



NORTH FALLS

Offshore Wind Farm

Applicant's Comments on Responses to ExQ2

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1. INTRODUCTION

1.1 Introduction

- 1.1.1 This document has been prepared by North Falls Offshore Wind Farm Limited ('the Applicant') in relation to the North Falls Offshore Wind Farm (hereinafter referred to as 'North Falls' or the 'Project').
- 1.1.2 The Examining Authority's (ExA) Rule 8 letter [PD-008] confirmed Deadline 5 for responses to the ExA's second written questions (ExQ2).
- 1.1.3 This document has been prepared by the Applicant for submission at Deadline 6 on Tuesday 24 June 2025, and provides comments on other parties' responses to the ExQ2s.

1.2 Purpose of the document

- 1.2.1 This document provides comments, where appropriate and relevant, on responses to ExQ2s.

2. APPLICANT’S COMMENTS ON RESPONSES TO EXQ2

2.1 Responses to ExQ2 where the Applicant has no comments

Table 2.1 Responses to ExQ2 where the Applicant has no comments

REF	PARTY	TITLE OF DOCUMENT	APPLICANT’S RESPONSE
REP5-092	Essex County Council and Tendring District Council	Responses to ExQ2 Essex Local Nature Recovery Strategy Part 1	The Applicant acknowledges that this is guidance and has no direct comments at this time. However, where elements of the guidance are relevant to specific matters, they will be considered accordingly.
REP5-093	Essex County Council and Tendring District Council	Responses to ExQ2 Essex Local Nature Recovery Strategy Part 2	The Applicant acknowledges that this is guidance and has no direct comments at this time. However, where elements of the guidance are relevant to specific matters, they will be considered accordingly.
REP5-099	Marine Management Organisation	Deadline 5 submission summary- Responses to ExQ2 and Comments on any submissions received at the previous deadline	The Applicant notes this submission is a summary of the MMO’s Responses to ExQ2 and Comments on any submissions received at the previous deadline [REP5-098] and has commented on the full version of the MMO’s submission.
REP5-101	National Grid Electricity Transmission Plc	Responses to ExQ2	The Applicant has no comments on this submission at this time.

2.2 Applicant’s Response to Affinity Water Responses to ExQ2 [REP5-085]

Table 2.2 Applicant’s Response to Affinity Water Responses to ExQ2 [REP5-085]

REF	QUESTION	RESPONSE FROM AFFINITY WATER	APPLICANT’S RESPONSE
REP5-085	<p>Q6.012 – Objections to the grant of powers of compulsory acquisition and temporary possession</p> <p>The Affinity Water Limited D2 response [REP2-029] explains that the bespoke provisions in relation to right of access to the Affinity site at East Clacton Reservoir and Pumping Station have not yet been agreed and highlights other areas of concern. The Land Rights Tracker [REP4-020] states that the applicant continues to negotiate bespoke protective provisions with Affinity Water and is confident that the parties can reach agreement before the end of examination. Please set out and explain any outstanding issues in relation to the drafting of protective provisions, with each party providing preferred drafting of those clauses and giving reasons for that preference</p>	<p>Affinity acknowledges that significant progress has been made on the protective provisions since Deadline 2 and the parties are engaged in active discussions to reach an agreed position. Notwithstanding this, the outstanding issues below remain to be agreed. These comments are based on what Affinity understands to be the version of the Affinity protective provisions that the Applicant will seek to include in its draft DCO submitted at Deadline 5 (Applicant D5 Protective Provisions).</p> <p>Affinity’s required set of protective provisions are appended to this submission in clean copy at Appendix 1 which includes the proposed amendments referred to below. A tracked changes version is appended at Appendix 2 comparing Affinity’s Appendix 1 version with Applicant D5 Protective Provisions to show the outstanding points between the parties.</p> <p><u>Paragraph 6(1)(b)(ii) (Acquisition of land) and paragraph 7(2) (Removal of apparatus)</u></p> <p>The wording proposed by the Applicant does not provide any benefit to Affinity beyond the process already set out at Schedule 13 and therefore Affinity seeks to amend the drafting.</p> <p>It is critical to keep in mind that the purpose of the protective provisions is to protect Affinity’s assets and, in this particular regard, to set the conditions on which it consents to the acquisition of its operational land and rights. Having had unrestricted access to its apparatus pursuant to its existing rights and easements, that access will reduced or fettered once the property is acquired or used by the Applicant. The amendments that Affinity seek at paragraphs 6 and 7 are therefore to minimise the extent of that impact.</p> <p>These paragraphs provide for an expedited process in relation to Affinity obtaining any consents from the undertaker as required under Schedule 13 Water Industry Act 1991. Schedule 13 provides that certain protected undertakings (here the Applicant) must give their consent to interference with their works or property which would injuriously affect those works, property or undertaking by other undertakers (here Affinity). There is no mandated process for obtaining this consent and in practice it can take a significant period for agreement to be reached which adversely affects Affinity’s ability to undertake critical works to its network and infrastructure.</p> <p>Therefore, Affinity seeks provisions to provide for this process, obtaining the Applicant’s advanced consent where possible and, where not possible, the application of the Schedule 13 process according to specified timescales.</p>	<p>The Applicant refers to the update on negotiations contained in the updated Applicant’s Land Rights Tracker submitted at Deadline 6 [8.4, (Rev 4)].</p> <p>The form of the protective provisions was agreed between the parties on 17 June 2025 and the Applicant has updated the protective provisions in the draft DCO submitted at Deadline 6 [6.1, (Rev 7)].</p>

		<p>Affinity awaits comments from North Falls in relation to its most recently proposed drafting.</p> <p><u>Paragraph 7(10) (Removal of apparatus)</u></p> <p>Affinity does not agree to the addition of the following wording in red to paragraph 7(10) by the Applicant:</p> <p><i>"(10) In carrying out any work under sub-paragraph (7), the undertaker must comply with all statutory obligations which would have been applicable had the works been carried out by Affinity Water to the extent that the undertaker is legally able to comply with them."</i></p> <p>Affinity is concerned that this drafting could lead to Affinity being required to take apparatus onto its network that does not comply with legal obligations that would have to have been complied with if Affinity had constructed it itself putting the greater network at risk. Any water apparatus constructed must be compliant with all relevant statutory obligations applicable to water infrastructure, irrespective of whether it is constructed by the Applicant or Affinity; the amendment suggested by the Applicant suggests that by virtue of it being constructed by the Applicant the apparatus would not need to meet the same safety and regulatory standards. If the Applicant is not capable of fulfilling any such statutory obligations, it should be left to Affinity to undertake the works.</p> <p><u>Paragraph 10 (Expenses and costs)</u></p> <p>Affinity is willing to agree to exclusion of consequential and indirect losses subject to the amendments at paragraph 10(2)(h) to make clear that Affinity should not be liable for costs arising from penalties or fines from their regulator that have been incurred as a result of, for example, damage caused to pipelines by the authorised works.</p> <p>Affinity awaits comments from North Falls in relation to its most recently proposed drafting.</p> <p><u>Paragraph 11 (Indemnity)</u></p> <p>Affinity is not willing to agree to a blanket exclusion of consequential and indirect losses in its indemnity. It is willing, however, to agree to the amendments at paragraph 11(1)(b) to exclude loss of profit, which Affinity anticipates is the main concern to the Applicant, and make clear that any penalties, fines, levies and surcharges to which Affinity would be subject would be recoverable. Paragraph 11(1)(a) has also been amended to make clear that, for the avoidance of doubt, the indemnity should also cover ensuring continuity of supply.</p> <p>Affinity awaits comments from North Falls in relation to its most recently proposed drafting.</p>	
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2.3 Applicants Response to Anglian Water Responses to ExQ2 [REP5-086]

Table 2.3 Applicants Response to Anglian Water Responses to ExQ2 [REP5-086]

REF	QUESTION	RESPONSE FROM ANGLIAN WATER	APPLICANT'S RESPONSE
REP5-086	Q6.0.13 – Objections to the grant of powers of compulsory acquisition and temporary possession	<p>I write in response to your request under Q6.0.13 “<i>The Land Rights Tracker [REP4-020] states that the applicant continues to negotiate bespoke protective provisions with Anglian Water and is confident that the parties can reach agreement before the end of examination. Please set out and explain any outstanding issues in relation to the drafting of protective provisions, with each party providing preferred drafting of those clauses and giving reasons for that preference.</i>”</p> <p>Anglian Water and North Falls have reached an agreed position on negotiations regarding Bespoke Protective Provisions and there are now no outstanding matters in relation to these. It has been agreed that a copy of the Bespoke Protective Provisions will be included in the updated DCO by North Falls to be submitted for Deadline 5.</p>	The Applicant confirms that the agreed form of protective provisions was inserted into the draft DCO submitted at Deadline 5 (see [REP5-008] and [REP5-009].

2.4 Applicants Response to East Suffolk Council Responses to ExQ2 [REP5-087]

Table 2.4 Applicants Response to East Suffolk Council Responses to ExQ2 [REP5-087]

REF	QUESTION	RESPONSE FROM EAST SUFFOLK COUNCIL WATER	APPLICANT'S RESPONSE
REP5-087	<p>Q10.0.19 – Lesser Black Backed Gull (LBBG) – Compensation Implementation and Monitoring Plan (CIMP)</p> <p>(ii) The applicant/East Suffolk Council. Suffolk Coastal Local Plan (September 2020) Policy SCLP10.1 is referred to in the East Suffolk Council's LIR (Appendix B) [REP1-064] – what has been done/evidenced to address the local</p>	<p>ESC has considered the requirements contained within Policy SCLP10.1 'Biodiversity and Geodiversity'1 of the adopted Suffolk Coastal Local Plan (September 2020). Consideration has been given to the proposed Lesser Black-backed Gull habitat compensation measures due to be provided for the North Falls project, if Orford Ness is selected as the preferred location for such measures.</p> <p>ESC has been monitoring the Applicant's submission materials for this examination, and in light of the Applicant's claim to have other viable options elsewhere, there remains a high probability that the proposed habitat compensation measures for Lesser Black-backed Gulls will be delivered at Orford Ness via a separate planning application, under the Town and Country Planning Act 1990</p>	The Applicant welcomes the ongoing engagement of ESC.

	<p>policy requirements triggered? Or address any other local best practice issue arising from that?</p>	<p>regime, separate to the DCO (if consented). This presents a risk that the compensation measures may not be successful, deliverable or acceptable in planning terms, depending on what is being proposed and the planning balance. Until a full and detailed assessment has been undertaken as part of that process (including cumulative assessment with other similar habitat compensation provision at that location), it is not possible to speculate on the success of such an application.</p> <p>A key consideration will be the potential impacts introduced by the compensation measures on the Alde-Ore Estuary Special Protection Area (SPA) in reference to the standalone planning application, rather than giving wider consideration to the Offshore Wind Farm project covered by the DCO (if consented). The planning application would be assessed on its own merits in compliance with the adopted Local Development Plan. ESC would consult Natural England as part of any planning application regarding the acceptability of compensation measures on the designated site.</p> <p>We also wish to highlight to the Examining Authority that since the start of the examination process, the Applicant has been proactively engaging with ESC regarding the possibility of compensation measures being provided at Orford Ness. We encouraged the Applicant to consider the planning considerations and supporting narrative already assessed as part of the previous compensation measures delivered at Orford Ness by Norfolk Vanguard Ltd and Norfolk Boreas Ltd (collectively known as the Norfolk Projects) for predator-proof fencing (DC/22/3447/FUL and DC/22/3483/EIA). This presents the Applicant with a valuable opportunity to take on board the lessons learned by previous Applicants for similar measures at this location. It is strongly recommended that monitoring efforts are co-ordinated, both with other development projects and the relevant local landowners (particularly National Trust and the RSPB). This will not only result in a better understanding of the LBBG population of the whole SPA but would also allow sharing of best management practices for the selected compensation site.</p>	
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2.5 Applicants Response to Environment Agency Responses to ExQ2 [REP5-088]

Table 2.5 Applicants Response to Environment Agency Responses to ExQ2 [REP5-088]

REF	QUESTION	RESPONSE FROM ENVIRONMENT AGENCY	APPLICANT'S RESPONSE
9. dDCO Schedule 1 Part 3 – Requirements			
REP5-088_a	<p>Q9.1.10 (ii)</p> <p>The EA is requested to provide further details as to why they regard it as necessary to be named consultee within the requirements given that various outline management plans have been updated to include provision for consultation with the EA, and why the inclusion of such provisions within the requirements does not simply represent duplication of an obligation to consult that is already covered in the outline management plans and in the protective provisions.</p>	<p>(ii) We acknowledge that the Outline Code of Construction Practice commits to consult or seek agreement with us in several key areas addressed by the Requirements, namely:</p> <p>Paragraph 81. In respect of piling risk assessment</p> <p>Paragraph 83. A commitment to consult with us in the event of finding unexpected contamination</p> <p>Paragraph 115. In respect of sediment management and surface water runoff</p> <p>Paragraph 129. In respect of HDD</p> <p>However, our remaining concerns are twofold:</p> <p>i) That although there are commitments to seek agreement or consult in respect of matters covered by Requirements 22 and 23, there are no mechanisms in place to ensure that they are fed into version control or safeguard continuity with subsequent plans. This is important given the long post consent approval process which is often more than five years where corporate memory can fade due to changes in personnel or appointment of contractors for different phases. Our preference is that this is addressed by identifying us as a named consultee but if this is completely unacceptable to the applicant it could be addressed by the inclusion of an agreement log or similar which would enable the discharging authority to understand the issues that fall under our remit.</p> <p>ii) There does not appear to be commitment to consult or agree on matters that would be addressed by Requirements 12, 14 &15. In respect to requirement 12 -Ecological Management Plan (EMP); we note that there is a commitment to consult with us on Invasive Non-Native Species (INNS) at paragraph 167. However, and aside from our concerns about version control etc, there is no commitment to consult with us on the overarching Plan. Given that at Requirement 12 (3) pre-commencement works may only take place in accordance with the OLEM as certified and, that main river crossings will be a stage of the construction works; then it is important that the OLEM corresponds with any conditions that we might require when giving consent under Protective Provisions. The situation is similar for Requirement 14 where again there does not appear to be a commitment to consult or agree and yet fish species and riparian</p>	<p>(ii) The Applicant will continue to engage with the Environment Agency to discuss the commitment to consult or agree on matters addressed by Requirements 12, 14, 15, 22 and 23 prior to Deadline 7, and will provide a final position regarding this point at Deadline 7. Please see responses to Q9.1.10 in Applicant's Response to ExA's Second Written Questions (ExQ2) (Rev 0) [REP5-054], which sets out the position regarding not including the Environment Agency as a named consultee on the Requirements listed here.</p>

		<p>mammals fall under our remit and would be a consideration when granting or refusing consent under the Protective Provisions.</p> <p>For Requirement 15 – Groundwater Monitoring, again this is not referenced in the OCoCP nor we able to find reference to a commitment to consult with us in other documents. Protection of groundwater is part of our remit and hydraulic connectivity is an important factor in this and one where we have appropriate expertise.</p> <p>Properly managed by the applicant, the inclusion of the Environment Agency as a named consultee should not cause duplication. If the applicant has agreed with us prior to making the discharge application consultation could be as simple as a statement from us confirming that what has been submitted has already been agreed or, as stated earlier we could discuss another method of control that would confirm to the discharging authority that the applicant has adequately addressed matters within our remit and relevant to the prevailing environmental conditions and legislation at the time of discharge. Also, it should be noted that in our experience that the applicant may have to submit revised plans where issues may not have been addressed in earlier documents. Clarity around which statutory bodies should be consulted would assist the discharging authority in consulting in a timely manner.</p> <p><i>Please note that we do not have the resources to review all documents in the submitted to the ExA but we have used best endeavours to review those that we think are relevant to our submission.</i></p>	
11. Flood Risk, groundwater, and surface water			
REP5-088_b	<p>Q11.0.1 Ground Investigation for infiltration rates</p> <p>The Outline Operational Drainage Strategy [APP-254] states that further ground investigation is required to determine infiltration rates at the site. This will determine the suitability of infiltration based SuDS components which could be considered at detailed design. Infiltration testing shall follow the methodology outlined BRE Digest 365</p> <p>(i) Are BRE Digest 365 Guidelines the most appropriate for a project of this scale, both individually and cumulatively with other proposed projects in and around the proposed Onshore substation?</p> <p>(ii) If BRE Digest 365 Guideline are not appropriate for this project individually or in combination with other proposed projects what would be the most appropriate test or tests to accommodate, to date unknown, attenuation volumes?</p>	<p>The assessment of run off rates is the sole responsibility of Essex County Council as lead local flood authority for surface water. Our statutory remit in respect of surface water drainage is consideration of its destination and the potential impact that it may have on groundwater and main rivers. As such, it would be inappropriate for us to comment on matters such as infiltration testing or run off rates. We believe that this question is outside our statutory remit.</p>	Noted.
REP5-088_c	<p>Q11.0.4 SoCG: Water Resources and Flood Risk Table 2.8</p> <p>Items 3, 4 and 5 of Table 2.8 remain ‘in discussion’ [REP4-053]. Please can the applicant and Environment</p>	<p>Item 3: We have not yet been contacted by the applicants concerning our comments in respect of the Outline HDD Method Statement. The Method Statement does not appear to have been updated since February 2025.</p> <p>Item 4: The Applicant has submitted an assessment and data for review. Our review has shown that the proposal does not cause an unacceptable risk of flooding to third parties, and we are able to confirm that</p>	<p>The Applicant submitted an updated version Outline Horizontal Directional Drill Method Statement and Contingency Plan (Rev 2) [REP5-026] at Deadline 5, which has sought to address the Environment Agency’s outstanding concerns. As noted under the Applicant’s response to REP5-088_a above, the Applicant is engaging with the Environment Agency prior to Deadline 7 to discuss the Environment Agency’s concern around being named as a consultee on Requirement 23.</p>

	Agency outline progress in respect of each, together with a summary of steps needed to enable these items to be agreed.	we consider the position to be agreed. Impacts arising from crossings at ordinary watercourses are outside of our remit, so we do not intend to comment on these. Item 5: We note that the Protective Provisions now match those for the Five Estuaries project in all bar the numbering of paragraphs. As such, we do not object to the disapplication of the Environmental Permitting Regulations in respect of flood risk activity permits. This item also addresses our concern regarding requirements which we believe has been answered at Q9.1.10 above.	
REP5-088_d	Q11.0.5 FRA Update and Technical Note Following ISH1, the applicant has submitted: <ul style="list-style-type: none">• [REP4-032] 9.46 Flood Risk Assessment (Clarification regarding flood risk associated with watercourse crossings) - Technical Note, and• [REP4-033] Flood Risk Assessment (Updated NaFRA2 dataset) - Technical Note (Rev 0). Please can the Environment Agency confirm that this further information is sufficiently adequate for the purposes of assessing flood risk at watercourse crossings, and that these are based on latest published data.	The documents: [REP4-032] 9.46 Flood Risk Assessment (Clarification regarding flood risk associated with watercourse crossings) - Technical Note, and · [REP4-033] Flood Risk Assessment (Updated NaFRA2 dataset) - Technical Note (Rev 0) were shared with us by the applicant and have subsequently been reviewed. We are pleased to confirm that the assessment and dataset are adequate for the purpose of assessing flood risk at the proposed culverted haul road crossing in order to inform the ExA of any increased risk from the proposed development to third parties. We have reproduced our detailed comments at Appendix 2.	Noted.

2.6 Applicant’s Response to ECC and TDC Responses to ExQ2 [REP5-091]

Table 2.6 Applicant’s Response to ECC and TDC Responses to ExQ2 [REP5-091]

REF	QUESTION	QUESTIO N TO	TDC RESPONSE	ECC RESPONSE	APPLICANT’S RESPONSE
1. General and cross-topic			(iii)		
REP5-091_a1	Q1.0.1 Outline Code of Construction Practice – Working Hours The Outline Code of Construction Practice (OCoCP) (Rev 2) (Tracked) [REP3-018] sets out the proposed Working Hours and timing of the works in Section 1.3.1. Paragraph 50 provides a list of exceptions for activities outside of these hours which includes “daily start up or shut down”. Given the concerns raised by Essex County Council (ECC) [REP4-072] regarding working hours and in particular noise levels before 7am: (i) What consideration has been given to limiting the timings or noise levels of the daily start up or shut down activities? (ii) What consideration has been given to restrict high impact and	The Applicant (Parts I, ii, and iii) ECC and TDC (Part iii and iv only)	(iv) TDC maintains its position that the exceptions outlined in paragraph 50 of REP3-018 are unenforceable, effectively permitting further extended construction hours—provided the noise generated is not audible beyond the order limits. However, this condition is itself unenforceable and imprecise. The order limits are mostly drawn lines on a plan and those lines are mostly not reflecting any physical features on the land - ‘inaudible’ in this context is not only not defined, it is also imprecise because works that could be ‘inaudible’ to the occupiers of one property a certain distance away from any order limit boundary, could be audible to another who is perhaps set at a different angle to the noise sources. Wind direction and background noise will also be a very significant factor. Throw in the cumulative effects of other NSIP project and it becomes utterly unenforceable and imprecise. Furthermore, the wording of this provision allows construction activities to further exceed the already unacceptable (to TDC) extensive working hours of 7am to 7pm. TDC firmly believes that no works should take place outside the hours of 8am to 6pm, ensuring affected residents have the clarity they deserve and receive much-needed respite. Given	The Council are expecting additional information from the applicant regarding management of employee vehicles that arrive prior to the 07:00 hours, to reduce the impacts of noise or potential queuing on the highway, as per Deadline 4 [REP4-072] response under Agenda 3.3 Traffic and Transportation, Code of Construction Practice.	The Applicant, ECC and TDC have engaged on the subject to construction working hours and employee arrival times at a meeting on 12 June 2025, during which the Applicant made the following clarifications: Derivation of working hours The working hours of 0700 – 1900 proposed by the Applicant represent a trade-off between the extent of the working day vs the length of the overall construction programme, and are considered to be the most appropriate hours for balancing these considerations whilst also operating within the least impactful periods for sensitive noise receptors. British Standard (BS) 5228-1:2009 +A1:2014 ‘Code of Practice for noise and vibration control on construction and open sites, Part 1 – Noise’ (BS5228-1) sets out the appropriate noise levels for construction activities for different parts of the day. Within the BS, 0700 – 1900 represents the recommended period for ‘daytime’ activities, i.e. periods of the day in which louder activities which have the potential to produce significant noise effects should be

REF	QUESTION	QUESTIONS TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE
	<p>noisy activities between 8am to 6pm?</p> <p>(iii) What is your view on what noise limits (and in what locations) would be appropriate to limit high impact and noisy activities outside of the hours of 8am to 6pm?</p> <p>(iv) Do you agree with the applicant's Response to Written Questions (ExQ1) Rev 0 [REP2-020] Q1.4.6 regarding the control of noise and vibration during construction? If not, what changes would you propose to the dDCO to secure additional measures, and / or sufficient certainty and detail regarding if and how monitoring would be undertaken?</p>		<p>the sheer number of Nationally Significant Infrastructure Projects (NSIPs) concentrated in this area, the region is set to become a vast construction site for a prolonged period, making reasonable, precise and enforceable limitations on working hours essential. We would argue that in this context and for the reason set out none of these tests are met.</p> <p>It is unacceptable to TDC that high-impact and noisy activities are even considered outside of the timeframes indicated, and that such hours could be permitted outside the 8am–6pm timeframe. We have previously submitted our preferred working hours and remain committed to this position. It is also unacceptable that we are now being asked to give our view on what would be appropriate limits for high impact noise activities outside the hours of 8am – 6pm because it will undermine our position set out on construction hours as per previous submissions. We have made our position on this repeatedly clear and find it tiresome that we are asked to consider a proposition that will be even more damaging to the communities that will be affected by this. Should the Examining Authority wish to deviate from the construction hours requested by TDC, we expect clear and justified reasoning for such a decision, along with enforceable restrictions—something currently lacking for the reasons set out above.</p> <p>(v) TDC does not agree with the applicant's response to Q1.4.6. TDC has repeatedly emphasised that the primary concern is the cumulative impact of three—and potentially four—large Nationally Significant Infrastructure Projects (NSIPs) situated in a countryside location, surrounded by three TDC settlements.</p> <p>Given the impossibility of accurately assessing the cumulative effects of what will inevitably be four NSIP projects, all constructed more or less simultaneously (due to the very challenging operational deadline of 2030/2031), enforcing breaches will be unfeasible and frankly impossible. Any proposed additional measures would be vague, impractical, and unenforceable due to the vast array of unknowns regarding the cumulative impacts of these projects.</p> <p>Therefore, under these circumstances (and not least given all the unknowns) it is an unfair proposition to expect TDC to propose /suggest further mitigation measures – we are not the applicants and we have repeatedly made our position clear on cumulative effects and the challenges around monitoring noise and vibration during construction. To be clear - TDC has stated repeatedly in numerous previous representations, the cumulative effects of three—potentially four—interlinked NSIP projects make it impossible to guarantee any level of certainty, let alone sufficient assurance for all the nearby affected residents. Since each project is dependent on the others proceeding, any additional measures introduced in isolation (or on a project by project basis) - as is requested here - will invariably fail to give the clarity and certainty that noise and vibration impacts (and monitoring) during prolonged construction periods, across a vast (and ever expanding) construction site, will not result in unacceptable harm to residential amenity, especially given the fact that there is no guarantee that other projects will follow suit and implement the same or similar additional measures, whatever they may be.</p>		<p>scheduled. These are therefore taken as a reasonable guideline for the start and end of the working day. This approach is typical of other nationally significant infrastructure projects.</p> <p>If the working hours were to be reduced, this would have a consequent effect upon the length of the construction programme. Currently, as a worst-case scenario, some sections of the onshore project area are expected to be subject to construction activities for up to 27 months. Should the working hours be reduced to 0800-1800 Monday-Friday, this would reduce working time by around 22 hours per week, equating to a 30% reduction in available weekly working time. This is the equivalent of adding a further 8 months to the construction programme. In practice, reducing the working hours in the day also increases the percentage of the daily working time available for task-work, i.e. time in addition to mobilisation/de-mobilisation which predominantly happens at the start and the end of the day. This has the potential to further increase the duration of the construction programme.</p> <p>It should also be noted that ES Chapter 26 Noise and Vibration [APP-040] assesses the predicted noise levels for all construction activities within the onshore project area within the Project working hours, and has concluded that sufficient mitigation is available to reduce all effects to a non-significant level.</p> <p>Definition of 'high impact' activities</p> <p>Two examples of 'high impact' activities are provided in the OCoCP [REP5-022]. To clarify the Applicant's commitments, please find below a more extensive list of activities which would be prohibited between 1300-1900 on Saturdays (except where otherwise agreed in advance with the relevant local authority):</p> <ul style="list-style-type: none"> • Piling; • Breaking out; • Vibratory compaction; • Hydraulic hammer. <p>An updated list of activities and locations would be agreed within the final CoCP, secured by DCO Requirement. Paragraph 171 of the OCoCP includes a commitment that the final CoCP will include specific mitigation measures for noise sensitive receptors, based on the final list of plant to be used. This is the mechanism which commits the Project to keeping noise below a non-significant level during Saturday afternoon (1300-1900) working.</p> <p>Employee arrival</p> <p>To mitigate significant effects upon driver delay (capacity) associated with employees travelling to work in the morning, it was agreed with Essex County Council and National Highways at an ETG meeting on the 05 September 2023 (detailed within ES Appendix 27.4 Traffic and Transport Consultation [APP-168]) that 80% of employees would be managed so that they arrive prior to the morning network peak hour (0715 to 0815). To facilitate this strategy and to avoid impacting upon the network peak</p>

REF	QUESTION	QUESTIONS TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE
					<p>hour, it is necessary to permit employees to travel to work prior to the morning peak hour (0715).</p> <p>The consequences of restricting vehicle movements until after 0700 would be that employees would travel in the network peak hour (which there has been a strong desire from the Applicant, ECC and National Highways to avoid). The movement of employees prior to the network peak would also have the benefit of reducing vehicle movements during more sensitive hours for non-motorised users, e.g. children walking to school.</p> <p>Further, it is considered that restricting employee movements until after 0700 would lead to the following issues:</p> <ul style="list-style-type: none"> • Employees travelling to work experience day to day fluctuations in their journey times (e.g. as a result of road works or accidents) and will build in float such that they are not late. This runs the risk of employees arriving early some days and thus needing to wait on the highway until after 0700 for entry. The only practicable methods of controlling this would be to either identify large holding areas or to ensure that works do not start until after 0700 which will lead to workers travelling in the peak hour and also reducing productivity. Holding areas also have the potential to induce traffic movements and associated environmental impacts. • Additional restrictions on times will lead to an increase in the duration of the construction phase (as outlined above). • Any restriction requiring workers not to travel prior to 0700 could preclude the use of local workers. For example, it is common within the construction industry for local (home-based) employees to travel longer distances for work than other industries. A local employee may need to travel over an hour, which would require them leaving home at a precise time to comply with travel restrictions. In contrast, a non-local worker could base themselves in nearby local accommodation and arrive earlier (due to the shorter commute). These scenarios would prove difficult to monitor and enforce. <p>It is therefore proposed that employees can arrive prior to 0700 to avoid the peak hours and park in the compound carpark ready to commence work at 0700 to avoid these issues.</p> <p>Start-up / shut-down</p> <p>TDC has raised concerns regarding noisy activities taking place at the start and the end of the working day (in particular 0700-0800 and 1800-1900). The Applicant would like to confirm that, in practice, during normal construction the activities which will take place at the start and the end of the working day will be typically quieter activities involved with the start-up/shut-down for the working day. In practice, works involving heavy plant and equipment are highly unlikely to be used during the start and end of the day. During a typical working day, activities taking place between 0700-0800 and 1800-1900 are expected to comprise:</p> <ul style="list-style-type: none"> • Site opening; • Signing-in / signing out;

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					<ul style="list-style-type: none"> • Inductions / toolbox talks / briefings; • Daily planning; • Pre-start checks; • Welfare unit start-up; • Working with hand tools; • Vehicle tracking; • Site clean-up; • Close-down. <p>Enforcement</p> <p>Under Requirement 8 of the Draft Development Consent Order (DCO) [REP5-008], the Applicant's Principal Contractor (on behalf of the Applicant) will have a legal obligation to adhere to the working hours set out in the final CoCP, and to any modifications to those hours outlined in the CoCP.</p> <p>Section 1.1.3 of the OCoCP outlines responsibilities for ensuring compliance with the commitments detailed in the OCoCP:</p> <p><i>"The OCoCP sets out the management measures which the Applicant will require all personnel on site to adopt and implement for any onshore construction works for the Project. The appointed Principal Contractor and associated management team will be responsible for implementation of the CoCP provisions, and for ensuring that any subcontractors, site-based consultants and visitors are in compliance with these requirements."</i></p> <p>A Community Liaison Officer will also be in place, whose contact details will be made available to members of the public (for example, on the Project's website) and who will be the first port of call for any complaints raised to the Project regarding matters about the Project's construction. This is detailed in Section 1.2.6 of the OCoCP:</p> <p><i>"A designated Local Community Liaison Officer will respond to any public concerns, queries or complaints in a professional and diligent manner as set out by a project community and public relations procedure which will be submitted for comment to the relevant local authority."</i></p> <p>During the discussion held between the Applicant, ECC and TDC on 12 June 2025 on these matters, the Applicant agreed to amend Section 1.3.1 of the OCoCP to seek to address ECC and TDC's outstanding concerns. The updated OCoCP [7.13 (Rev4)] will be submitted into the Examination at Deadline 6. The Applicant is also submitting an updated Statement of Common Ground with ECC and TDC [10.17 (Rev1)] at Deadline 6, detailing progress in discussions on these matters, with the aim of making further progress following ECC and TDC review of the updated OCoCP submitted at Deadline 6.</p>
REP5-091_a2	<p>Q1.0.3</p> <p>Working outside of general working hours</p> <p>ECC and TDC response [REP2-036] to ExQ1.4.3 states that "Tendring District Council is of the view that any works</p>	ECC and TDC	TDC is content with the wording but firmly object substance of the matter under consideration. We wish to reiterate our strong objection to construction works occurring outside the working hours we have previously indicated will be acceptable to TDC. As a result, the question (and indeed our confirmation that we are content with the wording set out above) is purely academic in nature.	Written agreement of such works should be sought from both TDC as well as ECC as the highway authority.	Please see response REP5-091_a1 above in relation to the points made here by TDC and ECC.

