

██████████
Development Manager,
GT R4 Limited
Outer Dowsing Offshore Wind
C/O Johnston Carmichael LLP Birchin Court
20 Birchin Lane, London
EC3V 9DU

10 February 2026

Dear ██████████,

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR OUTER DOWSING OFFSHORE WIND

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 July 2025. The ExA consisted of 5 examining inspectors, Rod MacArthur, Mark James, Gavin Jones, Gaurav Joshi and Claire Megginson. The ExA conducted an examination (“Examination”) into the application submitted on 19 March 2024 (“the Application”) by GT R4 Limited (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for Outer Dowsing Offshore Wind (“the Proposed Development”). The Application was accepted for Examination on 16 April 2024. The Examination began on 10 October 2024 and completed on 10 April 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 July 2025.
- 1.2. On 12 August 2025 a letter seeking information was issued by the Secretary of State seeking information on several matters (“the first information request”). On 6 October 2025, Interested Parties (“IPs”) were invited to comment on the responses received (“the first all-IPs consultation”). A second letter was issued on 10 October 2025 (reissued 21 October 2025), requesting further information (“the second information request”). On 13 October 2025 the Secretary of State issued a Written Ministerial Statement announcing that the

statutory deadline for the decision had been reset to 10 February 2026¹. On 29 October 2025, the Secretary of State issued a third information request (“the third information request”). On 17 November 2025, IPs were invited to comment on the information received for the second and third information requests (“the second and third all-IPs”). On 24 November 2025, the Secretary of State issued a fourth information request (“the fourth information request”). On 10 December 2025, the Secretary of State issued a fifth information request (“the fifth information request”). On 11 December 2025, IPs were invited to comment on the information that had been received from the fourth information request (“the fourth all-IPs consultation”). On the 19 December 2025, IPs were invited to comment on the information received from the fifth information request (“the fifth all-IPs consultation”).

- 1.3. The Order, as applied for, would grant development consent for an offshore wind farm (“OWF”) located approximately 54 km off the Lincolnshire coast in the southern North Sea, with a generating capacity of up to 1.5 GW. The Proposed Development comprises construction of:
- Up to 100 wind turbine generators (“WTGs”), with up to 4 offshore substations.
 - High voltage alternating current (“HVAC”) transmission technology.
 - Inter-array cabling to connect the WTGs to the offshore substations, and up to 4 undersea export cables to connect the WTGs to the offshore substation(s) and from there to the landfall area at Wolla Bank.
 - Up to 2 offshore reactive compensation platforms (“ORCPs”) to reduce the reactive power generated by the capacitance of the offshore export cable to maximise the amount of power delivered to the National Grid electricity transmission system.
 - Underground onshore cabling from Wolla Bank to Surfleet Marsh.
 - An onshore substation (“OnSS”) on land at Surfleet Marsh facilitating connection to the electricity transmission network.
 - Further onshore cabling from the onshore substation to a proposed National Grid Electricity Transmission (“NGET”) substation to be located close to the Proposed Development, in an area defined by the Applicant as the ‘connection area’ [ER 1.4.2].
- 1.4. The full description can be found in Part 1 of Schedule 1 to the Order.
- 1.5. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, set out in the draft Order submitted with the Application [ER 6.1.1 et seq].
- 1.6. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Project website² is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 1-5 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.”].

¹ <https://hansard.parliament.uk/Commons/2025-10-13/debates/25101368000022/EnergyInfrastructurePlanningProjects?highlight=outer%20dowsing - contribution-313B7D78-E422-44A8-8C76-FE520A6AF98E>

² <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010130>.

2. Summary of the ExA's Report and Recommendation

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

- The principle of the development
- Good design
- Benthic ecology, intertidal, subtidal and coastal effects
- Offshore and intertidal ornithology
- Marine mammals
- Oil, gas and other offshore infrastructure
- Fish and shellfish ecology
- Commercial fisheries and fishing
- Shipping and navigation
- Civil and military aviation and communication
- Seascape and visual effects
- Land use, geology and ground conditions
- Landscape and visual effects
- Onshore ecology and ornithology
- Historic environment and cultural heritage – offshore and onshore
- Onshore water environment
- Onshore traffic and transport
- Onshore noise and vibration
- Socio-economic effects
- Climate change
- Cumulative and interrelated effects

2.2. The ExA recommended that the Secretary of State should grant consent for the Proposed Development and make the Outer Dowsing Offshore OWF Order in the form proposed at Appendix E of the ExA Report [ER 8.3.1].

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

3. Summary of the Secretary of State's Decision

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

- 3.2. The 2024 National Policy Statements (“NPSs”) EN-1, EN-3 and EN-5 have effect in relation to the Proposed Development and consequently the application is to be determined under the provisions of Section 104 of the 2008 Act. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement (“NPS”). Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply.
- 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. 95 Relevant Representations (“RRs”) were made in respect of the Application.³ Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. The Secretary of State has had regard to the Local Impact Reports (“LIR”) submitted by East Lindsey District Council (“ELDC”), Boston Borough Council (“BBC”), South Holland District Council (“SHDC”) [REP1-052] and Lincolnshire County Council (“LCC”) [REP1-053], the relevant policies in the UK Marine Policy Statement 2011 and the East Inshore and East Offshore Marine Plans 2014, 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 notes that, in accordance with the transitional provisions set out in section 1.6 of EN-1, the 2024 NPSs had effect for the ExA’s consideration of this Application. On 24 April 2025, a consultation on the draft revisions of NPS EN-1 and EN-3 was launched and revised NPSs were laid in Parliament on 13 November 2025, which came into effect on 6 January 2026 (the “2025 NPSs”). Whilst the 2025 NPSs do not have effect for this

³ <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010130/representations>

Application, they are capable of being important and relevant considerations in the Secretary of State's decision-making process and have been considered accordingly in the making of this decision.

- 4.3. The Secretary of State has also had regard to the updated National Planning Policy Framework ("NPPF") from February 2025, which was released during the Examination and the Clean Power 2030 Action Plan ("CP2030"), which 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.
- 4.4. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Alternatives – The Applicant provided sufficient details of and consideration of alternatives [ER 3.2.41]
 - The Need for the Proposed Development – Very great positive weight [ER 3.2.42]
 - Offshore and Intertidal Ornithology – Great negative weight [ER 3.5.133]
 - Marine Mammals – Little negative weight [ER 3.6.72]
 - Oil, Gas and other Offshore Infrastructure – Moderate negative weight [ER 3.7.172]
 - Fish and Shellfish Ecology – Little negative weight [ER 3.8.47]
 - Commercial Fisheries and Fishing – Little negative weight [ER 3.9.29]
 - Shipping and Navigation – Little negative weight [ER 3.10.48]
 - Civil and Military Aviation and Communication – Little negative weight [ER 3.11.52]
 - Seascape and Visual Effects – Moderate negative weight [ER 3.12.66]
 - Land use, Geology and Ground Conditions – Moderate negative weight [ER 3.13.198]
 - Landscape and Visual Effects – Moderate negative weight [ER 3.14.70]
 - Onshore Ornithology and Ecology – Little negative weight [ER 3.15.95]
 - Historic Environment and Cultural Heritage – Offshore and Onshore – Little negative weight [ER 3.16.70]
 - Onshore Water Environment – Little negative weight [ER 3.17.46]
 - Onshore Traffic and Transport – Little negative weight [ER 3.18.78]
 - Onshore Noise and Vibration – Little negative weight [ER 3.19.43]
 - Socio-economic Effects – Little positive weight [ER 3.20.37]
 - Climate Change – Neutral weight (does not affect the planning balance) [ER 3.21.41]
- 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.

Alternatives

- 4.6. The ExA was satisfied that the Applicant's approach to the assessment of alternatives, described in Chapter 4 of the Environmental Statement ("ES"), is comprehensive and complies with the EIA Regulations [ER 5.1.3]. The ExA was satisfied that the Applicant has

assessed reasonable alternatives to the Proposed Development (including the approach to site selection, layout, and technologies) and taken account of the effects of each option on the environment prior to submitting its application. In that regard, the ExA was also satisfied that the requirements of paragraph 4.3 of NPS EN-1 are met [ER 3.2.41 and 5.1.3]. The Secretary of State agrees that the Applicant has assessed reasonable alternatives to the Proposed Development and has provided sufficient details of the alternatives to meet the requirements contained within NPS EN-1 and the EIA Regulations.

The need for the Proposed Development

- 4.7. The ExA concluded that the Proposed Development as an OWF project would make a meaningful contribution to meeting the urgent need for new large scale energy infrastructure and would help in supporting the transition to a lower carbon system, as established by the energy NPSs [ER 3.2.39]. The ExA is satisfied, notwithstanding project-specific considerations, that the overarching need argument for the Proposed Development is very strong in terms of addressing the urgent need for low carbon energy. Therefore, the ExA ascribes the need for the Proposed Development very great positive weight in the planning balance. The ExA confirms that this weight is equivalent to the substantial weight identified within NPS EN-1 [ER 3.2.42].

The Secretary of State's conclusion

- 4.8. 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 OWFs. The Secretary of State agrees with the ExA that it is not likely that wake effect losses would be significant. Therefore, 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.
- 4.9. The ExA ascribed the need case very great positive weight, and it confirmed (at paragraph 3.2.42 of the ExA's Report) that this weight is equivalent to the substantial weight identified in NPS EN-1. For the avoidance of any doubt, and for consistency with the policy set out in paragraph 3.2.7 of NPS EN-1, the Secretary of State also ascribes the need case substantial positive weight. While the ExA's conclusions are different in terminology, the weighting ascribed is the same in every other sense.

Good design

- 4.10. The key design issues considered by the ExA were the Applicant's overall design process and its alignment with PINS' Advice on Good Design (published in October 2024) [ER 3.3.13]; the proposed design solutions for the OnSS; and the proposed design solutions for the ORCPs [ER 3.3.16].
- 4.11. The ExA considered the Applicant's approach to securing good design and noted the submission of a Design Approach Document ("DAD") and Design Principles Statement ("DPS") which set out an iterative design process and are documents to be certified under the DCO [ER 3.3.4 to 3.3.6].

