



N O R T H F A L L S

Offshore Wind Farm

Position Statement on Various Issues Relating to National Landscapes

Document Reference:	9.78
Volume:	9
Date:	May 2025
Revision:	0

Project Reference: EN010119



Project	North Falls Offshore Wind Farm
Document Title	Position Statement on Various Issues Relating to National Landscapes
Document Reference	9.78
Supplier	Pinsent Masons LLP

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Revision	Date	Status/Reason for Issue	Originator	Checked	Approved
0	May 2025	Deadline 5	Pinsent Masons LLP	NFOW	NFOW

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1. INTRODUCTION

- 1.1 Suffolk County Council (**SCC**), made representations as an interested party (**IP**) at Issue Specific Hearing 1 and Issue Specific Hearing 2 held in April 2025 and submitted various documents at Deadline 4 in respect of the application and scope of the duty set out in section 85(A1) of the Countryside and Rights of Way Act 2000 (**Duty**). Section 85(A1) of the Countryside and Rights of Way Act 2000 (**CRoW Act**) states:

'In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England, a relevant authority other than a devolved Welsh authority must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.'

- 1.2 The Applicant notes that other IPs (such as the National Landscape (AONB) Partnerships and the Suffolk and Essex Coast and Heaths National Landscape Partnership (**SECHNLP**) and Essex County Council) supported the representations made by SCC in respect of the Duty.
- 1.3 The Applicant has prepared this position statement to address issues raised by SCC in relation to the Duty in submissions made at Issue Specific Hearing 1, Issue Specific Hearing 2 and at Deadline 4. The Applicant has referred to other documents and responses submitted into Examination where appropriate.

2. POSITION STATEMENT ON VARIOUS ISSUES RELATING TO NATIONAL LANDSCAPES

#	Issue	Examination Library reference	IP	IP position	Applicant's position
1.	Compliance with Duty (DVNL)	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 1 [REP4-094]	SCC	<p>SCC states that the Applicant must ensure that it is compliant with the Duty, for onshore matters, regarding the impact of the onshore substation ("OnSS") on the Dedham Vale Area of Outstanding Natural Beauty ("DVAONB"). SCC has made detailed representations on this point in paragraphs 7.26 and 7.27 of its Local Impact Report ("LIR") [REP1-074] and in response to the Applicant's comments on SCC's LIR [REP3-068].</p> <p>If the proposed development has some visual impact on the DVAONB, SCC considers that the Applicant must undertake measures which seek to conserve and enhance the purposes of the designation of the DVAONB proportionate to the level of effect found.</p> <p>SCC considers that, with regards to the active duty, not only significant impacts in Environmental Impact Assessment ("EIA") terms need to be considered, but all residual impacts and effects. SCC has detailed this position in its Deadline 2 submission [REP2-059].</p>	<p>Please see the Applicant's response to item 3.1.1 (Landscape and visual impact and design) in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036]. The Applicant has extracted the relevant points below.</p> <p>The Applicant's position is that measures proposed as part of the Project or further measures imposed to avoid and reduce impacts on the statutory purposes of the Dedham Vale National Landscape (DVNL) must be appropriate, reasonable and proportionate and notes that there is no legal, policy or guidance requirement to always include specific measures (whether financial or otherwise) within a development to enhance the National Landscape regardless of the level of impact.</p> <p>The Applicant maintains its position that the Project's onshore substation has no impact on the DVNL and that, accordingly, the Secretary of State can be confident that the Duty can be discharged without the need to impose additional compensatory measures or requirements. This position is supported by the recent High Court judgment in <i>New Forest National Park Authority v Secretary of State for Housing, Communities and Local Government and Mr Simon Lillington</i> [2025] EWHC 726 [REP4-048] (the New Forest Judgment) considered the duty to seek to further the purpose of a National Park (which is equivalent to the Duty) and held that, in circumstances where the relevant development was assessed as having no impact on the National Park, the duty to seek to further was considered to be discharged.</p> <p>However, the Applicant considers that the Secretary of State would still be able to discharge the Duty in respect of the Project even if the Secretary of State determines that the Project's onshore substation does have a minor impact (i.e. not significant in EIA terms) on the DVNL.</p> <p>The Applicant submits that the Secretary of State must exercise judgment as to whether the measures proposed as part of the Project to avoid and reduce impacts on the statutory purposes of the DVNL are appropriate, reasonable and proportionate and whether it would be appropriate, reasonable and proportionate to require any further measures. This includes consideration of:</p> <ul style="list-style-type: none"> the scale, extent and significance of any harm to the DVNL; relevant planning policies including NPS EN1 regarding minimising and mitigating landscape effects and Critical National Priority) infrastructure; and whether the development has been designed sensitively taking into account siting, engineering, operational and other relevant constraints. <p>The Project's Order Limits do not fall within the DVNL and, as outlined in sections 4.8.1 and 4.8.2 of ES Chapter 4 Site Selection and Assessment of Alternatives [APP-018], national landscapes (such as the DVNL) were given due weight in the site selection process for the onshore substation. A copy of a plan detailing the location of the onshore substation and the distances from the boundaries of the National Landscapes and Viewpoints has been submitted at Deadline 4 (see the Landscape and Visual Impact Assessment viewpoints and the Dedham Vale National Landscape Plan [REP4-045]). Further, the proposed landscape mitigation, once established, will help to screen and soften views of the proposed onshore substation.</p>

