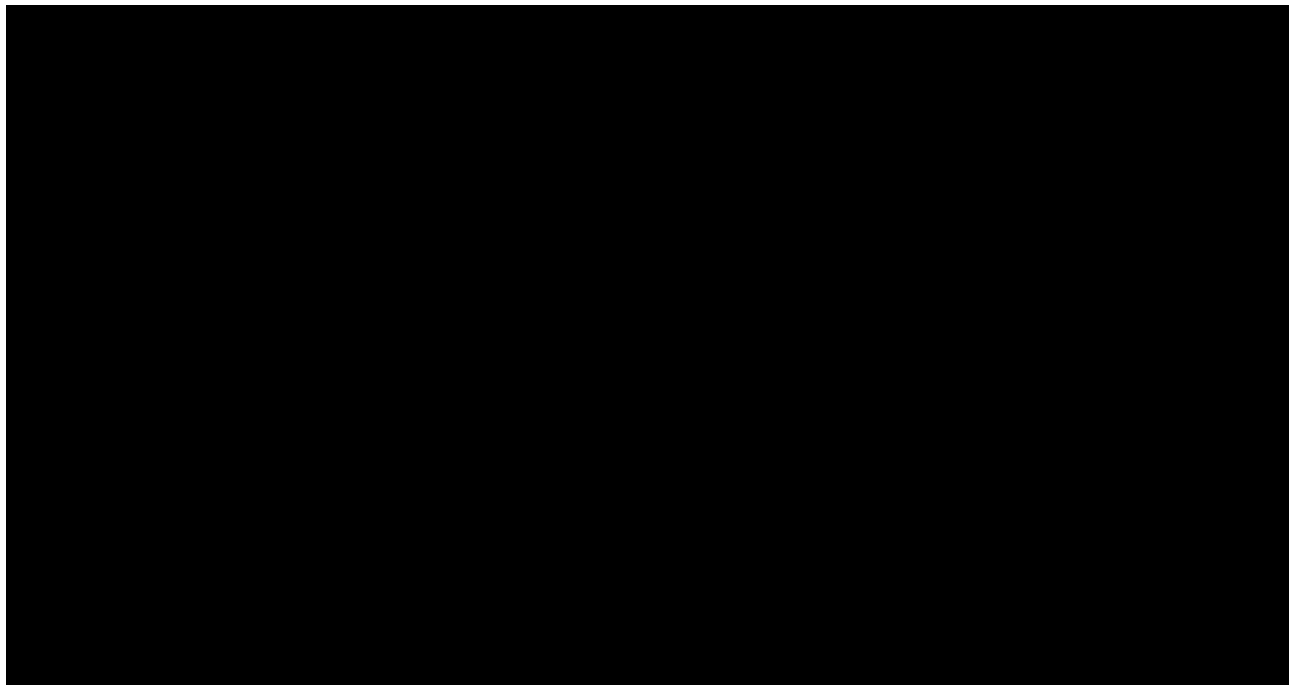


From: [REDACTED]
To: [EIP Internal Correspondence \(Energy Security\)](#); [REDACTED]
Cc: [REDACTED]
Subject: FW: Post-Examination Representation: For EN010117 – Rampion 2 Offshore Wind Farm
Date: 01 November 2024 16:30:15
Attachments: [image002.png](#)
[Post- Examination Representation - Rampion 2 EN010117 - bv PCS 30 Oct 2024.pdf](#)

OFFICIAL



OFFICIAL

From: SpAds Office (Energy Security) <Spads.Office@energysecurity.gov.uk>
Sent: 01 November 2024 16:16
To: EIP Internal Correspondence (Energy Security) <EIP-correspondence@energysecurity.gov.uk>
Cc: [REDACTED] (Energy Security) <[REDACTED]@energysecurity.gov.uk>; [REDACTED] (Energy Security) <[REDACTED]@energysecurity.gov.uk>
Subject: FW: Post-Examination Representation: For EN010117 – Rampion 2 Offshore Wind Farm

OFFICIAL

Hi David, team,

As discussed, please see correspondence to SpAd Jonty on Rampion 2.

Best,
George

[George Whelan](#) | Senior Private Secretary and Head of SpAds' Office | [Department for Energy Security and Net Zero](#) | [\[REDACTED\]](#) | [SpAds.Office@energysecurity.gov.uk](#) | You can find guidance on our submission and briefing templates [here](#).

OFFICIAL

From: [secretary@protectcoastalsussex.org](#) <[secretary@protectcoastalsussex.org](#)>
Sent: 31 October 2024 09:04

To: Leibowitz, Jonty (Energy Security) <[REDACTED]@energysecurity.gov.uk>
Cc: SpAds Office (Energy Security) <[REDACTED]@energysecurity.gov.uk>
Subject: Post-Examination Representation: For EN010117 – Rampion 2 Offshore Wind Farm

Dear Mr Leibowitz,

We share this Post-Examination Representation sent to the Secretary of State yesterday with you. We understand you are the Minister's special advisor on NetZero and Clean Power 2030.