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	<p>outside of agreed working hours should be subject to a written agreement in advance of such work taking place."</p> <p>The applicant's response to written questions [REP3-036] states <i>"In respect of works outside of agreed working hours, the applicant refers to paragraph 51 of the Outline Code of Construction Practice [REP1 033], which states that this must be agreed with the relevant local authorities in writing in advance:</i></p> <p><i>Save for emergency works, full details, including but not limited to type of activity, vehicle movements and type, timing and duration and any proposed mitigation, of all essential construction activities undertaken outside of the consented construction hours must be agreed with the relevant local authority in writing in advance, and must be carried out within the agreed time."</i></p> <p>Could ECC and TDC confirm whether they are content with the wording in the Outline Code of Construction Practice regarding this matter?</p>				
6. Compulsory Acquisition					
REP5-091_b	<p>Q6.0.20</p> <p>Objections to the grant of powers of compulsory acquisition and temporary possession</p> <p>The Land Rights Tracker [REP4-020] indicates that the applicant remains confident that the necessary land rights can be secured by voluntary agreement. However, the applicant states that despite its concerted efforts to expedite matters, progress has been limited.</p> <p>Notwithstanding the information already submitted to the examination, the TDC is requested to set out any outstanding areas of disagreement and reasons for objection to the grant of compulsory acquisition powers for the acquisition of rights in plots 01-002, 01-003 and 01-006.</p>	TDC	<p>Since outlining our position to the applicant several months ago, TDC remains unable to accept the proposed terms, which continue to be wholly unsatisfactory—particularly in relation to financial compensation and the legal obligations set out in the draft documents.</p> <p>Despite the issues being raised with the applicant over three months ago, they remain entirely unaddressed. The only material change has been a modest increase in the financial offer—by only a few hundred pounds—which does not materially alter the viability of the proposal or address the substantive concerns previously outlined.</p> <p>It is also inaccurate for the applicant to assert that "concerted efforts" have been made to expedite matters. In reality, there has been minimal engagement with TDC's concerns, and no meaningful attempts have been made to resolve them.</p> <p>To be clear, TDC was asked to grant a four-year exclusivity period for an unreasonably low fee of £3,000, with an option to extend for an additional two years at £2,500. Independent valuation advice obtained by our Property Department confirms these figures do not reflect market value and are grossly inadequate. The valuation, based on deferring potential land sale value over four years at a capitalisation rate of 4%, has been shared with the applicant's project team. Despite this, the applicant indicated that their budget constraints preclude a market-aligned offer—effectively transferring their financial limitations to TDC, which is wholly unacceptable.</p> <p>In light of this, and broader concerns, TDC must confirm that the proposed Exclusivity Agreement cannot be accepted.</p> <p>Moreover, the draft Heads of Terms for an Option Agreement seek to tie up the land for eight years, yet again offer wholly inadequate compensation. The proposed option extension fee of only £62.50 is negligible and may not even have been updated. The land is subject to significant potential impact under both the Exclusivity and Option</p>	N/A	<p>The Applicant notes the response submitted by Tendring District Council ('TDC').</p> <p>The Applicant respectfully disagrees with the assertion that there has been minimal engagement from the Applicant to address TDC's concerns. Populated Heads of Terms were first issued on 8 April 2024. Since issuance, the Applicant has sought to engage through written and telephone correspondence including offers of meetings to discuss the terms. A log of this correspondence is included for reference at the end of this response.</p> <p>TDC provided its first substantive feedback on 7 February 2025, largely rejecting the Applicant's proposed terms. The Applicant responded on 17 February 2025 with revised Heads of Terms along with detailed responses seeking to address TDC's concerns. Despite attempts to follow-up with TDC, no further response was received until TDC's response to ExQ2 [REP5-091] submitted at Deadline 5 on 30 May 2025. The Applicant contacted TDC on 13 June 2025 to request a meeting to discuss TDC's ongoing concerns. TDC responded on 17 June 2025 indicating that it would consider agreeing to a meeting subject to receipt of a summary from the Applicant of the issues to be addressed along with its proposed counterproposals. The Applicant is drafting a response to TDC.</p> <p>The Applicant notes TDC's concerns regarding the proposed commercial elements of the Heads of Terms. The commercial terms offered for the voluntary agreement relating to the cable easement are consistent with those agreed in principle with 28 other affected parties. Given the nature of the proposed works, specifically the use of Horizontal Directional Drilling or similar trenchless</p>

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			<p>Agreements, yet the financial terms fall well below the standard required for TDC to meet its legal obligation to secure best value for taxpayers. Acceptance of such terms would put TDC in breach of this obligation and expose the authority to unjustified financial risk.</p> <p>A number of other proposed terms are unduly onerous and remain unaddressed. Key issues include:</p> <ul style="list-style-type: none"> • Granting Power of Attorney to the Grantee in the event of a breach by the Grantor is unnecessary and wholly unacceptable. • Unrestricted vehicular and pedestrian access risks conflict with existing land users (public car parks, residential properties, sailing clubs), without dispute resolution provisions. • Temporary roads and track improvements are proposed with insufficient detail, making it impossible to assess or approve. • Assignment rights without Council consent directly contradict established Council policy and cannot be agreed. • Requirement for direct or step-in agreements with unknown funders lacks clarity and is unacceptable. • Lack of information on above-ground apparatus, including size, location, and purpose, prevents informed consideration. • Burden of proving adverse effects is placed entirely on the Council, with significant cost and resource implications. • Prohibition on objecting to planning applications is unacceptable, given TDC's statutory role as Local Planning Authority. • Requirement to obtain occupier consents imposes a significant administrative burden without compensation. • Request to waive mineral rights without adequate compensation is not acceptable. • No allowance for new easement or wayleave fees has been made. • Restrictions on future land use, works, or leasing severely limit TDC's flexibility and diminish land value. • Limitation of the Grantee's indemnity is unreasonable in light of the risks transferred to the Council. • Proposed location for the temporary construction compound, within a Council working depot, is impractical and inadequately compensated. <p>While some of these concerns may have been partially addressed, no such revisions have been clearly communicated to TDC.</p> <p>In addition, the Construction Practice Addendum imposes disproportionate responsibility on the Council to supply and review information, with fees capped at unjustifiably low levels. This is unsustainable given current resource constraints and would divert funds from essential services. There is no provision to recover administrative costs, further misusing public resources.</p> <p>In summary, the proposed financial compensation is entirely inadequate, and the associated legal and administrative burdens on the Council are unacceptable. The cumulative cost and resource implications to the Council—through monitoring, compliance, and dispute resolution—are considerable and unjustifiable. TDC therefore formally rejects the proposed Heads of Terms in the strongest possible terms. As previously communicated, any revised proposal must include:</p>		<p>technology to install the ducting, the Applicant does not anticipate any surface disturbance or long-term impact on TDC's land. As such the Applicant considers the commercial terms to be proportionate to the level of impact on TDC.</p> <p>In addition, the land subject to the potential easement is either designated as a local nature reserve (Holland Haven Marshes), a Site of Special Scientific Interest (SSSI) or "Safeguarded Open Space" under Policy HP4 of Tendring District Council's Local Plan. These designations significantly constrain the land and prevent development potential. Given the proposed construction methodology and the fact that following construction the land will remain unchanged, consistent with its present use, the Applicant considers that the impact on the value of the land to be negligible. Accordingly, no diminution in value is anticipated as a result of the presence of the underground cables.</p> <p>Nonetheless, the Applicant is committed to reaching a fair and reasonable agreement and remains open to further discussions on the commercial elements of the agreement. However, no alternative commercial proposal has been provided by TDC to date.</p> <p>The Applicant has previously sought to respond and address many of the specific points raised by TDC in its submission of 30 May 2025 [REP5-091 through detailed correspondence sent on 17 February 2025, which included issuance of revised and amended Heads of Terms. While no response or feedback has been received from TDC, the Applicant considers that such issues can be resolved through positive and constructive engagement with TDC. For example, TDC's concern regarding "Lack of information on above-ground apparatus" can be addressed by confirmation that there would be no requirement for any above-ground apparatus on TDC's land owing to its location. In addition, the Applicant wishes to clarify that signing Heads of Terms does not prevent TDC from participating in the examination process. These are matters that could be clarified and addressed through direct engagement with TDC following a response from TDC to the Applicant's efforts to engage outlined above.</p> <p>In regard to TDC's concerns on legal and administrative burdens arising from engagement on the voluntary agreement, the Applicant confirms that the Heads of Terms include an undertaking to cover the reasonable and proper costs for professional advice in negotiating and agreeing voluntary terms.</p> <p>The Applicant is unclear on the specific responsibilities TDC believes are imposed by the Construction Practice Addendum ('CPA'). The CPA is intended to provide certainty to affected parties through a legal commitment within option agreements which bridges the gap between the level of detail included within the outline Code of Construction Practice and affected parties' expectations of how practical matters should be dealt with. For example: records of condition, the role of the ALO and land drainage. While the Applicant welcomes feedback on this document, the CPA does not impose any obligations on TDC. Clarity on the purpose of this document could be resolved through positive engagement with TDC.</p>

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			<ul style="list-style-type: none">Financial compensation that reflects full market value;Removal of all liability risks to the Council;A comprehensive response to the concerns outlined above. <p>Until such a proposal is submitted, TDC will not engage in further discussions on this matter.</p>		<p>The Applicant remains committed to securing land rights by voluntary agreement wherever possible and respectfully requests that TDC re-engage in positive discussions to resolve their concerns. The Applicant remains available to meet at TDC's convenience to progress matters.</p> <p>In regard to the exclusivity agreement, the Applicant cannot comment further on this as it has not made any such proposals to TDC for such an agreement.</p> <table><tr><th>Contact</th><th>Date</th><th>Summary</th></tr><tr><td>Email from Applicant to TDC</td><td>19-Apr-24</td><td>Email advising HoTs were issued on 5th April 2024.</td></tr><tr><td>Telephone message from Applicant to TDC</td><td>08-May-24</td><td>Message left with TDC to follow up on HoTs.</td></tr><tr><td>Telephone message from Applicant to TDC</td><td>13-May-24</td><td>Message left with TDC to follow up on HoTs.</td></tr><tr><td>Email from Applicant to TDC</td><td>23-May-24</td><td>Requesting update from TDC on HoTs.</td></tr><tr><td>Telephone message from Applicant to TDC</td><td>04-Jun-24</td><td>Message left with TDC to follow up on HoTs.</td></tr><tr><td>Email from Applicant to TDC</td><td>11-Jun-24</td><td>Requesting update from TDC on HoTs.</td></tr><tr><td>Email from TDC to Applicant</td><td>11-Jun-24</td><td>Request from TDC for undertaking for a valuer to assess easement consideration.</td></tr><tr><td>Email from Applicant to TDC</td><td>13-Jun-24</td><td>Meeting offer to discuss HoTs</td></tr><tr><td>Letter from Applicant to TDC</td><td>13-Jun-24</td><td>HoTs reminder letter.</td></tr><tr><td>Telephone call from Applicant to TDC</td><td>14-Jun-24</td><td>Conversation regarding progress on negotiation of HoTs</td></tr><tr><td>Email from Applicant to TDC</td><td>18-Jun-24</td><td>Conversation regarding progress on negotiation of HoTs</td></tr><tr><td>Telephone call from TDC to Applicant</td><td>19-Jun-24</td><td>Conversation regarding progress on negotiation of HoTs</td></tr></table>	Contact	Date	Summary	Email from Applicant to TDC	19-Apr-24	Email advising HoTs were issued on 5 th April 2024.	Telephone message from Applicant to TDC	08-May-24	Message left with TDC to follow up on HoTs.	Telephone message from Applicant to TDC	13-May-24	Message left with TDC to follow up on HoTs.	Email from Applicant to TDC	23-May-24	Requesting update from TDC on HoTs.	Telephone message from Applicant to TDC	04-Jun-24	Message left with TDC to follow up on HoTs.	Email from Applicant to TDC	11-Jun-24	Requesting update from TDC on HoTs.	Email from TDC to Applicant	11-Jun-24	Request from TDC for undertaking for a valuer to assess easement consideration.	Email from Applicant to TDC	13-Jun-24	Meeting offer to discuss HoTs	Letter from Applicant to TDC	13-Jun-24	HoTs reminder letter.	Telephone call from Applicant to TDC	14-Jun-24	Conversation regarding progress on negotiation of HoTs	Email from Applicant to TDC	18-Jun-24	Conversation regarding progress on negotiation of HoTs	Telephone call from TDC to Applicant	19-Jun-24	Conversation regarding progress on negotiation of HoTs
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					Email from Applicant to TDC	26-Jun-24	Update request on independent valuer appointment and meeting offer.
					Email from TDC to Applicant	04-Jul-24	TDC confirmed valuer has been instructed.
					Email from Applicant to TDC	08-Jul-24	Email regarding progress on negotiation of HoTs
					Telephone call from Applicant to TDC	15-Jul-24	Message left requesting update on independent valuer appointment.
					Email from Applicant to TDC	19-Jul-24	Email notifying of issuance of updated HoTs.
					Email from TDC to Applicant	22-Jul-24	TDC confirmed revised HOTs issued to agent for review.
					Email from Applicant to TDC	29-Jul-24	Requested contact details for agent.
					Telephone call from Applicant to TDC	09-Aug-24	Message left with TDC to follow up on HoTs.
					Telephone call from Applicant to TDC	20-Aug-24	Conversation regarding progress on negotiation of HoTs
					Email from Applicant to TDC	18-Sep-24	Requesting update on HOTs and to offer a meeting.
					Telephone call from Applicant to TDC	25-Sep-24	Message left with TDC to follow up on HoTs.
					Email from Applicant to TDC	25-Sep-24	Requesting update on HOTs and to offer a meeting.
					Letter from Applicant to TDC	17-Oct-24	Update on examination timescales and follow-up on HoTs.
					Email from Applicant to TDC	18-Nov-24	Email notifying of issuance of updated HoTs.
					Email from Applicant to TDC	19-Dec-24	Requesting update on HOTs and to offer a meeting.
					Letter from Applicant to TDC	09-Jan-25	HoTs reminder letter.
					Email from TDC to Applicant	30-Jan-25	TDC advising of Planning Policy Officer

REF	QUESTION	QUESTIO N TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE		
							as new contact for HOTs negotiation.
					Telephone call from Applicant to TDC	30-Jan-25	Telephone conversation on progress of negotiations on HoTs.
					Email from Applicant to TDC	30-Jan-25	Follow-up email on conversation.
					Email from TDC to Applicant	30-Jan-25	TDC advised unable to progress HoTs until 3 February 2025 owing to annual leave.
					Email from TDC to Applicant	07-Feb-25	Substantive feedback provided by TDC on HOTs.
					Letter from Applicant to TDC via email	10-Feb-25	Confirming signing of HoTs does not prevent TDC from participating within examination and feedback on practical matters.
					Email from Applicant to TDC	17-Feb-25	Requesting feedback on HoTs and to offer a meeting.
					Email from Applicant to TDC	24-Feb-25	Issuance of updated HOTs.
					Email from Applicant to TDC	10-Apr-25	Following up on revised HOTs issued and to offer a meeting.
					Email from Applicant to TDC	13-Jun-25	Acknowledging TDC's response to ExQ2 and to offer a meeting to resolve outstanding issues. No feedback has been provided to date.
7. Cumulative Effects							
REP5-091_c1	Q7.0.3 Traffic and Transport Study Area SCC's Comments on any submissions received at the previous deadline [REP3-068] item LIR_SCC_08 states: <i>"SCC recognises and accepts that the applicant's TTSA was agreed with National Highways and defers to their judgement given that the A12 south of Ipswich is within National Highways' ("NH's") administration. SCC appreciates</i>	ECC Natio nal Highw ays	N/A	<p>The Council recognises SCC's valid concern around cumulative impacts on the A12 and the wider region as a result of the large number of projects in the area. The A12 is predominantly a dual carriageway and of strategic importance to Essex and Suffolk.</p> <p>ECC are of the opinion that these impacts will mostly occur on the strategic road network, and so would defer to National Highways regarding specific concerns and impacts on operation (particularly of the slip roads), albeit it is recognised there would be some interaction with the local road network; however, the Council are of the opinion that this would be limited aside from those</p>	The Applicant refers to National Highways' response to Q7.0.3 in [REP5-102a] , shown also in Table 2.12 below, which indicates significant cumulative effects are unlikely on the A12.		

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	<p><i>the clarification given by the applicant on the worst-case peak increase in traffic flows and that the project is not likely to cause significant effects on the A12.</i></p> <p><i>Regarding cumulative impacts, SCC notes that several nationally significant infrastructure projects ("NSIPs") in Suffolk will be using the A12 concurrently with the applicant. The fact that the TTSAs [Traffic and Transport Study Area] of these projects do not overlap with the applicant's does not necessarily mean that there will be limited potential for cumulative impacts. East Anglia ONE North, East Anglia TWO and Sizewell C each include the A12 in their study areas which the applicant will also have to use to access the A120. There will also be other projects using the A12 concurrently with the applicant, including Five Estuaries, Norwich to Tilbury, and Bramford to Twinstead. SCC recognises that this section of the A12 is within Essex and under the administration of NH and so defers to NH and Essex County Council ("ECC") on this issue and the discretion of the Examining Authority as to whether they wish to explore this matter further."</i></p> <p>Could ECC and National Highways comment on SCC's concern regarding the potential for cumulative effects on the A12?</p>			<p>locations directly assessed by relevant developments e.g. the access routes assessed for North Falls, Five Estuaries, Bramford to Twinstead, and to be assessed for Norwich to Tilbury.</p> <p>That being said, there is likely to be some value in a high-level review of the change in total traffic flows of these projects on the A12 at different locations along its length to determine whether any material impact is occurring.</p> <p>For posterity, the Council are content with the study area and committed developments assessed within Chapter 27 Traffic and Transport of the Environmental Statement [APP-041].</p> <p>It is also correct to point out to the ExA that the A12 to the south and between junctions which serve Boreham to the north of Chelmsford, and Marks Tey, to the south of Colchester, has been the subject of a consented DCO for its widening and partial re-alignment, a proposal ECC has and continues to support as it would significantly improve the free flow of goods and people in Essex as it gears up for change over the next decade.</p> <p>At this time ECC have not been informed by the Department of Transport that a final decision has been made on funding for this new road scheme. Hence although the DCO is consented it is not possible at this time to say when, or indeed if, the scheme will be funded, and all activity on this DCO has now ceased whilst the applicant awaits this decision. However, and if the scheme commences, this could have an impact on the A12 during the construction works which would be relevant if this DCO relies on the A12 to the south of the County for access, particularly in reference to the Abnormal Indivisible Loads.</p>	
REP5-091_c2	<p>Q7.0.10 The Cumulative Effects Assessment (CEA)</p> <p>The ECC post hearing summary of oral submissions made at ISH1 and ISH2 [REP4-072] sets out why in terms of cumulative impacts on archaeology, they are not in a position to agree with the applicant that there would not be significant adverse impacts on archaeological grounds.</p> <p>(i) ECC is requested to provide further details of the level of intrusive fieldwork that it seeks and why the work carried out to date is considered to be insufficient to adequately assess cumulative impacts.</p> <p>(ii) The applicant is requested to provide further justification to support its position that the level of intrusive fieldwork carried out would be sufficient to assess such impacts.</p>	The Applicant, ECC	N/A	<p>(i) ECC considers the level of intrusive fieldwork carried out for both North Falls and Five Estuaries to be insufficient and that the information provided does not allow an informed assessment of the impact of both schemes on archaeological remains. Further intrusive investigation would have provided information on both the presence, nature and significance of any archaeological remains along the scheme and provided more certainty on the level of further fieldwork that may be required post consent to record or preserve these remains. The Applicant considers the scheme retains enough flexibility in design to avoid any areas where extensive or highly significant remains may be encountered and proposes these can be preserved in situ. The Applicants for both North Falls and Five Estuaries have proposed a programme of archaeological evaluation post-consent which will inform on the archaeological potential along the scheme and inform on the final design. This has been agreed with the Applicant through the documents, Outline Written Scheme of Investigation and Archaeological Mitigation Strategy, which will be submitted at Deadline 5.</p>	The Applicant can confirm that a programme of archaeological and geoarchaeological evaluation and mitigation will be carried out jointly with Five Estuaries post-consent. The approach to this has been agreed with ECC and Historic England and is set out within the Archaeological Mitigation Strategy [REP5-046 to REP5-048] and Onshore Outline Written Scheme of Investigation [REP5-016 to REP5-021] which were submitted into Examination at Deadline 5.

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8. Design					
REP5-091_d1	<p>Q8.0.1 Design Coordination with Five Estuaries</p> <p>IPs (TDC/ ECC) have concerns about the meaningfulness and transparency of design coordination, specifically coordination of design with VEOWF.</p> <p>(i) Please explain the steps leading to formation of a design review panel that will include: ECC's landscape team, representatives from the National Landscape body, local communities.</p> <p>(ii) To what extent should the coordinated approach be made a binding requirement through the DCO?</p> <p>(iii) Who is likely to be the design champion?</p> <p>(iv) Will there be meaningful early engagement with stakeholders?</p>	The Applicant, Other IPs	<p>The Councils understand that landscape expertise will come from Landscape Institute members recruited through the Essex Quality Review Panel (EQRP) and these will be engaged with the proposed project Design Review Panel. ECC Place Services provides a Landscape Design and planning service and will continue to provide support to ECC and TDC planners as necessary. We propose that the agreed approach should be clarified and made binding through the DCO to ensure delivery.</p> <p>In terms of design champion, the Design Vision (APP-234) indicates that it would be appointed internally at board-level who has experience with substation design. The applicant should also consider to appoint a local/community/external design champion to ensure the local views are fed into the process and act as a facilitator with the local communities.</p>		<p>The continued input of ECC Place Services to the Joint Design Guide is welcomed.</p> <p>The Design Vision [REP5-004] has been updated to reflect the discussions with ECC regarding the engagement process (Sections 1.5.1-1.5.9). The Applicant continues to engage with ECC on this process.</p> <p>The Design Vision is a certified document in the DCO, and the process for the development of a Design Guide is set out and secured through the Design Vision. Please refer to the Applicant's response to Q8.0.1(ii) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054] for on its position in relation to ECC and TDC's request for an update to the draft DCO.</p> <p>Section 1.5.6 of the updated Design Vision [REP5-004] clarifies the role of the internal Design Champion, which aligns with the recommendations in the National Infrastructure Commission's (NIC) first National Infrastructure Assessment (NIC, 2018).</p> <p>The Applicant currently does not intend to appoint a separate local design champion in addition to the internal Design Champion, although the local Parish Councils may wish to arrange for a separate local design champion to provide feedback and insights to the internal Design Champion during the development of the Design Guide. The views of local communities and parish councils are a key part of the strategy and their feedback will help shape the Design Guide. The multiple briefings proposed to explain how feedback has informed the Design Guide demonstrates the North Falls and Five Estuaries' projects' commitment to transparency. This is not a 'closed-door' process, and the projects will be clear about this in external communications.</p> <p>The Applicant will also keep stakeholders updated at regular intervals following the conclusion of the Design Guide engagement process.</p>
REP5-091_d2	<p>Q8.0.2 Good Design: Design Expertise</p> <p>Are you satisfied that the Discharging Authority would have access to sufficient design expertise to ensure good design of the OnSS when discharging Requirement 5 and 6 of the dDCO [REP4-004]? Please provide commentary on the need for a Planning Performance Agreement to ensure that sufficient resources for discharging these requirements.</p>	The Applicant, ECC and TDC	<p>The applicant is encouraged to seek independent review from the EQRP which is an organisation providing local design expertise. The EQRP is considered by both Councils to be an appropriate way to offer such advice without prejudice.</p> <p>The Councils' involvement in assisting the applicant to finalise document(s) to discharge Requirements 5 and 6 are essential to ensure that any adverse impacts are minimised and adequately mitigated. It is essential to secure sufficient resources for discharging all requirements, should DCO be granted, to ensure that ECC is involved at a cost-neutral basis on NSIP projects. ECC is in discussions with the applicant to secure a post-consent PPA to cover such costs in due course.</p>		<p>The Design Vision [REP5-004] has been updated to reflect recent discussions with regard the development of the Joint Design Guide (see Sections 1.5.1-1.5.9). Section 1.5.9 of the updated Design Vision [REP5-004] identifies the role of the EQRP within this process.</p>
9. dDCO					
REP5-091_e1	<p>Q9.1.5 Requirement 11 – Onshore Archaeology</p> <p>The ExA notes that following discussion at ISH2 this requirement was updated in line with the Five Estuaries drafting at Deadline 4 [REP4-004].</p>	The Applicant, HE, ECC	N/A	<p>(i) The wording of Requirement 11 is now agreed between parties.</p> <p>(ii) The latest draft AMS ad OWSI are in agreement. The agreed version is expected to be submitted by the Applicant at Deadline 5</p>	<p>Noted.</p> <p>The Applicant confirms that the Archaeological Mitigation Strategy (see [REP5-046], [REP5-047] and [REP5-048]) and an updated version of the Onshore Outline Written Scheme of Investigation (see [REP5-016] to [REP5-021]) were submitted at Deadline 5.</p>