- 4.12. For the issue relating to the proposed design solutions for the ORCPs, the ExA sought clarification from the Applicant on the reasons for the absence of consideration of offshore elements of the Proposed Development in the DAD and DPS [ER 3.3.49]. Following this, the Applicant submitted a revised DAD to include consideration of the offshore elements of the Proposed Development, including cross references to a new Outline ORCP DPS. This document establishes design principles that would be adopted in the development of the detailed design of the ORCPs prior to construction [ER 3.3.50].
- 4.13. For the issue relating to the Applicant's design process, the ExA noted that the Applicant has, in general terms, engaged in a design and consultation process, but the design process for the OnSS was yet to go through a significant period of evolution and that the detailed designs would be finalised post-consent, once a principal contractor has been appointed. The final design of the OnSS would be subject to post consent approval by LCC under Requirement 9 of the draft DCO [ER 3.3.11].
- 4.14. For the issue relating to the proposed design solutions of the OnSS, the ExA noted that the Applicant had not decided on the type of insulation technology it would adopt for the OnSS switchgear, and therefore had not undertaken any early-stage design work to explore design options for its OnSS structures [ER 3.3.45 to 3.3.46]. The ExA considered the Applicant's choice to not develop its design options for the OnSS to a greater level of detail was to the detriment of the application [ER 3.3.46].
- 4.15. The Applicant relied on mitigation planting as an option to reduce potential visual impacts of the OnSS, but the ExA shared LCC's concerns that planting alone would be insufficient for screening and could alter the current open character of the landscape. LCC therefore supported an approach combining architectural and screening elements rather than relying solely on planting and screening [ER 3.3.27 to 3.3.30]. The Applicant stated [REP3-051] that there may not be an 'individual large building' for the OnSS because Air Insulated Switchgear ("AIS") technology could be used, and highlighted that the approval mechanisms under Requirement 9 and Requirement 10 of the draft DCO would sit within the control of the relevant authority (LCC) at the detailed design phase [ER 3.3.31].
- 4.16. The ExA concluded that given the lack of design development of the OnSS, the most visually prominent element of the Proposed Development, the Applicant had not fully demonstrated compliance with paragraphs 4.7.10 and 4.7.11 of NPS EN-1 [ER 3.3.52 and 3.3.53].
- 4.17. However, the ExA welcomed the Applicant's commitment to appointing a project design champion and undertaking independent design review in its DAD, and therefore concluded that the Applicant had met the requirements set out in paragraph 4.7.14 of NPS EN-1 [ER 3.3.55].
- 4.18. The ExA was satisfied with the Applicant's consideration of the wider impacts of the development such as landscape and environmental impacts and was satisfied that these impacts, in design terms, were not disproportionate to the operational, safety and security requirements that its design must satisfy, and that the proposals accorded with paragraph 4.7.12 of NPS EN-1 [ER 3.3.54].
- 4.19. The ExA concluded that the Applicant's approach to design should be afforded a little negative weight in the planning balance [ER 3.3.56].

Outstanding matters resolved through information requests

- 4.20. In the first information request the Applicant was asked to provide an update on the design of the OnSS, including any plans and photomontages or other visualisations, and an updated assessment on the seascape and landscape visual impact the OnSS would have on the Lincolnshire Coastline.
- 4.21. The Applicant replied [C1-049] that detailed designs for the OnSS will be developed post-consent when it has made a decision regarding the selection of either AIS or Gas Insulated Switchgear (“GIS”) which the Applicant states is dependent on the outcome of a Front-End Engineering Design (“FEED”) process. The Applicant stated that retaining flexibility between AIS and GIS until the FEED process is completed and a decision is taken by the Project, ensures that the final design is optimised for performance, cost-efficiency, and long-term reliability, all which are matters of wider public interest. The Applicant suggested that whilst the OnSS has not yet reached the detailed design stage, designs had been carefully considered and addressed in the application materials. The Applicant stated it had provided an indicative OnSS design representing a ‘maximum design envelope’ (“MDE”) which had been assessed in the ES and that the draft DCO [DD-002] secures that the detailed design will remain within the assessed maximum design parameters.
- 4.22. The Applicant explained that it had assessed a worst-case scenario using a Rochdale Envelope approach, supported by NPS EN-1 and PINS Advice Note 9: Rochdale Envelope guidance⁴, and that the landscape and visual impacts for both the AIS and GIS options were considered in Chapter 28 of the ES. The Applicant stated that within the DAD and DPS, a clear route to good design has been developed including maximum design parameters, indicative layouts, and consultation by a post-consent design review process. It explained that securing good design will require close collaboration and consultation with LCC, as well as engagement with the Community Liaison Group, the Local Design Panel, and the independent design review panel. The Applicant pointed out that Requirement 9 of the draft DCO requires that the detailed design information submitted must be in accordance with the DAD and DPS and requires approval from LCC.
- 4.23. With regard to the Lincolnshire Coastline, and seascape and visual effects, the Applicant noted that the study area for assessing landscape and visual effects of the OnSS was a 5 km radius from the maximum footprint of the OnSS. The Applicant has said that this is based on the limit beyond which professional judgement considers it would be unlikely for significant effects to arise. The Applicant has said that this judgement is based on knowledge of similar projects, an understanding of the character of the local landscape, as well as an understanding of the scale and the construction and development of the onshore components of the project. LCC agreed this was appropriate given the scale of the OnSS (REP5-135). The Lincolnshire Coastline is approximately 7.5 km from the OnSS and therefore lies outside the 5 km study area for landscape and visual assessment. The Applicant notes that Chapter 28 of the ES, therefore, does not consider any seascape effects as a result of the OnSS as it considers no such effects are expected to occur at that distance from the receptor.

⁴ nsip-documents.planninginspectorate.gov.uk/published-documents/EN010080-001409-Spirit Energy - Appendix V - Planning Inspectorate advice note 9 - Rochdale Envelope.pdf

- 4.24. LCC responded to the Secretary of State's first all-IPs consultation [C2-007] noting that as currently drafted the design for the OnSS is secured under Requirement 9 of the Draft DCO. Requirement 9(1) of the draft DCO requires that the Applicant produces detailed design information covering the layout, scale, building elevations and external appearance of the OnSS. Requirement 9(3) requires that the detailed design information to be submitted under Requirement 9(1) must be in accordance with the DAD and DPS. Compliance with the DAD and the DPS is necessary in order to secure LCC's approval under the requirement. Therefore, LCC is satisfied that this mechanism provides an appropriate opportunity to control and agree the final design for the OnSS. LCC also noted and welcomed that the purpose of draft Requirement 9 is to ensure that the design develops in line with the feedback of the Local Design Panel. Once the design parameters are further refined through detailed design it is anticipated that the architectural design potential will be explored with LCC through the design review process.

The Secretary of State's conclusion

- 4.25. The Secretary of State notes the Applicant's reasoning for not committing to a specific design for the OnSS and agrees with the ExA on the potential significance of the impact arising from the proposed OnSS structures. The Secretary of State notes NPS-EN-1 paragraph 4.3.11 which states:

"In some instances, it may not be possible at the time of the application for development consent for all aspects of the proposal to have been settled in precise detail. Where this is the case, the applicant should explain in its application which elements of the proposal have yet to be finalised, and the reasons why this is the case."

- 4.26. Noting the NPS paragraph above, whilst the Secretary of State considers the Applicant has gone some way to explain its reasons for the lack of detailed designs for the OnSS, he agrees with the ExA that this is a detriment to the overall Application. In particular, the lack of progress on the choice of technology for the OnSS at this late stage of the process (outlined in the Applicant's response to the First Information Request [C1-049]) means that he cannot draw a meaningful conclusion about the likely impacts of the OnSS. The Secretary of State notes, however, that Requirement 9 of the Order requires that the detailed design information submitted must be in accordance with the DAD and DPS and requires approval from LCC, and therefore LCC will have some control over the final designs.
- 4.27. The Secretary of State shares the ExA's view that the potential significance of impacts, and the lack of early-stage design development for the OnSS, limits the certainty that a high-quality design will be achieved. Paragraphs 4.7.10 and 4.7.11 of Section 4.7 of NPS EN-1 focus on good design, these paragraphs highlight the need for the Secretary of State to be satisfied that the Applicant has considered both the functionality and aesthetics of the Proposed Development. Whilst the Applicant may have gone some way to explain their reasoning for the lack of design of the OnSS, they have not demonstrated full compliance with paragraphs 4.7.10 and 4.7.11 of NPS EN-1. As it has not been possible to clearly understand the likely impacts of the construction of the OnSS the Secretary of State has therefore amended the weighting to moderate negative weight in the planning balance.

Benthic ecology, intertidal, subtidal and coastal effects

Worst-case scenario impacts from cable installation

4.28. The Secretary of State requested clarification regarding the worst-case scenario impacts from boulder clearance and cable burial activities within the Inner Dowsing, Race Bank and North Ridge Special Area of Conservation ("IDRBNR SAC"). The Applicant updated the Outline Cable Specification and Installation Plan ("CSIP") to include this information. The MMO advised [C8-003] this worst-case scenario information should also be included within the Order. However, the CSIP is a certified document and the worst-case scenario information for other parameters is secured via certified documents. The Secretary of State therefore considers that the worst-case scenario is adequately secured via its inclusion in the CSIP [C3-016] and through Condition 13(1)(d) of Schedule 10 and Schedule 11 to the Order.

Cable protection within shallow nearshore waters

4.29. During the Examination, Natural England ("NE") raised concerns regarding potential changes to wave energy transmission, nearshore sediment pathways, and coastal morphology due to the presence of cable protection within the shallow nearshore zone [ER 3.4.25]. This issue remained unresolved at the close of Examination because the maximum design scenario ("MDS") for nearshore cable protection was not secured. The ExA concluded that the Secretary of State may wish to consult with NE and the Applicant to secure the nearshore MDS within the Outline Scour Protection and Cable Protection Management Plan ("SPCPMP") [ER 3.4.37]. The Applicant has updated the SPCPMP [C3-033] and the CSIP [C3-016] to specify a maximum height for nearshore cable protection of 0.35m following a request from the Secretary of State to include the MDS. The implications of this are considered in Section 5.4.2 of the Secretary of State's Habitat Regulations Assessment ("HRA").

Cable protection requirements within the IDRBNR SAC

4.30. The Secretary of State acknowledges NE and Marine Management Organisation ("MMO")'s representations regarding the cable protection requirements over areas of supporting habitat for *S. spinulosa* reef within the IDRBNR SAC. Whilst he understands the rationale presented by NE and the MMO he considers that it is acceptable to issue consent for the Proposed Development on the basis that cable protection will be required for up to 20% of the length of the export cables which cross areas of supporting *S. spinulosa* reef. The rationale for this conclusion is set out in Section 5.4.1 of his HRA.

4.31. The areas of cable protection consented via the Order, within the IDRBNR SAC, are set out in the SPCPMP [C3-032] as 5% of the length of the export cable crossing areas of Sandbanks (equating to 5,760m²) and 20% of the length of the export cable crossing areas of supporting habitat for *S. spinulosa* reef (equating to 95,407.2m²). The parameters for sandbanks are fully set out in the SPCPMP however, the CSIP only contains the 5% length of cable parameter and not the worst-case scenario in square metres of impact. The parameters for supporting habitat for *S. spinulosa* are fully set out in both documents (SPCPMP [C3-032] (see Table 3-2) and CSIP [C3-016] (see Table 5-1)).

- 4.32. The Secretary of State notes that NE requested in [C5-004] for those worst-case scenarios to be fully set out in both the CSIP and SPCPMP. However, he considers this unnecessary as Condition 13(1)(d) of both Schedule 10 and Schedule 11 to the Order requires that prior to the start of the licenced activities, the Applicant must submit a construction method statement to the MMO for approval. The construction method statement will contain the full parameters of both worst-case scenarios as it must include details of cable specification, installation and monitoring in accordance with the [CSIP] and scour protection and cable protection management in accordance with the [SPCPMP], as certified. The Secretary of State therefore considers that the MDS and subsequent worst-case scenario related to cable protection within the IDRBNR SAC is robustly secured.