The correspondence says, "We wish to draw your attention to several important considerations when you and your officials review the Rampion 2 Examination Authority findings and recommendations".

Thank you kindly.

Yours sincerely,
Secretary, Protect Coastal Sussex (PCS)
IP Registration # 20044835

<https://www.protectcoastalsussex.org/>

On behalf of the Co-Chairs and members of PCS
From affiliated Community Organisations all registered as Interested Parties in the Rampion 2 DCO

PS: Kindly note that the PCS website will be back on-line shortly. Apart from technical material on the PCS website, the About Us tab notes:

We are a group of people who live and work in Coastal Sussex. We care about our environment and our local economy. We are in contact with numerous Town Councils, Local Councils, Environmental Groups and Community Organisations and work closely with our local Members of Parliament and local landowners. We encourage all south coast and Sussex residents interested in speaking out for genuine environmental stewardship and sustainable development to engage with the Rampion 2 DCO process.

----- Original Message -----

From: secretary@protectcoastalsussex.org
To: "secretary.state@energysecurity.gov.uk" <secretary.state@energysecurity.gov.uk>
Date: 30/10/2024 20:03 GMT
Subject: Post-Examination Representation: For EN010117 – Rampion 2 Offshore Wind Farm

Rt Hon Edward Miliband
Secretary of State
Department of Energy Security and Net Zero (DESNZ)
secretary.state@energysecurity.gov.uk

30 Oct 2024

Dear Minister,

We write on behalf of a coalition of community organisations in the South of England to submit our Post-Examination representation on the Rampion 2 offshore windfarm Development Consent Order (DCO) Application (attached).

We are registered as interested Parties for this DCO Application.
For EN010117 – Rampion 2 Offshore Wind Farm

We wish to draw your attention to several important considerations when you and your officials review the Rampion 2 Examination Authority findings and recommendations, namely:

1. The European Convention on Landscapes (ECL): Which embodies obligations to protect and conserve landscapes and seascapes vital to the quality of life and well-being of all citizens, local communities and the environment. The UK is one of 40 Member States that are signatories to this convention.
2. The Offshore Energy SEA Programme (OESEA): Which interprets visual buffer distances between wind turbines and designated national landscapes needed to accord with UK obligations under the ECL (buffer distance as a function of turbine scale and height) as crucial to maintain the integrity of our landscape heritage and natural capital for current and future generations.
3. The Levelling-up and Regeneration Act (LURA, 2023): Aligned to the ELC, the LURA brings the new duty of all Parties involved in DCO decisions about developments that affect designated landscapes to "seek to further" the statutory functions and special characteristics of National Parks, not degrade them. Recognising this Application adversely affects the South Downs National Park's wildlife, natural beauty, and cultural heritage and that the SDNP Authority has objected to this Application.
4. The Relevant National Policy Statements: meaning those NPS statements connected with legal obligations, including provisions that stipulate DCO Application must comply with international treaties and domestic law; and those NPS provisions requiring the DCO process to assess the cost and scope of low-emission Alternatives to meet the need "in some other way", to avoid developments affecting National Parks and their functions.

We respectfully ask that you give substantial weight to these essential safeguards, including how the legal framework they provide is interpreted and applied. We believe that will confirm Rampion 2 is not a Clean Power (2030) candidate.

May we also point to what we understand is new information: that being the first legal opinion on the interpretation and application of the LURA (2023) in a DCO process is now available, as noted in the attached.

On low-emission Alternatives to Rampion 2 - For Clean Power (2030)

We appreciate the English channel is too narrow at this point to push these giant turbines proposed for the Sussex Bay inshore further out, so that the Application might accord with lawful environmental and social safeguards. That would interfere with marine traffic lanes. Moreover, that would not address controversial issues with the transmission right-of-way cutting across the South Downs National Park and the substation controversy.

As regard to the case-specific NPS (EN-1) requirement to assess alternatives to developments proposed within or impacting National Parks, since the initial developer-led consultations for this Application in 2021, we as local community organisations have advocated relocating the mammoth turbines proposed just 7 nautical miles from shore (so technically inshore) to a more appropriate truly offshore location.

In keeping with the policy and legal frameworks (points 1 to 4 above), the best opportunity is to incorporate them in wind farms licences in either of two areas awarded on South Dogger Bank in the 4th Offshore bid Round in 2023 to the same developer as Rampion 2 (RWE).

Both areas are more than 100km from shore. Relocating the turbines to the far superior wind regimes on South Dogger Bank would offer significant opportunities and higher national benefits. Only to illustrate:

- It will substantially increase power output and reliable supply from the same turbines for the same, or less investment than Rampion 2 (the development cost of Rampion 2 is about £3-4 billion);
- Commissioning will be in the same timeframe - from 2030;
- It will lead to greater national benefit across most metrics in the NPS, including the multiple dimensions of Energy Security; and
- It offers cost reduction synergy combined with two South Dogger Bank schemes now at an early stage of project preparation.