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					The Applicant submits that, in light of the above, even if the Secretary of State determined that the Project did have a minor (not significant) impact on the DVNL, the imposition of further measures to further the purpose of conserving and enhancing the natural beauty of the DVNL (including financial contributions) would not be considered reasonable, proportionate or appropriate.
2.	Landscape and Visual Impact Assessment (DVNL)	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 1 [REP4-094]	SCC	SCC disagrees with the Applicant's assessment that the onshore substation would have no impact on the DVNL, referring to the potential sequential impacts arising from 'glimpses' of the onshore substations from various locations and the effect of Norwich to Tilbury pylons drawing the eye to the onshore substation.	Please see the Applicant's response to item 3.1.2 (Landscape and visual impact and design) in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] which provides further detail about the visibility of the onshore substation from the DVNL and the risk of sequential impacts.
3.	Cumulative Effects Assessment (DVNL)	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 1 [REP4-094]	SCC	SCC expresses concerns about the cumulative effects assessment undertaken by the Applicant in respect of landscape and visual impacts and states that the assessment has not addressed the potential cumulative impacts and effects of the Tarchon Interconnector project and Norwich to Tilbury powerlines pylons.	<p>The Applicant notes that the cumulative effects assessment will be updated as further information becomes available, such as the submission of the Norwich to Tilbury DCO application. If this occurs during the North Falls examination, the documents will be reviewed and the assessment will be updated accordingly. If the application is submitted after the North Falls Examination has closed, the Secretary of State may request updates during the determination period.</p> <p>In respect of the Tarchon Interconnector project, the proposed location for the Tarchon interconnector was not available at the time of assessment. The Applicant will update the cumulative effects assessment as new information becomes available. The Applicant reviewed the information published by Tarchon on 10 March 2025 as part of that project's non-statutory consultation exercise and has described and considered that information in its response to item 3.8.4 (Cumulative Effects) in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036].</p> <p>The Applicant notes that both the Norwich to Tilbury project and Tarchon Interconnector project will undertake their own cumulative effects assessments which will consider the detailed information available for the Project and the Five Estuaries Offshore Wind Farm project, and the Secretary of State will need to be satisfied with those assessments. The fact that the approval processes for the projects are staggered does not mean that the cumulative effects of these projects are not being adequately assessed.</p>
4.	Application of the Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific	SCC	SCC has provided a copy of two sets of submissions made at lodged during the Five Estuaries Offshore Wind Farm Examination (<i>Representation on the duty in s.85(A1) of the Countryside and Rights of Way Act 2000 and Representations submitted at Deadline 6A of the Five Estuaries Examination responding to submissions made at Deadline 6 following Action Point 9 of ISH6</i>).	<p>The Applicant has reviewed these submissions and considers that its responses to the majority of the key issues in dispute are already captured elsewhere in this document. The Applicant's responses to key submissions not covered elsewhere in this document are set out below.</p> <p>At [4.13] and [4.17] of SCC's <i>Representation on the duty in s.85(A1) of the Countryside and Rights of Way Act 2000</i>, SCC states that the avoidance of harm or the minimisation of adverse effects will not be sufficient if nothing has been done to "seek to further" the purpose of conserving and enhancing natural beauty. SCC argues that avoidance of harm or the minimisation of adverse effects may have sufficed under the previous "have regard" duty, but in the absence of any action seeking to further the purpose of conserving and enhancing natural beauty, those aims alone cannot now be regarded as sufficient to meet the new duty.</p>