Mitigation measures for seabed preparation, sediment disposal and cable installation

- 4.33. At the close of Examination there was an outstanding disagreement between the Applicant and NE over the use of a fallpipe for the disposal of dredged sediments, which NE considered could have HRA implications [C.4.251]. The ExA recommended that the Secretary of State may wish to consult further on this matter [ER 8.3.2]. The Secretary of State requested further information on this matter and following additional commitments from the Applicant and updated advice from NE he considers this matter resolved. This matter and the Secretary of State's rationale is considered in his HRA at Section 5.4.1.4.
- 4.34. In NE's response to the question on the use of a fallpipe, it also highlighted that mitigation measures could be applied outside of the IDRBNR SAC to address concerns in relation to "Priority Habitats" under Section 41 of the Natural Environment and Rural Communities ("NERC") Act 2006 [C1-007]. The Secretary of State sought further information on this matter from NE in the second information request. In response [C3-002], NE set out its expectations for mitigation both within and outside the IDRBNR SAC, which included how to present these measures within the CSIP and biogenic reef mitigation plan. NE advised that if the measures were secured, this would resolve its outstanding concerns in relation to *S. spinulosa* reef both outside the IDRBNR SAC (i.e. "Priority Habitat" under the NERC Act 2006) and inside the IDRBNR SAC (i.e. designated feature of the SAC under the Habitats Regulations) [C3-002 and C3-029]. The Applicant submitted updates to the CSIP [C3-016] and the biogenic reef mitigation plan [C3-020] which included this mitigation and other revisions requested by the Secretary of State. The Secretary of State therefore considers this issue has been resolved.
- 4.35. In response to the second and third all IPs [C5-004], NE acknowledged that the updates to the CSIP were in line with its previous advice [C3-002 and C3-029]. However, NE also advised that the document should be further updated in relation to sediment disposal to include that, both within and outside the IDRBNR SAC, a 50m buffer will be maintained from any Annex I *S. spinulosa* reef features to limit the potential for impacts to arise from sediment deposition. NE requested the same update to the biogenic reef mitigation plan. The Secretary of State has not requested these further updates from the Applicant because the mitigation commitments set out in [C3-002] are now secured in the outline documents [C3-016 and C3-020]. This is considered sufficient to resolve NE's concerns in relation to *S. spinulosa* reef protected under the NERC Act 2006 and the Habitats Regulations (as set out in paragraph 4.34). The Secretary of State takes comfort in the knowledge that the CSIP and biogenic reef mitigation plan are outline documents secured by the DCO and conditions 13(1)(d) and (j) of Part 2 of Schedule 11 to the Order require that a detailed construction

method statement and a biogenic reef mitigation plan are developed post-consent and submitted to the MMO for approval (in consultation with NE) prior to works commencing. If the MMO in consultation with NE considers the buffer is necessary to further reduce environmental harm from the Proposed Development this commitment can be included in the detailed construction method statement and biogenic reef mitigation plan post-consent.

- 4.36. NE and MMO also requested updates to the Schedule of Mitigation. However, the Schedule of Mitigation is not a certified document under Schedule 21 to the Order (Documents to be certified) and does not directly secure any specific mitigation measures in the Order. These measures are secured through the control documents they are contained within. The Secretary of State therefore concludes the Schedule of Mitigation can be updated with these requests post-consent. He expects the Applicant to update the Schedule of Mitigation to reflect any mitigation commitments that are not currently included in the document, along with requested changes (where applicable) and revised references to reflect the conditions as set out in Part 2 of Schedules 10 and 11 to the Order.

ORCP mitigation

- 4.37. The Secretary of State notes that throughout the Examination there was ongoing disagreement regarding the potential impacts of the ORCPs on Sandbanks within the IDRBNR SAC due to potential changes in physical processes (see [ER C.4.227 to 229]). This remained unresolved at the close of Examination. The Secretary of State sought further information through his first and second information requests and he considers that this issue has been resolved such that an adverse effect on the integrity of the IDRBNR SAC can be excluded. This issue is discussed and concluded in the Secretary of State's HRA at Section 5.4.1.3.

Offshore in-principal monitoring plan

- 4.38. During the determination period the Secretary of State requested updates to Sections 3.1 and 3.3 of the Offshore In-Principle Monitoring Plan ("IPMP"). The Applicant included many of the proposed revisions however some issues remain which should be addressed post-consent.
- 4.39. Following advice from NE [C3-029], the Secretary of State invited the Applicant to consider whether surveys may need to extend beyond the Order Limits to assess changes in bedform topography resulting from the Proposed Development and provide explanation of their conclusions. In its response [C6-005] the Applicant stated that it did "...*not consider consideration of such to be necessary* (sic.)". The Secretary of State must ensure Applications for Development Consent meet the necessary standards and he expects cooperation from applicants to meet these. He also expects cooperation from the Applicant to resolve any outstanding matters in its detailed plans post-consent.
- 4.40. The monitoring proposals in the IPMP [C1-076] relating to supporting habitat for *S. spinulosa* reef were limited to a grab sampling campaign. NE advised that this approach is not fit for purpose [C3-029]. The Secretary of State considers that this proposal alone to be insufficient to meet the headline reasons for monitoring, namely: 1) determine the location, extent and quality of supporting habitat for Annex I *S. spinulosa* reef; and 2) determine any changes in the extent and quality, and the recovery of supporting habitat for Annex I *S. spinulosa* reef.

The Secretary of State requested updates to the IPMP to include additional monitoring proposals.

- 4.41. The Applicant contended that it had included additional commitments (faunal analysis of grab samples) in the updated IPMP [C6-009] which it considers addresses this matter [C6-005]. However, the Secretary of State considers it implicit that grab samples would need to be analysed and does not consider this an additional commitment. He maintains that supplementary methods such as drop-down video (or other appropriate alternatives) should be included in the detailed plan post-consent. He expects the Applicant to work collaboratively with the MMO and NE to identify the most suitable methods for meeting monitoring requirements.
- 4.42. In the fourth information request, the Secretary of State requested clarification regarding the Applicant's proposals to monitor "Effects on Annex 1 Sandbank communities". He has reviewed the Applicant's response in [C6-005] and considers this a further area where additional monitoring approaches, beyond those set out in the IPMP, may need to be included in the detailed plans post-consent.

The Secretary of State's conclusions

- 4.43. ES Chapters 7 (Marine Physical Processes), 8 (Marine Water and Sediment Quality) and 9 (Benthic and Intertidal Ecology) conclude that residual effects from the Proposed Development will be no greater than minor adverse (not significant). The ExA agrees with these conclusions and ascribes little negative weight to benthic ecology, intertidal, subtidal and coastal effects in the planning balance [ER 3.4.63 and 3.4.64]. The Secretary of State does not agree with the conclusions of ES Chapter 9 and as such he disagrees with the conclusions of the ExA. This is specifically in relation to the assessment of "impact 4: long term or permanent habitat loss or alteration."
- 4.44. Outside the IDRBNR SAC the Applicant considers the sensitivity of benthic receptors to impact 4 to be high and the magnitude of impact to be negligible, and the subsequent overall effect to be minor (not significant in EIA terms). The worst-case scenario for benthic habitat loss presented in ES Chapter 9 is 4.59km². The Secretary of State agrees with the conclusion of the sensitivity of the receptor however, he considers the magnitude of this impact to be at least low. He therefore concludes the overall adverse effect is moderate (which is considered significant in EIA terms). Within the IDRBNR SAC the Applicant considers the sensitivity of Sandbank habitat to be high and the magnitude of impact to be low, resulting in a moderate (significant) effect. The Applicant presents the use of removable cable protection as a mitigation measure to reduce the residual effect to minor (not significant). As set out in Section 5.4.1 of his HRA, the Secretary of State considers the placement of removable cable protection should still be considered as a permanent loss of habitat. As such, this measure cannot be considered to reduce the significance of effect. Following this rationale the Secretary of State considers the effect to *S. spinulosa* reef from the permanent loss supporting habitat within the IDRBNR SAC would be at least moderate (significant).
- 4.45. The Secretary of State concludes the Proposed Development will result in moderate residual effects that will be significant in EIA terms. He therefore ascribes moderate negative weight to the impacts of the Proposed Development on benthic ecology, intertidal, subtidal and coastal effects in the planning balance.

Offshore and intertidal ornithology

Compensation requirements and measures for offshore ornithology

4.46. Through his information requests, the Secretary of State requested additional information and updates in relation to compensation requirements and measures for offshore ornithology. In addition to direct responses, he also notes NE provided additional relevant advice in response to his all-IPs consultations. The Secretary of State's conclusions and rationale regarding these matters is presented in Sections 9.1 and 9.2 of his HRA.

Offshore In-Principal Monitoring Plan

4.47. The Applicant has updated the IPMP [C6-009] to include additional ornithology monitoring commitments in line with requests from the Secretary of State. NE is content that a *"commitment to relevant and effective post-consent monitoring for offshore ornithology has been made within the IPMP, the details of which can be determined through post-consent consultation with Natural England and the MMO"* [C8-004]. The Secretary of State encourages the Applicant to work collaboratively with NE and the MMO post-consent to achieve this.

The Secretary of State's conclusions

4.48. The Secretary of State agrees with the conclusions of the ExA that significant adverse effects cumulatively (in EIA terms) cannot be ruled out for five species (red-throated diver, guillemot, razorbill, kittiwake and great black-backed gull) [ER 3.5.133]. This provides further justification for the post-consent ornithology monitoring commitment requested by the Secretary of State and included in the IPMP by the Applicant. The Secretary of State considers this monitoring commitment to meet the requirements of NPS EN-1 and EN-3. In agreement with the ExA [ER 3.5.133], this matter is given great negative weight in the planning balance.

Marine mammals

Assessment methods – interim Population Consequences of Disturbance ("iPCoD") modelling

4.49. The Secretary of State notes that, as recorded in its Deadline 6 submission [REP6-148], NE was not in agreement with the Applicant over certain aspects of the assessment methodology for marine mammals [ER 3.6.36]. NE advised in [REP6-154] that this was an HRA issue. At Deadline 6 the Applicant submitted a cumulative iPCoD Modelling Report [REP4-099] [ER 3.6.40]. The ExA acknowledged that the Secretary of State may wish to seek the views of the MMO and NE [ER 3.6.43]. The MMO did not have an outstanding objection on this issue and did not provide comment through any of the all-IPs consultations. In his first information request, the Secretary of State invited NE to comment on the cumulative iPCoD modelling report submitted by the Applicant at D6 [REP6-026], particularly in relation to the in-combination impacts on the:

- Harbour seal qualifying feature of the Wash and North Norfolk Coast SAC;
- Grey seal qualifying feature of the Humber Estuary SAC and Berwickshire and North Northumberland Coast SAC; and
- Harbour porpoise qualifying feature of the Southern North Sea SAC.

4.50. In its response [C1-007], NE welcomed the Applicant's modelling and advised that if appropriate mitigation is secured then Adverse Effect on Integrity ("AEol") can be ruled out for these features. The Applicant has committed to primary and secondary noise reduction methods with specific measures to be agreed post-consent. This is secured through condition 13(f) of Part 2 of Schedules 10 and 11, and condition 11(e) of Part 2 of Schedules 12 to 15, to the Order. NE was content this commitment is sufficient before development consent is granted [C1-007]. The Secretary of State is content that NE's concerns have been addressed. This matter is addressed in the Secretary of State's HRA (Table 1).

