UK Government

3-8 Whitehall Place
London
SW1A 2AW
+44 020 7215 5000
energyinfrastructureplanning@energysecurity.gov.uk
www.gov.uk/desnz

Ref: EN010119

Daniel Harper
North Falls Offshore Wind Farm Limited
Windmill Hill Business Park
Whitehill Way
Swindon
SN5 6PB

14 May 2026

Dear Mr Harper,

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE NORTH FALLS OFFSHORE WIND FARM PROJECT

This decision was made by the Minister of State, Alan Whitehead MP, on behalf of the Secretary of State for Energy Security and Net Zero

1. Introduction

1.1. I am directed by the Secretary of State for Energy Security and Net Zero ("the Secretary of State") to advise you that consideration has been given to the Examining Authority's ("ExA") report dated 28 October 2025. The ExA consisted of 5 examining inspectors: Wendy McKay (Lead Member), Helen Van Willegen, Anthony Johnson, Matthew Shrigley and Jonathan Medlin. The ExA conducted an Examination into the application submitted on 26 July 2024 ("the Application") by North Falls Offshore Wind Farm Limited ("the Applicant") for a Development Consent Order ("DCO") ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the North Falls Offshore Wind Farm ("the Proposed Development"). The Application was accepted for Examination on 22 August 2024. The Examination began on 28 January 2025 and closed on 28 July 2025. The Secretary of State received the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report") on 28 October 2025. On 15 January 2026, the Secretary of State issued a Written Ministerial Statement announcing that the statutory deadline for the decision had been reset to 28 April 2026. On 26 March 2026, the Secretary of State issued a further Written Ministerial Statement announcing that the statutory deadline for the decision had been reset to 14 May 2026.

1.2. On 26 November 2025[1], the Secretary of State issued a letter seeking information on several matters ("the first information request"). On 18 December 2025[2], Interested Parties ("IPs") were invited to comment on the responses received ("the first all-IP consultation"). A further letter was issued on 28 January 2026[3], requesting further information ("the second information request"). On 18 February 2026[4], IPs were invited to comment on the responses received ("the second all-IP consultation").

1.3. The Order, as applied for, would grant development consent for the construction, operation and maintenance, and decommissioning of an offshore wind farm ("OWF") with a generating capacity of approximately 1 gigawatt ("GW") located in the southern North Sea, approximately 40 kilometres ("km") off the East Anglia coastline [ER 1.3.1].

1.4. The Proposed Development would comprise of the following [ER 1.3.8]:

- Up to 57 offshore wind turbines;
- Up to two Offshore Substation Platforms ("OSPs");
- Up to one Offshore Converter Platform ("OCP");
- Foundations for the wind turbines, OSP(s) and OCP;
- Inter-array cables linking the individual wind turbines to each other and the OSP(s);
- Platform interconnector cable linking OSP(s) and OCP;
- Offshore export cables;
- Scour protection for foundations, where required;
- Surface laid cable protection, where required;
- Onshore export cables and associated joint bays;
- An onshore substation ("OnSS");
- A connection from the OnSS to the new 400 kilovolts ("kV") National Grid East Anglian Connection Node ("EACN") proposed by the National Grid Electricity Transmission Plc ("NGET") as part of its Norwich to Tilbury project ("N2T"); and,
- Bentley Road improvement works.

1.5. The Proposed Development includes the following three grid connection options [ER 1.3.9]:

- Option 1: Onshore electrical connection at a National Grid connection point within the Tendring peninsula of Essex, with a project alone onshore cable route and OnSS infrastructure;
- Option 2: Onshore electrical connection at a National Grid connection point within the Tendring peninsula of Essex, sharing an onshore cable route and onshore cable duct

[1] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010119-001678-Information%20Request%20Letter%20-%20North%20Falls.pdf
[2] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010119-001718-All%20IPs%20Consultation%20Letter%20-%20North%20Falls.pdf
[3] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010119-001742-Second%20Information%20Request%20Letter%20-%20North%20Falls.pdf
[4] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010119-001762-All%20IPs%20Consultation%20Letter.pdf

installation (but with separate onshore export cables); and co-locating separate project OnSS infrastructure with Five Estuaries Offshore Wind Farm ("VEOWF"); and,

- Option 3: Offshore electrical connection, supplied by a third party.

1.6. The offshore cables under grid connection option 1 and 2 would make landfall at Kirby Brook, which is between Frinton-on-Sea and Clacton-on-Sea, on the Essex coastline [ER 1.3.4]. The onshore elements of the Proposed Development would be within the administrative areas of Tendring District Council ("TDC") and Essex County Council ("ECC") [ER 1.3.5].

1.7. The Applicant also seeks Compulsory Acquisition ("CA") and Temporary Possession ("TP") powers, set out in the draft DCO submitted with the Application.

1.8. Published alongside this letter on the Planning Inspectorate's National Infrastructure Project website[5] is a copy of the ExA's Report. The ExA's findings and conclusions are set out in Chapters 3 to 10 of the ExA Report, and the ExA's summary of conclusions and recommendation is at Chapter 11. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report ["ER *.*.*"].

2. Summary of the ExA's Report and Recommendation

2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report under the following broad headings:

- Need;
- Alternatives;
- Agriculture, Land Use and Ground Conditions;
- Air Quality;
- Onshore Ecology;
- Flood Risk, Groundwater and Surface Water;
- Human Health;
- Landscape and Visual Effects;
- Noise and Vibration;
- Terrestrial Traffic and Transportation;
- Commercial Fisheries;
- Offshore Ecology;
- Navigation and Shipping;
- Seascape and Visual Effects;
- Aviation and Radar;
- Climate Change;
- Cumulative Impact;
- Design;
- Historic Environment and Archaeology; and,

[5] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010119

- Socio-Economic Effects.

2.2. The ExA recommended that the Secretary of State should grant consent [ER 11.5.1].

2.3. This letter is intended to be read alongside the ExA's Report and, except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations.

3. Summary of the Secretary of State's Decision

3.1. As the Proposed Development is an offshore wind turbine generating station that would have a generating capacity greater than 100 megawatts ("MW"), it falls within section 15 of the 2008 Act, meets the definition of a Nationally Significant Infrastructure Project ("NSIP") set out in section 14(1) of the 2008 Act, and requires a DCO in accordance with section 31 of the 2008 Act.

3.2. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement ("NPS") [ER 2.2.1]. Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply. The NPSs EN-1, EN-3 and EN-5 designated on 17 January 2024 ("2024 NPS") have effect in relation to the Proposed Development and consequently, it is to be determined under the provisions of section 104 of the 2008 Act.

3.3. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.

3.4. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by Regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").

3.5. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

4. The Secretary of State's Consideration of the Application

4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the Examination and responses to the Secretary of State provided during the decision-making stage. 354 Relevant Representations ("RRs") were made in respect of the Application. Written Representations, responses to questions, and oral submissions made during the Examination were also taken into account by the ExA. The Secretary of State has had regard to the Local Impact Reports ("LIRs") submitted by ECC in partnership with TDC, Babergh District Council ("BDC"), East Suffolk Council ("ESC"), and Suffolk County Council ("SCC"), the environmental information as defined in Regulation 3(1) of the EIA Regulations, and to

all other matters considered to be important and relevant to the Secretary of State's decision, as required by section 104 of the 2008 Act, including relevant policy set out in the NPSs EN-1, EN-3 and EN-5.

4.2. The Secretary of State notes that the 2024 NPSs have effect for the ExA's consideration of this Application and for the Secretary of State's decision-making. On 24 April 2025, a consultation on draft revisions to NPS EN-1, EN-3 and EN-5 was launched, and the revised NPSs were laid in Parliament on 13 November 2025. On 6 January 2026, these versions of NPS EN-1, EN-3 and EN-5 came into force. Whilst these 2026 versions of the NPSs do not have effect for this Application, they are capable of being important and relevant considerations in the Secretary of State's decision-making process.

4.3. The Secretary of State has also had regard to the updated National Planning Policy Framework ("NPPF") from February 2025 which was released during the Examination. The Clean Power 2030 Action Plan was published on 13 December 2024 and sets out a pathway to a clean power system. The Secretary of State has had regard to these publications and finds that there is nothing contained within these publications which would lead him to reach a different decision on the Application.

4.4. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:

- Alternatives – the Applicant's assessment of alternatives was appropriate, proportionate and in accordance with NPSs EN-1, EN-3 and EN-5 [ER 3.2.88];
- Flood Risk, Groundwater and Surface Water – neutral [ER 4.4.57];
- Human Health – neutral [ER 4.5.34];
- Terrestrial Traffic and Transportation – little negative weight [ER 4.8.41, ER 8.5.12];
- Aviation and Radar – neutral [ER 6.1.30];
- Climate Change – neutral [ER 6.2.76]; and,
- Historic Environment and Archaeology – little negative weight [ER 6.5.97, ER 8.5.12].

4.5. In regards to cumulative effects, the ExA ascribed neutral weight [ER 6.3.47]. The Secretary of State notes these effects are accounted for and weighted in the consideration of each section already and has not ascribed any further weighting to avoid double counting of effects.

4.6. The Secretary of State agrees with the weighting ascribed by the ExA on the following matters but has provided further commentary and analysis, which is set out within this letter:

- Need (substantial positive weight) [ER 3.1.40 and ER 8.5.3];
- Agriculture, Land Use and Ground Conditions (moderate negative weight) [ER 4.1.45 and ER 8.5.10];
- Air Quality (little negative weight) [ER4.2.30 and ER 8.5.12];
- Ecology: onshore ecology including migratory bats but excluding onshore birds (little negative weight) [ER 4.3.113 and ER 8.5.12];
- Ecology: onshore ornithology (little negative weight) [ER 4.3.164];
- Ecology: offshore and intertidal ornithology (moderate negative weight) [ER 4.3.165 and ER 8.5.11];

- Ecology: offshore benthic subtidal and intertidal (little negative weight) [ER 5.2.191];
- Ecology: offshore marine mammals (little negative weight) [ER 5.2.241];
- Landscape and Visual Effects (little negative weight) [ER 4.6.120];
- Seascape and Visual Effects (moderate negative weight) [ER 5.4.168 and ER 8.5.9];
- Noise and Vibration (moderate negative weight) [ER 4.7.79 and ER 8.5.12];
- Commercial Fisheries (little negative weight) [ER 5.1.64 and ER 8.5.12]; and,
- Navigation and Shipping (little negative weight) [ER 5.3.126 and ER 8.5.12].

4.7. On the following matters, the Secretary of State ascribes a different weight to the ExA and has provided further commentary and analysis, as set out within this letter:

- Design; and,
- Socio-Economics.

4.8. The Secretary of State notes that the weighting descriptors used by the ExA differ from those laid out on page 175 of NPS EN-1. Having reviewed the ExA's considerations and conclusions, the Secretary of State considers that where the ExA has referred to 'little' weight, this can be equated to 'limited' weight, and 'very great' can be equated to 'substantial'. The Secretary of State will use the descriptors as laid out in NPS EN-1 when ascribing his weightings and whilst the terminology used will differ to this limited extent, the difference in terminology does not indicate a disagreement with the ExA unless this is specifically stated.

<u>The Principle of the Development, Need and Greenhouse Gas Emissions</u>

Need

4.9. The ExA noted paragraph 3.2.6 of NPS EN-1 which states that all applications for development consent for infrastructure covered by the NPS should be assessed on the basis that the Government has demonstrated that there is a need for the infrastructure, the need is urgent, and substantial weight is assigned when considering applications for consent under the 2008 Act [ER 3.1.38]. The ExA stated that, in line with paragraph 4.1.3 of NPS EN-1, the starting point is a presumption in favour of granting development consent unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused [ER 3.1.39].

4.10. The ExA agreed with the Applicant's position that the need for the Proposed Development is well-established within the existing national policy framework, relevant NPSs, other Government strategies, and by international obligations and objectives relating to low carbon electricity generation, climate change and the economy [ER 3.1.31]. The ExA considered that the Proposed Development would make a material contribution towards achieving the Government's target of up to 50GW of offshore wind by 2030 with a new generating capacity of approximately 1GW, equating to approximately 2% towards the overall target [ER 3.1.33]. The ExA noted that the overall in-principle need case for the Proposed Development was not a matter disputed by parties during the Examination [ER 3.1.19 et seq.]. The ExA stated that there was support at the local policy level for the provision of renewable infrastructure development necessary to deliver net-zero carbon for the UK [ER 3.1.31].

4.11. The ExA concluded that there is a strong need case in favour for the grant of development consent for the Proposed Development to meet the urgent need for low carbon energy within a reasonable timeframe. The ExA ascribed the need case very great positive weight and stated that this equates to the 'substantial weight' referred to in paragraph 3.2.7 of NPS EN-1 [ER 3.1.40].

Greenhouse Gas Emissions

4.12. The Applicant's connection agreement with the National Energy System Operator ("NESO") is for 1GW [REP4-031]. However, the Applicant's Environmental Statement ("ES") Chapter 33 Climate Change [APP-047] and the updated addendum to ES Chapter 33 Climate Change [REP4-031] are based on an anticipated installed capacity of 850MW as an indicative capacity figure used as a realistic worst-case scenario.

4.13. In ES Chapter 33 Climate Change [APP-047], it was noted that for the greenhouse gas ("GHG") assessment methodology, conservative assumptions were adopted and it is stated that the GHG emissions likely presented an overestimate of actual emissions, particularly during the operation and maintenance and decommissioning phases of the Proposed Development. The ExA stated that it was satisfied that the Applicant's assessment had employed a conservative approach to managing the assumptions and limitations associated with a GHG assessment [ER 6.2.45].

4.14. In ES Chapter 33 Climate Change [APP-047], the baseline or 'Do Nothing' scenario, which assumes that the Proposed Development is not constructed, is used to help determine the significance of effects and contextualise the outcomes of the GHG assessment. The GHG assessment is based on the assumption that electricity from the Proposed Development would displace generation from 'natural gas' sources. It is explained that this is based on the assumption that "*the Project displaces generation from 'natural gas' sources, as this is the most common form of new plant in terms of fossil fuel combustion.*"

4.15. During the construction phase of the Proposed Development, the Applicant's GHG assessment estimated that emissions would represent 2.65 million tonnes of carbon dioxide equivalent ("CO_2e"); making up approximately 0.15% of the UK's 5th Carbon Budget and concluded that this was considered to have a minor adverse and not significant effect on climate change [ER 6.2.10 et seq.].

4.16. Over the 30-year operation and maintenance phase of the Proposed Development, the Applicant estimated that the total emissions would be 1.5 million tonnes of CO_2e, resulting in a saving of approximately 49.5 million tonnes of CO_2e (under the 'Do-Nothing' scenario) [ER 6.2.13, APP-031, REP4-031]. The Applicant stated that the first 5 years of the Proposed Development's operation and maintenance phase would broadly fall under the 6th Carbon Budget period (2033 to 2037) and the emissions generated would constitute 0.03% of the Carbon Budget [ER 6.2.14]. The Applicant stated that even with the continuous operation and maintenance emissions from the Proposed Development, the magnitude of emissions would be negligible in comparison to the 6th and 7th Carbon Budgets [REP4-031]. The updated addendum to ES Chapter 33 Climate Change [REP4-031] states that the first ten years (2031-2040) of the Proposed Development's operation and maintenance phase broadly falls under the 6th and 7th Carbon Budget period: 2033-2037 and 2038-2042. In addition, it is stated that the operation and maintenance emissions that would be released from the activities associated with the Proposed Development over the period 2038-2042 would constitute around 0.3% of the 7th Carbon Budget.

4.17. The Applicant assessed that the effect on GHG emissions during the operation and maintenance phase would be a significant benefit in EIA terms. This was based on the Applicant taking into account the low GHG intensity of electricity generation, and emission savings associated with the Proposed Development's operations [ER 6.2.15].

4.18. In the decommissioning phase of the Proposed Development, the Applicant considered that decommissioning of the Proposed Development would result in a single occurrence of GHG emissions and would ultimately have a negligible effect on climate change [ER 6.2.16].

4.19. The whole lifecycle GHG intensity of the Proposed Development (including construction, operation and maintenance, and decommissioning GHG emissions) is estimated to be 30.5gCO_2e per kilowatt-hour. The Applicant assessed that the total GHG avoided emissions (accounting for emission associated with the construction, operation and maintenance, and decommissioning phases) would be approximately 46.8 million tonnes of CO_2e (under the 'Do-Nothing' scenario), which would represent a significant benefit [ER 6.2.17].

4.20. The ExA was satisfied that the Applicant had complied with the provisions set out in NPS EN-1, EN-3 and EN-5 concerning climate change effects, both from and on the Proposed Development [ER 6.2.71]. The ExA considered that the Applicant has adequately assessed the GHG emissions of all stages of the Proposed Development and has taken all reasonable steps to mitigate and reduce the GHG emissions associated with its construction, operation and maintenance, and decommissioning [ER 6.2.72].

4.21. The ExA agreed with the conclusions of the ES that the carbon emissions that would result from the Proposed Development would not materially impact the ability of the UK Government to meet its carbon budgets [ER 6.2.74]. The ExA also considered that the "*Proposed Development would have an overall significant beneficial effect in reducing GHG emissions and meeting the Government ambition to deliver 50GW of offshore wind capacity by 2030*". The ExA therefore stated that as GHG emissions had already been attributed weight in the overarching need case for the Proposed Development, it did not attribute any further weight to GHG emissions under the climate change topic [ER 6.2.74].

The Secretary of State's Conclusion

4.22. The ExA ascribed the need case very great positive weight, and it confirmed (at paragraphs 1.7.5 and 3.1.40 of the ExA's Report) that this is equivalent to the substantial weight referred to in NPS EN-1 for the avoidance of any doubt, and for consistency with the policy set out in paragraph 3.2.7 of NPS EN-1.

4.23. The Secretary of State agrees with the ExA that the need case for the Proposed Development is well established and notes the contribution the Proposed Development would make to meeting low carbon and renewable energy generation targets, which are fundamental to the objectives of NPS EN-1 and EN-3. The Secretary of State therefore ascribes the overarching need case for the Proposed Development substantial positive weight in favour of making the Order.

4.24. The Secretary of State includes the matter of GHG emissions within the consideration of weight ascribed to the need for the Proposed Development. The Secretary of State considers the delivery of low carbon energy generation has beneficial effects in terms of reducing emissions and contributing to the UK's net zero targets and is therefore inherently tied to the urgent need case for the Proposed Development.

Agriculture, Land Use and Ground Conditions

4.25. Paragraph 5.11.12 of NPS EN-1 defines Best and Most Versatile ("BMV") agricultural land as land in Grades 1, 2 and 3a, as set out by the Agricultural Land Classification ("ALC"), stating that applicants should seek to minimise impacts on BMV land and preferably use land in areas of poorer quality (Grades 3b, 4 and 5). The ExA noted that the onshore project area would be predominantly within Grade 1-3 land and the OnSS area would be located on Grade 1 land [ER 4.1.6]. The site selection process resulted in the identification of co-located platforms for the Proposed Development and VEOWF [ER 3.2.27]. The onshore project area as indicated in [APP-050] includes space for both OnSSs for the Proposed Development and VEOWF and is included in the Order limits of the land for the Proposed Development.

4.26. The Applicant specified that the long list of potential sites for the OnSS were all sited on BMV land, and that the use of BMV land could not be avoided [ER 4.1.21]. The Applicant's site selection process was underpinned by its 'golden rules': a set of assumptions and principles which set the framework for the site selection exercise [ER 3.2.8]. The Applicant explained that BMV land was not able to be included within the list of golden rules because all the land that met the other technical criteria within the required proximity to the EACN was located entirely within BMV land [ER 3.2.32]. In REP2-020, the Applicant further stated that the Site Selection Golden Rules within the area of search was classified as Grade 1 agricultural land, and as such no areas of poorer quality land were available. The ExA was satisfied that the siting of the proposed OnSS on BMV land; noting that the technical requirements required it to be situated within 3km of the National Grid connection point *"offered to the Applicant at NGET's EACN [part of the N2T grid reinforcement project]"* [ER 3.2.51 and ER 4.1.23].

4.27. During the Examination, the Applicant was asked how the test set out in paragraph 5.11.12 of NPS EN-1 had been satisfied in terms of minimising the impact on BMV land. The Applicant responded stating that the permanent loss of agricultural land classed as BMV land from the Proposed Development was only in respect of the OnSS, permanent access road and the link boxes, which would result in a total of 6.36 hectares ("ha") of land, and represents 0.002% of the available BMV land in the Essex region [ER 4.1.20, APP-036]. The temporary use of BMV land from the Proposed Development during construction was reported as 288ha in the ES from the Applicant [APP-036]. The ES stated that *"the total construction footprint within agricultural land in Grades 1, 2 and 3a (i.e. BMV) would be >20ha with the potential for short term loss of land suitable for agriculture for <2 years"* in relation to the temporary land take of 288ha from the Proposed Development [APP-036].

4.28. The ExA noted that the mitigation measures for agriculture and land use were set out in the Outline Code of Construction Practice ("OCoCP"). This included preparation of a Soil Management Plan as part of the Code of Construction Practice which would define site-specific mitigation measures and good industry practice techniques and an appointment of an agricultural liaison officer to undertake pre-construction land surveys [ER 4.1.9]. The ExA noted that the reinstatement of agricultural land that would be temporarily lost, would be redressed through the preparation of a schedule of condition of the land prior to the commencement of works and undertaking soil sampling surveys. Furthermore, the information gathered would be used in the reinstatement of the soils to their former condition and to allow landowners to continue with the previous uses [ER 4.1.10]. The ExA considered that the reinstatement of the land was adequately secured in the OCoCP [ER 4.1.24].

4.29. The Applicant's assessment indicated that the temporary loss of BMV land during the construction period would result in a residual moderate adverse significant effect for the

Proposed Development alone, however, this would be reversible once construction is completed. During the operation and maintenance phase, the Applicant concluded that the permanent loss of BMV land would be a major adverse significant effect for the Proposed Development alone, which could not be mitigated [ER 4.1.15]. The impacts during the decommissioning phase for the Proposed Development were stated to be no worse than those for construction [APP-036].

4.30. The Secretary of State notes that the Cumulative Effects Assessment ("CEA") for the land and agriculture topics in the ES submitted by the Applicant was split into two sections [APP-036]. The first section covered the effects predicted to arise from the Proposed Development and VEOWF. The second section covered the effects predicted to arise from the Proposed Development, VEOWF and N2T. The ES noted that the permanent loss of agricultural land from the Proposed Development and VEOWF would amount to 11.94ha and this represents 0.004% of the Essex county resource. For the Proposed Development, VEOWF and N2T, the permanent loss of agricultural land would account to 62.1ha of BMV agricultural land which accounts for approximately 0.02% of the available county resource. The cumulative effects in this case were noted as major adverse and significant in EIA terms [APP-036].

