



## SPR EA1N and EA2 PROJECTS

### DEADLINE 13 - CLOSING SUBMISSION

**Interested Party:** SASES    **PINS Refs:** 20024106 & 20024110

**Date:** 5 July 2021

**Issue:** Draft 1

#### INTRODUCTION

1. The proposed developments comprise three NSIPs, EA1N, EA2 and a National Grid connection hub. The onshore elements of the schemes will have a significant adverse effect on Friston and the surrounding area and will involve the construction of a substantial and visually intrusive substation complex together with a 5 mile cable route passing through an AONB.
2. SASES' case is that the impacts on Friston and the surrounding area are so severe that development consent should be refused. The adverse effects of the proposals are many and varied. The upshot of the use of land at Friston as a grid connection point is that the DCOs would, if granted, authorise the significant industrialisation of the area, in a valued landscape, close to a range of sensitive receptors including the inhabitants of the rural village, and in the setting of several heritage assets including notably a Grade II\* village church.
3. The proposals are not in accordance with the relevant national policy statements (s 104(3) Planning Act 2008). In any event, the adverse impact of the proposals at Friston would outweigh the benefits of proposals (s 104(7) Planning Act 2008). The proposals should be regarded as contrary to the relevant national policy statements and in any event there are compelling reasons to refuse development consent. Alternatively, development consent should not be granted for the onshore cable route and substation. A split decision can be made.<sup>1</sup> A separate DCO application for a more appropriate connection point could then be pursued.
4. The underlying reason why such an unsuitable site has been selected lies in a flawed site selection process in respect of each of the National Grid NSIP and the onshore elements of the EA1N and EA2 NSIPs. The question of alternative locations for the onshore elements of the proposals is important and relevant to the examination because:
  - a. Such consideration is required under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, since the Applicants have purported to exclude alternative locations;
  - b. The significant adverse effects of the proposals as summarised in this submission justify as a matter of law the consideration of alternative means and locations for connecting the proposed windfarms to the grid.

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<sup>1</sup> See by way of example the recent decision of the Secretary of State on the Wheelabrator Kemsley K3 Generating Station and Wheelabrator Kemsley North Waste-to-Energy Facility Order.

5. Furthermore the National Grid NSIP (referred to in this document as the National Grid connection hub) will serve as a connection point for other proposed offshore energy projects, in particular the Nautilus and Eurolink interconnector projects being promoted by National Grid Ventures yet the Applicants have failed to carry out a cumulative impact assessment in respect of any of these projects.
6. Whilst the Applicants have made some adjustments to their mitigation proposals those adjustments have not materially improved the operational impacts. Furthermore key policy issues around site selection, cumulative impact, the use of the Rochdale Envelope, flood risk and noise remain either because they have not been addressed or because they have been addressed in an inadequate manner.
7. The purpose of this submission is to briefly summarise some of the key areas which remain at issue. It is not to be regarded as a comprehensive statement of SASES' position which has been set out in the series of submissions it has made throughout the examination process including its Written Representations on each of the topics below submitted at Deadline 1.
8. Issues have been raised by SEAS in respect of the terms which have been and are being negotiated and agreed with landowners and their impact on the examination process. The issues raised are of concern to SASES and it has followed the exchange of submissions between SEAS and the Applicants. SASES reserves its rights in respect of these matters.
9. SASES was a cosignatory in respect of a submission to the Examining Authorities at Deadline 9 (REP9-089) in respect of the extension of the examination period by three months which was notified to the parties on Thursday 1 April 2021, immediately prior to Good Friday when the examinations were due to end at noon on Tuesday 6 April 2021, the day immediately after Easter Monday. SASES reserves its rights in respect of this matter.

### **Site Selection**

10. SASES's position remains that the site selection process which has resulted in the identification of Friston as the site for the connection to the National Grid is wholly flawed. As a consequence, less harmful alternatives have been improperly excluded. The errors in the site selection process are not limited to the Applicants' own process, but also the means by which the grid connection offer from National Grid, which offered a connection in the Leiston area, and the need to develop a new connection hub was not itself the subject of proper assessment either under EN-1 or the Electricity Act 1989.
11. These matters were discussed at ISH2 and are the subject of a post hearing submission made by SASES (REP3-128).
12. The non-compliance with the Electricity Act 1989 has been the subject of ongoing submissions between the Applicants and SASES, SASES' latest submission being made at Deadline 13.
13. The site selection process was also flawed and contrary policy in EN-1 (and elsewhere) through its failure to comply with the sequential test for flood risk - see further below.
14. In terms of the cable route:
  - a. the Applicants only offered and consulted on a single landfall and potential cable corridor route from landfall to Friston. For example there is no evidence that account was taken of proximity to residences or ecological impact on important Hundred River habitats of the proposed road and watercourse crossing place in Aldringham;