Underwater noise mitigation – Noise Abatement Systems

4.51. The Secretary of State notes that throughout the Examination, the MMO and NE had concerns regarding the need for the Applicant to demonstrate a firm enough commitment to the use of Noise Abatement Systems ("NAS") as a mitigation measure for underwater noise arising from construction piling activities [ER 3.6.68]. Noting this issue, and in order to reduce the level of underwater noise generated and its propagation through the marine environment, in the first information request, the Applicant was requested to commit to a specific NAS, or package of NAS, in the event that driven or part-driven piles are used during the construction of the Proposed Development. The Applicant responded [C1-049] that following the close of Examination it had reached agreement with NE on the wording of Noise Abatement commitments and explained why it was not appropriate to commit to specific NAS at this stage. The Applicant submitted an updated draft DCO that contained updated conditions relating to the provision of a marine mammal mitigation protocol and updated relevant certified documents to reflect the commitment. NE advised [C1-007] that as the Applicant has committed to primary and secondary noise reduction methods with specific measures to be agreed post-consent, it did not need to commit to specific NAS at this stage. NE was content this commitment was sufficient at this stage before development consent is granted. The Secretary of State is content with commitments the Applicant made to primary and secondary noise reduction methods, that these are appropriately secured in the DCO as set out in paragraph 4.50 of this Decision Letter, and he agrees with NE that the measures can be agreed post-consent.

Underwater noise mitigation – Passive Acoustic Monitoring ("PAM")

4.52. The ExA noted NE's concerns about the use of PAM to enable piling operations during periods of poor visibility [ER 3.6.57]. NE advise this is an EIA issue and that the Applicant will need to provide evidence that its proposed PAM equipment will cover the whole MA [mitigation area] for marine mammal mitigation area, including for species which vocalise infrequently, to be effective. In particular, NE highlight that PAM rarely detects harbour porpoise beyond a range of 300m [REP6-154]. In the first information request, the Applicant was requested to update the Marine Mammal Mitigation Protocol ("MMMP") for Piling Activities and Unexploded Ordinance clearance, to include either:

- Further details in relation to the intended PAM system and the features and processes this would constitute, and to demonstrate that it can cover an appropriate area, including for marine mammals that vocalise infrequently; or
- If this is not possible wording that stipulates that piling activities will only take place in weather conditions allowing the effective operation of marine mammal observers.

- 4.53. In its response [C1-049], the Applicant explained that mitigation will be subcontracted post-consent and so it is not currently possible to provide further details of the PAM system. The Applicant stated that it will seek statutory nature conservation body (“SNCB”) advice post-consent on appropriate measures for a detailed MMMP which will demonstrate that the mitigation package and PAM system are sufficient to cover the mitigation zone if piling is required in adverse conditions/at night. Due to requirements for good weather, it is not possible to exclude piling at night without significant delays in construction. If piling outside of daylight hours is required, then additional mitigation will be employed e.g. Acoustic Deterrent Devices. The Applicant also submitted an updated Noise Abatement Systems Commitment Clarification Note [C1-050]. This indicates that noise abatement systems for pile driving (as committed to by the applicant and discussed above) will reduce the size of the mitigation area for relevant species to a 130m. The Applicant therefore maintains that, based on NE advice that PAM systems can be effective up to a 300m range, PAM remains an appropriate mitigation measure for marine mammals should piling need to take place in hours of reduced visibility or during the night.
- 4.54. The Secretary of State considers the proposed measures align with the Joint Nature Conservation Committee (“JNCC”) 2023 guidance on the use of PAM. He also notes that piling activities cannot occur until a detailed MMMP has been approved by the MMO (following current best practice as advised by NE). The Secretary of State is therefore content the proposed use of PAM is appropriately secured and will be appropriately applied.

The Secretary of State’s conclusions

- 4.55. The ExA considered that the Proposed Development complies with the policy requirements regarding marine mammals set out in NPS EN-1, EN-3 and the UK Marine Policy Statement [ER 3.6.70, ER 3.6.71].
- 4.56. The Secretary of State has considered the relevant policy requirements in NPS EN-1 and EN-3, the updated assessments provided by the Applicant and the responses from the first information request. The Secretary of State agrees with the Applicant and the ExA that, subject to the mitigation secured in the DCO, the Proposed Development alone and cumulatively would give rise to no significant adverse residual effects in EIA terms. The Secretary of State ascribes a little negative weight in terms of the Proposed Development’s impacts on marine mammals within the overall planning balance.

Oil, gas and other offshore infrastructure

Wake effects on other Offshore Wind Farms

- 4.57. Wake effects was a contentious issue throughout the Examination and was discussed at length in the ExA Report [ER 3.7.36 – ER 3.7.111]. The Secretary of State refers to Breesea Limited, Soundmark Wind Limited, Sonningmay Limited and Optimus Wind Limited, Ørsted Hornsea Project Three (UK) Limited, Ørsted Hornsea Project Four Limited, Lincs Wind Farm Limited, Westernmost Rough Limited and Race Bank Wind Farm, collectively referred to as the Ørsted Interested Parties (“Ørsted IPs”) in this Decision Letter [ER 3.7.42]. The Secretary of State also refers to Equinor New Energy Limited which submitted a representation [REP5-157] on behalf of Scira Extension Limited, Dudgeon Extension Limited, Dudgeon Offshore Wind Limited and Scira Offshore Energy Limited, collectively referred to as the Equinor IPs

in this Decision Letter [ER 3.7.53]. The Ørsted IPs and Equinor IPs were key participants on this issue.

The ExA's reasoning on wake effects on other OWFs

- 4.58. Overall, the ExA was satisfied that the Applicant provided a suitable assessment of wake effects upon which to determine the Application. Based on the information before the Examination, including the Applicant's rationale for not including Dogger Bank South offshore wind farm ("Dogger Bank South") in its assessment in light of the Ørsted IPs opposing view with regard to cumulative effects,⁵ the ExA considered that an updated assessment was not required [ER 3.7.86].
- 4.59. In relation to the significance of conclusions of the assessments before the Examination, the ExA Report noted that the Applicant's Wake Loss Technical Note [REP4-114], Ørsted IPs' assessments [REP4a-125a] and the final conclusions in the Wood Thilsted report [REP6-108] all indicate that wake effects, whilst variable across different OWFs, would be less than 1%. However, at Deadline 6, the Ørsted IPs stated that their own internal modelling indicated that effects of greater than 1% AEP across its assets may be experienced on its assets taking account of the Proposed Development and Dogger Bank South. Nevertheless, the Ørsted IPs did not provide an assessment during the Examination and as such, the ExA was not able to confirm this conclusion [ER 3.7.87].
- 4.60. The ExA noted the Applicant's, Ørsted IPs' and Equinor IPs' respective positions on whether the wake effects identified in the Wood Thilsted report are significant in EIA terms. All three acknowledged that there is no established methodology to define the significance of wake effects in EIA terms. Although the Applicant submitted the Wood Thilsted report into the Examination to identify wake effects, it did not update Chapter 18 of the ES to provide an assessment of significance in EIA terms, and Chapter 18 of the ES does not scope out wake effects. Instead, the Applicant drew comparison with the 2% wake effects figure considered sufficiently material to justify a requirement in the Awel y Môr DCO, which is greater than the maximum 0.89% identified for the Proposed Development and the findings of the Array Yield Layout Study created by Frazer Nash Consultancy for The Crown Estate⁶ which describes effects of 2% as "*small*" and effects in the region of 0.5% as "*vanishingly small*". On this basis the Applicant considers that wake effects are not significant in EIA terms [ER 3.7.88].
- 4.61. Considering the evidence before it, including the broadly consistent conclusion of less than 1% wake loss identified in the Wood Thilsted report [REP6-108] and the evidence submitted by the Ørsted IPs and Equinor IPs, as well as the carbon payback periods identified by the Applicant, the ExA did not consider it likely that wake effects would be significant [ER 3.7.90].
- 4.62. The Ørsted IPs and Equinor IPs provided viability evidence that wake effects from the Proposed Development could bring about the earlier decommissioning of existing wind farms or undermine the competitive position of OWFs yet to be constructed. The ExA considered

⁵ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002221-The%20C3%98rsted%20IPs%20-%20IP%E2%80%99s%20Closing%20Statement\(s\).pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002221-The%20C3%98rsted%20IPs%20-%20IP%E2%80%99s%20Closing%20Statement(s).pdf)

⁶ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-001313-19.7%20Array%20Layout%20Yield%20Study.pdf>

that little weight could be attached to this evidence because the financial loss assessments provided by the Ørsted IPs and Equinor IPs were caveated with a note that the assessments did not represent the “*internal view*” of the respective parties on the financial impacts which cannot be shared due to confidentiality [ER 3.7.91]. In relation to paragraph 2.8.347 of NPS EN-3, the ExA did not consider that there was sufficient evidence to demonstrate that the Proposed Development is likely to affect the future viability of existing or approved OWFs [ER 3.7.94].

- 4.63. The Applicant did submit a wake effects assessment into the Examination, but only at Deadline 4. As a result, the ExA did not consider that the Applicant had meaningfully adhered to the approach set out in 2024 NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or 2024 NPS EN-3 paragraphs 2.8.48, 2.8.203, 2.8.344, 2.8.345 and 2.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. Further to this, the ExA did not consider that the Applicant had adequately considered mitigation for wake loss. The Applicant’s initial approach drew upon the 7.5km separation distance between OWFs set by the Crown Estate’s Offshore Wind Leasing Round 4 process but did not provide any specific assessment of the scope for design and layout options that could potentially mitigate wake effects [ER 3.7.159]. The ExA also found conflict with Policy GOV2 of the East Inshore and East Offshore Marine Plan which requires that opportunities for co-existence should be maximised wherever possible [ER 3.7.160]. Nevertheless, in the absence of detailed consideration of mitigation by the Applicant, the ExA considered that this should be viewed in the context of its subsequent conclusion of no likely significant effects [ER 3.7.98].
- 4.64. Given the ExA’s conclusion on the absence of likely significant effects, the ExA considered that Protective Provisions (“PPs”) to secure mitigation to minimise wake effects were not necessary. However, the ExA stated that if the Secretary of State decides that further consideration of mitigation is necessary this would more appropriately sit within a requirement in the DCO rather than in PPs [ER 3.7.104]. Overall, the ExA was satisfied the Applicant’s assessment of wake effect loss on other offshore infrastructure complied with the requirements in paragraph 2.8.197 of NPS EN-3 insofar as it relates to wake effects. The ExA was also satisfied with the Applicant’s assessment of other matters as set out in Chapter 16 and 18 of the ES with the additional assessments appended to the Helicopter Access Report [REP5-075] and Oil and Gas Platform Allision and Marine Access Study [REP5-151] to consider the Reactive Compensation Substations (“RCS”) for Hornsea One OWF and Hornsea Two OWF [ER 3.7.157].
- 4.65. The ExA concluded that, given the absence of likely significant effects, PPs to secure the mitigation requested by Ørsted IPs and Equinor IPs to minimise wake effects were not necessary [ER 3.7.161]. The ExA also considered that a requirement was not necessary to address this matter either. However, the ExA also provided drafting for a potential new requirement to be included in the final DCO, based on the mitigation section of the Ørsted IPs and Equinor IPs proposed PPs and the corresponding requirement in the Awel y Môr DCO [ER 3.7.162], should the Secretary of State consider that further mitigation is necessary [ER 3.7.104].