Of paramount importance, this approach eliminates the significant and often hidden economic, social and environmental opportunity costs unique to the Rampion 2 location.

These are substantial local and national dis-benefits as identified and documented in Examination submissions by Interested Parties and Statutory Consultees.

We believe that a good-faith negotiation between the relevant power authorities, The Crown Estates and this commercial Applicant (RWE) would be seen by the UK public as overwhelmingly in the local and national interest.

It otherwise would demonstrate a flexible, intelligent approach to achieving NetZero. One that aligns with the previous Labour Government's thinking and legislation which designated sea areas around these islands starting 12 nautical miles (22.2 km) from shore as the "**renewable energy zone**", under section 84 of the Energy Act 2004 - and wisely so.

We thus hope substantial weight is given to these considerations.

Yours sincerely,

Secretary,

Protect Coastal Sussex (PCS)

<https://www.protectcoastalsussex.org/>

On behalf of the Co-Chairs and members of PCS

*From affiliated Community Organisations registered as Interested Parties in the
Rampion 2 DCO*



Post-Examination Representation

For EN010117 – Rampion 2 Offshore Wind Farm

On the interpretation and application of the legal framework to consider the Rampion 2 DCO
Application by the Secretary of State

Representation by Protect Coastal Sussex:
IP Registration # **20044835**

Submitted 30 Oct 2024

Contents:

Main Representation

Attachment: Supplemental Information

- Part 1: Rampion 2 breaches the UK's international treaty commitments under the European Convention on Landscapes, and
- Part 2: Decision-makers should comply with their new Duties under the Levelling-up and Regeneration Act (2023).

Main Representation

Among the major concerns of local community organisations in the south of England to be affected by the construction, operation and decommissioning / replacement of the Rampion 2 infrastructure and have engaged constructively in this case-specific DCO process since 2021 have been:

- the Applicant's categorical refusal to recognize any connection between the Rampion 2 design, scale and location and the relevant legal frameworks, and
- the fact these material issues were not explicitly featured in the Examination process, at least not visibly, despite the many representations by Interested Parties on their material relevance.

Concerns about the interpretation and application of the legal framework to consider the Rampion 2 Application centre on these aspects:

1. **The European Convention on Landscapes (ECL):** Which embodies obligations to protect and conserve landscapes and seascapes vital to the quality of life and well-being of all UK citizens, local communities and the environment. The UK is one of 40 Member States that are signatories to this convention.
2. **The Offshore Energy SEA Programme (OESEA):** Which interprets visual buffer distances between wind turbines and designated national landscapes needed to accord with the UK's obligations under the ECL (as a function of scale and height). This is crucial for maintaining the integrity of our landscape heritage and natural capital for both current and future generations.
3. **The Levelling-up and Regeneration Act (2023):** Aligned to the ELC, the LURA brings the new duty of all Parties involved in DCO decisions about developments that affect designated landscapes to "seek to further" statutory functions and special characteristics of National Parks, not degrade them. Recognising this Application adversely affects the wildlife, natural beauty, and cultural heritage of South Downs National Park and that the Authority objects to this Application.

Moreover, the LURA provides that if it appears that there is a conflict between purposes, the decision-makers must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprising the National Park.

4. **The Relevant National Policy Statements:** meaning those NPS statements connected with legal obligations, including provisions that stipulate DCO Application must comply with international treaties and domestic law; and those NPS provisions requiring the DCO process to assess the cost and scope of low-emission Alternatives to meet the need "in some other way", to avoid developments affecting National Parks and their functions.

For context we also offer the abbreviated version of the Supplemental Information Note that PCS recently shared with the national Landscape Institute (LI) aiming to discuss the

application of the ELC and LURA in practice and in planning reform comment the LI has submitted.¹

In the initial communication with the LI we noted:

Firstly: *“While labelled as green infrastructure (GI) unfortunately Rampion 2 is the polar opposite of the landscape-led development approach that the LI advocated in national planning reform consultations of recent, as indicated in LI newsletters.... The Rampion 2 proposal is literally off the scale in terms of impacting designated landscapes, including the natural beauty, wildlife and cultural heritage of the South Downs National Park”*

Secondly: *“The Campaign for National Parks (“CNP)” offered legal opinion on the interpretation of the new LURA imposed duties for the A66 Northern Trans-Pennine highway Project that requires all Parties to “seek to further” the statutory purposes of the North Pennines National Landscape (AONB) and the Lake District National Park it affects.*

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/TR010062/TR010062-002426-Campaign%20for%20National%20Parks.pdf>

While perhaps it is the first legal opinion on applying the LURA in any sector, we anticipate it has wider relevance applied to power sector GI proposals.... “

Our view is in a legal context, the Rampion 2 Application does not comply with essential legal safeguards. It would fundamentally transform the Sussex Bay area in respect to its natural seascapes and landscapes and adversely affect the intrinsic values these landscapes/seascapes afford to all UK citizens, not only to local residents and communities, because all citizens are increasingly encouraged by governments to travel less abroad to reduce travel co2 emission and instead take advantage of the natural assets of these islands – e.g. to visit England.