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		Hearing 1 [REP4-094]			<p>Based on this interpretation, SCC's position is that every development that is located outside of, but visible from, a National Landscape must provide some form of financial contribution to the National Landscape regardless of its impact.</p> <p>However, if this had been the intention of Government, then the Applicant considers that the drafting of s85(A1) of the CROW Act would have required that a relevant authority "must further" the conservation and enhancement of the natural beauty of the National Landscape. Instead, the Duty is to "seek to further" which the Applicant considers enables a relevant authority to consider what is appropriate, reasonable and proportionate in the circumstances.</p> <p>The Applicant notes that the <i>Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes</i> (December 2024) explicitly states that the Duty "does not prevent relevant authorities from undertaking their statutory functions and discharging their legal duties and other responsibilities. The duty is intended to complement these requirements by ensuring that the purposes for which Protected Landscapes are designated for are recognised in reaching decisions and undertaking activities that impact these areas. Consideration of what is reasonable and proportionate in the context of fulfilling the duty is decided by the relevant authority and should take account of the context of the specific function being exercised."</p> <p>The Applicant's position is that the Secretary of State, when considering the application of the Duty, must also comply with the legal obligation under s104(3) of the Planning Act 2008 to determine the DCO application in accordance with the relevant national policy statements.</p> <p>The Applicant notes that SCC's position is that the Critical National Priority (CNP) policy presumption in NPS EN-1 does not apply to the Duty. The Applicant's position is that the CNP policy is relevant when determining whether the measures proposed as part of the Project to avoid and reduce impacts on the statutory purposes of the National Landscape are appropriate, reasonable and proportionate and whether it would be appropriate, reasonable and proportionate to require any further measures. and therefore what is appropriate and reasonable must be considered in the context of other legal and policy requirements.</p>
5.	Phasing restriction	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearings 1 & 2 [REP4-095]	SCC	<p>SCC have proposed a phasing restriction for inclusion in the draft Development Consent Order (at paragraph 7.28 of SCC's Local Impact Report [REP1-074]).</p> <p>The proposed phasing restriction states:</p> <p><i>'Work No. 1 must not be commenced until notification in writing has been submitted by the undertaker to the relevant planning authority which:</i></p> <p><i>(a) states the date that development consent was granted for the National Grid substation; and</i></p> <p><i>(b) sets out a timetable for the carrying out of all works comprised in Work No. 14, being the works necessary to connect the authorised development to the National Grid substation.'</i></p>	<p>Please see the Applicant's response to items 3.1.32 and 3.9.6 in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] and the Applicant's response to ExQ 9.1.13 in the Applicant's Response to ExQ2s [Document Ref: 9.68, Rev 0]. The Applicant has extracted relevant points below.</p> <p>The Applicant considers that the proposed phasing restriction fails the relevant legal tests for a Requirement because it is not necessary and is unreasonable:</p> <ul style="list-style-type: none"> There is a presumption in favour for granting consent for the Norwich to Tilbury project as set out in the relevant NPSs because it is critical national priority infrastructure. The Applicant has a connection agreement with NESO pursuant to which it is required to provide a connection and NESO has identified the EACN as the connection point. The Applicant is not aware of any precedent for the imposition of a requirement of this sort and considers that there is no basis to consider the Project as 'exceptional' such that a requirement of this type would be justified here even though it is not normally regarded as necessary and not supported by policy in the NPS. It is unreasonable to require the Applicant to wait until the proposed requirement can be discharged because this would create a significant delay to the Project making its delivery by 2030 unachievable.

