



**RWE Renewables UK Dogger Bank  
South (West) Limited**

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South (East) Limited**

# **Dogger Bank South Offshore Wind Farms**

**Environmental Statement**

**Volume 7**

**Chapter 3 – Policy and Legislative Context (Revision 2)  
(Clean)**

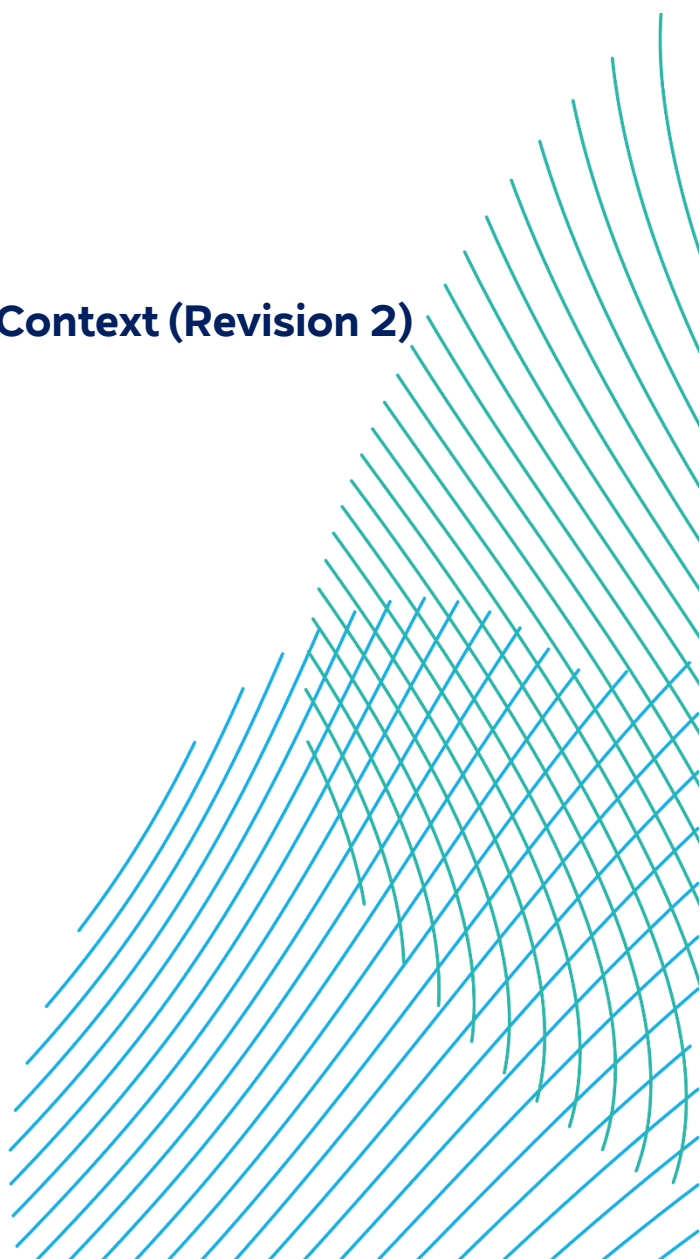
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## Glossary

Term	Definition
Biodiversity Net Gain	An approach to development that leaves biodiversity in a better state than before. Where a development has an impact on biodiversity, developers are encouraged to provide an increase in appropriate natural habitat and ecological features over and above that being affected to ensure that the current loss of biodiversity through development will be halted and ecological networks can be restored.
Dogger Bank South (DBS) Offshore Wind Farms	The collective name for the two Projects, DBS East and DBS West.
Development Consent Order (DCO)	An order made under the Planning Act 2008 granting development consent for one or more Nationally Significant Infrastructure Project (NSIP).
European Site	Sites designated for nature conservation under the Habitats Directive and Birds Directive. This includes candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation and Special Protection Areas, and is defined in regulation 8 of the Conservation of Habitats and Species Regulations 2017.
Evidence Plan Process (EPP)	A voluntary consultation process with specialist stakeholders to agree the approach, and information to support, the Environmental Impact Assessment (EIA) and Habitats Regulations Assessment (HRA) for certain topics.
Net zero	A target of completely negating the amount of greenhouse gases produced by human activity, to be achieved by reducing emissions and implementing methods of absorbing carbon dioxide from the atmosphere
Offshore Development Area	The Offshore Development Area for ES encompasses both the DBS East and West Array Areas, the Inter-Platform Cable Corridor, the Offshore Export Cable Corridor, plus the associated Construction Buffer Zones.

Term	Definition
Onshore Development Area	The Onshore Development Area for ES is the boundary within which all onshore infrastructure required for the Projects would be located including Landfall Zone, Onshore Export Cable Corridor, accesses, Temporary Construction Compounds and Onshore Converter Stations.
The Applicants	The Applicants for the Projects are RWE Renewables UK Dogger Bank South (East) Limited and RWE Renewables UK Dogger Bank South (West) Limited. The Applicants are themselves jointly owned by the RWE Group of companies (51% stake) and Masdar (49% stake).
The Projects	DBS East and DBS West (collectively referred to as the Dogger Bank South Offshore Wind Farms).
Topic Specific Study Area	The area where potential impacts from the Projects could occur, as defined for each individual EIA topic.



## Acronyms

Term	Definition
AONB	Area of Outstanding Natural Beauty
BEIS	Business, Energy and Industrial Strategy
BNG	Biodiversity Net Gain
CBD	Convention on Biological Diversity
CCMA	Coastal Change Management Area
CfD	Contracts for Difference
CNP	Critical National Priority
COP	Conference of Parties
DBS	Dogger Bank South
DCO	Development Consent Order
Defra	Department for Environment Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DLUHC	Department for Levelling Up, Housing and Communities
DML	Deemed Marine Licence
DPD	Development Plan Document
EC	European Commission
EEA	European Economic Area
EIA	Environmental Impact Assessment
EMR	Electricity Market Reform
ES	Environmental Statement
EU	European Union

Term	Definition
GB	Great Britain
GHG	Greenhouse Gas
GW	Gigawatt
HRA	Habitats Regulations Assessment
LDF	Local Development Framework
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MMO	Marine Management Organisation
MPS	Marine Policy Statement
MW	Megawatt
NDC	Nationally Determined Contribution
NERC	Natural Environment and Rural Communities Act 2006
nm	Nautical Mile
NNR	National Nature Reserve
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
OSPAR	Oslo and Paris Conventions
OWEIP	Offshore Wind Environmental Improvement Package
PEIR	Preliminary Environmental Information Report
RSPB	Royal Society for the Protection of Birds
SAC	Special Area of Conservation

Term	Definition
SoS	Secretary of State
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
UK	United Kingdom
UKCCC	United Kingdom Committee on Climate Change
UN	United Nations
UNFCCC	United Nations Framework Convention on Climate Change
UXO	Unexploded Ordnance

## 3 Policy and Legislative Context

### 3.1 Introduction

1. This chapter of the Environmental Statement (ES) presents the international, national, regional and local planning policy and legislative context that is relevant to the impact assessment of the proposed Dogger Bank South (DBS) East and DBS West Offshore Wind Farms, collectively known as Dogger Bank South Offshore Wind Farms ('the Projects').
2. Specific aspects of policy and legislation relevant to each Environmental Impact Assessment (EIA) topic are included in the appropriate chapters **(Volume 7, Chapters 8 to 30 (application ref: 7.8 to 7.30))** of the ES.
3. An assessment of the Projects in terms of compliance with planning policies is provided in **Volume 8, Planning Statement (application ref: 8.1)**, which accompanies the application for development consent.
4. This chapter has been included in the ES following consultation on the Preliminary Environmental Information Report (PEIR) and is submitted with the Development Consent Order (DCO) application.

### 3.2 International Context

#### 3.2.1 Brexit and Post-Brexit Bills

5. The United Kingdom (UK) Government triggered article 50 of the Treaty of the European Union (EU) in 2017, with the UK formally withdrawing from the EU on 31<sup>st</sup> January 2020. A transition period followed until the end of 2020 while the UK and the EU negotiated additional necessary arrangements.
6. The European Union (Withdrawal) Act 2018 was designed to keep in place all EU-derived domestic legislation (i.e. the statutory instruments that implement EU environmental directives) and to incorporate direct EU legislation into domestic law.
7. The UK government passed the Environment Act 2021 in November 2021 (UK Government, 2021), which makes provisions for a range of matters, including (*inter alia*): provision for targets, plans and policies for improving the natural environment; creation of the Office for Environmental Protection and a range of measures in relation to nature and biodiversity, water, and air quality.
8. UK legislation relating to climate change and renewable energy policy is underpinned by a number of international agreements (e.g. EU and United Nations (UN)), as outlined in the following sections.

## 3.3 International Climate Change and Renewable Energy Policy and Legislation

9. In reviewing policy and legislation relevant to renewable energy development, it is important to consider the legislative action required to combat climate change, drive decarbonisation and promote renewable energy generation.
10. The challenges of climate change, energy supply and security of supply are driving government policy and decision making on renewable energy developments. There are now a significant number of national and international policies, strategies and regulations relating to climate change and the development of renewable energy in Europe and the UK.

### 3.3.1 United Nations Framework Convention on Climate Change

11. The United Nations Framework Convention on Climate Change (UNFCCC) is an international environmental treaty which was adopted in 1992 and came into force in March 1994. The framework aims to achieve the “*stabilization of greenhouse gas (GHG) concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*” through the agreement of non-binding GHG emission reduction limits, and providing guidance and financial support to countries wishing to progress towards the targets.
12. The ‘Kyoto Protocol’ is an international agreement which was adopted in 1997 and came into force in 2005 (UNFCCC, 1997). The UK is one of 192 parties which have adopted the Protocol agreeing to a commitment for limiting and reducing GHG emissions. The Protocol was ratified by the UK Government in 2002 and the UK’s commitments under the Protocol were brought into UK law via the Climate Change Act in 2008 (see section 3.5.1.1).
13. The 2012 annual meeting resulted in the Doha Amendment (UNFCCC, 2012), an extension to the Kyoto Protocol, with a commitment from parties to reduce emissions from GHGs by 18% in comparison to 1990 levels during the years of 2013-2020. The EU committed to reduce emissions by 20% under this amendment, with the 2020 European Green Deal building upon this to raise the 2030 greenhouse gas emission reduction target (including emissions and removals) to at least 55% compared to 1990.
14. In 2015, the 21<sup>st</sup> Conference of the Parties (COP) in Paris aimed to accelerate global action for a sustainable future and resulted in the 2015 ‘Paris Agreement’ (United Nations, 2015) with the following key objectives:

- Commit to a long-term temperature goal to hold global average temperature increase to well below 2°C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels;
  - Parties should aim to reach global peaking of GHG emissions as soon as possible; and
  - Parties will prepare, communicate and maintain a nationally determined contribution (NDC) and to pursue domestic measures to achieve them. Parties shall communicate their NDCs every 5 years and provide information necessary for clarity and transparency.
15. The UK signed the Paris Agreement in 2016 during the 22<sup>nd</sup> Climate Change Conference of the Parties (COP22), and ratified it later that year, committing to a 40% reduction in GHG emissions by 2030 against the 1990 baseline along with EU member states.
16. As a result of COP27 in November 2022, the UK Committee on Climate Change (UKCCC) published the following key messages for the UK Government in relation to climate goals (UKCCC, 2022):
- *“The delayed 2030 Strategic Framework (the Government’s vision for the UK’s long-term international role tackling climate change and biodiversity loss) is an opportunity to set out the UK’s leadership role in helping the world achieve the goals of the Paris Agreement;*
  - *After exiting the EU and convening COP26, the UK Government should decide what its priorities are in COP negotiations and communicate these at a high level. The relationships and capabilities built through the Presidency should be used to actively champion progress towards the goals of the Paris Agreement and take forward the delivery of pledges and initiatives;*
  - *As a major finance centre and sponsor of the multilateral development banks, the UK should pay particular attention to its positions on mobilising finance, which are vital to global success on climate change, and how it contributes to future Just Energy Transition Partnerships; and*
  - *The UK must implement its Net Zero Strategy to deliver its legislated domestic targets and international commitments. It must strengthen its response on climate adaptation, which remains weak, with an ambitious, action-oriented third National Adaptation Programme in 2023”.*

### 3.3.2 European Union Renewables Directive

17. The EU Renewable Energy Directive (2001/77/EC) was the first EU level legislation on renewable energy that was implemented in 2001. It encourages member states to increase the proportion of electricity produced from renewable energy sources in the internal electricity market. This was achieved by setting indicative targets for future electricity consumption from renewable sources.
18. This was replaced in 2009 by the Renewables Directive (2009/28/EC), aiming to:
  - Set the target of reaching 20% of the EU's energy consumption (electricity, heat and fuel) to come from renewable sources by 2020; and
  - Reduce GHG emissions by 20% in 2020 in comparison to 1990 levels.
19. The Renewable Energy Directive (2018/2001/EU) established a new binding renewable energy target for the EU for 2030 of a share of at least 32% renewable energy, with a clause for a possible upwards revision in 2023. On 20<sup>th</sup> November 2023, the revised directive (EU/2023/2413) entered into force with a binding target of at least 42.5% by 2030 but aiming for 45%.
20. Following the UK's withdrawal from the EU, there are uncertainties as to the extent to which EU legislation already transposed into UK law will be retained going forward. However, the UK's commitments to reducing GHG emissions are included in the Climate Change Act 2008 (see section 3.5.1.1).

