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14 May 2026

Dear

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE DOGGER BANK SOUTH OFFSHORE WIND FARMS

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

1. Introduction

1.1. I am directed by the Secretary of State for Energy Security and Net Zero ("the Secretary of State") to advise you that consideration has been given to the Examining Authority's ("ExA") report dated 10 October 2025. The ExA consisted of five examining inspectors: Adrian Hunter, Claire Beloe, Helena Obremski, Laura Shorney and Matt Tandy. The ExA conducted an Examination into the application submitted on 12 June 2024 ("the Application") by RWE Renewables UK Dogger Bank South (West) Limited and RWE Renewables UK Dogger Bank South (East) Limited ("the Applicants") for a Development Consent Order ("DCO") ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the Dogger Bank South Offshore Wind Farms and associated development ("the Proposed Development"). The Application was accepted for Examination on 10 July 2024. The Examination began on 14 January 2025 and closed on 11 July 2025. The Secretary of State received the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report") on 10 October 2025.

1.2. On 6 November 2025 a letter was issued by the Secretary of State seeking information on several matters ("the first information request") and inviting Interested Parties ("IPs") to comment on the post examination documents received ("the first consultation"). On 7 January 2026 the Secretary of State issued a Written Ministerial Statement announcing that the statutory deadline for the decision had been reset to 30 April 2026. In line with guidance on decision-making during the pre-election period, the Secretary of State further extended the statutory deadline to 14 May 2026. A letter was issued on 16 January 2026, requesting further information ("the second information request"). On 5 February 2026, a letter was issued by the Secretary of State seeking information from the Ministry of Defence ("MOD") ("the third information request") and inviting Interested Parties ("IPs") to comment on documents received in response to the first and second information requests ("the second consultation"). On 6 March 2026, the Secretary of State issued a letter inviting relevant IPs to provide updates on the proposed co-location, crossing and proximity agreements.

1.3. The Order, as applied for, would grant development consent for the construction of 2 offshore generating stations ('DBS East' and 'DBS West') with a capacity greater than 100 megawatts ("MW"), comprising [ER 1.3.5]:

- the construction and operation of 2 array areas, each with up to 100 wind turbines and their foundations;
- the construction of up to 8 offshore platforms and their foundations including collector platforms, offshore converter platforms and accommodation platform and an electrical switching platform;
- scour protection (where required);
- subsea cables, including:
    - array cables which would link the wind turbines to each other and the offshore platforms
    - inter-platform cables which would link the offshore platforms
    - export cables from the offshore platforms to the landfall
- cable protection (as required);
- landfall, intertidal works between Mean High Water Spring (MHWS) and Mean Low Water Spring (MLWS) and associated transition joint bays (TJB) which would be used to connect the onshore and offshore cables at landfall;
- onshore export cables installed underground from the TJB to the onshore converter stations and associated joining bays and link boxes;
- up to 2 converter stations;
- onward 400kV cable connection from the onshore convertor stations to the proposed Birkhill Wood National Grid Substation;
- trenchless crossing locations (for example by horizontal directional drilling);
- construction and operational accesses; and
- Temporary construction compounds.

1.4. The Applicant also seeks compulsory acquisition ("CA") and temporary possession ("TP") powers, set out in the draft Order submitted with the Application [ER 8.3.1].

1.5. Published alongside this letter on the Planning Inspectorate's National Infrastructure Project website[1] is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report"). The ExA's findings and conclusions are set out in Chapters 3,4,5 and 6 of the ExA Report, and the ExA's summary of conclusions and recommendation is at Chapter 7. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report ["ER *.*.*"].

2. Summary of the ExA's Report and Recommendation

2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report. These address overarching planning issues, as well as onshore and offshore matters, under the following broad headings:

- Need;
- Alternatives;
- Good design;
- Onshore ecology and biodiversity;
- Landscape and visual effects;
- Onshore historic environment;
- Land use and agriculture;
- Traffic and transport including public rights of way;
- Geology and land quality;
- Hydrology and flood risk;
- Socio-economics and tourism;
- Noise and vibration;
- Air quality;
- Human health;
- Climate change;
- Marine archaeology;
- Shipping and navigation;
- Aviation and radar;
- Infrastructure and other activities;
- Commercial fisheries;
- Offshore ornithology;
- Fish and shellfish ecology;
- Marine mammals;
- Marine and coastal processes; and,
- Benthic and intertidal ecology.

2.2. The ExA recommended that the Order in the form applied for cannot not be made pursuant to regulations 63 and 64 of the Habitats Regulations [ER 10.5.1]. The Secretary of State

[1] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010125

considers that the ExA's recommendation also concerns Regulation 68, as it recommends that the compensation package for guillemot of the FFC SPA could not be relied upon. The ExA also recommended that, if the Secretary of State reaches a different conclusion on the Habitat Regulation Assessment, or if further information becomes available after the close of the examination that resolves the HRA concerns, the Secretary of State should make the Dogger Bank South Order in the form recommended at Appendix F of the ExA's Report, subject to Crown consent [ER 10.5.4].

2.3. In relation to the overall planning balance, the ExA considered the case to be finely balanced [10.5.2]. On that basis, the ExA considered that the Critical National Priority tests ("CNP") did not apply unless the Secretary of State reached a different view on that balance.

2.4. Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the ExA Report, and the reasons for the Secretary of State's decision are those given by the ExA in support of his conclusions and recommendations.

3. Summary of the Secretary of State's Decision

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

3.2. The 2024 National Policy Statements ("NPSs") EN-1, EN-3 and EN-5 apply to the Proposed Development, and the application is therefore determined under section 104 of the 2008 Act. Under section 104(2) of the 2008 Act, the Secretary of State must have regard to any relevant NPS, and subsection (3) requires that the decision accord with the relevant NPS unless one or more of subsections (4) to (8) apply. Under the transitional provisions in section 1.6 of EN-1, the 2024 NPSs remained in effect for the ExA's consideration of this Application, and the Secretary of State has had regard to them in reaching this decision. Whilst the 2026 NPSs do not formally apply to this Application, they are capable of being important and relevant considerations and have been considered accordingly in the making of this decision. Subsequent references to EN-1, EN-3 and EN-5 refer to the 2024 NPSs unless explicitly stated otherwise.

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

3.4. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications (at section 9 of this Decision Letter), an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regulations").

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

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

4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination and responses provided to the Secretary of State during the decision-making stage. 63 Relevant Representations ("RRs") were made in respect of the Application[2]. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. The Secretary of State has had regard to the Local Impact Report ("LIR") submitted by East Riding of Yorkshire Council ("ERYC") [PDC-007], environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act including relevant policy set out in the NPSs EN-1, EN-3 and EN-5.

4.2. The Secretary of State has also had regard to the updated National Planning Policy Framework from February 2025 which was published during the Examination. The Clean Power 2030 Action Plan ("CP2030") was published on 13 December 2024 and sets out a pathway to a clean power system. The Secretary of State had regard to these publications and finds that there is nothing contained within them which would lead him to reach a different decision on the Application.

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

- Need – very great positive weight;
- Good design – neutral/no weight;
- Onshore ecology and biodiversity – little negative weight;
- Landscape and visual effects – great negative weight;
- Onshore historic environment – great negative weight;
- Land use and agriculture – great negative weight;
- Traffic and transport including public rights of way – little negative weight;
- Geology and land quality – little negative weight;
- Hydrology and flood risk – little negative weight;
- Socio-economics and tourism – little negative weight;
- Noise and vibration – neutral/no weight;
- Air quality – neutral/no weight;
- Climate change – neutral/no weight;
- Marine archaeology – neutral/no weight;
- Shipping and navigation – little negative weight; and
- Commercial fisheries – moderate negative weight.

4.4. The Secretary of State notes that the weighting descriptors used by the ExA differ from those laid out on page 175 of NPS EN-1. Having reviewed ExA's considerations and conclusions, the Secretary of State considers that where the ExA has referred to 'little' weight, this can be

2 https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010125/representations

equated to ‘limited’ weight, and ‘very great’ can be equated to ‘substantial’. The Secretary of State will use the descriptors as laid out in NPS EN-1 when ascribing his weightings and whilst the terminology used will differ to this limited extent, the difference in terminology does not indicate a disagreement with the ExA unless this is specifically stated.

4.5. The paragraphs below set out the matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA’s Report, including those matters on which further information has been sought.

The Need for the Proposed Development

4.6. ExA concluded that, notwithstanding project-specific considerations, the overarching need argument for the Proposed Development is very strong, given the urgent need for low carbon energy, the ability to deliver the project within a reasonable timeframe to meet rising energy demand, and the importance of maintaining security of supply [ER 3.1.27]. The ExA also recognises the urgent need for low carbon energy production to reduce greenhouse gas emissions and to address the effects of climate change. The ExA also recognises the contribution which renewable energy generation would deliver in terms of energy security and affordability. [ER 3.1.26] Accordingly, the ExA considers that the overall need argument carries very great positive weight in favour of making the Order.

The Secretary of State’s conclusion

4.7. The Secretary of State agrees with the ExA that the need for the Proposed Development is established and recognises its potential contribution to meeting low carbon and renewable energy generation targets. The Secretary of State has considered the impact of wake effects on other offshore wind farms (“OWFs”). The Secretary of State agrees with the ExA that wake effects from the Proposed Development could lead to residual impacts on other OWFs. However, the Secretary of State concludes that these impacts do not affect the need case or his overall conclusion that the Proposed Development would result in greater capacity of clean electricity generation cumulatively. The Secretary of State, therefore, ascribes substantial positive weight in favour of making the Order.

Human health

4.8. The ExA considered the effects of the Proposed Development on human health across construction, operation and decommissioning. The ExA concluded that in respect of human health, the requirements of NPS EN-1 have been met [ER 4.11.16] and concluded that the majority of the adverse effects on human health identified by the Applicants; are likely to occur during construction, would not be significant, and have been suitably mitigated in line with NPS EN-1 [ER 4.11.18].

4.9. The ExA recognised that the positive health benefits arising from the Proposed Development on wider energy security, as assessed in the ES, would have a moderate beneficial effect, which would be significant for vulnerable groups during the operational phase of the Proposed Development [ER 4.11.18]. On this basis, the ExA attributed a little positive weight to the human health effects of the Proposed Development in the planning balance [ER 4.11.19].

The Secretary of State's Conclusion

4.10. The Secretary of State notes that the need case for new energy infrastructure, as established in EN-1, carries clear and material public health implications. EN-1 expressly recognises that access to secure, reliable and affordable energy is "beneficial to society and to our health as a whole" (4.4.1). The Secretary of State agrees with the ExA that the Proposed Development would result in positive health benefits from wider energy security [ER 4.11.18]. However, the Secretary of State considers that these benefits are already taken into consideration as part of the need case for new energy infrastructure, for which 'substantial positive' weight is already ascribed [ER 3.1.27].

4.11. For the reasons set out above, the Secretary of State does not agree with the little positive weight attributed by the ExA to human health on the basis of wider energy security. With respect to the Proposed Development's effects on human health, being assessed as not significant and suitably mitigated, the Secretary of State agrees with the ExA's conclusion and attributes neutral weight to these effects. Accordingly, the impacts on human health carry neutral weight in the overall planning balance.

Aviation and radar

4.12. The ExA concluded that whilst the proposed DBS West development is generally compliant with relevant policies of NPS EN-1, NPS EN-3, the MPS and East and North East Inshore and Offshore Marine Plans, and statutory requirements, it has not sufficiently followed the mitigation hierarchy to avoid or minimise the adverse effects to Staxton Wold PSR ("Primary Surveillance Radar"), which the ExA finds weighs greatly against the proposed development [ER 5.3.67]. The ExA finds that the Applicants have assumed the proposed DBS West development would benefit from an enduring mitigation solution being identified and delivered through Programme NJORD (a joint government and industry strategic military radar mitigation programme) and have not presented an alternative or interim solution [ER 5.3.47].