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				<p>Work No. 1 is the work package which comprises the offshore wind turbine elements of the Project.</p> <p>SCC argues that this phasing restriction is necessary to further the purpose of conserving SECHNL as required by the Duty. Specifically, it is necessary to not allow harmful development to proceed unless the justification for it (i.e. the contribution to energy supply to the grid) is capable of being delivered to the grid.</p>	<ul style="list-style-type: none"> The Applicant also has a series of decisions to make when preparing its bid for CfD, engaging with the supply chain and placing orders that would be adversely affected if it could not rely on its DCO as enabling implementation to proceed without such a restriction. This is likely to delay the implementation of urgently needed critical national priority renewable energy infrastructure and/or hamper its delivery. The precedent effect of a decision to impose a condition of this type could also have wider consequences for the rapid delivery of offshore wind and the ability of the sector to meet the urgent need for increased generating capacity set out in the NPSs. The Applicant has set out in its oral submissions at ISH2 that there are many precedents for generating stations being consented at a point when the associated grid connection project was further back in the consenting process. This includes Hinkley Point C for which development consent was granted a year before the application for the related connection project was submitted. No equivalent requirement was imposed in the Hinkley Point C DCO. <p>Further, the Applicant refers to its response to ExQ3.1.7 [REP2-020] which details the contractual agreements in place between National Grid (or NESO as it is now known) and North Falls and the obligation for National Grid to provide a point of connection for the North Falls project. As noted at Issue Specific Hearing 1 [REP4-026], how the relevant point of connection is consented is a matter for NESO. This process and timing (i.e. with the generating project further ahead in the consenting process than the connection project) is very typical for offshore wind farm projects where connection to new or extended substations are required.</p> <p>As noted above at item 1, measures proposed as part of the Project or further measures imposed to avoid and reduce impacts on the statutory purposes of areas of outstanding natural beauty / national landscapes (including the SECHNL) must be appropriate, reasonable and proportionate. The proposed phasing restriction does not meet the legal tests for a Requirement and therefore inclusion of that measure in the draft DCO cannot be considered an appropriate, reasonable and proportionate measure required to enable the Secretary of State to discharge the Duty in respect of the Project. The Applicant therefore does not accept SCC's arguments that the proposed phasing restriction is necessary for the purposes of discharging the Duty.</p>
6.	Application of Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	<p>SCC argues that the Applicant is also a relevant authority to which the Duty applies by virtue of being a deemed statutory undertaker.</p> <p>SCC considers that there may be differences between what is required to discharge the Duty depending on whether it is a duty placed only on the decision maker (being the Secretary of State) or also on the project promoter (being the Applicant).</p>	<p>The Duty applies to relevant authorities as defined in section 85(3) of the CROW Act and does not differentiate between the categories listed in that definition. The Applicant notes that SCC has not set out what it considers any differences to be between how the Applicant and the Secretary of State discharge the Duty.</p> <p>The Applicant currently holds an electricity generation licence (Licence No. 12435947 issued on 3 August 2021) under section 6(1) Electricity Act 1989. Accordingly, the Applicant is a "statutory undertaker" as defined in section 85(3) of the CROW Act because it is deemed to be a statutory undertaker for the purposes of Part 11 of the Town and Country Planning Act 1990 (TCPA 1990) by virtue of holding that licence (see section 262(6) of the TCPA 1990). The Applicant is therefore a relevant authority.</p> <p>The Applicant notes that paragraph 1 of Schedule 9 to the Electricity Act 1989 requires that a generation licence holder, when formulating any proposals to construct a generating station over 10MW:</p> <p>(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and</p>