4.31. The potential cumulative effects from the temporary loss of agricultural land from the Proposed Development and VEOWF were defined in the ES as moderate adverse and therefore significant in EIA terms [APP-036].

4.32. The ES specified that the temporary loss of agricultural land from the Proposed Development, VEOWF and N2T in relation to construction activities that include the onshore cable route, temporary construction compounds and off route haul road, would account for 0.8% of the available county resource and this would give rise to major adverse cumulative effects, which is significant in EIA terms.

4.33. The ExA accepted the Applicant's assessment that the Proposed Development would result in the total permanent loss of 6.36ha of BMV land and that this represents 0.002% of the regional BMV land [ER 4.1.23]. The ExA was content that the Applicant had sought to minimise the impact on BMV land; had provided full justification of the use of BMV land, and that this was in accordance with paragraphs 5.11.12 and 5.11.34 of NPS EN-1 [ER 4.1.43].

4.34. The ExA found that there *"would be significant adverse effects and significant cumulative effects [in EIA terms] arising from [the] temporary and permanent loss of BMV land from the Proposed Development and in respect of the other proposed substations for VEOWF and EACN".* The ExA, for these reasons, ascribed moderate negative weight to the topic of agriculture, land use and ground conditions [ER 4.1.45].

The Secretary of State's Conclusion

4.35. The Secretary of State agrees with the ExA that the Applicant has fully assessed the potential effects from the Proposed Development on land use, agriculture and ground conditions [ER 4.1.41]. The Secretary of State notes the mitigation measures set out in the OCoCP and considers these acceptable.

4.36. Paragraph 5.11.12 of NPS EN-1 stipulates that applicants should seek to minimise impacts on BMV agricultural land and preferably use land in areas of poorer quality. Paragraph 5.11.34 of NPS EN-1 stipulates that the Secretary of State should ensure that applicants do not site their scheme on BMV agricultural land without justification. Where schemes are to

be sited on BMV agricultural land, the Secretary of State should take into account the economic and other benefits of that land. Where development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The Secretary of State is satisfied that the Applicant has sought to minimise the use of BMV land through co-ordination with VEOWF and N2T with the co-location of the OnSSs on one site. The Secretary of State considers that the co-ordination of the site selection for the substations was in accordance with paragraph 2.13.17 of NPS EN-5 and paragraph 5.11.12 of NPS EN-1. The Secretary of State considers that the Applicant implemented an adequate site selection process for the OnSS and has demonstrated that the avoidance of use of BMV land was not feasible due to the necessary requirements to facilitate the National Grid connection offered to the Applicant. The Secretary of State is therefore satisfied that the Applicant has fully justified the use of BMV land in this case.

4.37. The Secretary of State notes that the Applicant has demonstrated that the loss of BMV for the OnSS could not be avoided. The Secretary of State considers that the Proposed Development would provide low-carbon energy and contribute to the Government's renewable energy generation targets. The Secretary of State finds the use of BMV land acceptable and in accordance with paragraph 5.11.34 of the NPS EN-1.

4.38. The Secretary of State notes that the Proposed Development would lead to the temporary loss of BMV land during the construction period but notes that the BMV land that would be temporarily lost would be reinstated once construction is completed and returned to its former condition. The Secretary of State agrees with the ExA that the reinstatement of the land to its former condition and to allow landowners to continue with the previous uses is adequately secured in the OCoCP. The Secretary of State notes that the operational phase of the Proposed Development would lead to a permanent loss of BMV land resulting in significant effects in EIA terms for the Proposed Development and cumulatively with other projects, and therefore ascribes moderate negative weight to the topic of agriculture, land use and ground conditions in the overall planning balance. The Secretary of State is however satisfied that sufficient justification has been provided for the siting of the Proposed Development on BMV agricultural land, considering its economic and other benefits, and that there would be no conflict with NPS EN-1 and EN-3.

Air Quality

4.39. The ExA was satisfied that the Applicant's air quality assessment was in accordance with NPS EN-1, EN-3 and where relevant EN-5, as well as local policies and strategies [ER 4.2.26]. The ExA concurred with the Applicant's assessment, that with the implementation of mitigation, effects from the Proposed Development on air quality would not be significant, and that no significant cumulative effects would be anticipated [ER 4.2.28]. However, the ExA considered that for the Bentley Road improvement works area, some residual effects for dust soiling would be expected, albeit not significant [ER 4.2.29]. The ExA therefore attached little negative weight to these residual effects on onshore air quality matters in the planning balance [ER 4.2.30].

4.40. The Secretary of State noted that the Applicant had not included monitoring of dust emissions during the construction of the Proposed Development in the OCoCP despite ES Chapter 20 Onshore Air Quality [APP-034] highlighting a number of high sensitivity receptors in proximity to the Proposed Development and the magnitude of dust emissions to be 'large' from some onshore earthworks activities. In the first information request, the Secretary of State requested that the Applicant revise the OCoCP [REP7-025] to require dust deposition,

dust flux, real-time particulate matter ("PM_{10}") continuous monitoring, and/or visual inspections during construction, with the locations and reporting of any such monitoring to be agreed with the relevant planning authorities, and for this to also include baseline monitoring before work on each onshore construction phase commences. This is in line with Institute of Air Quality Management ("IAQM") Guidance on the Assessment of Dust from Demolition and Construction (2023).

4.41. In response, the Applicant confirmed that it had revised section 1.9.1.2 of the OCoCP [C1-022] to commit to undertaking dust deposition, dust flux and/or real-time indicative PM_{10} continuous monitoring during the construction phase of the Proposed Development with monitoring locations, monitoring type, and manner of reporting of monitoring to be agreed with the relevant planning authority. The Applicant stated that baseline monitoring will, where practicable, commence at least three months prior to the start of works on site or, in the case of a large site, prior to the commencement of works for the relevant phase. Noting the Applicant's response and with the updated OCoCP [C1-022] reflected in Schedule 12 of the Order, the Secretary of State is satisfied that this matter has been resolved.

The Secretary of State's Conclusion

4.42. Noting the Applicant's response to the first information request, and the amendments to the OCoCP, the Secretary of State agrees with the little negative weighting ascribed by the ExA [ER 4.2.30] and therefore ascribes a limited negative weight to matters related to air quality in the overall planning balance.

Onshore Ecology

4.43. The Applicant assessed the impact to onshore ecology and onshore ornithology in ES Chapter 23 Onshore Ecology [APP-037] and Chapter 24 Onshore Ornithology [APP-038].

Biodiversity Net Gain

4.44. The ExA welcomed the Applicant's approach to Biodiversity Net Gain ("BNG") relative to national and local policy [ER 4.3.54]. The Applicant's aim is a minimum of 10% BNG for habitat and hedgerow modules, which would be secured through Requirement 21 of the draft DCO [REP8-005] in accordance with the BNG Strategy [REP8-025]. The ExA considered that the ecological enhancement, including via BNG, able to be delivered via the Proposed Development attracts positive weight, though it recognised that the overall package for BNG could have been more ambitious and noted the expected net loss of watercourse units, which is reported as -29.19% by the Applicant [ER 4.3.109].

4.45. The ExA noted that each Council's LIR (BDC [REP1-063]; ESC [REP1-064]; ECC [REP1-065]; and SCC [REP1-074]) were relevant to BNG and identified pertinent details raised by ECC in regard to securing BNG and the maintenance period. ECC [REP8-101] also considered that the BNG DCO Requirement wording between VEOWF and the Proposed Development should be the same.

4.46. Natural England ("NE") also raised concerns regarding the lack of commitment to compensate for the loss of watercourse module biodiversity units and that it considered there to be options that could be taken by the Applicant [REP8-099]. The full nature of these options was not disclosed by NE, but it noted that there was scope to explore funding or contribution to Local Nature Recovery Strategies [REP4-065]. At the close of the Examination, the Applicant had committed to exploring further options for enhancement and

in consultation with relevant stakeholders [REP7-052]. NE noted that this was satisfactorily resolved, with further consideration of enhancement opportunities to be carried out post-consent [REP8-099]. The ExA also agreed that there would be opportunity, post-consent, for further and final iterations of the BNG documentation to be considered and approved by the discharging authority through mechanisms already present in the draft DCO [ER 4.3.68].

4.47. In the first information request, the Secretary of State sought comments from the Applicant, ECC and NE on a proposed new requirement regarding BNG that would supersede Requirement 21 (in the draft DCO). The wording proposed was in line with that used for the VEOWF DCO and secured 10% BNG using the Department for Environment, Food and Rural Affairs ("DEFRA") Biodiversity Metric and stipulated that no works could be undertaken until the BNG Strategy had been agreed by the discharging authority. NE had no comments except that it did not feel it was the appropriate Statutory Nature Conservation Body ("SNCB") to be consulted and ECC were content with the proposed new wording with minor amendments. The Applicant provided a substantial response [C1-014] that stated that it did not consider the proposed requirement to be reasonable or proportionate and objected to its inclusion. This was on the basis that:

- The draft DCO already contained a requirement that secured the BNG Strategy;
- The requirement to impose 10% BNG is not yet mandatory;
- The Applicant's BNG approach is intended to maximise BNG delivery at the OnSS through the Proposed Development's landscape mitigation and ecological enhancement works secured through Requirement 7 of the draft DCO;
- The Applicant would be unable to achieve 10% BNG for watercourses; and,
- It is too early in the design process to know if off-site BNG would be required.

4.48. The Secretary of State has considered the responses received in relation to BNG and has concluded that the original wording of Requirement 21 within the Applicant's draft DCO, as agreed by the ExA (with a minor amendment to reflect the terminology used in the BNG Strategy document [REP8-025]) is sufficient to secure the commitment to BNG. The Secretary of State acknowledges ECC's view that securing 10% BNG in the DCO would be preferable. However, it is considered by the Secretary of State that to impose 10% BNG across all habitat types may not be feasible for the Proposed Development, as the Applicant has shown it is unable to meet 10% for watercourses and BNG is not yet a mandatory requirement for NSIPs. The Secretary of State however notes, and is satisfied that, the Applicant has committed to further explore potential options with relevant stakeholders for watercourse enhancement [REP5-056] and that further iterations of the BNG Strategy document would need to be approved by the discharging authority post-consent which would also facilitate alignment as necessary with VEOWF. It is also noted that in the current version of the Joint Design Guide ("JDG"), provided in its response to the second information request, the Applicant identifies that a joint BNG strategy at the detailed design stage, that encompasses the shared (with VEOWF) OnSS site, would be undertaken.

4.49. The Secretary of State also proposed in his first information request an amendment to the BNG Strategy to include a 30-year commitment to habitat management in line with the Best Practices guidance set out by DEFRA. The Applicant responded stating it maintained its objection to imposing a 30-year management period on habitats outside the OnSS area. This was because:

- Statutory BNG and the subsequent management is not enforceable on this Proposed Development;
- The land that temporary works and habitat reinstatement will be undertaken on outside the OnSS area will be returned to landowners, and there are not landowner agreements in place for all sites; and,
- Where landownership rights are not a barrier to long-term habitat management, the Applicant has committed to delivering a minimum of 30-year management and maintenance period in section 2 of the BNG Strategy [REP8-025].

4.50. NE [REP4-065] and ECC [REP5-091] agreed with the Applicant during the Examination on the basis that there was a lack of clarity on land that is temporarily required for NSIPs and that for such land a 10-year maintenance period was acceptable. The ExA also considered this approach to be acceptable prior to mandatory BNG, but noted that it did not reflect the best practices set out in NE advice and that hedgerows should be maintained for 30 years [ER 4.3.62]. However, the ExA concluded that there was sufficient mechanism within the draft DCO to secure adequate long-term management of hedgerows within the finalised arrangements for BNG delivery [ER 4.3.68].

4.51. The Secretary of State is content with the reasoning provided by the Applicant and considers that a minimum 10-year maintenance period is acceptable for sites outside the OnSS area where a landowner agreement is not in place, but welcomes the Applicant's commitment to a 30-year management at the OnSS area and on land where there is a landowner agreement. The Secretary of State considers this matter resolved, noting that arrangements for BNG will be finalised and agreed post-consent.

Farmland Bird Compensation

4.52. The ExA noted the Applicant's conclusions that during onshore construction the Proposed Development could result in a minor-moderate adverse effect to the corn-bunting population, which would be considered significant at the regional (Essex) population in EIA terms [ER 4.3.132]. The Applicant concluded that for all other bird species assessed in ES Chapter 24 Onshore Ornithology [APP-038], the Proposed Development alone would not result in any significant effects during onshore construction or operation. The ExA considered that the Applicant had considered all mitigation options and that no suitable options were deemed possible, stating that "*given the embedded avoidance strategy evident, the ExA finds that further commitments over and above the embedded mitigations already in place would most likely therefore have limited effectiveness from an EIA perspective. The ExA accepts that terrestrial land used by birds for breeding, foraging and habitat has been avoided as far as practicable*" [ER 4.3.147].

4.53. The Secretary of State noted the residual significant effects on corn-bunting, and in the first information request, asked that the Applicant provide further details of how the mitigation hierarchy had been applied. In addition to this, a without-prejudice Farmland Bird Compensation Plan was also requested in the event that compensation was required.

4.54. The Applicant responded [C1-014] stating that there is no statutory duty under The Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations"), the Environmental Targets (Biodiversity)(England) Regulations 2023, or any other legislation to provide compensation for impacts on non-protected or non-threatened species and that corn-bunting does not fall within either category. The Applicant concluded that the impacts of any compensation measures provided would be disproportionate to the

impacts on farmland birds. Nevertheless, the Applicant did provide the Secretary of State with a without-prejudice In-Principle Farmland Bird Compensation Plan, which sets out the Applicant's position as well as providing draft wording for a requirement to secure it within the DCO if required. ECC and TDC responded to the first information request confirming they had no objection to a Farmland Bird Compensation Plan requirement, and in the first all-IP consultation noted the Applicant's submission.

4.55. The Applicant also provided further details on how the mitigation hierarchy had been implemented, noting that on-site mitigation at the OnSS area was not feasible due to landscape screening requirements, and off-site mitigation was considered but discounted noting the potential to result in the use of additional BMV land.

4.56. The Secretary of State has considered the Applicant's response on how the mitigation hierarchy has been followed. He notes the embedded mitigations [APP-037 and APP-038] to avoid as much habitat loss as possible, including pre-construction surveys undertaken by an Ecological Clerk of Work to identify areas being used by corn-bunting that should be avoided where possible. He, however, also recognises that corn-bunting is listed as 'Red' (the highest level of conservation concern) in the latest Birds of Conservation Concern, is a 'Species of Principal Importance' under section 41 of the Natural Environment and Rural Communities Act 2006, and notes the targets of the Environment Improvement Plan 2023 and The Environmental Targets (Biodiversity) (England) Regulations 2023. There is therefore both a policy and legal commitment to halt the decline in species abundance.

4.57. The Secretary of State notes that the ES (Chapter 24 [APP-038]), identified that construction disturbance and subsequent habitat loss during operation could both result in a minor-moderate adverse effect, and therefore significant in EIA terms, on the regional (Essex) corn-bunting population. He also notes for cumulative effects, that the Applicants' CEA of the Proposed Development and VEOWF highlighted that "*although a small number of additional breeding pairs may be affected by the two projects, compared to that for North Falls alone, this is not likely to change the magnitude of impact on the regional (Essex) population*". Given the embedded mitigation proposed by the Applicant, the Secretary of State considers the impact to corn-bunting (noting the number of territories potentially permanently impacted during operation, from the OnSS and landfall land take, and the temporary number impacted from construction disturbance reported in the ES) to be suitably mitigated as far as possible. The Secretary of State considers that the requirement for compensation for the residual effects from the operation of the OnSS should be agreed upon the reported impacts based on the OnSS detailed design. Therefore, he has included Requirement 31 for farmland bird compensation within the Order based on the wording provided (without prejudice) by the Applicant that includes provision for an updated assessment.

4.58. The Secretary of State also notes that the ES does not conclude a significant effect for skylark, and the different conclusion reported for VEOWF, and does expect that enhancement for farmland bird species, including skylark, is further developed in the finalisation of the Ecological Management Plan post-consent.

Environmental Risk Assessment – Horizontal Directional Drilling

4.59. In the first information request, the Applicant was requested to update its OCoCP [REP7-025] and the Outline Landscape and Ecological Management Strategy ("OLEMS") [REP7-027] to require a detailed environmental risk assessment, supported by local ground investigation data, to be carried out prior to onshore works commencing. This related to

concerns raised by NE in the Risk and Issues Log [REP8-009] regarding the potential for a frac-out event to occur at Holland Haven Marshes Site of Special Scientific Interest ("SSSI").

4.60. The Applicant responded with an overview of where this commitment was already secured within the Outline Horizontal Directional Drill Method Statement and Contingency Plan [REP8-011] which included the requested pre-construction surveys. The Applicant, however, did update the OCoCP [C1-022] and OLEMS [C1-020] to include a cross-reference to the commitment within the Outline Horizontal Directional Drill Method Statement and Contingency Plan.

4.61. The Secretary of State welcomes the clarification and is content that the pre-construction surveys are secured through the appropriate plans. With the updated OCoCP [C1-022] reflected in Schedule 12 of the Order the Secretary of State considers this matter resolved.

Onshore Ecology Data Sharing

4.62. The Secretary of State noted that the OLEMS [REP7-027] and OCoCP [REP7-025] did not contain details relating to data-sharing. The submission of monitoring data to the relevant Local Environmental Records Centres is required by NPS EN-3 paragraph 2.8.86. The submission of data enables the effects of the development and the efficacy of associated survey/mitigation to be documented and contribute to the evidence base to inform future decision making. In the first information request, the Secretary of State requested that the Applicant update the OLEMS [REP7-027] and OCoCP [REP7-025] to ensure onshore environmental survey and monitoring data is made available, as appropriate. The Applicant updated the two documents (OLEMS [C1-020] and OCoCP [C1-022]) accordingly, as confirmed in [C1-014]. With the updated documents reflected in Schedule 12 of the Order the Secretary of State considers this matter resolved.

The Secretary of State's Conclusion

4.63. The Secretary of State notes the ExA's conclusions on onshore ecology and onshore ornithology, the assessments conducted and conclusions reached by the Applicant throughout the Examination, and the responses received to the Secretary of State's requests for information. He considers that the Applicant suitably justified its position and has made sufficient amendments to the OLEMS and OCoCP to further address a number of matters raised by NE and the Secretary of State. The Secretary of State agrees with the little negative weighting ascribed by the ExA [ER 4.3.113 and ER 4.3.165] and therefore ascribes a limited negative weight to the matter in the overall planning balance.

<u>Offshore Ecology</u>

4.64. The Applicant assessed the impacts to offshore ecology in ES Chapter 10 Benthic and Intertidal Ecology [APP-024], Chapter 11 Fish and Shellfish Ecology [APP-025], Chapter 12 Marine Mammals [APP-026] and Chapter 13 Offshore Ornithology [APP-027] (as well as interactions from effects on Marine Geology Oceanography and Physical Processes in ES Chapter 8 [APP-022] and Marine Water and Sediment Quality in Chapter 9 [APP-023]). Additionally, the assessment of effects from offshore turbines on migratory bats was included in ES Chapter 23 Onshore Ecology [APP-037]. Separate sections in this letter are provided for matters pertinent to the Habitats Regulations Assessment ("HRA") and Marine Conservation Zone Assessment ("MCZA").

Migratory Bats

4.65. The Applicant concluded that likely significant effects would not result upon migratory bats, and mitigation is not required [ER 4.3.73]. NE made comments on the Applicant's lack of detail regarding migratory bat monitoring within the Offshore In-Principle Monitoring Plan ("IPMP") [REP6-032] and recommended that the Applicant should instead secure a mechanism to design and deliver a future collaborative strategy for monitoring, and if needed, mitigation [REP7-091]. The ExA concluded that sufficient monitoring would be possible through the Offshore IPMP [REP8-009] as submitted at the end of the Examination [ER 4.3.86].

4.66. The ExA accepted that the design of potential mitigation and monitoring to successfully protect migratory bats is unlikely to be possible in a proportionate manner to the potential impacts predicted on offshore bats [ER 4.3.76]. Noting this, the provision made by the Applicant for bat monitoring in the Offshore IPMP [REP8-009] and the available evidence base of offshore bat activity, in the first information request, the Secretary of State proposed that the Applicant update the Offshore IPMP to include an option to provide monetary support or participate in future strategic monitoring schemes in relation to migratory bats, in addition to the current option to contribute to existing research schemes (as well as onshore acoustic monitoring at coastal locations). The Applicant responded with an updated Offshore IPMP [C1-023] that included the requested option regarding offshore bat monitoring, and consideration of involvement in future strategic research.

4.67. NE responded to the first all-IP consultation to highlight the tentative merit of the provision in the Offshore IPMP [C1-023] regarding offshore bat monitoring and considered an additional monitoring proposal would be appropriate, which involves monitoring on existing offshore wind turbines, using static bat and possibly thermal imaging video cameras attached to turbines, or waiting until the opportunity arises to integrate monitoring equipment into the Proposed Development array.

4.68. The Secretary of State considers the Offshore IPMP provides the basis to agree a reasonable and proportionate approach to migratory bat monitoring post-consent in the finalisation of the Monitoring Plan. It is noted that the Offshore IPMP states the reason for monitoring is "*to improve the evidence base for offshore bat activity within the vicinity of the Proposed Development's array area, as well as bats' flight patterns and interactions with offshore turbines when operational*", and that monitoring should seek to fulfil this aim. As the knowledge gap is a regional matter, rather than being specific only to the Proposed Development, it is considered preferable for the Applicant and NE to consider measures on a regional and collaborative basis (including consideration of both existing research projects as well as the establishment of new studies). In this case, the Secretary of State considers that this matter has been adequately addressed by the Applicant and no changes to the Order have been made. However, he does note that while discussions with NE on offshore bat monitoring could have been progressed further by the Applicant, there is an opportunity for the Applicant to identify and contribute to the meaningful establishment of a regional data set, including consideration of the monitoring proposed by NE. He also summarises this and provides further clarity regarding the provision of monitoring for all offshore ecology topics at the end of the offshore ecology section of this letter.

Marine Mammals – Soft-Start Maximum Hammer Energy

4.69. In the first information request, the Secretary of State asked the Applicant to update the draft Marine Mammal Mitigation Protocol (for piling) ("dMMMP") [REP8-030] to reduce the soft start maximum hammer energy from 15% to 10%, to align the Proposed Development with Joint Nature Conservation Committee ("JNCC") guidance. The Applicant updated the dMMMP [C1-024] as part of its response but stated that it considered the 10% guidance relates to geophysical surveys rather than piling.