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	<p>(i) The parties are requested to confirm that the drafting of this requirement is now agreed and that no further drafting amendments are sought.</p> <p>(ii) Please provide an update in relation to the draft Archaeological Mitigation Strategy and Outline Onshore Written Scheme and whether it is agreed that these now provide satisfactory commitments to post-consent surveys and trial trenching.</p>				
REP5-091_e2	<p>Q9.1.14</p> <p>Other matters relating to dDCO requirements</p> <p>The ECC Post hearing submissions including written summaries of oral submissions made at the hearings [REP4-073] confirms that the Councils are seeking the addition of a phasing/Grampian requirement, which they state is precedented in the recent Viking Carbon Capture and Storage Pipeline Order 2025. They point to the link between NFOWFs and the EACN. ECC and TDC are requested to provide further details and reasons to support their reliance upon the recent Viking Carbon Capture and Storage Pipeline Order 2025 in support of the inclusion of such a phasing requirement. The proposed requirement as set out in ECC's post hearing submissions [REP4-073] states: "No part of the authorised development may commence until details of the following have been submitted to and approved by the Secretary of State — evidence of development consent being granted for the National Grid's East Anglian Connection Node substation which will connect the North Falls development to the grid."</p> <p>(i) ECC and TDC are requested to provide further details and reasons to support their view that such a requirement would comply with NPS EN-1 paragraph 4.1.16 in that it would be necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects.</p> <p>(ii) Is the proposed requirement as currently drafted sufficiently precise to be readily enforceable,</p>	The Applicant, ECC TDC	<p>(i) The Overarching National Policy Statement for Energy (NPS EN-1) states that the Secretary of State:</p> <ul style="list-style-type: none"> should only impose requirements in relation to a development consent that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects (paragraph 4.1.16). <p>There is a functional link between North Falls and the EACN substation that is proposed by National Grid, which is not the subject of this examination and is not being considered in respect of its merits. However, the ExA are asked to note that the EACN substation is proposed to connect renewable energy generated by North Falls to the national grid. ECC is the local authority for the administrative area in which the onshore works will greatly affect. ECC has considered the impact that the development will have within its administrative area and weighed that against the risk whereby if the North Falls DCO is granted, but a DCO is not granted for the EACN substation, ECC will be in a position where there will be only harm and no benefit as there will be no connection of the North Falls development to National Grid's proposed EACN substation. EACN is currently the only connection option available to the project. To mitigate this risk, ECC requests a phasing condition that should Development Consent be granted for the EACN substation, the North Falls development can commence.</p> <p>As such, it is necessary and relevant in planning terms to impose such a condition. It is also reasonable and relevant to the development permitted due to the interdependence of the two projects as this ensures that the link between North Falls and the EACN substation benefits the administrative area.</p> <p>(ii) No further amendments currently proposed. The proposed requirement is sufficiently precise and enforceable as drafted because this prevents Commencement (which is a precise defined term under section 56(4) of the Town and Country Planning Act 1990) to of the North falls project until evidence of DCO being granted for the EACN project has been provided. This can be evidenced by proof of grant. Evidence of development consent granted by the Secretary of State should be submitted to the discharging authority, i.e. ECC.</p> <p>(iii) N/A – for the Applicant to address</p> <p>(iv) N/A – for the Applicant to address</p>		<p>The Applicant refers to its response to item REP4-073_q in the Applicant's Response to Deadline 4 submissions [REP5-056].</p> <p>The Applicant maintains its position that a proposed Grampian condition which prohibits construction of the Project until development consent is granted for the EACN fails the relevant legal tests for a Requirement because it is not necessary and is unreasonable for the reasons given in its response to item 3.1.32 (Draft Development Consent Order (draft DCO)) in the Applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] and its responses to Q9.1.13(ii), (iv), (v) and (vi) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054].</p> <p>The Applicant refers to its Common Response 008 contained in the Applicant's Response to Relevant Representations Received from Members of the Public [REP1-048] and maintains that there is no functional interdependence (as the term is understood in case law) between the Project and the EACN.</p> <p>North Falls could connect to the grid via an alternative means if development consent for the EACN substation is not granted as part of the Norwich to Tilbury project. The EACN connection point is the optimal connection point, but others would be made available in future in the event that the EACN was delayed or rejected.</p>

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	<p>and/or are any amendments required to make it so.</p> <p>(iii) Please can the applicant indicate whether it agrees that the recent Viking Carbon Capture and Storage Pipeline Order 2025 provides a precedent for such a phasing requirement in this case.</p> <p>(iv) Does the applicant agree that if a DCO is not granted for the EACN substation, the Council's would be in a position whereby there would be no benefit as there would be no connection of the NFOWF to NG's proposed EACN substation and such a requirement is necessary to provide a safeguard against that scenario?</p>				
REP5-091_e3	<p>Q9.1.15</p> <p>Other matters relating to dDCO requirements</p> <p>The applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] asserts that the imposition of a DCO requirement of the type proposed by ECC requiring the coordination of the construction phases of the NFOWF and VEOWF projects would be inappropriate because it fails the relevant policy tests. The applicant's summary of oral submissions made at ISH1 [REP4-026] confirms that the additional impacts of a sequential build-out of the two projects which have been assessed in the ES.</p> <p>(i) ECC and TDC are requested to provide further details and reasons to support their view that such a requirement would comply with NPS EN-1 paragraph 4.1.16 in that it would be necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. In particular, please explain why such a requirement would be necessary to make the development acceptable in planning terms and reasonable in the circumstances of this case given that the impacts of a sequential build-out of the two projects has been assessed in the ES.</p> <p>(ii) The applicant's position is that a DCO requirement for both projects to align their construction phases would increase the risk of</p>	The Applicant, ECC, TDC	<p>(i) The Councils would like to clarify that, while we continue to encourage the 2 windfarms to actively coordinate with each other during design, construction and operational stages, additional DCO requirement is not required to force the 2 projects to align their construction phases, given the 3 build-out scenarios have been assessed within the CEA. Ideally it would be better if the 2 projects could construct at similar timeframe to achieve efficiency and to shorten the buildout timeframe. We would expect the 2 projects to continue to coordinate where possible and when discharging their respective requirements, aiming to reduce any potential negative impacts and minimise the nuisance to the nearby residents.</p> <p>(ii) Addressed under point (i) above.</p> <p>(iii) N/A, For the Applicant to address</p> <p>(iv) These are commercial/investment decisions, not a planning consideration. This would be better addressed once the applicant has provided further submissions under point (iii) above, however the Council's views remain as outlined in point (i) above.</p> <p>(v) ECC is only requesting a phasing/Grampian requirement to tie the North Falls and Five Estuaries windfarms to the EACN, subject to EACN obtaining development consent. Each of the windfarm itself would have no tangible benefits if it were not able to connect to the grid via EACN. Therefore, the project is wholly dependent on the EACN to come forward as part of the Norwich to Tilbury (N2T) DCO in order to be successful to deliver the renewable energy generated. If the N2T were not consented, the windfarm substations would be of no functional value and would have no benefits. The harm caused by the windfarms therefore would not be outweighed.</p> <p>A pre-cautionary approach must be adopted given that the applicant of the N2T has yet to apply for or obtain all of the consents required to deliver the EACN. The timetable of the N2T has slipped already and other interested parties have already indicated their intention to lodge judicial review even if consent is granted on N2T. It is this ambiguity that has undermined confidence in the consenting process and whether a connection is ultimately available for the subject windfarm.</p> <p>Any un-anticipated delay to the Norwich to Tilbury project would unavoidably cause delay to the wind farm projects, which is a risk that has been highlighted to the applicant at pre-application stage and should be reasonably be expected by the applicant.</p> <p>(vi) Requirement 19 only requires the applicant to notify the discharging authority whether the undertaker is constructing its own works (Build Option 1) or sharing the onshore cable ducts with the other windfarm (Build Option 2). The requirement itself does not guarantee nor maximise the co-ordination between the 2 windfarms which the Council's consider necessary to significantly reduce the impact of both projects. It is understood that the 2 projects had signed "Good Neighbour Agreement" to enables closer liaison, information sharing and joint planning. However, this is a private agreement which the public would not have the ability to access. To give the public reassurance, it would be advisable to certify the latest Co ordination Report in the dDCO.</p>		<p>(i) and (ii)</p> <p>Noted.</p> <p>The Applicant has endeavoured to co-ordinate development with Five Estuaries Offshore Wind Farm (VEOWF) in an effort to minimise impacts on the environment and community as set out in the Co-ordination Report [REP1-004].</p> <p>There are multiple scenarios in which some form of co-ordinated construction between VEOWF and North Falls can occur including a scenario in which a gap between Financial Investment Decisions for the two projects means that the projects proceed between 1 and 3 years apart.</p> <p>It is hoped that the projects can proceed on the same timeframe such that there is no issue with sequencing. However, given the two projects are separate, this cannot be guaranteed. There may be consenting, environmental mitigation or route to market issues for one project, which could mean that the aligned programmes slip. Therefore, the projects need to have the option for sequential construction in case of any of these issues occurring.</p> <p>It should be noted, it is not in the two projects' interest to build out the onshore export cable route separately, due to potential commercial benefits of constructing at the same time. However, the commitments to do so are large, and each developer needs project certainty prior to making financial commitments. Therefore, such commitments can only be made once the projects have a CfD.</p> <p>The Applicant will continue to actively coordinate with the VEOWF where practicable and feasible.</p> <p>(iv)</p> <p>The Applicant refers to its response to Q9.1.15(iv) in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054].</p> <p>(v)</p> <p>Please refer to the Applicant's response to REP5-090_i in the Applicant's Response to Deadline 5 Submissions [9.87, (Rev 0)].</p> <p>(vi)</p>

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	<p>delay to the NFOWF project which could jeopardise its ability to deliver the project by 2030 and contribute to the UK's renewable energy targets. The Councils are requested to comment as to whether in the light of the prospect of such delay it would still be reasonable to impose the requirement sought.</p> <p>(iii) The applicant is requested to provide further details of any delay to the proposed development that it submits would result from the imposition of the suggested requirement.</p> <p>(iv) The applicant submits that the imposition of such a DCO Requirement would put it at a competitive disadvantage in relation to other comparable proposed offshore wind farms. The parties are requested to comment on whether that represents a legitimate planning concern.</p> <p>(v) The applicant submits that the precedent effect of the decision to impose a requirement of this type could 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. Does this represent a serious concern given the particular circumstances of the NWOWF and VEOWF in terms of their common aspects which may not apply more generally to other offshore wind projects thus limiting the precedent effect?</p> <p>(vi) The applicant [REP4-026] mentions that there is already a requirement to notify which build option is being selected. The Councils are requested to comment on whether requirement 19 in the dDCO is sufficient to overcome their concerns in relation to co-ordination?</p>				<p>The Applicant does not propose to include the Co-ordination Report in the list of documents to be certified under Schedule 12 of the draft DCO because it considers that this is unnecessary.</p> <p>The inclusion of build options in the draft DCO provides the required flexibility to allow the Project and VEOWF to deliver a co-ordinated construction phase for both projects.</p> <p>The Applicant also notes that the Applicant and Five Estuaries have committed to the production of a Joint Design Guide to support the development of detailed proposals for the two co-located onshore substations, and the wider site (see the updated Design Vision submitted at Deadline 5 [REP5-004]).</p> <p>The updated Design Vision includes an indicative timeline for the production of the Joint Design Guide and provides further detail about how the projects and other parties will collaborate in the development of this document (see section 1.5). Requirement 5 (Substation works) of the draft DCO [REP4-004] requires that the written details of the construction of Work No. 11 (being the works related to the onshore substation) must be substantially in accordance with the Design Vision which is a certified document in the draft DCO (see Schedule 12, Part 3).</p> <p>The Applicant submits that this is sufficient and notes that this approach allows for a scenario where either the Project or VEOWF does not go ahead or are constructed on different timelines.</p>
REP5-091_e4	<p>Q9.5.1 Planning Obligations and other agreements</p> <p>At ISH 2 the prospect of a community benefit fund was discussed. The ECC Post hearing submissions [REP4-072] confirm that a community benefit fund is</p>	The Applicant, ECC	N/A	(i) Discussions on the provision of a Community Benefit fund have commenced with the applicant's team. Currently all are busy engaging at Examination on this NSIP so it is not anticipated that these discussions will reach agreement prior to the close of the Examination but will continue and be in place	<p>(i) and (ii)</p> <p>The Applicant maintains the position set out in its response to Q9.5.1 in the Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054] and looks forward to continuing to engage with ECC and other consultees to develop the community benefit fund arrangements.</p>

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	<p>something that they consider would work to contribute towards a range of initiatives. ECC seek to replicate previous DCO arrangements whereby the fund is secured via a section 106 agreement during the DCO process. The applicant's Response to Actions List for ISH1 and 2 [REP4-036] confirms that the parties met on 8 April 2025 to discuss matters relating to community benefits and further discussions on this topic are anticipated.</p> <p>(i) Please provide an update on the progress of those discussions and indicate whether it is anticipated that such a fund would be secured by means of an agreement before the close of the examination.</p> <p>(ii) Is it intended that any such agreement should be taken into account by the ExA and the SoS in the planning balance or would it sit entirely outside the examination process?</p>			<p>(ii) prior to the commencement of construction works, which is currently an unknown date. ECC have been informed at previous Hearings that this is not a material in the ExA's consideration of an NSIP proposal. ECC notes the publication of the recent guidance into Community Funds for Transmission Infrastructure: Guidance, published in 2025, which established guidance for Community Benefits. ECC notes that the DCO currently under consideration is solely an electricity generation project but also has elements including the creation of a substation which would be akin to one needed for a transmission project. In addition, ECC are currently in the development phase of introducing its own Community Benefits Policy, publication anticipated in June 2025, which will further guide discussions on what we would wish to see as a Community Benefits contribution from an offshore windfarm DCO. Whilst Community Benefits may fall outside the DCO process, but compensation remains part of the mitigation hierarchy. ECC remains concerned that significant impacts could arise, for instance, in LVIA terms as part of this proposal, both alone and cumulatively. Therefore, an approach to compensation is required to be confirmed as part of the DCO process. We do not consider the applicants have yet met the test of 'as far as possible' within the EIA Regs or EN-1 requirements in relation to compensation on all issues. The Councils also note the recent consultation as issued by Government on the 21 May 2025 on "Community Benefits and Shared Ownership for Low Carbon Energy Infrastructure", something we are considering and will respond to by the due date. However, this does, to us, show a clear direction of travel on potentially making such necessary and mandatory in the consideration of NSIP proposals.</p>	<p>The Applicant reiterates that the Department for Energy Security and Net Zero (DESNZ) working paper titled the 'Community Benefits and Shared Ownership for Low Carbon Energy Infrastructure' [DESNZ 2025] states at paragraph [3] on page 6 that:</p> <p><i>"It is critical the planning process remains a robust system through which communities can continue to have a say on any proposals in their area. That is why community benefits are legally immaterial to planning decisions and cannot be considered when deciding whether to grant planning consent."</i></p> <p>The Applicant submits that this supports a position that any agreement relating to a community benefit fund for the Project should not be taken into account in the planning balance and would sit entirely outside of the decision-making process under the Planning Act 2008.</p>
10. Ecology/Bio diversity/BN G/HRA					
REP5-091_f1	<p>Q10.0.13 Marine Environment/Deemed Marine Licensing/dDCO</p> <p>(i) Essex Wildlife Trust (EWT)/Councils - the "Working in Proximity to Wildlife Plan" (is referred to by EWT's Relevant Representation). Firstly, the ExA request this document is submitted to the examination and secondly, can EWT/relevant Essex Council's indicate the status/weight of this</p>	MMONE The Applicant EWT ECC TDC	<p>(i) Our understanding is that a "Working in Proximity to Marine Wildlife Plan" is expected to be prepared and submitted by the applicant. It is intended to minimise the risk of collision with, injury to and disturbance to marine wildlife, as well as to offer guidance to contractors and to set out procedures for reporting collisions with marine mammals.</p> <p>It is noted that elements of a typical "Working in Proximity to Marine Wildlife Plan" have largely been embedded in the Outline Project Environmental Management Plan (OPEMP) [REP3-011], in particular within Appendix B (Protocol for Reducing Disturbance to Red-Throated Diver) and Appendix C (Vessel Good practice and Code of Conduct to Avoid Marine Mammal Collisions). Given that Condition 13 of the dDCO requires the undertaker to issue a code of conduct to operators of vessels and such code must be in accordance with the OPEMP, ECC is of the view that a separate document is not required.</p> <p>However, it is noted that Natural England has requested Five Estuaries to impose seasonal restrictions on cable laying activities to limit disturbance of red-throated divers in the area. This may be a matter for Natural England to liaise further with the applicant whether such restrictions also apply here and whether the OPEMP needs to be strengthened further. Both Councils have no further comments on marine environment.</p>		<p>The Applicant agrees that a Working in Proximity to Marine Wildlife Plan is not required as the relevant aspects are secured through the Outline Project Environmental Management Plan (OPEMP) [7.6, Rev 2].</p> <p>The Applicant maintains its position that a seasonal restriction on the installation of the export cable within the OTE SPA and a 2km buffer during construction, as requested by Natural England, is not merited. This is based on the conclusion of the RIAA that there would be no AEol from construction works in the offshore cable corridor (RIAA Part 4 Offshore Ornithology Birds Directive Annex 1 and Migratory Species [APP-178], section 4.4.1.4.3.2).</p>

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	<p>document/role in local decision making?</p> <p>(i) EWT/NE advise that the applicant should commit to specific mitigation measures, particularly NAS, in the MMMP. The MMO acknowledges that EWT consider that this should sit alongside a Working in Proximity to Wildlife Plan to reduce the risk of disturbance from ships, boats and other vessels and the risk of them colliding with marine mammals. Can EWT clarify why the inclusion of the document is an important? Secondly, what is the applicant's most up to date position to these points?</p> <p>(ii) MMO/NE's concerns regarding overlap with the dDCO requirements/Deemed Marine Licences are relevant in that it is alleged they are not accurately capturing all the required maximum parameters of the proposed works and submits that the applicant should update the DCO and DMLs to ensure maximum parameters of all important metrics are appropriately secured. Can the applicant guarantee/signpost/update/provide further evidence maximum parameters "are" addressed or "can be" addressed? Q10.0.10 about the</p> <p>(iii) Applicant. The Site Integrity Plan Condition is advised to be no sooner than 9 months and no later than 6 months owing to in-combination impacts. – Is the applicant in agreement to ensure that formally? If so, signpost the alteration(s).</p> <p>(iv) MMO. In relation to requirements to cease works should noise impacts be exceeded, how is this achieved/regulated? NB:- The MMO agreed that a key mitigation for marine mammals should be included in the condition wording for the DML is that piling activity must cease in the event that the monitoring highlights that noise impacts are in excess of the predicted impacts. The MMO was said to be reviewing the Condition. Are</p>				

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	<p>the MMO now content dDCO/DML wise? Please clarify.</p> <p>(v) Applicant/MMO. Would the MMO be notified formally over which piling method is to be up taken in advance of any commencement independent of DML provision? And by which mechanism dDCO/DML would that be achieved?</p> <p>(vi) MMO/applicant. In relation to the technical requirements/conditions for species specific "monitoring" of benthic ecology/fish and shellfish/marine mammals & birds overall and other related matters. Briefly explain if they would/should be independent/interdependent of dDCO requirements/articles covered in the content of any DML or other Licensing mechanisms or vice versa? The applicant is asked to review the approach in the recent Rampion 2 SoS Decision in relation to the administration of the dDCO/DMLs that was secured toward ecology on a species specific level and amend its approach where necessary.</p> <p>(vii) Applicant/MMO/NE. With respect to monitoring. Does the monitoring strategy need to be further tailored given piling methodology changes or any other interests/technicalities at this stage? Can the applicant explain what is intended/options are available and via Adaptive Monitoring with respect to marine wildlife and signpost where it is presently secured? Adjust where necessary. (NB: the ExA acknowledges IPMP [APP-245] outlines the monitoring which would inform mitigation requirements. The detailed methodology for the monitoring presently states it would be developed post consent, in consultation with NE and agreed with the MMO).</p>				
REP5-091_f2	<p>Q10.0.17 Overall HRA derogation/Ecological Compensation/Schedule 15 Wording</p> <p>The ExA notes the applicant's point that in the Secretary of State's decision letter (DESNZ, 2024) for the Sheringham Shoal Extension Project and Dudgeon Extension</p>	The Applicant, NE, MMO, ECC,	N/A	No comments	Noted.

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	<p>Project (SEP & DEP), it is stated that “The Secretary of State agrees with the applicant and NE that strategic compensation represents the best option for delivering compensation for impacts of OWFs. Given all relevant technical disputes with Natural England/MMO (as statutory consultees) as well as other representations such as from the National Trust and the RSPB combined -mixed with the risks/uncertainty of other scheme outcomes the ExA acknowledge these are important examination factors.</p> <p>(i) NE/MMO – a) Does any further HRA related derogation case (without prejudice or otherwise) above what is already provided in the examination material need to be addressed by the applicant? b) Secondly, does any other designated site/species specific compensation measure need to be requested from the applicant? For the avoidance of any doubt please confirm if there is any omission presently or not having regard to all marine life and related protected sites.</p> <p>(ii) Applicant. How can the ExA be satisfied compensation measures can be in place before any negative effect on a European site or sites begins given there is no control over when MRF funding systems will become functional nationally?</p> <p>(iii) Applicant. Expanded Schedule 15 compensation wording was requested from the applicant by the ExA during the recent Issue Specific Hearings for the proposal. Please provide that if not already undertaken. For without prejudice Schedule 15 wordings dealing with compensation purposes to be provided, the ExA notes that the definition of ‘relevant planning authority’ (which could be taken as meaning Tendring District Council, or any successor planning authority) may not be adequate to ensure the inclusion of any existing strategic nature board or all relevant Councils. Does the applicant intend to cover this issue?</p> <p>(iv) IPs. The UK Government 29 January issued interim guidance for the Marine Recovery Fund (MRF), a mechanism designed to</p>	TDC, RSPB, NT Ips			

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	support strategic compensation measures for offshore wind activities that impact marine habitats. The guidance provides information on ornithological and benthic compensation measures available in the Library of Strategic Compensation Measures. It serves as a resource for offshore wind developers to reference appropriate compensatory strategies prior to the MRF becoming fully operational. Do NE/RSPB/MMO Local Councils/IPs have any other views on the potential adequacy compensatory measures overall? Is there anything else that should be included to ensure effectiveness/the most suitable delivery outcomes?				
REP5-091_f3	<p>Q10.0.27 Bats</p> <p>(i) Applicant. Noting the comments of the Netherlands Ministry of Infrastructure and Water Management at [REP3-065] has the applicant considered a zone of influence for European sites in the UK designated for bat features that could be affected by off-shore pathways? If so, can the applicant confirm the zone of influence used, and reasons why, and if any bat features of sites within the zone are migratory. If this assessment has not been performed, can the applicant explain why that is the case? Update the CEA where necessary.</p> <p>(ii) NE/applicant. The effects on migratory bats is noted in the submission from the Netherlands [REP3-065] can Natural England confirm whether or not it considers that the proposed development would result in any adverse effects on migratory bats. If not, why not? If so, what mitigation would be required (if any)?</p> <p>(iii) The LIR's from Essex County Council and Suffolk County Council cite likely harm to migratory bats – in particular Nathusius' pipistrelle, caused by the wind turbine rotor blades. It appears that migratory bats and</p>	The Applicant NE/Applicant			The Applicant notes that there appears to be no comment provided by ECC / TDC to this question although notes the inclusion of it within their document.

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	<p>especially juveniles, could potentially be vulnerable to death from collision with, or proximity to, moving wind turbine blades based on the assertions made. Considering the LIR's does the applicant think that its surveys and current evidence base are adequate to respond to and address this issue? What is its response concerning the successful protection of bats including migratory bats? Please detail in full.</p> <p>(iv) Suffolk County Council have suggested that due adjustment to wind cut-in speeds secured through addition of parameters in the DCO or a suitable control document as a requirement. Is the applicant able to confirm the suitability such a potential requirement and its preferred wording if it is required by the SoS at any stage?</p> <p>(v) NE. As a migratory species, the ExA notes that Nathusius' pipistrelle is protected by the Convention on the Conservation of Migratory Species, to which the UK is a signatory state. What obligations under these treaties in relation to Nathusius' pipistrelle are relevant to the proposal? Are they met or capable of being met through requirements if they were deemed necessary? NE advise by Deadline 5.</p>				
REP5-091_f4	<p>Q10.0.28</p> <p>(i) Councils. Is a Community Infrastructure Levy (CIL) Charging Schedule in place in the affected DCO administration area? If so, provide the charging details.</p> <p>(ii) Councils. Is there any proposal to set a Charging Schedule up? if so, what is the timescale?</p> <p>(iii) Has the applicant made any provision for CIL compliance in the administrative areas being discussed? Or elsewhere to deliver compensation.</p>	TDC ECC The Applicant	Both ECC and TDC do not currently have CIL Charging Schedule in place. There is also no clear timeline to setup the Charging Schedule in the near future.		Noted.
REP5-091_f5	<p>Q10.0.29</p> <p>BNG/Ecological Enhancement</p> <p>(i) Councils. With respect to the indicative BNG Calculations: Natural England has reviewed</p>	ECC TDC EWT IPs	<p>ECC Response</p> <p>(i) ECC does not oppose the technical figures or biodiversity gain - calculation tool. However, it does not agree that the applicant has sufficiently explored opportunities to deliver a 10% net gain for the watercourse units. This should include off-site units by an off-site provider.</p>		The Applicant acknowledges ECC and TDC's position and welcomes the suggestion of local projects which may be able to be considered during the final BNG assessment conducted following detailed design of the Project, as secured under Requirement 21 of the draft DCO [6.1 (Rev7)] . The Applicant will consider the Essex LNRS and