- b. the Order Limits for the 9 Km Onshore Cable Corridor route are 70m wide along most of its length, wider at some points, narrower at others. In their response to CAH3 Action Point 3 [REP8-093], the Applicants argued that the same 70m width of land is required even if only one of the two projects EA1N and EA2 goes ahead. It does not justify such an excessive land take of 35 metres width over the remaining length of the onshore cable route.
15. Broader alternatives arise from the Government's intention to seek better coordination of grid connections for renewable energy projects which is the subject of an ongoing review by BEIS (Offshore Transmission Network Review) which is directly relevant to these proposals. SASES' welcomes the Examining Authorities' focus on this issue and the need for the projects to be flexible to accommodate the changing policy environment and changes in technology.
16. Given the five year duration of the DCOs and the length of the overall construction period of at least 5 years, and at least 2½ years longer if the projects are developed sequentially, it is possible that either both or one of the projects will not be operational for at least 10 years (i.e. 2032 if consent were to be granted in 2022). The Applicants' unwillingness to engage with this issue and think creatively is at odds with the Government's emerging policy in this area and the longer term 2050 objectives for offshore wind. These are recognised to be unachievable if the current environmentally damaging, uncoordinated and inefficient approach to onshore transmission continues, however cheap/"economic" the current approach might appear to be in the short term. These proposals should not be consented in the face of the recognised need for a coordinated approach to grid connection for such infrastructure. In essence, it would be premature to do so whilst a coordinated approach is developed. That is particularly so in circumstances where the proposed connection at Friston would cause significant adverse effects.

### **Cumulative Impact**

17. The Applicants has still failed to adequately assess the cumulative impact of other projects together with the proposed development. Importantly, this is a case where the authorised development would directly enable those other projects by the creation of the National Grid connection hub. It is a striking feature of these applications that they seek consent for nationally significant grid connection infrastructure with a potential capacity well beyond the needs of the two offshore windfarms proposed and even further beyond the needs of one offshore windfarm if only one of EA1N and EA2 is developed.
18. This has been ongoing issue throughout the examination touching as it does on every aspect of the projects. The issue was discussed at ISH2 and was the subject of SASES post hearing submission (REP-126) and subsequent submissions (REP4-113, REP9-075 REP12-120) as well as its written representation (REP1-354). National Grid (through its three divisions NGET, NGENSO and NGV) has engaged with the examinations in a very limited fashion, despite it being the only possible undertaker for the operation of the connection hub.
19. The Applicants have been in denial on this issue throughout the Examinations despite having numerous opportunities to address it. At Deadline 8 the Applicants conducted an exercise to appraise the impacts of the expansion of the National Grid substation to accommodate the NGV projects. They have admitted that this is not a cumulative impact assessment and it is demonstrably not since it omits to assess a number of key issues, not least flood risk. See SASES submissions at Deadline 9 in respect of this appraisal and at Deadline 12 in reply to the Applicants responses to ExQ 3 (REP9-075 and REP12-120).
20. In relation to the windfarm extension projects now known as Five Estuaries and North Falls, from a recent meeting at PINS the connection location for North Falls is far from settled as the developer is progressing a potential onshore location in the Tendring district of North Essex

but this is at its own risk - see SASES submission at Deadline 12 on Cumulative Impact (REP12-120). In the absence of a connection offer from National Grid it is entirely foreseeable that if the National Grid connection hub at Friston is consented then National Grid's obligations under Electricity Act 1989 would require the possible connection locations to be re-evaluated. If so the connection location for North Falls and Five Estuaries could well be moved back to Friston which, as the Applicants confirmed, was to be the original connection location for North Falls.