4.70. The Secretary of State notes that 10% aligns with other projects, but the start-up process may be considered further post-consent and is subject to agreement by the Marine Management Organisation ("MMO") in consultation with the SNCB, based on the final hammer energy to be used, and thus considers this matter suitably resolved.

Marine Mammals – Ramp Up Time Clarification

4.71. The Secretary of State noted that the dMMMP [REP8-030] stated there was a 30-minute minimum ramp up time, while ES Chapter 12 Marine Mammals [APP-026] stated an 80-minute ramp up time in relation to the worst-case scenario. In the first information request, the Applicant was asked to clarify the correct minimum ramp up time within the dMMMP to ensure the correct mitigation is secured. The Applicant updated the dMMMP [C1-024] to reflect the realistic worst-case ramp up scenario set out in ES Chapter 12 Marine Mammals [APP-026] with up to the maximum hammer energy and with no noise abatement or reduction mitigation. It is noted that the final ramp up duration will take account of the final hammer energy and additional mitigation measures which will be agreed in the final MMMP by the MMO post-consent.

4.72. The Secretary of State is content with the Applicant's clarification that both documents are aligned and considers this matter resolved, noting the updated dMMMP is reflected in Schedule 12 of the Order.

Marine Mammals – Underwater Noise Mitigation

4.73. The Secretary of State notes that throughout the Examination, the MMO and NE had concerns regarding the need for the Applicant to demonstrate a commitment to the use of Noise Abatement Systems ("NAS") as mitigation measures for underwater noise arising from construction piling activities [ER 5.2.375]. Noting this matter, and to reduce the level of underwater noise generated and its propagation through the marine environment, in the first information request, the Applicant was requested to comment on amended wording to the draft DCO recommended by the ExA [ER 5.2.386] for Condition 22(1)(g) in Schedule 9 and Condition 21(1)(g) of Schedule 10 of the Deemed Marine Licences ("DMLs") (which, as piling is part of all DMLs, is also applicable to Schedule 8 Condition 21(1)(g)).

4.74. The Applicant agreed [C1-014] to the amended wording with a request regarding the use of the term "*full details*", as the Applicant considered this to be undefined and recommended the use of "*reasonable details*". Both NE and the MMO, in their responses to the first all-IP consultation, welcomed the inclusion of the sub-paragraph. However, the MMO raised that it did not agree with the inclusion of the term "*reasonable details*" put forward by the Applicant on the grounds it would be difficult to enforce [C2-002]. The Secretary of State notes this disagreement and considers that using the term "*details*" is sufficient. The Secretary of State

considers this matter resolved with amendments made to the Order (Conditions 21,22,21 of Schedules 8,9,10).

Marine Mammals – Southern North Sea Site Integrity Plan

4.75. The Secretary of State noted that at the end of the Examination NE had an outstanding concern in relation to the Site Integrity Plan ("SIP"), which it considered must be in line with the DEFRA Noise Policy (2025). In this regard, and also to prevent the SIP being submitted to the MMO too early for approval, the Secretary of State in the first information request asked the Applicant, MMO and NE to comment on a new SIP DML condition, which also explicitly states that the SIP must be submitted in writing to the MMO no earlier than 9 months and no later than 6 months prior to the commencement of piling activities. All 3 parties were content with this inclusion, with some minor wording updates made by the Applicant to make it specific to the Southern North Sea Special Area of Conservation ("SAC") and the licenced activities. This condition has been included in the Order in each DML (Conditions 23,24,23 of Schedules 8,9,10). The SIP condition was also secured in the draft DCO [REP8-006]) within the DMLs (pre-construction plans and documentation Condition 21,22,21 of Schedule 8,9,10), which the MMO considered should be retained. However, given the new SIP condition, the Secretary of State does not consider this repetition necessary and has therefore removed reference to the SIP in the pre-construction plans and documentation condition from each DML. With the amendments to the Order, the Secretary of State considers this matter resolved.

Fish and Shellfish – Impacts to Herring

4.76. Given the proximity of the spawning grounds for the Downs herring stock to the Proposed Development, the consideration of effects on Downs herring was a key part of the Applicant's fish and shellfish assessment as presented in ES Chapter 11 Fish and Shellfish Ecology [APP-025] and a matter explored by the ExA during the Examination, notably regarding noise and suspended sediment impacts. The Applicant included a temporal restriction of piling activities as embedded mitigation, to reduce impacts to Downs herring, secured in the Outline Project Environmental Management Plan ("OPEMP") [REP6-027]. The ExA found that NE's main concern regarding the risk of potential damage to, or permanent loss of, a spawning area for Downs herring had been adequately addressed through the information within the ES and the level of mitigation combined [ER 5.2.293].

4.77. However, noting both comments from the ExA [ER 5.2.294] and NE [REP8-099], the Secretary of State provided the MMO with an opportunity in the first information request to comment further on the assessment in light of the progression of both herring heat mapping and hydrodynamic and dispersion modelling during the Examination, as well as NE's comments on the worst-case assessment for sediment deposition. The MMO in its response [C1-007] did not identify any material concerns with the assessment undertaken by the Applicant but reiterated the importance of the temporal piling restriction to mitigate underwater noise impacts. The Applicant also responded to further justify the validity of the assessment presented in ES Chapter 11 Fish and Shellfish Ecology [APP-025], and to highlight that no restrictions on cable construction activities in relation to herring spawning were required.

4.78. The ExA acknowledged that that the piling restriction is secured in the OPEMP but, in accordance with the advice from the MMO, also recommended that the piling restriction be secured in the DCO in the interests of providing the necessary ecological protection by

ensuring clarity and enforceability [ER 10.2.110]. Based on this recommendation, the Secretary of State in the first and second information requests consulted with the MMO and the Applicant on the dates for the piling restriction as well as the proposed condition wording. Both the MMO and the Applicant agreed that the piling restriction to cover the Downs herring spawning period is from 1 November to 31 January, unless otherwise agreed with the MMO. The MMO also confirmed its view that the condition was applicable to each DML (Schedules 8, 9 and 10).

4.79. The Secretary of State considers it is suitable in this case, in line with the recommendation from the ExA and the MMO, to include the temporal piling restriction within each of the DMLs and has secured this in Conditions 21, 22 and 21 in Schedules 8, 9 and 10 of the Order respectively, noting that the wording has been amended slightly from the ExA recommendation to align with the dates agreed by the MMO and the Applicant and to allow the condition to be applicable to all of the DMLs (including piling for substation or turbine foundations). No further mitigation or amendments are required, and the Secretary of State is satisfied that the Order secures the piling restriction necessary to reduce impacts to herring.

Offshore Ornithology

4.80. As noted by the ExA, the majority of offshore (and intertidal) ornithological issues in the Examination were HRA related [ER 5.2.220]. Through the information requests, the Secretary of State sought additional information and updates in relation to the displacement impacts on red throated diver ("RTD") and the compensation requirements for RTD in regard to the Outer Thames Estuary Special Protection Area ("SPA"), and a number of other species and designated sites. The Secretary of State's conclusions and rationale regarding these matters are presented in the HRA (published alongside this letter).

4.81. Regarding EIA matters, the Secretary of State notes the conclusions of the Applicant's ES and embedded mitigations for kittiwake, guillemot, razorbill, RTD, lesser black backed gull ("LBBG"), greater black backed gull ("GBBG") and gannet. For these species, the Applicant considers there to be no significant effects in EIA terms for the Proposed Development alone. Cumulatively, the Applicant, in the ES, concluded that there are moderate adverse effects (which could represent a significant effect in EIA terms) for GBBG, LBBG and kittiwake, but that for all other species cumulative effects were assessed as not significant in EIA terms. NE agreed with the Applicant's conclusions that there is a cumulative significant impact on LBBG. NE also stated that it has already identified significant adverse impacts at the EIA scale for gannet, kittiwake, GBBG, guillemot, razorbill and RTD from OWF projects in the North Sea, irrespective of the contribution of the Proposed Development [REP8-099]. As such, NE recommended that every effort is made to mitigate impacts.

4.82. The ExA gave considerable weight to NE's position and attributed moderate negative weight to the overall level of harm arising from ornithological related impacts, including its contribution to cumulative impacts [ER 5.2.241]. Regarding mitigation, the ExA considered that there would be demonstrable harm to various seabird species and noted that such harm, even with mitigation, would be unavoidable. The ExA considered that avoidance of harm through the embedded design mitigations had been appropriately addressed by the Applicant in accordance with good practice, as demonstrated in the ES. However, the ExA noted that no new project-specific mitigations were proposed by the Applicant [ER 5.2.239].

4.83. The Secretary of State has considered the residual effects and the application of the mitigation hierarchy. Paragraph 5.4.44 of NPS EN-1 stipulates that if significant harm to biodiversity resulting from a development cannot be avoided adequately mitigated, or, as a last resort, compensated for, the Secretary of State will give significant weight to any residual harm. As noted in the HRA, the Secretary of State has secured in the Order a seasonal restriction for the offshore export cable installation in regard to RTD disturbance in the Outer Thames Estuary SPA, plus a 2km buffer, which would also be of benefit at an EIA scale (Schedule 9, Condition 22 of the Order). The Applicant also updated the PEMP [C3-010] to align with this condition. The Secretary of State has also secured compensation under the Habitats Regulations for RTD, kittiwake, LBBG and guillemot (Schedule 15 of the Order). The Secretary of State is satisfied that no further mitigation or compensation is required or is feasible for the Proposed Development for offshore (or intertidal) ornithological impacts and agrees with the moderate negative weighting ascribed by the ExA [ER 5.2.241] and therefore ascribes a moderate negative weight to the matter in the overall planning balance.

Benthic and Intertidal Ecology Incorporating Marine Geology/Physical Processes

4.84. The Secretary of State notes that key issues regarding benthic and intertidal ecology, as well as marine geology/physical processes, relate to effects on benthic features of designated sites which are discussed in the Secretary of State's HRA and MCZA, as summarised within these sections of this letter. As such, this section focuses on any matters pertinent to the EIA, as well as overlap with mitigation and monitoring provisions secured in the Order.

4.85. The Secretary of State required in the first information request that the Applicant provide updated visualisations to aid the assessment of cumulative effects, by displaying the VEOWF offshore cable route (which is adjacent to the Proposed Development's). The Applicant updated ES Chapter 10 Figure 10.5 [APP-055] (and relevant figures in the Report to Inform Appropriate Assessment ("RIAA") [ERP7-013] and the Applicant's MCZA [APP-237]) in response. The Secretary of State is satisfied that no further action is required and that the CEA appropriately considers the location of other plans and projects.

4.86. Corresponding with NE concerns on the horizontal directional drilling design for onshore ecology, it is noted that the Applicant has committed to horizontal directional drilling under the intertidal zone at landfall. In response to the first information request regarding the validity of the worst-case scenario used and the need to secure survey work to inform detailed design, the Applicant contended that the outputs of the surveys and testing undertaken to date confirm that the realistic worst-case scenario has been robustly evaluated, taking into account the uncertainties of the design envelope, at the pre-application consultation stage and tested during the subsequent examination stage [C1-012]. The Applicant stated that any future offshore site investigation to refine the design, which would be undertaken via a separate marine licence or exemption, will show that the resulting effects of the final design all fall within the worst-case scenario evaluated and assessed as part of the ES. The Secretary of State finds this justification appropriate, and that no further action is required.

4.87. The ExA accepted that appropriate mitigation has been incorporated into the scheme design to avoid harm to benthic receptors as far as possible [ER 5.2.174] and that with the successful implementation of mitigation measures the Proposed Development would have no greater than minor adverse (not significant in EIA terms) effects on benthic and intertidal ecology during all project phases [ER 5.2.175] and no significant cumulative effects [ER 5.2.176].

4.88. The ExA also agreed that, with the implementation of mitigation measures, the Proposed Development would have no greater than negligible adverse (not significant in EIA terms) effects on marine geology and physical processes during all project phases and no significant cumulative effects [ER 5.2.178].

4.89. Through questioning in the further information requests, directed specifically at the assessment of indirect effects on the Kentish Knock East ("KKE") Marine Conservation Zone ("MCZ") and Margate Long Sands ("MLS") SAC, the Secretary of State is content that the Applicant's assessments are suitably robust and the worst-case is adequately defined in the RIAA, Applicant's MCZA and ES. He also considers mitigation as required is secured within the Order and Outline Sediment Disposal Management Plan ("SDMP") [REP8-045]. While the ExA was content with monitoring provided in the Offshore IPMP [ER 5.2.170], the Secretary of State, in accordance with advice provided by NE, considered that further clarity was required to secure provision for monitoring of sediment deposition to validate the Applicant's conclusions (in the ES, RIAA and MCZA). Following the updates made to the Offshore IPMP [C3-013], now reflected in Schedule 12 of the Order, in response to the second information request, the Secretary of State is satisfied that monitoring provisions are adequate and can be further detailed and agreed post-consent. The Secretary of State is also satisfied that no compensation and no further mitigation are required at this stage for the Proposed Development's impact on benthic features.

Monitoring for Offshore Ecology

4.90. The Secretary of State notes the amendments made to the Offshore IPMP [C3-013] by the Applicant post-examination, specifically for offshore bat monitoring and physical processes/benthic monitoring in response to the first and/or second information requests as discussed above. The Secretary of State also explored in both the first and second information requests the timescales required for post-construction monitoring of biogenic or geogenic reef features, having identified a lack of detail and clarity. Considering the responses from the MMO, NE and the Applicant, the Secretary of State considers that the required timings would relate to the purpose of the monitoring in question, i.e. if it were designed to establish disturbance from construction and/or habitat recovery.

4.91. While the Secretary of State acknowledges the MMO's view in its response to the second information request that this matter would be better resolved at this stage, he also notes a lack of clarity in the MMO responses. He further notes that the identification of any reef features (and their location relative to construction activity) would be established in pre-construction surveys, and it is considered by the Secretary of State that both the appropriate monitoring requirement and associated timings would be more effectively agreed post-consent in this case. The Secretary of State notes the amendments the Applicant has made to the Offshore IPMP and its willingness to accommodate as far as possible the MMO and NE requirements. Further, both the MMO and the Applicant highlighted the existing mechanisms within each DML to agree the timings of post-construction surveys, as well as through the pre-construction discharge process. The MMO in response to the second all-IP consultation was also content that the Offshore IPMP secures the agreement process for monitoring timings.

4.92. Applicable to all offshore monitoring, the Secretary of State in the first information request required the Applicant to include the provision for data-sharing within the Offshore IPMP, which must require the regular submission of all relevant monitoring data to the Marine Data Exchange (The Crown Estate) and relevant Local Environmental Records Centres. This was

committed to in section 3 of the Offshore IPMP by the Applicant in its response to the first information request [C1-023] and the Secretary of State considers data sharing is now suitably secured (with the updated Offshore IPMP reflected in Schedule 12 of the Order).

4.93. Finally, the Secretary of State considers that the overall package of monitoring presented in the Offshore IPMP is proportionate to the level of effects identified for the Proposed Development, and while the detail of monitoring is to be further developed and agreed post-consent it provides a reasonable basis to allow the timely approval of the Monitoring Plan. It is noted that the ExA, NE and MMO consider that further detail was required in the DMLs, for each stage of the monitoring conditions, to specify that monitoring will include benthic, ornithology and marine mammal monitoring but given the provisions made in the Offshore IPMP the Secretary of State does not consider, in this case, that this extra wording is required in the Order. However, the Secretary of State considers that monitoring for these topics will need to be undertaken and provides clarity below on his expectations for offshore monitoring overall, in line with the Offshore IPMP (noting that compensation monitoring is dealt with separately in the HRA and the Compensation Implementation and Monitoring Plan ("CIMP") for each relevant species).

- Marine Water and Sediment Quality – The Secretary of State considers that no specific monitoring is required.
- Fish and Shellfish – The Secretary of State considers that no specific monitoring is required, however, he provides separate commentary on commercial fisheries within this letter.
- Marine Geology, Oceanography and Physical Processes – Through the information requests the Secretary of State has ensured that there is suitable detail within the Offshore IPMP to provide proportionate monitoring, which will be undertaken pre- and post-construction. The monitoring focuses on geophysical surveys within the Order limits and at targeted locations (including around cable and scour protection, areas subject to sandwave levelling and the section of the offshore cable corridor adjacent to the MLS SAC) as well as the eastern part of the KKE MCZ within the predicted sediment deposition area. The Secretary of State considers the proposed monitoring is sufficient to validate the conclusions of the ES, MCZA and HRA. With the establishment of a mechanism to agree a threshold also now provided in the Offshore IPMP (following the second information request and updates made by the Applicant), the Secretary of State also considers that the proposed monitoring can also be used to trigger further monitoring and any need for adaptive management.
- Benthic and Intertidal – The Secretary of State agrees that geophysical and ground truthing surveys are required pre-construction to inform micro-siting requirements and will also be used to establish the monitoring needs and the timescales of monitoring required post-construction. The Secretary of State is also encouraged by the Applicant's proposal to validate predictions around Invasive Non-Native Species ("INNS") given the level of uncertainty/limited evidence. Finally, the Secretary of State is content, in line with the monitoring proposed above, that benthic community monitoring would be undertaken if changes to physical processes are identified, which would also establish the need for further monitoring and adaptive management.
- Marine Mammals – The Secretary of State considers that the noise monitoring proposed in the Offshore IPMP during construction is appropriately secured, including a requirement that piling should cease if noise levels exceed those predicted. The Secretary of State also supports the proposals made by the Applicant to provide

evidence in areas of knowledge gaps regarding underwater noise disturbance. While he considers the detail of monitoring is limited at this stage, the Applicant provides reasonable options to optimise the nature of this monitoring, and the Secretary of State considers that a proportional level of monitoring can be agreed post-consent. It is noted that, while this is included in the Offshore IPMP, the monitoring and reporting of mitigation measures will be agreed through the finalisation of the SIP and MMMP, and that this monitoring may also have some overlap with monitoring that could be used to support knowledge gap areas and monitoring will depend on the noise reduction measures applied.

- Offshore Ornithology – The Secretary of State notes that ornithological monitoring is proposed during operation to increase certainty of collision risk modelling parameters as well as pre- and post-construction surveys to determine RTD displacement effects in the Outer Thames Estuary SPA. Noting the level of disagreement between NE and the Applicant on the level of RTD displacement effects the Secretary of State considers that this monitoring could increase the evidence base on RTD disturbance (and collision risk monitoring would potentially help to progress collision risk assessments at an industry level). The Secretary of State notes that both monitoring proposals are expected to be delivered, with the detail to be developed to provide a proportional contribution to industry knowledge and maximise the effectiveness of the monitoring.
- Migratory Bats – The Secretary of State considers that the monitoring proposed for migratory bats is primarily designed to address evidence gaps or uncertainty (including collision risk); and is an area of research applicable on a regional scale. The Secretary of State is encouraged by the Applicant's inclusion of monitoring in the Offshore IPMP, and he considers this provides a proportional basis for the agreement of monitoring post-consent for the Applicant to contribute to the evidence base on migratory bat activity and their interaction with offshore wind turbines.

The Secretary of State's Conclusion

4.94. The Secretary of State is content, having amended the Order, that suitable mitigation is secured. Monitoring of environmental impacts is required by NPS EN-3 paragraphs 2.8.83-2.8.87. Suitable monitoring requirements are reflected in the proposals within the Offshore IPMP and the Secretary of State acknowledges that the Applicant, MMO and NE will finalise the details post-consent. As noted above, the Secretary of State, in considering residual effects, ascribes moderate negative weight to offshore and intertidal ornithology in the planning balance. For all other offshore ecology topics, in line with the ExA's recommendations, he ascribes limited negative weight.

<u>Landscape and Visual Effects</u>

4.95. The ExA considered the effects of the onshore works of the Proposed Development on landscape character and views, and the effectiveness of the mitigation proposals, with due regard to NPS EN-1, EN-3 and EN-5, and the LIRs [ER 4.6.2]. The Applicant's assessment of landscape and visual effects is set out in ES Chapter 30 Landscape and Visual Impact Assessment ("LVIA") [APP-044], with supporting documents including an OLEMS [REP7-027] and the Design Vision [REP5-004] [ER 4.6.3].

4.96. The Design Vision [REP5-004] sets out principles that would guide the post-consent detailed design process and includes details on likely plant species, specifications and details on planting areas through a Landscape Mitigation Plan, which seeks to integrate the OnSS into

the existing landscape and offer enhanced screening of the OnSS. Requirement 5 of the draft DCO requires that details of the OnSS must be substantially in accordance with the Design Vision [REP5-004] [ER 4.6.17 and 4.6.18]. Requirement 7 also requires that the proposed construction of the OnSS could not commence until a written landscaping scheme and programme in accordance with the OLEMS [REP7-027] has been submitted to and approved by the discharging authority in consultation with the relevant SNCB [ER 4.6.8].

4.97. The ExA was satisfied that the Applicant had undertaken an appropriate landscape and visual assessment and had adequately identified the effects of the Proposed Development alone and cumulatively on landscape and visual receptors, noting that NPS EN-1 acknowledges that virtually all NSIP projects have effects on the landscape and that all proposed energy infrastructure is likely to have visual effects for receptors around proposed sites [ER 4.6.111 and 4.6.112]. With regards to NPS EN-1 paragraph 5.10.34, the ExA considered that, for the onshore elements of the Proposed Development, the Applicant had sought to avoid harm to the purposes of designation and to minimise adverse effects on the Dedham Vale National Landscape, the only National Landscape within the LVIA study area, through the landscaping mitigations set out in the OLEMS [REP7-027] and the Design Vision [REP5-004] [ER 4.6.113].

4.98. The Secretary of State noted that in Table 30.2 of ES Chapter 30 LVIA [APP-044] the Applicant assumed, for the purposes of the assessment, that the likely significant environmental effects resulting from the decommissioning phase of the Proposed Development would not be any greater than those during the construction phase. However, the Applicant had not confirmed in ES Chapter 30 LVIA [APP-044] or the OLEMS [REP7-027] which elements of the Landscape Mitigation Plan would be retained or removed during the decommissioning of the OnSS. The Secretary of State was therefore concerned that the Applicant had not assessed the worst-case scenario and that there was a possibility that the Proposed Development could give rise to different likely significant landscape and visual effects should any planting need to be removed at the end of the operational life of the OnSS.

4.99. In the first information request, the Secretary of State requested the Applicant revise the OLEMS [REP7-027] and Table 30.2 in ES Chapter 30 LVIA [APP-044] to include realistic worst-case scenario parameters in terms of the elements of planting within the Landscape Mitigation Plan that would be retained or removed as a result of the decommissioning of the OnSS, and confirm whether this would give rise to any likely significant environmental effects that differ from those identified for the construction phase of the Proposed Development.

