

By email only to:
NorthFalls@planninginspectorate.gov.uk

**20050780 Further Comments
From Suffolk & Essex Coast & Heaths National Landscape in response to information
provided in response to information request by Secretary of State on 26 Nov 2025.**

This response is sent on behalf of the Suffolk & Essex Coast & Heaths National Landscape (SECH NL) has been prepared by the lead officer of the staff team drawing on discussions with SECH NL Partnership members. It adds further comment from those submitted on 15 January 2026.

The reason for this further response is that the SECH NL lead officer, in consultation with some SECH NL Partnership members, consider that the applicant was asked to demonstrate how they might realign their proposals to the suggested approach of meeting the sec 85 Countryside and Rights of Way Act (2000) obligation as outlined in REP8-094. The SECH NL lead officer does not consider that this has been demonstrated in the applicant's response.

The SECH NL lead officer further notes that there has been no engagement by the applicant with the SECH NL Partnership on this topic since the end of the examination, which would appear not to conform to the approaches recommended.

The SECH NL lead officer considers that the applicant's response has further deviated from the SECH NL suggested approach for the applicant to demonstrate its ability to meet the section 85 Countryside and Rights of Way Act (2000) duty. This further deviation is not justified.

In response to the applicant's response to the Secretary of State's request for information (Doc Ref 11.2) I wish to make the following comments relating to the applicant's response set out in table 2.4 of that document.

Applicant's Response:

The Applicant maintains its position that the Applicant and the Secretary of State can discharge the duty to seek to further the purpose of conserving and enhancing the natural beauty of an area of outstanding natural beauty (Duty) contained in section 85(A1) of the Countryside and Rights of Way Act 2000 (CRoW Act) in respect of the Suffolk & Essex Coast & Heaths National Landscape (SECHNL) on the basis of actions already undertaken without the need to impose any additional measures or financial contributions. This submission is outlined in various documents submitted during

Examination and listed at paragraph 3.1.1 of the Applicant's Closing Statement [REP8-036].

SECH NL lead officer comments:

The SECH NL lead officer considers the duty to be an active one, requiring relevant authorities to 'seek to further the purpose' when taking decisions that affect National Landscapes. The SECH NL lead officer does not consider that the response from the applicant demonstrates an ability to meet the section 85 Countryside and Rights of Way Act (2000) duty.

Applicant's Response:

This position is further supported by the recent decision made by the Secretary of State in relation to the DCO application for the Morecambe Offshore Windfarm Generation Assets (Morecambe Decision).¹ The Secretary of State referred to the Wadhurst Parish Council v SoSHCLG [2025] EWHC 1735 case and noted that it clarified that the Duty does not require that both elements (i.e. to seek to conserve and enhance) need to be fulfilled in order for the Duty to be discharged. The Secretary of State further stated that the Duty does not require minor adverse effects to be offset by enhancement measures and confirmed the general principle that relevant authorities (which include the Applicant and the Secretary of State in respect of the Project) should act proportionately when discharging the Duty.

SECH NL lead officer comments:

The SECH NL lead officer does not consider that NSIP applications determined by the Secretary of State on the recommendation of Examining Authorities set binding precedence for future decisions, each application should be determined on its own merits.

Applicant's Response:

National Landscape Enhancement Scheme principles

On a without prejudice base, the Applicant has reviewed the National Landscape Enhancement Scheme (NLES) principles set out by Suffolk & Essex Coast & Heaths National Landscape Partnership (SECHNLP) in [REP8-094] and has prepared an updated version of the Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes [Document ref: 9.89, (rev 2)].

The Applicant has amended the relevant document to include the following (on a without prejudice basis):

- 1. A statement that the NLES would relate solely to the Applicant's obligations under section 85(A1) of the CRow Act and that it would be separate to any other mitigation or compensation requirements relating to the Project;*

SECH NL lead officer comments:

Agree

- 2. An amendment to the proposed draft DCO Requirement to confirm that Work No. 1 and Work No. 2 (which relate to the construction of the offshore wind turbine generating station and offshore substation platforms and offshore converter*

platform) must not be commenced until, if reasonably required, the Applicant and Essex County Council (ECC) (as the discharging authority in the draft DCO) have entered into a legal agreement which secures the allocation of the fund amount under the NLES as approved to the reasonable satisfaction of both parties;

SECH NL lead officer comments:

The SECH NL lead officer considers that the legal agreement should include Suffolk County Council as the host authority of the SECH NL staff team, who may be involved in the delivery of any National Landscape Enhancement Scheme (NLES). It is noted that the footprint of the SECH NL is within both Essex and Suffolk.