4.13. The ExA finds the proposed maximum blade tip height reduction during the examination provides some evidence for avoidance of adverse effects on military radar capability, however, the ExA was not presented with substantive evidence during the examination to be persuaded that the original 452m amsl (above mean sea level) blade tip height, was a realistic maximum design parameter [ER 5.3.39]. The ExA finds table 3 and figure 18 of ES appendix 15-2 [APP-128] demonstrate that options exist within the proposed DBS West development design parameters that could avoid or minimise adverse effects on military radar capabilities, but the Applicants would not commit to these measures [ER 5.3.40].

4.14. The Applicants' closing statement [REP8-042] explained they had reached agreement on the wording of requirement 31 with the MOD and included this in the final revision of the dDCO [REP9-003] [ER 5.3.37]. The purpose of requirement 31 in the dDCO [REP9-003] would be to prevent the operation of any proposed DBS West array WTG prior to a mitigation solution for the adverse radar effects being agreed and arrangements made to ensure it is implemented [ER 5.3.45]. The MOD confirmed in its response to ExQ2 and rule 17 request [REP5-052] that that the delivery schedules for Programme NJORD are unknown and that interim mitigation solutions will be considered through bi-lateral agreements once the delivery schedules for Programme NJORD are known and on contract. The ExA, therefore, finds this mitigation cannot be relied on to be available for the operation phase of the proposed DBS West development [ER 5.3.48]. The ExA therefore considers that the

construction of the proposed DBS West array WTGs should be prohibited until the SoS is satisfied an enduring or interim mitigation solution has been identified [ER 5.3.50], and arrangements made for its implementation agreed with the MOD. The ExA recommends that requirement 31 of the recommended draft DCO be further amended with the proposed changes as detailed in section 9.6 of the ExA's Report, should the SoS be minded to make the Order [ER 5.3.52]. Without the recommended changes, the ExA would conclude aviation and radar matters carry great negative weight against making the Order for the proposed DBS West development [ER 5.3.69].

4.15. In the first information request the Secretary of State requested that both the Applicants and the MOD comment on the ExA's recommended changes to the proposed requirement. In their response dated 3 December 2025 the MOD confirmed that they do not consider a restriction on the erection of any part of any wind turbine for the DBS West development to be necessary in this case. In their response dated 5 December 2025, the Applicants state that it, 'is common ground that any potential impacts to radar will only take place at the point in time that the wind turbines in DBS West are operational' and that there, 'are no adverse impacts to radar caused by the erection of the turbines and therefore it is not necessary or reasonable to introduce potential delay to the delivery of the Projects by moving the timings within the requirement that have already been agreed with the MoD as being appropriate to ensure adequate protection of the Staxton Wold radar'.

4.16. In the third information request the Secretary of State requested an update from the MOD on the timings for the delivery of Programme NJORD. In their response dated 19 February 2026 the MOD confirmed that Programme NJORD delivery schedules are not yet known as the competition is live and the delivery dates will be unknown or subject to change until the tender process has concluded. The Applicant also submitted a letter on the 18 February 2026 confirming that the details of any required radar mitigation are not specific to any mitigation plan or programme and are intended to be resolved post-consent, through discharge of Requirement 31, should final project designs indicate that any further mitigation is necessary.

The Secretary of State's Conclusion

4.17. The Secretary of State notes that the Applicants and the MOD have agreed the wording of a requirement in the final revision of the dDCO [REP9-003] to address potential impacts on the Staxton Wold PSR. The agreed requirement prevents the operation of the DBS West WTGs until an appropriate mitigation solution has been secured. The Secretary of State considers that this approach, which requires mitigation to be in place prior to operation rather than prior to commencement of construction, represents a proportionate means of managing the identified risk.

4.18. The Secretary of State notes that the delivery timelines for Programme Njord remain uncertain and therefore agrees with the ExA that it cannot currently be relied upon to provide mitigation during the operational phase of the proposed DBS West development. However, the Secretary of State also notes that the MOD, as the body responsible for safeguarding defence assets and the party affected by the potential impact on the Staxton Wold PSR, has agreed to the proposed requirement. The Secretary of State considers that it is appropriate to place significant weight on the MOD's judgement where it confirms that impacts can be acceptably mitigated, even where the final technical solution remains to be confirmed.

4.19. The Secretary of State therefore considers that the wording agreed between the Applicants and the MOD provides the basis for a clear and enforceable mechanism to ensure that an appropriate mitigation solution is secured prior to operation of the DBS West WTGs. In light of the absence of any outstanding objection from the MOD, and the reasonable prospect that a mitigation solution could be delivered through Programme Njord or through interim measures, the Secretary of State considers that the risks to aviation and radar can be appropriately managed.

4.20. The Secretary of State has therefore decided to depart from the ExA's proposed drafting and adopt (with minor modifications) the wording agreed between the Applicants and the MOD. While the Secretary of State recognises that some uncertainty remains regarding the final form and timing of the mitigation solution, this matter is attributed moderate adverse weight in the overall planning balance.

<u>Infrastructure and other activities (offshore)</u>

4.21. There is existing and planned offshore infrastructure that would be impacted by the construction of the Proposed Development including [ER 5.4.47]:

- Kellas North Sea 2 Limited: unused Esmond to Trent Wye Manifold gas pipeline
- BHP Billiton Petroleum Great Britain Limited ("BHP") IP: decommissioned gas pipeline
- The Projco IPs: Doggerbank A ("DBA") and Doggerbank B ("DBB") OWFs
- Hornsea Project 3 OWF (Ørsted IP)

4.22. Despite the Applicants' attempts to mitigate these impacts through co-location, crossing, and proximity agreements, the ExA remained concerned that no meaningful progress had been made by the close of the examination, casting doubt on whether such agreements could be secured [ER 5.4.50]. The ExA also noted that, although some IPs referred to the need for Protective Provisions, no draft wording was provided, nor did IPs explain in any detail why such provisions were reasonable or necessary [ER 5.4.49].

4.23. As a result, the ExA considered that ES Chapter 16 may underestimate the residual significance of effects where mitigation depends on agreements or provisions that were not in place [ER 5.4.52]. Where these effects could be significant, they may conflict with North East Inshore and North East Offshore Marine Plan policies NECO1, NECAB3 and NECE1 [ER 5.4.212-213]. The ExA further concluded that the Applicants had not complied with NPS EN-3 paragraph 2.8.200, as they did not engage sufficiently with potentially affected OWFs to resolve issues prior to submitting the application [ER 5.4.214].

Secretary of State's Requests for Information

4.24. In a Request for Information dated 6 March 2026, the Secretary of State invited relevant IPs to provide updates on the status of co-location, crossing and proximity agreements. BHP confirmed the withdrawal of its objection following the completion of side agreements which secure that crossing and proximity agreements would be entered into prior to the commencement of works. Projco IPs confirmed that a number of such agreements had been reached with the Applicants. Ørsted IPs advised that agreements for Hornsea Project 3 remain outstanding and expected post consent engagement. In relation to Hornsea Project 4, Heads of Terms were largely agreed, with both parties recognising the need for full agreements to manage onshore and offshore interactions. In that context, Hornsea Project 4 proposed Protective Provisions for inclusion in the Order should agreements not be secured prior to construction.

4.25. The Secretary of State has considered representations on the proposed Protective Provisions. The Secretary of State considers that a co-operation agreement is the appropriate mechanism for managing interactions between the developments. In the absence of a cooperation agreement, however, interests of undertakers are adequately protected through Schedule 15 of the Order, which ensures that no serious detriment would arise to undertakers.

Wake Effects

4.26. Ørsted and Projco argued the Proposed Development could alter wind conditions, creating wake effects that may reduce energy yield from their existing and planned assets and potentially affect their future viability. The issue was contentious during the Examination and considered in detail in the ExA Report [ER 5.4.53-ER 5.4.221].

4.27. The Secretary of State refers to Dogger Bank A, B, C and D OWFs as Projco Interested Parties ("Projco IPs") (ER 5.4.54) and to Hornsea 1 Limited, the collective of Breesea Limited, Soundmark Wind Limited, Sonningmay Limited and Optimus Wind Limited (together, the 'Hornsea Companies'), Ørsted Hornsea Project Three (UK) Limited, Ørsted Hornsea Project Four Limited, Lincs Wind Farm Limited, Westermost Rough Limited and Race Bank Wind Farm Limited as Ørsted Interested Parties ("Ørsted IPs") in this Decision Letter [ER 5.4.55].

4.28. NPS EN-3 policy expectations on the consideration of wake effects structured the discussion, specifically:

- Paragraph 2.8.197 (2024) and paragraph 2.8.176 (2026) setting out the requirement to carry out assessment of potential effects of the Proposed Development on close existing offshore infrastructure.
- Paragraphs 2.8.200 (2024) and 2.8.261 (2024) setting out the requirement to sufficiently engage with potentially affected offshore sectors in the pre-application phase to resolve issues prior to application; as well as including appropriate mitigation in any application, and ideally agreed between relevant parties.
- Paragraphs 2.8.347 (2024): setting out the requirement to assess financial impacts of the Proposed Development on the future viability of existing offshore infrastructure.

4.29. The Ørsted and Projco IPs challenged the Applicants' view of "close" in paragraph 2.8.197. The Applicants argued that Dogger Bank A OWF, located 8 km away and beyond TCE's 7.5 km buffer, could not reasonably be considered "close" [ER 5.4.67]. At the ExA's request, a wake loss assessment was submitted, initially covering DBA OWF and later expanded to include the Ørsted and Projco IPs' OWFs [ER 5.4.70]. The ExA was satisfied that assessing these nearby OWFs met paragraph 2.8.197 and that proximity and wake loss effects had been adequately addressed [ER 5.4.78].

4.30. There was also disagreement on the methodology for assessing wake effects and given the technical complexity and lack of a sector-wide standard, the ExA considered that only a range of potential effects could be determined [ER 5.4.103].

4.31. The adequacy of the Applicants' engagement with other OWF operators on wake loss issues remained unresolved at the close of Examination, with the Applicants arguing they had engaged in the 'normal way', that projects beyond the 7.5km TCE buffer typically required minimal engagement, and that no established practice for inter-developer wake

assessments existed. The Projco IPs maintained that engagement was insufficient, occurring only after the assessment had been completed, and that earlier contact could have influenced site selection; Ørsted IPs similarly argued that the Applicants had not worked with them to minimise impacts and disputed the Applicant's assertion that substantive pre-application engagement on wake loss is not a customary practice [ER 5.4.85. and ER 5.4.86]. The ExA found that the Applicants' 'business as usual' reliance on the TCE process fell short of NPS EN-3 requirements for direct engagement with potentially affected offshore industries and concluded that they had not complied with the expectations of paragraphs 2.8.200 and 2.8.261 [ER 5.4.91 and ER 5.4.92].

4.32. NPS EN-3 paragraph 2.8.347 requires substantial weight where a project may affect the future viability or safety of existing offshore infrastructure. The Projco IPs argued that the Applicants had not shown that such impacts were unlikely and that a precautionary approach should apply. Given the recognised economic importance of the DBA, DBB and DBC OWFs in helping meet the UK's Clean Power 2030 objective, they considered that the planning balance should favour protecting these consented and operational projects, which are expected to deliver clean-energy benefits before 2030 [ER 5.4.118].