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	<p>both versions of the BNG Technical Note [REP1-050 and REP3-028] and does not oppose the technical figures initially given. BNG calculations and metric scores are indicated to be updated as the detailed design is refined. Do you have any further comments on the calculations? Do you find the figures to be reliable for the purposes of the examination record?</p> <p>(ii) Essex County Council via their LIR accepted that watercourse biodiversity units are difficult to create or enhance on site. But are referring to the identification of local offsite measures to deliver the missing units. Can Essex County Council cite practical examples within its administration area for the applicant to at least consider through the submission of plan location material?</p> <p>(iii) The emerging Essex Local Nature Recovery Strategy (LNRS) is also referred to in Essex County Council's LIR –the ExA requests that the full detail of the document be submitted to the examination record by the next timetable deadline?</p> <p>(iv) Toward tree planting endeavours - Essex Forest Initiative and Big Green Internet are mentioned in Essex County Council's LIR. Explain what these are and how there could be an opportunity (if any) to tie in with requirements/commitments within the dDCO?</p> <p>(v) Consideration towards any other local projects headed by Essex Wildlife Trust or those in forthcoming financial years is requested by the ExA. The ExA is mindful there are active seagrass and saltmarsh restoration projects which may be pertinent to mention.</p> <p>(vi) Do Councils/IP's have any other local projects or initiatives or information for the ExA to consider which would further enhance ecological gain or effectiveness which the applicant should be invited to include/consider?</p>		<p>The Viability Assessment of Biodiversity Net Gain in Essex (August 2024) states that the addition costs to achieve 20% BNG is relatedly small percentage of overall cost for NSIPs in Essex. Therefore. 20% BNG should be investigated by the applicant.</p> <p>(ii) Currently ECC is not aware of any available nor forthcoming local offsite projects to deliver watercourse biodiversity units. The applicant is therefore strongly encouraged to explore local opportunities identified in the consultation version of the Essex Local Nature Recovery Strategy (LNRS) before purchasing BNG credits outside of the Essex administrative area.</p> <p>(iii) The Essex LNRS went out to public consultation end of August 2024 and has been updated and revised based on feedback from the consultation. The final version is expected to be published and adopted in July 2025. ECC is expecting to submit the adopted version at Deadline 7.</p> <p>(iv) The Essex Forest Initiative (EFI) was initially a 5-year project started in October 2019, to plant £1 million worth of trees. This included planting 375,000 trees, over 150 hectares, equivalent to the size of 210 football pitches. The project has finished in March 2025 exceeding its planting target but, the LNRS team is open to discuss opportunities to support development schemes with advice on trees on woodlands and planting opportunities. However, more recently due to the lack of urban planting grants from Forestry Commission (which the EFI had previously benefited from), the LNRS team has limited capacity to fund the planting of mature trees. They are currently exploring various funding opportunities to support urban greening efforts and are in discussions with potential partners and grant providers.</p> <p>The EFI and The Big Green Internet have collaborated closely in the past 4 years towards mutual tree planting goals. The Big Green Internet aims to support wildlife by creating new habitats and improving existing ones through Nature Recovery. The project focuses on planting wildlife corridors and hedgerows to connect isolated woodlands, with a goal of creating over 100 miles of corridors from Epping Forest to the North Sea. This initiative will benefit wildlife and the environment for generations. In September 2022, it received the Green Leader award from the Essex Wildlife Trust. They have Woodland Connectivity Facilitators, and their role is to establish relationships with local landowners, identify opportunities to plant wildlife corridors, and organise the planting, which the NFWF may present an opportunity to contribute to this project.</p> <p>As mentioned in the LIR, the proposal may cross the path of The Big Green Internet and the applicant should explore whether there are opportunities to contribute to this scheme as part of the mitigation to its potential effects. If appropriate, this should be reflected in the OLEMS and BNG Strategy.</p> <p>As the EFI is not directly related to the subject development, it would not be reasonable to tie it as a requirement of the dDCO. The applicant should consider whether to include EFI or similar scheme(s) as a wider environmental enhancement in consultation with our Senior Forestry and Woodland Officer. Such proposals could be incorporated into the discussions of Community Benefits, outside of the DCO regime.</p> <p>(v) In relation to seagrass projects - Essex Wildlife Trust, Natural England and partners led on a project called ReMEDIES Save Our Seabed, aimed at restoring seagrass across southern England. It focuses on understanding and reducing pressures from recreational activities and raising awareness among coastal communities. Since the project came to an end in 2024 (after 4 years), the Essex Wildlife Trust are working with Project Seagrass to restore seagrass populations at various sites along Essex's coast. This includes conducting extensive surveys on our existing seagrass to learn about its properties and characteristics, as well as trialling restoration techniques such as transplants. Despite the ReMEDIES project has now come to an end, the Essex Seagrass Project will still seek other funding to enable their work to continue. The Essex Wildlife Trust is also working with significant number of partners, (including Uni of Essex) on the ReMeMaRe project - Restoring Meadow, Marsh and Reef.</p> <p>It is understood the NFOWF applicant is consulting Essex Wildlife Trust and recommend continual dialogue to discuss current and future projects.</p> <p>In relation to Saltmarsh, the Essex Wildlife Trust also implements low-cost saltmarsh restoration projects, such as using "saltmarsh sausages" (coir rolls) at Abbots Hall to trap sediment and encourage vegetation growth.</p> <p><u>Another project that may be of interest</u></p> <p>A Coastal Adaptation Strategy has been developed and the National Trust are working in partnership with the RSPB, with funding through the EU Life programme. The aim at Northey Island is to retain, create and sustain the saltmarsh over 100-year timeframe. The island is approximately 100 hectares in size of which 90 ha is saltmarsh. It is expected that the amount of saltmarsh will reduce over the 100 years but that, without their interventions much more would have been lost. They have utilised the beneficial use of dredged sediment using sediment from dredging at nearby Maldon and undertaken a number of managed realignments which will allow the saltmarsh plants to migrate inland, which increases its lifespan and provides better biodiversity. It is not clear that the Coastal Adaptation at Northey could be impacted (even indirectly) by the NFOWF, however, it is recommended to contact Rebecca Bromley at the National Trust to consult whether the potential implication from NFOWF on Northey Island.</p> <p>(vi) Apart from the above, the applicant has been requested to consider additional planting to fill the existing gap along Barn Lane as part of ecological gain as well as visual screening mitigation.</p>		<p>the local projects mentioned here during the development of the final BNG assessment post-consent, and looks forward to continuing to engage with ECC and TDC during this process.</p> <p>The Applicant also refers to its position in response to Q10.0.31 in Applicant's Response to ExA's Second Written Questions (ExQ2) [REP5-054] that further investigation of offsite units is not appropriate at the current outline design stage, when the need for watercourse units may be able to be reduced and avoided during detailed design.</p>

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REP5-091_f6	<p>Q10.0.30</p> <p>BNG Habitat Management Period</p> <p>Essex County Council - are seeking appropriate reassurance that all BNG habitats created or enhanced will have at least 30 years secured for management not just their establishment phase - to avoid being considered as losses from the development. Does Essex County Council maintain that view, please explain? Please make any other comments you deem to be pertinent.</p>	ECC TDC	<p>Essex County Council still recommends that significant on-site enhancements within the onshore substation must be managed and monitored for the 30-year period from completion of development, in line with the principles of mandatory biodiversity net gain.</p> <p>However, it is agreed that enhancements for hedgerow re-establishment for the onshore cable route will only be managed and monitored for a 10-year period.</p>		<p>The Applicant has committed to on-site habitat creation within the onshore substation works area being managed and monitored for the 30-year period from completion of construction, as stated within the Outline Landscape and Ecological Management Strategy [REP5-024] and Biodiversity Net Gain Strategy [REP3-027].</p> <p>The Applicant notes ECC and TDC's acceptance of the 10-year aftercare period.</p>
REP5-091_f7	<p>Q10.0.32</p> <p>BNG/Ecological Management and Maintenance</p> <p>(i) Applicant. The applicant's documents suggest a 5-year management and maintenance plan would be in place for reinstated hedgerows, which is stated as typical for NSIPs. However, para.101 in the revised BNG Strategy states the project would provide up to 10 years of post-reinstatement surveys only. Thus, would the surveys refereed to be linked to potential further maintenance as well, if surveys indicate the need for further action? Clarify.</p> <p>(ii) Applicant. A 10-year management plan proposal is indicated. Would it be possible to have management plans in place until the end of operations? If not why not?</p> <p>(iii) Para 156 of The Outline Ecological Management Strategy (OEMS) [REP4-006] states reinstated habitats will be subject to an aftercare period of "up to" 10 years following reinstatement, to be extended (if required) if reinstatement is not deemed to have been successful. Moreover, during the establishment phase, failed plants will be replaced like-for-like as required to prevent any significant gaps in planting and as agreed with landowners for "up to" 10 years post-construction. Para 250 indicates that Habitats created as part of the landscaping within the onshore substation works area will be subject to a 30-year management and maintenance period, to ensure habitats created can contribute towards BNG</p>	The Applicant ECC TDC	<p>(iii) ECC requests that the initial aftercare period for habitat re-instatement (other than the substation works area) is consistently referred to as '10 years' within the OLEMS not 'up to 10 years'.</p> <p>(iv) While a 10-year aftercare for reinstated habitats other than those in the substation works area is acceptable to both Councils, a longer aftercare period is welcomed.</p>		<p>(iii) The Applicant accepts ECC's comment and has updated the Outline Landscape and Ecological Management Strategy [7.14 (Rev5)] accordingly, amending the aftercare period to '10 years'.</p> <p>(iv) The Applicant notes ECC and TDC's acceptance of the 10-year aftercare period.</p>

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	<p>targets. All other reinstated habitats would be subject to the 10-year aftercare period only. The specific details of the 30-year management and monitoring period for created habitats would be detailed in the Project's final BNG Assessment Report, submitted post consent and secured through DCO Requirement. The ExA request could the “ up to” terms/ the aims of habitat reinstatement be better formalised i.e. minimum and maximum timeframes? Please review having regard to local climatic factors/local planning policy for the area.</p> <p>(iv) Could 15 years aftercare not be committed to as a safer alternative? Given the 30 year management of BNG referred to. Please review.</p>				
	11. Flood Risk, groundwater and surface water				
REP5-091_g1	<p>Q11.0.1 Ground Investigation for infiltration rates</p> <p>The Outline Operational Drainage Strategy [APP-254] states that further ground investigation is required to determine infiltration rates at the site. This will determine the suitability of infiltration-based SuDS components which could be considered at detailed design. Infiltration testing shall follow the methodology outlined BRE Digest 365</p> <p>(i) Are BRE Digest 365 Guidelines the most appropriate for a project of this scale, both individually and cumulatively with other proposed projects in and around the proposed Onshore substation?</p> <p>(ii) If BRE Digest 365 Guideline are not appropriate for this project individually or in combination with other proposed projects what would be the most appropriate test or tests to accommodate, to date unknown, attenuation volumes?</p>	EA ECC	ECC are content that the BRE Digest 365 testing is appropriate for this project, both individually and cumulatively with other proposed projects.	Noted.	
REP5-091_g2	<p>Q11.0.2 Other Flood Risk</p> <p>The site may be within an area at risk of flooding from surface water, reservoirs, sewer and/or groundwater which are the responsibility of the LLFA. Has the applicant adequately addressed matters</p>	ECC	<p>There is currently insufficient information to demonstrate that there would not be increased surface water flood risk as a result of the development. Detailed modelling and further information are required to ascertain the surface water flood risk during construction and operational stage.</p> <p>A temporary drainage strategy for construction stage will be developed as part of the detailed Code of Construction Practice (CoCP) to be discharged under Requirement 8. The LLFA requests that such temporary strategy should be submitted to and agreed by the LLFA prior to commencement of the relevant construction works. Requirement 22 also requires an Operational</p>	The Applicant notes that compliance with Requirements 8 and 22 is sufficient to address ECC's concerns.	

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	relating to risk of flooding from sources that are not under the EA's jurisdiction?		Drainage Strategy to be submitted to and agreed by the LLFA. Subject to compliance to these 2 requirements to the satisfaction of the LLFA, it is considered that the applicant could adequately address this matter.		
REP5-091_g3	Q11.0.3 Flood Evacuation Plan Are the measures contained within the Outline Code of Construction Practice [REP3-017], specifically those which relate to the Flood Warning and Evacuation Plan, considered adequate, and in accordance with best practice?	ECC	TDC did not receive a response from our internal specialist. Should this be required we will provide an update in due course.		Noted.
	12. Historic Environment & Archaeology				
REP5-091_h1	Q12.0.8 Temporary effects on the setting of designated and non-designated heritage assets Can the applicant provide further justification for its view that any impact during construction would be “short term and reversible” and that impacts would be “slight due to the perceptibility of the works from the identified receptors”. On this basis, it is considered that any change to setting and associated heritage significance would result in a negligible adverse magnitude of impact [APP-039 para 355]. Please can IPs also comment on the temporary nature of effects.	The Applicant, other IPs including ECC	<p>In terms of the temporary nature of these effects, the Onshore Construction Programme Table 5.29 of 3.1.7 Environmental Statement Chapter 5 Project Description [APP-019] identifies that the Onshore cable route construction would run for 18-27 months and the Onshore substation construction would run for 21-27 months. 3.1.28 Environmental Statement Chapter 26 Noise and Vibration [APP-040] states that the construction works for the cable route would be a rolling phase of works, at a worst-case scenario of:</p> <ul style="list-style-type: none">Route separation – 34.3m/dayTrench excavation and backfill – 21.2m/day; andRe-instatement works – 38.3m/day. <p>Therefore, it is agreed that the construction effects would be temporary. However, this does not negate the short-term adverse effects arising from the development.</p> <p>It is considered that the following temporary effects on the setting of designated heritage assets would be as follows:</p> <p>Church of All Saints (NHLE 1165610 – Grade II* Listed Building) - O&M Access from immediately south of the Church – existing track which may see increased vehicular movements in close proximity of the Church whereas Church Lane is currently no through route. This will have an adverse impact on how the listed building is experienced.</p> <p>Great Holland Conservation Area – O&M Access from the Conservation Area – new route which may see increased vehicular movements and noise in the Conservation Area.</p> <p>Great Holland Lodge (NHLE 1337116 – Grade II Listed Building) – Temporary Construction Compound (TCC) within approximately 100m opposite the listed building. Change in setting by virtue of large compound area, increase in noise, dust and vehicular movements from the compound. This will have an adverse impact on how the listed building is experienced.</p> <p>Ring Cottage and Tudor Cottage (NHLE 1317222 – Grade II Listed Building) – within approximately 200m of Onshore Cable Route with Off Route Haul Road to support Trenchless Crossing Zone – increased vehicular movements and potential vibration impacts with HDD used in this location. This will have an adverse impact on how the listed building is experienced. Great Holland Mill House (NHLE 1111532 – Grade II Listed Building) with approximately 100m of Onshore Cable Route. Off Route Haul Road to support Trenchless Crossing Zone – increased vehicular movements and potential vibration impacts with HDD used in this location. This will have an adverse impact on how the listed building is experienced.</p> <p>Thorpe-le-Soken Conservation Area – within approximately 750m of the Onshore Cable Route with Off Route Haul Roads to support Horizontal Directional Drilling potentially affecting the setting of the Conservation Area through increased noise and vibration.</p> <p>Barker's Farmhouse (NHLE 1322630 – Grade II Listed Building) within approximately 400m of the Onshore Cable Route whereby the route will be trenched. The existing agrarian landscape contributes to the significance of the listed building as a farmhouse. This will see a large area excavated for the cable. This will include vehicle movements, noise and dust from the construction works. Furthermore, a large Temporary Construction Compound and Off Route Haul Road will be located within approximately 500m of the listed building to support Horizontal Directional Drilling around the road junctions of B1035 / Swan Road / Whitehall Lane. It is understood that there is potential for 24hr construction works at this location [APP-040]. This will have an adverse impact on how the listed building is experienced.</p> <p>Hempstall's Farmhouse (NHLE 1240504 – Grade II Listed Building) is within approximately 200m of the Onshore Cable Route whereby the route will be trenched. The existing agrarian landscape contributes to the significance of the listed building as a farmhouse. This will see a large area excavated for the cable. This will include vehicle movements, noise and dust from the construction works. It is understood that there is potential for 24hr construction works at the Trenchless Crossing Zone as the cable route crossing the A120 to the north of the listed building which is reported has having a significant effect on this asset [APP-040]. To support the Trenchless Crossing Zone to the north of Hempstall's Farmhouse a large Temporary Construction Compound and Off Route Haul Road are required which will lie approximately 400m to the west of the listed building. These will have an adverse impact on how the listed building is experienced.</p>		<p>The Applicant agrees that whilst the short-term effects from construction activities may have slight adverse effects on heritage setting, these short-term effects will not result in a significant adverse effect to the heritage significance of relevant heritage assets due to the temporary nature of the effects. As stated in the Addendum to ES Chapter 25 Onshore Archaeology and Cultural Heritage [REP4-035], due to the temporary nature of the construction activities, the magnitude of impact is no greater than negligible adverse which results in a minor adverse significance of effect, which is not significant in EIA terms.</p> <p>ES Chapter 26 Noise and Vibration [APP-040] considers vibration effects in terms of disturbance to human receptors and structures within a 100m of the relevant study area. Effects will in all cases be too minor to give rise to any physical damage to standing buildings or heritage assets, either through distance from the asset or as a result of the nature of the asset. Noise effects are assessed in terms of changes in sounds levels as a result of construction activities and road traffic and are considered in terms of disturbance to receptors. These effects cannot be simply translated to noise effects on setting as it does not account for the perceptual approach to understanding how that type and level of noise changes the experience of a heritage asset.</p> <p>ES Chapter 26 Noise and Vibration [APP-040] concluded a negligible to minor adverse residual effect from noise and vibration during construction works and from off-site construction traffic following additional mitigation and screening. ES Chapter 20 Onshore Air Quality [APP-034] assessed construction dust and concluded that following embedded mitigation there would be no significant adverse effects. ES Chapter 27 Traffic and Transport [APP-041] assessed changes to pedestrian and cyclist amenity and concluded a negligible to minor adverse residual effect following mitigation. Therefore, the designated heritage assets listed here in ECC's response to Q12.0.8 in [REP5-091] would not experience significant effects from temporary changes to heritage setting during construction as a result of construction noise, vibration, dust and presence of construction traffic.</p> <p>The mitigation measures proposed for reducing the effects from noise, vibration and dust are set out in the OCoCP [7.13, (Rev4)] and will be secured via Requirement 8 of the</p>

REF	QUESTION	QUESTIONS TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE
			<p>Church of St Mary (NHLE 1337175 – Grade II Listed Building) is located approximately 200m of the Onshore Cable Route whereby part of the route is trenched and the section which crossing Little Bromley Road is a Trenchless Crossing Zone and will have Horizontal Directional Drilling instead. Whilst there is some tree planting in the churchyard, this is likely to have a limited effect of the construction works visually. The tranquillity which contributes to the significance and setting of the listed building will be affected by the construction works through increase noise, dust and vehicular movements. This will have an adverse effect on the listed building.</p> <p>Thorpe Park Farmhouse (NHLE 1307196 – Grade II Listed Building) is located approximately 200m from the O&M Access which will provide access from Thorpe Park Lane to the Trenchless Crossing Zone over the railway line. Whilst it is acknowledged that there is an existing track here, the construction works are likely to see an increase in vehicle movements which may have an adverse effect on the setting and significance of Thorpe Park Farmhouse and how it is experienced.</p> <p>Landermere Cottage (NHLE 1112116 – Grade II Listed Building) is located approximately under 100m from the O&M Access which will provide access from Walton Road to two areas of Trenchless Crossing Zones to the north of Thorpe-le-Soken. Whilst it is acknowledged that there is an existing track here, the construction works are likely to see an increase in vehicle movements which may have an adverse effect on the setting and significance of Landermere Cottage and how it is experienced.</p> <p>Hannams Hall (NHLE 1265148 – Grade II Listed Building) is located within approximately 300m of the Onshore Cable Route whereby the route will be trenched. Whilst the construction works are unlikely to have a visual effect on the significance of the listed building, its tranquillity and how it is experienced is likely to be affected due to noise arising from construction activity. It is understood that there is potential for 24hr construction works at this location [APP-040]. Noise effects are reported as having a significant effect on this asset [APP-040]. This will have an adverse impact on how the listed building is experienced.</p> <p>Brocketts Hall (NHLE 1112121 – Grade II Listed Building) is located approximately 200m from the Onshore Cable Route whereby the route will be trenched. The existing agrarian landscape contributes to the significance of the listed building as a farmhouse. This will see a large area excavated for the cable. This will include vehicle movements, noise and dust from the construction works. This will have an adverse impact on how the listed building is experienced.</p> <p>Abbotts Hall (NHLE 1261150 – Grade II Listed Building) is within approximately 200m of the Order Limits for the Construction Access Zone and Off Route Haul Road to support Horizontal Directional Drilling across the B1035 Clacton Road. Whilst it is acknowledged that there is tree planting between Abbotts Hall and the B1035 so a visual effect is unlikely, there will be an increase in noise. This will have an adverse impact on how the listed building is experienced.</p> <p>Grove Farmhouse (NHLE 1337174 – Grade II Listed Building) is within approximately 400m of the Onshore Cable Route whereby the route will be trenched. The existing agrarian landscape contributes to the significance of the listed building as a farmhouse. Whilst there is some existing screening around Grove Farmhouse, the wider setting will see a large area excavated for the cable. This will include vehicle movements, noise and dust from the construction works which will have an adverse impact on how the listed building is experienced.</p> <p>The Old Rectory (NHLE 1111420 – Grade II Listed Building) is within approximately 250m of the Onshore Cable Route whereby the route will be trenched. The existing agrarian landscape contributes to the significance of the listed building as a farmhouse. Whilst there is some existing screening around the listed building, the wider setting will see a large area excavated for the cable. This will include vehicle movements, noise and dust from the construction works which will have an adverse impact on how the listed building is experienced.</p> <p>Bounds Farm (NHLE 1147743 – Grade II Listed Building) is located under 100m from the EACN which adjoins the Order Limits and Onshore Substation Works Area. This has the potential to have a significant effect on the setting of the listed building and how it is experienced, whereby the existing agrarian landscape will be replaced by the EACN.</p> <p>Hungerdowns Farmhouse (NHLE 1112091 – Grade II Listed Building) is located approximately 300m from the EACN which adjoins the Order Limits and Onshore Substation Works Area. This has the potential to have a significant effect on the setting of the listed building and how it is experienced, whereby the existing agrarian landscape will be replaced by the EACN.</p>		<p>draft DCO [6.1 (Rev7)]. The mitigation measures proposed for reducing the effects of construction traffic are set out in the OCTMP [REP4-008] and will be secured via Requirement 9 of the draft DCO [6.1 (Rev7)].</p> <p>It should be noted that an O&M access is not a construction effect. Any inspections / maintenance of the onshore cable route during the operational phase will be infrequent and subject to very low vehicle demand. As such, and in accordance with the Scoping Opinion, no operational phase assessment was presented within ES Chapter 27 Traffic and Transport [APP-041] as no significant traffic and transport effects are anticipated.</p> <p>The Applicant would also like to note that the temporary effects on setting were considered for those designated heritage assets potentially affected by North Falls and their proximity to the onshore project area for the Project, rather than their proximity to the proposed EACN (which is part of the Norwich to Tilbury project).</p>
REP5-091_h2	<p>Q12.0.9</p> <p>Archaeological Mitigation</p> <p>Are you satisfied with the wording of Requirement 11 of the dDCO [REP4-004]? If not, could you provide details of what you would wish to see included and why?</p>	HE ECC	N/A	Following discussions with the Applicant there is now agreement on the wording of Requirement 11.	Noted.
REP5-091_h3	<p>Q12.0.10</p> <p>Archaeological Mitigation Strategy and WSI</p> <p>Please provide an update on the updated version of the Archaeological Mitigation Strategy and Outline WSI referred to at ISH1.</p>	The Applicant, HE ECC Other IPs		Both documents (AMS and OWSI) have been updated in line with comments provided by ECC and are now agreed by ECC. The agreed versions are expected to be submitted by the applicant at Deadline 5 and to be added as certified documents.	The Applicant can confirm that the Archaeological Mitigation Strategy [REP5-046 to REP5-048] and Onshore Outline Written Scheme of Investigation [REP5-016 to REP5-021] were submitted into Examination at Deadline 5.

REF	QUESTION	QUESTIONS TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE
		may comment			
	13. Human Health				
REP5-091_i	<p>Q13.0.3</p> <p>EMF</p> <p>The Electro Magnetic Fields Technical Statement [REP4-024] and Electromagnetic Fields Non-Technical Statement [REP4-025] are noted. In connection with the information provided:-</p> <p>(i) Who will be responsible for the monitoring of the EMF levels and compliance with the limits set out in the guidelines;</p> <p>(ii) When will the monitoring be undertaken and at what intervals;</p> <p>(iii) Where will testing be undertaken and at what locations;</p> <p>(iv) How will complaints relating to EMF levels be dealt with;</p> <p>(v) How will residents and landowners be able to raise issues relating to EMF levels ; and</p> <p>(vi) What methods of enforcement will be used if the EMF levels are found to be in breach of the limits set out in the guidelines.</p>	The Applicant	N/A	ECC considers that any answers provided by the applicant should also be available on the Project webpage for public information.	The Applicant confirms that the information provided in the Electro-Magnetic Fields Non-Technical Statement [REP4-025] will be made available on the Project webpage.
	14. Landscape				
REP5-091_j1	<p>Q14.0.2</p> <p>Screening During Operation</p> <p>TDC and ECC [REP2-036, REP4-072] suggest that full screening is unachievable given the size and industrial nature of the substations. Please can the applicant set out any further enhanced compensatory measures. In particular please identify steps to assess and mitigate the perceptual element to landscape assessment.</p>	TDC ECC The Applicant	In REP2-036 at EXQ1 Q9.2.7, we highlighted the need for a landscape scale approach in line with the Lawton principles and the early calls by the Design Council Design Review Panel for this approach and for the project team to think outside the red line boundary to create an integrated landscape approach which could include the planting of trees and renewal of hedgerows in the wider landscape area.		Please refer to the Applicant's Comments on Responses to ExQ1 [REP3-036] which sets out the Applicant's position on the suggested landscape-scale approach (see response to item REP2-036_h).
REP5-091_j2	<p>Q14.0.4</p> <p>Visual mitigation within the substation zone</p> <p>(i) With respect to the visual mitigation within the substation zone, how effective do you consider orchard planting combined with hedgerows and hedgerows with trees (Indicative Planting Cross sections at the Onshore Substation [REP4-023]) would be, having regard to the likely height of the proposed</p>	The Applicant TDC ECC	<p>(i) The Councils consider the orchard planting, hedgerows and hedgerows with trees insufficient to mitigate major visual impacts from the proposed substation. We have sought greater tree-planting along the north-north-west boundary, preferable in the form of small copses or wide buffer planting where these are constrained by the existing OH lines or proposed cable runs. We understand the orchard has some merit in biodiversity and amenity terms if maintained appropriately but does not fulfil the role of serious visual mitigation.</p> <p>(ii) The Councils had requested additional VPs to be provided, including one at Grange Road to the immediate north of substations.</p>		<p>Orchard planting is not proposed by the Applicant, this comment appears to refer to the Five Estuaries Offshore Wind Farm proposals.</p> <p>The approach to planting along the north-north west boundary comprises the following layers:</p> <ul style="list-style-type: none"> Small copses or wide buffer planting where these are not constrained by the existing overhead lines or the proposed onshore cable route. Reinstatement of boundary hedgerows and planting of hedgerow trees <p>An additional visualisation [9.93, (Rev0)], from the junction between Grange Road and Barn Lane, is being submitted</p>

REF	QUESTION	QUESTIONS TO	TDC RESPONSE	ECC RESPONSE	APPLICANT'S RESPONSE
	substations and their proximity to Grange Road? (ii) Please can the applicant provide an additional VP from the north, at Grange Road.				into the Examination at Deadline 6 in line with the ExA's request
REP5-091_j3	Q10.0.7 Guidance on lighting within the National Landscape Please confirm that, following ISH2, parties are satisfied that the proposed development has (a) taken account of relevant guidance regarding lighting within the National Landscape area, or (b) that the guidance is not relevant for the purposes of the proposed development.	The Applicant SECH P	The Councils consider that the guidance is relevant to the development and will defer to National Landscape Partnership to comment on whether the submission is in line with the guidance.		Noted.

2.7 Applicants Response to Harwich Haven Authority Responses to ExQ2 [REP5-094]

Table 2.7 Applicants Response to Harwich Haven Authority Responses to ExQ2 [REP5-094]

REF	QUESTION	RESPONSE FROM HARIWCH HAVEN AUTHORITY	APPLICANT'S RESPONSE
REP5-094_a	Q15.0.8 Offshore Operational conditions and constraints Further to Harwich Haven Authority's comments on any submissions received at the previous deadline [REP3-069], to aid understanding of the offshore operational conditions and constraints, including the area covered by the Sunk Inner and Sunk Outer Precautionary Areas, please advise if you have any information in addition to that contained in the documents referenced below. <ul style="list-style-type: none"> Draft Development Consent Order (Rev 5) (Clean) [REP4-004] Outline Navigation and Installation Plan [REP4-011] Outline Sediment Disposal Management Plan (Rev 0) [REP4-038] Outline Cable Specification and Installation Plan [REP4-039] Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 0) [REP4 043] Outline Offshore Operations and Maintenance (Rev 1) (Clean) [REP3-025] 	As the Statutory Harbour Authority and Trust Port, HHA has statutory duties to conserve, protect, regulate, maintain and improve the Haven. This includes providing safety of navigation to vessels using the waters within our 150 square mile jurisdiction area. Our jurisdiction covers a 12-mile approach to Harwich Harbour, the River Stour, and parts of the River Orwell. We are responsible for the conservancy of the main navigation channel into the Haven, which requires an ongoing maintenance dredging programme to maintain the depth required to accommodate the very largest and deepest container vessels in operation. We operate a 24/7, 365 day a year service to provide pilotage services to five port operators in the Haven, Port of Felixstowe, Navyard, Harwich International Port, Port of Mistley and the Port of Ipswich. The continuous, and uninterrupted flow, of vessels into the Port of Felixstowe is critical to UK trade, with almost 40% of all containerised goods entering the UK via this gateway.	Noted.