Potential impacts on oil and gas receptors, including on helicopter and vessel access and direct LOS communications

- 4.66. The ExA considered its recommended amendments to PPs in parts 13, 14 and 15 of Schedule 18 of the rDCO for Race Bank, Lincs and the Dudgeon Extension Project (which would supersede the Applicant's agreed PPs), were necessary to secure proximity agreements and to define suitable control areas within which to manage works. The proposed PPs would allow the Applicant to retain the control of works within defined areas as initially proposed [AS-042], but rather than defining the precise control areas within the rDCO, the control areas would be submitted to and approved by the Secretary of State post-consent. Prior to such approval, the recommended PPs would prohibit the commencement of Work Nos. 5, 7 and 8 described in part 1 of Schedule 1 to the Order or any part of that work due to their proximity to the OWFs in question. A further recommended amendment to the PPs in parts 13, 14 and 15 of Schedule 18 of the rDCO would prohibit the commencement of Work Nos. 5, 7 and 8 until the undertaker has entered into a proximity agreement with the relevant OWF, unless otherwise agreed in writing between the undertaker and OWF in question [ER 3.7.166].
- 4.67. With the above PPs, the ExA considered the application negated or reduced effects, aside from wake effects, on other offshore infrastructure or operations to a level enabling the Secretary of State to grant consent in line with paragraphs 2.8.341 to 2.8.348 of NPS EN-3 [ER 3.7.167].
- 4.68. The ExA noted that a draft cooperation agreement between the Applicant and Ørsted Hornsea Project Four Limited was provided to the Ørsted IPs on 3 April 2025. However, as negotiations were ongoing, the ExA was not aware if any agreement had been reached [ER 3.7.168].
- 4.69. Given the information before the Examination, the ExA did not consider that substantial weighting should apply in this instance, and any residual adverse effects would only carry a little negative weight for the purposes of the planning balance [ER 3.7.170].
- 4.70. Overall, the ExA concluded that oil, gas and other offshore infrastructure matters weigh against the making of the Order due to residual adverse effects and the conflict with policy regarding co-existence and mitigation in relation to wake effects. The ExA therefore ascribed moderate negative weight in the planning balance [ER 3.7.172].

Post-examination consultation regarding other offshore infrastructure

- 4.71. The ExA noted that PPs had been agreed between the Applicant and Perenco UK Limited with the exception of the Applicant's proposed 50m radii for communication corridors. Noting the outstanding issue between Perenco UK Limited and the Applicant, the Secretary of State in the first information request sought confirmation on whether both parties were satisfied with the proposed 50m radius as stated in the Applicant's closing statement [REP6-121]. In a joint response [C1-004], the Applicant and Perenco UK Limited stated that the marine corridors and aviation corridor in the PPs were not in dispute between the parties: both had engaged in constructive discussions on the matter following the close of Examination and have reached an agreement on the LOS microwave corridor and amended the PPs to set out the agreed radius in respect of each communications corridor. A draft confidential side agreement has also been substantially agreed in principle by the parties.

4.72. NGET [C1-005] and the Applicant provided an additional response to the Secretary of State's first information request. This outlined that, following the close of the Examination, NGET and the Applicant have been discussing the potential for overlapping Order Limits between the Proposed Development northern Artificial Nesting Sites ("ANS") area and the proposed locations for NGET's Eastern Green Link 3 ("EGL3") and Eastern Green Link 4 ("EGL4") projects offshore. The Applicant and NGET have agreed an amendment to the PPs for the protection of NGET to include a restriction that an ANS may not be sited within, or within 500m of, a defined buffer zone around EGL3 and EGL4 without NGET's agreement. That defined buffer zone is shown on the NGET PPs offshore buffer zone plan (C1-044), which is also agreed between the Applicant and NGET. The agreed PPs have been included in the DCO (Part 7 of Schedule 18 to the DCO).

Post-examination consultation with the Applicant, the Ørsted IPs and the Equinor IPs regarding wake effects

4.73. In the first information request, the Secretary of State invited the Applicant and the Ørsted IPs to provide an update on whether they had reached agreement on the cooperation agreement and any PPs. The Applicant replied that it had been negotiating a proximity agreement with the Ørsted IPs in relation to Lincs Wind Farm, to be subsequently used in relation to Race Bank Wind Farm once agreed and in respect of the Proposed Development's proximity to the boundaries of both OWFs. The Applicant stated that the Secretary of State can be satisfied that the assets of Lincs Wind Farm Limited and Race Bank Wind Farm Limited are sufficiently protected such that any effects on third party infrastructure are negated or reduced to a level sufficient to enable the Secretary of State to grant consent in accordance with paragraph 2.8.348 of NPS EN-3, if engaged. However, the Secretary of State notes that the Applicant's response made no direct mention of wake loss impacts. In its response, the Ørsted IPs stated that the only cooperation agreement discussed between the Applicant and the Ørsted IPs is for underwater noise between the Applicant and Hornsea Four, and does not relate to, and is entirely separate from, wake loss, PPs or proximity agreements.

4.74. In their response, the Ørsted IPs put forward a new set of PPs and maintained that until the Applicant offers engagement, or indeed any engagement in relation to a separate commercial agreement as a solution to the impacts on the Ørsted IPs' assets, the fuller set of PPs for the benefit of the Ørsted IPs should be included on the face of the Outer Dowsing DCO in order to afford the Ørsted IPs' assets necessary and proportionate protection.⁷

4.75. Although the Equinor IPs were not included in the first information request, they responded in light of the recent decisions by the Secretary of State to grant development consent for the Mona and the Morgan OWFs. The response stated that they regarded these decisions as important and relevant considerations for the Secretary of State in reaching his determination on the issue of wake effects in the current application. The Equinor IPs also stated that since the close of the Outer Dowsing Examination, similar concerns have been raised in the Dogger Bank South Examination in respect of the impact of that project upon assets in which Equinor holds an interest by virtue of being a shareholder in Dogger Bank South. The Equinor IPs stated that in the Mona Decision [C1-009], the Secretary of State

⁷ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002540-C2-009%20%C3%98rsted%20IPs%E2%80%99.pdf>

accepted that *“there will be wake effect impacts from the Proposed Development on existing operational offshore infrastructure, noting that precise figures for the impact cannot be established...”*. They argued that this rationale supports the Equinor IPs’ position that the Outer Dowsing Order should be modified to provide for PPs similar to those proposed by the Ørsted IPs noted in the paragraph above.

- 4.76. In the second information request the Secretary of State asked the Applicant, the Ørsted IPs and the Equinor IPs for an update on any further engagement on this matter and if any agreement has been reached on the most recent PPs. The Ørsted IPs [C2-009] and the Equinor IPs [C3-034] maintained their positions from the first information request: the PPs they had proposed were the most appropriate solution. The Ørsted IPs also sought and provided a legal opinion in support of their position. The Applicant’s response [C3-028] stated it had undertaken the required assessment which demonstrates that the wake effects of the Proposed Development are very small, being less than 1%, and neither material in policy terms nor significant in EIA terms.
- 4.77. In its response, the Applicant also stated that the IPs maintaining objections on the grounds of wake effects⁸ had agreed with the methodology used by the Applicant’s independent expert consultants to carry out the assessment of wake effects and the conclusions reached in relation to the quantification of wake effects in percentage terms; and the primary matter of substance between the parties is the consequence of the conclusions of the assessment for the Secretary of State’s decision making on the application for development consent for the Proposed Development.
- 4.78. In the Applicant’s further response to the Ørsted IPs’ and the Equinor IPs’ December 2025 Submissions on Wake Effects [C9-005], the Applicant reiterated its position from the close of Examination and its response to the first and second information requests. The Applicant also sought and provided legal advice in response to the Ørsted IPs’ counsel opinion.
- 4.79. On 16 January 2026, the Secretary received a further letter from the Ørsted IPs, in response to the fifth all-IPs consultation, stating that it had not provided commentary on the Applicant’s response to the second all-IPs consultation [C5-009]. The Ørsted IPs maintained their opposition to the Applicant’s approach to wake effects and noted that the Five Estuaries Offshore Wind Farm Order 2025 was the first DCO to not include any protection (in the form of a requirement or PPs) for assets affected by wake losses. The Ørsted IPs disagreed with the Applicant’s approach and stated that it would be an inconsistent approach if the Secretary of State was to adopt a similar approach for the Proposed Development (if made) as this would not be in parallel with approaches taken in the Mona Offshore Wind Farm Order 2025 and the Morecambe Offshore Windfarm Generation Assets Order 2025 and maintained that the PPs that the Ørsted IPs proposed should be included to afford protection to their assets.

8 Namely: (1) Hornsea 1 Limited; Breesea Limited, Soundmark Wind Limited, Sonningmay Limited and Optimus Wind Limited (the Hornsea 2 Companies); and Race Bank Wind Farm Limited (together, the Ørsted IPs); and (2) Equinor New Energy Limited on behalf of Scira Extension Limited and Dudgeon Extension Limited (as developer of the Sheringham Shoal and Dudgeon Extension Offshore Wind Farm projects); Scira Offshore Energy Limited; and Dudgeon Offshore Wind Limited (the latter three known as the Equinor IPs).

- 4.80. On 3 February 2026 the Equinor IPs sent a further letter (after the close of the consultation of the fifth all-IPs consultation). In the letter, the Equinor IPs take a similar position to that of the Ørsted IPs, disagreeing with the Applicant's approach to wake effects on behalf of the assets it maintains in the vicinity of the Proposed Development – both parties claim significant economic losses which will affect the future viability of the Ørsted IPs and Equinor IPs assets.
- 4.81. On 6 February 2026, the Ørsted IPs sent a further submission to the Secretary of State, supporting the position of the Equinor IPs in their 3 February 2026 letter.