4.33. The Ørsted IPs highlighted that ES Chapter 16 identified offshore wind farms as highly sensitive to interference, and they concluded that the likely effects on their assets would be major adverse and significant due to the associated financial impact. They further stated that the adverse effects on those assets for which objections on wake loss remained should carry substantial weight in the planning balance [ER 5.4.121].

4.34. To protect their assets the Projco and Ørsted IPs stated that Protective Provisions ("PPs") were the preferred mechanism for securing compensation. The Projco IPs added that the PPs' wording would allow the Applicants to balance design mitigation against financial compensation and noted that measures such as wake control may develop in the interim [ER 5.4.174].

Secretary of State's Requests for Information

4.35. In their Request for Information dated 6 November 2025 the Secretary of State invited the Applicants, Ørsted IPs and Projco IPs to comment on the proposed insertion of a Requirement in relation to wake effects. At this occasion, Ørsted IPs and Projco IPs reiterated their position that PPs would be their preferred solution to mitigate inter-project wake loss impacts. However, both IPs provided separate alternative wording for the Requirement on a without prejudice basis.

4.36. In their Request for Information dated 16 January 2026, the Secretary of State asked the Applicants, Ørsted IPs and Projco IPs to provide an update on the progress of negotiations, with specific reference to the newly designated NPS EN-3 (2026). Paragraphs 2.8.232–2.8.233 of that policy set out that applicants are expected to demonstrate they have taken reasonable endeavours to mitigate the impact of wake effects. The policy also clarifies that wake effects cannot be wholly eliminated between developments, and that inter-project compensation arrangements are not an expected or necessary mitigation mechanism within the planning process.

4.37. In their responses, both Projco IPs and Ørsted IPs reiterated the continued lack of engagement from the Applicants, raising concerns about whether the Applicants are meeting the reasonable endeavours requirement set out in the above policy.

4.38. In their response, the Applicants explained that they consider themselves to be compliant with the relevant planning policies, and that the compensation measures proposed by the IPs in their drafted PPs, are not, in their view, an appropriate means of mitigating wake loss effects. The Applicants also argued that they have provided extensive submissions during the Examination in relation to other forms of mitigation, including design and operational measures. The Applicants maintained that their submissions demonstrate they have taken reasonable endeavours to mitigate wake loss effects. They further contended that, given the entrenched positions on compensation and the resulting lack of constructive engagement with IPs, there is no realistic prospect of making progress towards agreement on any substantive matters. Consequently, the Applicants argued that no further mitigation measures remain that could reasonably be expected to be pursued further.

4.39. In addition, the Applicants explained why the draft wake effects requirement set out, on a without prejudice basis, in paragraph 31 of REP9024 should be adopted, and why the alternative wording proposed by the IPs and Ørsted IPs should not be taken forward.

4.40. In response to the Secretary of State's consultation dated 5 February 2026, which invited all IPs to comment on documentation submitted at the decision stage, the Projco IPs reiterated their view that the Applicants had failed to demonstrate that wake effects from the Proposed Development on DBA, DBB and DBC had been adequately considered at the site selection and EIA design stages. They disputed the Applicants' submission that the Proposed Development complied with paragraphs 2.8.232 and 2.8.233 of the 2026 NPS EN-3.

4.41. In response to the same consultation and having regard to the similarity of the objections raised and the need for consistency with previous decisions, the Ørsted IPs argued that a DCO requirement relating to wake loss was necessary to protect the affected Ørsted assets. They emphasised the validity of financial compensation as a means of applying the mitigation hierarchy, as referenced in the Outer Dowsing DCO Decision Letter.

4.42. Ørsted IPs also contended that the wording proposed by the Applicants for the relevant DCO requirement was impractical. They argued that the drafting would place an obligation on the Secretary of State that would be difficult to discharge in practice, as it would require both the prioritisation of wake-loss mitigation and the maximisation of capacity or generation, objectives which they considered to be inherently in tension.

The ExA's Overall Conclusion on Other Offshore Infrastructure and Wake Effects

4.43. The ExA considered that reliance on crossing, proximity and co-location agreements to mitigate impact on other users during construction which might not materialise post-consent may underestimate residual effects, meaning significant impacts cannot be ruled out and creating potential conflict with North East Marine Plan policies NE-CO-1, NE-CAB-3 and NE-CE-1.

4.44. With regards to wake-loss effects the ExA stated the Applicants failure to comply with NPS EN-3 paragraphs 2.8.200 and 2.8.261 due to insufficient early engagement with affected OWFs on wake effects. The ExA found that the Applicants did not work collaboratively to minimise impacts. The ExA considered that the Applicants' site selection and design simply adhering to TCE's minimum buffer did not demonstrate efforts to minimise disruption or economic loss to neighbouring OWFs and is, therefore, contrary to paragraphs 2.8.344, 2.8.345 and 2.8.348 of NPS EN-3 [ER 5.4.91 and 5.4.92]. Given the emerging and site-specific nature of wake modelling, the ExA considered that further assessment of mitigation

options, such as alternative layouts, increased buffers, or combined measures, was necessary and not fully explored.

4.45. The ExA therefore concluded that negative impacts have not been minimised to ALARP and that an additional requirement (Requirement 37), rather than PPs, is the appropriate mechanism to address this matter once IPs had been consulted to agree the proposed wording and any wake effects plan submitted [ER 5.4.192 et seqq.]. With this requirement in place, the ExA considered impacts could be acceptably mitigated and that compensation mechanisms should not be secured through the DCO, though the Applicants may pursue them outside the planning process if desired [ER 5.4.194].

4.46. With regards to NPS EN-3 paragraph 2.8.347, given substantial uncertainty over future lifetime extensions and limited financial context for both Ørsted and Projco assets, the ExA could not conclude that there would be likely impacts on the future viability of those projects, though the potential adverse wake loss effects and associated financial implications are given appropriate weight in the overall planning balance. Although the Proposed Development could affect the operation of several neighbouring OWFs, Requirement 37 would provide sufficient mitigation. Accordingly, paragraph 2.8.347 is not engaged [ER 5.4.137 et seqq.].

4.47. However, the ExA was satisfied that the Applicants had eventually provided an assessment on the potential effects from wake loss on the closest OWFs and therefore concluded that the Applicants had met the requirements of paragraph 2.8.197 (NPS EN-3, 2024) [ER 5.4.78].

4.48. The ExA concluded that although wake effects from the Proposed Development could lead to residual impacts on other offshore wind farms, these would not undermine the overall greenhouse gas (GHG) reduction benefits of the project [ER 5.4.219]. The ExA noted that such climate benefits are already reflected in the need case and therefore do not add additional weight in favour of the proposal. While emerging policy in the draft NPS EN-3 indicates that wake effects cannot be fully eliminated and that residual effects may carry only limited weight where reasonable mitigation and collaboration have been demonstrated, the ExA found that the applicant had not fully complied with the relevant NPS requirements. Taking this into account, together with the potential residual wake losses affecting other offshore infrastructure and activities, the ExA concluded that this matter carries moderate negative weight against making the Order, notwithstanding that the project would still deliver a net positive contribution to reducing GHG emissions [ER 5.4.221].

The Secretary of State's Conclusion on Wake Effects

4.49. The Secretary of State agrees with the ExA that, although the Applicant ultimately provided an adequate assessment of wake effects, the Applicants engaged late and did not reasonably attempt to mitigate wake impacts in line with NPS EN--3. The Secretary of State is not satisfied that early consultation or the mitigation hierarchy was meaningfully applied and has therefore included a requirement in the made DCO to ensure the Applicants work to minimise impacts on other OWFs. Having considered both the proposed PPs and the ExA's recommended requirement, the Secretary of State has drafted a requirement within the DCO to secure appropriate consultation and mitigation prior to construction through a wake effects plan.

4.50. The Secretary of State agrees with the ExA that the wake effects plan should address consultation with affected IPs, allow flexibility for private agreements, and provide clarity on implementation and timescales. Consistent with previous DCO decisions, and to emphasise the preference for resolving wake loss issues prior to construction, the Secretary of State has removed the wording within the proposed requirement for ongoing monitoring. The Secretary of State acknowledges and has taken into account that the wake loss effects from the Proposed Development on relevant IPs are likely to be greater than those arising from some projects for which a DCO requirement has previously been included. Nevertheless, the Secretary of State considers that a DCO requirement remains the most appropriate mechanism to secure wake loss mitigation and does not consider the use of PPs to be necessary for addressing wake loss effects.

4.51. The Secretary of State has considered representations that the original drafting of the requirement was impractical due to the simultaneous reference to wake loss mitigation and the maximisation of generating capacity. The requirement has therefore been amended so that, in implementing mitigation, the undertaker is not to materially reduce generating capacity. The Secretary of State is satisfied that this amendment addresses those concerns and provides a clear and workable mechanism.

4.52. The Secretary of State agrees with the ExA that effects on other offshore infrastructure and activities carry moderate negative weight against making the Order [ER 5.4.221].

Offshore Ornithology

4.53. The ExA addresses issues in relation to offshore ornithology in [ER 5.6], covering seabird populations as receptors at an EIA scale, in addition to the HRA. Further consideration of ornithological qualifying features is presented within the Secretary of State's HRA and is not repeated here to avoid duplication. The Secretary of State agrees with the ExA's conclusions at [ER 5.6.154], that the identified adverse effects on offshore ornithology carry great negative weight against the making of the Order [ER 5.6.160]. Issues that were further discussed post examination are set out below.

Seabird density hotspot modelling and further mitigation

4.54. Throughout the examination, NE raised concerns [RR-039, REP9-031] in relation to the EIA conclusions and mitigation in relation to seabirds. NE maintain that the survey results collected to inform the Preliminary Environmental Information Report ("PEIR") indicate there would be a high chance of direct negative impacts on seabird populations and suggested hotspot modelling of seabird densities to help inform mitigation measures such as the layout of the array areas. There was also a concern surrounding whether the location of the proposed development could be considered embedded mitigation [ER 5.6.74].

4.55. The Applicants stated [AS-048] that progression on the proposed development design for PEIR to application stage had taken into account seabird distribution data, based on the aerial survey data collated within the Crown Estate lease options, coupled with other environmental and technical information to inform a boundary change that split the arrays into DBS East and DBS West [ER 5.6.91]. The Applicants considered that further density hotspot modelling was not needed and would not provide valuable data given the mobile nature of birds and the 'snapshot' effect of data collected for the assessment which does not represent static and consistent locations [REP3-027]. NE continued to disagree with this [REP5-060] explaining that seabirds are repeatedly drawn to foraging areas due to the distribution of prey availability – in this case, sand eel – which are largely associated with

particular sediment types within the Dogger Bank sandbank, representing a consistent food source for seabirds. NE argued that further density modelling would indicate whether hotspots were present within the array areas, as had been previously undertaken on the Hornsea Project Four OWF and Outer Dowsing OWF.

4.56. Despite the Applicant's view that further array refinement was not possible within the lease boundaries without making the proposed development economically unviable [REP6-052], at DL7, they provided additional spatial mapping (Offshore Ornithology Year 1 and 2 Combined Spatial Plots [REP7-137]) for five seabird species (gannet, kittiwake, razorbill, guillemot and puffin). They maintained that this data supported the conclusions drawn when refining the array areas prior to the submission of the ES, and that areas of higher abundance estimates were avoided [REP7-137]. NE responded at DL8 [REP8-051] that the maps provided were not sufficient to address its concerns due to various presentational issues and lack of information regarding the model used to present these outputs and the evidence to support them, and their position has not changed by the end of the examination [REP9-029].