21. In this context it must be remembered that the original connection location for EA1N and EA2 was at Bramford but, for reasons which have never been entirely clear, was moved to Leiston which was subsequently interpreted to be Friston near Saxmundham.
22. The consideration of these issues has been greatly hampered by National Grid's (NGESO) failure to directly participate in examinations and their refusal to disclose CION assessments other than in a highly redacted form or more recently not at all, and then only in response to formal requests under the Environmental Information Regulations. This lack of transparency is of particular concern since Ofgem has expressly stated in correspondence that it does not oversee the connection of that process (REP3-130) and takes no responsibility for ensuring environmental impacts are addressed (REP3-131). As summarised in SASES' submissions on the Electricity Act submitted at Deadline 13, if there is no regulatory oversight of the CION process, the decision-making necessarily falls to be scrutinised in the planning process, through these examinations. Neither the Applicants nor National Grid (NGESO) have facilitated examination of these matters. Accordingly, there has been no proper justification for the narrowing of the consideration of alternatives to the "Leiston area" (i.e. interpreted as Friston). The Secretary of State will no doubt wish to be satisfied that the CION processes have been carried out in accordance with the statutory duties in the Electricity Act, and in accordance with the licence-holders duties. There is no evidence that they have been.
23. Other indications that the National Grid infrastructure will serve other projects are (i) that the National Grid substation and other infrastructure will not be reduced in size if only one of the Scottish Power projects is constructed and (ii) the absence of any reasonable explanation as to why a connection to all four circuits on the Sizewell to Bramford line is necessary resulting in three large cable sealing ends and (iii) why infrastructure is necessary at Friston to disconnect/break one of those circuits which requires the construction of the largest cable sealing end placed in a very visually intrusive location with a visually intrusive additional pylon and cabling both down to and up from this cable sealing end.
24. Given that the Applicants assert that the entirety of the National Grid infrastructure will be required for each project, the environmental impacts of the National Grid infrastructure will need to be assessed against the generation capacity (as stated in the DCO) for each project, currently 100MW.

### **Landscape & Visual**

25. Friston has a strong sense of place and local distinctiveness and its selection is the result of a flawed site selection process as set out above.
26. In addition to its written representation on landscape submitted at Deadline 1 (REP1-365) landscape matters were discussed at ISH4 in respect of which SASES made a post hearing submission (REP3-133, REP3-135). A variety of other submissions on landscape matters have been made by SASES during the examinations including on new material/photomontages submitted by the Applicants during the course of examinations and in response to ExQs.

27. During the course of the examinations the Applicants have proposed a small reduction in the area of the EA1N and EA2 substations but there has been none in relation to the National Grid substation or cable sealing ends which have been described in correspondence from National Grid solicitors as “standard” (REP3-127). There have also been reductions in the height of the EA1N and EA2 substations but none in respect of the National Grid infrastructure aside from a 0.7 m reduction in the finished ground level of the substation. However any reduction in finish ground levels is speculative and is in no way secured in the DCO where finished ground levels are not specified and AOD heights are not secured in the DCO. Furthermore National Grid has confirmed that there will be no reduction in size of the National Grid substation or the three cable sealing ends if only one of EA1N or EA2 is constructed.
28. Given these limited changes the position remains that the Applicants have:
- a) materially understated the adverse impact on the landscape and visual receptors;
  - b) relied upon visualisations, which despite some improvements during the course of the examination, still underrepresent the impact of the projects and which have failed to include all key features based on a predetermination by the Applicants of what they consider to have a visual impact (REP11-177);
  - c) failed properly to acknowledge that the landscape impact might be prolonged and uncertain given the site will be a construction site for a substantial period of years depending on how the three NSIPs are sequenced.
29. In terms of mitigation whilst the introduction of the Substations Design Principles Statement is an improvement, not least as it applies to all parts of the projects, that statement and the design requirements in the DCO have a number of flaws - see further section on Rochdale Envelope and Design below.
30. In terms of mitigation the Applicants continue to propose a tree planting regime nearly all of which will not be implemented until after construction is finished (after a prolonged and uncertain construction period) and relying on tree growth rates which remain optimistic notwithstanding the proposal to introduce an ill-defined “adaptive maintenance regime”. Mitigation which is largely dependent on growth rates cannot be regarded as sufficiently secured if the Applicants do not have a direct obligation to ensure that those growth rates are achieved.
31. As set out in SASES’ Comments on National Grid Substation Extension Appraisal (submitted at Deadline 9 REP9-075)) the landscape and visual impacts are substantially worsened by the extension of the National Grid substation for the NGV interconnector projects.
32. Accordingly the adverse impacts of the proposed schemes are so damaging that they would not be offset by the benefits of the proposals in respect of landscape and visual impact, contrary to EN-1 (5.9.15). It follows that the proposals should be refused as being contrary to the relevant NPS, and because the adverse impacts outweigh the benefits.

### **Flood Risk**

33. As previously stated Friston is already vulnerable to and suffers from regular pluvial stormwater run-off flood water and sediment inundation including from the substations site. The proposals result in significant new hard surfacing, infrastructure and ground works which will have an adverse impact on flood risk contrary to national planning and energy policies and the local flood management strategy.