### 3.4 International Environmental and Nature Legislation and Treaties

#### 3.4.1 Water Framework Directive

21. The Water Framework Directive, transposed into law in England and Wales by the Water Environment (Water Framework Directive) (England and Wales) Regulations 2017, aims to ensure the quality of inland, estuarine and groundwater bodies, including coastal surface waters, are protected and improved up to an offshore limit of one nautical mile (nm).
22. The Directive's Member States are responsible for ensuring that all inland and coastal waters reach at least "*good ecological status*" or "*good ecological potential*".



23. Within the Directive in the UK, chemical and biological environmental quality indicators are used, and the implementation of river basin management plans required. The Environment Agency is responsible for monitoring water quality and reports the data against Environmental Quality Standards, allowing the improvement of surface waters that do not meet the required status.

### **3.4.2 The Convention on Wetlands of International Importance Especially as Waterfowl Habitat (Ramsar Convention)**

24. The Ramsar Convention (United Nations, 1971) was adopted in 1971 and ratified by the UK in 1976. It provides an international mechanism for protecting sites of global importance and is thus of key conservation significance, covering all aspects of wetland conservation. The Convention has three main uses:
- The designation of wetlands of international importance as Ramsar Sites;
  - The promotion of the wise use of all wetlands in the territory of each country; and
  - International co-operation with other countries to further the wise use of wetlands and their resources.
25. The criteria for assessing a site for designation as a Ramsar site include whether or not the wetland supports 20,000 water birds and / or supports 1% of the individuals in a population of one species or subspecies of water bird.
26. UK Government policy affords the same protection to Ramsar sites as European designations such as Special Protection Areas (SPAs) and Special Areas of Conservation (SACs), known collectively as National Site Network sites in the UK. The UK has generally chosen to underpin the designation of its Ramsar sites through notification of these areas as Sites of Special Scientific Interest (SSSI).

### **3.4.3 The Convention on Biological Diversity**

27. The Convention on Biological Diversity (CBD) is a legally binding treaty to which the UK is one of 196 signatories and came into force in December 1993. It has three main objectives:



- The conservation of biological diversity;
  - The sustainable use of the components of biological diversity; and
  - The fair and equitable sharing of the benefits arising from the utilisation of genetic resources.
28. The CBD recognised for the first time in international law that the conservation of biological diversity is "*a common concern of humankind*" and is an integral part of the development process. The CBD covers all ecosystems, species, and genetic resources.
  29. Numerous UN and EU initiatives aim to contribute towards meeting the objectives of the CBD, including the Convention on the Conservation of European Wildlife and Natural Habitats (the Bern Convention (Council of Europe, 2024)), the Convention on the Conservation of Migratory Species of Wild Animals (the Bonn Convention (CMS, 2024)) and the establishment of the European Site Network.
  30. On 12<sup>th</sup> July 2021, the UN Convention on Biological Diversity Secretariat released the first official draft of a new post-2020 Global Biodiversity Framework (CBD, 2021) to guide actions worldwide in order to preserve and protect nature and its essential services to people, through to 2030. This includes 21 associated "*action targets*" for 2030 which address reducing threats to biodiversity, meeting people's needs through sustainable use and benefit-sharing, and tools and solutions for implementation and mainstreaming. The framework delivery was discussed at the fifteenth meeting (part 2) of the Conference of the Parties to the CBD, held in December 2022.

#### 3.4.4 Habitats and Birds Directives

31. The Habitats Directive (EC Directive 92/43/EEC) implements the Bern and Bonn Conventions; aiming to meet the objectives of the CBD. The Directive aims to conserve natural habitats of wild fauna and flora and is intended to protect biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species, including protection for specific habitats listed in Annex I and species listed in Annex II of the Directive.
32. The Birds Directive (EC Directive 2009/147/EC) on the conservation of wild birds provides a framework for the conservation and management of wild birds in Europe. It sets objectives for a wide range of activities for Member States to take necessary measures to maintain the populations of all wild birds at levels.

33. A description of how the Habitats Directive and the Birds Directive are transposed into UK law is given in section 3.5.7.1.

### **3.4.5 Marine Strategy Framework Directive**

34. The Marine Strategy Framework Directive (Directive 2008/56/EC) aims to achieve and maintain healthy, productive and resilient marine ecosystems while securing more sustainable use of marine resources for the benefit of current and future generations. Under this Directive, EU countries are required to develop marine strategies in order to achieve ‘good’ environmental status for 11 descriptors covering various aspects of the health of the sea, such as biodiversity, seabed integrity and marine pollution, and have clean, healthy and productive seas by 2020.
35. The Directive was transposed into UK law under the Marine Strategy Regulations 2010 (UK Government, 2010), requiring the production of a ‘Marine Strategy’ for all UK waters and that the approach is coordinated across all four UK administrations (UK Government, Scottish Government, Welsh Assembly Government and Northern Ireland Executive). It also requires co-operation with other countries sharing our seas. The objective of the UK Marine Strategy reflects the UK’s vision of having “*clean, healthy, safe, productive and biologically diverse oceans and seas*”. The Strategy applies an ecosystem-based approach to the management of human activities.
36. The Strategy helps to deliver key international obligations and commitments to protect and preserve the marine environment including those under the UN Convention on the Law of the Sea, the UN Sustainable Development Goal 14 (to conserve and sustainably use the ocean, seas and marine resources for sustainable development), the OSPAR (Oslo and Paris Conventions) North-East Atlantic Environment Strategy and the Convention on Biological Diversity.
37. Although EU Directives no longer form part of legislation in the UK, the Marine Strategy Regulations 2010 and the Marine and Coastal Access Act 2009 remain to set out the basis for preparing Marine Policy Statements and Marine Plans.

### **3.4.6 OSPAR Convention**

38. The OSPAR Convention (United Nations, 1992) focuses on international co-operation to protect the marine environment of the northeast Atlantic.

39. OSPAR's biodiversity strategy establishes a network of Marine Protected Areas (MPAs). The UK has currently identified 365 OSPAR MPAs (OSPAR, 2020), many of which are European Sites that also meet the relevant OSPAR selection criteria (OSPAR, 2019).

### **3.4.7 Transboundary Considerations – Espoo Convention**

40. The United Nations Economic Commission for Europe convention on Environmental Impact Assessment in a Transboundary Context (the 'Espoo Convention') sets out the obligations of Parties to notify and consult each other on all major projects under consideration that have the potential for likely significant adverse environmental effects across international boundaries (transboundary effects).
41. The Espoo Convention has been implemented in the UK for the purpose of Nationally Significant Infrastructure Projects (NSIPs) by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, specifically Regulation 32 (Development with significant transboundary effects). This places a statutory duty on the Secretary of State (SoS) to notify and consult other European Economic Area (EEA) States where they are of the view that the development is likely to have significant effects on the environment of another EEA State.
42. Planning Inspectorate Advice Note Twelve: Transboundary Impacts and Processes (Planning Inspectorate, 2020) sets out the procedures for transboundary notification and consultation associated with NSIP applications for a DCO under the Planning Act 2008, whereby an application has the potential for significant transboundary effects.
43. Planning Inspectorate Advice Note Twelve establishes the roles of the Planning Inspectorate, the UK Government departments and developers. It is advised that developers identify the possible significant transboundary effects or alternatively state why they consider that there would not be any significant effects on another EEA State.

## 3.5 National Context

### 3.5.1 UK Climate and Renewable Energy Policy

44. Numerous overarching UK environmental targets and goals set the national framework for addressing climate change and increasing renewable energy production. An important policy is the legally binding target implemented through the Climate Change Act 2008 (2050 Target Amendment) Order 2019 (the 2019 Amendment Order) which commits to reducing carbon and GHG by 100% by 2050 in comparison to a 1990 baseline.

#### 3.5.1.1 The Climate Change Act 2008

45. The Climate Change Act 2008 sets the framework for the UK to transition to a low-carbon economy, placing a duty on the UK government to ensure their net carbon account and GHG emissions are reduced by 80% relative to 1990 levels by 2050. To progress towards this target, the UK government committed to implementing five-yearly carbon budgets until 2032 to restrict the GHG emissions within each period.
46. In June 2019, the Climate Change Act 2008 (2050 Target Amendment) Order 2019 was passed which extended the 80% reduction target to “at least 100%”, compared to the 1990 levels, also known as “net zero”. This legal target has remained post-UK withdrawal from the EU and is in line with targets made under the Paris Agreement.
47. In March 2023, the UK government published, as required by the Climate Change Act 2008, the Carbon Budget Delivery Plan (HM Government, 2023) which outlines a package of measures and associated timings, and details how they will contribute to meeting Carbon Budget 4 - 6. The ability to meet future carbon budgets requires the delivery of further offshore wind development.

#### 3.5.1.2 The Energy Act 2013

48. In December 2013, the UK government brought into legislation the Energy Act 2013, which succeeded the Energy Act 2010, and outlines the UK’s commitment to low carbon energy industry and investment in low-carbon electricity generation. The Act focuses on setting decarbonisation targets for the UK and reforming the electricity market. The Electricity Market Reform (EMR) was designed to enable the UK to develop a clean, diverse and competitive mix of electricity generation to meet a 2030 decarbonisation target range for electricity.
49. Two key mechanisms were introduced as part of the EMR to provide incentives for the investment required in energy infrastructure:

- The Capacity Market provides a regular retainer payment to reliable forms of capacity (both demand and supply side), in return for such capacity being available when the system is tight; and
  - Contracts for Difference (CfD) provides long-term revenue stabilisation for new low-carbon electricity generation in Great Britain (GB), allowing investment to come forward at a lower cost of capital and therefore at a lower cost to consumers.
50. The CfD scheme is the Government's primary method of encouraging investment in low-carbon electricity. It aims to ensure sufficient investment in sustainable low-carbon technologies to put us on a path consistent with the target to achieve net zero by 2050.
51. In 2021, the UK Government announced £200 million to support offshore wind projects to help progress towards the 2030 40 gigawatts (GW) capacity target, with a further £55 million available for supporting emerging renewable technologies.

### 3.5.1.3 Clean Growth Strategy

52. In 2017, the Department for Business, Energy and Industrial Strategy (BEIS)<sup>1</sup> produced a Clean Growth Strategy (BEIS, 2017) which sets out a comprehensive set of policies and proposals within the UK that aim to deliver increased economic growth and decreased emissions in order for the UK to operate on secure and affordable clean power.
53. The Strategy aims to improve the route to market for renewable technologies such as offshore wind through:
- The provision of up to £557 million for rounds of clean electricity auctions;
  - Working with industry as they develop an ambitious Sector Deal for offshore wind, resulting in up to 10GW of new capacity, with the opportunity for additional deployment; and
  - £177 million further investment to reduce the cost of renewables, including innovation in offshore wind turbine blade technology and foundations.