4.57. Within the post examination submissions received in October 2025, the Applicants provided further information in regard to the seabird hotspot modelling [PID-002], which had been updated in consultation with NE. Spatial modelling has been conducted using the ornithological data collected for the DBS baseline site characterisation. The Applicant concluded in the post examination document that there was little to indicate the presence of any areas of consistently high or low activity from the spatial models that could be used to justify further refinement of the Array Areas.

4.58. On the 6 November 2025 the Secretary of State requested comments from NE on the updated document. In its response dated 05 December 2025, NE [C1-012] welcomed the additional modelling work undertaken but concluded that it did not agree with the conclusion that there are no areas of consistently high activity. NE highlighted 'Hotspot A' located on the southeast edge of the DBS West array in particular for kittiwake, guillemot and razorbill. This area also appears to correspond with increased habitat suitability for sand eel and core utilisation distributions of kittiwake tracked from the FFC SPA, indicating that this area may represent a consistent source of seabird prey. NE therefore consider that Hotspot A represents a potential opportunity for mitigation through changes to design, size, or layout of the arrays. NE noted that this may not be possible from a commercial perspective, but as this is not within NE's remit to advise on, and that the Secretary of State should consider whether there is merit in exploring further mitigation options.

4.59. Having considered the information provided by the Applicants post examination, and the views of NE and the ExA, the Secretary of State agrees with the ExA [ER 5.6.116] that the work undertaken by the Applicant in determining the location of the array areas within the Round 4 leasing area is sufficient, and that the mitigation hierarchy has been adhered to, although this could have been presented more clearly early in Examination. The Secretary of State also notes that the assessment as presented takes into account the worst-case array layout. The Secretary of State notes [REP7-137] and has considered the Applicant's arguments that further design changes to the array layouts would be minimal and may make the proposed development commercially unviable. The Secretary of State accepts the Applicants arguments on this point. However, he recognises the importance of the area for foraging seabirds. As such, he has included wording put forward by the MMO [PID-001] to the relevant DMLs to require indirect effects monitoring, and considers the Applicants could focus at Hotspot A, ensuring linkage between topic areas and monitoring of potential indirect effects. This should aim to continue to study the impact pathway and interaction between

prey availability and seabirds with the presence of the Proposed Development. The monitoring of indirect effects pathways is supported by Paragraphs 2.8.77-78 of NPS EN-3[3]. Further details of projects the Applicant could contribute to with regards to indirect effects monitoring can be found from paragraph 4.70 (Fish and Shellfish Ecology) within this letter.

Changes to Condition 29 Ornithological Monitoring

4.60. The ExA [PD-028] set out its proposed changes to the dDCO, including Condition 29 of Schedules 10 and 11 (Deemed Marine Licences ("DMLs") 1 and 2) which outlines the monitoring requirements for ornithology. Both the Applicant [REP7-130] and the MMO [PIR-001] submitted that as the IPMP contained the overarching details of ornithological monitoring, the wording within the condition was not considered necessary. The MMO and the Applicant provided alternative wording to Condition 29 within their post examination submissions, and in response to the first information request, the MMO [C1-018] confirmed that it was content with the condition wording as drafted. The Secretary of State notes that agreed position. He considers however, in light of his findings above, that the monitoring requirements for ornithology in this condition should also cover indirect effects. As such, the Secretary of State has included this within the Order and considers that ornithological monitoring has been sufficiently and appropriately secured.

The Secretary of State's Conclusions

4.61. In conclusion, the Secretary of State considers that the Proposed Development is in accordance with the relevant policy considerations [ER 5.6.138] and that the necessary mitigations have been secured through commitments in ES Chapter 12 with ornithological monitoring requirements outlined in the IPMP and secured through the relevant conditions in the Deemed Marine Licences. The Secretary of State does not consider it necessary or valuable to impose further seabird hotspot modelling or alternative array layouts. The Secretary of State agrees with the ExA that the identified adverse effects on offshore ornithology carry great negative weight against the making of the Order [ER 5.6.160] He notes, in accordance with the 2024 NPS EN-1 5.4.44, that significant weight should be attached to any residual harm. However, the Secretary of State notes that the inclusion of indirect effects monitoring between prey species sandeel and seabirds, including within Hotspot A, provides comfort that this impact pathway will be monitored. The Secretary of State further notes that all monitoring reports must be made publicly available and thus and will contribute to improving industry knowledge addressing issues that arose during the examination across multiple environmental topics.

Fish and shellfish ecology

4.62. The ExA [ER5.7.127] was satisfied that the Applicants' assessment correctly considered all the relevant environmental impacts in respect of fish and shellfish ecology during the construction, operation and decommissioning phases of the Proposed Development alone and cumulatively with other plans and projects. However, the ExA [ER 5.7.128] disagreed with the conclusions of ES Chapter 10 [REP7-042] that the effects on fish and shellfish would

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3 Paragraphs 2.8.84-2.8.85 of the 2024 NPS (EN-3) also apply (National Policy Statement for renewable energy infrastructure (EN-3))

be negligible to minor through all phases and that mitigation was not required in relation to impacts on fish and shellfish ecology.

4.63. The baseline identified suitable habitat within seabed sediments to provide spawning grounds for fish species such as sandeel and Atlantic herring [REP7-042]. Herring were noted to have a particular sensitivity to disturbance, owing to utilising seabed structures to develop eggs and spending early life stages within these habitats. Herring are also a vital prey resource for protected bird species and marine mammals within the study area.

4.64. Without prejudice seasonal restrictions on piling have been recommended by the ExA to be applied and secured in DMLs 1, 2 ,3 and 4. This is to avoid disturbance to the Banks herring spawning ground during piling activities within the construction phase.

4.65. The Secretary of State notes that some issues in relation to fish and shellfish ecology were resolved by the end of Examination. Below, the Secretary of State concludes on issues that required further information post examination.

Herring Spawning Plan

4.66. The Secretary of State notes that by the end of the Examination, there remained outstanding disagreements in relation to the spatial requirement for underwater noise from piling and the Banks herring spawning ground and outstanding issues in relation to the Herring Spawning Plan. The Applicants submitted revision 2 of the Herring Spawning Plan [REP9-020] at Deadline 9, however the MMO did not have the opportunity to comment on this and stated that discussions would continue post examination. The ExA [ER 5.7.74] recommended that the Secretary of State may wish to request updates from the MMO and NE on the revised spawning plan and if they propose any changes to these conditions. In the first information request, the Secretary of State requested comments from both parties on the updated plans.

4.67. The MMO responded [C1-018] to the information request, confirming that post Examination, the Applicants and the MMO had been in discussion regarding the Herring Spawning Plan and that their joint document, titled *"The Applicants' and the MMO's Post-Examination Joint Statement on the Without Prejudice Herring Noise Restriction"* [PID-002] agrees a 38 kilometre (km) migratory route at the shortest distance and the location of the Herring Spawning Noise Restriction Boundary is as originally proposed. The Applicants proposed that the Herring Spawning Noise Restriction Boundary should remain drawn at the edge of the spawning ground such that the precautionary 135dB contour does not overlap with potential spawning habitat. This would result in a precautionary >38km 'migration corridor' between the coastline and the extent of the 135dB contour that encompasses the entire spawning ground.

4.68. The Secretary of State agrees with the ExA [ER 5.5.73] that a condition for seasonal restrictions on piling should be included in the made Order. Condition 39 of DMLs 1 and 2 (Schedules 10 and 11) and condition 36 of DMLs 3 and 4 (Schedules 12 and 13) have therefore been included in the Order, with the inclusion of the wording put forward by the MMO and agreed to by the Applicants to the 38 km boundary, subject to some minor technical changes.

Back-calculation Method

4.69. As well as the herring spawning plan outlined above, by the end of the Examination, the back calculation method which is used to predict when the 'peak' herring spawning may occur to

inform seasonal piling restrictions had not been agreed between the MMO and the Applicant. The ExA [ER 5.7.97] suggested that there may be further discussion between the Applicants and the MMO on this topic, and, on 14 October 2025, the Applicant submitted a number of post examination submissions which included an updated back calculation method [PID-002] (later updated [C1-009])] and an agreed position statement with the MMO [PID-002]This confirmed that the MMO were content with the calculation, and accepted an updated temporal mitigation herring spawning season of 21 August to 30 September (inclusive) for cable laying activities for the export cable/s. As such, the Secretary of State has updated the relevant conditions within the DMLs to reflect the updated agreed peak herring spawning season, while allowing for future variations if agreed with the MMO.

Post Construction Monitoring

4.70. By the end of the Examination, NE [REP9-030] and the MMO [REP8-048] both advised that further monitoring should be included within the In-Principle Monitoring Plan (“IPMP”) to assess the indirect effects predicted in the ES. This would aid filling evidence gaps in relation to impacts on benthic habitats, and subsequent indirect impacts on localised prey and associated predator populations from loss of spawning habitat (in particular for sandeel). As such, the Secretary of State requested the Applicant to update the IPMP to include some of the monitoring measures NE provided in its advice [REP9-030] in relation to indirect effects monitoring.

4.71. The Applicant [C1-016F] explained that they did not believe that the IPMP should be updated to include indirect effects monitoring, owing to the limited effects on bird and mammal receptors predicted within the Effects on Prey Species Technical Note (Revision 2) [REP6-049]. The Applicants highlighted that although they acknowledged knowledge gaps in relation to prey and predator relationships, evidence gathering to this end is better placed at a strategic level and monitoring at the project level would be disproportionate to the impacts predicted.

4.72. The Secretary of State notes that the issue of indirect effects in relation to prey species such as sandeel spans multiple subjects of discussion throughout the Examination, including impacts to the characteristics of the Dogger Bank SAC, prey availability and seabird hotspot modelling, the layout of the arrays, as well as impacts on marine mammals that are designated features of the Southern North Sea SAC. Given NE’s advice that sandeel are predominantly sedentary [REP3-057], it is likely that the presence of prey within the area highlighted as ‘Hotspot A’ within the seabird density modelling will continue to attract foraging predators. Taking into account the sensitive location of the Proposed Development, and that the Applicant has stated that further alterations to the array layout are not possible, the Secretary of State has included wording agreed by the MMO and NE, contained within the Deadline 9 response from the MMO submitted to the Secretary of State post examination to the relevant DMLs to include reference to indirect effects monitoring, ensuring linkage between topic areas and monitoring of potential indirect effects occurring as a result of the Proposed Development. This includes indirect effects in relation to marine mammals, as well as sand eel.

4.73. Although NE and the ExA agree that the quantification of indirect effects is not possible [ER C.10.51] ,the Secretary of State considers that the Applicants should look to the suggestions of the review undertaken by Orsted and the JNCC (Report 767, 20241), as well as possible outputs of the PrePARED[2] project, for studies that could be undertaken. Provision for the monitoring (including indirect effects) to be decided in consultation with NE and the MMO

has been included in the post construction monitoring Conditions, to ensure clarity for the MMO when discharging the DML. This is consistent with the conclusions of the ExA, that the SNCB should have sufficient control over the content of the final IPMP to ensure evidence gaps with respect to indirect effects are included [ER 5.6.152].

4.74. The inclusion of monitoring the indirect effects pathway is supported by NPS EN-3. Paragraphs 2.8.77 -78 of NPS EN-3 includes reference to monitoring the effects of the development, which will enable an assessment of the accuracy of the original predictions and improve the evidence base for future mitigation and compensation measures. Further reference to future monitoring is referenced at paragraph NPS EN-3 2.8.265 where *'the Secretary of State may consider that monitoring of any impact is appropriate'*. Further, the requirement for these reports to be made publicly available will contribute to improving industry knowledge addressing issues that arose during the examination across multiple environmental topics.