34. A fundamental error was made by the Applicants in the site selection process by failing to consider surface water flood risks. These were simply not considered in the site selection process, a point which the Applicants have failed properly to explain or justify subsequently. As a result, there has been a complete failure to implement the Sequential Test. The development has not been directed to a location where flood risk can be avoided (REP8-226 and REP8-227). The inadequacy of the Applicants' approach to flood risk is that it has had to be examined at issue specific hearings on three occasions at ISH4, ISH11 and ISH16 in respect of which SASES submitted post hearing submissions ISH 4 (REP5-100), ISH11 (REP8-226, REP8-227) and ISH16 (REP11-170, REP11-171).
35. Aside from the failure to apply the Sequential Test, the Applicants' approach to flood risk assessment has also been flawed. For a considerable period of time, the Applicants did not consider that flood risk impact assessment and mitigation needed to look at both Peak flows and Total flow volumes leaving the post- development site. The Applicants finally recognised (Deadline 6) the need to consider both issues – and used the QBAR (1 in 2.3 Year Return Period) as a maximum rate for discharge. SASES rejects this approach because no analysis has been conducted of actual Qbar at the site and further that that it is not known whether discharging at Qbar will not increase flood risk in Friston.
36. The Applicants have failed to apply the Source-Pathway-Receptor principle to assess flood risk, including the vulnerability of residents in the village of Friston.
37. The Applicants have had the benefit of the extension of examinations to try and remedy its defective Environmental Statement and assessment of flood risk. Whilst it has carried out infiltration testing, this testing has not complied with the applicable guidelines, is defective and therefore should not be relied upon for assessing the feasibility of flood risk mitigation measures (REP12-118)
38. The Applicants now propose an attenuation only option for the northern SuDS basin and a hybrid solution for the southern SuDS basin contrary to the SuDS hierarchy (REP12-118). This is on the basis of discharge from the SuDS basin at Qbar. However Applicants have failed to monitor rainfall or flow levels and velocity in the Friston Watercourse and therefore cannot show that discharge at Qbar is viable.
39. In terms of the hybrid solution no assessment has been made of groundwater levels to assess that infiltration will not increase groundwater flood risk. SASES has made a number of submissions concerning groundwater flood risk the most recent of which is SASES Deadline 13 submissions on Flood Risk.
40. The Applicants have not demonstrated the feasibility of the outfall pipe which is to pass under Church Road to discharge water from the SuDS basins into the Friston watercourse and even if this mitigation is possible this may mean a solution involving works and land outside of the order limits see SASES Deadline 13 submissions on Flood Risk.
41. The Applicants' assessment of the required drainage for the wider construction area and the increased turbidity of the run-off remains wholly inadequate despite having a further opportunity to address this issue as a result of the extension of the examinations. (REP8-226, REP8-227, REP9-080, REP11-170, REP11-171, REP12-118)
42. In the context of construction flood risk the concerns relate not only to the construction period itself but also the pre-construction works because these works include "site clearance". The resulting de-vegetation will increase surface water run-off and its turbidity and therefore flood risk.

43. The comments from the Environment Agency are of concern (REP12-085). First there is the refusal of the Environment Agency to take responsibility for inspection and maintenance of the watercourse which is critical to the effectiveness of flood risk mitigation. Second the failure to clearly state that the watercourse will require inspection and maintenance, the expression used is “any” which implies that in fact inspection and maintenance may not be necessary. Third the lack of clarity as to who will have responsibility for inspection and maintenance given there will be at least three undertakers at the site where the outfall will be a shared resource and where one of the SUDS basins will also be a shared resource. The Applicants’ late and inadequate response to flood risk issues does not give confidence that inspection and maintenance will be properly addressed.
44. As set out in SASES’ Comments on National Grid Substation Extension Appraisal the flood risk is significantly worsened by the extension of the National Grid substation for the NGV projects by increasing the amount of hard surfacing and reducing the land available for SuDS basins, further weakening the Applicants’ flood risk mitigation strategy.
45. The ExA should conclude that the proposals are contrary to paragraphs 5.7.9 and 5.7.17 of EN-1. The FRA is not appropriate. The Sequential Test has not been applied as part of site selection. Priority has not been given to SUDS. The ExA cannot be satisfied that the proposals will be safe and not increase flood risk elsewhere.