	<ul style="list-style-type: none"> Environmental Statement Chapter 15 Shipping and Navigation [APP-029] Environmental Statement Chapter 15 Figures [APP-060] • Environmental Statement Appendix 15.1 Navigational Risk Assessment Part 1, 2 and 3 [APP 106, APP-107, APP-108] 		
REP5-094_b	The largest trade gateway in the UK	<p>In the early Autumn, 2023 we completed a £130m large-scale project to deepen the navigational approach channel into Harwich Harbour to 16.0m below chart datum. The purpose of the project is to accommodate the ever-growing breed of Megamax vessels in operation that call at the Haven ports. With a deeper navigational channel, and new deeper berths at the Port of Felixstowe, we envisage the combined value proposition will attract many more shipping lines to use the Port of Felixstowe and therefore vessels arriving and departing the Haven will increase. The worldwide maritime industry trend for less ship movements but larger vessels carrying equivalent tonnage looks set to continue and, in time, further channel deepening will be required to meet future requirements for UK shipping.</p> <p>The Haven trade gateway is critical to UK PLC and our pilotage services cannot be interrupted. Delayed or missed Megamax arrivals would cause significant cost implications to Harwich Haven Authority. The ports industry is highly competitive and dissatisfied shipping lines are highly likely to look for an alternative port, potentially in Europe, if they do not receive the service standards they require.</p>	Noted.
REP5-094_c1	Stakeholder values – role and commitment	<p>As a Trust Port we operate commercially but we do not have shareholders, which allows us to reinvest a percentage of our surplus profits back into the Haven for the benefit of stakeholders. We define a stakeholder as anyone that uses, or has an interest in, the Haven and/or our operations. Harwich Haven Authority acts as a custodian of the Haven, and we have a duty to conserve, protect, regulate, maintain and improve our area of jurisdiction.</p> <p>We understand that regulatory bodies such as Natural England and the Environment Agency will have been included within your consultation and urge that their comments are given due consideration to the extent that they relate to the legally protected and designated areas that exist within the Haven.</p> <p>Harwich Haven Authority (HHA) welcomes the opportunity to provide further clarity on operational conditions and navigational constraints affecting the Sunk Inner and Sunk Outer Precautionary Areas in relation to the proposed North Falls Offshore Wind Farm. As the statutory harbour authority responsible for the safety of navigation in the Harwich Haven area, including key access channels to the Port of Felixstowe and Harwich International Port, we maintain an active role in ensuring maritime safety and operational efficiency.</p> <p>The Sunk Precautionary Areas (Inner and Outer) are critical components of the UK's deep-water navigation infrastructure. These areas are situated at the convergence of high-volume shipping routes leading to/from major North Sea ports and include the Sunk Traffic Separation Scheme (TSS). Vessel traffic in this region includes large container ships, tankers, Ro-Ro ferries, and bulk carriers, often operating in constrained under-keel clearance (UKC) conditions.</p> <p>Alongside this letter, the Authority will provide a supplementary PDF documents illustrating the swept paths (track / route taken) of tidally constrained and deep-draught vessels operating within the Sunk Inner and Outer Precautionary Areas. This dataset is based on AIS and pilotage information collected over a full 12-month period, from September 2023 to September 2024. The analysis identifies the typical manoeuvring corridors, alignment with the established traffic separation scheme, and lateral movement patterns of large vessels—particularly under constrained tidal windows. This evidence is intended to support our response by highlighting the spatial requirements for safe navigation in this high-density and operationally sensitive area, including for vessel in up to 400 metres and currently with a draughts of 17.1 metres (to date).</p>	The Applicant has engaged with HHA with regards to operational conditions and navigational constraints, and their input has been fed into the relevant plans, notably the outline Navigation and Installation Plan [REP5-029].
REP5-094_c2	Stakeholder values – response to submitted plans and required safeguards	<p>HHA acknowledges the applicant's updates to the Outline Navigation and Installation Plan [REP4 011] and the accompanying Deep Water Route Cable Installation Areas Plan [REP4-043]. However, we believe the control measure need to be contained within the body text of the DCO and embedded marine licence as protective provisions and not just referenced as a required for a plan or document such as an Outline Navigation and Installation Plan.</p> <ol style="list-style-type: none"> We request that no Restricted Ability to Manoeuvre (RAM) works conducted by the North Falls project should run concurrently with RAM works already planned by the Five Estuaries, Sealink and Tarchon project developers (or other development projects) in the Sunk area. It is our opinion that this would cause an unacceptable level of navigational risk. Therefore, we insist that the Sea Link project liaise with other planned project teams and ourselves to avoid this situation. This requirement for no RAM concurrent works, operations or activity must be written into the DCO. 	<p>The Applicant's position is that the plan is a named part of the DCO, and thus compliance with the items within the plan is inherent to the DCO. Therefore, to duplicate the requirement in the oNIP and the DCO is not required.</p> <ol style="list-style-type: none"> This issue is addressed within table 2.2 of the oNIP (Document Reference 7.24, Rev 3).]. That table prevents concurrent RAM activities taking place in the key areas of interaction between the project and shipping and navigation stakeholders. RAM activities have been defined in section 2.3.1. This comment is noted. This comment is noted.

		<p>2. Exclusion zone(s) must not be put in place in the Sunk area or channel that would restrict 24/7/365 vessel access requirements or pilot boarding operations etc.</p> <p>3. Safety zone(s) will not be able to impede vessel traffic movements within the Sunk area or normal operations such as pilot boarding.</p> <p>4. We suggest that no cable joints to be in locations in the Sunk area, due to extra work required in this busy shipping area, leading to increased navigational safety risk.</p> <p>5. In the Sunk area, cable depth needs to consider that the world's largest vessels may anchor and dredge anchors in emergency scenario. 6. The cable depth must take into account the draught of current and future vessels and future dredging. The DCO should provide for a maximum draught of 20m plus 10% UKC, as such minimum depth required 22m below chart datum.</p> <p>6. Suggest that no project vessels with Restricted Ability to Manoeuvre (RAM) (cable laying, UXO clearance, survey etc) are to operate in the wider Sunk area when visibility below nautical 2 miles.</p>	<p>4. This comment is noted. The need for a cable joint is dependent on the final cable design and installation vessel proposed, it is noted that no planned joints should be located in the sunk area.</p> <p>5. This comment is noted, and is how the definition of the areas of deep burial contained within 9.57 Deep Water Route Cable Installation Areas (Future Dredging Depths) Plan (Rev 1) have been defined.</p> <p>6. Weather constraints and data will be agreed in the HAZOP as per section 4.1.3 of the Outline Navigation and Installation Plan [REP5-028] where the 2nm visibility threshold is specifically mentioned.</p>
REP5-094_d	Conclusion	<p>HHA recognises the strategic importance of offshore renewable energy development and supports its advancement provided it is compatible with navigational safety and operational resilience. We welcome continued engagement with the applicant to ensure these objectives are met and reiterate the need for robust safeguards to be embedded in the final DCO and supporting documents. We are happy to provide further detail on specific constraints or operational considerations as the Examination progresses. Additionally, we would be very pleased to welcome the Planning Inspectorate team to Harwich Haven, where we can explain and demonstrate our functions, statutory responsibilities, and the unique operational environment in which we work.</p>	Noted

2.8 Applicants Response to Historic England Responses to ExQ2 [REP5-095]

Table 2.8 Applicants Response to Historic England Responses to ExQ2 [REP5-095]

REF	QUESTION	QUESTION TO	RESPONSE FROM HISTORIC ENGLAND	APPLICANT'S RESPONSE
REP5-095_a	<p>Q9.1.5 Requirement 11 – Onshore Archaeology</p> <p>The ExA notes that following discussion at ISH2 this requirement was updated in line with the Five Estuaries drafting at Deadline 4 [REP4-004].</p> <p>(i) The parties are requested to confirm that the drafting of this requirement is now agreed and that no further drafting amendments are sought.</p> <p>(ii) Please provide an update in relation to the draft Archaeological Mitigation Strategy and Outline Onshore Written Scheme and whether it is agreed that these now provide satisfactory commitments to post-consent surveys and trial trenching.</p>	The Applicant, HE, ECC	<p>The wording and content of Draft Archaeological Mitigation Strategy and Outline Onshore Written Scheme of Investigation has been agreed with the applicant, and we understand the final draft versions will be submitted by them for this deadline.</p> <p>We have also received and discussed amended wording for the requirement and good progress has been made towards a final agreed wording.</p> <p>We are awaiting confirmation that the final version has been adopted and that is matched by an appropriately worded commitment in the CoCP.</p>	Noted. The Applicant can confirm the Archaeological Mitigation Strategy (AMS) and Onshore Outline Written Scheme of Investigation (OWSI) were submitted at Deadline 5 [REP5-046 to REP5-048] . As well as amended wording to Requirement 11 of the draft DCO [REP5-008] and revised OCoCP [REP5-022] .
REP5-095_b	<p>Q12.0.4 Impacts on Sediments and Geoarchaeological Potential</p> <p>There is potential for significant impacts on preserved paleochannels and deposits with high geoarchaeological potential. What, if any, further investigations and evaluation do you consider necessary and proportionate at this stage?</p>	HE	<p>As a detailed desk-based geoarchaeological assessment has been conducted and presented within the application documents, further desk-based assessment would provide little enhance, so is not required or proportionate at this time. Further investigation and evaluation must take the form of the collection of geotechnical samples from across the offshore project.</p> <p>Given the length of time that would be required to collect, assess and report tis data it would be unrealistic to consider this proportionate within the examination of this project. As per our previous response (REP4-076), we accept that archaeological investigations and mitigation measures are provided for through the draft DCO conditions and described within the Outline Offshore Written Scheme of Investigation (WSI – REP3-016). This would include the collection of geotechnical samples.</p>	Noted.
REP5-095_c	<p>Q12.0.5 Geological Cores</p> <p>Please advise whether you consider the geoarchaeological coring to be sufficient in relation to the size and complexity of the project. What further information/investigation do you consider is required and at what stage?</p>	HE	<p>With regards to Onshore archaeology, we can confirm further geoarchaeological sampling would be included within the scope of the new draft AMS. This work will now form part of the programme of archaeological work that has now been agreed to be undertaken prior to commencement of the scheme. This is detailed in the AMS and the OWSI.</p>	The Applicant can confirm that further geoarchaeological sampling and assessment will be undertaken post-consent as part of the programme of archaeological and geoarchaeological evaluation and mitigation works detailed within the AMS and Onshore OWSI [REP5-046 to REP5-048] .

REF	QUESTION	QUESTION TO	RESPONSE FROM HISTORIC ENGLAND	APPLICANT'S RESPONSE
REP5-095_d	Q12.0.6 Draft Development Consent Order Please provide an update on discussions between the applicant and Historic England in relation to the wording for Requirement 11(1) of the draft Development Consent Order. Advise on whether any progress is being made to agree wording within the dDCO and any unresolved matters.	HE The Applicant	We have received and discussed amended wording for Requirement 11(1) with the applicant and ECC. Good progress has been made towards a final agreed wording, and we are awaiting confirmation that the final version has been adopted and that this is matched by an appropriately worded commitment in the CoCP.	The Applicant can confirm that the wording agreed with Historic England and Essex County Council is included within the revised draft DCO [REP5-008] and OCoCP [REP5-022] submitted at Deadline 5.
REP5-095_e	Q12.0.7 NPS EN-5 and the Electricity Act 1989 Do you consider that the applicants have had regard to the desirability of protecting sites, buildings and objects of architectural, historic or archaeological interest, and have done what they reasonably can to mitigate any effects in accordance with NPS EN-5 paragraph 2.2.10 and Schedule 9 of the Electricity Act 1989?	HE	<p>Scheduled 9 of the Electricity Act 1989 is an important consideration in relation to an applicant '...having regard for...protecting sites, buildings and objects of architectural, historic or archaeological interest.'</p> <p>EN-5 also sets out at 2.9.25 that '...the Secretary of State should only grant development consent for underground or subsea sections of a proposed line over an overhead alternative if it is satisfied that the benefits accruing from the former proposal clearly outweigh any extra economic, social, or environmental impacts that it presents'. This includes 'archaeological and heritage sites.' Both policies are potentially relevant in this case. This balancing exercise is therefore for the ExA and the SoS to undertake.</p> <p>Broadly speaking we confirm the applicant has undertaken an assessment of the known heritage receptors and that the heritage chapters of the ES are adequate for the purposes of this examination.</p> <p>We have set out in our written representation concerns about the absence of evaluation with regards to non-designated heritage assets within the cable corridor. The applicant has however now provided measures to address this with a draft AMS, updated OWSI which is underpinned by a revised wording of the requirement and commitment in the CoCP. Evaluation will now take place prior to commencement of the project subject to consent being granted.</p> <p>We consider the scheme would still be likely to result in some permanent and residual effects to the setting of designated heritage assets from the permanent elements like the sub-station, and through the impact of the cable corridor on non-designated and archaeological remains.</p> <p>We consider the applicant has however taken reasonable measures through design to address these issues and has adopted additional measures through the revised AMS and OWSI to manage the effects of the cable corridor should consent be granted.</p> <p>It would be therefore for the ExA to ensure the public benefits of the scheme outweighs the harm and to address the policy test set out in the EN-5 at 2.2.10.</p>	Noted.
REP5-095_f	Q12.0.8 Temporary effects on the setting of designated and non-designated heritage assets Can the applicant provide further justification for its view that any impact during construction would be "short term and reversible" and that impacts would be "slight due to the perceptibility of the works from the identified receptors". On this basis, it is considered that any change to setting and associated heritage significance would result in a negligible adverse magnitude of impact [APP-039 para 355]. Please can IPs also comment on the temporary nature of effects.	The Applicant Other IPs including ECC	<p>Historic England are mindful that construction effects can be harmful to the historic environment, and there are historic environment receptors within the development area (both designated and non-designated) that will experience effects, and a degree of harm during construction.</p> <p>It is for the applicant to adequately indicate the degree of significance ascribed to an asset and therefore the magnitude of effects.</p> <p>As above, we can confirm the applicant has undertaken an assessment of the known heritage receptors and that the heritage chapters of the ES are adequate for the purposes of this examination.</p> <p>It is also important to note that a number of non-designated heritage assets, largely those with buried archaeological remains, within the footprint of the cable route, cable landing site and substation location will experience permanent residual effects during construction.</p> <p>These assets will need to be investigated prior to the construction works commencing. We can confirm that mitigation measures are now set out in draft AMS and OWSI, but this would be a matter for ECC and archaeological advisors.</p> <p>The ExA will need to be satisfied that benefits would outweigh harm.</p>	Noted.

REF	QUESTION	QUESTION TO	RESPONSE FROM HISTORIC ENGLAND	APPLICANT'S RESPONSE
REP5-095_g	Q12.0.9 Archaeological mitigation Are you satisfied with the wording of Requirement 11 of the dDCO [REP4-004]? If not, could you provide details of what you would wish to see included and why?	HE ECC	As set out above, we can confirm we have discussed amended wording for Requirement 11(1) with the applicant and ECC. Good progress has been made towards a final agreed wording, and we are awaiting confirmation that the final version has been adopted and that this is matched by an appropriately worded commitment in the CoCP.	The Applicant can confirm that the wording agreed with Historic England and Essex County Council is included within the revised draft DCO [REP5-008] and OCoCP [REP5-022] submitted at Deadline 5.
REP5-095_h	Q12.0.10 Archaeological Mitigation Strategy and WSI Please provide an update on the updated version of the Archaeological Mitigation Strategy and Outline WSI referred to at ISH1.	The Applicant, HE, ECC Other IPs may optionally comment	The wording and content of Draft Archaeological Mitigation Strategy and Outline Onshore Written Scheme of Investigation has been agreed with the applicant, and we understand the final draft versions will be submitted by the applicant for this deadline.	The Applicant can confirm the agreed AMS and Onshore OWSI was submitted into Examination at Deadline 5 [REP5-046 to REP5-048].

2.9 Applicant's response to London Gateway Port Limited Responses to ExQ2 [REP5-097]

Table 2.9 Applicant's response to London Gateway Port Limited Responses to ExQ2 [REP5-097]

REF	QUESTION	QUESTION TO	RESPONSE FROM LONDON GATEWAY PORT LIMITED	APPLICANT'S RESPONSE
REP5-097_a	Q9.1.1 Requirement 2(3) – Offshore design parameters The applicant's post hearing summary [REP4-034] confirms that the applicant has considered the ports' request for a dDCO requirement to ensure the seabed can be dredged to a depth of 22m Chart Datum further and the applicant has proposed drafting for a new requirement 2(3) in Schedule 1, Part 3 of the dDCO [REP4-004] to secure the cable burial depths in the Deep Water Routes. The applicant and the ports are requested to confirm that the drafting of this requirement is agreed, and the matter resolved. If not, please identify any amendments sought giving reasons.	The Applicant LGPL PLA	LGPL welcomes the inclusion of the proposed Requirement. LGPL has already conveyed to the Applicant that it considers the following drafting clarifications to be necessary: "(3) Any part of Work No. 3 and any associated development the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude dredging: (i) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum; (ii) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and (iii) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum. (4) The undertaker must not relocate any boulders or archaeological finds to the three areas referred to in paragraph (3)." The reasons for the amendments are: <ul style="list-style-type: none"> The Requirement should protect the Deep Water Routes against any activity carried out by the Applicant under the dDCO – not just Work No.3 or associated development – LGPL does not wish to have to be concerned with whether or not activities that may be carried out by the Applicant in the Deep Water Routes are Work No 3 or not – LGPL is concerned only to guard against the possible effect. Accordingly, we have changed the reference to cover "the authorised development". Inclusion of the reference to design and operation provides more comprehensive coverage and will ensure that the need to protect the Deep Water Routes is adequately considered at all stages. The logic of the Requirement to ensure the 'dredgeability' of the Deep Water Routes is not precluded extends to a need to ensure that additional boulders or archaeological finds are not relocated there. LGPL understands that the principle of that understanding is not controversial. LGPL has not yet heard from the Applicant as to whether or not the proposed amendments are agreed.	The Applicant s updated the draft DCO at Deadline 5 [REP5-008] to the extent considered necessary to address concerns of LGPL. It is only Work No. 3 that can be carried out within the areas identified on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, and a reference to the "authorised development" is unnecessary and redundant. The outline CSIP [REP5-044] provides (paragraph 17) that boulders and (paragraph 19) that archaeological finds may not be relocated into the Deep Water Routes.

REP5-097_b	<p>Q9.4.1 Protective provisions sought by the Port of London Authority and the changes to the protective provisions sought by London Gateway Port Limited</p> <p>The protective provisions for the ports were discussed at ISH2. The applicant has submitted a full response at Deadline 4 on its position regarding protective provisions for the ports [REP4-044]. The applicant's Deadline 4 Action Points [REP4-036] has removed the protective provisions for the LGPL from the dDCO at deadline 4 [REP4-004]. The applicant has included a new Requirement 2(3) in the dDCO submitted at Deadline 4. In addition, the applicant has made changes to the Deep Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043], the Outline Cable Specification and Installation Plan [REP4-039], the Outline Sediment Disposal Management Plan [REP4-038] and updated Navigation and Installation Plan [REP4-012]. Updates have also been made to the DML conditions to make reference to these plans. The applicant's position is that protective provisions are not necessary, appropriate or reasonable in the circumstances, and would be unprecedented.</p> <p>(i) Given the additional measures secured by the Deadline 4 updates to application documents, please can LGPL and PLA indicate whether they still seek protective provisions and, if so, explain why the package of mitigation measures committed to by the applicant would not appropriately address their concerns and whether there are any other mitigation measures in relation to the Sunk and Trinity DWR and Sunk Pilotage area that would preclude the need for protective provisions.</p> <p>(ii) Please indicate whether LGPL and PLA agree that there would no risk of detriment to the statutory undertaking of the ports arising from the powers conferred by the dDCO? If not, please identify the specific statutory functions that would suffer such detriment and/or explain why it is not necessary to do so.</p>	The Applicant LGPL PLA	Please see separate document " LGPL's Response to Applicant's Response to Ports' Request for Protective Provisions " submitted alongside this document at Deadline 5.	Noted. The Applicant's position on protective provisions is set out in [REP4-044]
REP5-097_c	<p>Q9.4.2 The protective provisions sought by London Gateway Port Limited</p> <p>The LGPL post hearing submissions [REP4-077] submits that the applicant's position is a fundamental misunderstanding of how the London Gateway Harbour Empowerment Order 2008 (the HEO). They explain the rationale for the need for LGPL to have protective provisions based on the need to protect its statutory powers to dredge and the need to protect the approach channel to London Gateway Port.</p> <p>(i) Does the applicant accept that the relevant statutory powers which LGPL seek to protect are set out in the HEO and that the need to protect the approach channel to London Gateway Port is fundamental to the exercise by LGPL of its statutory undertaking?</p> <p>(ii) Please explain why the Deadline 4 updated mitigation measures would provide sufficient detail and certainty in relation to preserving the future proofed dredge depth of the approaches to the port.</p>	The Applicant	See above.	See above.

2.10 Applicant's response to Marine Management Organisation Responses to ExQ2 [REP5-098]

Table 2.10 Applicant's response to Marine Management Organisation Responses to ExQ2 [REP5-098]

REF	QUESTION	QUESTION TO	RESPONSE FROM MMO	APPLICANT'S RESPONSE
REP5-098_a1	<p>Q9.0.3 Article 5 – Benefit of the Order</p>	The Applicant MMO	The MMO will provide a response to this question at Deadline 6.	Noted.

REP5-098_a2	Q9.2.1 Depths in the Deep Water Routes	MMO MCA PLA LGPL	The MMO will review Interested Party Responses to this question at Deadline 5 and will liaise if there are any issues.	Noted.
REP5-098_a3	Q9.2.2 Volume of Arisings	NE MMO	The MMO is content with the amendments to Condition 10 (8) of Schedule 8, Condition 11 (4) of Schedule 9 and Condition 11 (4) of Schedule 10 to include the total volumes of drill arising under the licence.	The Applicant welcomes the MMO's confirmation.
REP5-098_a4	Q9.2.5 Condition 19 (10) of Schedules 8 and 10 and Condition 20 (10) of Schedules 9	MMO MCA	The MMO is content with the amendments that have been added. The telephone number of the correct centre (HM Coastguard rescue coordination centre contact details - GOV.UK) must be included in the condition.	The Applicant welcomes the MMO's confirmation. The Applicant has updated the relevant condition in the dDCO (Document Reference 6.1, Rev 7), with the contact phone number from the webpage provided by the MMO.
REP5-098_a5	Q9.2.6 Conditions 12 (4) of Schedule 8 and 10 and Condition 13 (4) of Schedule 9	The Applicant	The MMO provided context and background to the Applicant on 15 May 2025 and will review the Applicant's response submitted at Deadline 5.	Noted.
REP5-098_a6	Q9.2.7 Chemicals	The Applicant	The MMO provided context and background to the Applicant on 15 May 2025 and will review the Applicant's response submitted at Deadline 5.	Noted.
REP5-098_a7	Q9.2.8 Designation of Disposal Sites	MMO	The MMO will provide a further update on this question once it has reviewed the updated site characterisation report.	Noted.
REP5-098_a8	Q9.2.9 Post Construction Monitoring	MMO The Applicant	The MMO will review the Applicant's response submitted at Deadline 5.	Noted.
REP5-098_a9	Q9.2.10 Outline Fisheries and Co-existence Plan	MMO	The MMO will maintain a watching brief.	Noted.
REP5-098_a10	Q9.2.11 Offshore In-Principal Monitoring Plan	MMO	Please see Section 3 below for comments on the Offshore In-Principal Monitoring Plan.	Noted.
REP5-098_b	Q10.0.1 – Marine Mammals Methodology/Cumulative Assessment Q10.0.2 – Marine Mammals Methodology/Cumulative Assessment/Transboundary aspects Q10.0.3 – Marine Mammals Cumulative Assessment / Mitigation Q10.0.10 – Marine Environment/benthic/seabed matters Q10.0.13 – Marine Environment/Deemed Marine Licensing/dDCO Q10.0.14 – Outline Decommissioning Plan Q10.0.17 – Overall HRA Derogation /Ecological Compensation/Schedule 15 Wording	The Applicant NE	Q10.0.1 - MMO defers to Natural England (NE) as the relevant Statutory Nature Conservation Body (SNCB) in relation to Marine Mammals. Q10.0.2 - The MMO maintains a watching brief. Q10.0.3 - The MMO defers to NE as the relevant SNCB in relation to modelling and the comments raised. Q10.0.10 - The MMO defers to NE as the relevant SNCB in relation to modelling and the comments raised. Q10.0.13 - The MMO has provide further comments to address this question in Table 1 of the Deadline 5 response. In relation to the condition, the MMO is still reviewing this condition – please see comments to question 9.2.9. Q10.0.14 - The MMO is in agreement and requests that an Outline Decommissioning Plan is provided during the examination for review. Q10.0.17 - The MMO has no further comment at this stage regarding the Marine Recovery Fund and defers to NE the relevant SNCB regarding the HRA, Derogation and Ecological Compensation.	Noted
REP5-098_c	Q16.0.1 – Commercial Fisheries, sufficiency of mitigation	MMO	The MMO will provide a response to this question at Deadline 6.	Noted.

2.11 Applicant's response to Maritime and Coastguard Agency Responses to ExQ2 [REP5-100]

Table 2.11 Applicant's response to Maritime and Coastguard Agency Responses to ExQ2 [REP5-100]

REF	QUESTION	QUESTION TO	RESPONSE FROM MCA	APPLICANT'S RESPONSE
REP5-100_a1	Q9.1.12 Other matters relating to dDCO requirements - Removal of Galloper Recommended Route The MCA's position is that a requirement/condition of consent must be included within the DCO/DML to ensure that no offshore construction	The Applicant MCA	(i) The Galloper Recommended Route was adopted by the International Maritime Organization (IMO) during the 82nd session of the Maritime Safety Committee (MSC) as per IMO circular COLREG.2/ Circ.58 Annex II. This relates to the New traffic separation schemes in the Sunk area and in the northern approaches to the Thames Estuary and states that; "Galloper"	The Applicant has set out its position on the Galloper Recommended Ferry Route in detail in [REP5-071]. However, the following points are made in relation to the MCA responses: i) The Applicant would like to clarify that the Galloper Recommended Ferry Route is not a mandatory routeing measure. The Sunk Routeing Measure Scheme. The overarching scheme comprising the

	<p>that directly interacts with the Galloper Recommended Route can commence before the removal is in force. At the ISH2 the applicant's stated position was that this condition is not required. The ExA seeks the following further information in relation to the use of the route and the legal consequences, if any, of not formally removing it prior to the commencement of development.</p> <p>(i) Under what existing powers or rights could shipping vessels continue to use the Galloper Recommended route up to the point when the removal would be in force?</p> <p>(ii) If offshore construction of the wind farm commenced that directly interacted with the Galloper Recommended Route in advance of the removal of the route, could any UK and/or international body enforce the route remaining open to shipping vessels and what form of enforcement action could be taken?</p> <p>(iii) If the DCO was granted in accordance with the relevant NPS without the MCA's proposed condition of consent, could that potentially lead to either the United Kingdom being in breach of any of its international obligations or the SoS being in breach of any duty imposed by or under any enactment as per s104(4) and (5) of the PA2008?</p>		<p>recommended route in the south-east sector of the scheme to enable regular ferry traffic sailing to and from the Port of Ostend to enter and leave the SUNK Outer Precautionary Area without deviating unnecessarily to use traffic separation lanes". As this route was adopted by IMO, the Galloper recommended route is considered a recognised sea lane under Article 22 of the United Nations Convention on the Law of the Sea (UNCLOS), which permits coastal states to designate sea lanes within their waters, provided they are adopted by the competent international organisation, in this case the IMO.</p> <p>Furthermore, under the Safety of Life at Sea (SOLAS) Convention Ch. V Reg 10(7)- "A ship shall use a mandatory ships' routeing system adopted by the Organisation as required for its category or cargo carried and in accordance with the relevant provisions in force unless there are compelling reasons not to use a particular ships' routeing system. Any such reason shall be recorded in the ships' log". The recommended route is charted on relevant official nautical charts and included in the IMO Ships Routing Guide. Until any formal removal or amendment is in place, any vessel operating in the area may continue to use this route as it remains an IMO adopted recommended route.</p> <p>(ii) Under Article 60(7) of UNCLOS it states- "Artificial islands, installations and structures and the safety zones around them, may not be established where interference may be caused to the use of recognised sea lanes essential to international navigation". As per the above explanation, the Galloper Recommended Route is an IMO adopted ships' routeing measure, established to facilitate safe and efficient navigation in the Thames Estuary region. As such, it is considered a recognised sea lane.</p> <p>The UK, as a coastal and flag state, is expected to ensure its vessels and offshore activities comply with UNCLOS. Failure to do so could lead to international scrutiny. Also, as per SOLAS CH V Reg 10(6)- <u>Contracting Governments shall adhere to the measures adopted by the Organisation concerning ships' routeing. They shall promulgate all information necessary for the safe and effective use of adopted ships' routeing systems. A Government or Governments concerned may monitor traffic in those systems. Contracting Governments shall do everything in their power to secure the appropriate use of ships' routeing systems adopted by the Organization.</u> Therefore, if the DCO was granted without the condition and structures were built impeding the routeing measure, we would be in breach of UNCLOS Article 60 (7) and SOLAS CH V Reg 10.</p> <p>It is also important to note that the Applicant was informed of the constraints associated with the Galloper Recommended Route throughout the planning process. At the request of the navigational consultants, the MCA provided indicative timelines expected for any potential application to remove or amend the route on several occasions prior to submission.</p> <p>(iii) As explained in responses (i) and (ii) above, the Galloper recommended route remains an IMO adopted routeing system and constitutes a recognised sea lane used for international navigation. Therefore, we are of the opinion that the DCO, if granted, should include the condition as proposed by MCA. This condition would ensure that the formal removal of the Galloper Recommended route is confirmed before commencement of any offshore construction that would directly interact with the IMO adopted route. Failing to do so would in our opinion be inconsistent with the requirements of the National Policy Statement EN-3 Section 2.8.326 and subsequently Sections 104(4) and (5) of Planning Act 2008.</p>	<p>TSS lanes, precautionary areas and the Galloper Recommended Ferry Route) is mandatory, however the Galloper Recommended Ferry Route as an individual component measure is not itself mandatory, and was designed to provide optionality to the TSS lanes. Therefore SOLAS Reg 10(7) as cited by the MCA does not apply to the Galloper Recommended Ferry Route.</p> <p>ii) The Applicant 's position that the Galloper Recommended Ferry Route is not "essential to international navigation" for the reasons outlined in [REP5-071] and as stated in ISH 2. The Applicant notes that the MCA has not explicitly stated anywhere within their responses to this question that they view the Galloper Recommended Ferry Route as "essential to international navigation", and rather refer to it being "used for international navigation". The Applicant assumes the MCA chose its wording with care and considers this an important distinction. On the basis that the Galloper Recommended Ferry Route is not essential to international navigation and is not mandatory, there can be no breach of UNCLOS Article 60(7) or SOLAS CH V Reg 10.</p> <p>iii) As stated at ISH2, the Applicant's position remains that no specific condition is necessary for the reasons set out in [REP5-071]. It is also noted that the MCA must already be consulted upon the layout under the current DCO wording (Schedule 8, Part 2 21 (a), and Schedule 9, Part 2, 22 (a)).</p>
REP5-100_a2	<p>Q9.2.1</p> <p>Depths in the Deep Water Routes</p>	MMO MCA	<p>The MCA has reviewed the dDCO (Rev 5) [REP4-004] Condition 12 (3) of Schedules 8 and 10 and Condition 13 (3) of Schedule 9. The revised wording now ensures that any reduction in navigable depth resulting from</p>	<p>The Applicant welcomes the MCA's confirmation.</p>