The Secretary of State's Conclusions

4.75. Given the conclusions of the ExA at ER 5.7.132, the Secretary of State considers it necessary to include the seasonal noise restriction condition in relation to piling, with wording agreed by the Applicants and the MMO within their post examination submissions. This would apply to DMLs 1 – 4. Having taken into account the further submissions during the determination period in relation to the monitoring of indirect effects impacting fish and shellfish ecology, and the monitoring of this pathway secured within the DMLs, the Secretary of State agrees with the ExA [ER 5.7.133] that the identified adverse effects on fish and shellfish carry a limited negative weight against making the Order.

Marine mammals

4.76. The Secretary of State notes the ExA's consideration of Marine Mammals at [ER 5.8] and the ExA's conclusions on this topic at [ER 5.8.90], that the Applicant has assessed the correct potential environmental impacts in respect of marine mammals during the construction, operation and decommissioning phases of the Proposed Development alone and cumulatively with other plans and projects, and has incorporated the relevant policy considerations [ER 5.8.88].

Monitoring of Underwater Noise during Operation

4.77. The Secretary of State notes the concern raised by NE [REP9-030] that the wind turbine generators assessed in the Underwater Noise Modelling Report [AS-138] to inform the operational noise modelling were considerably smaller (0.2-6.150 MW) than those proposed to be used (15-26.5 MW) as no empirical data is available for turbines of the larger size. NE advocated for underwater noise modelling throughout the operational phase of the Proposed Development to validate the predicted impacts of the ES, in particular noise and disturbance impacts on marine mammals. In line with paragraph 5.8.85 of National Policy Statement EN-3, the Secretary of State requested that the Applicants updated the In-Principle Monitoring Plan (''IPMP'') to incorporate underwater noise modelling within the first information request.

4.78. The Applicants responded [C1-016] to this issue and set out their reasoning as to why the IPIMP had not been updated as requested. The Applicants provided additional evidence that the approach taken to the underwater noise modelling was precautionary, emphasising that the empirical data and the Tougaard et al. (2020)[1] study to derive the calculation was all that was available at the time of the assessment. The Applicants stated this method has also

been applied in other recently consented, or soon to be determined, offshore windfarms. The Applicants cited two further studies; Holme et al. (2023)[2] and Bellmann et al. (2023)[3], which monitored underwater noise during the operational phase and came to similar conclusions, noting that the linear increase in predicted increases in underwater noise with turbine size may be overestimated, by 8 dB. The studies inferred that this correlation may be weaker than initially thought due to advances in turbine technology, and a move from gearbox to modern direct drive (gearboxless) designs, which are generally quieter. The Applicants argued that there is a lack of evidence to suggest that underwater noise increases with turbine size, and that recent studies validate the precautionary element of their assessment, which resulted in minor adverse effects as a result of underwater noise. NE [C3-017] reaffirmed their position in response to the Applicants' submission, highlighting the uncertainty associated with underwater noise modelling in the absence of data collected at wind farms. The Secretary of State is, however, reassured by the further information provided by the Applicants in this instance, and although he notes the evidence gap in relation to larger turbines, he is content that the Applicants have undertaken a precautionary assessment with the latest information available, and that knowledge gathering on this subject may be better placed within a strategic, industry wide approach rather than within the individual project level.

Migratory Bat Monitoring

4.79. The ExA reports the discussions in relation to migratory bat monitoring at [ER 5.8.79]. After the Ministry of Infrastructure and Water Management of the Netherlands in their Regulation 32 submission [OD-12] raised that there were known migration routes across the North Sea, the Applicant [AS-117] responded that data on the migratory routes and patterns of individual bats was minimal and little understood. Noting that no response was received from the Netherlands after this information was put forward, the ExA concluded that the Applicants' response to this matter was satisfactory, and given the lack of information on potential effects to migratory bats across the North Sea, did not discuss the issue further throughout the Examination.

4.80. In September 2025, NE[4] published a research paper which assessed the migration of bat species and interactions with offshore windfarms. The paper highlighted routes present across the Southern North Sea, as well as the potential for mortality through direct and indirect interaction with wind turbines. The paper also called for further monitoring of evidence gaps in relation to migratory routes and impacts on bats through industry led projects. Taking this into account, the Secretary of State requested the Applicant to update the IPIMP to include provision for migratory bat monitoring within his first information request. The Applicants updated the IPMP [C1-010I] with options for bat monitoring as an enhancement measure, noting suggestions from the Five Estuaries Offshore Wind Farm of funding a gap analysis study and other possible alternatives that will be agreed with NE. The Secretary of State is content with the updates to the IPMP that will aid in filling the evidence gap for migratory bats in the offshore context.

The Secretary of State's Conclusions

4.81. The Secretary of State has considered the responses received within the determination period in relation to marine mammals and notes the Applicants' updates to the IPIMP. The Secretary of State agrees with the ExA [ER 5.8.90], that a limited negative weight should be ascribed to the making of the Order in relation to marine mammals.

Marine and coastal processes

4.82. In the first information request the Secretary of State noted NE's comment within the final risks and issues log [REP9-031 (C38, Benthic and Intertidal Ecology)] and asked the Applicants to advise if an updated Cable Statement had been produced, which includes commitment to a sand wave levelling, deposition and recovery plan and to submit this to the Secretary of State if the plan has been updated.

4.83. In their response dated 5 December 2025 the Applicants noted that this commitment had been made within Cable Statement (Revision 5) [REP6-043] with the wording '*Further detail relating to sand wave levelling, deposition and sandbank recovery will be provided in the form of a plan provided as an Appendix to the Final Cable Statement(s) should sand wave levelling be required as part of the Projects*' and was also captured in the form of commitment C192 in the Commitments Register (Revision 3) [REP7-101]. The ExA concluded that the proposed mitigation measures and monitoring proposals for sand wave levelling, as detailed by the applicants, and secured in the DMLs including through the Cable Statement [REP6-043], the Commitments Register [REP9-009] and the IPMP [REP7-115] are reasonable and sufficient to ensure there would be no unacceptable impact from proposed sand wave levelling and dredging on marine physical processes [ER 5.9.59].

Potential ecological effects from the disposal of construction materials

4.84. Throughout the Examination NE raised concern over the disposal of construction materials and the clearance of sandwaves. This included outstanding issues in the statement of common ground [REP9-031] in relation to using a fall pipe when dredging, particularly in the Dogger Bank SAC to avoid increases in suspended sediment impacting designated features. The Secretary of State noted that similar commitments had been made in the Outer Dowsing and Five Estuaries offshore wind farm applications, and so in the first information request dated 6 November 2025, the Applicants were requested to commit to the use of a fall pipe or similar within designated sites, or to provide evidenced, project-specific reasoning why it is unable to commit to the use of a fall pipe /down pipe. The Applicants [C1-016F] agreed to explore options to dispose of dredged material upstream of the direction of net sediment transport via a discharge pipe, a down pipe or similar. They also agreed to dispose of sediment as close to the seabed as is practicable. These commitments were added to the Cable Statement (Revision 6) as well as the Commitments Register (Revision 5).

4.85. The Applicants describe in their response that when using a trailing suction hopper dredger (''TSHD''), fall pipes are not compatible with these machines. Therefore, the disposal of dredged sediment in designated sites is through the TSHD disposal bay doors. They stated that their dredging contractors have advised that this is technically feasible when using the TSHD, but that the TSHD would have to be used in a manner in which it has not been designed for which could cause performance problems. The Secretary of State notes the technical difficulties that may arise from this method, but notes the updated commitments recorded in the Cable Statement to dredge disposal as requested by NE. The Secretary of State additionally agrees with the conclusion of the ExA [ER C.7.9], that the commitment to depositing on like sediment secured in the Cable Statement is more important than the method, and that the approval of the construction method statement by the MMO, in consultation with NE and other statutory authorities, secured through the relevant DMLs within the DCO and which must be in accordance with the Cable Statement, will adequately secure this outcome. NE [C1-012] agreed that this detail could be finalised post consent as

long as a commitment to the use of this technology can be agreed. The Secretary of State is content that the relevant commitments have now been secured and that there would be no unacceptable impact from proposed sand wave levelling and dredging on benthic habitats.

The Secretary of State's Conclusion

4.86. The Secretary of State agrees with the ExA's conclusion that the proposed mitigation measures and monitoring proposals for sand wave levelling are reasonable and sufficient. The Secretary of State agrees with the ExA's overall conclusion and ascribes the issue of marine and coastal processes limited negative weight against making the Order.

Benthic and intertidal ecology

4.87. The ExA addressed benthic and intertidal ecology issues, outside of the HRA and Marine Conservation Zone ("MCZ'') assessment, in section [ER 5.1]. The Secretary of State agrees that the Applicants have considered the relevant policy tests [ER 5.10.78], and that the residual effects on benthic and intertidal ecology after the application of mitigation is minor adverse.

Assessment of the worst case for broad scale changes or loss in benthic habitats from the installation of seabed infrastructure

4.88. The Secretary of State considered the issue of 'halo effects' on benthic communities in paragraphs 4.71 of the HRA and has not repeated these arguments in full here. The Secretary of State considers that the conclusions within the HRA accompanying this decision letter also apply to the EIA conclusion on benthic habitats and has summarised the key points in relation to this issue below.

4.89. By the end of the Examination, NE [REP8-052] retained concerns over the 'halo effect' caused by the colonisation of hard infrastructure on the seabed by benthic communities, which coupled with changes to marine physical processes, could cause localised changes to the characteristic composition of the benthic habitat and/or biological community causing a halo of changed habitat around the infrastructure. The Applicants produced an Ecological Halo Effects Technical note [REP7-127] which presented a 50 m worst case scenario for the halo effect despite their reservations that this area may be over precautionary as the evidence base surrounding halo effects is not conclusive. Within its last representation [REP8-052] NE welcomed the worst-case scenario, acknowledging that 50 m of effects around infrastructure may be over precautionary but still disagreed that the effects would be minor adverse. At Deadline 9, the ExA [ER 5.10.66] concluded that there was not enough time within the Examination to fully explore the realistic case of halo effects.

4.90. The Applicants submitted various post-examination documents on 14 October 2025, including an update to the Report to Inform the Appropriate Assessment (seabed habitat and migratory fish) [REF] to include additional scenarios for halo effects, informed by further conversations with NE after the Examination had concluded. This included 20 m halo effect scenarios to enable the Secretary of State to draw conclusions on the impact on benthic habitats. As outlined in the HRA, the Secretary of State has considered the outputs of recent studies on changes to benthic habitats after the installation of offshore infrastructure. On the basis of the evidence available, the Secretary of State considers that there is the potential for limited and highly localised habitat change close to the wind farm foundations, but that current evidence is highly variable in terms of the presence of an

effect, and its scale, which is linked to site-specific factors and that in view of the exposed, shallow nature of the Dogger Bank SAC (Klein *et al*. 1999, Diesing *et al*. 2013), any impact is likely to be limited in terms of its scale and significance. As such, the Secretary of State agrees with the Applicants that the impacts on benthic habitats from halo effects surrounding offshore infrastructure will result in negligible impacts in the context of the site which is dynamic and varied in biotype structure [ER 5.10.62].

4.91. In summary, the Secretary of State considers that there is the potential for a limited degree of habitat change close to the wind farm infrastructure, but that current evidence for exposed shallow, predominantly sandy areas such as in the area of Dogger Bank, are highly unlikely to be subject to a scale of effect of 50m as discussed during the Examination.