- Rampion 2 will degrade the natural landscapes / seascapes in the south as it is simply off-the-scale in terms of being too big and too close and so visibly spreading along the inshore waters of the populous Sussex coast.
- Rampion 2 is an assault on the equitable sharing of benefits and costs (adverse impacts) within UK society. It requires coastal residents, their local environment and their visitor economies to disproportionately bear all the adverse impacts.
- Equally, Rampion 2 is an assault on the principles of sustainable development, impacting current and future generations living and working in the south and is not a good example of Clean Power (2030).

If we could imagine consenting infrastructure applications that transformed the London urban landscape with up to 90 massive structures up to 325m tall along the Thames River, each structure taller than the Shard building (310m), visible day and night (at night with flashing red aviation warning lights) across the sky.

¹ The Landscape Institute is the chartered body of landscape professionals concerned with the European Convention on Landscape <https://www.landscapeinstitute.org/policy/13732-2/>

On the question of Alternatives

As stated in the statutory consultation that are documented, the English channel is too narrow at this point to push the giant turbines proposed for the Sussex Bay inshore further out, so that the Application might accord with lawful safeguards on providing visual buffers and adversely affecting designated landscapes.

Moving the turbines further out would interfere with marine traffic lanes. Moreover, that step would not address the problematic issues with the transmission right-of-way cutting across the South Downs National Park and the substation location controversy that itself may be a freestanding reason for refusing consent.

The NPS provisions under “*Decision making on Landscape impact: Development proposed within nationally designated landscapes*” that to avoid development in National Parks, “*the cost of, and scope for, developing elsewhere outside the designated area or meeting the need for it in some other way*” should be assessed.

NPS EN-1 (2011) requirements carry over to the NPS (Nov, 2023)

As interested parties, we have not seen any information to suggest the required NPS Section 4.2 Alternatives assessments have been carried out (as a case-specific requirement under NPS Section 5.9.10 and Section 4.2 Alternatives). We believe that should be carried out for low-emission generation technologies designated as critical national priorities (CNP) in NPS (Nov, 2023) along with routine power system value analysis modelling of Rampion 2 versus the Section 4.2 Alternatives.

Affiliated community organisations have offered an indicative Section 4.2 Alternative assessment as a written representation and urged competent authorities to do the same to better inform this £3-4 billion investment decision.

As mentioned in the covering note to this Post-Examination Representation, community organisations have campaigned since the first developer-led consultation in early 2021, that one important alternative to assess the cost and scope for is relocating these exceptionally tall turbines proposed for the Sussex Bay inshore to an existing truly offshore windfarm license area that the same foreign developer ((RWE) was awarded recently.

The Offshore Wind Leasing Round 4 Agreements for Lease signing concluded in January 2023, awarded two such locations to RWE. Commitments by RWE were not firmed up until Sept 2023, when the strike price for all offshore wind was increased by 60-70% by the UK Government. Those developments are at very preliminary stages of project preparation. Habitats Assessment meetings were in June 2024.

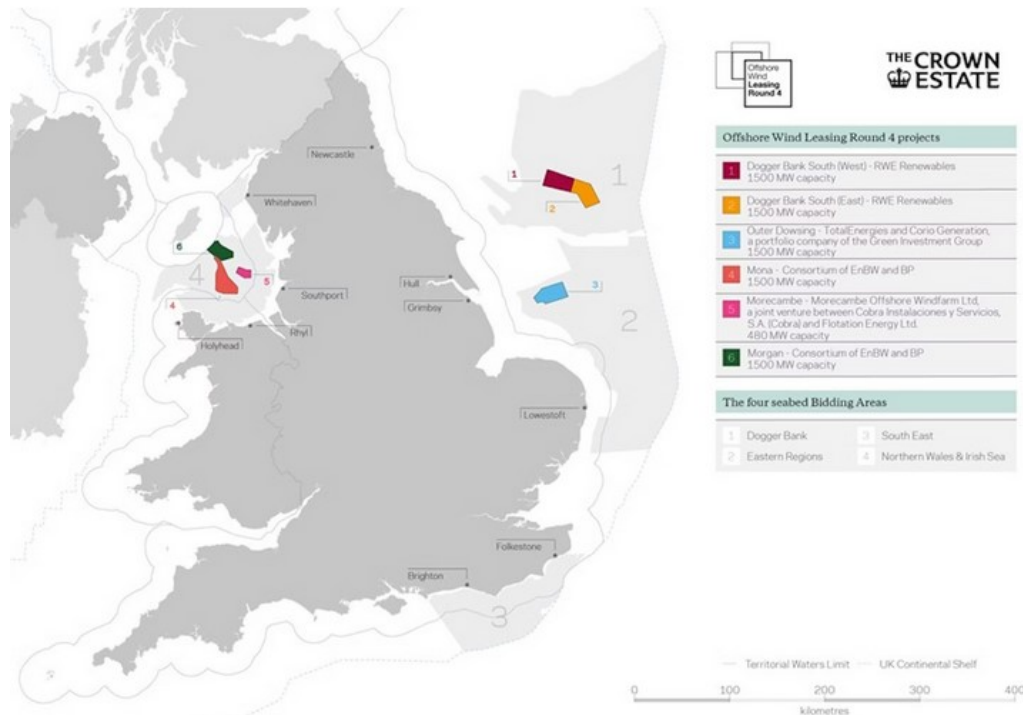
The map figure below from The Crown Estates website shows the locations for these new RWE offshore windfarm seabed license areas on the southern portion of Dogger Bank. The Dogger Bank South (DBS) East and DBS West sites are 125km and 103km respectively from shore.