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<sup>1</sup> BEIS existed until 2023 when it was split to form the Department for Business and Trade (DBT), the Department for Energy Security and Net Zero (DESNZ) and the Department for Science, Innovation and Technology (DSIT).

## 3.5.1.4 Offshore Wind Sector Deal

54. In March 2019, the UK government and the Offshore Wind Industry Council signed the UK Offshore Wind Sector Deal (HM Government, 2019). The Sector Deal is an ambitious long-term strategy which sets out a partnership between government and industry to raise the productivity and competitiveness of UK companies to ensure the UK continues to play a leading role as the global market grows in the decades to come.
55. The Sector Deal builds on the UK's global leadership position in offshore wind and seeks to maximise the advantages for UK industry from the shift to clean growth. It will provide clarity on future CfD rounds, increasing UK content to 60% by 2030 and increasing investment in UK supply chain, along with increasing the number of women in offshore wind to at least a third by 2030.
56. The ongoing development of the renewable energy sector will be required to meet these targets, with offshore wind playing a significant role as the development and operation costs are reduced.

## 3.5.1.5 Ten Point Plan for a Green Industrial Revolution

57. The ten-point plan for a Green Industrial Revolution (HM Government, 2020) was published in November 2020 and will mobilise £12 billion of government investment. The policy paper sets out the approach the Government will take to support green jobs and accelerate the path to net zero. Point one of the plan sets out how the Government will advance offshore wind as a critical source of renewable energy. By 2030 the aim is to have 40GW of operational offshore wind in the UK.

## 3.5.1.6 Net Zero Strategy: Build Back Greener

58. The UK Government published its Net Zero Strategy: Build Back Greener policy paper in October 2021 (HM Government, 2021). This strategy builds on the approach presented in the Ten Point Plan, setting steps to cut emissions, enhance green economic opportunities, and leverage further private investment into net zero. The Strategy provides a pathway to deliver on carbon budgets, NDC and 2050 decarbonisation targets.



## 3.5.1.7 British Energy Security Strategy

59. In April 2022, the UK Government published the British Energy Security Strategy (HM Government, 2022). This sets out how Great Britain will accelerate homegrown power for increased energy independence. The Strategy includes renewables such as offshore wind. The strategy aims to use smarter planning to maintain high environmental standards whilst increasing the pace of offshore wind deployment by 25%, with an ambition to deliver an increased target of up to 50GW of offshore wind by 2030.
60. The British Energy Security Strategy committed to implementing an Offshore Wind Environmental Improvement Package (OWEIP), which aims to streamline environmental assessments, decrease consenting times, and maintain marine environmental protections. It includes measures to:
- Deliver Offshore Wind Environmental Standards (previously called nature-based design standards in the British Energy Security Strategy);
  - Develop regulations and guidance to streamline the Habitats Regulations Assessment and Marine Conservation Zone assessment process for offshore wind projects;
  - Deliver environmental compensatory measures across one or more offshore wind projects to compensate for adverse environmental effects on protected sites that cannot be otherwise avoided, reduced or mitigated;
  - Implement a Marine Recovery Fund; and
  - Introduce strategic monitoring to improve our understanding of the marine environment and the measures needed to further protect it.

## 3.5.1.8 Powering Up Britain

61. In 2023, the Department for Energy Security and Net Zero (DESNZ) was formed and the Powering Up Britain - Energy Security Plan published (HM Government). The plan builds on the ambitions set out in the British Energy Security Strategy and the Net Zero Strategy. It details how the UK Government will improve energy security, take advantage of the economic opportunities of the transition to low carbon energy generation and deliver on the commitment to achieving net zero by 2050. The role of offshore wind is a key element of these publications which includes the goal to develop up to 50GW of offshore wind by 2030.

### 3.5.1.9 Clean Power 2030 Action Plan

62. The Clean Power 2030 Action Plan's (UK Government, 2024), primary aim is for the UK to achieve clean power by 2030 to increase energy security and improve affordability, while reducing greenhouse gas emissions. It proposes that a clean power target means transitioning to an electricity system where clean sources produce at least as much power as Great Britain consumes in total, and that clean sources produce at least 95% of the UK's generation by 2030. The ambition of the Action Plan is that offshore wind and solar will be the main providers of clean power with targets of:
- 43-50 GW for offshore wind;
  - 27-29 GW for onshore wind; and
  - 45-47 GW for solar.
63. It also factors in flexible capacity, such as battery storage (23-27 GW) and long-duration energy storage (4-6 GW).
64. The plan sets out how the Government intend to work with the clean power sector, including industry, trade unions, investors, policy makers and others to achieve the above noted clean power goals.

## 3.5.2 National Planning Legislation

### 3.5.2.1 The Planning Act 2008

65. The Planning Act 2008 is the legislation that established the first legal framework for applying for, examining and determining applications for NSIPs. The Act sets thresholds above which certain types of infrastructure development are nationally significant and require a DCO.
66. DBS East and DBS West are defined as NSIPs under Section 15(3) of the Planning Act 2008 as the Projects are both offshore generating stations each with an expected capacity greater than 100 Megawatt (MW). As required by Section 31 of the Planning Act 2008, a DCO Application has been submitted. Whilst DBS East and DBS West are separate projects and separate commercial entities, approval for the Projects is sought by a single DCO application.



67. In 2011, the Localism Act was adopted which amended the Planning Act 2008. This made the Planning Inspectorate the agency responsible for operating the consenting process for NSIPs on behalf of the relevant SoS. The SoS appoints an Examining Authority, which can comprise a panel of Inspectors or a single Inspector, to examine the application and make a recommendation to the relevant SoS, who will make the decision on whether to grant the DCO.
68. The SoS's decision must be in accordance with designated National Policy Statements (NPSs), unless being classed under an exception as set out in Section 104 of the Planning Act 2008.
69. A PEIR for the Projects was published for consultation in June 2023 under Sections 42, 47 and 48 of the Planning Act 2008.

### 3.5.2.2 Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and Guidance Documents

70. The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations 2017") transpose EIA Directive provisions (2014/52/EU, amending 2011/92/EU). The EIA Regulations 2017 require that the effects of a project (likely to have a significant effect on the environment), are accounted for in the decision-making process for that project.
71. The EIA Regulations 2017 indicate the process for environmental information provision to enable the EIA process. As required under the Regulations, the ES accompanies the DCO Application for the Projects.
72. A scoping report for the Projects was submitted to the Planning Inspectorate on 26<sup>th</sup> July 2022. A Scoping Opinion was subsequently adopted by the Planning Inspectorate, on behalf of the SoS, on 26<sup>th</sup> September 2022 (Planning Inspectorate, 2022). The notification under Regulation 8(1)(b) confirms that the Projects are 'EIA development' in accordance with Regulation 6(2)(a) of the EIA Regulations 2017.
73. The environmental effects of the Projects are identified and assessed based on the scoping opinion, PEIR, and ongoing engagement and assessment work throughout the EIA process.

### 3.5.2.3 Marine and Coastal Access Act 2009

74. The Marine and Coastal Access Act 2009 (MCAA) created a new system of marine and coastal management within the UK focused on management and protection measures for the environment. This Act established the Marine Management Organisation (MMO) as the statutory body responsible for the enhancement and delivery of sustainable development within UK coastal areas.
75. The Act allows for the creation of Marine Conservation Zones (MCZs), which are areas designated for the protection of a range of nationally important marine wildlife, habitats, geology and geomorphology. MCZs cover both UK territorial and offshore waters.
76. The MCAA introduced a new Planning Act 2008 section (Section 149A) which enables DCO applicants to apply for marine works under Deemed Marine Licence(s) (DML) as part of the DCO process.

### 3.5.3 Marine Policy

#### 3.5.3.1 The Marine Policy Statement

77. The UK Marine Policy Statement (MPS) (HM Government, 2011) is the framework for preparing Marine Plans and taking decisions affecting the marine environment, which was prepared and adopted for the purposes of Section 44 of the Marine and Coastal Access Act 2009. It was adopted in 2011 by all UK administrations.
78. The MPS facilitates and supports the formulation of Marine Plans, ensuring that marine resources are used in a sustainable way in line with the high-level marine objectives:
- Promote sustainable economic development;
  - Enable the UK's move towards a low-carbon economy, in order to mitigate the causes of climate change and ocean acidification and adapt to their effects;
  - Ensure a sustainable marine environment which promotes healthy, functioning marine ecosystems and protects marine habitats, species and our heritage assets; and
  - Contribute to the societal benefits of the marine area, including the sustainable use of marine resources to address local social and economic issues.
79. The SoS must have regard to the MPS under Section 104(2) (aa) of the Planning Act 2008 and Section 59 of the MCAA when considering DCO applications.

80. In terms of offshore wind, the MPS states the following: *“The UK has some of the best wind resources in the world and offshore wind will play an important and growing part in meeting our renewable energy and carbon emission targets and improving energy security by 2020, and afterwards towards 2050. Harnessing and connecting offshore wind is currently more technologically challenging and more expensive than harnessing and connecting onshore wind. However, offshore wind has a larger potential, due to a stronger and more consistent wind source at sea leading to higher power outputs. As the most mature of the offshore renewable energy technologies, it has the potential to have the biggest impact in the medium-term on security of energy supply and carbon emission reductions through its commercial scale output. Expansion of the offshore wind supply is likely to require significant investment in new high-value manufacturing capability with potential to regenerate local and national economies and provide employment.”* (section 3.3.19).
81. The MPS considers policy in relation to the marine environment covering the following technical areas:
- Marine ecology and biodiversity;
  - Air quality;
  - Noise;
  - Ecological and chemical water quality and resources;
  - Seascape;
  - Historic environment;
  - Climate change adaptation and mitigation; and
  - Coastal change and flooding.

### 3.5.3.2 Marine Plans

82. Marine plans are prepared under the policy framework provided by the UK MPS; together they underpin the marine planning system for England. In deciding DCO applications the SoS is also obliged to have regard to any Marine Plan which has an effect for the area of the application, by Section 104(2) (aa) of the Planning Act 2008 and Section 59 of the MCAA. The majority of the offshore elements of the Projects are within the East Inshore and Offshore Marine Plan areas, and therefore these plans are the focus of the ES chapter. A small portion of the Offshore Export Cable Corridor lies within the North East Marine Plan area, and this plan has been considered by the Applicants where relevant.

83. **Volume 8, Policy Compliance Assessment Tables (application ref: 8.2)** submitted with the ES demonstrates the compliance of the Projects with these marine plans and the policies within them.

### 3.5.3.1.2 East Inshore and East Offshore Marine Plans

84. The East Inshore and East Offshore Marine Plans (Defra, 2014) encompass and therefore have effect on the Projects' Offshore Development Area.
85. The purpose of the Plans is to: *"...provide a clear approach to managing the East Inshore and East Offshore areas, their resources, and the activities and interactions that take place within them. They will help ensure the sustainable development of the marine area. ...The marine plans do not establish new requirements but apply or clarify the intent of national policy in the East Inshore and Offshore areas, taking into account the specific characteristics of the plan areas"* (paragraph 3 & 4 respectively).
86. In terms of offshore wind, the plans state *"By 2034, sustainable, effective and efficient use of the East Inshore and East Offshore Marine Plan Areas has been achieved, leading to economic development while protecting and enhancing the marine and coastal environment, offering local communities new jobs, improved health and well-being. As a result of an integrated approach that respects other sectors and interests, the East marine plan areas are providing a significant contribution, particularly through offshore wind energy projects, to the energy generated in the United Kingdom and to targets on climate change."* (paragraph 50).
87. The objectives of the Plans and key associated policies established under them are listed in **Table 3-1** below and have been considered by the Applicants.

Table 3-1 Policies within the East Inshore and East Offshore Marine Plans relevant to the Projects, along with associated objectives or sectors.