The Secretary of State's conclusion

- 4.82. The Secretary of State is content with the position reached between the Applicant and Perenco UK Limited, and acknowledges the post-examination correspondence sent in by Perenco UK Limited on 3 February 2026, stating that it was withdrawing its objection to the Proposed Development as it had reached an agreed position with the Applicant. The Secretary of State is also content with the position reached regarding the agreed PPs for NGET.
- 4.83. The Secretary of State has had due regard to the relevant policy applicable to this matter, including the policy relevant to wake effects detailed in NPS EN-1 and EN-3. The Secretary of State agrees with the ExA's conclusions as to the Applicant's failure to meaningfully adhere to such policy and considers that the Applicant acted poorly by not engaging on this matter until Deadline 4 of the Examination, and only when requested to do so by the ExA and relevant IPs. The Secretary of State also highlights those parts of 2024 NPS EN3 paragraph 2.1.8 which strongly encourage early application of the mitigation hierarchy and requires applicants to show how they have demonstrated how any likely significant negative effects have been avoided, reduced, mitigated or compensated for following the mitigation hierarchy.
- 4.84. While the Secretary of State recognises that the 2024 NPSs have effect for this Application, he has also considered the 2025 NPS EN-3 as relevant as, unlike the 2024 NPSs, they explicitly address wake effects. In particular, the Secretary of State draws attention to paragraphs 2.8.232 and 2.8.233 of 2025 NPS EN-3, which states that *"applicants should demonstrate that they have made reasonable endeavours to mitigate the impact of wake effects on other offshore wind generating stations, but there is no expectation that wake effects can be wholly removed between developments, or that inter-project compensation arrangements are a necessary means to mitigate the impact of wake effects, although developers may opt to take such approaches outside of the planning process"*.
- 4.85. Policy GOV2 of the East Inshore and East Offshore Marine Plan states *"opportunities for co-existence should be maximised wherever possible"*. The ExA stated that it found conflict between the Application and the policy [ER 3.7.160]. The Secretary of State disagrees with the ExA on this matter. The East Inshore and East Offshore Marine Plan was published in 2015, meaning the policy no longer reflects the complexity of the challenges for the consenting of OWFs within the Plan's increasingly constrained area and the emergence of wake effects as an issue with the Awel y Môr development consent decision in 2023, and the Secretary of State notes that the Plan provides no effective guidance on how to identify the limits of effective co-existence, which has subsequently been considered as a newly emerging issue in the 2024 and 2025 NPSs. On this basis the Secretary of State disagrees

with the ExA and considers that the Proposed Development has maximised the opportunities for co-existence so far as possible. Further, if there is any conflict between policy GOV2 and the 2025 NPSs the Secretary of State considers that the newly designated NPSs approved by Parliament should prevail.

- 4.86. The Secretary of State has given due consideration to the 16 January 2026 letter from the Ørsted IPs in response to the fifth all-IPs consultation. In the letter, the Ørsted IPs draw comparisons between Mona, Morecambe and Five Estuaries, the first two of which had requirements addressing wake effects. The Secretary of State has also had due consideration to the 3 February 2026 letter by the Equinor IPs, and the 6 February 2026 letter from the Ørsted IPs.
- 4.87. The Secretary of State also notes that at Deadline 6, the Ørsted IPs stated that the cumulative wake effects assessment for the Proposed Development should include Dogger Bank South. The Secretary of State disagrees with the Ørsted IPs on this matter. Dogger Bank South was still going through examination when the Proposed Development's Examination had been completed and as such there was not enough substantive information at the time to conclude if there would be an impact either to or from the Proposed Development. The Applicant also considered that any contribution of Dogger Bank South to any cumulative effect is likely to be extremely small in light of the distance between the Ørsted IPs' assets and Dogger Bank South and the fact that Dogger Bank South is not in the prevailing wind direction [ER 3.7.80]. During Dogger Bank South's Issue Specific Hearing 3 ("ISH3"), the Dogger Bank South applicant provided a report⁹ considering wake effects on existing and future OWFs in its vicinity in May 2025, a month after the Examination for the Proposed Development had concluded (April 2024). The report stated that the Proposed Development was outside the distance that would normally be considered for wake effects, and that the wind would need to flow through the Hornsea Projects, further reducing the impact and increasing the uncertainty. On the basis of this information, the Secretary of State agrees with the ExA [ER 3.7.68] therefore satisfied that it is not necessary to include Dogger Bank South in the cumulative effects assessment for the Proposed Development.
- 4.88. The Secretary of State agrees with the ExA that the Applicant has provided a suitable assessment of wake effects [ER 3.7.86] and that, based on evidence provided in the Wood Thilsted report [REP6-108] and the evidence submitted by the Ørsted IPs and Equinor IPs [ER 3.7.90], it is not likely that wake effect losses would be significant in EIA terms. Notwithstanding this, the Secretary of State considers that the Applicant has acted poorly by engaging late in the Examination and only when pressed by the ExA and the Ørsted IPs and Equinor IPs [ER 3.7.36 to 3.7.43]. However, the Secretary of State acknowledges the requirements to avoid, reduce, mitigate or compensate for wake effects of the 2024 (paragraphs 2.8.213 to 2.8.217) or 2025 (paragraphs 2.8.186 to 2.8.190) NPSs.
- 4.89. The Secretary of State is not satisfied that the Applicant has made a reasonable attempt at mitigating the wake effects that have been identified and has included a requirement in the DCO to ensure that the Applicant must work to minimise impacts on other wind farms. The ExA did not consider that the Applicant had meaningfully adhered to the approach set out in

⁹ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010125-001702-16.2 Addendum to Wake Effects - Response to ISH3 Action Points.pdf>

NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or NPS EN-3 paragraphs 2.8.48 and 2.8.203, 2.8.344, 2.8.345 and 2.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. Whilst the Secretary of State agrees with the ExA that the Applicant has not meaningfully adhered to the approach to mitigation set out in the NPSs, however, the Secretary of State does not consider that the Applicant's failure to comply on mitigation should be viewed in the context of the Applicant's and the ExA's subsequent conclusion of no likely significant effects. Instead, the Secretary of State considers that the Applicant is still required to comply with NPS EN-3 on mitigation in regard to wake effects.

- 4.90. Having reviewed the evidence presented in regard to wake effects including the assessments conducted by the Applicant, the Wood Thilsted report, the responses received from the first and second information requests, the post-examination correspondence from the Ørsted IPs and Equinor IPs, and the NPS requirements the Secretary of State has concluded that it is appropriate to include a requirement in the DCO. The requirement requires an approved wake effects plan or agreed alternative mitigation (or a combination of both) to be in place prior to commencement of construction of any WTGs. Any wake effects plan must include the wake effects on the AEP of relevant offshore wind farms with details of reasonable steps or measures taken to minimise any wake loss effects, provided this shall not materially reduce the capacity of the authorised project. The plan must also include timescales for implementation, time limits for any mitigation measures and details of consultation with each of the owners which must be undertaken as early as reasonably practicable.
- 4.91. The ExA provided a draft wake effects requirement, but did not include it in the recommended DCO as the ExA did not believe that further mitigation was necessary, but provided this wording, in case the Secretary of State considered further consideration of mitigation was necessary, as it found that a requirement was more appropriate than PPs [ER 3.7.111]. The Secretary of State notes that the Applicant rejected the PPs proposed by the Ørsted and Equinor IPs in the first information request. The Secretary of State has considered the wording of the proposed PPs, and the ExA's proposed requirement, into account when drafting the requirement included in the DCO, which he considers ensures that mitigation will be suitably addressed before construction can commence.
- 4.92. Based on his consideration of the wake effects, including his decision to include a requirement as outlined in paragraph 4.89 above, and the outstanding matters relating to oil and gas infrastructure such as the Galahad gas platform (discussed in the cumulative and interrelated effects section at paragraph 4.174 in this Decision Letter) and the 50m radii issue (discussed above at paragraph 4.71), the Secretary of State agrees with the weighting on oil, gas and other offshore infrastructure and ascribes this matter moderate negative weight in the planning balance.

Commercial fisheries and fishing

- 4.93. Impacts to commercial fisheries and fishing from the Proposed Development include a reduction in access to or exclusion from established fishing grounds during a 3-year construction period [ER 3.9.6]. The ExA noted that embedded mitigations included refining designs, subsea cable burial and commitments to ongoing liaison with the fishing industry in line with the Fishing Liaison with Offshore Wind and Wet Renewables ("FLOWW") 2014 and

2015 guidance¹⁰. Further mitigation would be provided through the Outline Fisheries Liaison and Coexistence Plan (“Outline FLCP”) to be approved by the MMO post determination in line with the deemed marine licences (“DMLs”) [ER 3.9.7 and 3.9.8].

- 4.94. The Applicant acknowledged that fishing fleets would be prevented from fishing in areas where construction or decommissioning activities are taking place [ER 3.9.9]. The Applicant considered that at least some potting activity (the most prevalent fishing activity in the array area as identified in ES Chapter 14) could continue during the operation and maintenance period, but the National Federation of Fishermen’s Organisations (“NFFO”) disagreed [ER 3.9.13]. The ExA asked the Applicant to justify its conclusion. The Applicant responded that there would be no specific preclusion of fishing activities within the operational array area and that the decision as to whether or not to resume fishing activities would be made by the skippers of individual fishing vessels [ER 3.9.14]. The ExA asked NFFO and the Eastern Inshore Fisheries and Conservation Authority (“EIFCA”) if they had any outstanding concerns regarding the Applicant’s assessment of effects on commercial fishing activities or the mitigation proposed, but received no response [ER 3.9.16]. No project-specific methodological concerns were raised by either NFFO or EIFCA during the Examination, and responses were not received in relation to specific written questions directed to them by the ExA regarding the methodology for assessing the impacts on commercial fishing activities [ER 3.9.17].
- 4.95. The ExA concluded that the Applicant had appropriately considered both the direct and indirect impacts on commercial fisheries and fishing activities and appropriate mitigation was secured. Therefore, the ExA considered that the relevant policy requirements in NPS EN-3 and the Marine Policy Statement, have been met [ER 3.9.27]. The ExA considers that the mitigations are secured in the draft DCO which requires the submission of a project environmental management plan which, among other matters, stipulates details of the appointment and responsibilities of a fisheries liaison officer and the submission of a final FLCP to accord with the Outline FLCP [PD1-060]. The ExA noted that a condition of the DMLs requires the submission, and written approval by the MMO, of a FLCP in accordance with the outline FLCP [ER 3.9.20].
- 4.96. However, although mitigations are appropriately secured through the draft DCO [ER 3.9.20], the ExA concluded that the Proposed Development would not be in full accordance with Policy FISH1 of the East Inshore and Offshore Marine Plan (2014). This is largely because Marine Plans establish a hierarchy of measures that proposals within areas of fishing activity should demonstrate, starting with proposals not preventing fishing activities on, or access to, fishing grounds [ER 3.9.22]. For the Proposed Development there is some evidence to suggest that there would be some loss of fishing opportunities and potential displacement of fishing, therefore the ExA concluded that the Proposed Development would not be in full accordance with Policy FISH1 of the East Inshore and East Offshore Marine Plans, 2014 [ER 3.9.28].

¹⁰ FLOWW (2014). Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Liaison. FLOWW (2015). Best Practice Guidance for Offshore Renewables Developments: Recommendations for Fisheries Disruption Settlements and Community Funds.

- 4.97. Taking all of the above into account the ExA concluded that the Proposed Development alone and cumulatively should be given a little negative weight in terms of its impacts on commercial fisheries and fishing in the planning balance [ER 3.9.29].

