

To the Examining Authority .

Ref: EA1N. IP: 20024031 / AFP: 132.

EA2. IP: 20024032 / AFP: 0134.

Deadline 8 Submission.

Response to Action Points from Compulsory Acquisition Hearing 3 (CAH3), Point 10.

1. Introduction
2. EA1N and EA2 Public Sector Equality Duty(REP4-013).
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Point 10.

Tessa Wojtczak – “ To make a submission in respect of her concern that the Public Sector Equality Duty has not been met in respect of the users of Wardens Trust.”

1. Introduction.

Section 149 of the Equality Act 2010 creates a Public Sector Equality Duty (PSED).

Point 3. makes reference to the need to:

b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it

c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

And at 4:

Meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

My remarks in this submission are in relation to the users of Wardens Trust , a community centre providing services to groups with protected characteristics. The Trust is situated within 75 metres of the Cable Corridor construction works and encircled by other aspects of the Construction Works, in close proximity to the HDD Landfall compound.

See Figure 1, attached, Wardens Trust ringed in yellow.

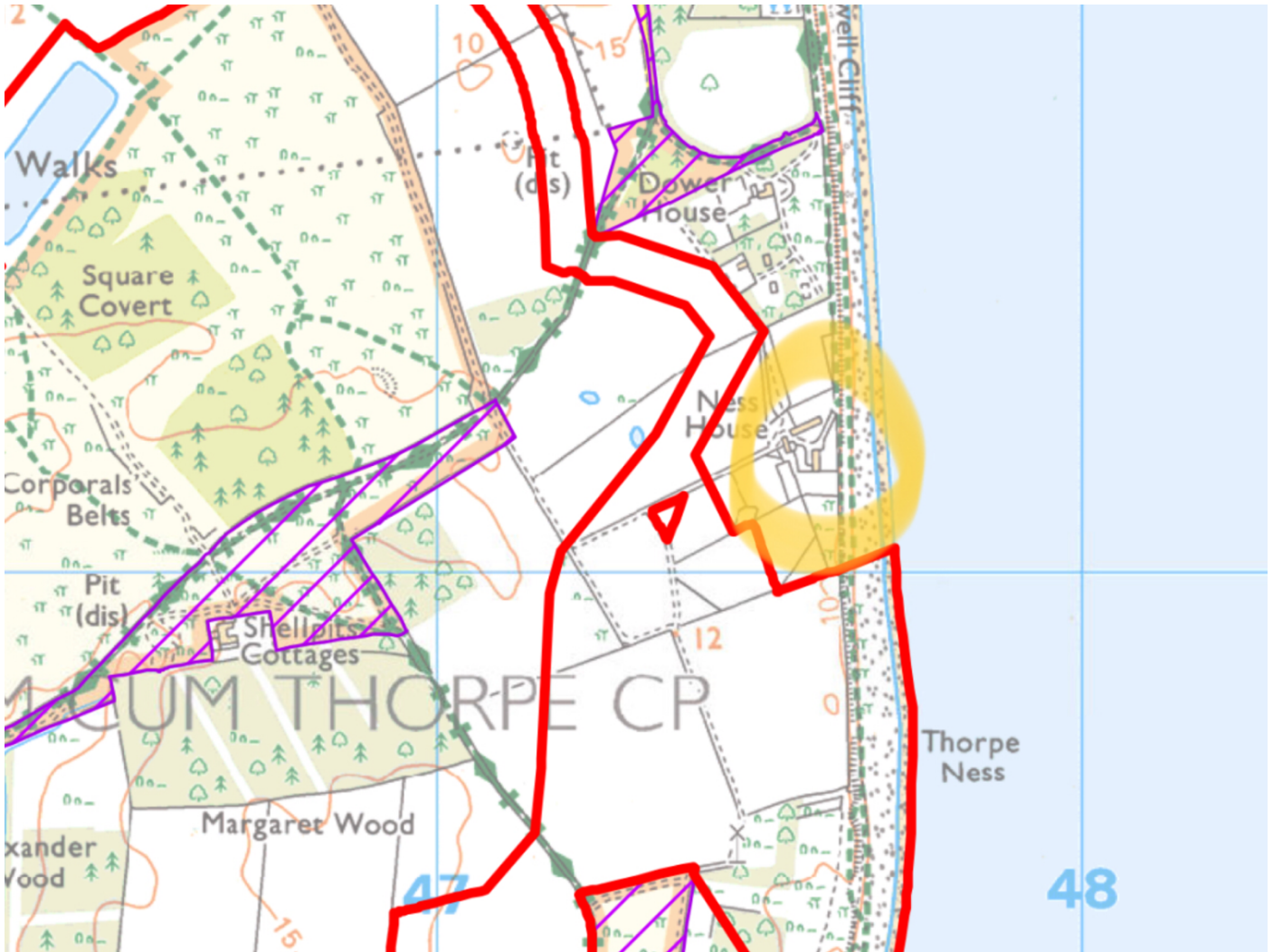


Figure 1.