Objective / Sector	Policy
<p><b>Objective 1, Economic productivity:</b></p> <p>To promote the sustainable development of economically productive activities, taking account of spatial requirements of other activities of importance to the East marine plan areas.</p>	<p><b>EC1</b> states: <i>"Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported"</i>.</p>

Objective / Sector	Policy
<p><b>Objective 2. Employment and skill levels:</b></p> <p>To support activities that create employment at all skill levels, taking account of the spatial and other requirements of activities in the East marine plan areas.</p>	<p><b>EC2</b> states: “Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas”.</p>
<p><b>Objective 3. Wind energy as a transformational activity:</b></p> <p>To realise sustainably the potential of renewable energy, particularly offshore wind farms, which is likely to be the most significant transformational economic activity over the next 20 years in the East marine plan areas, helping to achieve the United Kingdom’s energy security and carbon reduction objectives.</p>	<p><b>EC3</b> states: “Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported”.</p>
<p><b>Objective 4. Health and wellbeing:</b></p> <p>To reduce deprivation and support vibrant, sustainable communities through improving health and social well-being”.</p>	<p><b>SOC1</b> states: “Proposals that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported”.</p>
<p><b>Objective 5. Heritage Assets:</b></p> <p>To conserve heritage assets, nationally protected landscapes and ensure that decisions consider the seascape of the local area.</p>	<p><b>SOC2</b> states: “Proposals that may affect heritage assets should demonstrate, in order of preference:</p> <ul style="list-style-type: none"> <li>a) That they will not compromise or harm elements which contribute to the significance of the heritage asset;</li> <li>b) How, if there is compromise or harm to a heritage asset, this will be minimised;</li> </ul>

Objective / Sector	Policy
	<p>c) How, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against; and</p> <p>d) The public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset”.</p> <p><b>SOC3</b> states: “Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference:</p> <p>a) That they will not adversely impact the terrestrial and marine character of an area;</p> <p>b) How, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them;</p> <p>c) How, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against; and</p> <p>d) The case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts”.</p>
<p><b>Objective 6. Healthy ecosystem:</b></p> <p>To have a healthy, resilient and adaptable marine ecosystem in the East marine plan areas.</p>	<p><b>ECO1</b> states: “Cumulative impacts affecting the ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation”.</p> <p><b>ECO2</b> states: “The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation”.</p>
<p><b>Objective 7. Biodiversity:</b></p> <p>To protect, conserve and, where appropriate, recover biodiversity that is in or dependent upon the East marine plan areas.</p>	<p><b>BIO1</b> states: “Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial)”.</p> <p><b>BIO2</b> states: “Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests”.</p>
<p><b>Objective 8. Marine Protected Areas:</b></p>	<p><b>MPA1</b> states: “Any impacts on the overall Marine Protected Area network must be taken account of in</p>



Objective / Sector	Policy
To support the objectives of Marine Protected Areas (and other designated sites around the coast that overlap or are adjacent to the East marine plan areas), individually and as part of an ecologically coherent network.	<i>strategic level measures and assessments, with due regard given to any current agreed advice on an ecologically coherent network”.</i>
<b>Objective 9, Climate Change:</b> To facilitate action on climate change adaptation and mitigation in the East marine plan areas.	<p><b>CC1</b> states: “Proposals should take account of:</p> <p>a) How they may be impacted upon by, and respond to, climate change over their lifetime; and</p> <p>b) How they may impact upon any climate change adaptation measures elsewhere during their lifetime. Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts”.</p> <p><b>CC2</b> states: “Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration should also be given to emissions from other activities or users affected by the proposal”.</p>
<b>Objective 10. Governance:</b> To ensure integration with other plans, and in the regulation and management of key activities and issues, in the East marine plans, and adjacent areas.	<p><b>GOV1</b> states: “Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa”.</p> <p><b>GOV2</b> states: “Opportunities for co-existence should be maximised wherever possible”.</p> <p><b>GOV3</b> states: “Proposals should demonstrate in order of preference:</p> <p>a) That they will avoid displacement of other existing or authorised (but yet to be implemented) activities;</p> <p>b) How, if there are adverse impacts resulting in displacement by the proposal, they will minimise them;</p>

Objective / Sector	Policy
	<p>c) How, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against; or</p> <p>d) The case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement”.</p>
<b>Defence</b>	<b>DEF1</b> states: “Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence”.
<b>Oil and Gas</b>	<b>OG1</b> states: “Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated”.
<b>Offshore Wind Renewable Energy Infrastructure</b>	<b>WIND2</b> states: “Proposals for Offshore Wind Farms inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported”.
<b>Carbon Capture and Storage</b>	<p><b>CCS1</b> states: “Within defined areas of potential carbon dioxide storage, proposals should demonstrate in order of preference:</p> <p>a) That they will not prevent carbon dioxide storage;</p> <p>b) How, if there are adverse impacts on carbon dioxide storage, they will minimise them;</p> <p>c) How, if the adverse impacts cannot be minimised, they will be mitigated; and</p> <p>d) The case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts”.</p>
<b>Ports and Shipping</b>	<p><b>PS2</b> states: “Proposals that require static sea surface infrastructure that encroaches upon important navigation routes should not be authorised unless there are exceptional circumstances. Proposals should:</p> <p>a) Be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact;</p>



Objective / Sector	Policy
	<p>b) Anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows; and</p> <p>c) Account for impacts upon navigation in-combination with other existing and proposed activities”.</p>
<b>Sub-sea Cabling</b>	<p><b>CAB1</b> states: “Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicants”.</p>
<b>Fisheries</b>	<p><b>FISH1</b> states: “Within areas of fishing activity, proposals should demonstrate in order of preference:</p> <p>a) That they will not prevent fishing activities on, or access to, fishing grounds;</p> <p>b) How, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them;</p> <p>c) How, if the adverse impacts cannot be minimised, they will be mitigated;</p> <p>d) The case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts”.</p> <p><b>FISH2</b> states: “Proposals should demonstrate, in order of preference:</p> <p>a) That they will not have an adverse impact upon spawning and nursery areas and any associated habitat;</p> <p>b) How, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them;</p> <p>c) How, if the adverse impacts cannot be minimised they will be mitigated;</p> <p>d) The case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts”.</p>
<b>Tourism and Recreation</b>	<p><b>TR1</b> states: “Proposals for development should demonstrate that during construction and operation, in order of preference:</p>

Objective / Sector	Policy
	<p>a) They will not adversely impact tourism and recreation activities;</p> <p>b) How, if there are adverse impacts on tourism and recreation activities, they will minimise them;</p> <p>c) How, if the adverse impacts cannot be minimised, they will be mitigated;</p> <p>d) The case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts”.</p> <p><b>TR2</b> states: “Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference:</p> <p>a) That they will not adversely impact on recreational boating routes;</p> <p>b) How, if there are adverse impacts on recreational boating routes, they will minimise them;</p> <p>c) How, if the adverse impacts cannot be minimised, they will be mitigated; and</p> <p>d) The case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts”.</p>

88. Remaining contributing policies to Objective 10 seek to protect areas designated for or with potential to be used by a range of different marine activities e.g. aggregates, shipping and leisure. Since the site selection for the Projects has avoided areas designated for other marine uses as far as possible, these remaining policies are not applicable to these Projects.

### 3.5.3.3 Marine Noise

89. As part of the UK Government’s Clean Power 2030 Action Plan (UK Government, 2024), initiatives are currently being undertaken to expedite the deployment of offshore wind energy projects, whilst protecting marine ecosystems. Defra recognises that increased construction activity, including piling for turbine and substation foundations, generates significant underwater noise that can impact sensitive species, including harbour porpoise within SACs.

90. In response to anticipated rises in cumulative noise levels, the UK Government plans to introduce a piling noise limit for offshore wind construction. This policy aims to ensure environmental protection is embedded in delivery of clean energy targets.
91. From January 2025, all offshore wind piling activity in English waters will be expected to demonstrate best endeavours to reduce noise, using primary and / or secondary noise reduction measures. Primary methods reduce noise at source (e.g. alternative hammer or foundation types), while secondary methods reduce noise propagation (e.g. bubble curtains, resonators) (Defra, 2025).
92. Applicants must incorporate noise reduction strategies into their marine licence submissions. Technologies supported by strong evidence of effectiveness are likely to face fewer regulatory challenges. In addition, developers may propose alternative Effective Deterrent Range values, provided they are justified with robust, case-specific evidence.
93. Wildlife licences may also be required for piling and will only be granted where legislative tests are met, including demonstrating that no satisfactory alternative exists.
94. In January 2025, the Joint Position Statement for Unexploded Ordnance (UXO) clearance was updated by all UK regulators and Statutory Nature Conservation Bodies (Defra, *et al.* 2025). The methods available to clear UXOs are evolving, as is the available evidence supporting claims of their reduced environmental impact. The joint statement sets out the collective position of the UK government, devolved governments and associated bodies on the use of low noise methods of clearing UXOs within the UK marine environment, in relation to commercial marine developments. The following position statement replaces the interim position statement first published in November 2021 (updated in January 2022). This, and the accompanying guidance, aims to reduce environmental impacts during UXO clearance in the marine environment.
95. A marine licence is required for UXO clearance activities. This position statement sets out how the signatories expect to approach marine licensing for these activities and provides guidance for the Applicant.

## 3.5.4 National Policy Statements

96. The Planning Act 2008 makes provision for NPSs. NPSs are designed to set the policy framework for the determination of NSIP applications. They integrate the Government's objectives for infrastructure capacity and development with its wider economic, environmental, and social policy objectives, including climate change goals and targets, in order to deliver sustainable development.
97. NPSs are produced by the UK Government and set out national policy against which proposals for major infrastructure projects will be assessed and decided on by the Planning Inspectorate. Planning decisions will be taken within the clear policy framework set out in the NPSs, making these decisions as transparent as possible. The Planning Inspectorate will have regard for NPSs in its examination of applications for development consent, and Ministers will also have regard for them when making decisions. NPSs include the Government's objectives for the development of nationally significant infrastructure in a particular sector and set out:
- How these objectives will contribute to sustainable development;
  - How these objectives have been integrated with other Government policies;
  - How actual and projected capacity and demand have been taken into account;
  - Relevant issues in relation to safety or technology;
  - Circumstances where it would be particularly important to address the adverse impacts of development; and
  - A clear framework for investment and planning decisions.
98. Twelve designated NPSs in total were produced by the Department of Energy and Climate Change (DECC) in 2011, of which six are relevant to energy.
99. A review of the energy NPSs was announced in the 2020 Energy white paper: Powering our net zero future (BEIS, 2020) which ensured the NPSs were brought up to date to reflect the policies set out in the white paper.

100. A draft version of each energy NPS (except EN-6<sup>2</sup>) was published for consultation in September 2021. The consultation closed in November 2021 (BEIS, 2021). The updated draft NPSs included a number of key changes, many of which were designed to build more flexibility into the policy framework to reflect the fact that future energy generation will be more complex with energy coming from a wider range of sources, and that these will all play a role in the transition to net zero. They also included reference to plans to decarbonize the UK's economy, and strategies to ensure energy security and a reduction in the cost of energy for consumers.
101. Following the consultation in 2021 on the draft energy NPSs, a new consultation on further revised drafts opened on the 30<sup>th</sup> March 2023 and closed on the 23<sup>rd</sup> June 2023.
102. The final revised NPSs were laid before Parliament in November 2023 as the final stage before formal designation, with the energy NPSs receiving designation by the SoS for Energy and Climate Change in January 2024.
103. The three NPSs of relevance to the Projects are:
  - EN-1 Overarching Energy (DESNZ, 2023a);
  - EN-3 Renewable Energy Infrastructure, which identifies the construction of offshore generating stations in excess of 100MW as NSIPs (DESNZ, 2023b); and
  - EN-5 Electricity Networks, which covers the electrical infrastructure in conjunction with EN-1 (DESNZ, 2023c).
104. Specific NPS policies relevant to each environmental topic are set out in each ES chapter with information provided as to how each item has been addressed.
105. In July 2024, the UK Government launched a review of the energy NPSs to ensure they aligned with the Clean Power 2030 Action Plan (UK Government, 2024), aiming for a clean energy system by 2030 (see section 3.5.1.9).