Technical documents indicate there is scope to increase the number of turbines in both these licence areas at least for the same capacity as Rampion 2 (1,200 MW, with up to 90 turbines). That will yield a far higher output at a higher percent of time as the Rampion 2 location, as

seen comparing load duration curves of Rampion 1 and existing offshore windfarms in the North Sea, as documented in representations.²

We thus argue that the flexible approach of relocating the turbines proposed for the Sussex Bay inshore would be one alternative to Rampion 2 that is overwhelmingly in the public and national interest to pursue - given the political will.

That step would be well received by the public as an intelligent and practical approach to pursue NetZero and is well within the DESNZ Secretary of State's scope.



The Offshore Wind Leasing Round 4 Agreements

<https://www.thecrownestate.co.uk/our-business/marine/Round4>

² [REP2-064](#) 33 pages. PCS comment on the Applicant's Response to the ExA Action Points Arising from Issue Specific Hearing 1 (ISH1) asking for detail on the level of wind resources in the Channel (Sussex Bay Inshore) with evidence in that regard including wind power density (WPD) records and relevant Rampion 1 and other offshore windfarms capacity factors or load factors.



Offshore Wind Leasing Round 4 projects	
1	Dogger Bank South (West) - RWE Renewables 1500 MW capacity
2	Dogger Bank South (East) - RWE Renewables 1500 MW capacity
3	Outer Dowsing - TotalEnergies and Corio Generation, a portfolio company of the Green Investment Group 1500 MW capacity
4	Mona - Consortium of EnBW and BP 1500 MW capacity
5	Morecambe - Morecambe Offshore Windfarm Ltd, a joint venture between Cobra Instalaciones y Servicios, S.A. (Cobra) and Flotation Energy Ltd. 480 MW capacity
6	Morgan - Consortium of EnBW and BP 1500 MW capacity
The four seabed Bidding Areas	
1	Dogger Bank
2	Eastern Regions
3	South East
4	Northern Wales & Irish Sea

We appreciate that relocation of the turbines from the Sussex inshore to add to the offshore wind farms (either Dogger Bank South (west) or Dogger Bank South (East) already awarded to RWE calls for a good-faith negotiation between the competent national authorities and the commercial Applicant.

That negotiation could seek to take advantage of the significant opportunity not only to reduce cost by having share facilities (e.g., onshore transmission) but also enhance 2-way diversity sharing with Continental grids (via the proposed offshore ring grid) that is an important aspect of Energy Security and to ensure reliable power supply;³ and to especially eliminate the huge economic, social and environmental opportunity costs of Rampion 2.

These opportunity costs are identified and documented with evidence in IP representations.⁴

That approach would respect lawful international obligations for the protection and conservation of National Parks, in this case the South Downs National Park; recognising the

³ At the same time, hard evidence is moving the turbines would do more for less money across most, if not all metrics of national policy embodied in the relevant NPS (including higher and steadier production of low-emission power to support a more stable, reliable and affordable National Grid).

⁴ [REPI-123](#) 3 pages. PCS discussion points requested to be included in the Alternatives agenda session in Issue Specific Hearing 1 (ISH1), 7 Feb 2024: [REPI-145](#) 367 pages. Three PCS written representations as described in text following this hyperlinked list of representations, namely: (1) the PCS Local Impact Assessment that addresses opportunity costs in the economics section and detailed in other chapters (2) Due Diligence on the Applicant's claims and (3) Consideration of the scope for low-emission Alternatives to Rampion 2 in this Examination, focused on the case-specific NPS requirements in that regard.

SDNP Authority has objected to the Rampion 2 proposal on multiple grounds consistent with the ELC its LURA duties and the SDNP Authority Local Plan.

In any good-faith negotiation the Applicant would likely want the same return on investment as they expect from Rampion 2. The fact that the investment would remain inside RWE's UK energy portfolio is important. RWE and its international lenders would benefit from considerably less reputational risk.