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					<p>(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.</p> <p>The Applicant is an SPV set up solely for the development of the Project and when developing its proposals for the Project took into account the obligations in Schedule 9 to the Electricity Act 1989 and the Duty.</p> <p>The Applicant submits that it has complied with the Duty in respect of the DVNL and SECHNL for the reasons set out in the Applicant's response to Item 1 above (in respect of the DVNL) and the Applicant's response to ExQ14.1.3 in the Applicant's Response to Written Questions (ExQ1) [REP2-020] (in respect of the SECHNL).</p> <p>The Applicant submits that the actions taken by the Applicant outlined in the responses above (such as giving due consideration to the DVNL and SECHNL during the site selection process and removing the northern part of the original offshore array) can be relied on by both the Applicant as project promoter and the Secretary of State as decision maker in relation to both parties' obligation to discharge the Duty. In summary, the Secretary of State can discharge the Duty by satisfying itself, in the determination of the DCO Application, that the Applicant has done so.</p>
7.	Seascape and Landscape Visual Impact Assessment (SECHNL)	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	SCC makes various comments in response to the Applicant's Technical Note on the Assessment of the Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast [REP3-044] which it has also included in a Deadline 4 submission titled 'Comments on submissions received at Deadline 3' [REP4-097] .	Please see the Applicant's response to the comments made in [REP4-097] in the Applicant's Response to Deadline 4 submissions [Document ref: 9.70, Rev 0] .
8.	Seascape and Landscape Visual Impact Assessment (SECHNL)	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	SCC states that it is not appropriate to reduce the materiality of impacts on special qualities of the relevant Area of Outstanding Natural Beauty (AONB) (particularly those arising in the coastal parts of the AONB with views out to the Project) because those areas are only part of the AONB.	Please see the Applicant's response to Item 3.5.2 (Offshore Landscape, Visual and Seascape Effects) under the subheading ' <i>Methodology used for determining magnitude and significance of effects</i> ' in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] .
9.	Application of Duty	Post hearing submissions including written summaries of oral submissions	SCC	SCC argues that changes made in the evaluation of the DCO application for the Project (such as the reduction in height and number of wind turbine generators) are 'baked into' the assessment and that it would be 'double counting' to rely on those actions to show a discharge of the Duty.	<p>The Applicant rejects this position.</p> <p>There is nothing in the drafting of the Duty or in relevant guidance or policy that supports the position that the obligation on a relevant authority to comply with the Duty 'resets' once the impact (if any) of a development on the relevant National Landscape has been assessed.</p>

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		made at Issue Specific Hearing 2 [REP4-096]		SCC states that, even with those changes to design, the SLVIA concludes that the Project has adverse impacts on the SECHNL and that this is the starting point for consideration of whether or not it is possible for the new statutory duty to be discharged by the Project.	<p>Accordingly, actions taken by the Applicant to reduce impacts on the relevant National Landscapes (such as reducing the size of the offshore array), and consideration of the relevant National Landscapes (such as during the Applicant's site selection process) during the development of the Project are relevant factors that should be considered when determining whether the Duty has been discharged in respect of the Project.</p> <p>As set out in the response Item 4 above, if the Government had intended that every development that is located outside of, but visible from, a National Landscape must provide some form of financial contribution to the National Landscape regardless of its impact the drafting of s85(A1) of the CROW Act would have required that.</p>
10.	Discharge of Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	SCC considers that, based on the findings of the SLVIA, the Project as currently formulated, and in the absence of any offsetting through compensatory measures or explanation of why they are not realistically achievable, is currently in a state that the Duty is able to be discharged by the Applicant or by Applicant and the Secretary of State.	<p>Please see the Applicant's response to Items 1 and 6 above and the Applicant's response to ExQ14.1.3 in the Applicant's Response to Written Questions (ExQ1) [REP2-020].</p> <p>The Applicant disagrees and maintains its position that the Applicant has discharged the Duty in respect of the Project and that the Secretary of State can be confident that the Duty can be discharged when determining the DCO Application without the need to impose additional compensatory measures or requirements.</p> <p>SCC acknowledged in its oral submissions during Issue Specific Hearing 2 and in its post hearing submissions at [REP4-096] that additional measures imposed should be proportionate to the level of effect of the Project on the relevant National Landscapes and that SCC therefore does not expect or propose additional measures which would require the Applicant to remove, or reduce the scale of, a physical part of the Project.</p> <p>However, SCC has variously proposed that compensatory measures should be imposed but has not provided any details of the quantum of such measures and why such a measure would be reasonable, proportionate and appropriate for the Project.</p> <p>The Applicant reiterates that there is no legal, policy or guidance requirement to always include additional measures (whether financial or otherwise) within a development to enhance the relevant National Landscape regardless of the level of impact. The Applicant notes that SCC appears to have accepted this position (at least in relation to the provision of financial contributions) (see page 11 of [REP4-096]).</p> <p>The Applicant has explained in the responses flagged above why it considers that additional measures (including financial or compensatory measures) to further the purposes of the DVNL and SECHNL are not reasonable, proportionate and appropriate in this case - there is no separate requirement to explain whether compensation measures are 'realistically achievable'.</p>
11.	Discharge of Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	SCC notes that paragraph 5.10.8 of EN-1 requires measures to be sufficient to enable the decision maker to be satisfied that the Duty is discharged.	<p>The Applicant agrees that the Secretary of State needs be satisfied that measures which seek to further the purposes of nationally designated landscapes are sufficient, appropriate and proportionate to the type and scale of the development when considering applications for developments.</p> <p>The Applicant has set out its position in multiple responses that actions taken by the Applicant in respect of to reduce impacts on the relevant National Landscapes and to give due consideration to the National Landscapes are sufficient to enable the discharge of the Duty by the Applicant and the Secretary of State in respect of the Project without the need for additional measures.</p> <p>Please see the Applicant's response to Items 1 and 6 above and the Applicant's response to ExQ14.1.3 in the Applicant's Response to Written Questions (ExQ1) [REP2-020].</p>