Outstanding matters resolved through information requests

- 4.98. Given the NFFO's concerns in relation to fishing activity within the operational array area, and its lack of further engagement during the Examination, the Secretary of State requested an update from the NFFO on whether it had any outstanding concerns regarding the Applicant's assessment of effects on commercial fishing activities or the mitigations proposed in the first information request (12 August 2025). EIFCA was also consulted as it had engaged in the Examination process. The Secretary of State did not receive a response from the NFFO.
- 4.99. EIFCA provided a response [C1-011] to the Secretary of State's first information request. It highlighted that it had not had any further engagement with the Applicant in terms of the points highlighted in their representation during Examination. The Applicant commented on EIFCA's response to the first information request in its submission [C3-026] to the first all-IPs consultation. The Applicant considered that its comments at Deadline 5 Submissions (REP6-110) had addressed each of the issues raised by EIFCA. Having reviewed the EIFCA's comments in response to the first information request, the Applicant contacted EIFCA to draw attention to the response the Applicant had already provided. On 22 October 2025 the Applicant met with EIFCA, and it was confirmed that EIFCA had not reviewed the Applicant's Deadline 5 submission. During this meeting all matters raised by EIFCA were discussed. In terms of the FLCP, the Applicant stated that this is currently in 'outline' form and will be refined by the Applicant and approved by the MMO post determination in line with the DMLs. It was agreed that the Applicant will consult and engage with EIFCA on further refinement and development of the FLCP prior to submission to the MMO for approval. The Secretary of State has considered EIFCA's response [C2-011] to comments received in the first information request, which was submitted as part of the first all-IPs consultation [C2-011].
- 4.100. The Secretary of State has considered the EIFCA's response [C6-015] to the fourth all-IPs consultation in relation to the FLCP and proposed mitigation for the displacement of fishing effort. EIFCA noted *"that financial compensation measures in the past have resulted in fishers using money to purchase more fishing gear, increasing effort elsewhere. Potential impacts as a result of any increased effort resulting from financial compensation should be assessed as to the effects on features of MPAs (if appropriate) and on fishers already operating in those areas."*
- 4.101. This matter is in part considered in Chapter 14 of the ES [REP5-027] where it explores the impacts of *"displacement leading to gear conflict and increased fishing pressure on established fishing grounds"* (alone and cumulatively). It states that *"to mitigate this displacement effect, emphasis is focused on ensuring that the effect of reduced access is mitigated by removing that effort to ensure that it is not moved or displaced elsewhere. This can be delivered in a number of ways, such as the requirement for fishing gear that is subject to a cooperation agreement to be wet or dry stored (i.e., not actively fished), thereby minimising the displacement effect"*.

The Secretary of State's conclusion

- 4.102. In terms of matters raised by the EIFCA, the Secretary of State concludes that the FLCP and possible financial compensation intend to mitigate the potential conflict and impacts to which EIFCA refer by reducing the amount of gear being actively fished. He considers it is not possible to meaningfully pre-determine how any impacted individual might utilise their compensation payment but takes comfort in the knowledge that EIFCA works to protect both the sustainability of fisheries and the environment, including mechanisms through which it can assess and manage the impacts of fishing.
- 4.103. The Secretary of State considers that whilst the Proposed Development will result in some displacement of fishing activity, these effects are limited in scale and duration and do not amount to significant adverse impacts. The Secretary of State also notes the embedded mitigation outlined in table 14.6 of ES Chapter 14 and table 4.1 of the outline FLCP which includes refining the overall array area of the Proposed Development, a commitment to using gravity base foundations for a maximum of 50% of foundations and utilising subsea cable burial as the preferred option. Further mitigation will be provided through the outline FLCP which is secured by the conditions with the DMLs. The outline FLCP helps to address points raised by NFFO and EIFCA (this includes ongoing liaison with the fishing industry in accordance with the FLOWW guidance, and the establishment of co-operation between the Applicant and fishers via a Company Fisheries Liaison Officer, and provision for compensation for disturbance to fishing activities where appropriately evidenced).
- 4.104. The Secretary of State agrees with the ExA that the Proposed Development accords with NPS EN-3 and the Marine Policy Statement, but acknowledges that it is not in full accordance with policy FISH1 in the East Inshore and East Offshore Marine Plan 2014. Whilst the Proposed Development may not fully comply with this policy, taking into account all of the information provided and the reasoning of the ExA on this point (see paragraphs 4.95 and 4.96 above), together with the mitigations proposed, the Secretary of State agrees with the ExA. Therefore, the Secretary of State ascribes a little negative weight in respect of commercial fisheries and fishing within the overall planning balance.

Civil and military aviation and communication

- 4.105. The ExA was satisfied that in Chapter 16 of the ES [REP5-031], the Applicant had undertaken an assessment of civil and military aviation and other defence assets as required by section 5.5 of NPS EN-1 [ER 3.11.47].
- 4.106. The ExA stated that the Secretary of State can be satisfied that the Proposed Development, both alone and cumulatively, does not present a risk to national security and physical safety as required by NPS EN-1 paragraph 5.5.60 [ER 3.11.48]. The ExA also considers the policy requirements of paragraph 3.2.9 of the Marine Policy Statement and the East Inshore and East Offshore Marine Plans have been met in the specific context for civil and military aviation and communication. This is because impacts on defence interests have been assessed and matters agreed with the Ministry of Defence ("MoD") [ER 3.11.49].
- 4.107. The ExA noted that Chapter 16 of the ES [AS1-042] identified a significant effect for National Air Traffic Services ("NATS") and Ministry of Defence Primary Surveillance Radar ("MoD PSR") during the operation and maintenance phase of the Proposed Development for the project alone and cumulatively. However, with additional mitigation as secured in the draft

DCO [AS-042], the residual effect is reduced to not significant which is defined in the ES as a little effect or a level of effect acceptable to the aviation receptor. The ExA agrees with the Applicant's conclusions and proposed mitigation (set out at ER 3.11.18, 3.11.22, 3.11.26 and 3.11.29) on all civil and military aviation and communication effects of the Proposed Development alone and cumulatively [ER 3.11.51].

- 4.108. The ExA stated that civil and military aviation and communication matters, within the overall planning balance, weigh against the making of the Order with a little negative weight [ER 3.11.52].

Outstanding matters resolved through information requests

- 4.109. The MoD had an outstanding objection to the Proposed Development as it considered there was not a suitable scheme to mitigate the impacts from the turbines on the Air Defence radar at Remote Radar Head ("RRH") Staxton Wold and RRH Neatishead [RR-016]. The Applicant had included the MoD's drafting of the relevant requirement in the final version of the draft DCO [AS-042]. However, the ExA stated that, for the avoidance of doubt, the Secretary of State may wish to confirm this with the MoD as it had not commented on the final draft DCO [ER 3.11.40].
- 4.110. The Secretary of State's first information request asked the MoD if it was content with the drafting in the final draft DCO [AS-042]. The MoD confirmed it was content with the wording of the Applicant's most recent draft DCO (Document 3.1, Revision 11.0 dated April 2025).

The Secretary of State's conclusion

- 4.111. The Secretary of State has had due regard to the relevant and important policy on this matter, the conclusions drawn by the ExA, and the further information provided from the first information request.
- 4.112. The Secretary of State is satisfied that the Applicant's assessments comply with the relevant policy and agrees with the ExA's conclusions on the matter, acknowledging the inclusion of the MoD requirement in the draft DCO. Therefore, the Secretary of State ascribes this matter a little negative weight in the planning balance.

Land use, geology and ground conditions

The ExA's reasoning on the loss of Best and Most Versatile agricultural land and related consideration of alternatives

- 4.113. The ExA noted that the Applicant had identified significant adverse effects for the permanent loss of Best and Most Versatile ("BMV") agricultural land due to the operation and maintenance phase of the Proposed Development, both alone (36.48ha) and cumulatively when considered with projects in the vicinity of the OnSS as well as across Lincolnshire (2,054.11ha). The ExA agreed with these conclusions and noted that they were not contested [ER 3.13.75].
- 4.114. The ExA also considered that the Applicant's final conclusion of no significant effects (minor adverse) on the UK vegetable market adheres to the assessment methodology and therefore accepts this conclusion on this basis. The Applicant's conclusions of no significant effects in

relation to the cumulative loss of BMV agricultural land at the regional (East Midlands) scale and the loss of BMV agricultural land in the national context (of the UK vegetable market) have not been contested and the approach to the assessment is supported by NE. The ExA was therefore also satisfied with the Applicant's approach and did not contest its conclusions [ER 3.13.76].

- 4.115. In respect of the loss of BMV agricultural land due to the routing of the onshore Export Cable Corridor ("ECC"), the ExA concluded that the Proposed Development accords with relevant policy requirements including paragraph 5.11.12 of NPS EN-1, which states that applicants should seek to minimise impacts on BMV agricultural land and preferably use land in areas of poorer quality. Paragraph 5.11.34 of NPS EN-1 requires the Secretary of State to ensure that applicants do not develop on BMV agricultural land without justification and take into account the economic and other benefits of the land. In this context, the ExA considered that whilst the Applicant has not pursued the least worst option for the onshore ECC route in the terms of impacts on BMV agricultural land (for the reasons given in the paragraph below), it has sought to minimise impacts on BMV agricultural land and use poorer quality land as far as is reasonably practicable having regard to other constraints such as residential receptors [ER 3.13.79].
- 4.116. The ExA Report noted that in relation to the OnSS, the Applicant has not been able to minimise impacts on BMV agricultural land or utilise poorer quality land given its location within an area with a provisional Agricultural Land Classification ("ALC") grade of 1. The subsequent significant adverse effect for the permanent loss of BMV agricultural land therefore weighs against the Proposed Development. However, the ExA considered that the Applicant has sufficiently justified the siting of the OnSS and demonstrated that there were no other feasible locations within a reasonable distance of the National Grid T-junction that is critical to the proposed National Grid Substation ("NGSS") and connection of the Proposed Development to the national grid [ER 3.13.80].
- 4.117. The ExA Report further noted that the economic and other benefits of the use of BMV agricultural land had been considered by the Applicant through the assessment of the socio-economic effects on the UK vegetable market. Minor adverse effects are identified in this regard which are not significant. The ExA Report noted that this must be viewed in contrast with the substantial benefits of the Proposed Development in terms of renewable energy production and carbon savings and related policy and legal requirements, including those in the British Energy Security Strategy and Climate Change Act 2008 [ER 3.13.82].
- 4.118. In relation to LCC's concern that the cumulative loss of agricultural land continues to grow without consideration of when the tipping point into unacceptability is reached, the ExA's view was that there is no defined threshold upon which it can clearly draw such a conclusion. Nevertheless, the ExA considered that the significant adverse effects identified should be a key consideration in the planning balance [ER 3.13.83].
- 4.119. The ExA noted that NE's RR [RR-045] identified concerns that the Applicant's assessment of BMV agricultural land relied upon NE's own provisional mapping and considered that, in the absence of a detailed site-specific soil and ALC survey, it would be impossible to provide an accurate baseline and demonstrate likely impacts [ER 3.13.39]. The Applicant maintained the position throughout examination that it had assumed all grade 3 land to be grade 3a and the assessment in the ES provides a realistic worst-case scenario for identifying significant effects. As such, the Applicant considers detailed ALC surveys are not necessary

[ER.3.13.39]. Nevertheless, the Applicant agreed to undertake detailed ALC surveys post-consent (if granted) to provide precise information on the condition of the soils to allow bespoke mitigation to be applied [ER 3.13.39]. The ExA agreed with the Applicant and confirmed it was satisfied with the commitment to undertake post-consent surveys as set out in section 1.8 of the final outline Soil Management Plan (“SMP”). The ExA also noted Requirement 18 of the draft DCO requires the final SMP to be in accordance with the final outline SMP and approved by LCC in consultation with the relevant statutory nature body and others.