4.100. On 16 December 2025, the Applicant confirmed that no substantive elements of the Landscape Mitigation Plan relating to the OnSS would be removed because of decommissioning works. Whilst the detail of decommissioning activities is not known at this time, the Applicant stated that the activities of dismantling and removing the OnSS can be carried out without removal of substantive areas of planting. The removal of areas of woodland and other planting or habitat, which would be well-established by the end of the Proposed Development's lifetime, would not form part of the decommissioning proposals. Therefore, the updated decommissioning activities are likely to take place within a relatively screened area. The Applicant accordingly updated the OLEMS [C1-020] with this information. The Applicant did not consider it necessary to update Table 30.2 in ES Chapter 30 LVIA [APP-044].

The Secretary of State's Conclusion

4.101. Noting the Applicant's response to the first information request, and the amendments to the OLEMS [C1-020] which is reflected in Schedule 12 of the Order, the Secretary of State is satisfied that the likely significant landscape and visual effects of the decommissioning phase of the Proposed Development would not be any greater than those identified for the construction phase, for which some localised significant effects on landscape character and visual receptors would occur. The Secretary of State is content that the written landscaping scheme is secured under Requirement 7 of the Order, and that this must be in accordance with the OLEMS [C1-020]. Notwithstanding this, the Secretary of State agrees with the ExA's conclusions [ER 4.6.120] and ascribes limited negative weight to the limited and localised residual landscape and visual effects in the overall planning balance.

Seascape and Visual Effects

4.102. The Applicant's Seascape, Landscape and Visual Impact Assessment ("SLVIA") of the construction, operation and maintenance, and decommissioning of the offshore components of the Proposed Development is set out in ES Chapter 29 SLVIA [APP-043] [ER 5.4.3]. Additional submissions were also provided during the Examination including:

- Assessment of the Special Qualities of the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast - Technical Note (Rev 1) [REP5-038]; and,
- Position Statement on various issues relating to National Landscapes [REP5-068].

4.103. The ExA considered the SLVIA effects of the Proposed Development with due regard to NPS EN-1, EN-3, the relevant policies of the UK Marine Policy Statement, and the LIRs [ER 5.4.2].

Seascape, Landscape and Visual Impact Assessment Methodology

4.104. The Secretary of State notes that throughout the Examination, as recorded in its RR [RR-243], Deadline 8 submission and Risk and Issues Log [REP8-099], NE was not in agreement with the Applicant over the SLVIA methodology. This issue centred on NE's view that there was insufficient information within the Applicant's assessment to discount significant impacts on landscape and visual receptors within the Suffolk and Essex Coast and Heaths National Landscape ("SECHNL") and Suffolk Heritage Coast ("SHC"), and the implications for the special qualities of the SECHNL and special character of the SHC needed to be fully assessed [ER 5.4.55]. At the conclusion of the Examination, SCC also disagreed with the Applicant on this matter [ER 5.4.59]. The Statement of Common Ground ("SoCG") [REP8-068] confirmed that SCC's initial position regarding effects on National Landscapes was that it considered it unlikely that there would be significant effects on the SECHNL. However, following the publication of the Applicant's Technical Note [REP3-044] (updated at [REP5-038]), SCC also raised concerns over the methodology used by the Applicant regarding its assessment of the Proposed Development's impacts on the special qualities of the SECHNL [ER 5.4.60].

4.105. The Applicant's response to the concerns raised by NE and SCC was provided in various submissions, including [REP1-044] and [EV5-002], with its position based on the justification set out in ES Chapter 29 SLVIA [APP-043]. The Applicant considered that it had taken a precautionary approach to the assessment and in doing so, the scale of change on certain perceptual aspects of the special qualities of SECHNL was judged to be medium whilst other

special qualities would be unchanged [ER 5.4.56]. The Applicant stated that the geographical extent of the change would be small and limited to coastal areas within around 40km of the Proposed Development. As a result, the Applicant assessed that the Proposed Development would affect a very localised area of the coastal edge (between the River Deben and Orford Ness) of the SECHNL, which needed to be assessed in the context of the large-scale of the SECHNL [ER 5.4.57]. The Applicant considered that its assessment findings were in accordance with the recommendations set out in the 'Suffolk seascape sensitivity to offshore wind farms' report[6] and best practice guidance including the Guidelines for Landscape and Visual Impact Assessment 3 (2013)[7] ("GLVIA3") [ER 5.4.58].

4.106. Based on the evidence presented throughout the Examination, the ExA considered that the Applicant's assessment met the provisions of NPS EN-3 and was satisfied with the Applicant's approach to the SLVIA methodology [ER 5.4.61]. The ExA acknowledged the concerns raised by NE, but considered the information provided to be adequate, with the Applicant's Technical Note [REP5-038] providing reasoning which allows the series of medium-scale change effects on the special qualities of the SECHNL to be characterised as having a low magnitude of impact within ES Chapter 29 SLVIA [ER 5.4.62]. The ExA also considered that these assessments were robust, and in accordance with GLVIA3 and other best practice. The ExA therefore considered the Applicant's assessment to be sufficient to reach conclusions on certain perceptual aspects of the SECHNL special qualities [APP-043] [ER 5.4.62].

Effects on the Suffolk and Essex Coast and Heaths National Landscape and Suffolk Heritage Coast

4.107. A principal area of disagreement between the Applicant and IPs during the Examination was that the Applicant considered that the effects of the Proposed Development on the special qualities of the SECHNL would be of a visual nature only and confined to views from locations along the southern coastal edge of the SECHNL (between the River Deben and Orford Ness) [ER 5.4.71]. The Applicant's assessment concluded that there would be significant effects on visual receptors at three assessment viewpoints (VP8, VP9 and VP10) within the SECHNL and SHC and the users of the Suffolk Coastal Path, which represent higher sensitivity receptors at coastal locations along the south-facing section of the SECHNL and SHC [ER 5.4.67]. The Applicant's assessment also concluded that the Proposed Development would give rise to moderate-minor (not significant) effects on the special character of the SHC and moderate-minor (not significant) effects on three of the selected special qualities of the SECHNL, and by extension would therefore give rise to moderate-minor (not significant) effects on the Scenic Quality and Relative Wildness aspects of the natural beauty of the SECHNL [ER 5.4.101 and ER 5.4.102].

4.108. NE maintained throughout the Examination that the impacts of the Proposed Development on the natural beauty of the SECHNL and the special character of the SHC had not been fully assessed within the SLVIA [ER 5.4.63]. NE considered that impacts on the SECHNL and SHC were underestimated, and effects were understated in the Applicant's assessment [ER 5.4.68]. Furthermore, its view was that adding further offshore wind turbines into the seascape setting of the SECHNL and SHC would not conserve and enhance the natural beauty of the designation and neither would it positively contribute to the special character of the SHC, which in its view would be degraded further [ER 5.4.86].

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[6] White Consultants (2023) Suffolk seascape sensitivity to offshore wind farms (2023 Updated Addendum).

[7] Landscape Institute and IEMA (2013). Guidelines for Landscape and Visual Impact Assessment, 3rd Edition.

4.109. In the final SoCG [REP8-068], SCC disagreed with the Applicant's view that it is appropriate to reduce the materiality of impacts on special qualities of the SECHNL (particularly those arising in the coastal parts of the SECHNL with views out to the Proposed Development) by reference to the fact that they are only a part of the overall National Landscape. SCC considered that the materiality of an adverse impact on a special quality stands in its own terms, because each special quality is an intrinsic part of the National Landscape. SCC did not consider it appropriate to say that the effects on special qualities are diminished because the special qualities are only affected in certain areas [ER 5.4.70].

4.110. The ExA considered that, overall, visibility from the SECHNL would be limited to the open coastal edge and would only be visible in excellent visibility conditions. When visible, the Proposed Development would be seen in the context of large-scale coastal views and that expansive areas of sea and sky would remain [ER 5.4.83]. Although acknowledging its location within the National Landscape the ExA also noted that at VP8, access to this recreational receptor is restricted because it is a National Trust Nature Reserve accessed by a ferry [ER 5.4.75]. The ExA considered that, overall, the Proposed Development would not affect the immediate setting of the SECHNL as it would be seen on, and beyond, the horizon [ER 5.4.83]. The ExA also noted that no evidence or assessment to substantiate NE's difference of opinion on SLVIA effects was submitted, which left the ExA to draw its conclusions from the assessment submitted based on its inspection and the evidence presented [ER 5.4.83].

4.111. With regards to assessed effects on the special qualities of expansive views, seascapes and peace and tranquillity, the ExA agreed with NE and SECHNLP that there would be effects on these qualities, due to effects on visual amenity and landscape character. However, the ExA concluded that these would be moderate-minor and not significant in EIA terms. The ExA also considered that the geographical extent of adverse effects on designated landscapes would be relatively limited when considering the SECHNL and SHC designations as a whole. As such, it was the ExA's view that the Proposed Development would conflict with only a limited number of respective special qualities [ER 5.4.104]. The ExA also agreed that the special character of the SHC is closely related to the special qualities of the SECHNL. On this basis, the ExA agreed with the Applicant that effects on the special character of the SHC would be moderate-minor, which is not significant in EIA terms [ER 5.4.102].

4.112. Cumulatively, the Applicant's Technical Note [REP5-038] concluded that the total effects of all operational and proposed developments on the special qualities of the SECHNL and the special character of the SHC may be significant. However, the Applicant also considered that the contribution of the Proposed Development to this total effect would be limited due to the relatively modest horizontal extent of the wind turbines, when viewed from the north [ER 5.4.84]. The ExA agreed with the Applicant's CEA and considered that the views of the Proposed Development from the coast, including those from the Suffolk Coastal Path, would continue to provide large scale open views [ER 5.4.84].

4.113. The ExA also considered how the Applicant's proposed turbine layout and siting would minimise harm to the surrounding seascape, landscape, and visual amenity, as per the principles of paragraph 2.8 of NPS EN-3 [ER 5.4.105]. NPS EN-3 also recognises that changes to design and scale to achieve mitigation can significantly affect project output [ER 5.4.108]. The Applicant confirmed that the distance of the turbines from the coast is the principal mitigating factor for reducing visual effects, rather than the internal layout of the array itself [APP-043] [ER 5.4.107]. The ExA was satisfied that the Applicant had designed

both the siting and layout of the Proposed Development appropriately [ER 5.4.108]. As advised by paragraph 5.10.34 of NPS EN-1, visibility of a proposed project from within a designated area should not in itself be a reason for refusing consent. The ExA was satisfied that there was not likely to be a significant effect on seascape and landscape on the basis of the reduced blade tip height, and the distance from the coast combined with the removal of the northern array [ER 5.4.110].

The Duty to Seek to Further the Purposes of Protected Landscapes

4.114. The ExA agreed with NE, SCC and SECHLP that the Applicant should clearly set out how the Proposed Development would enable the decision-maker to comply with the duty to further the purposes of the SECHNL [ER 5.4.85]. The ExA sought further information in its Rule 17 letter of 6 June 2025 [PD-014] requesting that the Applicant clearly set out how the Proposed Development would enable the decision-maker to comply with the duty to further the purposes of the SECHNL, outlined within section 85 of the Countryside and Rights of Way Act 2000 ("CRoWA") [ER 5.4.86]. The ExA's Rule 17 letter acknowledged that the Applicant's view remained that the duty would be discharged without additional measures. However, this would ultimately be a matter of consideration for the Secretary of State. The ExA therefore requested, on a without prejudice basis, specific compensatory measures from the Applicant. It suggested that this could inform the development and delivery of a National Landscape Enhancement Scheme ("NLES") [ER 5.4.115].

4.115. In response to the ExA's Rule 17 letter [PD-014], the Applicant provided its 'without prejudice' NLES at Deadline 6 of the Examination [REP6-062] and updated it at Deadline 8 following feedback from IPs [REP8-052]. The Applicant's position remained that the duty imposed by Section 85 of the CRoWA would be capable of being discharged without the need for an NLES [REP8-036]. The Applicant proposed a without prejudice fund of £10,000 which it considered to be commensurate with the anticipated scale of effect of the Proposed Development on the special qualities of the SECHNL. It also stated that any projects or initiatives that would be delivered as part of the NLES should be selected at the discretion of the Suffolk and Essex Coast and Heaths National Landscape Partnership ("SECHNLP") [ER 5.4.117]. In response, the SECHNLP provided an alternative proposal [REP8-094] that proposed measures linked to the SECHNL management plan objectives. The submission included costed proposals totalling £469,264, which the SECHNLP considered would contribute to furthering the purpose of conserving and enhancing the natural beauty and special qualities of the SECHNL [ER 5.4.120].

4.116. The ExA noted the Applicant's conclusion that the Proposed Development would have less than significant effects on the landscape character and special qualities of the SECHNL. However, the ExA considered that the Proposed Development would result in residual harm to landscape receptors (at VP8, VP9 and VP10 within the SECHNL) which could not be adequately mitigated [ER 5.4.133]. Therefore, the ExA considered that the degree of residual harm would be such that it would be reasonable and appropriate to require additional measures in order to comply with the duty [ER 5.4.134]. The ExA considered that the NLES would not be capable of minimising or screening visual effects. However, it would secure a means whereby positive, and reasonably practical, relevant enhancement measures could be achieved for the future benefit of the SECHNL [ER 5.4.135]. The ExA was persuaded that the principles set out by the SECHNLP [REP8-094], which are costed and targeted on impacts to the special qualities, would bring forward relevant measures in appropriate locations that would be a proportionate response in the light of that harm [ER 5.4.135]. The ExA proposed wording for a new Requirement to secure the NLES and recommended that

the Secretary of State consult with the Applicant, the SECHNLP, SCC and ECC to secure a revised NLES, including a fund size commensurate with the level of harm [ER 5.4.139].

4.117. In the first information request, the Secretary of State requested the Applicant to update the NLES [REP8-052] to align it with the principles set out by the SECHNLP in [REP8-094]. The Secretary of State also requested the Applicant, SCC and ECC to comment on the costed proposals and revised fund recommendations provided in the SECHNLP's principles document [REP8-094]. In its response of 16 December 2025, the Applicant reiterated its position that the Applicant and the Secretary of State can discharge the duty based on embedded mitigation without the need to impose any additional measures or financial contributions [C1-014]. The Applicant did however, on a without prejudice basis, provide an updated version of [REP8-052] incorporating certain principles set out by the SECHNLP in [REP8-094]. Other principles were not accepted or adopted by the Applicant because it considered that they were either inappropriate or unreasonable and were not proportionate to the effects of the Proposed Development on the SECHNL. The Applicant proposed a revised fund of £50,000 payable directly to the SECHNLP [C1-014].

4.118. ECC and TDC responded to the first information request [C1-004], stating their support for the SECHNLP's principles document [REP8-094] and that its proposed costings appear to be reasonable and, compared to the amount proposed by the Applicant, would undoubtedly secure more resources in achieving the aims as outlined. In response to the first all-IP consultation, ECC and TDC argued that the Applicant's offered fund size of £50,000 is unlikely to adequately compensate for these impacts, particularly as visual quality contributes to a sense of wildness and tranquillity within the SECHNL [C2-004].

4.119. In its response to the first information request [C1-005], SCC stated it wholly supports the SECHNLP's proposal [REP8-094], which was developed in collaboration with SCC. SCC confirmed that it had not received further engagement from the Applicant following the submission of the proposal by the SECHNLP. SCC considered that the proposal meets the requirements of relevant policy, legislation and guidance to enable the duty to be discharged should impacts on the SECHNL's natural beauty be deemed to be fully captured by the Applicant's assessment. By contrast, SCC argued that, in its view, the link between the Applicant's proposal [REP8-052] and the impacts of the Proposed Development on the SECHNL's natural beauty is tenuous and insufficient to allow the duty to be discharged for reasons which include the fund size being insufficient to deliver meaningful enhancement. In response to the first all-IP consultation, SCC commented on the Applicant's first information request response [C1-014] stating that it does not consider that the Applicant's revised proposal meets policy and legislative requirements to allow the duty to be discharged. It also noted that the duty, as worded, is not restricted in its application only to effects deemed significant in EIA terms, the quantity, duration and scale of change of the identified adverse effects on the SECHNL's special qualities and natural beauty mean that the totality of harm is certainly not insubstantial. Therefore, it does not follow that no measures to offset them are required to satisfy the duty [C2-007].

4.120. The SECHNLP responded to the first all-IP consultation on 22 January 2026 [C2-002] welcoming the positions of SCC [C1-001] and ECC and TDC [C1-004]. The SECHNLP lead officer also provided a further response [C2-005] setting out comments on the Applicant's response to the first information request [C1-014]. The SECHNLP lead officer maintained that the Applicant's responses do not demonstrate an ability to maintain the duty. They also consider the duty to be an active one, requiring relevant authorities to "*seek to further the purpose*" when taking decisions that affect NLs, and that they do 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. The SECHNLP lead officer considered the SECHNL to be a single entity and that harm from a development, even where limited in scale and geographical area, is inconsistent with the statutory purpose of the SECHNL. Therefore, it does not consider a contribution of £50,000 to be proportionate. The SECHNLP lead officer also noted that any legal agreement to secure an NLES should include SCC, and funds for the delivery of the NLES should be paid to a suitable authority, such as SCC, for onward payment to the SECHNLP. This is because the SECHNLP cannot receive funds directly as it is not a legal entity. However, the SECHNLP requested that it should still be consulted on any agreement as it would be the delivery partner for any scheme.

The Secretary of State's Conclusion

4.121. The Secretary of State agrees with the ExA that the SLVIA methodology used by the Applicant is acceptable and meets the provisions of NPS EN-3. The assessment is also in line with the methodology set out in the Scoping Report with regards to following the GLVIA3 guidance. He also shares the opinion of the ExA that no evidence has been provided to substantiate NE's views that effects are underestimated by the Applicant.

4.122. With regard to minimising harm to the surrounding seascape, landscape, and visual amenity through design, the Secretary of State agrees with the ExA that the Applicant has designed both the siting and layout of the Proposed Development appropriately and in line with the principles of section 2.8 of NPS EN-3. In this regard the Secretary of State notes the reduced blade tip height, the removal of the northern array and the reduction of the total number of turbines from 72 to 57. Furthermore, the Secretary of State notes, as advised by NPS EN-1, that visibility of a proposed project from within a designated area should not in itself be a reason for refusing consent. The Secretary of State is satisfied that the Applicant has applied the mitigation hierarchy as far as possible to reduce the seascape, landscape and visual effects of the Proposed Development without significantly affecting the generating capacity of the Proposed Development.

4.123. The Secretary of State agrees with the Applicant's assessment that the residual significant effects of the Proposed Development are of a visual nature only and that adverse effects to landscape character and the special qualities of the SECHNL and the special character of the SHC are not significant. In relation to the susceptibility of the receptors affected, the Secretary of State takes note of the ExA's observation that access to the recreational receptor at VP8 is restricted because it is a National Trust Nature Reserve accessed by a ferry and therefore this reduces the susceptibility of the receptor, although its location within the National Landscape is acknowledged [ER 5.4.75]. Cumulatively, views from the coastal edge of the SECHNL are already influenced by existing operational OWFs, for which the additional effects contributed by the Proposed Development to the overall cumulative picture are judged to be not significant by the Applicant. The Secretary of State agrees with this assessment. In terms of the policy test set out in NPS EN-1 paragraph 5.10.8 and 5.10.34 which relates to projects outside the boundaries of nationally designated landscapes which may have impacts within them, the Secretary of State considers that the geographical extent of adverse effects on the SECHNL and SHC would be relatively limited, when considering the designated landscapes as a whole, along the south-facing coastal edge of the SECHNL and SHC. He also notes that the views of the Proposed Development from the coast, including those from the Suffolk Coastal Path, would continue to provide large scale open views, including when assessed cumulatively, as evidenced by the ExA's unaccompanied

site inspections [EV2-003] and the Applicant's assessment. He notes that no evidence was provided by the SECHNLP to substantiate its opposing view.

4.124. The Secretary of State notes the general duty of public bodies to seek to further the purpose of conserving and enhancing the natural beauty of an area of outstanding natural beauty, in accordance with section 85(A1) of the CRoWA (as amended by section 245 of the Levelling Up and Regeneration Act 2023). The NPPF also promotes the duty to protect and enhance landscapes, and Local Plan policies reiterate this. The Secretary of State has also had regard to the DEFRA publication Guidance for relevant authorities on seeking to further the purposes of Protected Landscapes (2024).[8] This advises that a relevant authority should take appropriate, reasonable, and proportionate steps to explore measures which further the statutory purposes of Protected Landscapes as far as reasonably practical and operationally feasible. NPS EN-1 paragraph 5.10.7 also states that the Secretary of State should be satisfied that measures which seek to further purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development. In considering this matter, the Secretary of State has also had regard to the representations made by IPs during and after the conclusion of the Examination. The Secretary of State agrees that the duty should be considered an active one and that, as worded, the duty is not restricted in its application only to effects deemed significant in EIA terms. The Secretary of State has carefully considered the evidence presented, including the Applicant's assessment, representations from IPs, the findings of the ExA, and the relevant statutory and policy framework. The Secretary of State agrees with the ExA that the duty does not require these purposes to be achieved but provides that the relevant authority must seek to further and enhance them. The Secretary of State also notes that the purpose of conserving and enhancing should be considered as disjunctive rather than conjunctive.

4.125. Due to the residual harms on the SECHNL, the Secretary of State agrees with the ExA that there should be consideration of how the Proposed Development would enable the decision-maker to comply with the duty. The Secretary of State notes that a development of this scale, by its very nature, will struggle to conserve or enhance the special qualities of the SECHNL in terms of landscape and scenic qualities. The Secretary of State accepts that the Applicant has aimed to avoid, as far as possible, compromising the purposes of designation whilst having regard to various siting, layout, operational, and other relevant constraints. The Secretary of State has taken into consideration the design measures applied by the Applicant to mitigate seascape and visual effects, whilst maintaining the operability of the Proposed Development. These have included the removal of the northern array which has increased the separation distance to the SECHNL, the reduction in blade tip height, and the reduction of the total number of turbines from 72 to 57. The Secretary of State has also taken into consideration that the Applicant's assessment assesses a worst-case scenario, which concludes that visibility of the Proposed Development from the SECHNL would be limited to the open coastal edge of the SECHNL and the Proposed Development would only be visible in excellent visibility conditions. When visible, the Proposed Development would be seen in the context of large-scale coastal views and that expansive areas of sea and sky would remain. Therefore, the intervisibility between the Proposed Development and the SECHNL would be limited.