- 3. Confirmation that the fund amount will be payable to the SECHNLP for onward payment to the relevant internal team either as a lump sum or phased payments to be agreed; and*

SECH NL lead officer comments:

The SECH NL lead officer considers that and funds paid to compensate for impacts on the National Landscape should be paid to a suitable authority, for example the National Landscape team's host authority (Suffolk County Council) or a partner authority (eg Essex County Council) for onward payment to the National Landscape team for the delivery of the scheme. The National Landscape Partnership cannot receive funds directly as it is not a legal entity, it would be required to be paid to Suffolk County Council for onward payment for delivery of the scheme.

- 4. A new principle requiring that a Scheme Delivery Panel must be established as part of the NLES comprising a representative from the Applicant, Suffolk County Council (SCC), Essex County Council (as the discharging authority) and the SECHNLP to oversee delivery of the NLES and facilitate reporting on expenditure and project/s delivered as part of the NLES. The principle also states that the Panel will have the power to unanimously approve non-material changes to the approved Scheme.*

SECH NL lead officer comments:

The SECH NL lead officer agrees but considers the need of a 'Terms of Reference' or similar document to be agreed for any proposed Scheme Delivery Panel, noting that similar Terms of Reference have been agreed for compensation funds for the Sizewell C funded Natural Environment Improvement Panel.

Applicant's Response:

The Applicant notes that some of the amendments above incorporate minor, reasonable changes to the principles contained in [REP8-094]:

In relation to Item 2, the Applicant has not included drafting stating that any legal agreement (if required) must be negotiated between SCC and the Applicant and in consultation with the SECHNLP. The Applicant has instead stated that any legal agreement must be negotiated between ECC and the Applicant. The Applicant considers

that ECC is the relevant counterparty to any legal agreement securing delivery of the NLES because ECC would be the entity approving the NLES and is a partner member of the SECHNLP. Further, the Applicant understands that the SECHNLP would not be a party to a legal agreement entered into in relation to the NLES and it is therefore not reasonable to mandate that the Applicant must consult with the SECHNLP in relation to that agreement.

SECH NL lead officer comments:

The SECH NL lead officer considers that the National Landscape staff team and/or Partnership should be consulted on any agreement given that the staff team is funded by DEFRA and Local Authorities to provide advice on National Landscape matters. It is considered unreasonable that the SECH NL Partnership is not consulted on this matter when it will be a delivery partner for the scheme. It is worth noting that the Partnership membership includes councillors and officers from six local authorities. Details of the Partnership can be viewed at:

<https://coastandheaths-nl.org.uk/managing/about/partnership-members/>

The SECH NL considers that the whole Partnership should be consulted on any agreement, noting that some of the Partnership members will not be party to current discussions.

Applicant's Response

The Applicant has inserted drafting requiring payment under the NLES to be made to the SECHNLP rather than SCC. The Applicant considers that the SECHNLP is the most appropriate entity to make the relevant payment to because of its connection to the conservation and enhancement of the SECHNL. The Applicant understands that contributions under similar schemes have been made to similar bodies (e.g. in relation to the London Luton Airport Expansion where a Requirement was incorporated into the DCO requiring payment of a financial contribution to the Chilterns Conservation Board).

SECH NL lead officer comments:

The SECH NL lead officer considers that any payment should be paid to the National Landscapes host authority (Suffolk County Council) or partner organisation (eg Essex County Council) for forwarding to the National Landscape team to deliver the scheme.

The reference to payment to the Chilterns Conservation Board appears to not recognise that a National Landscape Conservation Board (where they exist for the Chilterns and Cotswolds National Landscapes) are an authority unlike the governance structures for the SECH NL where a staff team is hosted at an individual Local Authority, in this case Suffolk County Council.