The Secretary of State's Conclusions

4.92. The Secretary of State has considered the submissions made during and after the examination in relation to benthic and intertidal ecology, and he agrees with the ExA [ER 5.10.79] that the residual impact after mitigation is applied are minor adverse. As such, the Secretary of State agrees that benthic and intertidal ecology carries a limited negative weight against the making of the Order.

Other matters raised post-examination

4.93. Within the determination period, the Secretary of State requested the Applicants to update the In-Principle Monitoring Plan (''IPMP'') that spanned various topics and principles. These updates were also reflected in concerns raised by NE during the Examination [REP9-030]. This included:

- Making reference to the submission of data collected to Local Environmental Record Centres and the Marine Data Exchange.
- Updating the IPMP to specify that individual monitoring plans will be developed by receptor.
- Strengthening wording surrounding remedial action in the event that monitoring indicates an effect above those assessed in the Environmental Statement is identified.

4.94. The Applicants [C1-016] complied with the above requests in their response to the first information request and the Secretary of State is content that the above updates help to alleviate concerns from NE in relation to the IPMP, as secured in the DCO.

Commencement Period for the Proposed Development

4.95. The Applicants sought a period of 7 years within which to commence the proposed development [ER 9.4.25]. They argued that due to the scale and complexity, it could take considerable amount of time to move into the construction phase following grant of consent, due to matters that would need to be in place prior to construction, including the following:

- They may need to secure a Contract for Difference ("CfD") for both DBS East and DBS West and referred to the complexity around this and recent changes made to the timings of the CfD auction rounds, which are out of their control [ER 9.4.26].
- Uncertainty around potentially long lead in times for the manufacture and supply of major parts, such as wind turbine generators and cabling, along with the high demand for specialist vessels required to support the offshore construction [ER 9.4.27].

- Potential for legal challenge, which could cause long and unforeseen delays to implementation of projects [ER 9.4.32].
- Increased uncertainty due to the presence of 2 separate nationally significant infrastructure projects in the dDCO [ER 9.4.34].

4.96. The Applicants also noted that this approach had been accepted by the Secretary of State on other recent offshore wind farm developments [ER 9.4.30] and highlighted that in the case of the Hornsea Four development, the 7-year implementation could enable the development to be resurrected at a later date and ensure the UK Government's clean energy targets would be realised [ER 9.4.33].

4.97. Whilst noting the Applicants' concerns, the ExA was not persuaded by their arguments and concluded that the urgent need for low carbon energy outweighs the applicants' justification for seeking 7 years in which to commence and considers that 5 years would be a sufficient length of time [ER 9.4.39]. The ExA, therefore, recommended that article 21(1) and R1 are amended so that the time limit is reduced to the standard 5 years [ER 9.4.42].

The Secretary of State's Conclusion

4.98. The Secretary of State has considered both the Applicants' arguments and the ExA's conclusions on this matter and considers that whilst the UK Government's clean energy targets are an important consideration, the proposed development is essentially comprised of two nationally significant infrastructure projects, which amplifies the uncertainties around proceeding to the construction phase. The Secretary of State, therefore, considers the Applicants' request to extend the commencement period to be reasonable on this particular point, and has made the necessary amendments to the DCO accordingly.

5. Habitats Regulations Assessment

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

5.2. The Secretary of State's HRA is published alongside this letter. The paragraphs below should be read alongside the HRA which sets out in full the Secretary of State's consideration of these matters.

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

5.4. The Convention on Wetlands of International Importance 1972 provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government

policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this Decision Letter as "protected sites").

5.5. Regulation 63 of the Habitats Regulations provides that: "….before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site's conservation objectives." And that: "In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be)."

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

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

- There are no feasible alternative solutions to the plan or project which are less damaging to protected sites;
- There are imperative reasons of overriding public interest ("IROPI") for the plan or project to proceed; and
- Compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

5.8. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites unless the Secretary of State chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as a HRA. The Secretary of State considers that the Proposed Development has the potential to have an LSE on 50 protected sites when considered alone and in-combination with other plans or projects.

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

Appropriate Assessment conclusion

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

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

- Flamborough and Filey Coast SPA: kittiwake alone and in-combination for collision risk mortality, guillemot in-combination for disturbance and displacement mortality, breeding seabird assemblage (alone and in-combination)
- Flamborough and Filey Coast SPA: displacement and disturbance of the guillemot feature, in-combination with other plans or projects;
- Flamborough and Filey Coast SPA: disturbance and displacement of seabird assemblage (alone and in combination)
- Farne Islands SPA: Displacement and disturbance of the guillemot feature, in combination with other plans and projects;
- Dogger Bank SAC: sandbanks which are slightly covered by seawater all the time: alone and in-combination for physical disturbance and habitat change.

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

Derogation Provisions

5.13. The Secretary of State has considered the Proposed Development in the context of Regulations 64 and 68 of the Habitats Regulations to determine whether it can be consented. Consent may only be given under the Habitats Regulations where no alternative solutions to the project are available which meet the project objectives and are less damaging to the affected protected site, where there is IROPI, and where Regulation 68 (compensatory measures) is satisfied. Regulation 64 allows for the consenting of a project even though it would cause an AEoI of a protected site if it is required for IROPI. Regulation 68 of the Habitats Regulations requires the appropriate authority to secure any necessary compensatory measures to ensure that the overall coherence of NSN is protected.

5.14. In accordance with relevant guidance, the Secretary of State reviewed the Proposed Development following a sequential process, considering:

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

Alternative solutions

5.15. The four primary objectives for the Proposed Development as set out by the Applicant [APP-065] are:

- Achieving Net Zero by 2050 and reducing emissions
- Increasing the security of energy supply
- Lowering the cost and increasing the affordability of generated electricity
- Contributing to sustainable development and economic opportunities
- To export electricity to the UK National Grid to support UK urgent commitments for offshore wind generation and security of supply.

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

5.17. Following a review of the information submitted by the Applicant and the recommendation of the ExA and having identified the objectives of the Proposed Development and considered all alternative solutions to fulfil these objectives, the Secretary of State is satisfied that no feasible alternative solutions are available that would meet the Proposed Development objectives with an appreciable reduction in predicted impacts on protected sites.

Imperative Reasons of Overriding Public Interest.

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

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

Compensatory measures

5.20. The Applicant submitted a package of compensatory measures for the sandbanks which are slightly covered by seawater all the time feature of the Dogger Bank SAC. Of those measures proposed, and in relation to both features, the Secretary of State determines that a monetary contribution to the Marine Recovery Fund, for the strategic extension/designation of marine protected areas, provides the greatest likelihood of maintaining the coherence of the UK NSN. The Secretary of State is satisfied that the necessary compensatory measures for sandbanks which are slightly covered by seawater all the time can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments, he considers that Part 1 of Schedule 18 to the Order adequately secures the further work required to progress the proposed compensatory measures.

5.21. In relation to kittiwake, the Applicant submitted a compensation strategy for the kittiwake feature of the Flamborough and Filey Coast SPA. This includes the provision of up to two offshore Artificial Nesting Sites ("ANS''), either alone or collaboratively with the Outer Dowsing Offshore Wind Farm, or a provision of a monetary contribution to strategic compensation through the Marine Recovery Fund. As an adaptive management measure, the Applicants have stated that an existing onshore ANS at Gateshead which they own and manage could be further adapted for the Proposed Development if required. The Secretary of State is satisfied that the necessary compensatory measures for kittiwake can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments, he considers that Part 2 of Schedule 18 adequately secures the further work required to progress the proposed compensatory measures, and allows flexibility to make a contribution to the MRF (either wholly or partially in substitution for the primary measures) if available, and/or the final approval of a CIMP.

5.22. In relation to guillemot, the Applicant submitted a package of compensatory measures for the guillemot features of the Flamborough and Filey Coast SPA and the Farne Islands SPA. By the end of the examination, this included:

- A predator eradication and control scheme in various locations including a single project led option in Middle Mouse, Anglesey;
- Provision of spaces for guillemot on up to two multi-species offshore artificial nesting sites as an adaptive management measure; and
- The provision of a monetary contribution to strategic compensation through the Marine Recovery Fund.

5.23. Natural England [REP8-054] and The Wildlife Trusts [REP3-069] raised concern over the suitability of Middle Mouse as a location for predator eradication, due to the uncertainty over the presence of rats and the lack of capacity for the requirements of guillemot compensation for the Project. As such, by the end of the Examination, the ExA considered that the project led measure at Middle Mouse was unproven and there existed no mechanism to secure strategic compensation for ornithological compensation. As such, the final recommendation of the ExA was that the Order in the form applied for could not be made pursuant to regulations 63 and 64 of the Habitats Regulations.

<u>Post examination progression of compensation measures for guillemot</u>

5.24. The Applicants submitted further information to the Secretary of State post examination (5 October 2025), including a secondary short list of sites for predator eradication. These sites were across the Outer Hebrides and Shetland, Scotland. The Applicant provided habitat assessments of the sites and estimates of how many guillemot pairs could be supported through predator eradication at these sites. Natural England (in a letter dated 15 November 2025) welcomed the Applicants' updates and considered that the proposals could provide considerable contributions toward the compensation requirement.

5.25. In relation to strategic measures, work to quantify the number of guillemot that could be compensated for on the Isles of Scilly was published by Defra, who are funding an implementation plan for predator eradication on the Isles of Scilly with the aim to explore whether this measure could be adopted into the Marine Recovery Fund as an ornithological measure. The Duchy of Cornwall also submitted a letter of support to the Secretary of State during the determination period for the Isle of Scilly predator eradication programme. The

Secretary of State considers that this route could contribute to the compensatory requirements for guillemot, if required.

5.26. The Secretary of State is satisfied that the Applicant has sufficiently progressed the compensatory measures for the guillemot feature of the Farne Islands SPA and the FFC SPA post examination, and that the measures can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments, he considers that Part 2 of Schedule 18 adequately secures the further work required to progress the proposed compensatory measures and allows flexibility to make a contribution to the MRF (either wholly or partially in substitution for the primary measures) if available, and/or the final approval of a CIMP.

The Secretary of State's conclusion on the HRA

5.27. An AEoI on the Flamborough and Filey Coast SPA, the Farne Islands SPA, and the Dogger Bank SAC cannot be excluded beyond reasonable scientific doubt. There are no feasible alternative solutions that would meet the objectives of the Proposed Development with an appreciable reduction in impacts on the UK NSN sites. There are clearly imperative reasons in the public interest for the Proposed Development to proceed despite the predicted harm to the UK NSN. The Secretary of State is satisfied that a package of compensatory measures can be secured and delivered for kittiwake and guillemot (and their components of the seabird assemblage) of the Flamborough and Filey Coast SPA, guillemot of the Farne Islands SPA, and the reefs feature and sandbanks which are slightly covered by seawater all the time feature of the Dogger Bank SAC to ensure that the overall coherence of the UK NSN is maintained.

6. Marine Conservation Zone Assessment

6.1. The Secretary of State notes his obligations under section 126 of Marine and Coastal Access Act 2009 ("MCAA") and has undertaken a Marine Conservation Zone Assessment ("MCZA''). The Applicant submitted a MCZ Screening Report [APP-240] and MCZA [REP7-111], which includes screening to identify impact pathways and consider those MCZs that could be affected (other than insignificantly) by the Proposed Development. The ExA addressed issues pertaining to the MCZA within Appendix D of the Recommendation Report.