[8] https://www.gov.uk/government/publications/the-protected-landscapes-duty/guidance-for-relevant-authorities-on-seeking-to-further-the-purposes-of-protected-landscapes

4.126. Having regard to the nature of the Proposed Development and the absence of obligations under section 85(A1) of the CRoWA or NPS EN-1 to secure an improvement to the SECHNL or avoid any harm whatsoever, the Secretary of State considers that the Applicant has explored and applied appropriate, reasonable and proportionate measures to conserve the special qualities of the SECHNL in line with the DEFRA guidance and NPS EN-1 paragraph 5.10.7. The Secretary of State considers that the duty can be discharged on the basis of embedded mitigation measures. Actions taken to date on embedded mitigation would contribute to a continued conservation of the special qualities of the SECHNL, and in that way continue to be active in discharging the duty to seek to further the purpose of conserving the natural beauty of the special qualities of the SECHNL. Accordingly, the Secretary of State disagrees with the ExA and considers that the duty can be discharged without the need for further mitigation measures or enhancement in the form of compensatory financial contributions. Any such additional measures would be disproportionate as the Secretary of State considers that the duty to conserve and enhance does not require all adverse effects to be offset by enhancement measures.

4.127. Noting the above, the Secretary of State attributes moderate weight to the adverse effects on seascape, landscape and visual matters relating to the Proposed Development against the Order being made, having regard to the significance of effects on the assessed VPs within the SECHNL and the resulting residual, albeit not significant, effects on the special qualities of SECHNL and the special character of SHC identified.

Noise and Vibration

4.128. The ExA considered that the Applicant adequately assessed the effects of noise and vibration, both for the Proposed Development alone and cumulatively, as required in section 5.12 of NPS EN-1 [ER 4.7.75]. The ExA also considered that the mitigation hierarchy has been applied and that the requirements of NPS EN-1, NPS EN-3 and NPS EN-5 have therefore been met [ER 4.7.76]. Subject to the application of the embedded mitigation measures and mitigation measures contained in the OCoCP [REP7-025] and Outline Construction Traffic Management Plan ("OCTMP") [REP8-013], the ExA was satisfied that significant adverse effects would be avoided as required by paragraph 5.12.17 of NPS EN-1, and that other adverse impacts would be mitigated and minimised [ER 4.7.75]. Nonetheless, the ExA was of the view that some residual harm (not significant) from noise associated with the Proposed Development would still accrue to sensitive receptors, primarily during the construction phase, and therefore concluded that matters relating to noise should carry little negative weight in the planning balance [ER 4.7.79].

Construction Noise – Adequacy of Monitoring and Mitigation

4.129. The ExA noted, as recorded in the SoCG [REP8-060], that ECC and TDC disagreed with the Applicant's definition of high impact activities referred to in section 1.3.1 of the OCoCP [REP7-025] [ER 4.7.33]. Although the Councils noted that the definition had been expanded in the [REP6-034] version of the document, they argued that to protect amenity, these should also include noise/heavy machineries like excavators, cranes, saws, sanders or grinders etc. [REP8-060].

4.130. The ExA acknowledged that the period of 1300 to 1900 on a Saturday is classed as the evening period in ES Chapter 26 Noise and Vibration [APP-040] and therefore is subject to more stringent construction noise limits than the daytime. This is reflected in paragraph 49 of the OCoCP [REP7-025], which specifies that no high impact activities would take place

over this period unless required in certain circumstances [ER 4.7.36]. However, the ExA noted that although the construction noise levels for high impact activities are properly defined in sections 26.4.3.3 to 26.4.3.4 in ES Chapter 26 Noise and Vibration [APP-040], the same level of detail is not included in the OCoCP [REP7-025] [ER 4.7.37].

4.131. In the first information request, the Secretary of State requested that the Applicant revise the OCoCP [REP7-025] to include the full definition of high impact activities as defined in sections 26.4.3.3 to 26.4.3.4 of ES Chapter 26 Noise and Vibration [APP-040] for construction noise levels and section 26.4.3.5 of ES Chapter 26 Noise and Vibration [APP-040] for construction vibration levels, to aid the enforcement of paragraph 50 of the OCoCP [REP7-025].

4.132. On 16 December 2025, the Applicant confirmed that it had revised section 1.3.1 of the OCoCP [C1-022] to include a wider definition of high impact activities and that these activities would not take place between 1300 – 1900 on Saturdays, unless required by the circumstances set out in paragraph 51 of the OCoCP [C1-022] or where it is demonstrated in the final CoCP that the associated noise and vibration impacts would not be significant, in accordance with the construction noise and vibration thresholds set out in Tables 26.7 and 26.12 respectively of ES Chapter 26 Noise and Vibration [APP-040]. Noting the Applicant's response, the Secretary of State is satisfied that this matter has been resolved.

4.133. The Secretary of State also noted that the Applicant's OCoCP [REP7-025] did not include provisions for noise monitoring, which could give rise to the potential risk that there would be no means of determining whether the noise levels limits committed to by the Applicant are being complied with during the construction phase. Under British Standard ("BS") 5228, monitoring of on-site noise levels is regarded as essential and must be implemented to ensure that noise limits are not exceeded. NPS EN-1 paragraph 5.12.9 states that the principles of the relevant BSs, including BS 5228, should be used for the management of construction noise. NPS EN-1 paragraph 5.12.18 also states that the Secretary of State should consider putting in place requirements to ensure that noise levels do not exceed the limits specified in the development consent.

4.134. In the first information request, the Secretary of State requested the Applicant to revise the OCoCP [REP7-025], in accordance with BS 5228, to require continuous noise monitoring during construction and ensure that the noise level limits committed to are complied with, with the locations and reporting of such monitoring to be agreed with the relevant planning authorities.

4.135. On 16 December 2025, the Applicant confirmed that a description of the noise monitoring to be undertaken during construction in accordance with BS 5228 had been added to the noise and vibration section of the OCoCP [C1-022] and that relevant monitoring locations and reporting practices would be agreed with the relevant planning authorities. Noting the amendments made and with the updated OCoCP [C1-022] reflected in Schedule 12 of the Order, the Secretary of State considers that this matter has now been resolved.

Operational Noise Effects from the Substation

4.136. IPs, including Little Bromley Parish Council, ECC and TDC, raised concerns in relation to cumulative noise from the Proposed Development and VEOWF's OnSSs and the EACN [ER 4.7.64 and ER 4.7.67]. In response, the Applicant noted that the design of noise mitigation measures would not need to take account of the cumulative effects of the VEOWF and

EACN designs, as specific limits would be assigned to each substation and would need to be complied with, ensuring that cumulative noise from all three substations would not exceed a rating level of 35 decibels ("dB") [ER 4.7.65].

4.137. The Applicant also responded that Requirement 17 of the draft DCO [REP8-005] sets out operational noise limits for a number of receptors and stated that prior to commencement of the operation of the OnSS, the noise investigation protocol must be submitted to and approved by the discharging authority [ER 4.7.66]. In the SoCG [REP8-060], ECC and TDC confirmed that the OnSS's operational noise and the outline noise complaints protocol had not been agreed, including the proposed timeframe for undertaking investigations of possible noise level breaches, that the investigation approach should apply to the entire operational period of the substations, and that no joint panel approach had been proposed between the Applicant, VEOWF Limited and NGET to address cumulative operational noise complaints [ER 4.7.70].

4.138. The ExA considered both ECC/TDC's and the Applicant's responses [REP8-044] and was persuaded by ECC's case for the need for a joint approach between the three operators to investigate noise, in order to ensure accountability for any cumulative operational noise complaints [REP8-101]. Consequently, the ExA agreed with the wording proposed by ECC [REP6-081] and recommended amendments to Requirement 17 [ER 4.7.73].

4.139. The Secretary of State has considered the ExA's conclusions and recommended amendments to Requirement 17. The Secretary of State also notes the Applicant's submission that the wording of the requirement needs to be consistent across all three relevant DCOs in order to operate effectively [REP7-051]. The Secretary of State notes that, following the Examination, wording for this requirement was agreed between the Applicant, VEOWF Limited and NGET during the decision stage of VEOWF. This amended requirement wording provides a process to investigate cumulative operational noise and required the final noise investigation protocol to be approved by the discharging authority. Having considered the wording of the requirement in the VEOWF DCO the Secretary of State considers that it is also appropriate for similar wording to be included in the Order and has therefore inserted that provision into Requirement 17 of the Order, ensuring that the noise investigation protocol sets out a practical process for the investigation of cumulative operational noise. The Secretary of State considers that this matter has now been resolved.

The Secretary of State's Conclusion

4.140. Noting the Applicant's response to the first information request, and the amendments to the Order and the OCoCP, the Secretary of State agrees with the ExA that some residual harm (which is not significant in EIA terms) from noise associated with the Proposed Development would still accrue to sensitive receptors, primarily during the construction phase. Therefore, the Secretary of State agrees with the ExA's conclusion [ER 4.7.79] and considers that limited negative weight should be ascribed to matters related to noise and vibration in the overall planning balance.

<u>Commercial Fisheries</u>

4.141. The Secretary of State required further clarification on the details in the Outline Fisheries Liaison and Coexistence Plan ("FLCP") in terms of how it would be developed post-consent. In the first information request, the Secretary of State requested the Applicant to confirm the mitigation commitments made in the Outline FLCP and the process for developing the

alternative measures referred to in the SoCG [REP8-062] with the Commercial Fisheries Working Group ("CFWG") post-consent. The Secretary of State also requested the Applicant to confirm how the Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds (Fisheries Liaison with Offshore Wind and Wet Renewables Group ("FLOWW") 2015) was considered in the Outline FLCP.

4.142. In the Applicant's response of 16 December 2025 [C1-014], it stated that the alternative measures in the SoCG with the CFWG included that CFWG requested fishing vessels engaged in fishing be provided priority over survey vessels as far as possible. While the Applicant could not fully accommodate the request from the CFWG due to the potential health and safety risks, it highlighted the additions made to the Outline FLCP at Deadline 7 in order to minimise disruption to vessels actively engaged in fishing as well other embedded mitigation measures such as the efficient distribution of information. No comments on this matter were provided from CFWG or other IPs in any of the all-IP consultations, however, Harwich Harbour Fisherman's Association (part of the CFWG) did further outline their objections to the Proposed Development in a post-examination submission [PID-003].

4.143. The Applicant also noted that the SoCG with the CFWG referenced the exploration of measures regarding science projects and monitoring, but that these were yet to be discussed and were therefore not included as part of the Outline FLCP. The Secretary of State also notes that the Offshore IPMP [C3-013] refers to the Outline FLCP in regard to monitoring; however, it is not apparent that monitoring is detailed within this document, apart from reference to the duties of the Fisheries Liaison Officer, which include monitoring fishing activities.

4.144. The Applicant also clarified that the Outline FLCP [REP7-021] confirms that the FLOWW guidance[9] has been considered and that the final FLCP will take account of the latest guidance as applicable.

4.145. The MMO, in its response of 16 December 2025 to the first information request [C1-007], stated that the FLOWW guidance has been updated[10] but noted that this may be too recent to be considered at this stage. In response to the first all-IP consultation, the Applicant stated that it was aware of the updated guidance released in November 2025 [C2-010]. The Applicant referred in its response to the first information request of 16 December 2025 and stated this confirmed the FLCP developed post consent would take into account the latest guidance as applicable. In response to the second information request, the MMO provided a response on 16 February 2026 [C3-005] in which it stated that it welcomed the Applicant's response to the first information request confirming that the final FLCP would take in account the latest guidance as applicable. The MMO stated it had no further comments.

The Secretary of State's Conclusion

4.146. The Secretary of State is satisfied with the Applicant's response on the Outline FLCP and notes that it will be regulated by the approval of the FLCP post-consent, as mirrored by the

[9] Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds Fisheries Liaison with Offshore Wind and Wet Renewables Group (FLOWW, 2015)

[10] https://www.thecrownestate.co.uk/our-business/marine/the-fishing-liaison-with-offshore-wind-and-wet-renewables-group

MMO comments in its response to the second information request, which confirms that the Applicant will take account of the latest guidance as applicable in the development of the FLCP post-consent. However, the Secretary of State notes the lack of clarity upon which discussions around monitoring and additional measures would be facilitated post-consent. The Secretary of State considers that while no specific monitoring for commercial fisheries has been identified at this stage, other monitoring (such as the vessel traffic monitoring (included in APP-256) and cable burial monitoring (REP8-047) may be relevant to commercial fisheries and references to monitoring should be considered as part of the development of the FLCP post-consent, including discussion with the CFWG. Given concerns around the detail provided in the Outline FLCP the Secretary of State has amended Conditions 21, 22 and 21 in Schedules 8, 9 and 10 respectively of the Order to include that the final FLCP must include details of any monitoring being undertaken and engagement with commercial fishery stakeholders.

4.147. The Secretary of State agrees with the little negative weighting ascribed by the ExA [ER 5.1.64] and therefore ascribes limited negative weight to the matter in the overall planning balance.

Navigation and Shipping

Galloper Recommended Route

4.148. The array area for the Proposed Development, which would be 95km^2 in size and approximately 40km off the East Anglia coastline in the southern North Sea intersects the Galloper recommended route ("GRR") [ER 1.3.4]. The GRR is an International Maritime Organization ("IMO") adopted routeing measure introduced in 2007 as a component of the wider Sunk routeing measures scheme to provide a shortcut for use by ferries to or from Ostend, Belgium [ER 5.3.7].

4.149. The Applicant considered that data analysis and consultation on the GRR indicated that the route has low usage and is no longer used for its original purpose and therefore proposed its removal to facilitate the Proposed Development [ER 5.3.22]. The ExA noted that the Applicant conducted an additional navigation and environmental risk assessment on alternative routes that vessels could take to Belgian ports and that this assessment was accepted by the Maritime and Coastguard Agency ("MCA") [ER 5.2.23]. The ExA stated that it agreed with the MCA that data analysis and consultation undertaken for the GRR demonstrated that the usage is low and that there are safe and viable alternative routeing options [ER 5.3.42]. The ExA stated that the Belgian maritime administration indicated it could support the removal of the GRR [ER 5.3.23].

4.150. The MCA explained that the removal of the GRR is a multiple step process that would require a submission of the request to the IMO [ER 5.3.23]. The MCA's final signed SoCG [REP8-058] shows that generally all matters relating to the GRR were agreed, except for the earliest timing for a submission to propose the formal removal of the route to the Navigation, Communications and Search and Rescue ("NCSR") [ER 5.3.38].

4.151. In the first information request, the Applicant and the MCA were requested to confirm if the removal of the GRR had been raised at the 2025 Autumn UK Safety of Navigation Committee ("UKSON") session and provide a timeline detailing when the GRR removal was expected to be approved. The MCA responded on 8 December 2025 [C1-003], confirming that the proposal to remove the GRR was presented by the MCA at the UKSON meeting

held on 16 October 2025 and no objections were raised. The MCA stated that the committee agreed a submission could be made to the IMO provided that the Proposed Development received ministerial development consent first.

4.152. The MCA further added, should the Proposed Development receive ministerial consent, that a joint proposal from UK and Belgium (lead by the Department for Transport/MCA) will be submitted to the secretariat of the annual Experts Group on Ships Routing at the IMO's sub-committee on Navigation, Communication and Search and Rescue ("NCSR") 14, six months in advance of the meeting expected in May/June 2027. The MCA stated that this is in accordance with the published IMO procedure detailed in MSC.1/Circ.1608, which allows IMO members sufficient time to review the proposal before the NCSR sub-committee meeting. The MCA explained, assuming the Experts Group (NCSR) agree to the removal of the GRR i.e., no objections from any IMO member, that the proposal will be submitted to the subsequent Maritime Safety Committee ("MSC") for ratification, expected in May 2028. The MCA stated that once the proposal to remove the GRR is accepted by the MSC, the removal of the GRR would be in force within 6 months (i.e., by November 2028). The MCA added that IMO will expect the GRR to be respected until the ratification is in force.

4.153. In its response to the first information request, the Applicant provided an update [C1-014] which aligned with the details provided by the MCA to the first information request and further stated that it was confident the proposed removal of the GRR will be ratified by the IMO following the application.

DCO Requirement

4.154. The MCA explained [REP5-100] that although the route might be considered of reduced strategic importance it still retained its status as a recognised sea lane currently in use for international navigation. The MCA therefore proposed a requirement to ensure that no offshore construction that directly interacts with the GRR would commence before the removal of the GRR would be in force. The MCA therefore provided its proposed wording for the requirement in REP4-080 [ER 5.3.27]. This requirement wording was as follows:

> *"Offshore construction activity may not commence until confirmation has been received in writing from MCA that the removal of the Galloper Recommended Route has been approved by the International Maritime Organization."*

4.155. The Applicant stated that it did not consider MCA's requirement pragmatic considering the nature and infrequent use of the GRR and set against the urgent need for Critical National Priority ("CNP") Infrastructure such as the Proposed Development. Nonetheless, the Applicant provided alternative wording for the requirement in AS-054 [ER 5.3.31]. The MCA subsequently provided comments on this wording which the Applicant accepted, and this was incorporated into Schedule 1, Part 3 of the draft DCO [REP7-007], shown as Requirement 30 [ER 5.3.32]. This provided that:

> *"30.— (1) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not commence any part of Work No. 1 or Work No. 2 until the MSC has ratified the proposal to remove the Galloper recommended route.*
>
> *(2) Unless otherwise agreed by the Secretary of State in consultation with the MCA, the undertaker must not install any surface-piercing infrastructure forming*

part of Work No. 1 or Work No. 2 until the MSC resolution to remove the Galloper recommended route has come into force.

(3) Sub-paragraphs (1) and (2) are subject to sub-paragraphs (4) and (5).

(4) If at any time the Secretary of State, in consultation with the MCA, approves a layout for Work Nos. 1 and 2 which safeguards sufficient sea space to allow vessels to continue to safely navigate via the Galloper recommended route, the restrictions in sub-paragraphs (1) and (2) do not apply.

(5) If the Secretary of State's agreement or approval is obtained pursuant to subparagraphs (1), (2) or (4) above, the undertaker must install any infrastructure in accordance with the terms and conditions of any such agreement or approval."

4.156. The ExA considered that a requirement was necessary and reasonable given the MCA's view that the GRR's status as a recognised sea lane is adopted by the IMO and is currently in use for international navigation, and that there would be implications for navigational safety from the installation of surface piercing infrastructure associated with the Proposed Development [ER 5.3.44].

4.157. The ExA noted that the proposed Requirement 30 included a provision for the Secretary of State, in consultation with the MCA, to approve a layout for the array area which safeguards sufficient sea space to allow vessels to continue to safely navigate via the GRR. The ExA stated that it had requested the Applicant to provide a layout at issue specific hearing 2 and in a Rule 17 request, but that this was not provided by the Applicant. Consequently, the ExA stated that it had no information on the overall width of a corridor that would need to be retained through the array area to safeguard the existing GRR [ER 5.3.46]. The ExA therefore expressed the following concerns in the case that the GRR would be retained:

- *"How a safeguarded route through the array area could affect the risk to navigational safety;*
- *whether any additional mitigation would be required for navigational safety. In particular, whether further obstacle free zones for navigational safety would be required under R30 in the DCO; and,*
- *how the reduction in the 95km^2 array area would affect the Proposed Development's generating capacity, and in turn its need case and the overall planning balance."*

4.158. The ExA noted that if the provision for a safeguarded route is removed from Requirement 30, the consequence would be that in the event that the removal of the route is not approved by the IMO, the Proposed Development would be unable to proceed, unless otherwise agreed by the Secretary of State in consultation with the MCA. However, the ExA was mindful of the Applicant's position [REP6-063] that in those circumstances, the Proposed Development's business case indicates it would likely not be viable from a commercial perspective, because of the reduction in generating capacity resulting from the need to retain a corridor for the GRR. The ExA considered that, whilst the Applicant had subsequently agreed to the requirement, it had not explained how the requirement to retain the corridor would be accommodated, and how the Proposed Development would remain feasible and viable [ER 5.3.47].

4.159. The ExA therefore concluded that proposed Requirement 30 introduced a high degree of uncertainty regarding the implications for navigational safety and generating capacity and considered that the version of Requirement 30 previously agreed by the MCA should be

applied. This version excluded the provision for an alternative layout in which the GRR is retained and approved by the Secretary of State in consultation with the MCA. The ExA expressed that the Secretary of State *"may wish to seek the views of the MCA and the Applicant as to the full implications of a requirement that includes provision for a safeguarded route as agreed by them in the SoCG"* [ER 5.3.48].

London Gateway Port Ltd and Port of London – Protective Provisions

4.160. The ExA noted a disagreement during the Examination between the Applicant, the London Gateway Port Ltd ("LGPL") and the Port of London ("PLA") in relation to the inclusion of Protective Provisions ("PPs") in the draft DCO. The LGPL and the PLA considered the PPs were required due to a number of factors which included but not limited to: the need for a remediation clause; and the need to ensure that their statutory undertakings would not be impeded [ER 5.3.49 et seq.]. The Applicant's view was that the PPs were not necessary or appropriate based on the following reasons: there would be no detriment to any statutory undertaking; the MMO is the appropriate regulator; the PPs would be unnecessary duplication of control; and the PPs would be unprecedented [ER 5.3.51].

4.161. The ExA concluded that the need case put forward by the LGPL and the PLA in relation to their need to protect their statutory undertakings of operating and maintaining their ports, including their reliance on the deep water routes ("DWRs"), was more robust and persuasive than the Applicant's case against the inclusion of the PPs [ER 5.3.63]. The ExA included LGPL's and PLA's PPs in the recommended Order [ER 5.3.64].

4.162. In the first information request, the LGPL, the PLA and the Applicant were requested to provide an update on any further agreement regarding PPs. In the Applicant's response of 16 December 2025, the Applicant stated that there was no further update to be provided and that its position remained as it was at the close of the Examination: it had engaged with the LGPL and the PLA, respectively, and addressed the issues raised through a series of updates to the draft DCO and DML. In reference to both parties, the Applicant stated that the updates included, but was not limited to, Requirement 2(3) of the draft DCO and Condition 22(1) of Schedule 9 (Document Reference 6.1, Rev 10). The Applicant reiterated its position that no PPs were required on the basis that imposing PPs would be unnecessary and excessive, as this would duplicate the controls contained in the draft DCO/DMLs, and referred to its provision of the without prejudice PPs at the close of the Examination in document REP7-059.