### **Cultural Heritage**

46. The substation site is ringed by seven listed buildings including the church of Saint Mary the Virgin, Friston a Grade II\* listed building. These heritage assets do not exist in isolation and are all part of a significant area of historic landscape which lies immediately to the north of the village of Friston (which are linked by a historic footpath) and which is directly and significantly affected by the proposals.
47. As set out in SASES written representations submitted at Deadline 1 (REP1-366) and subsequent submissions, the Applicants’ assessments underestimate the heritage impact of the proposed schemes and undervalue the contribution made by setting to each of these heritage assets resulting in a much lower assessment of the adverse heritage impact. The Applicants have downplayed the significance of the non-designated historic footpath which links the village to the listed farmhouses to the north and the severance resulting from its elimination by the substations and cable sealing ends and their related landscape planting. Furthermore the visualisations are highly selective and do not include key views. On a proper assessment, the harm to designated heritage assets is far greater than that suggested by the Applicants.
48. A particular concern is the Grade II\* Saint Mary the Virgin Church and SASES endorses the views of Historic England with regard to this listed building and generally.
49. Whilst the Applicants have made attempts to reduce the heritage impact of its proposals through reducing the footprint and height of the Scottish Power substations together with an immaterial and unproven 70 cm reduction in the finished ground level of the National Grid substation this does not reduce the heritage impacts.
50. As set out in SASES’ Comments on National Grid Substation Extension Appraisal the extension of the National Grid substation can only serve to increase the harm to the heritage assets (REP9-075).
51. Only the impacts of the operational phase of the schemes are assessed in detail. The failure to include the construction and decommissioning phases is a significant omission and a failure on the part of the Applicants to meet its obligations under paragraph 5.8.10 of EN-1.[ref] The

outline landscape mitigation plan does nothing to reduce the heritage impacts of the schemes in any meaningful way.

52. In relation to archaeological matters SASES agrees with and defers to the views of SCC.
53. There is a statutory duty for the ExA and the Secretary of State to have regard to the desirability of preserving the setting of these listed buildings, and in doing so give great weight to their preservation with a presumption in favour of conservation (EN-1, 5.8.14, and regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010). The setting impacts of the development, by reason of its scale and industrial nature, are towards the upper end of “less than substantial harm”. The impacts cannot be justified by the benefits of the proposals, particularly in light of the failure on the part of the Applicants to demonstrate that other connection options are not available. Accordingly, on this issue again the proposals should be regarded as contrary to EN-1.

### **Noise**

54. In terms of construction noise material improvements have been made principally through following the control mechanisms provided for under S 61 of COPA as recommended by SASES. This is reflected in the Outline Code of Construction Practice submitted at Deadline 8 although reduced working hours have not been properly reflected in the draft DCOs.
55. In terms of operational noise, the issues have principally arisen from the Applicants’ failure to prepare a noise assessment in accordance with policy. These issues were most recently discussed between the Applicants, ESC and SASES’ expert Rupert Thornely-Taylor and a note of that meeting was submitted at Deadline 12 (REP12-122) .
56. In terms of Operational Noise aside from its written representations and other noise submissions, SASES refers to its post ISH12 submission (REP8-220) and subsequent submissions (REP9-082, REP12-122 and SASES Deadline 13 submission on Noise).
57. In essence the Applicants’ assessment of background noise is flawed and has chosen to ignore without valid reason the noise measurement at the quietest location SSR 9. East Suffolk Council has similar concerns as to the understatement of background noise. However without technical justification it has chosen to agree a noise requirement. The background noise figures presented by the Applicants still have to be regarded as unreliable.
58. SASES having considered the results of SSR9 is prepared to agree an operational noise limit of 30dB. The arguments which the Applicants have put forward in favour of their 31/32 dB limits are:
- a) the differences between 30dB and 31/32dB are negligible; and
  - b) 31/32 dB is the lowest level that can be achieved with the plant and equipment which can be sourced.
59. Neither of these reasons is supportable. If the differences are negligible then the Applicants should have no difficulty in accepting SASES’ proposed noise limit. In respect of (b) the level of sound emissions from plant and equipment which are currently available is completely irrelevant and simply serves to heighten the concern that there will be significant adverse effects from noise.
60. The Applicants have not fully addressed the impulsive noise from the switchgear in the National Grid infrastructure and this remains an area of major policy non-compliance. The Applicants have chosen not to enquire as to the plant and equipment which National Grid will



install in the substation extensions and therefore it cannot be ruled out that further switchgear will be installed increasing the overall frequency of switchgear operation. All that has been stated is that there will now be no noise except in an emergency or during emergency testing, but there is no definition of an “emergency”, the likely frequency of occurrence and how often testing takes place. In the absence of any clarification the noise emissions from the switchgear have to be regarded as non-compliance with policy.