Applicant's Response:

The Applicant has added a representative from ECC to the composition of the Scheme Delivery Panel because it would be the entity approving the NLES. The Applicant has also specified that all representatives of the Scheme Delivery Panel must unanimously approve non-material changes to the approved Scheme. This makes sure that the

Applicant and the benefactors of the NLES are aligned on any changes made post-approval.

SECH NL lead officer comments:

The SECH NL lead officer agrees to the addition of Essex County Council representation but considers any approval process should be by simple majority and the matter should be outlined in a Terms of Reference relating to the proposed Scheme Delivery Panel.

Applicant's Response:

The Applicant has not accepted or adopted the other principles proposed in [REP8-094] because it considers that they are either inappropriate or unreasonable for the reasons set out below.

The SECHNLP states, at bullet point 2, that the measures proposed in the Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes [REP6-062] only relate to the elements of the SECHNL that the Applicant has identified may be impacted by the Project and that points of disagreement on this issue have not been included. Measures imposed to avoid and reduce impacts on the statutory purposes of areas of outstanding natural beauty / national landscapes or to enhance those areas (such as the NLES) must be sufficient, appropriate, reasonable and proportionate (see the Applicant's response to Item 1 and 5 of the Applicant's Position Statement on various issues relating to National Landscapes [REP5-068]). It follows that the NLES should be limited to addressing relevant effects that the Project may have on the SECHNL.

SECH NL lead officer comments:

The SECH NL lead officer considers that the proposals for the applicant to demonstrate it has met its obligations relating to section 85 of the Countryside and Rights of Way Act (2000) as set out in REP8-094 are proportionate as set out in the principles at the beginning of that document.

Applicant's Response:

As set out in various submissions, the Applicant considers that the effects on the SECHNL are visual in nature only and there will be significant effects on views from locations specifically along the southern coastal edge of the SECHNL, between the River Deben and Orford Ness but no significant effects on landscape character, and no significant effects on the special qualities of the SECHNL (see ES Chapter 29 Seascape, Landscape and Visual Impact Assessment (SLVIA) [APP-043] and the Assessment of Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast – Technical Note [REP5-038]). The principle in [Document ref: 9.89, (rev 2)] dictating the spatial and topical scope of any proposed NLES has been drafted accordingly. This accords with the Secretary of State's position in the Morecambe Decision that the Duty does not require minor adverse effects to be offset by enhancement measures.

SECH NL lead officer comments:

The SECH NL lead officer considers that the proposals for the applicant to demonstrate it has met its obligations relating to section 85 of the Countryside and Rights of Way Act (2000) as set out in REP8-094 are proportionate as set out in the principles at the beginning of that document.

Furthermore, the SECH NL lead officer considers that the geographical area proposed for the NLES to be appropriate and that the impacts listed in the applicant's document REP5-038 should be addressed through the NLES, not just those identified as significant.

The SECH NL lead officer considers that previous decisions made by the Secretary of State on the advice of Examining Authorities are not binding on future decisions and that each determination should be made on the proposal's merits.

Applicant's Response:

The SECHNLP proposes changes to the spatial extent of the NLES at bullet point 3 to extend from the River Deben to Adleburgh [Sic] and 3km inland. As referred to above, the Applicant has consistently held that there will be significant effects on views from locations specifically along the southern coastal edge of the SECHNL, between the River Deben and Orford Ness and does not agree that these effects would extend 3km inland or north to Adleburgh [Sic] (see ES Chapter 29 Seascape, Landscape and Visual Impact Assessment (SLVIA) [APP-043] and the Assessment of Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast – Technical Note [REP5-038]). Accordingly, the Applicant submits that a change in the spatial extent of the NLES as suggested would be inappropriate and unreasonable.

SECH NL lead officer comments:

The SECH NL lead officer considers that the National Landscape is a single entity and the impacts on one part of the nationally designated landscape should be considered an impact on the protected landscape as a whole.

The SECH NL lead officer considers that harm from a development, even where limited in scale and geographical area, is inconsistent with the statutory purpose of the National Landscape.