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<sup>2</sup> The NPS on Nuclear power Generation (EN-6) which sets out the development framework for nuclear projects deployable before 2025, was subject to a standalone consultation in 2018 and did not form part of this consultation.

106. In April 2025, following a review of energy NPSs EN-1 to EN-5, the Government drafted updates to EN-1 (DESNZ, 2025a), EN-3 (DESNZ, 2025b) and EN-5 (DESNZ, 2025c), which have been consulted on. The consultation ran from 24<sup>th</sup> April 2025 to 29<sup>th</sup> May 2025, with new NPSs expected to be published in late 2025.
107. The consultation states that transitional provisions will apply, so that the 2025 amendments will have effect only in relation to applications accepted after the final publication of the amendments. For the Dogger Bank South Projects, the 2024 NPSs continue to have effect, with the emerging draft NPSs capable of being important and relevant considerations.
108. The following sections detail the current NPSs with additional detail added on the amendments made to the policy in the draft NPSs which have not yet been published or designated.

### 3.5.4.1 Overarching National Policy Statement for Energy (EN-1)

109. EN-1 sets out national policy for energy infrastructure with the recent most significant changes to the policy relating to the Critical National Priority (CNP) for offshore wind and associated onshore transmission necessary for the development.
110. In the context of NPS, CNP refers to a policy presumption that favours the development of certain low-carbon energy infrastructure projects due to their urgent national need and contribution to energy security, affordability, and net-zero targets. This means that if a project qualifies as a CNP, its need will generally outweigh other residual impacts after mitigation measures have been applied.
111. EN-1 highlights that “*a significant amount of new energy infrastructure*” is needed to meet the objectives for the energy system, ensuring that the supply of energy is secure and consistent with meeting the target to cut GHG emissions to Net Zero.
112. Part 3 describes the ‘urgent’ need for significant amounts of large-scale energy infrastructure in meeting the Government’s energy objectives including sections on:
  - The need for new electricity infrastructure, paragraph 3.3.4 highlights that different types of electricity infrastructure are needed to meet the energy objectives, although analysis shows that a secure energy system in 2050 is likely to be composed of predominantly wind and solar (paragraph 3.3.20);



- The need for electricity generating capacity, paragraph 3.3.58, highlights the urgent need for new electricity infrastructure and time taken for electricity NSIPs to move from design conception to operation. There is an urgent need for new (and particularly low carbon) electricity NSIPs to be brought forward as soon as possible, given the crucial role of electricity as the UK decarbonises its economy; and
  - The need for new electricity networks, paragraph 3.3.66 highlights that the security and reliability of the UK's energy supply is dependent on having an electricity network which will enable new renewable energy generation, storage and interconnection infrastructure to meet the demand required to transition to net zero. Paragraph 3.3.71, describes the historical approach to connecting offshore wind using individual connections developed by projects alone. For regions with multiple wind farms or offshore transmission projects it is expected that a more coordinated approach will be delivered in order to reduce costs, cumulative environmental impacts and impacts on coastal communities.
113. As mentioned above, section 4.2 discusses CNP infrastructure. The definition has been updated to cover low-carbon infrastructure, which includes:
- All onshore and offshore generation that does not involve fossil fuel combustion for electricity generation;
  - All power lines in scope of EN-5 including network reinforcement and upgrade works, and associated infrastructure such as substations;
  - Other energy infrastructure, fuels, pipelines and storage infrastructure, which fits within the normal definition of “low carbon”, such as hydrogen distribution, and carbon dioxide distribution;
  - Energy infrastructure which is directed into the NSIP regime under section 35 of the Planning Act 2008, and fits within the normal definition of “low carbon”, such as interconnectors; and
  - Lifetime extensions of nationally significant low carbon infrastructure, and repowering of projects.

114. Section 4.6, discusses Environmental Net Gain (ENG) and Biodiversity Net Gain (BNG). ENG *“...is an approach to development that aims to leave the natural environment in a measurable better state than beforehand”*, whereas BNG is an essential component of ENG. Currently BNG policy in England only applies to terrestrial and intertidal components of projects. Paragraph 4.6.3 states *“Principles for Marine Net Gain are currently being rolled out by the Government, who will provide guidance in due course. There are provisions in the Environment Act 2021 to allow Marine Net Gain to be made mandatory for NSIPs in the future”*.
115. Section 5 of EN-1 discusses generic impacts that arise from all type of energy infrastructure covered by the energy NPSs. All projects should include a GHG assessment as part of the ES, (paragraph 5.3.4), although paragraph 5.3.11 states that *“...operational GHG emissions are not reasons to prohibit the consenting of energy projects or to impose more restrictions on them in the planning policy framework than are set out in the energy NPSs”*.
116. Civil and military aviation and defense interests are discussed in section 5.5. New text has been added to EN-1 in support of aviation and wind farms. Paragraph 5.5.24 introduces a *“system of systems”* approach which may help to address the impacts on air surveillance and routine air traffic control operations for those wind farms that exist when radar or other surveillance systems are procured.
117. Section 5.9 discusses the historic environment, with paragraph 5.9.16 explaining that the ability to record evidence of the asset should not be a factor in deciding whether such loss should be permitted, and whether or not consent should be given.
118. Section 5.10 (Landscape and Visual) strengthens the protection of the Heritage Coast stating that *“Development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with the natural beauty and special character of the area”* (paragraph 5.10.11). Text also states that *“landscape effects arise not only from the sensitivity of the landscape but also the nature and magnitude of change proposed by the development, whose specific siting and design make the assessment a case-by-case judgement”* (paragraph 5.10.4).



119. In the draft revision, with regards to offshore wind, EN-1 has been updated to prioritise the Clean Power 2030 Action Plan (section 3.5.1.9), replacing the previous Net Zero section. This brings projects relevant under the Action Plan into the remit of CNP, which makes it harder for applications for projects supporting clean energy to be rejected due to residual environmental impacts. The aim is to put the Plan in the foreground as the primary policy enabled by the NPSs.
120. With regards to the need for security and reliability of the UK's energy supply in order to meet the Clean Power 2030 Mission target, paragraph 3.3.22 highlights how Great Britain will need to generate enough clean power to meet our total annual electricity demand. To take action, whilst meeting a 40-60 per cent increase in electricity demand means that the majority of new generating capacity needs to be low carbon (paragraph 3.3.16).
121. Paragraph 3.3.23 highlights the urgent need for new electricity infrastructure. Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply.
122. With the UK Government's ambition to deploy 50GW of offshore wind by 2030, the draft NPS also makes reliance on Programme Njord policy in order to mitigate the effects of large-scale offshore wind farms on the UK's air defence radars (paragraph 5.5.5).
123. Programme Njord is a Ministry of Defence initiative, implemented by the Royal Air Force (RAF) focused on maintaining the primary surveillance capability of the RAF's air defence radar, which could be degraded by the presence of wind farms. The capability may be comprised of an asset or assets that mitigate individual windfarms or numerous assets that comprise a system of mitigations.
124. Other key changes include:
  - Emphasising grid flexibility and resilience, acknowledging the increasing frequency of extreme weather events and the need for a more robust energy system;
  - Prioritisation of faster grid connections for offshore wind farms, aiming to reduce delays caused by infrastructure bottlenecks;
  - Outlining pathways for accelerated offshore wind deployment, including streamlined approvals and financial support for new projects;
  - While streamlining approvals, the policy also strengthens marine biodiversity safeguards, ensuring offshore wind expansion aligns with conservation efforts; and

- Primary legislation is being explored to enable Marine Net Gain to be a mandatory obligation for developers in future.

### 3.5.4.2 National Policy Statement for Renewable Energy Infrastructure (EN-3)

125. EN-3 sets out the policy on renewable energy infrastructure which has been revised to address the impacts that are specific to the different types of renewable energy. Information regarding onshore wind is no longer provided, as this was removed from the NSIP regime. New sections on environmental compensation, marine planning and co-ordination of onshore transmission have been included.
126. The role of the SoS in the offshore consenting process, including the power of the SoS to grant DMLs as part of a project's DCO is confirmed in paragraph 2.3.18 of EN-3. A new section (section 2.6) calls for flexibility in project details. Applicants must now explain in their application which elements of the proposal have yet to be finalised and the reasoning why. If flexibility is sought applicants should assess the likely worst case effects to ensure that the impacts of the project as it may be constructed have been properly assessed (paragraph 2.6.2). EN-3 reflects the use of the 'Rochdale Envelope' method which allows for the maximum adverse case scenario (i.e. worst-case) to be assessed in the ES and a DCO granted on this basis.
127. NPS EN-3 identifies certain environmental topic-specific policy considerations. These are outlined within the ES chapters, where relevant. For offshore wind (section 2.8), paragraph 2.8.1 highlights that the Government expects that offshore wind will play a significant role in meeting demand and decarbonising the energy system. As set out in the British Energy Security Strategy (section 3.5.1.7 of this chapter) the goal is to develop up to 50GW of offshore wind capacity by 2023. There is also the expectation that there will be a need for substantially more offshore capacity beyond this to achieve net zero by 2050. Paragraph 2.8.14 and 2.8.15 references the Offshore Energy Strategic Environmental Assessment which concluded that there are no overriding environmental considerations preventing the plans for 25GW offshore wind and a further 8GW existing planned capacity if mitigation measures are implemented to prevent, reduce and offset significant adverse effects.
128. Paragraph 2.8.7 recognises the need to speed up and reduce delays in the consenting process to achieve these ambitions. The British Energy Security Strategy committed to implementing an OWEIP, which will be subject to public consultation and guidance produced in due course.

129. Paragraph 2.8.76 explains that the consent granted should be flexible to allow for necessary micro-siting of elements of the proposed wind farm during its construction were requested at the application stage. This allows for unforeseen events such as the discovery of previously unknown marine archaeology where it would be preferable to leave *in situ*.
130. In the draft revision, with regards to offshore wind, EN-3 has been updated to align with the Clean Power 2030 Action Plan (section 3.5.1.9) and broader renewable energy goals. New provisions also aim to streamline the planning and consenting process to reduce delays for offshore wind projects (paragraph 2.88).
131. Draft EN-3 explicitly addresses wake effects for the first time by clarifying the applicability of section 2.8 of the draft EN-3 to offshore infrastructure and specific references are made in a number of paragraphs. The added paragraphs introduce important changes and / or clarifications to policy, and recognise the increased attention to wake effects as a result of the increased deployment of offshore wind. It suggests that at the design stage of a project there are clear merits for applicants in making an assessment of inter-array wake effects on nearby offshore wind generating stations that are planned, consented or operational.
132. Paragraph 2.8.232 states that 'Applicants should demonstrate that they have taken all reasonable steps to minimise as far as possible the impact of wake effects on other offshore industries...'. Additionally, draft EN-3 now explicitly states that there is no expectation that wake effects can be removed entirely and that the existence of a residual wake effect impact is unlikely to carry more than limited weight against a project in the planning process (paragraph 2.8.316). There is also no expectation that compensation agreements are necessary to mitigate the impacts. (paragraph 2.8.233).
133. As the final updated EN-3 is intended to only apply to new applications (and the drafting may change following outcome of the consultation on the draft EN-3), there is no current requirement for the Applicants to include a wake loss assessment within the Environmental Statement. Therefore, this has not been included in **Volume 7, Chapter 16 Infrastructure and Other Users (application ref: 7.16)**. Consideration of the potential effects of wake loss has been detailed separately in **Wake Effects - Response to Issue Specific Hearing 3 (ISH3) Action Points (document reference 14.14)** and **Addendum to Wake Effects - Response to ISH3 Action Points Submission for Deadline 4 (document reference 16.2)** and other submissions.

- 134. Paragraph 2.8.8 has been updated to indicate that DESNZ are working closely with Defra to support them in delivering the OWEIP to address environmental barriers.
- 135. As with draft EN-1, draft EN-3 also introduces several provisions to streamline grid connections for offshore wind farms, aiming to reduce delays and improve infrastructure planning. In addition it proposed that some wind farm projects could share offshore transmission networks to optimise efficiency (paragraph 2.8.40).