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12.	Discharge of Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	<p>SCC states that it does not agree that merely because the effects on the National Landscape and its natural beauty indicators are assessed by the Applicant to be non-significant in EIA terms, that that means they are not negative effects.</p> <p>SCC refers to the recent London Luton Airport Expansion Development Consent Order decision on 3 April 2025 where the Secretary of State concluded that the effects on the special qualities of the Chilterns AONB (related to impacts on the relative tranquillity of the AONB from overflights in the airspace above the AONB) would not be significant but still required a compensation payment of a financial sum to fund the conservation or enhancement measures within the AONB to be satisfied that the Duty was discharged.</p>	<p>The London Luton Airport Expansion Development Consent Order decision was made in the context of circumstances specific to that project.</p> <p>The Applicant notes that the Project and the London Luton Airport Expansion Development project are similar insofar as neither project is not sited within an AONB or National Landscape and that it was determined that the effect of the London Luton Airport Expansion Development project on the relevant AONB or National Landscape would not be significant (noting that, as a preliminary point of difference, the Applicant maintains that the Project has no significant impact on the SECHNL but no impact on the DVNL).</p> <p>However, the Applicant submits that, regardless of any minor factual similarities, the Secretary State must consider the specific context of the Project when determining whether actions taken to seek to further the statutory purposes of the DVNL and SECHNL are sufficient, appropriate and proportionate and whether an additional financial contribution or other measure is required to enable the discharge of the Duty. For the Project, that includes consideration of:</p> <ul style="list-style-type: none"> the scale, extent and significance of any harm to the DVNL and SECHNL; relevant planning policies including NPS EN1 and EN3 (compared with the Airports National Policy Statement (2018), Department for Transport) regarding minimising and mitigating landscape effects and Critical National Priority (CNP)) infrastructure; and whether the Project has been designed sensitively taking into account siting, engineering, operational and other relevant constraints. <p>SCC itself accepts, in [REP4-096], that conclusions made in relation to the discharge of the Duty in respect of developments must be made on a case-by-case basis and that there will be factual distinctions between cases (i.e. type of development, relevant policy, actions / measures already taken). SCC further concedes that it does not follow that all parties should be required to make a financial contribution in all cases simply because Secretary of State imposed a requirement on a party to make a financial contribution to satisfactorily discharge the Duty in one case.</p> <p>The Applicant agrees with that position.</p>
13.	Scope of the Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	<p>SCC notes that the SLVIA concludes that the Project will have residual adverse effects on the SECHNL and asks the Applicant to confirm whether it agrees that this means that the Project as currently formulated does not conserve the natural beauty of the SECHNL.</p>	<p>In line with the Applicant's oral submissions at Issue Specific Hearing 2 [REP4-034], and the Applicant's response to Issue 4 above, the Duty is an obligation on a relevant authority to <i>seek to further the purpose of conserving and enhancing</i> the natural beauty of the relevant National Landscape. As mentioned previously, it is not a requirement to conserve or enhance the natural beauty of the relevant National Landscape or even a requirement that the relevant authority must further the purpose of the conservation and enhancement of the relevant National Landscape. Further, the Duty must be considered alongside (and does not override) other statutory duties, such as those under the Planning Act 2008, and relevant policy relating to the need for renewable energy.</p> <p>The Applicant maintains that it has complied with the Duty as properly construed and that the Secretary of State can be confident that the Duty can be discharged in relation to determination of the DCO Application for the Project.</p>