The SECH NL lead officer does not agree that reducing the scope of the NLES is appropriate.

Applicant's Response:

The SECHNLP states, at bullet point 4, that the amount contributed as part of the NLES should reflect increases in costs as a result of inflation. The Applicant rejects this proposal and is not aware of any precedent which supports this submission (and notes that no supporting precedent has been provided as part of submissions in [REP8-094]). By way of example, the Applicant refers to the Secretary of State's decision in relation to the London Luton Airport Expansion Development Consent Order which inserted Requirement 54 into the DCO securing a one-off financial payment of £250,000 to the Chilterns Conservation Board to use towards projects that would further the purposes of conserving and enhancing the Chilterns National Landscape. This payment, like any

payment made under a NLES for the Project, would be made and applied to projects post-2025. The Secretary of State did not impose a requirement that future increases in project costs as a result of inflation should be reflected in the contribution amount. The Applicant submits that this approach is reasonable and should be followed in respect of any requirement for an NLES for the Project.

SECH NL lead officer comments:

The SECH NL lead officer considers inflationary elements of compensation fund is appropriate and there are multiple examples, including:

Sizewell B Dry Fuel Store, Amenity and Accessibility Fund, set up between Suffolk County Council, East Suffolk Council and EDF Energy, see:

<https://coastandheaths-nl.org.uk/wp-content/uploads/2025/10/AAF-Fund-Background-1.pdf>

East Anglia TWO Offshore Wind Farm section 111 agreement between ScottishPower Renewables and East Suffolk Council, see section 6 of:

<https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010078-004520-ExA.AS-37.D8.V1%20EA2%20Section%20111%20Agreement%20with%20East%20Suffolk%20Council.pdf>

The SECH NL lead officer considers there are several examples of time passing from consent being achieved and when the funds for measures are released, for example the ScottishPower Renewables project EA TWO offshore wind farm which secured development consent in March 2022 with commencement in mid-2024 (onshore ecological and archaeological works).

Applicant's Response:

Proposed costings in [REP8-094]

As noted in the Applicant's Response to ExA's Request for further information (Rule 17) - National Landscapes [Document ref: 9.89, (rev 2)], the purpose of the NLES is to deliver benefits to conserve or enhance the SECHNL in relation to the effects of the Project on the SECHNL. This ensures that the NLES (as a measure imposed to avoid and reduce impacts on the statutory purposes of areas of outstanding natural beauty / national landscapes or to enhance those areas) is appropriate, reasonable and proportionate.

SECH NL lead officer comments:

The SECH NL lead officer considers that the measures set out in its proposal of how the applicant can demonstrate it is meeting it's section 85 Countryside and Rights of Way Act (2000) duty (REP8-094) as appropriate, reasonable and proportionate. The document was endorsed by the SECH NL Partnership before submission to the Examining Authority.

Applicant's Response:

The Applicant has reviewed the proposed list of projects contained in Table 1 of [REP8-094] and submits that only Items 1, 4, 5, 6, 9 and 10 could feasibly be said to deliver benefits that conserve or enhance the SECHNL in relation to the Project's effects on the enjoyment of the coast and coastal views. Even then, to ensure that the NLES is appropriate, reasonable and proportionate, the Applicant would require confirmation that NLES funding applied to Items 4, 6 and 10 (which are drafted broadly) would be limited to addressing the effects of the Project on the SECHNL as part of those projects. The Applicant submits that the other suggested projects are not relevant to the potential effects of the Project on the SECHNL and should not, therefore, be considered as part of a costing proposal for the NLES.

SECH NL lead officer comments:

The SECH NL lead officer considers the proposals set out in REP8-094 would enable the applicant to demonstrate it has met its obligation set out in section 85 of the Countryside and Rights of Way Act (2000).

In response to points, 2,3, 7 and 8 of table 1 REP8-094 that the applicant considers would not deliver statutory purpose for the National Landscape, the SECH NL lead officer considers the following:

- *Item 2. Contribution to delivery of Protected Landscapes Targets and Outcomes Framework (pump prime with project partners)*

Government has set targets for protected landscapes (National Parks and National Landscapes) in the Environment Improvement Plan (2013) that includes the expectation of delivering on three goals, thriving plants and wildlife, mitigating and adapting to climate change and **enhancing beauty** [my emphasis], heritage and engagement with the natural environment.