### 3.5.4.3 National Policy Statement for Electricity Networks (EN-5)

- 136. EN-5 largely focuses around onshore-offshore transmission in the context of the CNP of offshore wind development outlined in EN-1.
- 137. In the context of electricity network infrastructure, the policy on undergrounding of new electricity lines has substantively changed. Pylon-supported overhead conductors remain the strong starting presumption for new electricity lines in general (paragraph 2.9.20), but this situation is reversed in National Parks, The Broads and Areas of Outstanding Natural Beauty. In these areas, and where harm to the landscape cannot feasibly be avoided by re-routing, the strong starting presumption is that new lines should be undergrounded, unless it is not feasible in engineering terms or where the harm of doing so outweighs the landscape and visual benefit. Applicants are also now required to consider the criteria for 'good design' at an early stage of project development.
- 138. In addition, paragraph 2.6.6 details where the Applicants may acquire land for the purpose of mitigation, landscape enhancement and BNG under compulsory purchase powers, rather than relying on terminable wayleaves as has been the case under the previous version of the policy.
- 139. Paragraph 2.9.24 of EN-5 explains that sub-sea and underground cables themselves do not require a DCO under the Planning Act 2008 but may form part of a scheme of new infrastructure which is subject to an application under the act.
- 140. Paragraph 2.2.10 of EN-5 summaries a duty in Schedule 9 of the Electricity Act 1989 on transmission and distribution license holders, in formulating proposals for new electricity infrastructure, to *"have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and ... do what [they] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects"*.

141. Revisions to EN-5 focus on the new network infrastructure required to meet the Clean Power 2030 Action Plan (section 3.5.1.9)
142. One of the key proposals in the draft EN-5 is the introduction of Electricity Transmission Design Principles. These principles will be developed by the National Energy System Operator and apply to onshore and offshore electricity transmission infrastructure, and are intended to provide greater clarity on the type of asset to be used in different environments, how the impact of transmission infrastructure can be mitigated and will set out a level of flexibility for route and technology design.

### 3.5.5 National Planning Policy Framework

143. The National Planning Policy Framework (NPPF) sets out the UK Government's planning policies for England and how these should be applied. A revised version of the NPPF (Ministry of Housing, Communities and Local Government, 2024) was published in December 2024 to replace the previously published framework, and revised in December 2023.
144. The Framework does not contain specific policies for NSIPs. These are determined in accordance with the decision-making framework in the Planning Act 2008 and relevant NPSs for major infrastructure, as well as any other matters that are relevant.
145. The NPPF sets out a number of core principles concerning the protection and conservation of the natural and built environment, and the promotion of sustainable growth and development. Details of the principles of the NPPF which the SoS may consider relevant to the Projects are found in **Table 3-2**.

Table 3-2 National Planning Policy Framework Principles relevant to DBS East and DBS West

Principle	NPPF Advice (with respective paragraph number)
Promoting Sustainable Transport (section 9)	All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a vision-led transport statement or transport assessment so that the likely impacts of the proposal can be assessed and monitored (paragraph 118).
Making Effective Use of Land (section 11)	Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions (paragraph 124).



Principle	NPPF Advice (with respective paragraph number)
Achieving Well-Designed Places (section 12)	The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local authorities and other interests throughout the process (paragraph 131).
Meeting the Challenge of Climate Change, Flooding and Coastal Change (section 14)	The planning system should support the transition to net zero by 2050 and take full account of all climate impacts including overheating, water scarcity, storm and flood risks and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure. (paragraph 161).
Planning and Flood Risk	All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property (paragraph 172).
Conserving and Enhancing the Natural Environment(section 15)	Planning policies and decisions should contribute to and enhance the natural and local environment by (paragraph 187): <ul style="list-style-type: none"> <li>a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);</li> </ul>

Principle	NPPF Advice (with respective paragraph number)
	<p>b) Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;</p> <p>c) Maintaining the character of the undeveloped coast, while improving public access to it where appropriate;</p> <p>d) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;</p> <p>e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and</p> <p>f) Remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.</p> <p>Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries (paragraph 188).</p>



Principle	NPPF Advice (with respective paragraph number)
Conserving and Enhancing the Historic Environment (section 16)	<p>Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats (paragraph 203).</p> <p>When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (paragraphs 212-215).</p>

### 3.5.6 National Infrastructure Advice Notes

146. The EIA process has taken into account the guidance provided by the Planning Inspectorate in the form of the non-statutory National Infrastructure Advice Notes. These notes are published to provide advice and information on a range of issues arising throughout the DCO application process. Although in many cases they include recommendations from the Planning Inspectorate about the approach to particular matters of process, which developers and others are encouraged to consider carefully, it is not a requirement for developers or others to have regard to the content of Planning Inspectorate Advice Notes. Of particular relevance for the Projects are the following Advice Notes:

- Advice Note Three: EIA consultation and notification (Planning Inspectorate, 2024a);
- Advice Note Seven: Environmental Impact Assessment, Preliminary Environmental Information, Screening and Scoping (Planning Inspectorate, 2020a);
- Advice Note Nine: Rochdale Envelope (Planning Inspectorate, 2018);
- Advice Note Ten: Habitat Regulations Assessment (Planning Inspectorate, 2024b);

- Advice Note Twelve: Transboundary Impacts and Process (Planning Inspectorate, 2024c); and
- Advice Note Seventeen: Cumulative Effects Assessment (Planning Inspectorate, 2024d).

### **3.5.7 National Environmental and Conservation Legislation**

#### **3.5.7.1 The Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017**

147. The Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations) transpose the terms of the Habitats Directive and parts of the Birds Directive into English and Welsh law. For UK offshore waters, the Habitats Directive is transposed into UK law by the Conservation of Offshore Marine Habitats and Species Regulations 2017.
148. Under Regulation 63 of the Habitats Regulations, appropriate assessment is required for a plan or project which, either alone or in combination with other plans or projects, is likely to have a significant effect on a European Site or a European offshore marine site and is not directly connected with or necessary for the management of the site. This process is known as Habitat Regulations Assessment (HRA).
149. The Conservation of Offshore Marine Habitats and Species Regulations 2017 consolidate and update the Offshore Marine Conservation Regulations 2007. These regulations apply to the UK's offshore marine area, affording them the same level of protection as onshore habitats and therefore the HRA process also applies. Regulation 28 requires an appropriate assessment if a plan or project is to be carried out on or in any part of the waters or on or in any part of the seabed or subsoil comprising the offshore marine area, or on or in relation to an offshore marine installation, and is likely to have a significant effect on a European offshore marine site or a European Site (either alone or in combination), and is not directly connected with or necessary to the management of the site.
150. HRA generally follows a four-stage process set out in government guidance (Defra, 2010):
  - Stage 1: Screening to identify likely impacts on a European Site resulting from a project or plan;
  - Stage 2: Appropriate assessment to consider in detail impacts on the integrity of the site likely to result from the implementation of the project or plan;

- Stage 3: Assessment of alternative solutions to examine alternative ways of achieving the objectives of the project or plan that might avoid or reduce adverse impacts; and
- Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain.

151. Further details of the HRA process followed by the Projects can be found in **Volume 6, Report to Inform Appropriate Assessment Habitats Regulations Assessment (application ref: 6.1)**. The Report to Inform Appropriate Assessment has been consulted upon during the pre-application period and all HRA matters discussed with relevant stakeholders through the Evidence Plan Process.

### 3.5.7.2 Environment Act 2021

152. The Environment Act 2021 (UK Government, 2021) sets clear statutory targets for the recovery of the natural world in four priority areas: air quality, biodiversity, water and waste, and sets a new target to reverse the decline in species abundance by the end of 2030. The Act also introduced the Office for Environmental Protection, responsible for improving the natural environment by increasing the accountability of government and other public authorities.

### 3.5.7.3 Wildlife and Countryside Act 1981

153. The Wildlife and Countryside Act 1981 (UK Government, 1981) enables the designation of SSSIs to provide statutory protection of the best examples of flora, fauna, geological and physio-geological features. SSSI legislation applies to areas of the terrestrial and intertidal environment only and does not extend offshore. Improved provisions for the protection and management of SSSIs were also introduced by the Countryside and Rights of Way Act 2000. SSSIs are often designated for very specific areas, and the presence of several SSSIs in one region has, in many cases, formed the basis of SPA and SAC (now collectively known as National Site Network sites) boundary classification. Natural England has overall responsibility for the management of the SSSI network in England.

154. The Wildlife and Countryside Act 1981 also enables Statutory Nature Conservation Bodies to declare sites which are considered to be of national importance as National Nature Reserves (NNRs). NNRs also provide additional statutory protection to some SSSIs in England and Wales. Natural England is the body responsible for the designation of NNRs. All NNRs must be within a designated SSSI. Natural England manages the majority of English NNRs, with the remaining sites managed by other approved organisations such as the National Trust, the Forestry Commission, the Royal Society for the Protection of Birds (RSPB), local Wildlife Trusts, and Local Authorities.
155. The Wildlife and Countryside Act defines a series of offences which are intended to provide protection to wild birds, including their eggs and nests, certain animal and plant species, and to prohibit the intentional introduction and spread of invasive non-native species.

#### 3.5.7.4 Countryside and Rights of Way Act 2000

156. Under the Countryside and Rights of Way Act 2000 (UK Government, 2000), Natural England has the power to designate Areas of Outstanding Natural Beauty (AONBs) in England for areas that are outside national parks and that are considered to have significant landscape value. The Act amends the law relating to public rights of way including making provision for public access on foot to certain types of land. Amendments are made in relation to SSSIs to improve their management and protection, as well as to the Wildlife and Countryside Act 1981, to strengthen the legal protection for threatened species. Provision is also made for AONBs to improve their management.

#### 3.5.7.5 The Protection of Badgers Act 1992

157. The Protection of Badgers Act 1992 (UK Government, 1992) makes it an offence to willfully kill, injure or take, or attempt to kill, injure or take a badger; and to cruelly ill-treat a badger. The Act also makes it an offence to intentionally or recklessly damage, destroy or obstruct a badger sett, or to disturb a badger whilst in a sett. A licence for the purpose of development may be granted which will interfere with a badger sett within an area specified in the licence.

## 3.5.7.6 Natural Environment and Rural Communities Act 2006

158. Section 41 of the Natural Environment and Rural Communities Act 2006 (NERC) (UK Government, 2006) requires the relevant SoS to compile a list of habitats and species of principal importance for the conservation of biodiversity in England. Decision makers of public bodies, in the execution of their duties, must have regard for the conservation of biodiversity in England, and the list is intended to guide them.

## 3.5.7.7 The Hedgerow Regulations 1997

159. The Hedgerow Regulations 1997 (UK Government, 1997) make it an offence to remove or destroy certain hedgerows without permission from the local authority and the local authority is the enforcement body for such offences.

## 3.5.7.8 Biodiversity Net Gain

160. The Governments 25 Year Environment Plan (HM Government, 2018) describes an ambition to leave the environment in a better state than that which it inherited for the next generation. This ambition is supported by the NPPF, which makes general provisions for the delivery of BNG. BNG is the result of a process applied to development so that overall, upon completion of the works, there is a net positive outcome for biodiversity.
161. The Environment Act 2021 introduced a mandatory BNG requirement for new development along with Local Nature Recovery Strategies to target the best places for nature recovery and wider environmental benefits. The BNG condition of 10% net gain, maintained for a minimum of 30 years, for planning permissions subject to the Town and Country Planning regime, was implemented in November 2023 to support nature recovery and the Nature Recovery Network. However, the mandatory BNG requirement has not yet come into force in relation to NSIPs. Defra has indicated that their intention is to bring this mandatory requirement into force for NSIP applications accepted for examination from May 2026.
162. The Projects are committed to no net loss of biodiversity as a result of the works. The Projects' approach to BNG is described in further detail in **Volume 7, Appendix 18-10 Biodiversity Net Gain Strategy (application ref: 7.18.18.10).**

## 3.6 Regional and Local Planning Policy

163. Regional and local planning policy is not the policy basis against which NSIPs are assessed, however they may contain policies which the SoS considers relevant. Therefore, where relevant, regional and local planning policies have been considered by the Applicants.