	The question of the permissible water depth reduction was discussed at the ISH2. The dDCO (Rev 5) [REP4-004] has been amended at Condition 12 (3) of Schedules 8 and 10 and Condition 13 (3) of Schedule 9 to include further wording in respect of the water depth not being reduced by more than 5% Chart Datum when carrying out maintenance activities. Please confirm if the amendments now made are acceptable and address the concerns raised.	PLA LGPL	cable protection replenishment works, where such reduction exceed 5% of the navigable depth in relation to Chart Datum, will be brought to the attention of the MCA for further consultation before commencement of works. The MCA is content with the amendments, as they provide an appropriate safeguard to ensure navigation safety is maintained and any impact on navigation is subject to regulatory oversight before implementation.	
REP5-100_a3	Q9.2.5 The applicant has amended Condition 19 (10) of Schedules 8 and 10 and Condition 20 (10) of Schedule 9 in relation to debris and dropped objects. Please confirm whether the amendments are accepted and resolve the concerns raised.	MMO MCA	The MCA welcomes the amendments made by the applicant to Condition 19 (10) of Schedules 8 and 10 and Condition 20 (10) of Schedule 9, which relate to debris and dropped objects. The MCA confirms that these amendments are acceptable and that its concerns on this matter are now considered fully resolved.	The Applicant welcomes the MCA's confirmation.
REP5-100_b	Q15.0.2 Interference with the use of recognized sea lanes essential to international navigation Under Agenda item 3.4.2 in the applicant's Written Summary of Oral Submissions made at the Issue Specific Hearing 2 (ISH2) [REP4-034] it states: <i>"Mr McGovern stated that the applicant was happy to meet with the MCA and would expand on points made by Mr Foster in written submissions. He further added that in the applicant's submission the route come under the scope of NPS EN3 paragraph 2.8.330, being a less strategically important route, as the route is no longer in active use, and therefore this is a circumstance where which Secretary of State should take a pragmatic approach to the potential impacts of the project."</i> (i) For the case where the Galloper Recommended Ferry Route would be formally removed, could the MCA confirm whether they consider that interference with the use of recognised sea lanes essential to international navigation is likely to be caused by the development? Could the MCA also advise whether they consider the Galloper Recommended Ferry Route to be a less strategically important route as defined in paragraph 2.8.330 of the NPS for Renewable Energy Infrastructure (EN-3)?	MCA	(i) The MCA confirms that it met with the Applicant prior to the submission of this response to clarify its position. This position is consistent with that set out under agenda Item 3.4.2 of [REP4-034]. Whilst we acknowledge the applicant's observation that the Galloper Recommended route is no longer used by ferries operating to Oostende, it remains in use by other vessels as evidenced in Fig 10 53 of Appendix 15.1 Navigational Risk Assessment Part 2 of 3 [APP 107] submitted by the applicant. Therefore, we consider the Galloper Recommended Route to be a recognised sea lane currently in use for international navigation. As long as the route is IMO adopted, is in use, and is depicted on relevant navigational charts, MCA will consider any obstruction or impediment to this route as a hard constraint in line with Annex 2 of MGN 654- Offshore Renewable Energy Installations (OREIs) - Guidance on UK Navigational Practice, Safety and Emergency Response . Although the route may be considered of reduced strategic importance, it nonetheless retains its status as a recognised sea lane adopted by the International Maritime Organisation and currently in use for international navigation as explained above. Therefore, the MCA is of the opinion that the condition requiring the removal of the scheme should be included in the DCO. This is necessary to ensure minimum interaction and interference with a recognised sea lane still in use for international navigation.	The Applicant's position is that the Galloper Recommended Ferry Route is not "essential to international navigation" for the reasons outlined in [REP5-071] and as stated in ISH 2. The Applicant notes that the MCA has not explicitly stated anywhere within their responses to this question that they view the Galloper Recommended Ferry Route as "essential to international navigation", and rather refer to it being "still in use for international navigation". The Applicant considers the MCA will have chosen its words with care and that this an important distinction. The Applicant also notes that the MCA state that "the route may be considered of reduced strategic importance". The Applicant agrees with this statement.

2.12 Applicant's response to National Grid Electricity Transmission Plc Responses to ExQ2 [REP5-101]

Table 2.12 Applicant's response to National Grid Electricity Transmission Plc Responses to ExQ2 [REP5-101]

REF	QUESTION	QUESTION TO	RESPONSE FROM NATIONAL GRID ELECTRICITY TRANSMISSION PLC	APPLICANT'S RESPONSE
REP5-101	Q14.0.3 Cumulative effects for the proposed onshore substations for North Falls OWF, VEOWF and the East Anglia Connection Node Please advise on the likely height of any pylons supporting overhead wires transmitting electricity to and from the proposed East Anglia Connection Node substation, based on best available information. Please can the applicant also advise how the height of those pylons is likely to compare with existing NGET and UK Power Networks pylons in the area.	The Applicant National Grid Electricity Transmission Plc	National Grid is still developing the design of the 400kV connections to the EACN and can confirm there is no existing 400kV infrastructure in the vicinity. From the southern edge of the Dedham Vale National Landscape, the section of the Norwich to Tilbury project connecting from Bramford to the EACN is proposed to be comprised of underground cable entering the western side. In relation to the section of the Norwich to Tilbury project that provides the connection between EACN substation and Tilbury, the statutory consultation (April to July 2024) was completed on the basis of the design being taken forward as overhead line using steel lattice pylons between the western side of the EACN and a section of underground cable at Great Horkesley where it was considered to be within the setting of the Dedham Vale National Landscape. This may change following consideration of feedback. An overhead line supported on steel lattice pylons would be similar to the statutory consultation design. In this design the connection starts at the EACN with the overhead line connected to gantries which would be up to	Noted.

			<p>15m in height from which the conductors rise up to then be carried on pylons. The first six or seven pylons are expected to be in the order of 50m height with individual heights responding to factors including span length between pylons, terrain etc. Taller pylons, in the order of 60m height, would be expected to be required to achieve necessary clearances of the railway.</p> <p>The existing lattice pylon infrastructure in the vicinity of the proposed EACN substation relates to the Distribution network and is operated by UK Power Networks (UKPN). These lower voltage connections radiate from the Lawford substation and are typically much lower. Individual pylons vary in height depending on voltage and design along with factors such as span length.</p>	
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2.13 Applicant’s response to National Highways Responses to ExQ2 [REP5-102]

Table 2.12 Applicant’s response to National Highways Responses to ExQ2 [REP5-102]

REF	QUESTION	QUESTION TO	RESPONSE FROM NATIONAL HIGHWAYS	APPLICANT’S RESPONSE
REP5-102_a	<p>Q7.0.3</p> <p>Traffic and Transport Study Area – Cumulative Effects</p> <p>SCC’s Comments on any submissions received at the previous deadline [REP3-068] item LIR_SCC_08 states:</p> <p><i>“SCC recognises and accepts that the applicant’s TTSA was agreed with National Highways and defers to their judgement given that the A12 south of Ipswich is within National Highways’ (“NH’s”) administration. SCC appreciates the clarification given by the applicant on the worst-case peak increase in traffic flows and that the project is not likely to cause significant effects on the A12. Regarding cumulative impacts, SCC notes that several nationally significant infrastructure projects (“NSIPs”) in Suffolk will be using the A12 concurrently with the applicant. The fact that the TTSA’s [Traffic and Transport Study Area] of these projects do not overlap with the applicant’s does not necessarily mean that there will be limited potential for cumulative impacts. East Anglia ONE North, East Anglia TWO and Sizewell C each include the A12 in their study areas which the applicant will also have to use to access the A120. There will also be other projects using the A12 concurrently with the applicant, including Five Estuaries, Norwich to Tilbury, and Bramford to Twinstead. SCC recognises that this section of the A12 is within Essex and under the administration of NH and so defers to NH and Essex County Council (“ECC”) on this issue and the discretion of the Examining Authority as to whether they wish to explore this matter further.”</i></p> <p>Could ECC and National Highways comment on SCC’s concern regarding the potential for cumulative effects on the A12?</p>	ECC National Highways	<p>National Highways have recently reviewed the traffic forecasts for A12 Junction 29 (Ardleigh Crown Interchange) and are in discussion with the Applicant with regards to assessing the impact of the proposed growth at this junction. (See point 3 below)</p> <p>Beyond A12 Junction 29, based on recent information provided by North Falls’ transport consultants, the anticipated impact of the North Falls project on the A12 is expected to be minimal.</p> <p>Table 1 below presents the trip assignment for North Falls construction traffic (worst case peak hour trips) on the A12 from A12 Junction 29, showing northbound and southbound flows in the morning and evening peak periods in two different construction scenarios provided by the Applicant.</p> <p>The figures suggest that the North Falls project is unlikely to have a significant impact at A12 junctions around Ipswich, as trips are distributed fairly evenly in each direction and generally result in fewer than 30 vehicles in each direction along the mainline A12.</p> <p>In Scenario 1 (the worst-case scenario), there are more than 30 trips during the AM peak on the A12 northbound, and during both peak periods on the A12 southbound. However, we anticipate these trips are expected to be strategic in nature and will disperse across several junctions, making it unlikely that they will be concentrated at any single junction.</p> <p>Therefore, it is reasonable to conclude that there is no need to request the Applicant to extend the transport study area for the North Falls project beyond the A120 and A12 Junction 29.</p>	<p>The Applicant welcomes National Highways’ response on this matter.</p> <p>The Applicant however considers that it is beneficial to provide further context to the numbers provided by National Highways. The numbers presented in ‘Table 1’ referred to by National Highways were corrected by the Applicant in an email on the 5 June 2025 for Scenario 1. The corrected numbers are provided in brackets in Table 2 below. These numbers represent the worst-case period i.e. the peak month and the Applicant would note that average flows would be lower.</p> <p>For reference National Highways webtris data (https://webtris.highwaysengland.co.uk/) shows that for April 2025 the A12 north of Ardleigh Crown Interchange carries in the region of 2,300 vehicles in the peak hour (southbound), as such a worst case increase of 36 vehicles would be negligible i.e. within day-to-day fluctuations in traffic.</p>

Table 2.13.1 Vehicle movement assignment at A12 Junction 29 (Ardleigh Crown Interchange)

Assignment at A12 Junction 29 (Ardleigh Crown Interchange)	Op2						Sc1					
	AM Peak			PM Peak			AM Peak			PM Peak		
	HGVs	LGVs	Total	HGVs	LGVs	Total	HGVs	LGVs	Total	HGVs	LGVs	Total
A12 Northbound	12	11	23	12	11	23	23 (15)	12	35 (27)	16	12	28
A12 Southbound	12	16	28	12	16	28	23 (15)	20	43 (35)	16	20	36

REF	QUESTION	QUESTION TO	RESPONSE FROM NATIONAL HIGHWAYS	APPLICANT’S RESPONSE
REP5-102_b	<p>Q17.0.1</p> <p>Review of traffic models of Horsley Cross and Bentley Road junctions</p> <p>(i) With reference to the Statement of Common Ground between the applicant and National Highways [REP4-056], could National Highways confirm the timescales for confirming its position following the review of the above traffic models?</p> <p>(ii) What are the implications if the review is not concluded before the completion of the examination of the application on 28 July 2025 or that further modelling of other junctions is required?</p>	National Highways	<p>National Highways’ transport consultant, AECOM, have completed the majority of their review of the Junction modelling undertaken by the Applicant’s consultants for the Horsley Cross and Bentley Road junctions on the A120. National Highways is satisfied that the modelling demonstrates there are no issues of concern associated with the Horsley Cross junction. For the Bentley Road junction, AECOM need to review traffic flow matrices which were provided by the Applicant on 28 May 2025 to confirm this junction can operate without expected problems. This review is expected to be completed by 6 June 2025.</p> <p>In addition to the above, AECOM have reviewed trip assignment traffic flow diagrams provided by the Applicant’s consultants on 29 April. These indicate forecast increases in excess of 30 vehicles at each of the junctions east of Horsley Cross and at A12 Junction 29 (Ardleigh Crown).</p> <p>National Highways is concerned about the potential for traffic congestion at these junctions, and potential safety issues as a consequence, to arise during the construction phase of the North Falls project.</p> <p>National Highways’ policy is that a junction capacity assessment must be undertaken for any junctions that are projected to experience more than 30 additional vehicle movements during a peak hour. Table 2 below presents what we understand to be the trip assignment for North Falls traffic (worst case peak hour trips) at several SRN Junctions under the two construction scenarios.</p> <p>However, to enable agreement before the close of the Examination, National Highways would be content to waive this policy requirement in this instance, if the Applicant can make some further changes to the OCTMP to provide assurance that peak hour movements at these junctions will not exceed 30 additional movements. Notwithstanding this, National Highways remain of the opinion that the A120 / Harwich Road junction, which is expected to have the largest increases in traffic, should be modelled.</p> <p>National Highways is committed to working with the Applicant to ensure that the OCTMP is sufficiently robust and suggests additional text similar that below, is provided:</p> <p><i>“Should, once appointed, the Principal Contractor(s) identify the requirement for vehicle movements through any of the A120 junctions or the A12 Junction 29 that would result in greater than 30 two-way vehicle movements, during a highway network peak hour the Principal Contractor(s) will discuss with NH the requirement for any supporting junction capacity assessments and/ or the need for mitigating measures, before 30 two-way vehicle movements can be permitted. This would be undertaken as part of the preparation and approval of the Final CTMP(s) prior to the commencement of construction.”</i></p>	<p>The Applicant considers that it is important to provide context to this response. Prior to the submission of the DCO application, it was agreed with National Highways at an ETG meeting on the 05 September 2023 (detailed within ES Appendix 27.4 [APP-168]) that no capacity modelling would be required. However, following the submission of the DCO application, National Highways advised that they required sensitivity modelling, and it was agreed with the Applicant this would be at two critical junctions to ensure that the residual traffic would not lead to significant capacity effects. The Applicant undertook the modelling as requested and welcomes confirmation from National Highways that these junctions <i>“can operate without problems”</i>.</p> <p>The Applicant understood that it had been agreed with National Highways that modelling would not be required beyond these two locations and is disappointed with the apparent late change of position on this matter. The Applicant is also not aware of any policy that requires junction modelling to be undertaken where flows exceed 30 additional vehicle movements during a peak hour and would point to the DfT Circular 01/2022 entitled ‘The Strategic Road Network and the Delivery of Sustainable Development’ which applies the ‘severe’ approach (i.e. the scope of a transport assessment is determined by the likelihood of severe impacts). The Applicant submits that on the basis of the sensitivity modelling there is a very low likelihood of severe impacts on the wider highway network.</p> <p>Notwithstanding, in the interests of moving forward on this matter the Applicant has agreed to model the remaining three junctions on the A120 where flows exceed 30 trips:</p> <ul style="list-style-type: none">• A120 and Hartwich Road roundabout;• A120 and B1352 roundabout; and• A120 and Parkeston Road roundabout. <p>The Applicant has completed this modelling and has shared the results with National Highways. In summary, the modelling shows that the three junctions would continue to operate with spare capacity, and therefore effects are not significant in EIA terms. On this basis the Applicant considers it is not necessary to update the Outline Construction Traffic Management Plan [REP4-008].</p> <p>The Applicant is confident that following these clarifications this matter can be agreed between the parties and this will be reflected in an update to the Statement of Common Ground, to be submitted at Deadline 7.</p>

2.14 Applicants response to Port of London Authority Responses to ExQ2 [REP5-112]

Table 2.14 Applicants response to Port of London Authority Responses to ExQ2 [REP5-112]

REF	QUESTION	QUESTION TO	RESPONSE FROM PLA	APPLICANT’S RESPONSE
	7. Cumulative Effects			
REP5-112_a	<p>Q7.0.4</p> <p>The Cumulative Effects Assessment (CEA) Summary</p> <p>The PLA comments on any submissions received at the previous deadline [REP4-087] seek a number of amendments to Table 1.1 which lists projects that are included in the CEA for offshore technical assessments. Table 1.11 provides a summary of the CEA outcomes for shipping and navigation and Table 1.27 concerns socio-economics.</p> <p>(i) Does the applicant agree the PLA’s suggested corrections to Table 1.1 bullet points 1 to 5? If not, please given reasons.</p>	The Applicant PLA	<p>(i-iii) are for the Applicant.</p> <p>(iv) Table 1.27 rightly identifies that during construction and operation of North Falls there is the potential for ‘wider economic effects from disruption to shipping and navigation.’ However, the Applicant’s rationale relates to multiple offshore projects causing ‘disruption to shipping lanes’ and the Applicant limits this impact to Felixstowe and Harwich. The route of the proposed offshore cables cross the deep water routes (the Sunk and Trinity which lead to Black Deep) (the "DWR") into the Port of London. The DWR is the only approach available for larger vessels to access the Port of London.</p>	<p>Access routes have been discussed in ongoing meetings with the ports and the tables in the Cumulative Effects Summary have been updated at Deadline 6 (Document Reference 9.31, Rev 1).</p>

	<p>(ii) In relation to Table 1.11, the applicant is requested to explain why the only mitigation measures proposed are in relation to distances to be maintained from surface piercing structures and why there is no reference to embedded mitigation?</p> <p>(iii) In relation to Table 1.27, the applicant is requested to explain why there are only references to the ports of Felixstowe and Harwich and not to any other ports.</p> <p>(iv) In relation to Table 1.27, the PLA is requested to explain why it considers that reference to cumulative effects in relation to the Port of London should have been assessed and included in the summary.</p>		<p>North Falls has the potential to cause permanent impacts to navigation and to the capacity and operation of the Port of London, if the depth of the offshore cables and those of other schemes proposed in the same area (Five Estuaries Offshore Wind Farm ("VEOWF"), Sea Link and Tarchon) prevent dredging to the required depths (-22m Chart Datum).</p> <p>There are also the shorter-term impacts associated with the construction of the schemes set out in the PLA's Written Representation [REP2-056] sections 5 to 11. This includes construction and maintenance vessels impacting access into the Port and the ability to board or land pilots – for deeper draughted vessels a small deviation to their schedule could cause a delay until the next tide approximately 12 hours later.</p> <p>As set out above and in the PLA's Written Representation, the range of impacts vary from vessel displacement and delays to placing a constraint on the size of vessel that can enter the Port of London and therefore the capacity of the Port of London.</p> <p>This means that as with Felixstowe and Harwich who are referenced in Table 1.27, there could be economic impacts for the Port of London which could be far reaching.</p>	
9. DCO				
REP5-112_b1	<p>Q9.0.1 Article 2 – (Interpretation) definition of commence</p> <p>The PLA's post hearing submissions [REP4-088] identifies that the definition of commence carves out preconstruction survey and monitoring from that definition and express concern at to how "commence" might be used. The PLA request that the point is covered in protective provisions in the same way as VEOWF which would mean the PLA would be comfortable with the definition as it currently stands. However, the applicant's position as set out in its 'position regarding protective provisions for the ports' [REP4-044] is that there is no need for protective provisions for the ports.</p> <p>(i) Given that stance, the PLA is requested to indicate whether it is content with the Deadline 4 updated mitigation measures put forward by the applicant or whether, in the absence of protective provisions, any amendments to the Article 2 definition of commence are sought.</p> <p>(ii) The applicant is requested to explain and set out why the concerns of the PLA in relation to the Article 2 definitions have been addressed including by the updated mitigation measures submitted at Deadline 4 as set out in its submissions at that deadline [REP4-044].</p>	The Applicant PLA	<p>(i) The PLA is not content to solely rely on the updated mitigation measures submitted at Deadline 4 as set out in its submissions at that deadline [REP4 044] for the reasons set out in the PLA's response to Q9.4.1 below.</p> <p>As noted below the PLA is concerned with, among other matters, pre construction surveys and monitoring. These surveys are not necessarily licensable activities and the documents which the Applicant is relying on in mitigation, namely the outline navigation and installation plan ("oNIP"), the outline cable specification and installation plan ("oCSIP") and the outline sediment disposal plan ("oSDMP") collectively referred to as "the Mitigation Plans"), are only required to be approved in the Deemed Marine Licence – Transmission Assets (Schedule 9) of the dDCO [REP4-004] ("DML") pre construction which is not the same as being required to be approved before pre-construction surveys and monitoring commence.</p> <p>The definition of commence needs to apply to pre-construction surveys and monitoring and approval of the Mitigation Plans in relation to such works need to be submitted and approved prior to commencement of pre-construction surveys and monitoring.</p> <p>In addition, the oNIP states it applies “from the start of offshore construction activities.” It is not clear when this is as it is not defined and the oNIP states at paragraph 11 that the “installation and maintenance activities considered in this NIP include: Surveys (where they are considered to involve RAM vessels as defined in Section 2.3).” Any surveys which do not involve RAM vessels are therefore not covered by the oNIP.</p> <p>(ii) Is addressed to the Applicant.</p> <p>The PLA's position remains that this can be dealt with through protective provisions but in the absence of protective provisions the definition of maintenance needs to be amended to remove the ability to alter and adjust.</p>	<p>The Applicant notes that the PLA seeks to control surveys which are not necessarily marine licensable activities and which could be carried out by vessels at any time without reference to the PLA.</p> <p>The intention is that RAM vessels, as defined by COLREGs (where there is a risk to shipping and navigation traffic) are covered under the oNIP. The oNIP also states that project vessel that are not RAM will follow COLREGs thereby giving way to larger drafted vessels and those boarding pilots.</p> <p>The Applicant's position remains that the main pre-construction surveys and monitoring relevant to the Deep Water Routes (and so PLA) are contained in the Outline NIP and Outline CSIP, both of which have been updated at Deadline 5 ([REP5-028] and [REP5-044] respectively). Moreover, the Applicant has updated the dDCO [REP5-009] at Deadline 5 so that PLA must be consulted by the MMO on these plans, in turn providing the PLA further protections (see condition 22 of the DML in Schedule 9).</p> <p>Additional surveys (e.g. Geotech campaigns currently being undertaken) will follow a separate licensing process, and where they present a navigation safety risk they will be required to undertake necessary risk assessments as part of that process.</p> <p>The Applicant is wholly opposed to and rejects the suggestion that ‘alter or adjust’ should be removed from the definition of “maintenance” as it applies throughout the dDCO. The PLA submission is without any merit. The power to ‘maintain’ is clearly subject to dDCO requirement 2(3), which provides that Work No. 3 must be designed, installed, operated and maintained at a level which would not preclude or impede dredging within the relevant areas of the Deep Water Routes as shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan (Document Reference 9.57, Rev 1).</p>
REP5-112_b2	<p>Q9.0.2 Article 2 – (Interpretation) definition of maintenance</p> <p>The PLA's post hearing submissions [REP4-088] identify that the definition of "maintenance" as drafted is broad and includes adjusting and altering. In the context of the export cable works to adjust or alter could result in a change in location and/or depth which would not be acceptable to the PLA. The definition is broadly the same as that for VEOWF, but the VEOWF dDCO was clear in the offshore design parameters requirement. The applicant's post hearing summary [REP4-034] confirms that the applicant has amended the offshore</p>	PLA	<p>The PLA's position remains that this can be dealt with through protective provisions but in the absence of protective provisions the definition of maintenance needs to be amended to remove the ability to alter and adjust.</p>	See response above.

	design parameters set out in requirement 2(3) at Deadline 4. Given the inclusion of such a requirement in the dDCO [REP4-004] are the PLA content that no amendment of the definition of maintenance in Article 2 is now required?			
REP5-112_b3	<p>Q9.0.4 Article 5 – Benefit of the Order</p> <p>The PLA's post hearing submissions [REP4-088] refer to them seeking notification of any sale, agreement or other transaction under Article 5. The concern is that if the PLA do not have protective provisions and Article 5 remains as drafted, then they question the protection they would have against the order being transferred (without the PLA's knowledge) and the DWRs subsequently being impacted. The applicant's position as set out in its 'position regarding protective provisions for the ports' [REP4-044] is that there is no need for protective provisions for the ports.</p> <p>(i) Given that stance, the PLA is requested to indicate whether it is content with the Deadline 4 updated mitigation measures put forward by the applicant or whether, in the absence of protective provisions, any drafting amendments to Article 5 are sought?</p> <p>(ii) The applicant is requested to explain and set out why the concerns of the PLA in relation to Article 5 have been addressed including by the updated mitigation measures submitted at Deadline 4 as set out in its submissions at that deadline [REP4-044].</p>	The Applicant PLA	<p>(i) The PLA are not satisfied with the Deadline 4 updated mitigation measures Please refer to the PLA's response to Q9.4.1. As stated, the PLA has specific comments on the mitigation measures which are being discussed with the Applicant. The additional measures "secured" in these documents do not, however, appropriately address the PLA's concerns on their own. Full details of the PLA's concerns are set out in response to Q9.4.1 which includes the PLA's concerns regarding Article 5. In the absence of protective provisions, the drafting amendment set out below is suggested:- The insertion of a new subparagraph (10) as follows, " <i>The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with</i>".</p> <p>(ii) Is addressed to the Applicant.</p>	Please refer to the Applicant's comments at REP5-112_b1 above in this document. As adequate protection of PLA interest is secured by the conditions of the DMLs in the DCO, and as those continue to apply in the event of a Transfer of Benefit under Article 5, no drafting amendments are required.
REP5-112_b4	<p>Q9.1.1 Requirement 2(3) – Offshore design parameters</p> <p>The applicant's post hearing summary [REP4-034] confirms that the applicant has considered the ports' request for a dDCO requirement to ensure the seabed can be dredged to a depth of 22m Chart Datum further and the applicant has proposed drafting for a new requirement 2(3) in Schedule 1, Part 3 of the dDCO [REP4-004] to secure the cable burial depths in the Deep Water Routes. The applicant and the ports are requested to confirm that the drafting of this requirement is agreed, and the matter resolved. If not, please identify any amendments sought giving reasons.</p>	The Applicant LGPL PLA	<p>Please refer to the PLA's response to Q9.4.1. The drafting of new requirement 2(3) is not agreed. As stated in the response to Q9.4.1 the Requirement should be amended as follows: "(3) Any part of Work No. 3 and any associated development the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude dredging:</p> <p>(iv) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;</p> <p>(v) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and</p> <p>(vi) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p> <p>(4) The undertaker must not relocate any boulders or archaeological finds to the three areas referred to in paragraph (3)."</p> <p>As set out in the PLA comments on deadline 4 submissions the area for deeper cable burial has not yet been agreed.</p>	<p>The Applicant's position is that the dDCO with the new Requirement 2(3), as most recently updated at Deadline 5 [REP5-008] adequately protects PLA's interest by ensuring works that may affect PLA, (in relation to the cable) must not preclude nor impede dredging in the relevant DW areas, as identified on Deep Water Route Cable Installation Area (Future Dredging Depths) Plan.</p> <p>It is only Work No. 3 that can be carried out within the areas identified on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, and a reference to the "authorised development" is unnecessary and redundant.</p> <p>The outline CSIP [REP5-044] provides (paragraph 17) that boulders and (paragraph 19) archaeological finds may not be relocated into the Deep Water Routes.</p>
REP5-112_b5	<p>Q9.2.1 Depths in the Deep Water Routes</p> <p>The question of the permissible water depth reduction was discussed at the ISH2. The dDCO (Rev 5) [REP4-004] has been amended at Condition 12 (3) of Schedules 8 and 10 and Condition 13 (3) of Schedule 9 to include further wording in respect of the water depth not being reduced by more than 5% Chart Datum when carrying out maintenance activities. Please confirm if the amendments now made are acceptable and address the concerns raised.</p>	MMO MCA PLA LGPL	The amendments made are not acceptable. Please refer to the PLA's comments on the submissions received at Deadline 4, Paragraph 11.2 (b) to (h) which sets out the changes the PLA required to the DML.	Please see the Applicant's response to Port of London Authority Comments on any submissions received at the previous deadline [REP5-111] , in the document Applicant's Response to Deadline 5 submissions [9.87, Rev 0] submitted at Deadline 6.
REP5-112_b6	<p>Q9.2.3</p> <p>In the written submission made by PLA [REP4-088], PLA requests parity of the DML's for NFOWF with the DML's for VEOWF. Please provide a schedule of the conditions where the parity is not achieved in the NFOWF DML's.</p>	PLA The Applicant	Please refer to the PLA's comments on the submissions received at Deadline 4, Paragraph 11.2 (b) to (h) which sets out the changes the PLA required to the DML.	Please see the Applicant's response to Port of London Authority Comments on any submissions received at the previous deadline [REP5-111] , in the document Applicant's Response to Deadline 5 submissions [9.87, Rev 0] submitted at Deadline 6.
REP5-112_b7	Q9.4.1	The Applicant	(i) The core purpose of protective provisions is to prevent serious detriment arising to statutory undertakings from exercise of DCO	(i)