The SECH NL lead officer considers that the reference to enhancing natural beauty, which is also a statutory purpose of the National Landscape, this item should be included in the NLES.

See: <https://www.gov.uk/government/publications/protected-landscapes-targets-and-outcomes-framework/protected-landscapes-targets-and-outcomes-framework>

- *Item 3. Contribution to delivery of SECH Nature Recovery Plan*

Government has set targets for protected landscapes (National Parks and National Landscapes) in the Environment Improvement Plan (2013) that includes the expectation of delivering on three goals, **thriving plants and wildlife**, [my emphasis], mitigating and adapting to climate change and enhancing beauty heritage and engagement with the natural environment.

The SECH NL lead officer considers the reference to thriving plants and wildlife in the Government's targets for protected landscapes demonstrates that its purpose

includes enhancing wildlife. In the case of the SECH NL this will be achieved by the delivery of its Nature Recovery Plan and should be included in the NLES.

Furthermore, Natural Heritage is one of the six reasons for designation for National Landscapes (AONBs) and therefore part of its statutory purpose.

See: <https://www.gov.uk/government/publications/protected-landscapes-targets-and-outcomes-framework/protected-landscapes-targets-and-outcomes-framework>

- *Item 7. Increase understanding and celebrate the natural beauty and special qualities of the National Landscape.*

Government has set targets for protected landscapes (National Parks and National Landscapes) in the Environment Improvement Plan (2013) that includes the expectation of delivering on three goals, thriving plants and wildlife, mitigating and adapting to climate change and enhancing beauty heritage and **engagement with the natural environment**, [my emphasis].

The SECH NL lead officer considers the reference to engagement with the natural environment in the Government's targets for protected landscapes demonstrates that its purpose includes broader engagement. It is considered that this area of work should be included in the NLES to support delivery of purpose.

See: <https://www.gov.uk/government/publications/protected-landscapes-targets-and-outcomes-framework/protected-landscapes-targets-and-outcomes-framework>

- *Item 8. Support implementation of projects to reduce lighting impacts in the National Landscape.*

The SECH NL lead officer recognises that relative tranquillity as one of the natural beauty characteristics, one of the six natural beauty designation criterion, and as such projects to reduce light pollution contribute to the delivery of statutory purpose. It is considered that this area of work should be included in the NLES to support delivery of purpose.

See, <https://www.gov.uk/guidance/areas-of-outstanding-natural-beauty-aonbs-designation-and-management#meet-the-natural-beauty-criterion>

In addition, the SECH NL lead officer wishes to make further comment on items 4, 6 and 10 of REP8-094:

Item 4: Contribution to coast & estuary project activity.

The SECH NL lead officer maintains its position that the contribution to an estuary project, noting the applicant's position that this item could feasibly deliver benefits to

conserve or enhance the SECH NL, would support delivery of statutory purpose, to conserve **and** [my emphasis] enhance natural beauty,

Item 6: Contribute to enhancements to promoted routes, including National Trail to elevate experience for users.

The SECH NL lead officer considers that the Government's aspiration for protected landscapes (National Parks and National Landscapes) as outlined in the Environment Improvement Plan (2023) and onward in the Protected Landscapes Targets and Outcomes Framework includes:

Goal 10: Enhancing beauty, heritage and engagement with the natural environment

See: <https://www.gov.uk/government/publications/protected-landscapes-targets-and-outcomes-framework/protected-landscapes-targets-and-outcomes-framework>

It is the SECH NL lead officers view that item 6 of REP8-094 is appropriate for the NLES.

Item 10: Delivery of targeted interventions.

It is the view of the SECH NL lead officer that the targeted interventions outlined in REP8-094 relating to Landscape, Land Use and Planning (1,2 and 3) drawn from the statutory National Landscape Management Plan 2023-28, management plan policies, see page 52 of:

<https://coastandheaths-nl.org.uk/managing/management-plan/>

and would therefore be appropriate for the delivery of the NLES.