4.163. In its response to the first information request, the LGPL provided a response on 19 December 2025 [C1-038] stating that it set out its position at the close of the Examination in document REP8-088; namely that it did not agree with the form of the PPs submitted by the Applicant and, instead, required PPs in the form set out in REP7-079. The LGPL stated that it had heard nothing further from the Applicant since the close of the Examination. The LGPL explained that it had contacted Pinsent Masons LLP, who acts on behalf of the Applicant, on 5 December 2025, and was informed that the Applicant's position remained that no PPs are required for the LGPL and, as such, the Applicant did not intend to negotiate the form of the PPs with the LGPL. The LGPL reiterated its position that the form of the PPs set out in REP7-079 is required.

4.164. In its response to the first information request, the PLA provided a response on 16 December 2025 [C1-006], stating that the Applicant had not been willing to engage further on the form of the PPs for the benefit of the PLA. The PLA stated that its position on the Without Prejudice

Ports Protective Provisions in [REP7-059], as set out in its closing submission [REP08–090], remained unchanged and that the draft DCO should at least include PPs included by VEOWF and the necessary updates which were included in the PLA's response to Q9.3.3 (Appendix to REP7-093). The PLA also noted that active discussions were taking place with NGET on the Sea Link DCO, where it had been agreed that PPs would be included within that DCO.

4.165. In response to the first all-IP consultation, the Applicant provided a response on 21 January 2026 [C2-010]. In this response the Applicant reiterated its position it provided during the Examination and to the first information request, in respect to the LGPL's and the PLA's request for PPs. In addition, in response to the PLA's response to the first information request, the Applicant stated that the position that other projects may volunteer or agree is not relevant.

Harwich Haven Authority

4.166. The Harwich Haven Authority ("HHA") had concerns that an unacceptable level of navigational risk would be caused by the works for the Proposed Development working concurrently with Restricted Ability to Manoeuvre ("RAM") works already planned by the VEOWF, Sea Link and Tarchon project developers (or other development projects) in the Sunk area [ER 5.3.72]. The representation from the HHA included a request for the controls over concurrent construction and maintenance RAM operations in the Sunk area to be explicitly secured within the DCO itself, rather than being embedded solely within associated certified documentation [ER 5.3.74].The ExA noted that the PPs for the HHA had not been included in the draft DCO and had not been agreed in the HHA's final signed SoCG [ER 5.3.78].

4.167. The ExA therefore recommended the right of approval of the mitigation plans to be offered to the HHA through the agreement of PPs. The ExA stated that the right of approval of the mitigation plans would provide the HHA the control it was seeking over concurrent construction and maintenance RAM operations in the Sunk area [ER 5.3.80]. The ExA recommended that the Secretary of State may wish to consult the HHA and the Applicant to seek an agreed form of wording for PPs to include the HHA's right of approval of the mitigation plans and the use of arbitration to resolve disputes [ER 5.3.80].

4.168. In the first information request, the HHA and the Applicant were requested to provide wording for PPs to address navigational safety in the Sunk area. In the Applicant's response of 16 December 2025, the Applicant stated it had agreed with the HHA that the control of concurrent RAM operations in the relevant Sunk area can be secured by Condition 22(1)(n), Schedule 9:

> *"(n) a navigation and installation plan for the relevant stage which accords with the principles set out in the outline navigation and installation plan and which must include details of any controls over RAM vessels concurrently working within the area shown on the Deep Water Route Cable Installation Area (Future Dredging Depths) Plan coloured blue and labelled the Area For Controls For RAM Vessels*".

4.169. The Applicant confirmed that the condition and the extent of the area (as shown on the updated Deep Water Route Cable Installation Area (Future Dredging Depths) Plan (Document Reference 9.57, Rev 2) where the controls operate have been agreed between the Applicant and HHA, and this resolves the matter of navigational safety in the Sunk area.

The Secretary of State's Conclusion

4.170. The Secretary of State notes that paragraph 2.8.183 of NPS EN-3 stipulates that there may be some situations where reorganisation of shipping traffic activity might be both possible and desirable when considered against the benefits of the wind farm and/or offshore transmission application. He notes that the data analysis and consultation by the Applicant on the GRR indicated that the route has low usage and is no longer used for its original purpose [ER 5.3.22]. Furthermore, he notes that the ExA stated that it agreed with the MCA that the data analysis and consultation undertaken for the GRR demonstrated that the usage is low and that there are safe and viable alternative routeing options [ER 5.3.42]. Therefore, the Secretary of State finds that the proposal to remove the GRR is in accordance with paragraph 2.8.183 of NPS EN-3.

4.171. The information from the Examination and provided to the Secretary of State through the information requests and consultations indicated that the removal of the GRR can be implemented and be in force to enable the Proposed Development to be constructed and to operate. This includes confirmation that the proposal to remove the GRR was presented by the MCA at the UKSON meeting held on 16 October 2025 and no objections were raised. Furthermore, during the Examination the Belgian maritime administration indicated it could support the removal of the GRR [ER 5.3.23]. The Secretary of State however is cognisant that the removal of the route is a multi-step process that would take place in the forthcoming years. On balance, the Secretary of State considers the removal of the GRR is feasible and important key steps have been taken towards its implementation and thereby this would facilitate the construction and operation of the Proposed Development.

4.172. In regard to Requirement 30 and the provision for a safeguarded route in the event that the GRR removal was not approved, the ExA noted that a consequence of removing the provision for a safeguarded route would be that in the event that the removal of the route is not approved by the IMO, Works No.1 and No.2 could not be commenced unless otherwise agreed by the Secretary of State in consultation with the MCA [ER 5.3.122]. The Secretary of State notes during the Examination that the Applicant was requested twice to provide an alternative layout of the array area in the case that the GRR is retained but the Applicant did not provide this [ER 5.3.46]. The Secretary of State notes that the Applicant's position that the retention of the GRR and the provision of a corridor would likely result in the Proposed Development not being commercially viable [ER 5.3.47].

4.173. The Secretary of State considers that the imposition of Requirement 30 as agreed between the MCA and the Applicant, i.e., approval of an alternative layout for the array area, does not provide certainty over navigational safety in relation to the occurrence of unacceptable risks to shipping vessels. As set out in paragraph 2.8.331 of NPS EN-3, the Secretary of State should be satisfied that risk to navigational safety is as low as reasonably practicable ("ALARP") and that wind farms and all types of offshore transmission should not be consented where they would pose unacceptable risks to navigational safety after mitigation measures have been adopted. The Secretary of State therefore considers Requirement 30 as included in the recommended Order as the acceptable form of the requirement and this would be in accordance with paragraph 2.8.331 of NPS EN-3. The Secretary of State has therefore included this in the Order.

4.174. The Secretary of State notes that the ExA suggested that the Secretary of State may wish to seek the views of the MCA and the Applicant for Requirement 30 which did not include provision for an alternative layout. The Secretary of State did not consider it necessary to

seek the views of the MCA or the Applicant further on this matter as he finds that the matter had been discussed during the Examination and that the requirement as proposed by the ExA adequately ensures that the Proposed Development would not have adverse effects on safe navigation and shipping. He also considers there is no evidence to suggest that the GRR removal would not be approved, which as noted by the ExA could prevent the delivery of the Proposed Development [ER 5.3.122].

4.175. In relation to the inclusion of PPs for LGPL and PLA, after considering the responses to the information request, the Secretary of State agrees with the reasons provided by the ExA to include the PPs as requested by the ports, and as such the Secretary of State has included these PPs in the Order.

4.176. The Secretary of State notes that the HHA requested controls over concurrent construction and maintenance RAM operations in the Sunk area. The Applicant provided agreed wording with the HAA to resolve the matter in response to the first information request. The Secretary of State has therefore included the agreed wording in the relevant DML (Schedule 9) and considers this matter addressed.

4.177. The Secretary of State ascribes limited negative weight to navigation and shipping in the overall planning balance.

Design

4.178. The Applicant's approach to good design is set out in its Design Vision document [REP5-004] and the Design and Access Statement [APP-235], supplemented by other application documents including the OLEMS [REP7-027], which sets out the landscape and ecology strategy for the onshore elements of the Proposed Development [ER 6.4.3 and 6.4.8]. At Deadline 5 of the Examination, the Design Vision was updated to incorporate further detail on design principles and the post-consent design process, including a commitment from the Applicant and the applicant of the VEOWF to produce a JDG to support the detailed proposals for the two co-located OnSSs for the respective projects [ER 6.4.5].

4.179. The ExA noted diverging opinions between the Applicant and VEOWF with the OLEMS and the equivalent proposals for VEOWF proposing differing indicative landscape plans for the proposed OnSSs [REP4-046] [ER 6.4.41]. The ExA noted the uncertainty on this matter and stated that it was disappointed that a joint landscape scheme for consideration could not have been provided earlier for the two projects. Various IPs, including ECC and TDC, also expressed concerns regarding co-ordination between the two proposed OnSSs [REP1-065] [ER 6.4.48]. Notwithstanding this, the ExA considered that the design of the Proposed Development would still offer a range of benefits and would accord with the principles set out in the Design Vision [REP5-004] [ER 6.4.44]. The ExA also noted the Applicant's explicit commitment in its Design Vision to appoint a design champion and internal design review panel. The ExA was satisfied that the Design Vision provided sufficient evidence that the design champion would be appropriately qualified and appointed sufficiently early in the process to be embedded in it and that the design review panel would comprise representatives of NFOWF and VEOWF that were also suitably qualified [ER 6.4.55]. In this respect, the ExA considered that the Proposed Development would be in accordance with paragraph 2.5.2 of NPS EN-3 [ER 6.4.58].

4.180. Overall, the ExA considered that the Applicant had sufficiently demonstrated how the design process was conducted, how the proposed design had evolved, and how it had integrated

good design principles into the overarching principles of the Design Vision. The ExA was satisfied that the Proposed Development would be both sustainable and fit for purpose due to the Applicant's design principles within its Design Vision [ER 6.4.59 and 6.4.60]. Without further detail that would be contained in the JDG, the ExA could not conclude on the aesthetic detail of design. However, the ExA considered that the Design Vision and principles therein provided sufficient detail such that the provisions of NPS EN-1 paragraphs 4.7.2, 5.10.29 and 5.10.30 had been met [ER 6.4.61]. On the basis that details to be submitted to discharge Requirement 5 of the Order would need to be substantially in accordance with the Design Vision and with any design guide (which includes the JDG), together with the OLEMS secured by Requirement 7, the ExA was satisfied that accordance with NPS EN-1 paragraphs 4.7.6 and 4.7.7, NPS EN-3 section 2.5, and NPS EN-5 section 2.4 had been demonstrated [ER 6.4.64]. The ExA concluded that the Proposed Development accorded with the good design provisions set out in NPS EN-1, NPS EN-3 and NPS EN-5 and would be compliant with other relevant policy and guidance relating to design and therefore considered that there were no matters relating to design which would weigh for or against the Order being made [ER 6.4.65 and 6.4.66].

4.181. Noting that Requirement 5 did not explicitly include reference to the JDG, and that at the close of the Examination the Applicant proposed a different OnSS area Outline Landscape and Environmental Master Plan to that proposed by VEOWF, the Secretary of State requested that the Applicant provide an update on the JDG and any subsequent changes made to the OLEMS for the Proposed Development. On 16 December 2025, the Applicant's response [C1-014] confirmed that since the close of the Examination, there had been significant progress on the development of the JDG with VEOWF, ECC and the Essex Quality Review Panel ("EQRP") having since carried out a series of joint design reviews and a public information day. The Applicant confirmed there were currently no changes proposed to the principles outlined within the OLEMS or the VEOWF proposal.

4.182. In their responses to the first all-IP consultation [C2-004] and the second all-IP consultation [C4-012], ECC and TDC raised concerns on the integration between the Proposed Development, VEOWF and N2T. They highlighted that the DCO application for N2T has proposed the widening of Ardleigh Road (requiring a strip of land with a depth of roughly 15m to 25m on the northern side of Ardleigh Road) within the Proposed Development's Order limits, in the same location where the Applicant has proposed landscape planting along the northern side of the road and a landscape and ecological enhancement area for the Proposed Development and VEOWF. In the second information request, the Applicant was requested by the Secretary of State to respond to the Councils' comments and confirm how these concerns are addressed in the JDG and if there are any implications to the conclusions of the ES. The Applicant was also asked again to provide the JDG document.

4.183. On 16 February 2026, the Applicant confirmed that the proposed Ardleigh Road widening works for N2T had been considered and the Applicant is confident that the works would not directly interfere with the proposed landscaping planting along the northern side of the road, or the proposed landscape and ecological enhancement area for the Proposed Development and VEOWF, and therefore would not affect the conclusions of the ES. The Applicant, together with VEOWF, is liaising with NGET as the applicant for N2T to ensure that the screening along this boundary is sufficient and that the proposed road widening works are reflected in the final version of the Landscape and Environmental Master Plan. The Applicant also provided a current version of the JDG in Appendix C of its response, noting that the document is currently in phase 2 of a two-phase consultation process which was due to conclude on 17 March 2026, after which the JDG would be updated.

The Secretary of State's Conclusion

4.184. Notwithstanding the aspects of the Proposed Development for which the Secretary of State considers the Applicant has demonstrated good design, the Secretary of State shares the ExA's disappointment that a joint scheme for consideration could not have been provided earlier or considered at an earlier stage of design, given that the Proposed Development and VEOWF have included different landscaping design proposals for the OnSS area in their respective applications. He further considers that the evidence sought from the Applicant during the Examination demonstrates that it was only partially engaged in the independent design review process prior to the submission of its application, and that it has sought to address that deficiency belatedly by committing to the preparation of a design guide, informed by independent review, post-consent. Accordingly, the Secretary of State does not consider that actions to ensure a good design process through effective coordination with VEOWF and NGET, as recommended by paragraph 4.7.5 of NPS EN-1, have been embedded in the project development from the outset.

4.185. The Secretary of State has noted the updates provided by the Applicant in the first and second information requests in respect of the preparation and progress of the JDG, and the submission of a draft version of the document. The Secretary of State concludes that an amendment to Requirement 5 is necessary to align the post-consent detailed design process with VEOWF and to contribute to facilitating and securing a cohesive design approach between the Proposed Development, VEOWF and N2T. The updated wording of Requirement 5 requires that any recommendations received from an independent design review panel must accompany the details of the OnSS (subject of Work No. 11) to be submitted to the discharging authority for approval under the provisions of Requirement 5(1) of the Order. As an organisation providing local design expertise, the Secretary of State agrees with ECC and TDC that the inclusion of the EQRP in the post-consent design process as the independent design review panel would be appropriate. Requirement 5(3), however, does not specifically refer to the EQRP should circumstances arise that require the use of a different independent design review panel.

4.186. Despite the strengthening of the wording of Requirement 5 of the Order, the Secretary of State does not consider that good design principles with regards to design coordination have been embedded from the outset of the development of the Proposed Development, as encouraged by paragraph 4.7.5 of NPS EN-1. This is evidenced by the different landscaping proposals for the OnSS area in the Applicant's proposals compared to those for VEOWF, and the evidence sought from the Applicant during the Examination. Therefore, he disagrees with the ExA and ascribes the matter of good design limited negative weight in the overall planning balance.

<u>Socio-Economic Effects</u>

4.187. The ExA noted legislation and policy relevant to the consideration of socio-economics including NPS EN-1, in particular section 5.13, the relevant policies of the UK Marine Policy Statement, local policies and other relevant matters [ER 6.6.2]. The ExA was satisfied that the Applicant's assessment had fully addressed the potential socio-economic effects associated with the construction, operation and maintenance and decommissioning of the Proposed Development in accordance with Section 5.13 of NPS EN-1 [ER 6.6.85].

4.188. The ExA identified the key matters relating to socio-economics as the potential effects on local employment opportunities and economic value, employment skills development,

accommodation and housing, and tourism and recreation [ER 6.6.85 to 6.6.87]. Having examined the Proposed Development's potential impact on socio-economics, the ExA concluded that the Applicant had taken opportunities to promote local employment and skills development through the Outline Skills and Employment Plan ("OSEP") and the commitment to produce the Skills and Employment Plan ("SEP"), in accordance with paragraph 5.13.12 of NPS EN-1 which is adequately secured by Requirement 18 of the draft DCO [ER 6.6.87]. The ExA recognised the potential for some beneficial effects as well as some minor adverse effects as a result of the Proposed Development. In addition, the ExA agreed with the Applicant that, cumulatively, the Proposed Development and other projects would have major beneficial effects in terms of employment opportunities and economic value [ER 6.6.91]. The ExA therefore concluded that, as a result of the potential for beneficial effects, socio-economics should carry moderate weight in favour of the Order being made [ER 6.6.91].

The Secretary of State's Conclusion

4.189. The Secretary of State has considered the ExA's conclusions and ES Chapter 31 Socio-Economics, Chapter 32 Tourism and Recreation and the OSEP and associated addendum. Whilst the Secretary of State agrees with the majority of the ExA's conclusions in relation to socio-economics, the Secretary of State does not consider that ascribing moderate weight in the planning balance to the potential cumulative major beneficial effects, which are significant in EIA terms, on employment and economic value is proportionate, due to the substantial reliance on the delivery of other projects. The Secretary of State considers that the Applicant's CEA also lacks sufficient quantitative evidence to support the conclusion that the construction and operation and maintenance phases of the Proposed Development with other projects would result in major and moderate beneficial effects, which are significant in EIA terms, respectively. The Secretary of State notes that the Applicant clearly explains how the quantitative assessment in section 31.6 of ES Chapter 31 Socio-Economics follows the assessment methodology set out in section 31.4.3 of the chapter, and how this has informed conclusions on the magnitude of impacts and the significance of effects. However, the Secretary of State further notes that the CEA in section 31.8 of ES Chapter 31 Socio-Economics does not provide an equivalent level of quantitative detail. In the absence of this information, the Secretary of State considers that the basis for the Applicant's conclusions on the significance of cumulative socio-economic effects is not sufficiently clear or justified.

4.190. The Secretary of State accepts the Applicant's findings that the Proposed Development alone would result in minor beneficial and minor adverse effects, both not significant in EIA terms. In accordance with NPS EN-1 paragraphs 5.13.10 and 5.13.11, limited weight may be given to assertions of socio-economic impacts not supported by evidence. The Secretary of State therefore ascribes limited positive weight in the planning balance to socio-economics matters, including the potential cumulative major and moderate beneficial effects on employment and economic value arising from the Proposed Development, VEOWF, and other projects as assessed by the Applicant and considered significant in EIA terms.

<u>Information Request Responses Not Addressed Above</u>

Address for Returns and Correspondence for Service of Documents for the LGPL and the HHA

4.191. The LGPL and the HHA were requested in the second information request to provide their address for returns and correspondence for service of documents for insertion in paragraph 1(5) in Part 1 of Schedule 9, should consent be granted. The LGPL provided an address in

a response on 3 February 2026 [C3-003] and this has been included in the DCO. The HHA did not respond to the request and the HHA address at Harbour House in Harwich has therefore been included in the DCO.

Worst-Case Scenarios in the Environmental Statement and the Habitats Regulations Assessment

4.192. In the first information request the Applicant was required to further justify the worst-case scenarios applied in regard to the ports that will service the Proposed Development, as well as how the worst-case scenarios for all topics across the Applicant's ES and RIAA account for circumstances where mitigation would be undertaken "*where practicable*".

4.193. Regarding the assessment of ports, the Applicant provided a table (Table 2.1 in [C1-012]) in its response to justify that all ES and HRA topics had been robustly assessed and conclusions would not change on confirmation (post-consent) of the location of the ports to be used for delivery of the Proposed Development, including the route of vessels. The Secretary of State notes the presentation of information and explanation provided and is satisfied that this matter has been suitably addressed.

4.194. Both NE and the ExA commented on the Applicant's use of the term "*where practicable*" when describing mitigation measures, as collated in the Schedule of Mitigation [REP7-004]. The Secretary of State therefore asked the Applicant to confirm that such mitigation was considered in the assessed worst-case scenarios. The Applicant provided a table (Table 2.2 in [C1-012]) in its response to justify that "*where practicable*" mitigation typically represents a commitment to further reduce environmental effects, either below the significance levels concluded in the EIA and RIAA or with no change to the conclusions of the assessment. The Secretary of State is now satisfied with the justification provided for each topic that the worst-case scenario has been identified and assessed, accounting for instances where the stated mitigation may not be delivered in full. The Secretary of State also supports the commitment of measures to further reduce environmental impacts, even where they are not relied upon to conclude effects would not be significant in EIA terms.

Scour Protection Management

4.195. The Secretary of State notes that the total volume of scour protection permitted to be installed is secured in the Order (offshore design parameters) but in the first information request sought clarification from the Applicant, MMO and NE on their understanding of how the replacement of scour protection during operation would be controlled, and the circumstances in which an additional marine licence could be required. The Applicant summarised the control mechanisms for scour protection and provided updated wording for draft DCO Condition 15,16,15 of each DML (Schedules 8,9,10 respectively) so that the MMO is notified in advance of scour protection replacement activities (as well as cable protection replacement); this wording has been included in the Order. While the notification wording was welcomed by the MMO, and NE noted that once the maximum volume of scour protection as secured in the DCO was reached a new licence would be required, both the MMO and NE also considered that scour protection placement should be permitted only up to a maximum of 10 years post grant of consent, with the exception of replacement of existing areas of scour protection that do not increase the footprint of the scour protection (in-line with the provisions for cable protection). This 10-year limitation was disputed by the Applicant, who considered there to be suitable existing controls and that scour protection would be limited spatially to the proximity of foundations.

4.196. Additionally, the MMO in its response to the first information request, acknowledging it had not been raised before, proposed an additional condition in the DMLs for the 'reporting of cable protection', regarding notification of cable protection deployed during construction, that could also be amended to include scour protection. Following the Applicant's agreement to the principle of such a condition, in the second information request the Secretary of State invited the Applicant and the MMO to comment on appropriate wording for the 'reporting cable protection' condition so that the wording also includes the provision for reporting scour protection and is appropriate for each of the DMLs. The Secretary of State considers the wording provided by the Applicant to be suitable, as confirmed by the MMO in its response to the second all-IP consultation, and has included this in the Order in Condition 35,35,32 of Schedules 8, 9 and 10.

4.197. The Secretary of State considers that given that scour protection would be limited to the proximity of foundations, and that the total volume and area is limited by the design parameters in the DCO, an additional 10-year limit on the DMLs is not considered to be required. The Secretary of State is also satisfied by the fact the Outline Offshore Operations and Maintenance Plan ("OOMP") [REP8-022] would be finalised and agreed post-consent in line with detailed design information as well as the inclusion of reporting of scour protection in Conditions 15,16,15 (and the additional scour protection replacement notification condition) that has been applied to the Order.

