This argument, about anxiety and risk, was originally put forward in relation to conditions of stress and anxiety experienced by Interested Parties and others in the face of SPR's and other energy projects' intentions for our local area. The Applicants' unconvincing contention appeared to be that the anxiety arose from not knowing what may come; once what may come had been fully described, however bad it may be, the anxiety would be alleviated. To adduce it here in relation to the experiences and perceptions of</p>	<p>Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.</p>



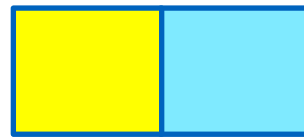
ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>individuals who, in line with certain neurodevelopmental and other conditions, will respond very differently from the rest of the population to disturbing stimuli, is at least inadequate. The effect on such persons won't be mitigated by describing it to them in advance, or explaining it to them as it occurs. To suggest that it might, certainly shows a profound failure to understand those conditions, and therefore to effectively address them in a way that satisfies the Applicants' PSED duties in respect of the activities and users at Wardens Trust.</p> <p>13. At ID 5 and 6 I suggest that according to their own methodology described in the Public Sector Equality Statement, information about Wardens Trust (and the protected characteristics of its users) would or should have featured in the assessment of effects upon the Onshore Human Environment, and on the basis of various aspects of Table 1 effects (Screening) and Table 2 (Assessment) that the PSED has not been met in respect of the users of Wardens Trust.</p>	
4	<p>14. These factors include, at ID 7, Groundwater and Contamination.</p> <p>15. This issue in itself, in respect of potential effects on the aquifer serving Wardens Trust, is one which I consider remains unresolved within the Examination, although clearly not within the perception of the Applicants, whose position is that as " mitigation and management measures for this topic were agreed with the Environment Agency (REP8-124) and the Councils (REP8-114)", the topic is not to be considered further. However, I do not believe that within those documents any information about the particular issues of the aquifer and the potential disruption to Wardens has been included, so cannot be agreed.</p>	<p>This is a matter for the Warden's Trust.</p> <p>The Applicants' assessments regarding potable water supplies, particularly the Landfall Hydrogeological Risk Assessment (REP6-021), consider humans as the end user / receptor; human receptors are assigned the highest level of sensitivity in such matters regardless of their needs. REP6-021 identifies that there are no potential impact pathways between the proposed works at the landfall location and the Ness House well. Again, this applies to potential impacts on all human receptors regardless of their needs. In relation to construction works along the cable route, it is highly unlikely that these will adversely impact local hydrogeology and groundwater. Excavations along the cable route will typically be 1.2m (1.7m at jointing bays), with excavations for the</p>



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	<p>16. The issue here is Point 3 of the PSED, which references the requirement to “ take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of those who do share it” , and Point 4, , “ meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, <u>in particular, steps to take account of disabled persons' disabilities</u> “ (my underlining).</p> <p>17. In making reference here, as they go on to do throughout their comments in this document, to agreements that have been reached in respect of the general population affected by these proposals, The Applicants are failing to take steps to meet the needs of those disabled persons whose needs are different as they are required to do in respect of the PSED.</p> <p>18. (I note here that so great is the Applicants' confidence in its assertions that no damage will be caused to the aquifer/ groundwater conditions, that borehole drilling to a depth of 35 metres has already been underway for some weeks.)</p>	<p>transition bays being up to 3m deep). Across the onshore development area a suite of pollution prevention measures on-site during construction will work to prevent such events as the spillage of fuels or chemicals. These measures are set out in the Outline CoCP (document reference 8.1). Additionally, the Applicants will undertake pre-construction hydrogeological risk assessments for works requiring excavations below 1m within 250m of boreholes or springs (e.g. the sources of private water supplies). Where risks are identified the appropriate mitigation measures will determined before any onsite works proceed.</p>
5	<p>19. ID 8, I state “ <i>in respect of the Applicants' duties under the PSED to the users of Wardens Trust, I find it extraordinary that no particular area of human sensitivity has been identified here in respect of NRMMS, haul road traffic or cable corridor construction metres from their sleeping accommodation and outdoor recreational field.</i> “</p> <p>20. At ID 15 The Applicants respond that air quality impacts were considered in the assessment in relation to the UK government's health- based air quality Standards and Objectives; these standards take into account vulnerable groups. Changes in pollutant</p>	<p>Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust. The Applicants have no further comment regarding air quality impacts.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>concentrations will be negligible and it is considered that significant health effects would not occur.</p> <p>21. While I note that vulnerable groups are taken into account, is this in relation to vulnerable groups , some of whom will have breathing difficulties, who are resident at a location where pollutants are emitted, sleeping and exercising within metres of those pollutants, or simply to individuals who may temporarily be in the presence of such pollutants? The difference is significant.</p> <p>22. In the light of Professor Sir Stephen Holgate's remarks on the effects of air pollution in the case of the death of Ella Kissi- Debrah, The Applicants ' assertion that significant health effects would not occur might merit further consideration.</p> <p>23. Again, The Applicants reference in their response at ID 15 that a full response to air quality related health issues has been provided in their Applicants Comments on SEAS D5 submissions ((REP6-032), and that the Councils have agreed with the air quality assessment.</p> <p>24. However, these are again in relation to the general population, and do not address the differential needs of persons with protected characteristics which(make them more vulnerable to these effects.</p>	
6	<p>25. ID 9 refers to Land Use. In response to the comment that the use to which the land (within the Order Limits) is put here currently, in respect of the Trusts users having free access to the surrounding countryside, has not been considered at all, the Applicants state that they " have assessed the owners and occupiers of all land that could be acquired compulsorily and have identified no groups of protected characteristics for the purposes of the Equality Act 2020."</p>	<p>This is a matter for the Warden's Trust.</p> <p>The Applicants would note that from the landfall location, passed the Wardens Trust property and north to the crossing of the Sandlings SPA, the cable corridor is located exclusively within working arable fields to which there is no public right of access. No footpaths along the coast will be directly impacted by the Projects, and elsewhere within the Order limits temporary diversions have been</p>