61. In relation to the noise requirement agreed by the Applicants and ESC this cannot be regarded as a requirement that will avoid significant adverse effects. Fundamentally the noise level is too high. Further the requirement does not assess noise impact at Saint Mary the Virgin Church, the conditions under which noise testing should take place are not adequately specified and it is unduly restrictive in terms of the locations and times when measurement should be taken, which may result in an inadequate assessment of noise levels, particularly in the longer term.
62. The proposal to address tonality issues and other effects post consent through a redrafted Requirement 12 and a provision in the Substations Design Principles Statement is contrary to law and policy as it is deferring the feasibility of whether the noise requirement can be achieved until after consent. Furthermore the drafting of Requirement 12 is not sufficiently specific to ensure that tonality and other noise affects are properly addressed.
63. In short the Applicants have not conducted a noise assessment which is compliant with policy and the revised noise requirement does not prevent non-compliance with policy. The proposals are therefore contrary to paragraph 5.11.9 of EN-1 which states that development consent should only be granted if the decision-maker can be satisfied that that the proposals would meet the aims of avoiding significant adverse impacts, mitigating and minimising other adverse impacts, and where possible contributing to improvements in health and quality of life through the effective management and control of noise. The failure to meet these principles – which reflect the Noise Policy Statement for England – justifies the refusal of development consent.

### **Land Use**

64. Scottish Power’s during examination conceded that the operational impact of the authorised projects on land use is major. The impact is contrary to the requirements of EN-1 which at paragraph 5.10.8 states that “Applicants should seek to minimise impact on the best and most versatile agricultural land (defined as land in grades 1, 2 and 3a of the Agricultural Land Classification) and preferably use land in areas of poorer quality (grades 3b, 4 and 5).
65. SASES continues to rely on its written representation made a Deadline 1.
66. Scottish Power has also failed to address the cumulative impact of the further developments that will take place at the substation complex site and in the neighbouring area and the National Grid Substation Extension Appraisal takes no account of additional land take that will be required near the Friston site for the National Grid substation extension or for the converter stations and the inevitable landscape mitigation which will be required.

### **Design & Rochdale Envelope**

67. There are a number of aspects of design. Much of the focus during examination has been on the detailed design of the substations and National Grid infrastructure at Friston. During the course of examination there has been discussion of the concerns around the conceptual design of onshore infrastructure which has led to the establishment by BEIS of the Offshore

Transmission Network Review. This and other comments, including recently in Parliament, clearly indicate that the current design approach of separate radial connections for each windfarms is not sustainable. Therefore to consent a form of infrastructure now which could well last in the landscape for 40 years does not meet the policy requirements for sustainable infrastructure.

68. In terms of detail design the Rochdale Envelope approach adopted by the Applicants has resulted in a development area which may be materially oversized SASES has made a number of submissions on this topic (including REP3-132, REP9-078, REP10-058 and REP11-177) with comparisons to other development which demonstrates this. The Applicants dismiss these comparisons on the basis that they are not relevant but yet they themselves have relied upon their approach to EA1. The consequences of this are particularly significant because of the history of downsizing offshore wind projects (Appendix 1 of the SASES Design Written Representations REP1-357) with a result that substantially less land may be required but none is relinquished. In addition there have been extensive written and oral submissions in relation to operational land and permitted development rights, SASES most recent submission being made at Deadline 12 (REP12-123).
69. Although there has been progress with the introduction of the Substations Design Principles Statement, there remain concerns that the substations proposed are oversized particularly so given the “standard” approach adopted by National Grid which is commented on above. Also no justification has been provided for the size or number of sealing ends particularly the largest and most intrusive sealing end which contains a circuit breaker. Reference to other wind farm projects of similar capacity (e.g. Hornsea One) suggests that the Applicants’ Rochdale Envelope proposals may be overly conservative and that the proposed overall land take may be excessive.
70. As stated in SASES submissions on the Substations Design Principles Statement and at ISH17 (REP1-175) there should be provision for independent design review including by suitably qualified consulting engineers to ensure that the least harmful power engineering design and apparatus selection has been proposed for the purposes of the EA1N and EA2 projects when detailed approval is sought under Requirement 12.
71. The recent National Infrastructure Design Principles document from the National Infrastructure Commission is highly relevant and authoritative and the Applicants now makes enthusiastic reference to it on page 4 of the SDPS. The National Infrastructure Design Principles (page 5) recommend the establishment of a Design Review Panel for all NSIPs and such an approach would meet SASES request so long as it included independent participants with relevant Engineering expertise. It is noted that the Applicants has objected to similar proposals when made previously by SASES and has instead reiterated their intent of allowing only limited aesthetic review by the Design Council rather than by a Design Review Panel including Engineering expertise. And in any case the Applicants have repeated their intent of reusing the substation design developed for the East Anglia 1 substation at Bramford rather than investing in an optimal design for the much more sensitive Grove Wood site, which makes the need for independent oversight to achieve “good design” all the more critical.
72. Good design is a central component of EN-1 (see for example 4.5.3). The failure to demonstrate that the requirements of good design are met, or are capable of being met in light of the controls proposed by the Applicants, amounts to a failure to comply with the relevant NPS.