Attachment: Supplemental Information

Our Concerns:

Concerns about the Rampion 2 DCO Application related only to the interpretation and application of the ECL and LURA are summarised in two Parts that follow:

- Part 1: Rampion 2 breaches the UK's international treaty commitments under the European Convention on Landscapes, and
- Part 2: Decision-makers should comply with their new Duties under the Levelling-up and Regeneration Act (2023).

Part 1: Rampion 2 breaches the UK's international treaty commitments

The evidence indicates a decision to grant consent to the Rampion 2 windfarm Application in the south of England would breach the UK's international treaty obligations under the European Landscape Convention (ELC) that are reinforced by a closely aligned body of UK policy and law.

Whereas:

- i) The European Landscape Convention (ELC) is an international treaty dedicated to the protection, management and planning of all landscapes in Europe. The UK is one of 40 Member States Party to the ELC.
- ii) Among the body of UK policy and law supporting and aligned to ELC obligations include the UK Government's own rolling Offshore Energy SEA (OESEA) programme, the Marine Policy Statement (MPS, 2022) and the Levelling Up and Regeneration Act (LURA, 2023).
- iii) As the main basis for considering DCO planning consent for green infrastructure (GI) power projects, the UK's National Policy Statements (NPS, Energy) require conformance to lawful international commitments, namely NPS EN-1 (2011), Section 1.2 and NPS EN-1, (Nov, 2023) Section 1.1.4). In essence, the NPS provisions provide for refusing consent of Applications that conflict with UK international treaty obligations.
- iv) Other Member States as Parties to ELC do not permit Rampion 2 scale wind turbines so close to their coasts, including Germany the home country of the Rampion 2 Applicant. This is reported in the OESEA review of international experience including that of ELC Member States.⁵

⁵ As set out in the UK's OESEA programme's comprehensive review of international practice, German law and spatial planning practice (the WindSeeG - Offshore Wind Act, 2017), would not permit "a Rampion 2". See the OESEA-4 and "Review and Update of Seascape and Visual Buffer study for Offshore Wind farms for the UK", Department for Business, Energy and Industrial Strategy (BEIS), Offshore Energy SEA programme. 2020 https://assets.publishing.service.gov.uk/media/5ef9a3abd3bf7f769a4e7742/White_Consultants_2020_Seascape_and_visual_buffer_study_for_offshore_wind_farms.pdf

- v) The ELC is a convention of the Council of Europe, not the EU. Brexit did not affect the status. The UK has remained a signatory since 2006.
- vi) The ELC itself covers land and water (inland and seas), and natural, rural, urban and peri-urban landscapes. Significantly, it includes every-day or degraded landscapes as well as those that might be considered outstanding. The ELC recognises every landscape forms the setting for the lives of local people, and the quality of those landscapes can affect everyone's lives by all elements and the way they interact.
- vii) Seascapes should be taken as meaning 'landscapes with views of the coast or seas, and coasts and the adjacent marine environment with cultural, historical and archaeological links with each other', as indicated in the ELC and reinforced by the Marine Policy Statement (MPS, 2021).
- viii) While the ELC does not advocate the same measures and policies for all landscapes it encourages approaches adaptable to particular landscape types which respond to their unique characteristics and should be backed by national policy and law, which in the UK's case included those cited in ii) above, and in particular the UK's rolling OESEA programme containing strategic environmental advice on visual buffers for offshore wind turbines as a function of wind turbine size, height and landscape type.

In regard to the aforementioned, the view of affiliated local community organisations registered as Interested Parties in this DCO is:

The Secretary of State and his officials should openly acknowledge and consider the significance and material relevance of the UK Government's strategic environmental advice on the need for visual buffers in the Rampion 2 case to lawfully 'accord' with the UK's ECL commitments that are overwhelmingly in the Public Interest.^{6,7}

Decision-makers we believe should:

- i) Acknowledge and consider the breach of ELC obligations, as interpreted in the rolling OESEA programme. The most recent OESEA-4 (2022) Report states the UK's objective and obligations in respect of visual impacts on landscapes and connected seascapes are:

“To accord with, and contribute to the delivery of the aims and articles of the European Landscape Convention and minimise significant adverse impact on seascape/landscape including designated and non-designated areas.”⁸

⁶ Many representations were made by local communities and Interested Parties during the Rampion 2 DCO process calling the authorities attention to this significant and material concern, and in representations supported by Members of Parliament in the south also sent directly to the Office of the Secretary of State (BEIS and its successor DESNZ).

⁷ Thus avoid and mitigate multiple adverse effects that would degrade the special qualities of designated landscapes and character of the coastal impacting communities forced to be host communities and other UK citizens nation-wide seeking to enjoy the heritage and intrinsic values and well-being of Parks and landscapes, recognising also the need to maintain natural capital while the government increasingly urges citizens to travel abroad less, “stay home” and visit England.