6.2. The Applicants assessment identified two MCZs which could be impacted by the Proposed Development, including the Holderness Inshore MCZ and the Holderness Offshore MCZ. The assessment for both sites concluded at Stage 1 assessment, and considered that a Stage 2 assessment regarding IROPI, alternatives and Measures of Equivalent Environmental Benefit were not required to compensate for any adverse impacts on the MCZs. The Secretary of State notes the mitigation measures put forward by the Applicants, including the routes chosen to avoid the Smithic Bank sandbank and the Holderness Inshore MCZ, the prevention of anchoring activities taking place within the MCZs as well as the commitment post examination [C1-016F] to the disposal of dredged material through a fall pipe or similar, secured via the Cable Statement (Revision 6).

6.3. The ExA's final conclusion on the MCZ (ER D4.1) was that the construction, operation and decommissioning of the Proposed Development would not hinder the conservation objectives of the marine habitat designated features of the Holderness Inshore MCZ or the Holderness Offshore MCZ. Based on the information available to him, the Secretary of State

is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not hinder the conservation objectives of the designated features of either the Holderness Inshore MCZ or the Holderness Offshore MCZ. The full reasoning for the conclusions is set out within the MCZA which has been published alongside this decision letter.

7. Compulsory Acquisition

7.1. The ExA concluded that the applicant had justified the use of compulsory acquisition ("CA") and temporary possession ("TP") powers. It found that the land and rights identified in the Book of Reference (BoR) and land plans were required to construct, operate and maintain the Proposed Development and were no more than reasonably necessary [ER 8.5.22]. The ExA also determined that the applicant had explored reasonable alternatives to compulsory acquisition and attempted to secure voluntary agreements, with negotiations ongoing with affected landowners [ER 8.5.36 – 8.5.37]. The ExA was further satisfied that in accordance with the CA Guidance, there is a reasonable prospect that the necessary funds would be available to implement the Proposed Development, including costs of CA, and that the statutory tests were met [ER 8.5.530.3.8].

7.2. Consequently, subject to obtaining the required Crown consent, the ExA concluded that there was a compelling case in the public interest for granting CA and TP powers in respect of plots listed in the land plans (onshore) and in the BoR, and that the proposal complied with sections 122(3) of the Planning Act 2008 [ER 8.7.17]

7.3. However, the ExA recommended that the Secretary of State address the following CA and TP matters in advance of granting development consent (ER 8.8.1):

- The Secretary of State goes back to the applicants and those Affected Parties ("APs") who had outstanding objections to the Compulsory Acquisition ("CA") or Temporary Possession ("TP") of their land interests and ask for an update with regards to the progress on securing a voluntary agreement since the examination closed.
- The CA powers included in the recommended DCO (including the currently preferred drafting for the PPs unless alternatives have been agreed since the close of the examination) be granted, subject to consents being forthcoming from the relevant crown authorities in relation to crown land.
- The TP powers included in the recommended DCO be granted, subject to consents being forthcoming from the relevant crown authorities in relation to crown land.
- The CA and TP sought in relation to crown land should not be granted until the necessary consent from the appropriate crown authority has been obtained.
- The CA of SU land and rights over land, subject to the matters set out in the ExA's Report and included in the recommended draft DCO, be granted.
- The powers authorising the extinguishment of rights and removal of apparatus of SUs be included in the recommended draft DCO, subject to the matters set out in the ExA's Report, be granted.
- The CA of rights over open space included in the recommended draft DCO, subject to the matters set out in the ExA's Report, be granted.
- The powers included in the recommended draft DCO to apply, modify or exclude a statutory provision, subject to the matters set out in the ExA's Report, be granted.

7.4. The Secretary of State notes that article 21[22] allows for a period of seven years for the exercise of power of compulsory acquisition from the commencement of development. The Secretary of State agrees that seven years is an appropriate timeframe for the reasons discussed at paragraphs 4.93 – 4.96 above.

APs with Outstanding Objections

7.5. In the first and second information request the Secretary of State requested updates from the Applicants and the relevant APs on outstanding land acquisition negotiations.

7.6. Some APs provided updates in response to the first information request confirming that negotiations remained ongoing.

7.7. In their response to the first information request dated 5 December 2025 the Applicants confirmed that since the close of examination, negotiations had been ongoing, and heads of terms ("HoT") had been agreed with 37 out of the 61 affected landowners and that active negotiations were still ongoing with 38 landowners. In their response to the second information request dated 30 January 2026 the Applicants reported that three further option agreements had been entered into and that they had now agreed HoT covering over 70% of Category 1 land interests and legally completed Options with 40%.

The Crown Estate ("TCE")

7.8. In the first information request the Secretary of State requested an update from the Applicants and TCE confirming whether or not the Applicants had obtained Crown Consent under s135(1) of the Planning Act 2008 for the acquisition of crown land. In a response dated 27 November 2025 TCE confirmed that consent had been granted for the CA of plots for which s135(1) consent is required subject to:

1. the inclusion of Article 41 in the Order as referred to above and its continuing application; and

2. the Commissioners being consulted further if any variation to the Draft DCO is proposed which could affect any other provisions of the Order which are subject to section 135(1) and 135(2) of the Act.

7.9. The Applicants also confirmed that Crown Consent had been granted in their response dated 5 December 2025.

Northern Powergrid (Yorkshire) PLC ("NPG")

7.10. NPG withdrew their objection on 3 December 2025 confirming that an Asset Protection Agreement was completed on 1 December 2025 and that the protective provisions ("PPs") for NPG in the draft DCO had been agreed.

Network Rail Infrastructure Limited ("NRI")

7.11. In the first information request the Secretary of State requested an update from the Applicants and NRI on whether agreement had been reached on their PPs. In their response dated 5 December 2025 the Applicants confirmed that PPs had been agreed with NRI and on 9 December 2025 NRI issued a response confirming that they had withdrawn their objection.

National Gas Transmission plc ("NGT")

7.12. In the first information request the Secretary of State requested an update from the Applicants and NGT on whether agreement had been reached on their PPs. In their response dated 5 December 2025, NGT confirmed that no further progress had been made since the close of the examination and maintained their position that their preferred PPs should be included in the Order. The Applicant's responses dated 5 December 2025 and 30 January 2026 to the Secretary of State's first and second information requests confirmed that no substantive progress had been made in reaching agreement on PPs for NGT.

7.13. Whilst noting the concerns expressed by the applicants, the ExA was not persuaded that the wording put forward by NGT would prejudice the delivery of the proposed development or that the applicants wording would avoid serious detriment to NGT's undertaking any more than those put forward by NGT [ER 9.5.23]. The ExA concluded that NGT's preferred PPs are necessary to avoid serious detriment to its undertaking [ER 9.5.24].

7.14. The Secretary of State has considered the responses received since the close of the examination and agrees with the ExA's conclusion that NGT's preferred PPs are necessary to avoid serious detriment to its undertaking.

National Grid Electricity Transmissions ("NGET")

7.15. Following the examination, the Applicants submitted without prejudice PPs for NGET on 24 October 2025. In the first information request the Secretary of State requested comments from NGET on the revised PPs. In their response dated 5 December 2025, NGET acknowledged that the Applicants had included drafting which aligns with the PPs NGET has sought throughout the Examination, however, there remain fundamental differences between the Applicants' revised PPs and the NGET PPs which NGET would not agree to and requested that the NGET PPs should be included in the Order. The Applicant's responses dated 5 December 2025 and 30 January 2026 to the Secretary of State's first and second information requests confirmed that no substantive progress had been made in reaching agreement on PPs for NGET.

7.16. Whilst noting the concerns expressed by the Applicants in relation to the potential impacts NGET's PPs would have upon their ability to implement the proposed development, the ExA was not persuaded that the wording put forward by NGET would prejudice the delivery of the proposed development [ER 9.5.35] and concluded that NGET's preferred PPs are necessary to avoid serious detriment to its undertaking [ER 9.5.36].

7.17. The Secretary of State has considered the Applicants' revised PPs and the responses received since the close of the examination and agrees with the ExA's conclusion that NGET's preferred PPs are necessary to avoid serious detriment to its undertaking.

The Secretary of State's conclusion

7.18. The Secretary of State has noted the responses received and objections raised by Affected Parties [ER 8.5.54 – ER 8.5.59 and Appendix E] and the ExA's conclusions regarding requested CA powers to which no objection was received and parties with category 3 interests [ER 8.5.60 – ER 8.5.73]. The Secretary of State notes that the Applicant has secured the mandatory consent from the relevant Crown authorities.

7.19. Whilst some negotiations are ongoing, the Secretary of State agrees with the ExA that the powers sought are necessary. The Secretary of State agrees with the ExA's conclusions that CA powers, PPs, TP powers, powers authorising the CA of SUs land and rights over land, and the powers authorising the extinguishment of rights and removal of apparatus of SU's, be granted. This is with the exception of the inclusion of NGT's and NGET's preferred PPs as detailed above, which are considered to be necessary to avoid serious detriment to the undertakings of NGT and NGET.

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

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

8.1. The Secretary of State acknowledges the ExA's recommendation that that the Order in the form applied for cannot not be made pursuant to regulations 63 and 64 of the Habitats Regulations [ER 10.5.1]. However, the ExA also states that should the Secretary of State conclude that HRA matters are satisfactory, the ExA considers that the benefits of the proposed development would outweigh the harm identified in the planning balance undertaken in accordance with s104(7) of the PA2008, although this is a finely balanced judgement [ER 10.3.2].

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

- Need – very great positive weight;
- Good design – neutral/no weight;
- Onshore ecology and biodiversity – little negative weight;
- Landscape and visual effects – great negative weight;
- Onshore historic environment – great negative weight;
- Land use and agriculture – great negative weight;
- Traffic and transport including public rights of way – little negative weight;
- Geology and land quality – little negative weight;
- Hydrology and flood risk – little negative weight;
- Socio-economics and tourism – little negative weight;
- Noise and vibration – neutral/no weight;
- Air quality – neutral/no weight;
- Climate change – neutral/no weight;
- Marine archaeology – neutral/no weight;
- Shipping and navigation – little negative weight; and

Commercial fisheries – moderate negative weight.

8.3. The Secretary of State also agrees with the weight the ExA has ascribed in the overall planning balance in respect of the following issues, however, the Secretary of State had further commentary and analysis to add to the ExA's conclusions (see paragraphs 4.6 – 4.98 above):

- Aviation and radar – moderate negative weight;

- Infrastructure and other activities (offshore) – moderate negative weight;
- Offshore ornithology – great negative weight;
- Fish and shellfish ecology – limited negative weight;
- Marine mammals – limited negative weight;
- Marine and coastal processes – limited negative weight; and,

Benthic and intertidal ecology – limited negative weight;

8.4. The Secretary of State disagrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of Human health. Whilst the ExA ascribed little positive weight to the issue, the Secretary of State ascribed neutral/no weight (see commentary at paragraphs 4.8 – 4.11 above).

8.5. With regard to the HRA, the Secretary of State is satisfied that a package of compensatory measures can be secured and delivered for the features of the protected sites identified to ensure that the overall coherence of the UK NSN is maintained as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations.

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

8.7. For the reasons given in this letter, the Secretary of State concludes that on balance, the benefits of the Proposed Development outweigh its adverse impacts. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order. The Secretary of State concludes that development consent should be granted for the Dogger Bank South Offshore Wind Farms.

8.8. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by ERYC, the 2024 NPSs and the 2025 NPSs, NPPF, Planning Guidance, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

8.9. Having sought updated HRA information which the Secretary of State considers addresses the HRA concerns of the ExA, the Secretary of State has decided to make the Order granting development consent, including the modifications set out in section 9 of this document.