## PRoWs

73. SASES made its first submissions on footpaths at Deadline 1 (REP1-346) These submissions focussed on the **permanent** closure of Footpath 6 (E-354/006/0) leading north of the village of Friston, its high amenity value and importance as an historic Parish and Hundred Boundary (Non-designated Heritage Asset). There has been no change to this status during the course of the Examination and it is contrary to policies at paragraphs 5.10.2 and 5.10.24 of the NPS-EN-1 regarding recreational facilities. It is also contrary to the policies contained at 5.8 of EN1 regarding the historic environment and removes important views of the Grade II\* Church from the north. These issues were not given sufficient weight during the site selection process.
74. The proposed alternative route to FP6 has changed several times during the course of the Examination, particularly in relation to Grove Road, where the footpath is currently shown on the boundary of the road/substation site and is said by the Applicants to be subject to 'micrositing' post-consent. The new route will remain negatively impacted both visually and audibly by the presence of the substations, and the pre-existing peace and tranquillity will be lost. This is contrary to NPPF Policy 98 which seeks to protect and enhance PRoWs.
75. The Applicants have failed to respond to questions on how they intend to keep the PROW network on the substation site open during the construction phase. There is a high degree of uncertainty that connectiveness could be maintained.
76. There remain 26 PRoWs along the cable route subject to temporary closure, which will be detrimental to the amenity of local users and to the visitor economy. This again is a site selection issue resulting from the Applicants' choice of the most far western zone.
77. With regard to the Pre-construction Works, SASES welcomes the adoption of S.61 to cover these works. However it is not sufficiently clear within the DCO as to the control of the Applicants' vehicles' use of the PRoWs as access roads. There is a potential conflict here with regard to the engagement of the Public Rights of Way Strategy.
78. PRoWs were only discussed briefly during the Examination at ISH4. Due to a shortage of time only a short statement was possible from SASES' Counsel. The issues regarding both permanent and temporary footpath closures have therefore not been fully explored in a hearing and remain a serious issue. SASES followed up ISH4 with a Post Hearing Submission at Deadline 5 (REP5-100).
79. EN-1 recognises that rights of way are important recreational facilities and that Applicants must take appropriate mitigation measures to address adverse effects on them. For the reasons explained by SASES, the Applicants have failed to do so. Accordingly the applications are contrary to EN-1 in this respect.

## Ecology

80. In respect of offshore matters, SASES defers to the submissions of Natural England.
81. At ISH7 Brian McGrellis on behalf of the Applicants clearly stated there were no badger setts within the Order Limits. The unredacted submissions from SASES (REP3-144, REP6-129 and REP12-) clearly show the locations of the badger setts on the site.
82. Natural England in REP8-162 para 21 commented on the revised OLEMS (REP6-007 v3) that the Applicants had changed the wording relating to badger setts from "*avoidance by micrositing*" to "*destruction*". SASES supports Natural England that this change is of **major concern**.

83. The latest version of the OLEMS of 14<sup>th</sup> June 2021 (AS-) at Section 6.6, paragraph 253 onwards still refers to the **destruction** of the badger setts and no mitigation is offered.
84. This is contrary to the Applicants' response to WQ3 3.2.29 on which SASES have commented at REP12-. SASES notes that this response does not oblige the Applicants to create such an artificial sett and this is not secured in the DCO. The risk of total destruction of this large colony of badgers without mitigation is therefore high.
85. Natural England have stated at D12 that they are unable to progress necessary licences for destruction of the setts before the end of the Examination. It is clear therefore that the significant issue of the badger setts on the substation site is unresolved.
86. SASES also supports Natural England in its concerns over farmland birds, including red-listed Skylarks and Yellowhammers on the substation site.
87. High frequency sound data with regard to bats has not been provided by the Applicants and remains of concern to SASES as at least 5 species of bat have been recorded within the substation site.
88. The Applicants criteria for Important Hedgerows to not match Government regulations as set out SASES' submission (REP7-092).
89. The Applicants' dismissive approach to the protection of badgers, bats and other wildlife remains of concern to SASES. The Examining Authority is therefore asked to fully consider the adverse effects to ecology due to the destruction of this tranquil and diverse habitat.
90. SASES remains concerned regarding the Applicants' dismissive approach to the protection of badgers, bats and other wildlife on the substation site and believes insufficient attention has been paid to this matter during the Examination.
91. SASES has previously noted in Appendices 4 and 5 of [\[REP7-089\]](#) a number of important inaccuracies within and omissions from the Applicants' 2018 Extended Phase 1 Habitat Survey - Part 1 [\[APP-503\]](#) regarding the Works No 19 section of the proposed cable route. SASES does not understand why this sensitive area of the Aldringham River Hundred Special Landscape Area was not properly surveyed at that time.
92. The correct classification of the riparian woodland between the west bank of Hundred River and Aldeburgh Road is highly important to biodiversity in the area. The loss of trees and vegetation from it would inevitably be damaging to this special habitat and cannot be mitigated or compensated by planting such as the Applicants propose in Works no 24 which is a totally different and unsuitable arable land environment 800m distance to the west. This would appear not to be compliant with NPS EN-1 para 5.3.4 "*The Applicants should show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests*" and with EN-1 5.3.8 that "*the FPC should ensure appropriate weight is attached to ..... habitats and other species of principal importance to the conservation of biodiversity ..... and within the wider environment*". Replacement of wetland trees by dry land species elsewhere would be contrary to UK Government's 'A Green Future: Our 25 Year Plan to Improve the Environment (2018)' and 'deliver biodiversity net gain on infrastructure projects'.
93. SASES does not accept [\[REP12-117\]](#) that the results presented in the Applicants' February 2021 and May 2021 'walk over' ecological surveys [\[REP6-035\]](#) and [\[REP11-063\]](#) are sufficient to confirm the Applicants' conclusion that the riparian woodland between Hundred River and B1122 is not Wet Woodland. Important questions remain unanswered. See SASES [\[REP12-117\]](#) and also SEAS [\[REP12-128\]](#).
94. The Examining Authority is therefore asked to fully consider the adverse effects to ecology due to the destruction of this tranquil and diverse habitat. EN-1 requires development to avoid