I preface the following remarks with this statement to be found on page 13 of the EA1N and EA2 Public Sector Equality Statement (REP4-013, which I will address in greater detail later in this submission.

....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.

2. 'EA1N & EA2 Public Sector Equality Statement.

SPR 'S Deadline 4 Submission, EA1N & EA2 Public Sector Equality Statement (REP4-013) states as its purpose in the Introduction, Point 2:

To assist the Secretary of State in discharging its PSED by summarising the relevant baseline information and impact assessment conclusions in respect of East Anglia TWO project and East Anglia ONE North Project (the Projects) and putting these in the context of the relevant Equality Act 2020 Requirements and objectives.

At 2.2.1 of the same document, The Equality Act 2010 and the Public Sector Equality Duty, the Applicants identify the intention of the Act to prohibit discrimination on the grounds of protected characteristics. Of the nine protected characteristics listed here, those that I believe are relevant to this case in respect of the users of Wardens Trust area

1. Age

2. Disability

At point 5, the Applicants identify the requirement upon them to have due regard to the need to

- a) *Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the act.*
- b) *advance equality of opportunity Between persons who share a relevant protected characteristic and people who do not share it.*
- c) *Foster good relations between persons who share a relevant protected characteristic and those who do not share it.*

I take it however that the Applicants have a duty to observe the other aspects of Section 149, points 3 and 4 as outlined above.

3. Intentions of SPRs document.

2.3, Scope and Approach to Assessment, at Point 9, states that this document will assist the Secretary of State in identifying

Impacts which are predicted to result from the implementation of the Projects if consented and provides a qualitative appraisal of the likely or possible effects of these potential impacts on members of the protected characteristic groups (including) a consideration of

- a. *How the Projects could interact with and affect protected characteristic groups including*
 - i. *If they are likely to affect people with particular protected characteristics differently or disproportionately;*

Point 10 clarifies:

A disproportionate equality effect arises when an impact has a proportionately greater effect on protected characteristic groups than on other members of the general population at a particular location (my emphasis).

Points 11 and 12 elucidate further:

11. A differential equality effect is one which affects members of a protected characteristic group differently differently from the rest of the population because of specific needs, or a recognised sensitivity and vulnerability associated with their protected characteristic, irrespective of the number of people affected.

12. In some cases, protected characteristic groups could be subject to both disproportionate and differential equality effects.

My position at this point is that these identified protected characteristics are entirely descriptive of the users of Wardens Trust, and as such the Applicants' duties towards them will be taken into account in their methodologies as will be outlined in this document.

At 2.3.1, Effects Considered, the document explains at Point 14 that it has taken into account among other factors Post Application Relevant Representations (AS-305), and estimates on the basis of this research, drawing on the " professional experience of the Applicants and their consultant team ", that *It is anticipated that , given the nature of the Projects, potential effects will be limited.*

At this point I refer to my own post – Application Relevant Representation (RR-907) in which I refer to the existence at this location of

"Wardens, a Charitable Trust providing services for elderly and disabled individuals and vulnerable children."

According to the methodology described above, this I information would- or should - have featured in the assessment of effects upon the Onshore human environment as listed in Table One.

It is on the basis of the following aspects of **Table 1 Effects Screening** and **Table 2 , Assessment**, that I base my concern that the PSED has not been met in respect of the users of Wardens Trust.

4. Table One.

<u>Topic.</u>	<u>Effects considered in assessment.</u>
Groundwater and Contamination.	Given that no significant impacts were predicted and that there are no outstanding agreements around the conclusions, this topic is not considered further.

While I appreciate that discussions about potential contamination to the aquifer supplying Wardens Trust are still ongoing, I believe that this duty has not as yet been discharged by the Applicant.

Air Quality.	Construction effects upon protected characteristic groups or assets e.g. schools or community facilities . Operational effects were scoped out of the EIA and are not considered to have any potential equality effects.
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At Issue Specific Hearing 4, Onshore Environment, construction and operational effects, Day 2, Air Quality was assessed.