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	<p>26. This does not answer the concern. We know that Wardens does not own Land within the Order Limits. However, it comes back to the question of Wardens Trust having a highly significant interest in that land in order to offer a service aimed specifically at one or more protected characteristic groups. This will be addressed at ID 20.</p>	<p>proposed and agreed with SCC for any public rights of way that needs to be temporarily closed.</p>
7	<p>27. ID10 addresses the effects of Noise and vibration. <i>Although the cable corridor construction will be around 75 metres from Wardens Trust, The Applicants state here that “ <u>The projects have been located in areas where there was a reduced potential to cause disturbance. On this basis, noise effects have been assessed as not significant and conclude that “ there is no predicted differential or disproportionate impact to protected groups.”</u></i></p> <p>28. This clearly is not the case. The Cable Corridor alignment has not been located In this area with any reduced potential to cause disturbance. I note the reference to the information contained in the updated CoCP.</p> <p>29. Again, The Applicants state that agreement in respect of noise and vibration has been reached with the Councils, but in respect only of the general local population, I believe, and not in reference to the particular needs of persons who have protected characteristics, which is after all the purpose of the PSED as addressed in the PSES.</p>	<p>Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.</p>
8	<p>30. ID 11. Traffic and Transport. It was made clear in the Applicants' responses to my Written Statement of Oral Case at CAH 3 (which I address in a separate Deadline 10 submission) that, not having rights in Plot 12 on the track or Plot 14 on the</p>	<p>The Applicants note their response at ID7 in Section 3. The Applicants have committed to maintaining access along the private track at Plot 12 within Section 3.3 of the Outline CoCP (document reference 8.1).</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>byway, Wardens traffic can turn northward to Sizewell Gap to arrive at or leave the site. Even if it wishes to travel south, it must travel via Leiston and Aldringham to make the very short journey to Thorpeness, adding half an hour into its journey each way. Equally, Emergency services will have to follow the same route.</p> <p>31. This fails to take into account the needs of those vulnerable and disabled persons who may experience discomfort or agitation on extended journeys, and who may have significantly more need of emergency services.</p> <p>32. However, the Applicants conclude at ID18 that with its management measures in place... “ there is no predicted differential or disproportionate impact to protected groups.</p> <p>33. In making this assertion , The Applicants are relying on their own Traffic and Transport assessment, which “<i>determines that the operation and functionality of the highway network is not significantly impacted by the project traffic and therefore it is implicit that there is not an impact on emergency service response times or public transport.</i>”</p> <p>34. I think the ExA is aware that there is significant disagreement from local users with this basic assessment in respect of Traffic and Transport within the Examination.</p>	
9	<p>35. ID 12 Human Health. I have referred above at point 12 to The Applicants' Comments here.</p> <p>36. Again, I note that all matters pertaining to mitigation in relation to human health have been agreed with the council, although not perhaps within the context of the requirements of the PSED.</p>	No further comment.