⁸ OESEA-4, 2022, BEIS, page 66

https://assets.publishing.service.gov.uk/media/623356e4e90e0709e1e4530d/OESEA4_Environmental_Report.pdf

- ii) Acknowledge the findings of the comprehensive review of UK, EU and international experience under the OESEA programme in 2020 commissioned and directed by the former BEIS now DESNZ and incorporated in the OESEA-4 (2022), which found:
- a.) To ‘accord’ with the ECL commitments and minimise significantly adverse impacts, wind turbine generators (WTGs) of the size, scale, and spread of those proposed in the Rampion 2 Application should be located greater than 25 miles (40kms) from designated landscapes.⁹
 - b.) Specifically, the OESEA-4 found that wind turbines over 250m tall sited 13 km from shore would have large to very large magnitude of effects viewed from the shore by highly sensitive visual receptors.¹⁰

Whereas:

- c.) The Rampion 1 Application proposes up to 90 WTGs up to 325m tall spread along the Sussex Bay inshore in arrays starting 7 nautical miles (13 km) from shore with communities and protected landscapes and only 19 km from SDNP, versus the minimum 22.4 nautical miles (40 km) advised by the OESEA to accord with the ELC, based on the scale and height of turbines proposed.
- d.) The material effect of locating WTGs of that scale in such close proximity to coastal communities and designated landscapes (WTGs taller than the Shard Building in London which is 310m tall) would serve to:
 - 1. Transform the natural seascape-landscape of the south coast on an industrial-scale in a manner contrary to the multiple values the ELC and the body of aligned UK policy and laws that seek to conserve and protect in designated landscapes;
 - Deliver an inequitable distribution of benefit and impact within UK society, where the adverse impacts fall disproportionately on coastal and affected inland communities (both current and future generations) and harm their visitor economies as local authorities have stated in the DCO process; and
 - 2. Undermine the advancement of sustainable development in the south (contrary to NPS Policy) imposing significant adverse environment, social and economic risks and net loss (not gain) across each dimension of sustainable development.

Decision-makers should not ignore or set aside the UK Government’s commitments under the ELC reinforced by the body of UK policy and law that are closely aligned to ELC aims, including:

⁹ See the “Review and Update of Seascape and Visual Buffer study for Offshore Wind farms for the UK”, BEIS, Offshore Energy SEA programme. 2020

https://assets.publishing.service.gov.uk/media/5ef9a3abd3bf7f769a4e7742/White_Consultants_2020_Seascape_and_visual_buffer_study_for_offshore_wind_farms.pdf

As well as that same visual buffer distance from highly sensitive visual receptors, the latter including coastal communities and their visitor economies. That conforms to the interpretation of the ELC in other EU jurisdictions, including German law (the WindSeeG - Offshore Wind Act, 2017), that would not permit “a Rampion 2” as set out in OESEA-4 and the BEIS commissioned visual buffer study (2020) cited above.

¹⁰ OESEA-4, page 61, Table 3.1: SEA topics, objectives and indicators, under the landscapes/seascapes section https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1061670/OESA4_Environmental_Report.pdf

- i) The NPS provisions under “*Decision making on Landscape impact: Development proposed within nationally designated landscapes*” that to avoid development in National Parks, “*the cost of, and scope for, developing elsewhere outside the designated area or meeting the need for it in some other way*” should be assessed.

NPS EN-1 (2011) section 5.9.10 requirement carried over to the NPS (Nov, 2023).

The need identified is the need for low emission generation by any other designated critical national priority (CNP) energy system for low emission power generation (designated as a CNP in the NPS, Nov 2023); including the same capacity wind turbines moved to a more appropriate location in better wind regimes truly offshore, or abated gas generation (with carbon capture) or small modular reactors (SMR) at decommissioned nuclear and other power stations driving steam turbines.

Here it is important to note that Rampion 2 if consented would start producing power sometime around 2030 and last 20-25 years before it must be decommissioned or replaced.

As representations in the DCO process illustrated, other CNP technologies or properly locating the turbines on Dogger Bank will do more for less cost across all the metrics of national benefit over the same 2030 to 2050-2055 timeframe – without the high economic, social and environmental opportunity costs of the Rampion 2 scheme including degraded Landscapes.

Part 2: Decision-makers should comply with their new Duties under the Levelling-up and Regeneration Act (2023)

We believe the decision-makers on the Rampion 2 Application should verify and ensure compliance with their new duties under the Levelling-up and Regeneration Act (LURA, 2023), as required in all DCO Applications. They should take into account the extent that new duties under the LURA, which apply to all Parties in the Rampion 2 DCO, are:

- (1) Dynamically reinforced by the rapidly evolving body of complementary landscape and environment protection policy and law, ranging from the UK's international treaty obligations, through its national policy and legislation to local development plans, including the SDNP development plan, and
- (2) The trajectory and legal support for delivering sustainable development with sustainable power supply infrastructure in ways that enable the well-being of current and future generations of people on these islands and to maintain natural capital and access to protected designated landscapes.