Adaptive Management

4.198. The Secretary of State notes the final points raised by the MMO at the end of the Examination [REP8-102] on adaptive management and the requested provision in the DMLs. Following a question on this in the first information request the MMO reiterated the request for adaptive management conditions (Condition 27 of Schedules 8 and 10 and Condition 28 of Schedule 9 of the draft DCO) in addition to the wording already included in the Offshore IPMP [REP8-009] at the end of the Examination. In the first all-IP consultation the Applicant responded that adaptive management is already provided for under the existing conditions in the draft DCO, Condition 27,28,27 of Schedules 8,9,10, respectively, which must be accordance with the Offshore IPMP as approved in writing by the MMO (in consultation with SNCBs). The Applicant also provided an amended version of the proposed adaptive management condition presented in [REP8-102] to remove the requirement that an 'adaptive management plan' must be submitted along with survey reports. The Applicant stated as the survey reports submitted dictate whether adaptive management is required, having to submit the plan with the reports is practically not possible to comply with.

4.199. The MMO responded to reiterate the need for an adaptive management condition; stating that if impacts are higher than predicted, section 72 of Marine and Coastal Act 2009 Act can be utilised to vary the marine licence to request adaptive management, but considered a condition gives a clear process to all and allows for proactive management rather than reactive management by the MMO. To meet the concerns of the MMO, in its response to the second all-IP consultation, the Applicant highlighted it was willing to accept an adaptive management condition and provided further amended wording for adaptive management provision relevant to the construction and post construction monitoring DML conditions.

4.200. The Secretary of State has carefully reviewed all responses, as well considering the details of the monitoring to be undertaken (pre-construction, construction and post-construction inclusive) for the Proposed Development, as presented in the Offshore IPMP.

4.201. The Secretary of State notes the wording provided in the Offshore IPMP, and the inclusion of the principles of adaptive management. He also considers that the procedure for adaptive management and the provision of an adaptive management plan, if required, is to be further developed and agreed as part of the finalisation of the Monitoring Plan. However, to ensure the process is managed proactively the Secretary of State agrees that an adaptive management condition is appropriate. He considers the Applicant's views on the timing of the submission of an adaptive management plan and the monitoring stages the condition is relevant; and as such has used the Applicant's wording, with slight amendments, in the Order. He notes that he has applied this to each of the DMLs in both the construction and post-construction monitoring conditions. His amendments include that the adaptive management plan would apply to both unexpected significant effects not already assessed as well as significant effects that are beyond those predicted.

Definitions

4.202. Owing to the clarification provided by the MMO, and agreement by the Applicant in response to the second information request, the Secretary of State has adopted in the Order (and in each DML), in accordance with the recommendation of the ExA, the MMO's preferred definition for Mean High-Water Springs ("MHWS").

Sediment Disposal

4.203. The Secretary of State has considered the wording proposed by the MMO to control disposal activities, in accordance with the Outline SDMP [REP8-045] and that in response to the second all-IP consultation reference numbers for the Export Cable Corridor disposal sites were provided. The Secretary of State is of the view that the additional wording that disposal must be associated with a reference number/s provided by the MMO (without stating the reference numbers, which can be further confirmed post-consent for all works) is suitable in Part 1 of each DML (2(a) Details of Licenced Marine Activities), but the additions proposed by the MMO in Conditions 19,20,19 of Schedules 8, 9 and 10 are not required due to repetition.

Details of DMLs

4.204. The Secretary of State sought to clarify that Schedule 10 of the draft DCO adequately reflects the OCP only. The Applicant stated, in response to the second information request, that all the conditions in Schedule 10 and design parameters are correct, and there should be no reference to interconnector cables in Schedule 10. The Applicant also noted that Schedule 9 provides for the OSP(s) and associated interconnector cables between the OSP and the OCP as well as transmission infrastructure for an onshore grid connection. The Secretary of State agrees that Schedule 10 design parameters are correct and while he notes there are some information requirements in the conditions in Schedule 10 that may not always be applicable to those works, does not consider any changes are required to the Order.

5. Habitats Regulation Assessment

5.1. This section of the Decision Letter addresses the Secretary of State's duties under the Habitats Regulations and The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) ("the Offshore Habitats Regulations"). Subsequent references to regulations are to the Habitats Regulations, but the equivalent regulations of the Offshore Habitats Regulations also apply.

5.2. The Secretary of State's HRA is published alongside this letter. The paragraphs below summarise the key conclusions of, and must be read alongside, the HRA, which sets out in full the Secretary of State's detailed consideration of these matters.

5.3. The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from the possible adverse effects of plans and projects. The regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called SACs. They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called SPAs. SACs and SPAs together form part of the UK's National Site Network ("NSN").

5.4. The Convention on Wetlands of International Importance 1972 provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this Decision Letter as "protected sites").

5.5. Regulation 63 of the Habitats Regulations provides that:

> *"….before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives." And that: "In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."*

5.6. The Proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under Regulation 63 of the Habitats Regulations, the Secretary of State is required (as the Competent Authority) to consider whether the Proposed Development would be likely, either alone or in-combination with other plans and/or projects, to have a significant effect on any protected site. If likely significant effects ("LSE") cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the protected sites in view of its Conservation Objectives[11], including at this stage mitigation measures.

5.7. Where an Adverse Effect on Integrity ("AEoI") cannot be ruled out beyond all reasonable scientific doubt, Regulations 64 and 68 of the Habitats Regulations provide for the possibility of a derogation which allows such plans or projects to be approved provided three tests are met:

- There are no feasible alternative solutions to the plan or project which are less damaging to protected sites;

[11] Natural England Access to Evidence - Conservation Objectives for European Sites

- There are imperative reasons of overriding public interest ("IROPI") for the plan or project to proceed; and,
- Compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

5.8. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites unless the Secretary of State chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as an HRA. The Secretary of State considers that the Proposed Development has the potential to have an LSE on 90 protected sites when considered alone and in-combination with other plans or projects.

5.9. The Secretary of State has undertaken an AA in respect of the Conservation Objectives of the protected sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an AEoI of the identified protected sites. The Secretary of State has considered all the information available to him including the recommendations of the ExA, the advice of NE as the SNCB, the views of all other IPs, the Applicant's case, and all responses to his information request letters and all IP consultations.

Appropriate Assessment Conclusion

5.10. The Secretary of State is satisfied that, given the relative scale and magnitude of the identified effects on the qualifying features of the protected sites, and the measures in place to avoid or reduce potential adverse effects that have been secured in the Order, there would not be any implications for the achievement of site conservation objectives and therefore AEoI can be excluded beyond reasonable scientific doubt for the majority of protected sites.

5.11. However, the Secretary of State concludes that an AEoI cannot be ruled out beyond scientific doubt in relation to:

- Collision mortality of the kittiwake feature of the Flamborough and Filey Coast SPA, in-combination with other plans or projects;
- Displacement and disturbance of the guillemot feature of the Flamborough and Filey Coast SPA, in-combination with other plans or projects;
- Displacement and disturbance of the guillemot feature of the Farne Islands SPA, in-combination with other plans or projects;
- Seabird assemblage feature (due to collision mortality of the kittiwake component and displacement and disturbance of the guillemot component) of the Flamborough and Filey Coast SPA, in-combination with other plans or projects;
- Collision mortality of the LBBG feature of the Alde Ore Estuary SPA and Ramsar site, in-combination with other plans and projects; and,
- Displacement and disturbance of the RTD feature of the Outer Thames Estuary SPA, in-combination with other plans or projects.

5.12. The Secretary of State has not identified any further mitigation measures that could reasonably be imposed which would avoid or mitigate the potential AEoI identified and has therefore proceeded to consider the derogation provisions of the Habitats Regulations.

Derogation Provisions

5.13. The Secretary of State has considered the Proposed Development in the context of Regulations 64 and 68 of the Habitats Regulations to determine whether the derogation tests are met, considering:

- Alternative solutions to the Proposed Development that have been sought;
- Whether there are IROPI for the Proposed Development to proceed; and,
- Compensation measures proposed by the Applicant for ensuring that the overall coherence of the NSN is protected.

Alternative Solutions

5.14. The three primary objectives for the Proposed Development as set out by the Applicant [REP6-007] are:

- To deliver low carbon electricity from an OWF to the National Grid in support of the decarbonisation of the UK electricity supply;
- To export electricity to the UK National Grid to support UK commitments for offshore wind generation and security of supply; and,
- To coordinate and optimise generation and export capacity within the constraints of available sites and onshore transmission infrastructure whilst delivering project skills, employment and investment benefits.

5.15. As set out in the HRA, the Secretary of State does not consider that the development of alternative forms of energy generation would meet the objectives for the Proposed Development. Alternatives to the Proposed Development considered by the Secretary of State are consequently limited to either “do nothing” or alternative OWF projects (including alternative scale and design parameters of the Proposed Development).

5.16. Following a review of the information submitted by the Applicant, the recommendation of the ExA, and having identified the objectives of the Proposed Development and considered all alternative solutions to fulfil these objectives, the Secretary of State is satisfied that no feasible alternative solutions are available that would meet the Proposed Development objectives which are less damaging to protected sites.

Imperative Reasons of Overriding Public Interest

5.17. A development having an AEoI on a protected site may only proceed (subject to a positive conclusion on alternatives and provision of any necessary compensation) if the project must be carried out for IROPI. The Secretary of State has therefore considered whether the Proposed Development is required for IROPI.

5.18. As set out in the HRA, the Secretary of State agrees with the ExA and the Applicant that imperative reasons in the public interest for the Proposed Development to proceed are clearly established, especially the contribution it would make towards renewable electricity generation and ensuring the security of electricity supply from a domestically generated source. The Secretary of State also considers that such imperative and long-term need in the public interest for the Proposed Development clearly outweighs the predicted harm to the integrity of the protected sites.

Compensatory Measures

5.19. Compensation measures were provided by the Applicant for LBBG, kittiwake and guillemot, and on a 'without prejudice' basis for RTD (while the Applicant also provided 'without prejudice' compensation for razorbill, this was not required on the basis of the Secretary of State's AA conclusions).

5.20. In relation to LBBG, the Applicant submitted a compensatory strategy for the LBBG feature of the Alde-Ore Estuary SPA and Ramsar site. Compensation measures are primarily either the installation of predator-proof fencing and habitat restoration at Gedgrave Marshes or predator eradication and habitat management at Outer Trail Bank. There is also the provision for a monetary contribution to strategic compensation through the Marine Recovery Fund should a strategic compensatory measure become available. The Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to protect the coherence of the UK NSN for LBBG as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments to the Order, he considers that Part 1 of Schedule 15 adequately secures the further work required to progress the proposed compensatory measures.

5.21. In relation to guillemot, the Applicant submitted a compensatory strategy jointly for the guillemot features of the Flamborough and Filey Coast SPA and the Farne Islands SPA. Compensation measures are recreational disturbance reduction at breeding colonies in the southwest of England or the provision of a monetary contribution to strategic compensation through the Marine Recovery Fund should a strategic compensatory measure become available. The Secretary of State is satisfied that the necessary compensatory measures for guillemot can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments to the Order, he considers that Part 2 of Schedule 15 adequately secures the further work required to progress the proposed compensatory measures.

5.22. In relation to kittiwake, the Applicant submitted a compensation strategy for the kittiwake feature of the Flamborough and Filey Coast SPA. Compensation measures are the provision of nest spaces on an existing Artificial Nesting Sites in Gateshead, or the provision of a monetary contribution to strategic compensation through the Marine Recovery Fund should a strategic compensatory measure become available. The Secretary of State is satisfied that the necessary compensatory measures for kittiwake can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments to the Order, he considers that Part 3 of Schedule 15 adequately secures the further work required to progress the proposed compensatory measures.

5.23. Given the provision of compensation for kittiwake and guillemot, no separate compensation is required for the seabird assemblage of the Flamborough and Filey Coast SPA.

5.24. In relation to RTD, the Applicant submitted a compensation strategy for the RTD feature of the Outer Thames Estuary SPA, selecting breeding habitat enhancement or if a strategic compensatory measure became available a contribution to a strategic compensation fund through the Marine Recovery Fund. The Applicant has demonstrated ecological evidence that breeding enhancement in Scotland, implemented via raft installation or peat habitat restoration, would be successful, with a large number of locations available to deliver what

it determines as a suitable level of compensation (20 waterbodies). The Secretary of State considers that enhanced breeding success at a minimum of 20 waterbodies is sufficient to compensate the effects of the Project, although notes there is no established quantitative method for converting overwintering habitat displacement effects at the SPA and breeding enhancement at distant breeding habitats. As such, the Secretary of State also requires that the Applicant should demonstrate the consideration of secondary measures (to be progressed alongside the breeding enhancement measures) in the form of opportunities in the involvement in and support of RTD disturbance/sanctuary areas/reserves research. The Secretary of State is satisfied that the necessary compensatory measures can be secured and delivered to protect the coherence of the UK NSN for RTD as required. Having made amendments to the Order, he considers that Part 4 of Schedule 15 adequately secures the further work required to progress the proposed compensatory measures.

The Secretary of State's Conclusion on the HRA

5.25. An AEoI on the Flamborough and Filey Coast SPA, the Farne Islands SPA, Alde Ore Estuary SPA and Ramsar site and the Outer Thames Estuary SPA cannot be excluded beyond reasonable scientific doubt. There are no feasible alternative solutions that would meet the objectives of the Proposed Development which are less damaging to protected sites. There are clearly imperative reasons in the public interest for the Proposed Development to proceed despite the predicted harm to the UK NSN. The Secretary of State is satisfied that a package of compensatory measures can be secured and delivered for kittiwake and guillemot (and their components of the seabird assemblage) of the Flamborough and Filey Coast SPA, guillemot of the Farne Islands SPA, LBBG of the Alde Ore Estuary SPA and Ramsar and the RTD feature of the Outer Thames Estuary SPA to ensure that the overall coherence of the UK NSN is maintained. The Secretary of State is therefore satisfied that consent can be granted in accordance with the relevant sections of the Habitats Regulations.

6. Marine Conservation Zone Assessment

6.1. The Secretary of State notes his obligations under section 126 of Marine and Coastal Access Act 2009 ("MCAA") and has undertaken an MCZA, which is published alongside this letter. The Applicant submitted a MCZ Screening Report [APP-237] and MCZA [REP7-019], which includes screening to identify impact pathways and consider those MCZs that could be affected (other than insignificantly) by the Proposed Development.

6.2. Measures of Equivalent Environmental Benefit ("MEEB") are required to compensate for any adverse impacts on a MCZ (where it is deemed to have a significant risk of hindering the conservation objectives of an MCZ) under the provisions of the MCAA, and the provision of MEEB was explored by the Applicant on a 'without prejudice' basis given unresolved matters with NE at the end of the Examination. The Secretary of State notes the ExA Report which considered effects on the KKE MCZ which is adjacent to the Proposed Development array. In the first information request the Secretary of State sought to clarify the worst-case scenario and assessment outcomes, including the position of NE. In the second information request he sought to ensure there was appropriate detail within the Offshore IPMP to monitor effects to the KKE MCZ.

6.3. Whilst the ExA concluded there would be no significant effect within the KKE MCZ, it was acknowledged that the assessment of seabed mobility and seabed erosion/deposition potential would still need to be robustly re-considered and assessed on a precautionary basis

and inform the cable burial assessment and project design. Such a step aligns with NE advice [ER 5.2.181].

6.4. Having reviewed the evidence and rationale presented, including [APP-237], [REP7-019] and responses to his information requests the Secretary of State agrees with the Applicant's screening and overall MCZ Assessment conclusions. Specifically, he concludes that the Proposed Development will not affect (other than insignificantly), the protected features of any MCZ or, any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent. In regard to mitigation the Secretary of State is content with the level of mitigation measures provided and secured in the Order in each DML but does note the refinement needed in the relevant plans post-consent alongside detailed design (for example the SDMP and Cable Specification and Installation Plan ("CSIP")). The Secretary of State also considers that the monitoring proposed in the Offshore IPMP, as updated post-examination, sufficiently secures the validation of the MCZA conclusions, with the detail of surveys and reporting to be further developed in the finalisation of the Monitoring Plan post-consent.

6.5. The Secretary of State notes the additional mitigation measures for KKE MCZ, including a 50m separation buffer between the infrastructure within the array area and the KKE MCZ boundary, which following the responses to the first and second information request has been secured in a new condition (Condition 37) to Schedule 8 of the Order. During the information requests the MMO proposed, and as supported by NE, that agreement to install infrastructure within 50m, as permitted in Condition 37, should be subject to a timescale of agreement 6 months prior to installation. The Secretary of State notes that there is an inherent buffer between foundations and the KKE MCZ boundary (as turbine blades can not over sail the Order Limits) and a design plan must be submitted for approval at least 6 months prior to construction and as such has not included this additional wording in the Order. He notes however that as well as the need for appropriate approval timescale, approval of infrastructure within 50m of the KKE MCZ would be subject to there being no change to the MCZA conclusions.

7. Compulsory Acquisition and Land Rights

7.1. The ExA recommended that [ER 9.15.1]:

- The CA powers included in the recommended Order be granted;
- The TP powers included in the recommended Order be granted;
- The powers authorising the CA of statutory undertakers' ("SUs") land and rights over land included in the recommended Order be granted;
- The powers authorising the extinguishment of rights, and removal of apparatus of SUs included in the recommended Order be granted; and,
- The powers included in the recommended Order to apply, modify or exclude a statutory provision be granted.

<u>Voluntary Property Agreement with Network Rail</u>

7.2. In the first information request, the Applicant and Network Rail ("NR") were requested to provide an update on a voluntary property agreement for the necessary rights to construct, use and maintain the Proposed Development on, or in respect of, railway property with NR. In its response of 16 December 2025 [C1-014], the Applicant stated that productive

discussion had taken place, that the PPs and Framework Agreement were in agreed form, and that a meeting had taken place to discuss the final points of disagreement, with constructive discussions continuing in regard to the voluntary property agreement.

7.3. In the second information request, the Applicant and NR were requested to provide a further update on the PPs, the Framework Agreement and the voluntary property agreement. NR provided a response on 29 January 2026 [C3-002] and stated that it had agreed a Framework Agreement and relevant subsidiary documents with the Applicant. NR stated that the Applicant had agreed to include its standard PPs in the DCO and to enter into any asset protection agreements and property agreements as required. NR stated that it had withdrawn its objection to the DCO and its representation dated 17 October 2024.

7.4. In its response of 16 February 2026 [C3-006], the Applicant confirmed that the Framework Agreement had been agreed and was completed on 28 January 2026. The Applicated noted that NR had withdrawn its objection to the Proposed Development by letter to the Planning Inspectorate dated 29 January 2026. The Applicant provided the updated PPs agreed with NR and requested that these be included in the Order.

7.5. The Applicant stated that constructive negotiations remained ongoing in respect of the voluntary property agreement. The Applicant stated that marked-up drafts had been exchanged between parties in January 2026, and that it provided comments and a substantive response to NR's solicitors on 5 February 2026. The Applicant stated that positive negotiations were continuing and that it was confident that an agreement could be concluded in the near future, which would ensure that NR's interests are appropriately protected while providing the Applicant with the necessary rights through voluntary agreement.

7.6. The Secretary of State is satisfied with the updates from the Applicant and NR and has included the agreed PPs, as provided by the Applicant, in the Order.

Agreement with Affinity Water on PPs

7.7. In the first information request, the Applicant and Affinity Water were requested to provide an update on whether the short agreement related to the agreed PPs had been reached, and if not, when agreement was expected. In responses dated 28 November and 16 December 2025 [C1-002, C1-014], Affinity Water and the Applicant stated that the agreement between them related to the PPs had been agreed and was completed on 27 November 2025.

7.8. In the Applicant's response of 16 February 2026 [C3-006] to the second information request, the Applicant stated that it was continuing to progress negotiations with Affinity Water for a voluntary agreement in respect of an operations and maintenance access agreement. The Applicant stated that it was understood the Heads of Terms ("HoTs") for the voluntary agreement to be broadly agreed and that the relevant land interest was agreeable to the proposals. The Applicant stated that positive discussions remained ongoing and that it remained committed to securing the necessary rights through voluntary agreement.

7.9. The Secretary of State has had regard to the responses received from the Applicant and Affinity Water and has included the PPs for Affinity Water in the DCO.

PPs for HHA, the LGPL and the PLA

7.10. In respect to the PPs requested for the HHA, the LGPL and the PLA, these been addressed in paragraphs 4.160 – 4.169 of this letter. The Secretary of State has no further commentary on this matter.

Voluntary Agreement with Tendering District Council related to the Onshore Cable Route

7.11. In the Applicant's response of 16 February 2026 [C3-006] to the second information request, the Applicant stated that TDC confirmed on 1 December 2025 that it did not wish to progress discussions on a voluntary agreement with the Applicant until the Secretary of State issued a decision on whether to grant development consent for the Proposed Development. The Applicant stated that TDC reconfirmed this position on 30 January 2026. The Applicant stated that it would continue to engage with TDC and that, should consent for the Proposed Development be granted, it remained committed to seeking to secure the necessary rights through a voluntary agreement. The Secretary of State is satisfied with the Applicant's response.

Voluntary Agreement with NGET related to the Onwards Onshore Cable Connection

7.12. In the Applicant's response of 16 February 2026 [C3-006] to the second information request, the Applicant stated that it would not be in a position to materially progress discussions on voluntary agreements until further details regarding the precise location and configuration of the proposed substation are confirmed by NGET. The Applicant further stated that it was advised on 12 February 2026 that one of the plots, identified as Plot 16-006 as shown on the Land Plans [AS-018], had been acquired by NGET. The Applicant stated that once further details became available regarding the change of land ownership and the detailed design of the EACN substation, it would seek to progress discussions with the relevant land interests on securing the necessary rights through voluntary agreement where possible.

7.13. The Secretary of State is satisfied with the Applicant's update regarding the change in land ownership and its intention to progress discussions with the relevant land interests.

Outstanding Land Interests

7.14. In the first information request, the Applicant was requested to provide an update on the outstanding agreement(s) and negotiation(s) with respect to the CA or the TP matters. The Applicant provided a response on 16 December 2025 [C1-014] to the first information request stating that it had continued to proactively progress discussions and negotiations with the relevant land interests to acquire the necessary freehold interests, new rights and temporary use of land by voluntary agreement wherever possible to ensure the Proposed Development can be implemented. The Applicant stated that it remained committed to securing agreement by voluntary agreement where practicable.

7.15. The Applicant further stated that it has demonstrated that the land rights sought for the Proposed Development are necessary, proportionate and that there is a compelling case in the public interest for the grant of CA powers as set out in detail within the Statement of Reasons [REP7-011] and reflected in the draft DCO [REP8-005].

7.16. In the second information request the Applicant provided a response on 16 February 2026 [C3-006], in relation to the land interests for the OnSS. The Applicant confirmed that the HoTs had been agreed in respect to Michael Hughes and Rebecca Mason, as Executors of

the Estate of the late Charles Tabor (represented by Gwyn Church of Brooks Leney) and T. Fairley and Sons Limited (represented by Gwyn Church of Brooks Leney).