ID	Tessa Wojtczak's Comment	Applicants' Comments
10	<p>37. ID 13. Landscape and Visual Aspect. In reference to the proposed fences, approximately 2metres high, their effect in impinging upon open views to the west is not comparable to those views being “ blocked by trees and hedgerows” as the Applicants suggest. The trees and hedgerows are a naturally occurring and organic part of the landscape, and are beautiful in their own right. The Applicants own proposed mitigation at the Substation site of tree cover must recognise that.</p>	
11	<p>38. ID 14 , Tourism, Recreation and Socio Economics will be addressed at ID 20.</p> <p>39. IDS 15, 16, 17, 18 and 19 have been addressed above.</p>	Noted.
12	<p>40. ID 20.Tourism, Recreation and Socio- Economics. In the PSES, citing their “ extensive site selection process” The Applicants state at page 13 that</p> <p><i>“as above, the site selection has avoided direct effects upon community facilities, which has therefore avoided effects upon any organisation providing a service or product aimed specifically at one or more protected characteristic groups.</i></p> <p><i>Table 27.23 of Chapter 27 Human Health(APP-075) lists Health and Community Assets within 1 km of the onshore development area. There are no direct effects upon these properties both of which are outwith the project onshore development area. “</i></p> <p>The Applicants conclude <i>“ there is no predicted differential or disproportionate impact to protected groups.”</i></p>	Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>41. Wardens Trust does not appear on the map Location of Health and Community Assets. (APP- 314.) The site selection comes within 85 yards of it. The Examination has heard in detail the disastrous effects these Projects will have upon this community asset, providing a service or product aimed aimed specifically at one or more protected characteristic groups.</p> <p>42. And yet, while they acknowledge that “ The 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) ... Wardens, which is significantly closer to the Order Limits than either of the projects illustrated there....The Applicants now claim that: ‘ they have been aware of the Wardens Trust since before the submission of The Applications.</p> <p>43. This does not make sense.</p> <p>44. If the Applicants were aware of Wardens Trust when they compiled Chapter 4 of the ES in October 2019, why did they omit it from the ES and the figures accompanying the site selection process within that document?</p> <p>45. If the Applicants were aware of Wardens Trust when they compiled Chapter 27, Human Health, , why did they not include it in the list at Table 27.23, listing Health and Community Assets within 1km of the Onshore Development Area?</p> <p>46. If the Applicants were aware of Wardens Trust when they compiled the Public Sector Equality Statement in January 2021 , why does it state under Tourism, Recreation and Socio Economics in Table 2 that “ the site selection has avoided direct effects upon community facilities”?</p>	



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>47. Why, if the Applicants have been aware of the Wardens Trust since before the beginning of the submissions, has it been omitted from all three significant documents?</p> <p>48. With these omissions, The Applicants fail entirely in respect of their PSED obligations to the users of Wardens Trust. Their subsequent comments do not alter this position.</p> <p>49. I do not see that in claiming now that they did know of Wardens Trust and the services it offers to persons with protected characteristics alters that. In fact, to claim to have been in possession of that knowledge and yet to have excluded it from every document in which it should have appeared is incomprehensible and raises alarming questions.</p> <p>50. I have pointed out that failure to Include the presence and significance of Wardens Trust from the very earliest processes of site selection means that at no point have the Applicants fulfilled the requirements under PSED to its users.</p> <p>51. I have a strong impression that The Applicants' position in relation to its knowledge or otherwise of Wardens Trust and its services has altered somewhat throughout the Examination. It has been implied that Wardens had come late to the table (although representations on its behalf have been submitted throughout the Examination.) At the time these comments did not suggest that the Applicants ' representatives were at all aware of the Trust.</p> <p>52. The possibilities are:</p> <p>a) The Applicants were, as they state here, always aware of Wardens Trust and its status in respect of the PSED but made a decision not to acknowledge the Trust in any the material submitted</p>	



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>to the Planning Inspectorate along with other health and community assets.</p> <p>b) The Applicants were always aware of Wardens Trust but failed, due to error, lack of due diligence or oversight to include it in Chapter 4 of the ES, Site Selection Chapter 27 Human Health, Map showing location of Health and Community Assets, or the Public Sector Equality Statement.</p> <p>c) The Applicants were perhaps not aware of the Wardens Trust from an early stage, but recognise that in order to substantiate their claims of robustness in methodology, they should have been.</p>	
13	<p>53. At ID 20, The Applicants state , “ furthermore, the Applicants are aware of Wardens Trust and have been in discussions with Agents instructed by one of the Trustees at The Wardens Trust since 2018”.</p> <p>54. As I have discussed in a separate Deadline 10 submission, Response to the Applicants' Comments on my Written Statement of Oral Case CAH 3, I I find this assertion problematic.</p> <p>55. 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:</p>	Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.



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	<p>56. <i>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. <u>The two are separate and distinct.</u> (my underlining).T</i></p>	
14	<p>57. Point 14: The Applicants state: 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.</p> <p>58. In the light of these clear distinctions and others in the same document submitted by The Applicants, it is difficult to see why the Applicants would make the mistake here at ID 20 of conflating the two roles of Dr. Gimson as Chair of Wardens Trustees and POA for the landowner, in which capacity agents were being instructed. It has no bearing on any knowledge or otherwise that they may have had of Wardens Trust.</p>	<p>This is a matter for Dr Gimson as both a trustee and Power of Attorney and he must act in the best interest of each entity he represents.</p>
15	<p>59. Finally, at ID 21 I comment that as the impacts on the users of Wardens have not been adequately considered, or considered at all, in all the categories referenced above, I don't think that the statement at paragraph 16 is justifiable</p> <p>60. (Paragraph 16 states no differentiated or disproportionate impact on groups with protected characteristics under the Equalities Act 2020 are predicted at any phase of the projects.).</p>	<p>Please see ID1. The Applicants have applied a number of additional mitigation measures specifically regarding the Wardens Trust.</p>



ID	Tessa Wojtczak's Comment	Applicants' Comments
	<p>61. The Applicants conclude that they “ consider that there are no disproportionate equality effects.</p> <p>62. My submission is that, although they claim to have been aware of Wardens Trust from an early stage, The Applicants, by excluding it from the relevant Chapters of the ES and on all the counts listed above, have entirely failed to fulfil their Public Sector Equality Duty to Wardens Trust and its users.</p>	