At the beginning of that session, Charlotte Goodman for the Applicants addressed air quality impacts and how they are measured.

And now these air quality standards are health- based....and they do take into account effects on the most susceptible individuals in society. So the young, the elderly and people with health conditions ...so in terms of what effect these short term periods of congestion may have, and yes, there will be potentially higher emissions at those times. But when we look at an annual mean air Quality objective and an annual mean pollution concentration, its unlikely to have a significant effect on that total mean concentration when its only happening for short periods during the day.

I understand that it is traffic that is being discussed here, but I'd like to set this against my primary concern about the individuals with protected characteristics and extreme vulnerabilities, often with breathing, at the site by the cable corridor and close to the Landfall HDD compound where they will be a high concentration of NRMMS (Non Road Mobile Machinery) which will be in use 24 hours a day at times and which produce NoX emissions.

At Day 2 Session 1, Ms Goodman states in respect of the non-road mobile machinery to be situated at Landfall HDD compound, of the document that was presented by the Applicants at Deadline 3, *(this) was in response to a query raised by the council on potential effects on ecological receptors , particularly near the Landfall and at the crossing with Sandlings SPA. These receptors are in close proximity, potentially, to the works that are going to be undertaken in those areas. And therefore they were considered to be of a higher sensitivity to potential effects. And so we did a detailed dispersion modelling assessment of those effects. And those results were presented and interpreted by the ecologist because it relates to ecological receptors. Those plant effects in terms of across the rest of the Cable Corridor... in terms of human health effects are not expected to be significant.*

At this point I'd like to draw attention to the figure NRMMS Emissions Assessment Scenario A Sheet 1, which identifies one particularly affected receptor, E5, *located immediately downwind of the Landfall HDD compound.* This is in the direction of Wardens Trust and the other residences at this location.

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. In the respect of Air quality, it appears that the Applicants have not fulfilled their PSED Requirements in respect of these users with protected characteristics.

Land Use.

...this topic is not considered further.

While I appreciate that there is dialogue between the Applicants and the Trustees of Wardens Trust, I certainly don't feel that the use to which the land is put here currently, in respect of the Trust's users, in terms of walking and having free access to the surrounding countryside, has been considered at all. I'd also refer back to the question as to whether in this case the public benefit outweighs the private loss, and to consider the degree of importance to be attributed to the existing uses of the land which is to be acquired (in terms of the neighbouring land where rights are sought) and its effects upon the Trust which will be encircled by that Work.

Noise and vibration.

Construction or operational effects upon Protected characteristic groups or assets (e.g. schools and community facilities).

We do not believe that the use to which Wardens Trust is put or the extreme sensitivity of individuals with certain conditions, such as Aspergers or autism, to noise, has yet been seriously addressed. I understand that acoustic cushions are proposed; but they are presented as mitigating factors to individuals without protected characteristics, so I don't feel they offer any particular recognition of enhanced responsibility under the PSED.

Traffic and Transport.

Disruption to public transport relied upon by Protected characteristic groups;
Increased journey times/ delay effects for Relevant protected groups due to construction Traffic, and changes to the local road network;
Road safety effects for relevant protected Characteristic groups...due to construction Traffic, severance, changes to local road and Pedestrian networks and new transport Infrastructure.

Please see notes below on this section in **Table 2, Assessment.**

Human Health.

Health impacts from air quality, noise, flood risk Effects. Safety and personal security.

Please see notes below on this section in **Table 2, Assessment.**

Landscape and Visual Aspect.

Although there is potential for some residual Significant impacts i.e upon both landscape and Visual receptors, there is no pathway for a Disproportionate equality effect for any of the protected characteristic groups.
This topic is not considered further.

Not to take this aspect into further consideration fails to address the protected characteristics of users of Wardens Trust under the PSED Section 4.

These users come to the site to benefit from the proven effects of the open spaces and natural beauty. Instead most of the land around them and very close to them will be fenced off with high barriers and acoustic cushions. Their ability to see and orient themselves in that landscape, thus feeling safe, will be hampered. It is highly likely that the fencing, blocking out light and detail, will be experienced as threatening and depressing, which is the opposite of the effect they have come to experience.

Tourism, Recreation and Socio- Economics. Construction .. effects upon community Facilities .

Construction ...effects **upon any organisation Providing a service or product aimed specifically at one or more protected characteristic groups.** (my emphasis).

Please see my remarks under this heading below on comments on **Table 2, Assessment.**

5. Table 2, Assessment .

Air Quality.