7.17. In respect to Strutt and Parker (Farms) Limited and Lianna Enterprises Limited (represented by Louis Fell), the Applicant stated that it continued to engage with the land interest and their agent to reach a voluntary agreement. The Applicant stated that a meeting took place on 10 November 2025 to discuss the HoTs for a voluntary agreement, and following this it issued the updated HoTs on 9 December 2025 to the land interest for consideration. The Applicant noted that the principal outstanding matters relate to the future aspirations of the land interest for a housing project as set out in REP4-091 provided during the Examination. The Applicant stated that it is actively seeking to resolve and progress this matter and it is confident that the Phase 1 proposals of the land interest can coexist with the Proposed Development as outlined in the Applicant's Response to Actions List for Compulsory Acquisition Hearing 1 [REP6-069]. The Applicant stated that it remained committed to securing the necessary rights through voluntary agreement.

7.18. In the second information request, the Applicant provided a response on 16 February 2026 [C3-006], stating that it continues to engage constructively with the land interest and their agent to reach a voluntary agreement. The Applicant stated that positive discussions remained ongoing, and it proposed a meeting with the land interest's agent for 13 February 2026 to discuss the HoTs and address the remaining outstanding items. As previously detailed, the Applicant stated that the principal outstanding matters relate to the future aspirations of the land interest for a housing project. The Applicant referred to its response to the first information request and reiterated its view that it is confident that the Phase 1 proposals of the land interest can coexist with the Proposed Development. The Applicant stated that it remained of the view that the necessary rights could be secured without preventing or materially prejudicing the land interest's development ambitions. The Applicant stated that it remained committed to securing the necessary rights through voluntary agreement.

7.19. In respect of other land interests, the Applicant indicated in its response to the first and second information requests [C1-014, C3-006] that it continued to make efforts to reach an agreement. The Applicant stated that it remained committed to securing the necessary rights through voluntary agreement.

7.20. In response to the second information request, the Applicant stated it continued to progress discussions with the four land interests in respect of the Bentley Road improvement works and negotiations on the HoTs remained ongoing. The Applicant stated that it remained committed to addressing outstanding points of difference as far as practicable and will continue to engage constructively with each land interest with the intention of securing voluntary agreements wherever possible.

7.21. In respect to the HoTs for Henry Fairley & Son Limited in relation to the Bentley Road improvement works, in response to the second information request [C3-006], the Applicant stated that negotiations on a voluntary agreement remained ongoing. The Applicant stated that the land interest's position as outlined within the Applicant's Land Rights Tracker submitted at Deadline 8 [REP8-032] remains unchanged. The Applicant stated that the land interest's appointed agent reconfirmed on 5 February 2026 that while the land interest does not wish to obstruct the Bentley Road improvement works, they do not wish to enter into a voluntary agreement for the term proposed where they consider there to be potential for their own development aspirations should the Proposed Development not proceed. The Applicant

stated that engagement and negotiations continue and it remained committed to securing the necessary rights through voluntary agreement where possible.

7.22. In respect to James Andrew Clachan's land interest in respect of land relating to the Bentley Road improvement works, as part of a response to the second information request [C3-006], the Applicant stated that it continued to engage with the land interest and negotiations on the voluntary agreement remained ongoing. The Applicant stated it wrote to the land interest's appointed agent on 30 January 2026 and received a response on 10 February 2026. The Applicant stated in its response, the land interest's agent outlined concerns regarding the potential interaction between the Applicant's proposals and requirements and those of NGET, which is seeking similar rights over the same area of land for the N2T project.

7.23. The Applicant stated that it was preparing a detailed response to address the proposed mechanism of the voluntary agreement and how coexistence with NGET's N2T project can be appropriately managed, and that it would be seeking to arrange a meeting with the land interest and their agent to further negotiations. The Applicant stated that it remained committed to securing the necessary rights through voluntary agreement where possible.

7.24. The Secretary of State is satisfied with the update from the Applicant on the outstanding land agreements and notes that the Applicant has made efforts to secure agreements where possible.

Special Category Land

7.25. The ExA noted that the Order Land includes open space land. This included: open space land at landfall, Holland Haven Country Park (Plot 01-006); land at the Frinton Golf Course (Plot 01-005) and the foreshore land (Plots 01-001, 01-002, 01-003, 01-004) which is used by members of the public for recreational purposes. The ExA noted the Applicant's Statement of Reasons explained that the land at the Frinton Golf Course had been marked as safeguarded open space by TDC, however the Applicant did not consider this to form open space as it is not open to 'public recreation' as required by the definition of open space [ER 9.11.3].

7.26. The ExA agreed that the land within the Special Category Land Plan [APP-200], namely, Plots 01-001, 01-002, 01-003, 01-004 and 01-006 is open space for the purposes of section 132(1) of 2008 Act. The ExA also stated that the land at the Frinton Golf Course (Plot 01-005) should not be regarded as open space as it is not open to 'public recreation' as required by the definition of Open Space [ER 9.11.8].

7.27. The ExA stated that it was satisfied that [ER 9.11.10]:

> *"following installation of the cables there would be no ongoing impact, and neither the acquisition of the rights sought nor the imposition of restrictive covenants would render the open space less advantageous than it is at present to the persons to whom it is vested or the public than it currently is thus engaging the exemption under s132(3) PA 2008."*

7.28. The ExA therefore concluded that in relation to section 132(3) of the 2008 Act, should the Order be made, it would not need to be subject to special parliamentary procedure [ER 9.11.10].

The Secretary of State's Conclusion

7.29. The Secretary of State notes the responses received to his information request, along with the objections and representations outstanding as summarised in the ExA Report [ER 9.2.1 et seq.]. The Secretary of State agrees with the ExA's conclusions at ER 9.15.1 and considers that there is a compelling case in the public interest for the CA and TP powers that are being requested, and that these powers should therefore be granted.

7.30. In respect of open space, the Secretary of State agrees with the ExA's conclusions that the test in section 132(3) of the 2008 Act is met and that special parliamentary procedure for the consent is not required in respect of the proposed CA of rights over this land.

7.31. Whilst some negotiations are ongoing in respect to voluntary agreements for Affinity Water and NR, the Secretary of State notes that an agreement has been reached on PPs and considers that there would be no detriment to Affinity Water's and NR's undertakings or to the making of the Order for the Proposed Development.

7.32. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights, so as to conflict with the provisions of the Human Rights Act 1998.

8. Secretary of State's Consideration of the Planning Balance and Conclusions

8.1. The Secretary of State acknowledges the ExA's recommendation that the Secretary of State should make the Order for the Proposed Development in the form recommended at Appendix D of this Report [ER 11.5.1].

8.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:

- Need (substantial positive weight);
- Alternatives – the Applicant's assessment of alternatives was appropriate, proportionate and in accordance with NPSs EN-1, EN-3 and EN-5;
- Agriculture, Land Use and Ground Conditions (moderate negative weight);
- Air Quality (little negative weight);
- Ecology: onshore ecology including migratory bats but excluding onshore birds (little negative weight);
- Ecology: onshore ornithology (little negative weight);
- Ecology: offshore and intertidal ornithology (moderate negative weight);
- Ecology: offshore benthic subtidal and intertidal (little negative weight);
- Ecology: offshore marine mammals (little negative weight);
- Flood Risk, Groundwater and Surface Water (neutral);
- Human Health (neutral);
- Landscape and Visual Effects (little negative weight);
- Noise and Vibration (moderate negative weight);
- Terrestrial Traffic and Transportation (little negative weight);
- Commercial Fisheries (little negative weight);

- Navigation and Shipping (little negative weight);
- Seascape and Visual Effects (moderate negative weight);
- Aviation and Radar (neutral);
- Climate Change (neutral);
- Cumulative Impact (neutral); and,
- Historic Environment and Archaeology (little negative weight).

8.3. The Secretary of State disagrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:

- Design: ascribed neutral weight by the ExA. The Secretary of State does not consider that good design principles with regards to design coordination have been embedded from the outset of the development of the Proposed Development. This is evidenced by the different landscaping proposals for the OnSS area in the Applicant's proposals compared to those for VEOWF, and the evidence sought from the Applicant during the Examination, including the JDG. Therefore, he disagrees with the ExA and ascribes the matter of good design little negative weight in the planning balance.
- Socio-Economic Effects: ascribed moderate positive weight by the ExA. The Secretary of State considers that the Applicant's CEA lacks sufficient quantitative evidence to support the conclusion that the construction and operation and maintenance phases of the Proposed Development, together with other projects, would result in major and moderate beneficial effects, which are significant in EIA terms, respectively. The Secretary of State therefore ascribes little positive weight to socio-economic effects.

8.4. The ExA ascribed neutral weight to cumulative effects noting that that this was taken into account in the individual topic sections of the ExA Report [ER 6.3.47].

8.5. The Secretary of State's differing conclusions and weighting in respect of Design and Socio-Economics compared to the ExA, do not alter his agreement with the ExA's recommendation to grant development consent for the Proposed Development.

8.6. It is recognised that all NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as having not breached NPS EN-1 and NPS EN-3, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.

8.7. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts, and that the requirements of the Habitats Regulations are met.

8.8. The Secretary of State concludes that development consent should be granted for the Proposed Development. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order.

8.9. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by ECC in partnership with TDC, BDC, ESC and SCC, the NPSs, and to all other matters which are considered

important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act. The Secretary of State confirms for the purposes of Regulation 4(2) of the EIA Regulations that the environmental information as defined in Regulation 3(1) of those Regulations has been taken into consideration.

8.10. The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent, including the modifications set out in section 10 of this letter.

9. Other Matters

Equality Act 2010

9.1. The Equality Act 2010 includes a public sector "*general equality duty*" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "*protected characteristics*": age; gender reassignment; disability; marriage and civil partnerships[12]; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

9.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.

9.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the Proposed Development.

9.4. The Secretary of State notes that a post-examination submission [PID-002] raised a query regarding the impact of the Proposed Development to a property which is noted to provide services to individuals with protected characteristics. Specifically, the query was in relation to restriction to the highway and what provisions would be included to ensure access to the property by emergency vehicles, staff and resident access to community activities. The Secretary of State has had due regard to the concerns raised in the query and considers that the provisions in the Order are adequate to address the concerns regarding access to the property. The Secretary of State also considers that the ExA addressed the issues regarding the equalities impacts of the Proposed Development, including on individuals with protected characteristics [ER 4.5.22, ER 4.5.29, ER 9.13.107 – ER 9.13.108].

9.5. The Secretary of State is confident that, in taking the recommended decision, the Secretary of State has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a

[12] In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

9.6. The Secretary of State notes the "*general biodiversity objective*" to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when making this decision.

9.7. The Secretary of State is of the view that the ExA's Report, together with the EIA considers biodiversity sufficiently to inform the Secretary of State in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

10. Modifications to the Recommended Order

10.1. Following consideration of the recommended Order provided by the ExA, the Secretary of State has made the following modifications to the recommended Order:

- amendment to the definition of "maintain" in article 2(1) to clarify that it does not include the removal, reconstruction or replacement of foundations and buildings associated with the onshore substation;
- amendment to update the definition of "mean high water springs" or "MHWS" in article 2(1) for the reasons provided in this letter;
- amendment to article 5(3)(b) to clarify that the Secretary of State's consent is not required when exercising powers under article 5(7) and to include paragraphs 5(8)-(10) in relation to the information, documents and minimum period of notice to be given to the Secretary of State of any transfer;
- amendment to article 6 (application and modification of legislative provisions) to remove sub-paragraph (i) relating to the disapplication of sections 28E and 28H of the Wildlife and Countryside Act 1981. This ensures that NE are notified of work which will take place within a SSSI;
- amendments to article 12 (temporary restriction of use of streets) to enable the undertaker to temporarily close, restrict, alter or divert the streets specified in Schedule 3 (streets to be temporarily closed or restricted) to the extent specified and to require the undertaker to consult the street authority prior to closing, restricting, altering or diverting a street using that power;
- amendment to article 14 (traffic regulation) to remove sub-paragraphs (1)(c) and (d). These appeared to duplicate the provisions of article 14 and were potentially confusing; amendment to article 17(5) to clarify that undertakers are further prohibited from constructing any works within 8 meters of a watercourse forming part of a main river;
- insertion of a new paragraph 19(5) (authority to survey and investigate the land onshore) to require the undertaker to remove all apparatus placed on the land as soon as practicable following completion of any activities undertaken pursuant to that article and to restore the land to its original condition;
- deletion of (previously) article 20 (removal of human remains), which is not considered necessary or appropriate due to separate statutory requirements. This is consistent with the position taken in previous orders granted by the Secretary of State where there

are no known human remains within the boundary of the proposed authorised development;

- amendment to article 30(2) to provide details of the information to be included in any notice of intended entry';
- amendment to article 30(3) to provide that the undertaker must not remain in possession of any land under this article for longer than is reasonably necessary;
- amendment in article 31(11) (temporary use of land for maintaining the authorised development) to reduce the maintenance period to the usual period of five years from the date on which the authorised development is brought into commercial operation;
- amendment to article 42 (requirements, appeals, etc.) to remove the provisions that relate to section 78 of the Town and County Planning Act 1990 which are not considered necessary and create ambiguity. Schedule 13 provides an appeals mechanism in relation to decisions on the discharge of requirements. Seeking to also apply the Town and Country Planning Act 1990 section 78 appeals process to these decisions adds nothing, but will cause legal uncertainty in relation to the process to be followed.

Amendments to Schedule 1 include:

- amendment to Requirement 3(1) (aviation lighting) to ensure the Air Navigation Order 2016 applies to the authorised development notwithstanding its location outside the territorial sea and to clarify when the requirement is triggered (similar amendments have also been made to conditions 19 of Schedules 8 and 9 and condition 18 of Schedule 10);
- amendment to Requirement 5(3) to provide that any recommendations received from an independent design review panel must accompany the details of the OnSS (subject of Work No. 11) to be submitted to the discharging authority for approval under the provisions of Requirement 5(1);
- amendment to Requirement 11 (onshore archaeology) to include a definition of 'intrusive';
- amendments to Requirement 17 to ensure that the noise investigation protocol sets out a practical process for the investigation of cumulative operational noise and requirements for the undertaker to carry out noise monitoring and submit the results to the discharging authority;
- amendment to Requirement 21 (biodiversity net gain) for the reasons given in this letter;
- insertion of Requirement 31 (farmland bird compensation) to secure, as required, compensation for the loss and / or displacement of corn bunting territories as a result of the authorised development;
- deletion of (previous) Requirement 31 (national landscape enhancement);
- amendments to Requirement 37 to specify the time period for an appeal and to allow 15 working days for the discharging authority to provide representations.

Amendments to Schedules 8, 9 and 10 (Deemed Marine Licence Under the 2009 Act include:

- amendment to condition 2(a) to provide that deposits at sea are to be at disposal site reference provided by the MMO**;**
- amendment to condition 9 to replace "materially greater environmental effects" with "materially different environmental effects";

- amendment to conditions 15(13) in Schedules 8 and 10 and condition 16(13) in Schedule 9, to add the reporting of scour replacement activity to the MMO;
- amendment to conditions 21(1)(g) in Schedules 8 and 10 and condition 22(1)(g) in Schedule 10, requiring the marine mammal mitigation protocol to include details of noise reduction methods and deployment of noise mitigation systems and noise abatement systems in the event that driven or part-driven pile foundations are proposed to be used;
- amendment to conditions 21(1)(k) in Schedule 8 and 10 and condition 22(1)(k) in Schedule 9, to include a requirement for details of any monitoring being undertaken and engagement with fishing stakeholders to be provided in the OFLCP;
- insertion of conditions 21(1)(n) in Schedules 8 and 10 to include piling restrictions for the protection of spawning herring and an amendment to the dates for percussive piling in condition 22(1) in Schedule 9
- insertion of condition 22(1)(d)(v) in Schedule 9 for the protection of red-throated diver;
- insertion of condition 23 in Schedules 8 and 10 and condition 24 in Schedule 9 to include a requirement for the provision of a Southern North Sea Special Area of Conservation site integrity plan;
- amendment to conditions 27 and 28 of Schedules 8 and 10 and conditions 28 and 29 in Schedule 9 to include provision for an adaptive management plan to be approved by the MMO;
- inclusion of new conditions 35 in Schedules 8 and 9 and condition 32 in Schedule 10 for cable and scour protection reporting;
- inclusion of new condition 37 in Schedule 8 with regard to placement of infrastructure in proximity to Kentish Knock East Marine Conservation Zone.

<u>Amendment to Schedule 13 (arbitration rules)</u>

- amendment to paragraph 7 (confidentiality) to make it the default that any arbitration hearing and documentation is open unless sub-paragraphs (2) and (3) apply.

<u>Amendments to Schedule 14 (protective provisions) include:</u>

- amendments to Part 5 to reflect the protective provisions as agreed with Network Rail;

<u>Amendments to Schedule 15 (compensation to protect the coherence of the national site network include:</u>

- removal of references to the razorbill feature in Part 2 in accordance with the rationale provided in the Secretary of State's HRA.
- amendments to Parts 1, 2, and 3 to amend the process the undertaker must follow to provide compensation or make a payment to the Marine Recovery Fund and to reflect the requirements to be secured in accordance with the Secretary of State's HRA;
- inclusion of Part 4 of the Schedule to secure the compensation requirements for red-throated diver at the Outer Thames Estuary SPA.

10.2. In addition to the above, the Secretary of State has made various changes to the recommended Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments and changes in the interests of clarity and consistency.

11. Challenge to Decision

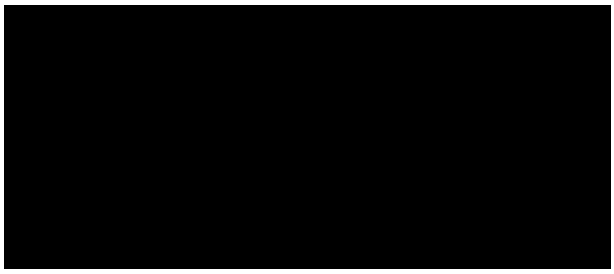
11.1. The circumstances in which the Secretary of State's decision may be challenged are set out in Annex A to this letter.

12. Publicity for Decision

12.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and Regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

12.2. Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Planning

ANNEX A: LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010119

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
ALARP	as low as reasonably practicable
ALC	Agricultural Land Classification
BDC	Babergh District Council
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BS	British Standard
CA	Compulsory Acquisition
CEA	Cumulative Effects Assessment
CFWG	Commercial Fisheries Working Group
CIMP	Compensation Implementation and Monitoring Plan
CNP	Critical National Priority
CO_2e	carbon dioxide equivalent
CSIP	Cable Specification and Installation Plan
CRoWA	Countryside and Rights of Way Act 2000
dB	decibels
DCO	Development Consent Order
dMMMP	draft Marine Mammal Mitigation Protocol
DEFRA	Department for Environment, Food and Rural Affairs
DML	Deemed Marine Licence
DWR	deep water routes
EACN	East Anglian Connection Node
ECC	Essex County Council
EIA	Environmental Impact Assessment
EQRP	Essex Quality Review Panel
ES	Environmental Statement
ESC	East Suffolk Council
ExA	Examining Authority
FLOWW	Fisheries Liaison with Offshore Wind and Wet Renewables Group
GBBG	greater black backed gull
GHG	greenhouse gas
GLVIA3	Guidelines for Landscape and Visual Impact Assessment 3
GRR	Galloper recommended route
GW	gigawatt
ha	hectares
HHA	Harwich Haven Authority
HoTs	Heads of Terms
HRA	Habitats Regulations Assessment
IMO	International Maritime Organization
INNS	Invasive Non-Native Species

Abbreviation	Reference
IP	Interested Party
IAQM	Institute of Air Quality Management
IPMP	In-Principle Monitoring Plan
IROPI	Imperative Reasons of Overriding Public Interest
JDG	Joint Design Guide
KKE	Kentish Knock East
km	kilometres
kV	kilovolts
LBBG	lesser black backed gull
LGPL	London Gateway Port Ltd
LIR	Local Impact Report
LSE	Likely Significant Effect
LVIA	Landscape and Visual Impact Assessment
MCA	Maritime and Coastguard Agency
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MCZA	Marine Conservation Zone Assessment
MEEB	Measures of Equivalent Environmental Benefit
MHWS	Mean High-Water Springs
MLS	Margate Long Sands
MMO	Marine Management Organisation
MSC	Maritime Safety Committee
MW	megawatt
NAS	Noise Abatement Systems
NCSR	Navigation, Communications and Search and Rescue
NE	Natural England
NESO	The National Energy System Operator
NGET	National Grid Electricity Transmission Plc
NLES	National Landscape Enhancement Scheme
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NR	Network Rail
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Network
N2T	Norwich to Tilbury project
OCoCP	Outline Code of Construction Practice
OCP	Offshore Converter Platform
OCTMP	Outline Construction Traffic Management Plan
OFLCP	Outline Fisheries Liaison and Coexistence Plan
OLEMS	Outline Landscape and Ecological Management Strategy

Abbreviation	Reference
OnSS	onshore substation
OOMP	Outline Offshore Operations and Maintenance Plan
OPEMP	Outline Project Environmental Management Plan
OSEP	Outline Skills and Employment Plan
OSP	Offshore Substation Platform
OWF	Offshore Wind Farm
PLA	Port of London
PM_{10}	particulate matter
PPs	Protective Provisions
PSED	Public Sector Equality Duty
RAM	Restricted Ability to Manoeuvre
RIAA	Report to Inform Appropriate Assessment
RR	Relevant Representation
RTD	Red Throated Diver
SAC	Special Area of Conservation
SCC	Suffolk County Council
SDMP	Sediment Disposal Management Plan
SECHNL	Suffolk and Essex Coast and Heaths National Landscape
SECHNLP	Suffolk and Essex Coast and Heaths National Landscape Partnership
SEP	Skills and Employment Plan
SHC	Suffolk Heritage Coast
SIP	Site Integrity Plan
SLVIA	Seascape, Landscape and Visual Impact Assessment
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SU	statutory undertaker
TDC	Tendring District Council
the Applicant	North Falls Offshore Wind Farm Limited
the EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
the Habitats Regulations	The Conservation of Habitats and Species Regulations 2017 (as amended)
the Offshore Habitats Regulations	The Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended)
the Proposed Development	North Falls Offshore Wind Farm
the 2008 Act	The Planning Act 2008
TP	Temporary Possession
UKSON	United Kingdom Safety of Navigation Committee
VEOWF	Five Estuaries Offshore Wind Farm
VP	viewpoint