	<p>Protective provisions sought by the Port of London Authority and the changes to the protective provisions sought by London Gateway Port Limited</p> <p>The protective provisions for the ports were discussed at ISH2. The applicant has submitted a full response at Deadline 4 on its position regarding protective provisions for the ports [REP4-044]. The applicant's Deadline 4 Action Points [REP4-036] has removed the protective provisions for the LGPL from the dDCO at deadline 4 [REP4-004]. The applicant has included a new Requirement 2(3) in the dDCO submitted at Deadline 4. In addition, the applicant has made changes to the Deep Route Cable Installation Areas (Future Dredging Depths) Plan [REP4-043], the Outline Cable Specification and Installation Plan [REP4-039], the Outline Sediment Disposal Management Plan [REP4-038] and updated Navigation and Installation Plan [REP4-012]. Updates have also been made to the DML conditions to make reference to these plans. The applicant's position is that protective provisions are not necessary, appropriate or reasonable in the circumstances, and would be unprecedented.</p> <p>(i) Given the additional measures secured by the Deadline 4 updates to application documents, please can LGPL and PLA indicate whether they still seek protective provisions and, if so, explain why the package of mitigation measures committed to by the applicant would not appropriately address their concerns and whether there are any other mitigation measures in relation to the Sunk and Trinity DWR and Sunk Pilotage area that would preclude the need for protective provisions.</p> <p>(ii) Please indicate whether LGPL and PLA agree that there would no risk of detriment to the statutory undertaking of the ports arising from the powers conferred by the dDCO? If not, please identify the specific statutory functions that would suffer such detriment and/or explain why it is not necessary to do so.</p> <p>(iii) Do LGPL and PLA agree that the MMO is the appropriate regulator for the proposed works and not themselves?</p> <p>(iv) Can LGPL and/or PLA identify any precedent for such protective provisions in similar circumstances as for the proposed development?</p>	<p>LGPL PLA</p>	<p>powers. This is exactly what the PLA is seeking to achieve through its protective provisions.</p> <p>There is the potential for significant impact on the Port of London which is the largest Port in the Country. The PLA has actively engaged with the examination process and has commented on the oNIP, the oCSIP and the oSDMP, with the production of the latter documents as a result of the PLA's engagement in the examination process. The PLA has also engaged with the Applicant over the area required for deeper cable burial and has set out the changes that are required to that plan that is to become a certified document. The PLA has an important role in ensuring that the cables are installed and maintained at a depth that do not cause long term detrimental impacts on the Port of London and that the oNIP, the oCSIP, the oSDMP are fit for their intended purpose.</p> <p>The PLA has specific comments on the Mitigation Plans which are being discussed with the Applicant. The additional measures "secured" in these documents do not, however, appropriately address the PLA's concerns on their own for the following reasons:</p> <p>1. There is scope for the final Mitigation Plans to change</p> <p>Outline documents have now been submitted to the examination and whilst the PLA has no objection to this, given the important matters that the CSIP, NIP and SDMP will deal with and that these are being relied upon to mitigate the PLA's concerns, it is deeply concerning that as currently drafted the DML only requires the NIP and the SDMP to accord with principles of the oNIP and oSDMP and the CSIP to accord with the oCSIP (condition 22). There is the potential therefore for the final documents to change and for those changes to detrimentally impact the Port of London either temporarily or permanently. We would invite the ExA to include a requirement for the final documents to be in strict accordance with the relevant outline document.</p> <p>The PLA is not referenced as a consultee in the DML and there is no reference to the consultation of local harbour authorities in the preamble to condition 22(1) nor that final plans should be agreed with local harbour authorities prior to submission to the MMO.</p> <p>Condition 23(4) of the DML requires the licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 22, unless otherwise agreed in writing by the MMO with no reference to further consultation with the local harbour authorities.</p> <p>Protective Provisions in line with those agreed by Five Estuaries Offshore Wind Farm Limited ("VEOWFL") would mean that the PLA is at least consulted on final drafts before being submitted to the MMO for final approval. Given the importance of these documents the PLA (as per the representations made on VEOWF) would want to be able to approve these prior to submission to the MMO and any updates.</p> <p>The PLA and other ports can provide important input as they have done so to date and importantly will have had oversight of other overlapping schemes such as VEOWF. The PLA and the other ports ensure, therefore, that the cumulative effects are being properly considered.</p> <p>2. There is no positive obligation regarding remediation if the cable depth is not met or if the cable moves, nor updates to the CSIP if burial to the required depth is not achieved.</p> <p>The VEOWF Protective Provisions agreed by VEOWFL included the following:</p> <p>"Remediation –</p> <p>119.Where, following the installation of cables forming Work No. 2(c) in relation to the Area of Interest it is identified by the</p>	<p>Points 1-2:</p> <p>It is the Applicant's position that the PLA's concerns regarding the 'mitigation plans' changing being overstated. It is a precedented approach to provide, and condition accordance with, outline plans under a DCO.</p> <p>The relevant plans must not only be in accordance with the outline plan, but also be approved before their implementation.</p> <p>Moreover, the Applicant has amended the Requirement 2(3) (see response REP5-112_b4 above). The Applicant has also provided for the PLA to be consulted on the mitigation plans, under condition 22 of the DML in Schedule 9 [REP5-008]. Together, these changes address PLA's concerns, and protective provisions would be unnecessary and excessive, as protection is addressed via the DCO / the relevant DML.</p> <p>Point 3:</p> <p>Please refer to the Applicant's response to REP5-112_b1 above.</p> <p>Point 4:</p> <p>It remains the Applicant's position that this is not required, as a precedented approach of DCOs. Please also refer to the Applicant's response to REP5-112_b3 above.</p> <p>Point 5:</p> <p>This comment will be included in the Outline CSIP for its next revision, submitted after Deadline 6.</p> <p>Point 6 and 7:</p> <p>The Applicant has addressed the PLA's concerns by way of updates to requirements and conditions in the DCO and the relevant DMLs respectively. It is the Applicant's position that by incorporating requirements and conditions to the DCO and DMLs respectively, a breach of which would be an offence (requirement) or amenable to enforcement (DML condition) , should provide the PLA with adequate reassurance.</p> <p>and that the undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—</p> <p>(i) the construction or operation of the authorised development or its failure or a failure to adhere to the requirements of the protective provisions;</p> <p>The Applicant cannot comment in any detail on the provisions of another project, but notes that the form of Protective Provisions sought by the PLA were not agreed or accepted by VEOWL. The fact that provisions are not included in one project, in this case North Falls, to mirror those of another project cannot in of itself be a reason for those provisions to be undermined. In any event, the inclusion of dDCO requirement 2(3) ensures consistency in the mitigation to ensure sufficient cable burial depth across both projects.</p> <p>Point 8:</p> <p>(i) Further discussions with the PLA have taken place. Given the location of the communications link and the location of proposed activities, it if the Applicant's position that the proposed works do not impact the link. This position is stated in Technical Note on the interaction of North Falls with the PLA onshore communication links which has been submitted at Deadline 6.</p>
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			<p>undertaker (who shall notify the PLA as soon as reasonably practicable of this fact) and in any event within 2 business days) or, following inspection by the PLA, it is identified by the PLA (and the same is notified to the undertaker as soon as reasonably practicable), that the level of cable is such that the paragraph 116 (a) has not been achieved or at any time following installation or maintenance the cable has moved such that the requirements of paragraph 116 (a) are no longer being achieved, then, unless otherwise agreed in writing with the PLA, the undertaker is required to carry out remediation works as specified in the cable specification and installation plan subject to paragraph 120 in relation to the Deep Water Routes.</p> <p>120.Unless otherwise agreed in writing with the PLA, the undertaker will carry out the following arrangements for the carrying out the remediation works:</p> <p>(1) the undertaker will re-bury the cables to the required specification to achieve the requirements of paragraph 116(a); and</p> <p>(2) Following the completion of the works in sub-paragraph (1), if it is identified by the undertaker or the PLA (following inspection) that the required specification is not achieved, then the undertaker will remove the cable without unreasonable delay and thereafter relay a new cable pursuant to an updated cable specification and installation plan which updated cable specification and installation plan specifically identifies and addresses why the previous cable burial was not successful, how that has been addressed and what measures are to be used in relaying the cable to prevent the failure reoccurring.</p> <p>(3) The undertaker will consult the PLA on the draft updated cable specification and installation plan required under sub-paragraph (2) and the provisions of both this paragraph and paragraph 117 will apply to that updated cable specification and installation plan .</p> <p>(4) The steps in this paragraph shall be repeated until the requirement in paragraph 116(a) is achieved or the cable is permanently removed from the Area of Interest.</p> <p>In the absence of protective provisions there needs to be a Requirement and a condition in the DML to deal with the above.</p> <p>If the PLA is also not being consulted on the design which could be a requirement of the protective provisions the Requirement should be amended as follows:</p> <p>"(3) Any part of Work No. 3 and any associated development the authorised development located within the following areas shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan, must be designed, installed, operated and maintained at a level which would not preclude dredging:</p> <p>(vii) of the area shown shaded in orange and labelled Sunk A – Sunk DW Buffer, to a level of 22 metres below Chart Datum;</p> <p>(viii) of the area shown shaded in pink and labelled Trinity – Trinity DW Buffer, to a level of 22 metres below Chart Datum; and</p> <p>(ix) to the area shown cross hatched purple and labelled Sunk B – Sunk DW Buffer, to a level of 19 metres below Chart Datum.</p> <p>(4) The undertaker must not relocate any boulders or archaeological finds to the three areas referred to in paragraph (3)."</p> <p>3. The PLA's concerns are wider than cable burial and include pre-commencement and post construction monitoring and survey work</p> <p>As is common with the installation of cables a number of pre-construction activities including pre-construction surveys and monitoring may need to be carried out in order to obtain more information to inform for example, the final cable route and burial depth or to allow for the installation of the cable on the chosen route (e.g. boulder clearance, UXO clearance etc). These surveys are not necessarily licensable activities and the oNIP applies from</p>	<p>(ii) This comment is noted.</p> <p>(iii) The Applicant has updated the relevant DML condition 22 of in Schedule 9 [REP5-008] so that the PLA must be consulted by the MMO prior to final approval of the relevant plans, addressing the concerns of PLA and providing them control over the plans that relate to the DWRs.</p> <p>(iv) The shipping and navigation issues that arose in The Thanet Offshore Windfarm Extension Development Consent Order were specific to that project and its location and are in no way analogous to North Falls and any such inference is rejected.</p> <p>As regards the approach taken to 'protective provisions' in the HEO, the Applicant is unclear as to why that is relevant in this case or serves to justify the need for and proposed particular form of protective provisions sought by PLA.</p>
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			<p>the 'start of offshore construction activities' which is not clear as to when this is and it only relates to surveys where they are considered to involve RAM vessels.</p> <p>The PLA would want to at least be consulted on any surveys or monitoring (pre and post construction) and any pre-construction activities that affect the DWR because a survey vessel may pass slowly over the DWR or even stop to place/remove monitoring equipment which could affect shipping. Equally restrictions on how the pre-construction activity can be undertaken may need to be proposed e.g. a boulder or archaeological finds cannot be relocated to or within a DWR but must instead be removed.</p> <p>These surveys are not necessarily licensable activities and to the extent that the various mitigation plans deal with surveys, the final plans are only required to be approved in the DML pre-construction.</p> <p>Section 3.1 of the oCSIP provides information on UXO clearance but there needs to be a commitment to not relocating UXO within the DWR</p> <p>The VEOWF agreed Protective Provisions included the following:</p> <p>"Consultation and Notice –</p> <p><i>115... (2) The undertaker will consult the PLA on the proposed activities and programme for any pre-construction monitoring, construction monitoring, post construction monitoring and related reporting within the Area of Interest no less than 20 business days before such survey work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the or programme, which request must be made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.</i></p> <p><i>(3) The undertaker must notify the PLA of the final planned programme for any survey work to be undertaken under this Order within the Area of Interest no less than 5 business days before such survey work is programmed to begin.</i></p> <p><i>(4) The undertaker will consult the PLA on any application for marine licensing for the disposal of unexploded ordnance within the Area of Interest before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, which request must be made to the undertaker within 10 business days of receipt of the details of the proposed application.</i></p> <p><i>(5) The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within the Area of Interest no less than 20 business days before such disposal is programmed to begin.</i></p> <p><i>(6) The undertaker will consult the PLA on the activities and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within the Area of Interest no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme.</i></p> <p><i>(7) The undertaker must notify the PLA of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan and which is within the Area of Interest no less than 5 business days before such work is programmed to begin."</i></p> <p>In addition, the agreed remediation provision for VEOWF set out above under point 2 requires that where post installation of the cable it is identified by the undertaker that the required depth has not been achieved the undertaker is to notify the PLA as soon as reasonably practicable of this fact and in any event within 2</p>	
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			<p>business days. Equally should the PLA discover that the cable is not at the required depth it must notify the undertaker.</p> <p>4. Ensuring that the PLA has notice of who has the benefit of the DCO in the event of a transfer of the benefit or any part</p> <p>The Protective Provisions ensure that the PLA is advised where there is any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party. This ensures that the PLA knows who they should be approaching should there be any concerns with how works are being undertaken or with the level of cable following installation or maintenance. The VEOWF Protective Provision included the following:</p> <p>The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Benefit of the Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.</p> <p>5. Ensuring that the PLA has as built plans</p> <p>Protective provisions can provide that following the completion of the installation of the cables affecting the DWR and after any maintenance of the same, the undertaker provides to the PLA as built drawings to show the position, depth and any cable protection installed.</p> <p>Absent Protective Provisions there would need to be a Requirement or a condition in the DML to secure the above.</p> <p>6. Ensuring that any cost or losses which the PLA are put to as a consequence of the Scheme are met by the undertaker.</p> <p>Protective provisions can ensure that the PLA's s proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA; and that the undertaker is responsible for and must make good to the PLA all financial costs, charges, damages losses or expenses which may be incurred reasonably or suffered by the PLA by reason of—</p> <p>(i) the construction or operation of the authorised development or its failure or a failure to adhere to the requirements of the protective provisions;</p> <p>(ii) any act or omission of the undertaker, its employees, contractors or agents or others whilst engaged on the construction or operation of the authorised development.</p> <p>7. Failure to include Protective Provisions is inconsistent with VEOWF and undermines the mitigations secured by the PLA in VEOWF</p> <p>Protective Provisions have been included in the VEOWF DCO and to not have similar protective provisions or at least a suite of enforceable Requirements and conditions in the Deemed Martine Licence which mirror those Protective Provisions completely undermines the mitigation measures secured by the PLA for the VEOWF, if North Falls is not under the same controls.</p> <p>The Protective Provisions enable the PLA to ensure that there is consistency across the projects and proper co-ordination.</p> <p>8. Ensuring Impacts on the PLA Navigation Equipment do not arise.</p> <p>The PLA raised concerns in its Relevant Representation about the potential impacts of the vessels required to undertake the horizontal directional drilling at landfall interfering with the PLA's radio link and lowering its reliability [RR 272]. At this stage this</p>	
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			<p>matter has not been resolved, and the PLA maintains its position that this matter could be addressed through protective provisions.</p> <p>(ii) The northern approaches for deeper draughted vessels into the Port of London (i.e the DWRs through which deeper draughted vessels must pass through to get into the Port of London) and the Port of London (the largest port in the UK) accounted for 12% of all UK major port tonnage traffic handled in 2023.</p> <p>The Order Limits also include the Sunk Pilot Diamond and pilotage is compulsory for large vessels within the London Pilotage District. The approaches and boarding and landing of pilots takes place in the general vicinity of the Sunk Pilot Diamond rather than at a specific point.</p> <p>The PLA would emphasise the importance of the Port of London and that it is only through protective provisions that the PLA will have certainty that the design and installation of the cables in the Export Cable Corridor will not have a detrimental long term impact on the UK's largest port. The PLA also has navigational equipment within the Order limits and the seaward approaches for the Port of London are also situated with the Order Limits.</p> <p>The seaward approaches are of relevance to the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations - section 2.3.1 stating that "<i>the Organisation Harbour Authority will discharge its general and specific statutory duties in respect of the conservancy of the harbour and its seaward approaches</i>".</p> <p>(iii) The PLA is not suggesting that it is a regulator nor that it needs to "control" the seaward approaches to the Port of London, but it would wish to approve key documents that will control the delivery of the authorised works in the DWRs ahead of approval by the MMO. The MMO will be the final approver of the plans and details.</p> <p>(iv) It is naturally the case that the majority of DCO's that the PLA has been involved in relate to projects located within the Port of London Act 1968 limits. It is also natural that there are a limited number of exceptions to this and there has until VEOWF been no projects advanced through the DCO process which specifically affect the DWRs.</p> <p>The Thanet Offshore Windfarm Extension Development Consent Order was outside the PLA's statutory limits but as the PLA had fundamental concerns about the extension (which ultimately led to the refusal of the application) no discussions took place regarding protective provisions for the PLA. The impact of the proposed project on marine navigation, shipping and ports was the principal issue generating most attention and contention from interested and other parties throughout the examination. The Examining Authority ("ExA") and the Secretary of State agreed with the PLA and other interested parties that the Applicant had failed to demonstrate sufficient mitigation of risks to safety of navigation to make them As Low As Reasonably Practicable ("ALARP"). The concerns included the effect of the project on navigational safety of shipping traffic in immediately adjacent waters, the resilience of facilities and services accessed by that traffic, and in this context, the degree to which the proposed development was policy compliant.</p> <p>The London Gateway Harbour Empowerment Order ("HEO") included protective provisions for the benefit of the PLA and not all of the area affected by the HEO is within the jurisdictional limits of the Port of London yet the protective provisions provide that they apply whether in or out of the PLA's jurisdictional limits. Naturally some of the protective provisions are tied to specific works but that is no different to here. The PLA only have concern with certain works but that is not a factor of its jurisdictional limits but its operations.</p>	
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			North Falls is the second project to come forward under a Development Consent Order that impacts on the DWR's into the Port of London. VEOWF was the first. The decisions made in relation to protective provisions for VEOWF and North Falls could therefore have implications for future schemes including Sea Link which is being brought forward through a DCO and has just been accepted for examination.	
REP5-112_b8	Q9.4.3 The protective provisions sought by the Port of London Authority The PLA's post hearing submissions [REP4-088] seek some form of protective provisions, ideally in a form that reflect the protective provisions agreed in connection with VEOWF. Their position is that such protective provisions are fundamental and absolutely required so that the PLA can effectively discharge its general and specific statutory duties. (i) The PLA is requested to set out the general and specific statutory duties that it seeks to protect by way of protective provisions. (ii) The PLA is requested to submit, for the avoidance of doubt the two forms of protective provisions by both itself and VEOWF that were tabled at the close of the VEOWF examination. (iii) The applicant is requested to explain why it takes a fundamentally different approach to VEOWF in relation to protective provisions for the PLA and why it does not seek to achieve offshore consistency and equivalence with VEOWF on this matter.	The Applicant PLA	For the river Thames the PLA is the Statutory Harbour Authority ("SHA") and the Order Limits for the made DCOs on the river Thames are wholly within the PLA's area of jurisdiction. The PLA's jurisdiction as SHA does not include the Order Limits for the Proposed Development. As noted above, however, the Order Limits include the DWRs through which deeper draughted vessels must pass through to get into the Port of London; whilst outside the jurisdiction of the Port of London Act 1968 the DWRs form part of the seaward approaches within which the PLA have to discharge its general and specific statutory duties as noted by the Port Marine Safety Code and the Guide to Good Practice on Port Marine Operations. The Order Limits also include the Sunk Pilot Diamond. Pilotage is compulsory for large vessels within the London Pilotage District and the PLA is responsible for the piloting of vessels entering the Port of London, utilising the Sunk Pilot Diamond to discharge this function. In addition, the PLA is responsible for the navigational equipment located within the Order Limits. (ii) The preferred form of protective provisions preferred by the PLA is Appended at Appendix 1 and those included by VEOWFL at the close of the examination are included at Appendix 2. (iii) Is for the Applicant	(i) As noted by the PLA, the Proposed Development is beyond any jurisdiction exercised by the PLA. It is noted that the PLA has not identified any specific or general statutory obligations, powers or duties that would be affected to their serious detriment. (ii)The Applicant's position on protective provisions remains as set out in [REP4-044] . However, it is noted that VEOWFL did not accept or agree with the protective provisions sought by the PLA and there are material differences between PLA's preferred protective provisions and those included by VEOWFL in counter to the PLA's protective provisions.
REP5-112_c	Appendix 1, Protective Provisions			

2.15 Applicant's response to RSPB Responses to ExQ2 [REP5-115]

Table 2.1513 Applicant's response to RSPB Responses to ExQ2 [REP5-115]

REF	QUESTION	QUESTION TO	RESPONSE FROM RSPB	APPLICANT'S RESPONSE
REP5-115_a	Q10.0.16 Overall Ornithological Compensation (without prejudice or otherwise) (i) Can NE/RSPB clarify to the ExA why collaborative measures would be preferable for any form of compensation sought as necessary? Is this purely policy/best practice based rationale? (ii) Are greater ecological benefits possible via collaborative approach if so what are they and why? If the reasons are species specific/case by case specific, if so, why? Are there any other project specific reasons for the stated preference?	NE RSPB	Rather than focus on the method of delivery of compensatory measures, the RSPB would highlight the critical importance of certainty over the measures' ecological effectiveness and legal/financial security. We would also highlight the need for measures to be delivered in advance of the adverse effect occurring. We set out in our Written Representation (REP04-89) further discussion on this, including target criteria, see section 5.	Compensatory measures will be secured through the DCO in accordance with the draft DCO [6.1, Rev 7] and the Without Prejudice HRA DCO Schedules [9.73, Rev 1] , as required. Financial security is provided through the Compensation Funding Statement [APP-186] . Compensatory measures will be deployed prior to the effects occurring.
REP5-115_b	Q10.0.17 Overall HRA derogation/Ecological Compensation/Schedule 15 Wording The ExA notes the applicant's point that in the Secretary of State's decision letter (DESNZ, 2024) for the Sheringham Shoal Extension Project and Dudgeon Extension Project (SEP & DEP), it is stated that "The Secretary of State agrees with the applicant and NE that strategic compensation represents the best option for delivering compensation for impacts of OWFs. Given all relevant technical disputes with Natural England/MMO (as statutory consultees) as well as other representations such as from the National Trust and the RSPB combined mixed with the	The Applicant NE MMO ECC TDC RSPB/National Trust IPs	(iv) Our Relevant Representation (RR-294) and Written Representation (REP04-089) set out our concerns on the existing suite of compensatory measures being presented by the Applicant. We would refer the Examining Authority to Section 6 of our Written Representation. As stated above in response to ExQ10.0.16, demonstration of measures' overall effectiveness is critical and RSPB will continue to work with the Applicant and stakeholders in pursuing this.	The Applicant's response to the RSPB written representation received at Deadline 4 is provided in the Applicant's Response to Deadline 4 Submissions [REP5-056] . It is noted that in their response to ExQ 10.0.24, Natural England states " <i>Natural England is content the proposed compensation delivery would be effective in principle.</i> " Updated Compensation Documents and Outline CIMPs are provided at Deadline 6 [7.2.1 to 7.2.5.1, Rev 2] . The Applicant welcomes the RSPB's ongoing engagement.

	<p>risks/uncertainty of other scheme outcomes the ExA acknowledge these are important examination factors.</p> <p>(i) NE/MMO – a) Does any further HRA related derogation case (without prejudice or otherwise) above what is already provided in the examination material need to be addressed by the applicant? b) Secondly, does any other designated site/species specific compensation measure need to be requested from the applicant? For the avoidance of any doubt please confirm if there is any omission presently or not having regard to all marine life and related protected sites.</p> <p>(ii) Applicant. How can the ExA be satisfied compensation measures can be in place before any negative effect on a European site or sites begins given there is no control over when MRF funding systems will become functional nationally?</p> <p>(iii) Applicant. Expanded Schedule 15 compensation wording was requested from the applicant by the ExA during the recent Issue Specific Hearings for the proposal. Please provide that if not already undertaken. For without prejudice Schedule 15 wordings dealing with compensation purposes to be provided, the ExA notes that the definition of ‘relevant planning authority’ (which could be taken as meaning Tendring District Council, or any successor planning authority) may not be adequate to ensure the inclusion of any existing strategic nature board or all relevant Councils. Does the applicant intend to cover this issue?</p> <p>(iv) IPs. The UK Government 29 January issued interim guidance for the Marine Recovery Fund (MRF), a mechanism designed to support strategic compensation measures for offshore wind activities that impact marine habitats. The guidance provides information on ornithological and benthic compensation measures available in the Library of Strategic Compensation Measures. It serves as a resource for offshore wind developers to reference appropriate compensatory strategies prior to the MRF becoming fully operational. Do NE/RSPB/MMO Local Councils/IPs have any other views on the potential adequacy compensatory measures overall? Is there anything else that should be included to ensure effectiveness/the most suitable delivery outcomes?</p>			
REP5-115_c	<p>Q10.0.23</p> <p>Kittiwake – Compensation (without prejudice)</p> <p>(i) Scale vs Target compensation arrangements. NE cite Hornsea 3 Part 2 (‘H3pt2’) methodology to be the most ecologically complete for compensatory measures where it is necessary to calculate the number of breeding pairs required to compensate for a specified mortality impact. H3pt2 method is referred to as conceived to inform the design parameters of artificial nesting structures (ANS) for kittiwake. Additionally, NE advise the scale of implementation of compensatory measures for seabirds should be sufficient to address the 95% Upper Confidence Limit (UCL) predicted impact value. This is highlighted by NE as different to a ‘target’ figure to achieve set by the central impact value (CIV) which HRA have generally utilised. Thus, for case by case pragmatism a 1:1 ratio would only likely to be appropriate where there is a high confidence in the likelihood of success. Therefore, the scale of without prejudice compensation offered remains contentious as an examination theme the ExA is conscious of. The ExA requests that a cautious updated non-prejudicial approach is applied by the applicant – i.e. it should be prepared based on its own preferred calculations if no other approach is to be applied to</p>	<p>The Applicant NE RSPB Essex Wildlife Trust</p>	<p>(i) We welcome the Examining Authority's robust questions to the Applicant on these measures. Response to these questions will help the RSPB and other Interested Parties in understanding the operation and likely success of these measures. The RSPB will review the Applicant's responses and comment, where necessary, at the next deadline.</p> <p>(xiii) It is the RSPB position that artificial nests should be established four breeding seasons prior to operation of any part of the proposed wind farm. The rationale for requiring four breeding seasons is based on the breeding ecology of the seabird species concerned e.g. kittiwake. Four years is the accepted typical period of first breeding and an acknowledgement that, assuming successful colonisation in Year 1, first breeding from fledged young will be four years later. It is an acknowledgement of the need to mitigate some of the risk arising from the predicted adverse impact occurring immediately upon first operation and of there being both an inherent delay in the compensation working, and the risk of it not working or not working successfully.</p> <p>Any shortening of this time period increases:</p> <ul style="list-style-type: none"> the exposure of the species to the predicted adverse impact in the absence of an effective compensation measure, and 	<p>The Applicant's impact on kittiwake is 0.76 (mean) mortalities per annum. It is the Applicant's position that a mortality debt of 1 year (incurred through securing the allocation of artificial nests at least three, rather than four, full breeding seasons prior to operation) can be recovered through the proposed compensatory measure. Clarification on the approach to mortality debt is provided in the Outline Kittiwake Compensation Implementation and Monitoring Plan [7.2.4.1, Rev 2] at Deadline 6.</p> <p>The Applicant's response to the RSPB written submission [REP4-089] is provided in the Applicant's Response to Deadline 4 Submissions [REP5-056].</p>