In relation to construction effects upon protected characteristic groups or assets (e.g schools or community facilities), The Applicants state:

*The projects have undergone an extensive site selection process ...Key design principles relevant to this include:
. Avoiding proximity to residential dwellings.....*

The Projects have been located in areas where there was a reduced potential to cause disturbance. On this basis, air Quality effects have been assessed as not significant.

The Applicant goes on to outline potential standard mitigation policies, and concludes:

With these management measures in place for each of these effects, there is no predicted differential or disproportionate impact to protected groups.

In relation to residential dwellings, we know that rather than avoiding proximity to residential dwellings, at this site , the Cable Corridor takes a route bringing it into very close proximity, favouring that route over an earlier “ peer “ route which maintained a greater distance from both the dwellings and Wardens Trust.

We know further that as recently as the CAH 3 on 18th March 2021, although they were now in full possession of the facts concerning the regular and residential presence of individuals with protected characteristics at Wardens Trust, namely those with physical and mental disabilities, the elderly , and young people, the Applicants were still adamant that it would not consider moving the corridor further west away from the infrastructure or playing field, on the basis that it would cause “ procedural delay”. I understand that very shortly after that, they may have slightly reconsidered that position. Nevertheless, on this topic, I consider that the Applicants have not and are not fulfilling their duties under the PSED, and that in respect of air quality there will be definite **differential or disproportionate impact to protected groups.**

Water Resources and Flood Risk.

The Applicant here describes measures that will ensure that *there will be no measurable impacts on the receiving water catchment.*

With these management measures in place.. there is no predicted differential or disproportionate impact to protected groups.

In relation to potential contamination of the aquifer upon which Wardens Trust relies, either as a result of HDD ON a perched aquifer or groundwater contamination resulting from pollution caused by the works over the very extensive area of the aquifer, I don't consider that that is fully determined. Therefore I disagree that the users of Wardens, all of whom have health conditions , will not experience differential or disproportionate impacts.

Noise and Vibration.

Although the cable corridor construction will be around 75 metres from Wardens Trust, the Applicants state here that:

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.

The Applicants will *comply with relevant legislation, requirements, standards and best practice relating to construction noise.*

They conclude:

There is no predicted differential or disproportionate impact to protected groups.

Again, Cable Corridor Work will be within metres of Wardens Trust, and HDD, for periods of 24 hours, is sited close by. And again, given the extreme sensitivity that certain mental and physical health conditions can cause to noise stimulation, resulting in fear or anger, I cannot agree with the Applicants Statement that there will be no differential or disproportionate impact to protected groups in respect of noise or vibration.

Traffic and Transport.

Wardens Trust is in a very isolated spot, with very limited access, as the Panel has seen.

There are at present two access routes, one main one adjacent to Plot 13, and a track utilised by the users of Wardens on foot to access the open countryside and lanes in the vicinity, and as emergency access should the main access become blocked in any way.

The Applicants, in failing to recognise Wardens Trust or any of its personnel as an Affected Person, thereby does not recognise any rights in the track, Plot 12, or indeed Plot 14 on the byway.

When transporting the elderly or vulnerable, or those with mental and physical health conditions, predictability, as far as it's possible, and safety are key issues. It's important that journeys do not take longer than anticipated and that as few hold-ups as possible are anticipated. The Applicants however consider that " increased journey times/ delay effects for relevant protected groups due to construction traffic, and changes to the local road network" as not significant. The" temporary roadworks ... short -term traffic management (e.g. traffic signals, diversions) ..will cause minor inconvenience to the travelling public and insignificant driver delays" .

These delays could have more impact upon a vehicle transporting vulnerable individuals to an isolated location with limited access options, surrounded by construction work, which has not been granted any relevant rights in that access.

In respect of emergency services, whose ease of access here is vital, The Applicants determine that there is no impact on emergency service response times. That is difficult to imagine in this location ; indeed in the past it has been necessary that emergency help arrived by air ambulance, landing on an adjacent field. However, should these Projects receive Consent, there will be no available free terrain for a helicopter to land .

It is not at all apparent that the Applicants, in their site selection at this point, have discharged their duty in respect of Wardens users under PSED, or have taken significant steps to recognise and fulfil that duty once they did become fully aware of the protected characteristics of visitors (many or most of whom are residential for a period) to Wardens Trust.