164. Local authorities are required to prepare and maintain up to date Local Development Plans which set out their objectives for the use and land development within their jurisdiction, and general policies for implementation.
165. Prior to implementation of the Planning and Compulsory Purchase Act 2004, local planning policy was set out in a single document, the Local Plan. Local plans are now being replaced by Local Development Frameworks (LDFs) which comprise a suite of Development Plan Documents (DPD) including a Core Strategy DPD, Site Allocation DPD, Area Action Plans and a Proposals Map. Taken together, the LDF can be thought of as the 'new' Local Plan. The Local Plan for the East Riding of Yorkshire takes the form of an LDF and has been considered by the Projects, alongside the Local Plan for Hull City Council.
166. The onshore areas for the Projects fall under the jurisdiction of East Riding of Yorkshire Council. Hull City Council have been included for consultation as there is the potential for traffic movements to go via the Hull ports. This is addressed in **Volume 7, Chapter 24 Traffic and Transport (application ref: 7.24)**, **Volume 7, Chapter 25 Noise (application ref: 7.25)** and **Volume 7, Chapter 26 Air Quality (application ref: 7.26)**.
167. Relevant Development Plans have been considered during the onshore site selection for the Projects (**Volume 7, Chapter 4 Site Selection and Alternatives (application ref: 7.4)**) to avoid conflict with site specific planning allocations.

### 3.6.1 East Riding of Yorkshire Council

168. **Table 3-3** presents the relevant policies from the East Riding of Yorkshire Local Plan (East Riding of Yorkshire Council, 2025). A Local Plan Update was submitted to the Planning Inspectorate on the 31<sup>st</sup> March 2023 with hearing sessions taking place between 31<sup>st</sup> October and 16<sup>th</sup> November. The Council adopted the document at its meeting in April 2025.

*Table 3-3 Policies from the East Riding of Yorkshire Local Plan Update that are relevant to the Projects.*

Policy	Summary
S1: Presumption in favour of sustainable development	<p><b>Development proposals</b></p> <p>A. When considering development proposals the Council will take a positive approach that reflects the three overarching objectives of sustainable development as set out in paragraph 8 of the National Planning Policy Framework, economic, social and environmental, whilst taking in to account local</p>



Policy	Summary
	<p>circumstances. It will work proactively with applicants to find solutions that mean proposals can be approved wherever possible, and to secure development supporting the Council's Vision and Objectives for the Local Plan and the other documents which make up the development plan.</p> <p>B. The Local Plan should be read as a whole and in conjunction with the other documents which make up the development plan. Planning applications that accord with the policies in the development plan will be approved without delay, unless material considerations indicate otherwise.</p> <p>C. Proposals should ensure that, where appropriate, development will support the future sustainable growth of settlements. Future access and connectivity to neighbouring land should be taken into consideration.</p>
S2: Addressing Climate Change	<p>Development proposals will be supported where they reduce the generation of additional greenhouse gas emissions and incorporate adaptation to the expected impacts of climate change. This will be accomplished by:</p> <p>A. Directing most new development to areas where there are services, facilities, homes and jobs, reducing the need to travel and where it can be served more easily and viably by sustainable modes of transport.</p> <p>B. Efficiently using land, mineral, energy and water resources.</p> <p>C. The re-use of the area's building stock and previously developed land.</p> <p>D. Building at higher densities where appropriate and supporting opportunities for mixed use development.</p> <p>E. Promoting sustainable modes of transport and well-connected places.</p> <p>F. Promoting the creation of economic clusters for the renewable and low carbon energy sector.</p> <p>G. Incorporating high standards of sustainable design and construction which involve design approaches minimising energy demands, the prudent and efficient use of natural resources, and built-in resilience to the impacts of climate change (e.g. overheating, flood risk).</p>



Policy	Summary
	<ul style="list-style-type: none"> <li>H. Incorporating renewable, low carbon and decentralised energy generation and heat networks in appropriate locations and schemes where possible.</li> <li>I. Supporting proposals that protect, enhance and link habitat networks to allow biodiversity to adapt to climate change.</li> <li>J. Conserving, enhancing and linking green infrastructure networks to provide flood management, shading in areas of built development and natural air conditioning.</li> <li>K. Steering development away from areas of high flood risk as far as possible, and ensuring development is as resilient as possible to any residual risks.</li> <li>L. Supporting effective on-site water management such as Sustainable Drainage Systems and wider flood management proposals.</li> <li>M. Implementing the most recent Shoreline Management Plan and Humber 2100+ strategy.</li> <li>N. Managing development in coastal areas and facilitating the re-location/roll back of development from areas between Barmston and Spurn Point.</li> <li>O. Exploiting carbon capture approaches through the protection and restoration of existing 'carbon sinks' such as peat bogs and coastal ecosystems, the creation and expansion of woodland, and the deployment of new technologies.</li> <li>P. Support the development of infrastructure, such as hydrogen transportation, that facilitates decarbonisation.</li> </ul>
EC1: Supporting the growth and diversification of the East Riding economy	<ul style="list-style-type: none"> <li>A. To strengthen and encourage growth of the East Riding economy, employment development will be supported where the proposal is of a scale suitable to the location. Proposals will be encouraged where they:               <ul style="list-style-type: none"> <li>1. Contribute to the modernisation, decarbonisation, development and diversification of the local economy, including remote working and co-working;</li> <li>2. Develop and strengthen the East Riding's key employment sectors and clusters including: renewable and low carbon energy; manufacturing and engineering (including chemicals); agriculture/food and drink; biorenewables; tourism; ports and logistics; transport equipment; digital and creative industries; finance and business services;</li> </ul> </li> </ul>

Policy	Summary
	<p>construction; public administration, defence, health and education; and retail;</p> <ol style="list-style-type: none"> <li>3. Contribute towards reducing social exclusion and provide employment opportunities in deprived areas;</li> <li>4. Contribute to the improvement in the physical appearance of an existing or vacant employment site or premises;</li> <li>5. Support the vitality and viability of a Town or District Centre; or</li> <li>6. Support the delivery of the Freeport initiative and its associated tax sites through comprehensive planning.</li> </ol>
EC4: Enhancing Sustainable Transport	<ol style="list-style-type: none"> <li>A. To increase overall accessibility, minimise congestion, improve safety, reduce greenhouse gas emissions, encourage healthy lifestyles and reduce social exclusion, new development will be supported where it is accessible, or can be made accessible, by sustainable modes of transport and addresses its likely transport impact. Development proposals should: <ol style="list-style-type: none"> <li>1. Produce and agree a transport assessment and travel plan, where a significant transport impact is likely;</li> <li>2. Provide access to sustainable travel options which may include public transport, electric and ultra-low emission vehicles, car sharing, cycling and walking; particularly in the Major Haltemprice Settlements, Principal Towns, and Towns; and</li> <li>3. Bring forward other necessary transport infrastructure to accommodate expected movement to and from the development.</li> </ol> </li> <li>B. Developments generating significant freight movement located along the East-West Multi-Modal Transport Corridor should capitalise on the opportunities for transferring and transporting freight by means other than road.</li> <li>C. The number of parking spaces for all new development should reflect: <ol style="list-style-type: none"> <li>1. Accessibility of development, particularly by public transport;</li> </ol> </li> </ol>

Policy	Summary
	<ol style="list-style-type: none"> <li>2. The expected car usage on the site, including an adequate provision of spaces for the charging of plug-in electric and other ultra-low emission vehicles; and</li> <li>3. The most efficient use of space available and promotion of good design</li> </ol>
EC5: Supporting the renewable and low carbon energy sector	<ol style="list-style-type: none"> <li>A. Proposals for the development of the energy sector, excluding mineral extraction, but including all other types of development listed in Table 10, will be supported where any significant adverse impacts are addressed satisfactorily, and the residual harm is outweighed by the wider benefits of the proposal. Developments and their associated infrastructure should be acceptable in terms of:               <ol style="list-style-type: none"> <li>1. The cumulative impact of the proposal with other existing and proposed energy sector developments;</li> <li>2. The character and sensitivity of landscapes to accommodate energy development, with particular consideration to the identified Important Landscape Areas, as shown on Figure 12.</li> <li>3. The effects of development on:                   <ol style="list-style-type: none"> <li>i. local amenity, including noise, air and water quality, traffic, vibration, dust, light (including reflection, glint, glare and shadow flicker), and visual impact;</li> <li>ii. biodiversity, geodiversity and nature, particularly in relation to designations, displacement, disturbance and collision and the impact of emissions/contamination;</li> <li>iii. the historic environment, including individual and groups of heritage assets above and below ground;</li> <li>iv. telecommunications and other networks; including the need for additional cabling to connect to the National Grid, electromagnetic production and interference, and aeronautical impacts such as on radar systems;</li> <li>v. transport, including the opportunity to use waterways and rail for transportation of materials and fuel, and the capacity of the road network to accommodate development;</li> <li>vi. increasing the risk of flooding; and</li> </ol> </li> </ol> </li> </ol>

Policy	Summary
	<p>vii. the land, including land stability, contamination and soil resources.</p> <p>C. Where appropriate, proposals should include provision for decommissioning at the end of their operational life. Where decommissioning is necessary, the site should be restored, with minimal adverse impact on amenity, landscape and biodiversity, and opportunities taken for enhancement of these features.</p>
EC6: Protecting Mineral Resources	<p>B. Within or adjacent to Mineral Safeguarding Areas, non-mineral development, which would adversely affect the viability of exploiting the underlying or adjacent deposit in the future, will only be supported where it can be demonstrated that the:</p> <ol style="list-style-type: none"> <li>1. Underlying or adjacent mineral is of limited economic value;</li> <li>2. Need for the development outweighs the need to safeguard the mineral deposit;</li> <li>3. Non-mineral development can take place without preventing the mineral resource from being extracted in the future;</li> <li>4. Non-mineral development is temporary in nature; or</li> <li>5. Underlying or adjacent mineral deposit can be extracted prior to the non-mineral development proceeding, or prior extraction of the deposit is not possible</li> </ol>
ENV1: Integrating High Quality Design	<p>A. All development proposals will:</p> <ol style="list-style-type: none"> <li>1. Contribute to safeguarding and respecting the diverse character and appearance of the area through their design, layout, construction and use;</li> <li>2. Seek to minimise the demand for energy and make prudent and efficient use of natural resources, particularly land, energy and water; and</li> <li>3. Seek to maximise the use of decentralised and renewable or low carbon technologies.</li> </ol> <p>B. Development will be supported where it achieves a high quality of design that optimises the potential of the site and contributes to a sense of place and beauty.</p>

Policy	Summary
	C. Innovative design incorporating new materials and technologies will be supported where the local context and sub areas, with their diverse landscapes, geologies, historical background and built form, have been fully considered as part of the design process.
ENV2: Promoting a high quality landscape	A. Development proposals should be sensitively integrated into the existing landscape, demonstrate an understanding of the intrinsic qualities of the landscape setting and, where possible, seek to make the most of the opportunities to protect and enhance landscape characteristics and features.
ENV3: Valuing our heritage	<p>B. In determining applications, proposals that sustain or enhance the significance of a heritage asset and its setting should be supported. Development that will cause harm to the significance of a heritage asset will only be granted where clear and convincing justification for the proposed harm can be demonstrated in line with national planning policy requirements. Where harm cannot be avoided the applicant will need to prepare a scheme that minimises and mitigates the harm caused by development and demonstrate that the harm is appropriately weighed against public benefits in accordance with national policy.</p> <p>B. Proposals that would retain, and enhance the significance of a built non-designated heritage asset, or its contribution to the character of a place will be supported where it is in accordance with national planning policy.</p> <p>C. Proposals which seek to safeguard the future of designated heritage assets at risk, including putting them to an appropriate, viable and sustainable use and conserve their significance will be supported where it is in accordance with national planning policy.</p> <p>D. Proposals that impact on a heritage asset (including its setting) should be accompanied by a heritage statement; proportionate to the asset's significance and in line with national planning policy.</p> <p>E. Considerable weight will be given to the preservation and protection of non-designated archaeological remains. Development proposals on sites that have archaeological potential must include a desk-based assessment and, where necessary, a field evaluation report with their planning application. To minimise conflict and ensure mitigation of</p>