	<p>deliberately overcompensate rather than to undercompensate given the HRA risks to the likelihood of effectiveness and success for unproven and untested measures. What are the applicant's views on this? Can a buffer/safeguard be provided?</p> <p>(ii) The applicant indicates, "between seven and ten breeding pairs are required to produce sufficient fledglings per year that survive to breeding age to compensate for the predicted annual collision mortality for breeding adult kittiwakes from the Flamborough and Filey Coast Special Protection Area (FFC SPA)." The ExA requests further clarification how this is to be achieved at a shared artificial nest structure (ANS) at the Gateshead Kittiwakery with an undocumented/limited capacity?</p> <p>(iii) What (if any) apportioning benefits arise at the ANS?</p> <p>(iv) If Five Estuaries OWF share an ANS equivalent to 48 nesting spaces (Five Estuaries examination document REP5-018) how would the scale of compensation be possible for North Falls impacts (broadly similar)?</p> <p>(v) Clarify if there would be sufficient breeding pairs present to compensate the CIV? And the reasons why given NE advice. (CIV value of 0.76 results in a target of 5 pairs per a 1:1 ratio).</p> <p>(vi) The applicant is required by the ExA to demonstrate they could compensate for the UCL value should the impacts of the proposal be greater than the CIV, and the measure is scaled using a ratio to increase confidence that sufficient benefits will still arise, should the measure underperform. Note: A UCL impact value of 2.72 results in a requirement for 17 pairs, again on a 1:1 basis. If a 2:1 or 3:1 ratio is applied the required scale of the measure is the provision of 34 or 51 nest spaces on an ANS, respectively.</p> <p>(vii) Agreement for use would be through other wind operators who own the kittiwake nesting structure. An agreement in principle (APP-182] has been submitted. But it doesn't stipulate the number of nest spaces agreed for North Falls? Can this be confirmed?</p> <p>(viii) Monitoring. This would be through observation/ counting occupied nests and numbers of chicks per nest? Would this involve drone footage for record or direct assessment visits by a designated person? Who would verify the reliability of the monitoring data obtained and what would be their expected credentials? How would duplication/human counting errors be safeguarded against in future monitoring.</p> <p>(ix) Who would be the independent chair of the steering group for future monitoring/Governance purposes? What is the applicant's preferred option? How does the dDCO secure effective monitoring delivery without it being stipulated at least indicatively?</p> <p>(x) Explain how would the ANS (which is already built and is proposed to be occupied by other parties as well) has capacity to be shared in a formal sense with other parties when there are limited spaces available? Is there sufficient space, if so, what is the breakdown? or is space to be created via an extension to the structure? How would a formal obligation for the number of spaces be secured and is an in-principle agreement able to be submitted? And how would such an agreement be potentially enforced for HRA purposes/ is the applicant confident it can secure sufficient ANS for kittiwake? And does the applicant accept calculations from NE at D4 using the Hornsea 3 part 2 method?</p> <p>(xi) Furthermore, what assurances/confidence/additional evidence (if any) can be given the ANS will be sufficiently colonised?</p> <p>(xii) Kittiwake Compensation Steering Group (KCSG) refers to the Marine Management Organisation (MMO), Natural England, Gateshead Council, the RSPB and the Tyne Kittiwake</p>		<ul style="list-style-type: none"> the time it will take for the compensation measure to benefit the impacted species. <p>The RSPB therefore considers there is inherent uncertainty in whether ANS (onshore or offshore) will work at all, or work successfully, i.e. will kittiwakes (i) colonise and (ii) breed successfully in the numbers required to meet compensation objectives.</p> <p>(xvi) We refer the Examining Authority to our Written Submission (REP4-089). In sections 5 and 6 of that submission we set out our approach to evaluating and delivering appropriate, effective and secured compensatory measures.</p>	
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	<p>Partnership - are there any other expected representatives/participants? Are other offshore wind operators themselves not part of the group for collaborative delivery purposes? In this case Five Estuaries. Why are the Crown Estate/Wildlife Trusts not part of this arrangement (and for any other compensatory Steering Group pertinent to this examination)?</p> <p>(xiii) Artificial nests to be established three breeding seasons prior to operation. Would that be adequate -RSPB/NE/Wildlife Trusts?</p> <p>(xiv) If the compensatory approach is unsuccessful adaptive management measures and monitoring is referred to. Would this be at any stage in the life of the windfarm assuming it becomes operational? Please clarify. Also clarify what specific adaptive management option is in mind and how they would be effective?</p> <p>(xv) Applicant/RSPB/NE/Wildlife Trusts. If 17 breeding pairs are envisaged at 1:1 scale as required based on the applicant's calculations/NE advice effective compensation may be difficult without a minimum delivery threshold specified if 2:1 or 3:1 scaling rations are applied thereafter. For example, can the applicant commit to an appropriate maximum breeding pair threshold for safeguard purposes? NE. Confirm what ratio is advised as needed?</p> <p>(xvi) On a without prejudice basis RSPB/NE make whatever comments you wish to potentially furthering or securing the most robust compensatory details possible.</p>			
REP5-115_d	<p>Q10.024 Red Throated Diver (RTD) – Compensation (without prejudice)</p> <p>(i) In terms of breeding enhancement. Artificial nesting rafts/and or habitat measures for “up to 20” RTD breeding lochs” are mentioned. The applicant/NE are asked to clarify how many lochs/artificial rafts would be required as minimum/maximum commitments.</p> <p>(ii) The applicant's response to NE D3 submissions [REP4-028] states that options are habitat management of peatland in Shetland which could increase from 0 to 0.77 chick per loch occupied by a pair of RTD. Compensation at 20 lochs would produce additional 4.3 adults per annum. Clarify when will the applicant decide which option to use?</p> <p>(iii) The ExA requests indicative raft design/loch information to inform the examination and regard to all innovations/best practice post 2013 as per the information in the CIMP.</p> <p>(iv) Habitat Management is referred to reduce peat erosion. What land areas would be involved? Is plan information available? Would this solely be bog restoration? And who would be the potential delivery body? Would it likely be via the land owner/a public body?</p> <p>(v) Applicant/NE. Why would the compensation measure (if required) be needed to be set up only one breeding season prior to the construction of the North Falls array area? With precautionary interests in mind clarify further, if this is adequate?</p> <p>(vi) In terms of both routine management/maintenance and monitoring who would be the likely undertaker of those tasks and what would their expected professional qualification be? How could the monitoring information be reliably independently verified/logged? And is digital recording possible for remote areas given disturbance problems? Could the outline plan give further evidence of the effectiveness of such measures?</p> <p>(vii) In the event of nest failure (RTDs can take up to 3 years to use a raft) – adaptive management is referred following reporting to the RTD Steering Group. Could some rafts with protection roofs</p>	The Applicant NE RSPB NatureScot	<p>(xvii) We have identified above and within our Written Representation (REP4-089) our current position on the compensation measures. We recognise the efforts being taken by the Applicant. We will continue to work with the Applicant and other stakeholders in developing these measures where possible to improve confidence in their ability to represent effective compensation measures that the Secretary of State could safely rely upon.</p>	The Applicant welcomes the RSPB's ongoing engagement.

	<p>not be utilised in the first instance to reduce prospect of predators taking eggs?</p> <p>(viii) In the hearings, the applicant explained that after the three year monitoring period for RTD, adaptive management would be undertaken if the compensation measures employed hadn't been successful. Can the applicant explain what these adaptive management measures would consist of and have these been discussed/agreed with NE/NatureScot?</p> <p>(ix) RTD breeding success is highlighted it may decline as predation may become more frequent due to recovery of the great skua population. If this does occur, productivity at the control nests would be expected to decrease, i.e. monitoring of control nests would be important. Would predator control itself be applied in the compensation arrangement?</p> <p>(x) NE seek a longer term commitment to monitoring if rafts are successful - for the lifetime of the project. The ExA seeks applicant's reasoned response.</p> <p>(xi) Confirm the frequency of anticipated monitoring. Adjust documentation where necessary.</p> <p>(xii) Confirm who is likely to be the independent chair of the RTD Steering Group (as well as any other Steering Group for any other without prejudice compensated bird species) to ensure future Governance is fit for purpose.</p> <p>(xiii) What collaborative opportunities are presently available for existing undetermined NSIPs or consented NSIPs? Is Five Estuaries collaboration likely?</p> <p>(xiv) Would the Marine Recovery Fund (MRF) be used to pay for a different type of compensation if it was up taken; or would it be the same breeding enhancement/habitat management approach settled via the MRF mechanism?</p> <p>(xv) NE. Is NE content with adaptive management measures proposed by the applicant if compensation measures for RDT are not successful -as referred to in the Hearings and accounting for Deadline 4 submissions from the applicant?</p> <p>(xvi) Overall are Natural England/RSPB satisfied compensation delivery for LBBG; Guillemot and Razorbill; Kittiwake; RTD would be effective in principle?</p>			
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2.16 Applicants Response to Suffolk County Council's Responses to ExQ2 [REP5-117]

Table 2.1146 Applicants Response to Suffolk County Council's Responses to ExQ2 [REP5-117]

REF	QUESTION	QUESTION TO	RESPONSE FROM SUFFOLK COUNTY COUNCIL	APPLICANT'S RESPONSE
REP5-117_a	<p>Q7.0.12</p> <p>Natural England – Risk and Issues Log (Deadline 4 Submission) – Landscape, Seascape and Visual Effects</p> <p>The Natural England – Risk and Issues Log [REP4-067] submitted at Deadline 4, together with Natural England's SLVIA Advice in Appendix I4[REP4-067] provides a response to [REP2-024] and [REP3-044]. It contains the following regarding:</p> <ul style="list-style-type: none"> For issue I12 the applicant now concludes that "total cumulative effects on the special qualities of the SECHNL and the special character of the SHC may be significant". This updates the previous judgement described in Table 29.39 of the SLVIA stating that "the cumulative effect is predicted to be moderate-minor, which is not significant in EIA terms". Natural England advice on cumulative effects remains unchanged. <p>Landscape, Seascape and Visual Impact is considered later within ExQ2 (section 14, below). Regarding Natural England's concerns and the</p>	<p>The Applicant</p> <p>All IPs</p>	<p>SCC noted the Applicant's expanded cumulative effect judgement in its response to Deadline 3 submissions [REP4-097] at paras 16-18. SCC made the point that there should be clarification as to whether the phrase "may be significant" is to be understood in the sense of "likely significant effects" or whether there is uncertainty regarding the possibility of significant cumulative effects. In any case, SCC considers that the distinction that the Applicant seeks to draw between 'additional cumulative effects' and 'total cumulative effects' is inadequately explained and may serve to mask or under-represent the contribution that the proposal makes to the cumulative effects. It is not clear to SCC whether the Applicant is saying that it is the impacts of the other projects which result in a cumulative effect which is 'significant', irrespective of the presence or absence of the NFOWF, and if that is the Applicant's position, what distinguishing factors have justified that conclusion.</p> <p>In the Applicant's response to SCC's answers to ExQ1 [REP3-036], the Applicant stated that the intensification of effects on the SECHNL from NFOWF in combination with other OWFs did not cause those effects to</p>	<p>Response REP4-097_a6 in Applicant's Response to Deadline 4 Submissions [REP5-056] sets out the Applicant's position with regard to cumulative effects on the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast. The Applicant's position has not changed.</p>

	<p>revised cumulative effect judgment, please can the applicant (and other IPs) provide further commentary on the judgment, and its relationship to the (a) NFOWF only, and (b) cumulatively with other OWFs.</p>		<p>become significant. SCC would appreciate clarification regarding whether the Applicant considers these comments to still accurately reflect its position and regarding the rationale behind this change in cumulative effects judgement.</p> <p>In any event, SCC does not agree with the Applicant's reasoning for regarding either the effects of the project alone or on an additional cumulative effects basis as 'not significant' as regards the effects on the Special Qualities of the SECHNL, as explained in its LIR and in [REP4-097].</p> <p>The Applicant's expanded judgement, recognising that there 'may be' significant total cumulative effects (i.e. such effects cannot be ruled out) means that in line with the precautionary principle the Applicant must set out 'the measures envisaged for avoiding or mitigating significant adverse effects' as paragraph 4.3.3 of EN-1 requires for significant cumulative effects. The mitigation hierarchy should be followed regarding the judgement of significant cumulative effects on the special qualities of the SECHNL and the special character of the SHC. This is supported by EN-1, such as within paragraph 4.1.5.</p>	
REP5-117_b	<p>Q9.1.13 Other matters relating to dDCO requirements</p> <p>The SCC at ISH1 [REP4-094] and [REP4-095] confirmed that they seek a phasing requirements as set out in their LIR paragraph 7.3 [REP1-074]. SCC submit that this is reasonable in that it is formulated to trespass lightly on the undertaker's flexibility and the turbines are programmed to begin construction as late as year 4. The requirement would restrict the commencement of the offshore turbine works until it was clear that the East Anglian Connection Node (EACN) had been consented and was to be delivered as part of the Norwich to Tilbury project so as to avoid unnecessary impacts on the SCHAONB. The applicant's Response to Actions List for ISH1 and ISH2 [REP4-036] contends that such a requirement fails the relevant legal tests for a requirement because it is not necessary and is unreasonable.</p> <p>(i) The SCC are requested to respond to the applicant's reasons for rejection of such a requirement as set out in [REP4-036].</p> <p>(ii) The applicant relies upon their connection agreement with NESO which requires NESO to provide a connection which has been identified as the EACN. However, that is a commercial agreement which may have other consequences should its terms not be met. The applicant is requested to explain further its reliance upon the connection agreement as providing a basis for the assertion that a phasing requirement would be unreasonable in this case.</p> <p>(iii) Whilst the applicant states that it is not aware of any precedent for the imposition of a requirement of this sort, is it aware of any case where such a requirement has been suggested and rejected by the SoS?</p> <p>(iv) The applicant is requested to fully explain and provide time estimates of any delay to the proposed development that it submits would result from the imposition of the suggested requirement given the current programming of offshore turbine works and that only the commencement of those works would be restricted.</p> <p>(v) For the avoidance of doubt, can the applicant confirm that its position is that the precedent effect and the wider consequences that might flow from such a decision would render the imposition of the requirement unreasonable? Please also comment on whether subsequent decisions in relation to the imposition of such requirements would be based upon the particular circumstances and justification provided in each case?</p> <p>(vi) Please comment on whether the Hinkley Point C project referred to provides a reasonable comparison to the particular facts of this case in terms of the timing of that scheme and the</p>	The Applicant SCC	<p>(i) In its Response to Actions List for ISH1 and ISH2 [REP4 036], the Applicant makes several points regarding why it considers SCC's proposed phasing condition to fail to meet the legal tests of a DCO requirement. SCC deals with each of these in turn with reference to its previous representations.</p> <ul style="list-style-type: none"> The Applicant notes that there is a presumption in favour of consenting the Norwich to Tilbury project because it is critical national priority infrastructure. The Applicant's connection agreement with NESO identifies the EACN as the connection point. Whilst Norwich to Tilbury is critical national priority infrastructure (CNP), this does not guarantee that it will receive consent. It is clear from EN-1 (para 3.3.63) that the presumption in favour of CNP is 'subject to any legal requirements' and (para 4.2.7) that 'the policy applies following the normal consideration of the need case, the impacts of the project, and the application of the mitigation hierarchy.' This examination is not in a position to consider any of those matters or form any views on whether they will be satisfied, which will be matters for the Norwich to Tilbury DCO Examination (once an application has been made). Consequently, this examination cannot conclude that the CNP presumption will fall to be applied in that case. There is also no guarantee that the project will receive consent in its current form. For instance, plans for the EACN may change such that the connection offer for the Applicant to connect there may be rescinded and replaced or otherwise delayed. Such scenarios would allow for the Applicant's WTGs to be installed for a significant period of time without being connected to the Grid, thus causing harm to the SECHNL without the clean energy benefits used to justify those harms. In this respect, SCC considers the proposed DCO requirement to be necessary and reasonable. SCC considers the proposed requirement to be supported by national policy meaning there is no need to establish an 'exceptional' basis for the requirement as claimed by the Applicant. SCC made the point in response to action points of ISH1 & 2 [REP4-095] that the proposed requirement is necessary to comply with updated duty in section 85 of the Countryside and Rights of Way Act 2000. This is because the proposed requirement ensures that it is not possible for a scenario in which the proposed development adversely affects the SCHAONB without providing the benefits of clean energy production which serves as the justification for these adverse effects. EN-1 affords designated landscapes, including the SECHNL, an elevated status of protection when compared to other landscapes. The purposes of the designated landscapes 'should be given substantial weight by the Secretary of State' (paragraph 5.10.32). Paragraph 5.10.8 requires projects impacting a designated 	<p>(i) CNP presumption</p> <p>The Applicant disagrees with SCC's interpretation of paragraph 3.3.63 in the Overarching National Policy Statement for energy (EN-1) [DESNZ, 2024] (EN-1).</p> <p>The CNP presumption (as set out in paragraph 3.3.63 in EN-1) will apply to the Norwich to Tilbury project because, by virtue of being electricity grid infrastructure (including network reinforcement and upgrade works, and associated infrastructure such as substations), it constitutes critical national priority infrastructure which the government considers should be progressed as quickly as possible (see paragraph [1.15] of the National Policy Statement for Electricity Networks Infrastructure (EN-5) [DESNZ, 2024]).</p> <p>The outcome of the CNP presumption (that the urgent need for CNP Infrastructure will in general outweigh any other residual impacts not capable of being addressed by application of the mitigation hierarchy) is what is subject to 'any legal requirements', not the application of the presumption itself.</p> <p>The Applicant maintains that the fact that this presumption will apply to the Norwich to Tilbury project is a relevant supporting factor in its argument that the DCO Requirement proposed by SCC fails the relevant legal tests for a Requirement because it is not necessary and is unreasonable.</p> <p>EACN connection</p> <p>The Applicant notes that it has signed a connection agreement with NESO and the delivery of that connection is a matter for NGET and NESO (either through the Norwich to Tilbury project or via some alternative approach as NGET sees fit).</p> <p>The Applicant refers to its response to Q9.1.13(ii) of the Applicant's Response to the ExA's Second Written Questions (ExQ2) [REP5-054] which explains the significance of the reference to the connection agreement between the Applicant and NESO in this context.</p> <p>The Applicant understands that NESO intends to submit the DCO application for the Norwich to Tilbury project in Q3 2025. It will take approximately 18 months for the Secretary of State to grant consent for the Norwich to Tilbury project which, assuming that the application is submitted by 30 September 2025, would be in March 2027. The Applicant plans to commence pre-construction works in 2027 with an aim for the Project to be operational by 2030.</p> <p>The Applicant rejects any suggestion that the Project should be delayed (either in terms of the development consent process or construction) on the basis of an entirely hypothetical situation where plans for the EACN 'may change' such that the connection offer for the Applicant may be rescinded and replaced or otherwise delayed.</p> <p>Further, North Falls could connect to the grid via an alternative means if development consent for the EACN substation is not granted as part of the</p>

	related connection project and the applicable landscape protection policies. Is it known whether any equivalent requirement was suggested and considered by the SoS in relation to the Hinkley Point C application?		<p>landscape to be ‘designed sensitively given the various siting, operational, and other relevant constraints’. SCC considers that the proposed requirement would ensure that the project is designed sensitively so as to avoid unnecessarily adversely impacting the natural beauty of the SECHNL until it is clear that the project’s grid connection will be constructed. The proposed requirement has a policy basis and does not require any justification on an ‘exceptional’ basis.</p> <ul style="list-style-type: none"> The Applicant states its concern with the burden of discharging the proposed requirement. The proposed requirement does not need to be discharged via the formal process set out in the DCO; rather, to be satisfied, the Applicant must only send a notification to the relevant authority. SCC did not envisage a notification of this kind as requiring formal approval and is happy to amend the drafting of the requirement to ensure that the notification does not require formal approval. Complying with the requirement will not lead to a ‘significant delay’ and will not hinder the project’s 2030 delivery. SCC does not agree that the proposed requirement would serve as a hinderance to enabling implementation of the DCO. If the EACN is consented, then the implementation of the DCO is not delayed since the requirement can be satisfied with a simple notification. If the EACN is not consented or if the Applicant’s connection agreement is otherwise delayed, then it is not the proposed requirement but the delayed connection which will hinder the DCO’s implementation. It should be noted that the phrase ‘National Grid substation’ in the proposed requirement need not refer only to the EACN were the Applicant to end up connecting to a different substation. In that case too, the proposed requirement would be satisfied with a simple notification that the substation has received development consent. Due to the minimal burden imposed by the proposed requirement, SCC does not consider that the proposed requirement would set a precedent which adversely affects the rapid delivery of offshore wind energy. Such a requirement may set a positive precedent which prevents projects from causing adverse effects without the benefits of those projects secured. SCC noted in its response to deadline 3 submissions [REP4-097] that there are instances in Europe where offshore wind farms have been constructed without a grid connection. Therefore, it may be desirable to set a precedent to prevent such a scenario from happening in the UK, especially where such projects negatively affect nationally designated landscapes. 	<p>Norwich to Tilbury project. The EACN connection point is the optimal connection point, but others would be made available in future in the event that the EACN was delayed or rejected.</p> <p><u>Application of national policy</u></p> <p>Paragraph 5.10.32 of EN-1 relates directly to the consideration of applications for development within National Parks, the Broads and AONBs. The Applicant submits that this paragraph is therefore not relevant because no aspect of the Project is located within the Suffolk & Essex Coast & Heaths National Landscape (SECHNL).</p> <p>Paragraph 5.10.8 of EN-1 discusses the duty to seek to further the purposes of nationally designated landscapes and states that projects outside the boundaries of these areas which may have impacts within them should be designed sensitively given the various siting, operational, and other relevant constraints.</p> <p>The Applicant submits that the Project has been designed sensitively with reference to the SECHNL and refers to the various 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.</p> <p>Accordingly, it is not necessary or reasonable to impose the proposed DCO requirement to achieve that purpose.</p> <p><u>Risk of delay</u></p> <p>The Applicant refers to its response to item 5 in the Applicant’s Position Statement on various issues relating to National Landscapes [REP5-068] and the Applicant’s response to Q9.1.13(vi) of the Applicant’s Response to the ExA’s Second Written Questions (ExQ2) [REP5-054].</p> <p>The Applicant plans to commence pre-construction works in 2027 with an aim for the Project to be operational by 2030. The Applicant notes that the construction of the offshore elements of the Project requires the Applicant to order a large number of long lead items at considerable cost prior to March 2027. This integral step would not be able to be completed if the DCO cannot be implemented because the proposed Grampian requirement has not been fulfilled.</p> <p>The relevant burden is that the procurement process and other preparatory steps required for the Project would be delayed until notification can be given that development consent for the National Grid substation has been granted which would, in turn, delay the construction of the Project. The mechanism by which that notification is granted is not the Applicant’s key concern.</p> <p>This would create a significant delay to construction timeframes making the Project’s delivery by 2030 unachievable and jeopardising its ability to contribute to the UK’s renewable energy targets in a timely manner.</p> <p><u>Precedent</u></p> <p>The Applicant disagrees with SCC’s submission that a minimal burden would be imposed by the proposed DCO Requirement for the reasons set out above.</p> <p>The Applicant refers to its response to Q9.1.13(v) of the Applicant’s Response to the ExA’s Second Written Questions (ExQ2) [REP5-054] which outlines its concerns about the wider adverse consequences that a decision to implement the proposed Grampian condition in the North Falls DCO could have for the rapid delivery of offshore wind projects (and other onshore renewable energy projects) required to meet the urgent need for electricity generating capacity set out in the NPSs by delaying delivery programmes.</p> <p>The Applicant does not accept that it would be desirable to set a precedent that increases the risk of delay to the delivery of critical national priority infrastructure that will assist the UK in reaching its renewable energy targets.</p>
REP5-117_c	<p>Q14.0.1</p> <p>Whether or not the applicant is a Statutory Undertaker for the purpose of CROWA 2000 s.85(A1)</p> <p>s.85(A1) CROWA 2000 applies when a “relevant authority” (which includes “any statutory undertaker” as defined by s.85(3) CROWA 2000)</p>	The Applicant SECHP NE SCC	<p>SCC stated its position during ISH 2 and the corresponding written summary [REP4-096] that it considers the Applicant to be a relevant authority in the context of the duty in virtue of being a statutory undertaker. SCC has set out its reasoning in Footnote 2 of Annex 1 of its response to the Examining Authority’s First Written Questions (“ExQ1”) [REP2-059].</p>	<p>The Applicant stated that it considers that it is a “statutory undertaker” as defined in section 85(3) of the <i>Countryside and Rights of Way Act 2000</i> (CRoW Act) and a relevant authority for the purposes of the CRoW Act for the reasons set out in response to Q14.0.1 in the Applicant’s Response to ExA’s Second Written Questions (ExQ2) [REP5-054].</p>

	<p>is “exercising or performing any function” relating to or affecting an Area of Outstanding Natural Beauty (“AONB”). There is no requirement for the “relevant authority” to be exercising a statutory function.</p> <p>The definition of “relevant authority” includes “any Minister of the Crown”. Because some ministerial functions are undertaken by virtue of prerogative powers rather than statutory provisions, the exercise of prerogative powers could just as much impact on an AONB as could the exercise of statutory powers. Is s.85(A1) CROWA 2000 limited only to the exercise or performance of statutory functions by the relevant authority?</p> <p>SCC has noted that no limitation appears in the legislative provision itself and nor, in this context, should such a limitation be implied. SCC’s view is that the applicant is a statutory undertaker, and so a relevant authority. It contends that this is a sufficient basis to bring it within the scope of s.85(A1) CROWA 2000 when it exercises or performs “any function” which relates to or affects an AONB, irrespective of whether that function flows from or involves the discharge of a statutory power or duty.</p> <p>In response to submissions made by SCC at ISH2, the applicant said that it would confirm the applicant’s position on whether it is a statutory undertaker for the purposes of the duty and set these out at applicant’s Response to Actions List for ISH2 [REP4-036]. It does not appear to be set out within this document, although it is noted that at ISH2 the applicant’s view was that it is a special purpose vehicle set up solely for the Project and does not have wider statutory undertaker functions.</p> <p>(i) Please set out whether or not the applicant considers itself as a “statutory undertaker” and,</p> <p>(ii) whether or not the applicant is therefore a relevant authority.</p> <p>The implications of being subject to the new duty in s.85(A1) CROWA 2000, if what it was proposing would “affect” any land within an AONB.</p>	IPs may optionally respond		
REP5-117_d	<p>Q14.0.8</p> <p>Consideration of Tranquillity</p> <p>At ISH2 IPs raised the issue regarding the consideration of tranquillity within REP3-044. The ExA requested a written response from the applicant explaining its position in relation to effects on tranquillity and its approach to assessment in the Assessment of the Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast. This has been provided within (pp 80-84) of the applicant’s Response to Actions List for ISH1 and ISH2 [REP4- 036].</p> <p>(i) The ExA invites IPs to comment on this rationale.</p> <p>(ii) Please can the applicant update REP3-044 on the basis of information submitted, specifically to address the contributors to, and detractors from, tranquillity.</p>	The Applicant SECHP IPs	<p>The Applicant references paragraph 17 of its Technical Note [REP3-044] which states that indicators not affected by the proposed development do not need to be considered. However, the Applicant concludes that there will be a small scale of change for the special quality of relative tranquillity, meaning that it will be affected by the proposed development and so is worthy of consideration. SCC made the point in its response to the technical note [REP4-097] that all special qualities which are affected by the proposed development must be considered in assessment to ensure that the effects on the natural beauty of the SECHNL are fully understood. SCC considers the full assessment of impacts would assist the Secretary of State in their decision-making in relation to the new duty found in s85 of CROWA 2000. Both EN-1 and the Defra guidance on the duty state that measures being undertaken to comply with the duty must be proportionate to the effects on the designated landscape in question. Therefore, for the decision maker to come to a conclusion on what measures should be undertaken, the full extent of the effects caused by the proposed development must be ascertained.</p> <p>SCC defers to Natural England and the SECHNLP regarding the robustness of the Applicant’s conclusion regarding the project’s effects on the relative tranquillity of the SECHNL. However, SCC notes that there may be some considerations not mentioned in the Applicant’s judgement which are of relevance. For instance, “relatively dark skies” is mentioned as a contributor to tranquillity in the SECHNLP’s Natural Beauty and Special Qualities Indicators document (provided as Appendix H to SCC’s LIR [REP1 074]. The lighting from the project’s WTGs may affect this special quality indicator at nighttime though is not mentioned in the Applicant’s judgement.</p>	Response REP4-097_c in Applicant’s Response to Deadline 4 Submissions [REP5-056] sets out the Applicant’s position with regard to effects on the Suffolk and Essex Coast and Heaths National Landscape. The Applicant’s position has not changed.

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National Infrastructure Commission (NIC) (2018) National Infrastructure Assessment – an assessment of the United Kingdom’s infrastructure needs up to 2050. July, 2018. Available at: <https://www.itrc.org.uk/itrcpublications/national-infrastructure-assessment-an-assessment-of-the-united-kingdoms-infrastructure-needs-up-to-2050/>



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