In respect of safety and personal security, please note that in denying Wardens and its users rights to the track (Plot 12) , the Applicants will oblige parties of disabled visitors, some of whom will be slow in moving , to share the single lane access road adjacent to Plot 13, sharing that single track with all traffic passing both ways.

From a safety point of view, this is not viable.

In their assessment of the impacts of traffic and transport delays here, I can't agree that *there is no predicted differential or disproportionate impact to protected groups* as the Applicants conclude.

Human Health.

I have referred above to the significant impacts of noise and vibration and the potential contamination of groundwater and consequently the Aquifer upon people with protected characteristics. Additionally, I'd reference the possibility of 24 hour lighting at the nearby HDD compound.

The Applicants state that their careful selection of site, and other mitigation, result in "*not significant effects*" in respect of human health. That cannot be the case in respect of the users of Wardens Trust.

The Applicants also Reference here, as they have elsewhere in this Examination, the effects of "perceived risk":

In some cases, perception of risk may have a greater impact on health than the hazard itself.

In mitigation, they propose:

Strong communication and provision of information...through the production of a Stakeholder Communications Plan.

Children and adults with certain conditions experience extreme anxiety when confronted with an environment both incomprehensible (fences, large machinery, noise, groups of personnel, restricted movement) and extremely challenging to the senses. This anxiety is very real and distressing, and is not caused by a perception of risk

It is not persuasive that a Stakeholder Communications Plan will offer alleviation to an individual experiencing these stressors in his/ her immediate environment. The Applicants are not taking into account the nature of relevant disabilities.

On this score too I disagree with The Applicants conclusion that in respect of human health, and safety and security, there will be *no predicted differential or disproportionate impact to protected groups*.

Tourism, Recreation and Socio- Economics.

Citing once again the " extensive site selection process" , the Applicants include among its key design principles:

The site selection process has avoided direct effects upon community facilities, places of worship, key services ...etc etc...

Further: (page 13):

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.

Table 27.23 of Chapter 27 Human Health lists Health and Community Assets within 1km of the Onshore Development area.

There are no direct effects upon these properties both of which are outwith the Projects' Onshore Development Area.

The Applicants conclude:

There is no predicted differential or disproportionate impact to protected groups.

Here the Applicants fail entirely in respect of their PSED obligations to the users of Wardens Trust.

Wardens Trust does not appear on the map. The site selection virtually encircles this community asset, coming within 75 m of it. Effects upon this particular organisation providing a service or product aimed specifically at one or

more protected characteristic groups will be disastrous, and not short-lived when one bears in mind the potential cumulative effect of these two Projects and other projects that will follow on, such as the National Grid Ventures' Nautilus Interconnector. The Chairman of the Trust has told the Examining Authority that it is difficult to see how the organisation can survive.

It is difficult to understand how the robust due diligence and extensive site selection processes have failed to identify Wardens Trust as a significant community resource, especially as representations from myself and others have been referencing it and describing its activities and users since the Public Consultation process 2018- 2019, and throughout this Examination.

The failure to include the presence and significance of Wardens Trust from the very earliest processes of site selection at Plot 13, where the Cable Corridor abuts its playing field, means that at no point have the Applicants fulfilled their requirements under PSED to its users. Once the Applicants did appear to recognise the existence and significance of the Trust, any significant attempt to move to fulfil those obligations has in my view not yet been forthcoming.

6. At 4. Conclusions

Paragraph 16 states:

no differentiated or disproportionate impacts on groups with protected characteristics under the Equalities Act 2010 are predicted at any phase of the Projects.

As the impacts on the users of Wardens have not been adequately considered, or considered at all, in all the categories referenced above, I do not think that this statement at 16 is justifiable.

19 states:

The Applicants recognise the potential for protected groups to have less access to Consultation processes, and therefore has built in protections through appropriate site selection and best practice management of construction and operation processes, informed by SPRS previous experience of constructing major infrastructure projects. (my emphasis).

It is true that protected groups have less access to Consultation. However, on this occasion, the Applicants' avowed built in protections, through careful site selection, to those protected groups has resulted in the construction works for two projects being brought within 70 metres of an important and popular resource that serves them, significant both locally and nationally, thereby placing that resource under an existential threat and failing entirely to meet the PSED in the respect of those groups with protected characteristics who have been and we hope will continue to be users of Wardens Trust.

7.Submission.

On all these counts I submit that in their Equality Impact Assessment, The Applicants have not had regard to the steps needing to be taken in respect of groups with protected characteristics as users of Wardens Trust under Section 149 of the Equality Act 2010.

Tessa Wojtczak 26 March 2021.