#	Issue	Examination Library reference	IP	IP position	Applicant's position
14.	Application of the Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	<p>SCC discusses the recent High Court judgment <i>New Forest National Park Authority v Secretary of State for Housing, Communities and Local Government and Mr Simon Lillington</i> [2025] EWHC 726 (New Forest).</p> <p>SCC submits that the case did not address the issue of impacts on a protected area in EIA terms and so does not assist in the question of whether if impacts are below the threshold of significance this is sufficient to satisfy the Duty.</p> <p>SCC notes that the Judge takes the position that to achieve the aim of conserving a protected area means “to preserve intact or to maintain in an existing state” and argues that this has not been achieved by the Project as currently formulated.</p> <p>SCC notes that it has reservations about findings in New Farm that the Duty can be met by conserving alone without any enhancement and states that in any case the results of the SLVIA show a failure to conserve.</p>	<p>The Applicant refers to its response to Item 3.1.1 (Landscape and visual impact and design) in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036].</p> <p>As set out in that response, the Applicant considers that the New Forest Judgment is relevant in that it held that in circumstances where the relevant development was assessed as having no impact on the relevant National Park/National Landscape, the Duty is considered to be discharged. This supports the Applicant's position the Secretary of State can be confident that the Duty can be discharged in respect of the DVNL without the need to impose additional compensatory measures or requirements because the Project's onshore substation has no impact on the DVNL.</p> <p>This point remains relevant regardless of whether or not the impacts of the development in New Forest were addressed in EIA terms because it relates to circumstances where the development has no impact on the relevant National Landscape.</p> <p>The Applicant refers to its response to Item 13 above in respect of SCC's points about the meaning and application of the words 'conserve and enhance' in the text of the Duty.</p>
15.	Application of the Duty	Post hearing submissions including written summaries of oral submissions made at Issue Specific Hearing 2 [REP4-096]	SCC	<p>SCC refers to the 'minded-to' letter dated 27 February 2025 issued by the Secretary of State in relation to the Gatwick Northern Runway Development Consent Order Examination which looks to the applicant in that case to provide something in the way of enhancement, even though the ExA in that case considered that those proposals would conserve the relevant landscape. SCC argues that this means that the Secretary of State is applying the phrase 'conserve <i>and</i> enhance' to mean that both must be achieved.</p>	<p>The Applicant refers to its response to Items 4 and 13 above and notes that the Duty is an obligation on a relevant authority to <i>seek to further the purpose of conserving and enhancing</i> the natural beauty of the National Landscape. It is not a requirement to conserve or enhance the natural beauty of the relevant National Landscape.</p> <p>For the DVNL, the Applicant refers to the New Forest Judgment which states at [86] that if a decision maker is satisfied that the proposed development will have no impact on the protected area (i.e. leave it unharmed) the decision maker has discharged the Duty and will have properly sought to further the statutory purpose of conserving and enhancing the natural beauty of the National Park by satisfying themselves that to grant the planning permission for the proposed development will have no impact on the protected area.</p> <p>In respect of the SECHNL, the Applicant's position is that it must be considered whether any enhancement measures are reasonable, proportionate and appropriate in the circumstances of the particular development. The Applicant's position is that a financial contribution is not reasonable, proportionate and appropriate. The Applicant notes that SCC has not put forward a type or quantum of financial measure or set out why it considers such a financial contribution to be reasonable, proportionate and appropriate for the Project.</p>
16.	Application of the Duty	Post hearing submissions including written summaries of oral submissions	SCC	<p>SCC accepts that decisions in relation to the discharge of the Duty must be made on a case-by-case basis and there will be factual distinctions between cases, and it does not follow that because someone in one case has made a contribution, all people in all cases will have to make a contribution.</p>	<p>As noted in the response to Item 12 above, the Applicant agrees with SCC that conclusions made in relation to the discharge of the Duty in respect of developments must be made on a case-by-case basis and that there will be factual distinctions between cases (i.e. type of development, relevant policy, actions / measures already taken). Further, the Applicant agrees that it does not follow that all parties should be required to make a financial contribution in all cases because the Secretary of State imposed that requirement in one case.</p> <p>The Applicant has set out its position in multiple responses that actions taken by the Applicant to reduce impacts on the relevant National Landscapes and to give due consideration to the National Landscapes are sufficient to</p>