Policy	Summary
	<p>damage, preservation of the remains in situ is the preferred solution. However, where the significance of archaeological remains is such that their preservation in situ is not essential and is not feasible, a written scheme of investigation and programme of archaeological works aimed at achieving preservation by record will be required to be submitted to and agreed with the local planning authority.</p>
ENV4: International, National and Local Sites of Importance for Biodiversity	<p>A. Proposals that are likely to have a significant adverse effect on statutory designated sites listed in Table 16 (alone or in combination) will be considered in the context of the statutory protection afforded to the site.</p> <p>B. Development should follow the mitigation hierarchy to first avoid, then mitigate, and where necessary compensate for loss or harm to biodiversity. Where loss or harm to a national or local designated site, as set out in Table 16, cannot be avoided, or adequately mitigated, as a last resort compensation for the loss/harm must be agreed. Development will be refused if loss or significant harm cannot be avoided, adequately mitigated or compensated for.</p> <p><b>International (Habitats) site</b></p> <p>C. Applicants will be required to submit appropriate levels of evidence to enable the Council to undertake a Habitats Regulations Assessment (HRA) of the proposal. Evidence will be required to assess the proposal's potential impact (alone or in combination) in view of the international (habitats) site's conservation objectives. This evidence should include the following potential impacts that proposals need to consider:</p> <p><i>Recreational Pressure</i></p> <ol style="list-style-type: none"> <li>1. The potential impact of recreational pressure on international (habitats) sites should be considered in proximity to sensitive sites.</li> </ol> <p><i>Functionally Linked Land</i></p> <ol style="list-style-type: none"> <li>2. Development proposals located within 10km of the Humber Estuary or Lower Derwent Valley international (habitats) sites will have to consider whether development results in the loss of 'functionally linked land' for mobile species associated with the international (habitats) site where the application site;</li> </ol>

Policy	Summary
	<ul style="list-style-type: none"> <li>i. is greater than 5 hectares; or</li> <li>ii. forms part of a wider plot, field or open area that is greater than 5 hectares</li> </ul> <ul style="list-style-type: none"> <li>3. Development proposals located within 3km of Thorne and Hatfield Moors international (habitats) sites, which impact habitats nightjars may use for feeding, will only be supported where they deliver a net gain in nightjar foraging habitat.</li> <li>4. Where land is identified as functionally linked land, mitigation land that can perform the same function in a suitable location may be required to mitigate adverse effects.</li> </ul> <p><i>Air Quality</i></p> <ul style="list-style-type: none"> <li>5. Proposals emitting air pollutants must rule out adverse effects on the integrity of international (habitats) sites.</li> </ul> <p><i>Water Quality</i></p> <ul style="list-style-type: none"> <li>6. Proposals discharging water pollutants, such as Nitrates and Phosphates, must rule out adverse effects on the integrity of international (habitats) sites.</li> <li>7. Proposals that discharge foul or surface water into Hornsea Mere's international (habitats) site hydrological catchment will have to demonstrate that foul and surface water can be appropriately addressed so that developments are nutrient neutral. Contaminants should be restricted from entering the Mere's hydrological system</li> </ul> <p>D. Mitigation will be required for a development site where adverse effects cannot be ruled out. Where mitigation is not possible to rule out adverse effects on the integrity of an international (habitats) site, the development will not be permitted unless it can be conclusively demonstrated that:</p> <ul style="list-style-type: none"> <li>1. There are no feasible alternative solutions that would be less damaging or avoid damage to the site;</li> <li>2. There are imperative reasons of overriding public interest for the development; and</li> <li>3. The necessary compensatory measures can be secured.</li> </ul>



Policy	Summary
	<p>E. Sites that have been identified for mitigation or compensatory land are shown on the Policies Map and will be protected for the purposes for which they have been identified.</p> <p><b>National</b></p> <p>F. Proposals that are likely to have an adverse effect on a national site (alone or in combination) will not normally be permitted, except where the benefits of development in that location clearly outweigh both the impact on the site and any broader impacts on the wider network of national sites. This should consider adverse impacts such as recreational pressure, functionally linked land, air quality, and water quality.</p> <p><b>Local</b></p> <p>G. Development resulting in loss or significant harm to a local site, or habitats or species supported by local sites, whether directly or indirectly, will only be supported if it can be demonstrated that there is a need for the development in that location and the benefit of the development outweighs the loss or harm.</p>
ENV5: Enhancing biodiversity and geodiversity	<p>A. Proposals will be supported where they:</p> <ol style="list-style-type: none"> <li>1. Conserve, restore, enhance or recreate biodiversity and geological interests including the Priority Habitats and Species, Irreplicable Habitats and Local Sites (identified in Table 13); and</li> <li>2. Safeguard, enhance, create and connect habitat networks in order to: <ol style="list-style-type: none"> <li>i. protect, strengthen and reduce fragmentation of habitats;</li> <li>ii. create a coherent ecological network that is resilient to current and future pressures;</li> <li>iii. conserve and increase populations of species; and</li> <li>iv. promote and enhance green infrastructure.</li> </ol> </li> </ol> <p><i>Local Nature Recovery</i></p> <p>B. Proposals should further the aims of the Local Nature Recovery Strategy and national Nature Recovery Network and other relevant strategic landscape-scale biodiversity initiatives.</p>

Policy	Summary
	<p><i>Biodiversity Net Gain</i></p> <p>C. Proposals must achieve a measurable Biodiversity Net Gain at least in line with the most up to date national requirements, in addition to the measures required in ENV4.</p> <p><i>Water Framework Directive</i></p> <p>D. Proposals that include altering river channels, lakes, estuaries, coastal waters, or their banks, propose structures that break continuity or alter flow, or EIA developments that are determined to have a likely significant effect on the water environment, must undertake a Water Framework Directive Assessment to show that the proposal will:</p> <ol style="list-style-type: none"> <li>1. Not cause deterioration of the Water Framework Directive status of any water body; and</li> <li>2. Will not prevent any water body from reaching targets set in the River Basin Management Plan.</li> </ol>
ENV6: Managing Environmental Hazards	<p>A. Environmental hazards, such as flood risk, coastal change, nutrient deposition, aerial pollution, groundwater pollution and other forms of pollution, will be managed to ensure that development does not result in unacceptable consequences to its users, the wider community, and the environment.</p> <p><b>Flood risk</b></p> <p>B. The risk of flooding to development, from all sources both now and in the future, will be managed by applying a sequential test to ensure that development is steered towards areas of lowest risk, as far as possible. The sequential test will, in the first instance, be undertaken on the basis of the East Riding Strategic Flood Risk Assessments (SFRA) and the Environment Agency's Flood Maps, within appropriate search areas. The order of preference for the sequential test is set out in the relevant SFRA, with preference given to reasonably available sites that are in the lower risk/hazard zones. Where necessary, development must also satisfy the exception test.</p> <p>C. If, following application of the sequential test, it has not been possible to successfully steer development to a site at low risk of flooding from all sources now and in the future, a sequential approach will be taken to site layout and design, aiming to steer the most vulnerable uses towards the lowest risk parts of the site and upper floors.</p>

Policy	Summary
	<p>D. Flood risk from all sources will be proactively managed by:</p> <ol style="list-style-type: none"> <li>1. Ensuring that new developments:           <ol style="list-style-type: none"> <li>i. limit surface water run-off to existing run-off rates on greenfield sites, on previously developed land reduce existing run-off rates by a minimum of 30 per cent , or to greenfield run-off rate, and in the Living With Water Area (see Figure 15 and the Policies Map), support proposals that make a reduction in runoff beyond greenfield rates;</li> <li>ii. do not increase flood risk within or beyond the site;</li> <li>iii. incorporate Sustainable Drainage Systems (SuDS) into major development proposals and proposals at risk of flooding, unless demonstrated to be inappropriate;</li> <li>iv. ensuring SuDS provide multi-functional benefits, where appropriate;</li> <li>v. do not culvert or otherwise build over watercourses, unless supported by the Risk Management Authority and an appropriate the Water Framework Directive Assessment, as required by Policy ENV5. Where practical existing culverts should be removed;</li> <li>vi. have a safe access/egress route from/to areas at low risk of flooding now and in the future or establish that it will be safe to seek refuge at a place of safety within a development;</li> <li>vii. incorporate flood resistant and resilient mitigation that meets the design risk and residual risk now and in the future;</li> <li>viii. are adequately set-back from all watercourses, including culverted stretches, in line with the advice of the relevant Risk Management Authority; and</li> <li>ix. adhere to other relevant SFRA recommendations.</li> </ol> </li> <li>2. Supporting proposals for sustainable flood risk management, including the creation of new and/or improved flood defences, water storage areas and other schemes, provided they would not cause unacceptable adverse environmental, social, or economic impacts.</li> </ol>

Policy	Summary
	<ol style="list-style-type: none"> <li>3. Supporting the removal of existing culverting and returning these sections to open watercourse.</li> <li>4. Designating areas of Flood Zone 3b (Functional Floodplain) and safeguarding land for current and future flood risk management, on the Policies Map Update</li> </ol> <p><b>Coastal Change</b></p> <ol style="list-style-type: none"> <li>E. Development likely to be affected by coastal change will be proactively managed by designating a Coastal Change Management Area (CCMA) on the Policies Map Update.</li> <li>F. Within the CCMA proposals will be supported where it: <ol style="list-style-type: none"> <li>1. Can be demonstrated that an appropriate temporary development, such as those included in Table 17, will contribute to the local economy and/or help to improve the East Riding's tourism offer; or</li> <li>2. Would involve re-location or roll back of existing development to an alternative location, provided the existing development is in permanent use and is a permanent structure, or is an existing caravan or holiday home park. The alternative location should be a suitable coastal location, including meeting the requirements of Policy ENV4; and</li> <li>3. Is ensured that: <ol style="list-style-type: none"> <li>i. the development is safe from the risks associated with coastal change for its intended lifespan;</li> <li>ii. the development does not have an unacceptable impact on nature conservation, heritage and/or landscape designations;</li> <li>iii. sites to be vacated as a result of relocation/roll back or expiry of a temporary permission, will be cleared and restored to a natural state, with net sustainability benefits and, where appropriate, public access to the coast; and</li> <li>iv. the development has an acceptable relationship with coastal settlements in relation to character, setting, residential amenity and local services.</li> </ol> </li> </ol> </li> </ol>

Policy	Summary
	<p>G. Development proposals for sustainable coastal change management, such as improvements to coastal defences or managed realignment, will be supported where:</p> <ol style="list-style-type: none"> <li>1. They would not have any unacceptable adverse environmental, social or economic impacts;</li> <li>2. Are in line with the most up to date Shoreline Management Plan; and</li> <li>3. In line with the latest coastal monitoring information.</li> </ol> <p><b>Groundwater Pollution</b></p> <p>H. The risk of groundwater pollution will be managed by:</p> <ol style="list-style-type: none"> <li>1. Avoiding development that has potential to increase the risk of groundwater pollution in source protection zones and where an alternative site outside an SPZ is not available, ensuring that appropriate mitigation measures are employed;</li> <li>2. Preventing inappropriate uses/activities in SPZ1 and SPZ2, unless adequate safeguards against possible contamination can be agreed;</li> <li>3. Supporting developments which will decrease the risk of pollution in SPZs by cleaning up contaminated land and incorporating pollution-prevention measures;</li> <li>4. Preventing non-mains drainage that would involve sewage, trade effluent or other contaminated discharges, as far as possible; and</li> <li>5. Ensuring re-development of previously developed sites does not contaminate under-lying aquifers.</li> </ol>

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