Applicant's Response:

The Applicant rejects the suggestion that the contribution made as part of the NLES should include provision for a full-time or part-time Project Officer within the National Landscape team at SCC to manage any contribution made under the NLES plus various other administrative costs. The Applicant is not aware of any precedent supporting this position (and none has been provided as part of submissions in [REP8-094]). The Applicant again notes that an equivalent requirement was not imposed as part of the £250,000 contribution incorporated in London Luton Airport Expansion Development Consent Order 2025.

SECH NL lead officer comments:

The SECH NL lead officer rejects the suggestion that any contribution should not include the costs of a project officer. Any NLES will need oversight, management and delivery functions. These functions should not fall on an existing team external to the applicant and it is considered unreasonable to expect a third party would deliver a scheme without covering costs. It should be noted that the National Landscape team, and I suspect the Local Authorities, do not have the capacity to deliver a scheme without the applicant providing resources to do so.

The SECH NL lead officer considers that the proposed magnitude of the NLES of £50,000 would not cover delivery costs of a NLES that could deliver the required work to demonstrate compliance with section 85 of the Countryside and Rights of Way Act (2000). It is the SECH NL lead officer's opinion that there is a significant risk that scheme cannot be delivered with a fund of the proposed magnitude. The SECH NL lead officer considers that the SECH NL cannot be considered the delivery mechanism or achieved C&H as not delivery mechanism without additional resources to deliver the NLES.

Applicant's Response:

The Applicant rejects Items 12 and 13 which require the Applicant to make contributions in addition to any funding provided under other proposed items to the Suffolk & Essex Coast & Heaths National Landscape Sustainable Development Fund and the Community Conservation Fund for a project lifetime of 25 years. The SECHNLP provides no explanation as to why it is appropriate, reasonable and proportionate that the Applicant should contribute 50% of each fund's annual grant nor why it recommends that the contribution be made over 25 years given the Project's estimated lifetime is 30 years. As submitted above, any funding applied under the NLES must clearly address the effects of the Project on the SECHNL. These Funds appear to be of broad application to the entire SECHNL and to conservation in general and are therefore not appropriate vehicles for funding under the NLES.

SECH NL lead officer comments:

It is recognised that the proposals are for a scheme that will have an anticipated lifetime of 30 years. It would seem reasonable for a scheme to demonstrate the applicant has met its obligation to section 85 of the Countryside and Rights of Way Act (2000) should cover a similar timespan.

The SECH NL lead officer considers that appropriate funding should be made available for the duration of the effects, or that a higher amount be made available for other elements of the NLES.

Applicant's response:

It follows that the Applicant does not agree with the proposed quantum of £469,264 because it includes the costs of projects and other items that are not appropriate, reasonable and proportionate measures to address the effects of the Project on the SECHNL. Further, the Applicant notes that the revised recommended contribution amount is calculated on the assumption that the Project will affect 17% of the SECHNL (the area from the Deben River to Adleburgh [Sic] and 3km inland). The Applicant does not accept this position for reasons set out above and submits that the proportion of the SECHNL that the Project may affect (the coastal edge of the SECHNL from the River Deben to Orford Ness) is significantly smaller. Therefore, it would be necessary to reduce the apportionment of costs applied to the Project.

SECH NL lead officer comments:

The SECH NL lead officer considers that the proposals set out in REP8-094 are proportionate and appropriate.

Applicant's response:

The total contribution recommended by the SECHNLP for Items 1, 4, 5, 6, 9 and 10 (which are feasibly relevant to addressing the effects of the Project on the SECHNL) is £74,555. The Applicant would be willing, on a without prejudice basis, to increase any contribution under the NLES to a maximum of £50,000. Should the Secretary of State consider that it is appropriate to require a financial contribution to be made to discharge the Duty in the specific circumstances of the Project, the Applicant considers that this is a reasonable and proportionate amount which reflects its submissions above.

SECH NL lead officer comments:

The SECH NL lead officer does not consider a contribution of £50,000 to be proportionate and notes that any contribution made will need to be accompanied by additional funds to employ a Project Officer to deliver the scheme to avoid placing additional burdens on organisations not proposing the scheme.

Regards

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