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		made at Issue Specific Hearing 2 [REP4-096]		<p>However, SCC notes that the Project will have residual adverse impacts on the SECHNL and on the basis that measures need to be sufficient to meet the Duty, SCC considers that the Applicant needs to do more.</p> <p>SCC invites the Applicant to liaise with SCC and the Suffolk and Essex Coast and Heaths National Landscape Partnership on measures that can be taken to address those residual adverse effects.</p> <p>SCC clarifies that it does not expect the Applicant to be required to remove a physical part of the development but considers that an option may be to require the Applicant to take measures to improve the accessibility of the SECHNL and the ability of the SECHNL to be appreciated to offset any negative impacts on the ability of people to experience the coast due to the presence of wind turbine generators.</p>	<p>enable the discharge of the Duty by the Applicant and the Secretary of State in respect of the Project without the need for additional measures. Please see the Applicant's response to Item 9 above.</p> <p>As set out above, SCC's position appears to be that if a development has any residual adverse impacts at all on a National Landscape then additional measures must be imposed in order to allow the relevant authorities to be able to discharge the Duty. The Applicant submits that there is no legislation, policy or guidance that supports this position.</p> <p>The Applicant reiterates that the Duty is to <i>seek to further the purpose of conserving and enhancing the natural beauty</i> of relevant AONBs. It is not a duty to conserve and enhance. Accordingly, the relevant measures must be sufficient (as well as appropriate and proportionate) to meet the obligation to seek to further the purpose of conserving and enhancing and are not immediately rendered insufficient if the relevant development has a residual adverse effect particularly where that effect is not significant in EIA terms.</p>
17.	Seascape and Landscape Visual Impact Assessment (SECHNL)	Comments on any submissions received at the previous deadline [REP4-097]	SCC	SCC explains how its concerns regarding the robustness of the Applicant's assessment of impacts on the special qualities of natural beauty indicators of the SECHNL relate to its submissions about the Duty.	<p>The Applicant considers that the assessment of effects on the SECHNL, presented in Table 29.21 of ES Chapter 29 Seascape and Landscape Visual Impact Assessment [APP-043] and supplemented by the Assessment of the Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast - Technical Note [REP3-044] (SECHNL TN) is robust, as set out in the Applicant's previous response to Natural England (see Applicant's Response to Relevant Representations from Natural England [REP1-044], Applicant's ref NE-42).</p> <p>The Applicant considers that the assessment of effects on the SECHNL referred to above combined with the assessment of effects on landscape character presented in Section 29.6.3.2.1 of ES Chapter 29 Seascape and Landscape Visual Impact Assessment [APP-043] and supplemented by the SECHNL TN, is a sufficient basis on which to conclude that effects on the Suffolk Heritage Coast will not be significant.</p>



HARNESSING THE POWER OF NORTH SEA WIND

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