And whereas,

- i) The LURA imposes a new pro-active duty on all Parties, including the Applicant, the Secretary of State and his officials and authorities responsible for managing protected areas and designated landscapes to ensure that NSIP Applications “seek to further” the purposes of National Parks and designated landscapes that they impact.
 - a. Which legally means the Rampion 2 Application itself should genuinely and demonstrably enhance (not degrade) the protected statutory functions of designated landscapes, including in this case the South Downs National Park (SDNP).
 - b. The LURA and the duty it imposed sets a far higher bar, threshold or legal test for conservation and protection than previous legislation. That is in keeping with the significance to society of landscapes that are already under multiple pressures on these increasingly crowded islands that comprise the UK.
 - c. It means that the Rampion 2 Application itself should include measures which not only minimise significant harms, but actually make the statutory functions of the SDNP better, including specifically conserving and further enhancing the state of wildlife, natural beauty and cultural heritage.¹¹
 - d. We argue that as indicated in representations made by statutory consultees and interested parties over the course of this DCO process, that the available evidence indicates Rampion 2 clearly does not meet the new LURA tests.

¹¹ Section 5: (1) The provisions have effect for the purposes (a) of conserving and enhancing the natural beauty, wildlife and cultural heritage of the areas specified in the next following subsection; and (b) of promoting opportunities for the understanding and enjoyment of the special qualities of those areas by the public.

- e. The SDNP Authority itself is robust in indicating its special qualities and statutory functions would be harmed by Rampion 2, not furthered or enhanced.¹²
 - f. Natural England's comments are along the same lines.
 - g. **Moreover, the LURA provides that if it appears that there is a conflict between purposes, the decision-makers must attach greater weight to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of the area comprising the National Park.**
- ii) LURA prescribed duties are in force now and must be complied with as part of any decision or course of action that has implications for protected areas.
 - iii) In the Rampion 2 case, the new duty applies to the effects of both (1) the offshore infrastructure elements (that duty being in regard to landscape-seascape connectivity and connected natural landscapes and natural seascapes having equal legal protection in respect to avoiding adverse visual impacts on statutory functions such as natural beauty) ,and (2) the onshore infrastructure transmission elements that physically interrupt a number protected designated landscapes, including the SDNP and biodiversity connectivity corridors.
 - iv) We argue the significance of the adverse impacts and level of statutory protection called for is elevated in the Rampion 2 case. This is due to location and scale factors of the proposed development together with the convergence of the mutually reinforcing legal obligations. That synergy needs to be taken into account when deciding this Application.
 - a. This for instance, is in respect to the complementary aims of the ELC and LURA; where the ELC is an international level landscape safeguard that is reinforced in its application by the national policy and legislation cited, while at the same time as the ELC obligations reinforce, motivate and elevate the LURA duties.
 - b. The other UK national policies and legislation also complement and reinforce the LURA duties, including the rolling OESEA programme and the MPS (2021).
 - c. This speaks to the elevated significance of the adverse impacts of Rampion 2 and the cumulative legal protections that it challenges that makes refusal to consent a rational decision that would enjoy public confidence.
 - v) On top of these considerations, there is the clear NPS stipulation (NPS, 2011 EN-1 Section 5.9.10 that developments such as Rampion 2 which encroach National Parks should be avoided.

¹² The SDNPA and Natural England believe the statutory purpose of the SDNPA will be compromised. The SDNPA robustly defended its position during the written examination and hearings (SDNPA written representation below, also available in the Examination Library as REP1-052) [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010117/EN010117-000893-South%20Downs%20National%20Park%20Authority%20-%20Written%20Representations%20\(WRs\)%20including%20summaries%20if%20exceeding%201500%20words.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010117/EN010117-000893-South%20Downs%20National%20Park%20Authority%20-%20Written%20Representations%20(WRs)%20including%20summaries%20if%20exceeding%201500%20words.pdf)

That NPS requirement (reinforced by the LURA duties) is specifically to identify the cost and scope “of meeting the need in another way”, the need being for low emission generation. Thus other critical national priorities (CNP) for low emission generation technologies need to be assessed and included in the decision-making process.

We believe decision makers should determine if all Parties including the Applicant complied with duties under the LURA.

- i) Steps are needed to identify specific measures that are proposed to further the statutory purposes of the SDNP, consistent with duties under the LURA.
- ii) In connection with the above, decision-makers should take into account the evolving and dynamic legal synergy of the ELC, OESEA, MPS and LURA as well as the SDNP Local Plan for ensuring and furthering the conservation and protection of the special qualities of the SDNP.

Note: Legal Opinion on the LURA was sought by the Campaign for National Parks (CNP) as it applies to the A66 Northern Trans-Pennine highway Project for all Parties to “seek to further” the statutory purposes of the North Pennines National Landscape (AONB) and the Lake District National Park.

While perhaps the first legal opinion on applying the LURA (2023) in any sector, we anticipate it has wider relevance applied to Rampion 2.

That is available at:

- <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010062/TR010062-002473-PID-002%20-%20Campaign%20for%20National%20Parks.pdf>
- <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR010062/TR010062-002426-Campaign%20for%20National%20Parks.pdf>