9. Other Matters

Equality Act 2010

9.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender reassignment; disability; marriage and civil partnerships[4]; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

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

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

9.4. The Secretary of State is confident that, in taking the recommended decision, the Secretary of State has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

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

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

Countryside and Rights of Way Act 2000 and National Parks and Access to the Countryside Act 1949

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

9.7. The Secretary of State notes the general duty of public bodies to seek to further the purpose of conserving and enhancing the natural beauty of any area of outstanding natural beauty, in accordance with section 85(A1) of the Countryside and Rights of Way Act 2000 (which was amended by section 245 of the Levelling Up and Regeneration Act 2023). The Secretary of State also notes the general duty of public bodies to regard to the purpose of conserving and enhancing the natural beauty, wildlife and cultural heritage of National Parks and promoting opportunities for the understanding and enjoyment of the special qualities of National Parks by the public in accordance with section 11A(2) of the National Parks and Access to the Countryside Act 1949. The Secretary of State considers that the application has properly had regard to those purposes. The Secretary of State is of the view that the ExA's report, together with the ES and the Landscape and Visual Impact Assessment, is sufficient to inform the Secretary of State in this respect. The Secretary of State agrees with the ExA that the proposed development conserves, enhances and seeks to further the statutory purposes of the candidate Yorkshire Wolds National Landscape [ER 4.2.48].

10. Modifications to the draft Order

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

- Article 2 was amended as follows:

  "Razorbill" was removed from the definition of the "guillemot razorbill compensation plan" because only guillemot is included in the plan.

  The definitions of "offshore works" and "onshore works" were amended to clarify that the associated further development relates specifically to the works identified in those definitions.

  The definitions of "relevant highway authority" and "relevant planning authority" were amended to provide further details and clarification of their scope.

- Article 5 (Benefit of the Order) was amended to remove sub-paragraph 8(b) to ensure that the Secretary of State is satisfied that the beneficiary of the transfer or lease can perform the Order.
  - Article 7 (Defence to proceedings in respect of statutory nuisance) was amended to include decommissioning of the authorised project.
  - Amendment to article 11 (Closure and diversion of public rights of way) to remove paragraph (5) for consistency with recent OWF DCOs.
  - Article 16 (Discharge of water) was amended to add a prohibition on constructing any works in, under, over, or within eight metres of any watercourse, or within 16 metres of a tidally influenced main river, without the consent of the Environment Agency to paragraph (6).
  - Amendment to article 19 (Authority to survey and investigate land onshore) to remove paragraph (7).
  - Amendment to article 20 (Compulsory acquisition of land) to include sub-paragraph (4)(d).
  - Article 21 was amended to extend from five to seven years the period within which compulsory acquisition powers may be exercised, beginning on the day the Order is

made. Provision was also added to ensure that the authority conferred by article 30 for the temporary use of land for carrying out the authorised project is also for seven years. Further amendments were made to Article 21, Article 24 and Article 28 to reflect changes made by section 185 of the Levelling-up and Regeneration Act 2023 to the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981.

- Amendment to paragraph (1) of article 30 (Temporary use of land for carrying out the authorised project) to subject paragraph (1) to article 21.
- Sub-paragraph (11) of article 31 (Temporary use of land for maintaining the authorised project) was amended to fix the timeframe for the definition of the maintenance period and to ensure that it applies whenever the authorised development involves the maintenance of any tree, hedge or shrub.
- Article 44 (Funding) was amended to include article 33 (recovery of costs of new connections) to the provisions that cannot be exercised by the undertaker unless supported by a guarantee or an alternative form of security.
- Amendment to article 46 (Service of notices) to define "legible in all material respect".
- Article 47 (Arbitration) was amended to fix a timeframe within which parties are to appoint an arbitrator.
- Article 48 (Procedure in relation to certain approvals), which largely duplicated Part 2 of Schedule 2 was amended to cross-reference to that Part instead.
- Article 50 (Inconsistent planning permissions) has been removed because it was deemed unnecessary and had the potential to introduce ambiguity.
- Article 52 (Modification of the Air Navigation Order 2016) was removed for readability, with the relevant modifications to the application of the Air Navigation Order being made in the deemed marine licences.

Schedule 1 (authorised project) was amended as follows:

- Part 1 (authorised development)

  Works No 22A and 22B – clarification of the permitted extent of the permanent diversion of the Walkington Footpath No 4 and ensuring that the Footpath is appropriately referenced.

  Works No. 29A and 29B – clarification to ensure that the Ancient Woodland and Local Wildlife Site is as referred to in the outline ecological management plan.

  Work No 32A – clarification that this work is not used.

  Work No 25B – clarification that this work is not used.

- Part 2 (ancillary works) – this has been amended to ensure that ancillary works are those that relate to the construction and maintenance of the authorised development, rather than the authorised project (which otherwise would include ancillary work already, as defined in article 2).

Schedule 2 Part 1 (requirements) was amended as follows:

- Requirement 13 (permanent fencing and other means of enclosure) – “brought into use” is an undefined and uncertain term, so it has been replaced with “commercial operation” to align with that defined term.
- Requirement 22 (control of artificial light emissions) – “brought into operation” is an undefined and uncertain term, so it has been replaced with “commence” for clarity as to the requirements for a plan to be agreed in respect of the relevant works.
- Requirement 23 (European protected species: onshore) – this has been expanded to provide the option of a scheme of protection and mitigation for European protected species as an alternative for a European protected species licence.
- Requirement 24 (public rights of way management plan) has been clarified so that the works cannot be commenced (rather than being “undertaken) until the relevant plan has been agreed. “Undertaken” is an uncertain and undefined term, unlike “commenced”.
- Requirement 30 (port traffic) has been amended to clarify that Work Nos. 1A or 1B may not begin commercial operation until the port travel plan has been approved. “Operation” is not a defined term unlike “commercial operation” and thus is more appropriate for reasons of clarity.
- Requirement 31 (Ministry of Defence Radar Mitigation) has been amended to remove paragraph (1) which prevented the construction of any wind turbine generator forming part of Work No.1B until the SoS was satisfied that appropriate radar mitigation would be in place and maintained for the life of the authorised development. This is for the reasons stated at paragraphs 4.17 - 4.20 of the Decision Letter.
- Requirement 35 (Onshore collaboration) – a reasonable period of time has been added to permit the undertakers time to respond to any proposed submission for approval by the other undertaker.
- Requirement 37 (wake effects) was amended to make clear that some reduction in generating capacity is permissible (so long as not material) in order to facilitate mitigations to minimise wake effect losses. Provision was also added to ensure that consultation outcomes were included in the wake effects plan submitted to the SoS but provision for ongoing monitoring was deleted as the SoS expects wake loss issues to be resolved prior to construction.

In Schedules 10 – 14A (the Deemed Marine Licences) the following changes have been made:

- Definitions of High Voltage Direct Current “(HVDC) and the IHO Order 1a standard have been included.
- Provisions relating to the Air Navigation Order 2016 have been amended to provide that the references to the territorial sea are to be read as a reference to the Renewable Energy Zone established under the 2004 Energy Act. This arises from deleting article 52, which is otiose as it is only within the Deemed Marine Licences that a reference to the Air Navigation Order is required.
- Collaboration – a similar addition on permitting a reasonable period of time for the undertaker to respond to a proposed submission by other undertaker, in line with requirement 35 (onshore collaboration).
- For the sake of clarity, and consistent with his position on other OFW DCOs, the Secretary of State has not altered the transfer of benefit Order provisions, or the force majeure provisions, for the reasons given in paragraphs 8.18 and 9.19 of his Decision

Letter on the Outer Dowsing DCO. He has also not altered the determination dates to the shorter period of 4 months asked for by the MMO, preferring to maintain the 6 month period sought by the Applicant.

The remaining Schedules have been amended as follows:

- Schedule 2 Part 2 (approval of matters specified in requirements) – the Secretary of State has added a requirement for reasons to be given if a discharging authority refuses to grant consent, approval or approval to an application to it.
- In Schedule 9 (land of which only temporary possession may be taken), the drafting has been expanded to ensure that the land in question can be taken for Works A and/or B, in the alternative or cumulatively, depending on how the Dogger Bank East and Dogger Bank West Projects are taken forward.
- In Schedule 16 (arbitration rules), paragraph 7 has been amended to reflect the Secretary of State's preference that the default position should be that any arbitration hearing and documentation is publicly accessible, rather than private as previously provided, subject to confidentiality or disclosure exceptions in sub-paragraphs (2) and (3).
- In Schedule 18 (compensation measures) a significant number of changes were made to reflect the development of the habitats compensation package, the progress of the Marine Recovery Fund being operated by Defra and for consistency with other recent OFW DCOs. These include the removal of the project-specific option from Part 1 such that benthic compensation will be provided wholly through the MRF and additions to Parts 2 and 3 such that ornithological compensation can be provided either through project-specific measures, the MRF or a combination of both. In relation to the development of the compensation package for guillemot (Part 3), the adoption of a precautionary approach by the SoS resulted in the insertion of a condition that any project-specific compensation needed to have been in place for at least two breeding seasons prior to commencement of construction. Further amendments were made to ensure that project-specific measures were suitably maintained for the lifetime of the authorised development and also to ensure that any ineffective measures were replaced by suitable adaptive management measures.

10.2 In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments, changes in the interests of clarity and consistency, changes made for the purposes of standardised grammar and spelling, and changes to ensure that the Order has its intended effect. The Order, including the modifications referred to above is being published with this letter.

11. Challenge to decision

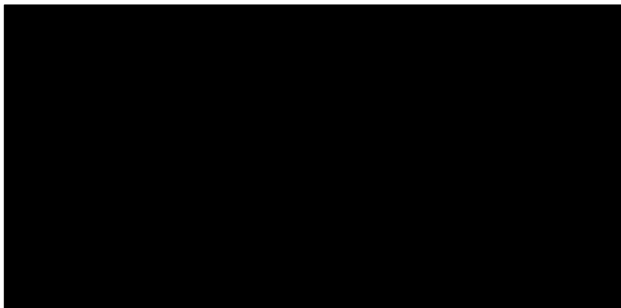
11.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

12. Publicity for decision

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

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

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Planning

On behalf of the Secretary of State for Energy Security and Net Zero

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

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

https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010125

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

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AEoI	Adverse Effects on Integrity
AP	Affected Party
CA	Compulsory Acquisition
CEA	Cumulative Effects Assessment
CP2030	Clean Power 2030 Action Plan
DCO	Development Consent Order
DML	Deemed Marine Licence
EEM	Embedded Environmental Measures
EIA	Environmental Impact Assessment
ERYC	East Riding of Yorkshire Council
ES	Environmental Statement
ExA	The Examining Authority
GHG	Greenhouse Gas
HE	Historic England
HRA	Habitats Regulations Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
LIR	Local Impact Report
LSE	Likely Significant Effect
MMO	Marine Management Organisation
MW	Megawatt
MOD	Ministry of Defence
NE	Natural England
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
OWF	Offshore Wind Farm
PA2008 / the 2008 Act	The Planning Act 2008
PP	Protective Provision
PSED	Public Sector Equality Duty
PSR	Primary Surveillance Radar
RIES	Report on the Implications for European Sites
RR	Relevant Representation
SAC	Special Area of Conservation
SNCB	Statutory nature conservation body
SoCG	Statement of Common Ground
SPA	Special Protection Area

SSSI	Site of Special Scientific Interest
SU	Statutory Undertaker
The EIA Regulations	The Infrastructure Planning Environmental Impact Assessment Regulations 2017
The Habitats Regulations	The Conservation of Habitats and Species Regulations 2017
The Ramsar Convention	The Convention on Wetlands of International Importance 1972
TP	Temporary Possession
WMS	Written Ministerial Statement
WTG	Wind Turbine Generator