significant harm to biodiversity (5.3.7). The Secretary of State is under a duty to have regard to the purpose of conserving biodiversity. The significant adverse impacts on biodiversity from the proposals should be regarded as inconsistent with these aims and thus contrary to the policy.

### **Transport & Traffic**

95. Whilst greater clarity has been brought to the subject through the examination process this remains of serious concern to the local community. In particular the increased risk of accidents and congestion at the A12/A1094 Friday Street junction. The mitigation proposed in terms of safety at Friday Street could well lead to further congestion on the A12 with the resulting migration of traffic to the rural lane network with the attendant risk of accidents and congestion elsewhere. This will be particularly acute during the peak tourist seasons where many events take place. These matters all weigh against the grant of development consent. The views of the local highways authority are noted but fundamentally their analysis is desk based.

### **Tourism & Socio-Economic Issues**

96. The Applicants have failed to carry out a robust assessment of the socio-economic impacts of these projects on the local economy particularly the tourist economy (REP5-101 Agenda Item 3). This is all the more concerning because the Applicants have demonstrated a concerning lack of familiarity with the area (including its geography) and why visitors are drawn to it - see the Applicants' comments on SASES' ISH5 Post Hearing Submission and SASES' response (REP8-232).

97. In terms of the benefits to the local economy these are far from proven and in fact the benefits which have been delivered from EA1 and EE3 are very limited. A telling fact is that in the seven years since the original promotion of EA1 only two apprentices have been recruited by Scottish Power of whom only one is from Lowestoft. The onshore elements of these proposals provide no lasting employment.

98. The sums payable under the proposed Section 111 Agreement and the Memorandum of Understanding cannot be taken into account in the benefits case as rehearsed during examinations. Further there has been no economic or other financial analysis against which the level of these payments can be judged to be of sufficient value.

### **Construction**

99. Whilst the reduction in working hours is welcome (although this has not been secured in the DCO) and there has been an improvement in the approach to noise, this does not alter the fact that the construction is being conducted next to a quiet rural village on a site surrounded by residential properties. Further the Applicants have demonstrated an inability to exercise proper control over its contractors in respect of the simple survey works that are currently being conducted on the site (REP11-174)

100. The impacts from construction are exacerbated by the fact that separate consents are being sought for two projects which may well be built sequentially. There could be an extended construction period of at least seven years bearing in mind that the preconstruction works of 15 months include site clearance which for all practical purposes is construction.

101. The noise, vibration, light pollution, dust, air pollution, traffic, risk of flooding, loss of footpath and open space, will result in a substantial loss of amenity, disruption to people's lives and the community life of the village.

### **CONCLUSION**

102. In light of the matters set out above, the Examining Authorities should recommend the refusal of development consent for each project. The proposals are contrary the national policy in EN-1 in a number of material respects. The totality of the adverse impacts of the proposals weigh decisively against the proposals. There has been a failure to provide adequate environmental information on a number of matters including the cumulative effects of the proposal, which means that a determination in favour cannot lawfully be made.