- 4.120. At the close of the Examination, NE reiterated its position on peat that, in line with the Institute of Environmental Management and Assessment (“IEMA”) guidelines, a *“Soil Resources Plan, Soil/Peat Management Plan and Quantified Proposed beneficial uses of temporarily and permanently displaced soils”* should be carried out pre-consent to inform the EIA. However, NE did acknowledge and support the commitment made by the Applicant during the Examination to prepare a Peat Management Plan (“PMP”) if peat is confirmed to be present during pre-construction surveys. This would include good practice guidance on excavation, re-use, storage, handling, reinstatement, monitoring and inspection as specified in the outline Code of Construction Practice (“CoCP”) [REP6-056], which is also secured under Requirement 18 of the draft DCO [AS-042] [ER 3.13.46].
- 4.121. Turning to the concerns of Walter Smith (Gosberton) Ltd, the ExA was mindful of NPS EN-1 paragraph 5.11.23 which requires applicants to minimise effects on land uses, including through the application of good design principles and the layout of the project. In locating planted landscaping strips to the edge of fields, the ExA considered that the Applicant has sought to minimise effects on the use of BMV agricultural land. Whilst the final design for landscaping proposals has yet to be agreed, the ExA noted the Applicant’s position that the landscaping is necessary in this location. Final details of the landscaping will need to be agreed by LCC in consultation with the relevant planning authority and the relevant SNCB under Requirement 10 of the draft DCO [AS-042] [ER 3.13.84].
- 4.122. In summary, the ExA considered that the Proposed Development accords with relevant policy requirements but acknowledged that there would be unavoidable significant adverse effects for the Proposed Development alone and cumulatively relating to the loss of BMV agricultural land [ER 3.13.85].

The ExA’s reasoning on soil heating from cabling, soil handling and dust contamination

- 4.123. The ExA was mindful of the conflicting evidence before it in the form of scientific papers referenced by both the Applicant and T.H. Clements & Son Ltd regarding soil heating caused by electromagnetic radiation from underground cabling [ER 3.13.154]. In light of this conflicting evidence, it was unable to definitively conclude on the likelihood of soil heating from underground cabling impacting crop growth to the extent that it would adversely impact marketable yields as suggested by T.H. Clements & Son Ltd [ER 3.13.160].
- 4.124. NPS EN-5 paragraph 2.9.58 indicates that significant impacts from electromagnetic fields (“EMF”) on crops are unlikely stating that *“there is little evidence that exposure of crops...to transmission line EMFs has any agriculturally significant consequences”*. Nevertheless, the ExA was conscious that the Applicant’s own assessment in Chapter 25 of the ES [REP6-022] identified *“minor”* effects arising from a negligible magnitude of impact. Paragraph 363 of Chapter 25 of the ES acknowledges that *“there is the potential for the soils adjacent to the*

cable to undergo ‘soil heating’ which could have an adverse impact on agricultural productivity”, albeit this risk is proposed to be mitigated [ER 3.13.162]. Therefore, in light of the conclusions in Chapter 25 of the ES [REP6-022], the ExA considers that soil heating will occur with resulting minor adverse effects on agricultural productivity [ER 3.13.163].

- 4.125. The ExA Report noted that the ExA was mindful that measures for handling and restoration had been agreed with T.H. Clements & Son Ltd and LCC and welcomes the efforts made by the parties during the Examination to address concerns. Further assurance was also given to LCC through the s106 agreement to support the agricultural specialist to monitor compliance of the SMP and ensure that soils would be restored to pre-construction standards [ER 3.13.114].
- 4.126. The ExA further noted that the final SMP, secured by Requirement 18 of the draft DCO [AS-042], will be informed by the findings of the pre-construction ALC surveys and that section 1.26 of the final outline SMP also makes an explicit commitment for “...*the land to be returned to its baseline agricultural land classification*”. The ExA considered that the outline SMP provided sufficient detail regarding soil handling and restoration for further consideration and approval in the final document [ER 3.13.116].
- 4.127. In line with the above, the ExA considers that the Applicant’s proposals accord with NPS EN-1 paragraphs 5.11.13, 5.11.14 and 5.11.23. The proposals also accord with paragraph 2.9.25 of NPS EN-5 aside from there being no firm commitment for land impacted by permanent infrastructure to be restored to its previous ALC grade as the Applicant considers that the scope for this should be determined at the time of decommissioning [ER 3.13.117].
- 4.128. With regards to dust contamination, the ExA considered that the outline Air Quality Management Plan (“AQMP”) [REP6-058] identifies and secures mitigation for dust as far as is practicable as required by sections 5.2 and 5.7 of NPS EN-1. The ExA also considered that the Applicant’s assessment of dust effects accords with sections 5.2 and 5.7 of NPS EN-1 [ER 3.13.191].
- 4.129. In light of the conclusions on thermal dissipation from the underground cabling resulting in a minor negative effect in the surrounding soil, the ExA considered that soil heating will occur with minor adverse effects on agricultural productivity (Chapter 25 of ES [REP6-022]) [ER 3.13.192].

The ExA’s conclusions

- 4.130. Given the significant adverse effects identified for the permanent loss of BMV agricultural land for both the Proposed Development alone and cumulatively, the ExA considered that, overall, land use, geology and ground condition matters weigh moderately against the making of the Order. This conclusion was also informed by the minor adverse effects identified for agricultural productivity as a result of soil heating and the potential for residual adverse socio-economic effects related to dust impacts on T.H. Clements & Son Ltd. If such socio-economic effects were addressed between the Applicant and T.H. Clements & Son Ltd, this would not have changed the ExA’s overall conclusion of moderate weight against the making of the Order for the purposes of the planning balance [ER 3.13.198].

Outstanding matters resolved through information requests

- 4.131. In the first information request, the Secretary of State sought further information from Brown & Co Property and Business Consultants LLP and T.H. Clements & Son Ltd on the areas of disagreement regarding the issues of monitoring the depth and lateral position of the onshore ECC and the 400kV cable corridor, dust contamination, and soil heating from cabling on crop growth.
- 4.132. On 20 August 2025, T.H. Clements & Son Ltd welcomed the consideration being given to the outstanding matters of significant concern it had raised with the ExA. T.H. Clements & Son Ltd stated that it had agreed Heads of Terms for a voluntary agreement with the Applicant, which was being finalised by the parties' appointed solicitors.
- 4.133. On 9 September 2025, T.H. Clements & Son Ltd stated that good progress had been made between the parties and that a draft agreement had been progressed and, given the recent developments between itself and the Applicant, it did not intend to submit any further information in response to the information request. On 23 September 2025, the Secretary of State received a final letter from T.H. Clements & Son Ltd, which stated that the draft agreement had continued to progress between the parties' legal representatives and was in near final form. On the 5 November, T.H. Clements & Son Ltd confirmed that a voluntary agreement had been completed with the Applicant, and it withdrew its objection to the Order.
- 4.134. In line with NE discretionary advice contained in Appendix E of the Applicant's Response to the Request for Information [C1-047], the Secretary of State requested the Applicant to amend their outline SMP [REP6-061] to state that mowing and stripping "*will*" be avoided during wet conditions, rather than "*should*". The Applicant did so, and following this, the Secretary of State now considers that all of NE's concerns on this matter to be addressed.

The Secretary of State's conclusion

- 4.135. The Secretary of State has had due regard to the applicable policy regarding this matter, including NPS EN-1, EN-3, EN-5, Commons Act 2006 and other relevant and important policies.
- 4.136. Regarding the issues of dust contamination and soil heating, the Secretary of State agrees with the ExA that the outline AQMP [REP6-058] identifies and secures mitigation for dust as far as is practicable as required by sections 5.2 and 5.7 of NPS EN-1. He also accepts that soil heating will occur with minor adverse effects on agricultural productivity but does not consider this a significant effect. The Secretary of State also welcomes the agreement between T.H. Clements & Son Ltd and the Applicant on the matters of dust contamination and soil heating and considers them resolved. The Secretary of State also acknowledges the proposed mitigation the Applicant has proposed in Chapter 25 of the ES [REP6-022] to mitigate the effects from soil heating.
- 4.137. In regard to the issue of land contamination, the Secretary of State agrees with the ExA that whilst this was not a significant issue for discussion during the Examination, the ExA was satisfied that Chapter 23 of the ES and the accompanying Preliminary Land Quality Assessment are satisfactory (RR [RR-018] and SoCG [REP6-085]).

- 4.138. The Secretary of State agrees with the ExA that the Proposed Development complies with policies relating to the safeguarding and sterilisation of minerals, including NPS EN-1, and also agrees that the management of site waste would comply with the Site Waste Management Plan that would form part of the final CoCP that would be submitted for approval to LCC under Requirement 18(2)(f) of the DCO [AS-042].
- 4.139. Regarding soil handling and restoration, the Secretary of State notes that NE requested a commitment from the Applicant to remove infrastructure upon decommissioning and restore the land to its original condition and ALC grade. The Applicant stated that the Decommissioning Plan, to be submitted in accordance with Requirement 24 of the draft DCO within six months of the permanent cessation of operation, would be subject to consultation with other bodies including the local highway authority, other local planning authorities and the SNCB, prior to final approval by LCC.
- 4.140. On the matter of BMV agricultural land, the Secretary of State agrees with the ExA that the adverse effects identified for the permanent loss of BMV agricultural land for both the Proposed Development alone (36.48ha) and cumulatively (2,054.11ha across Lincolnshire) are significant. The Secretary of State acknowledges and agrees with LCC's concerns and the ExA's conclusions that if the cumulative loss of agricultural land continues without consideration of when the tipping point into unacceptability is reached, there is no defined threshold upon which a conclusion can be made of when this occurs [ER 3.13.83]. Notwithstanding the permanent loss of BMV agricultural land, the Secretary of State believes that the Applicant has made reasonable attempts to avoid and minimise such impacts. These include exploring and adopting alternative routes for the ECC, committing to post-consent detailed ALC surveys and preparation of a PMP if peat is confirmed as present during pre-construction surveys.
- 4.141. Due to the significant adverse effects identified for the permanent loss of BMV agricultural land for both the Proposed Development alone and cumulatively, the Secretary of State concludes that, overall, land use, geology and ground condition matters weigh moderately against the making of the Order.

Landscape and visual effects

- 4.142. The ExA considered the effects of the Proposed Development on onshore landscape character and views, and the effectiveness of the mitigation proposals. Due regard was had to NPS-EN-1, EN-3 and EN-5, the NPPF and LIRs [ER 3.14.1 and 3.14.2].
- 4.143. The Applicant's assessment of landscape and visual effects is set out in Chapter 28 of the ES, supported by the outline Landscape and Ecological Management Strategy ("OLEMS"). The ExA noted that a Landscape Management Plan, in accordance with the OLEMS, would be secured under Requirement 10 of the draft DCO and the replacement of damaged or diseased trees or shrubs secured under Requirement 11 [ER 3.14.3 to 3.14.5].
- 4.144. The Applicant's Landscape and Visual Impact Assessment ("LVIA") was based on a MDE, with study areas agreed with statutory consultees through the Expert Topic Group [ER 3.14.6 and 3.14.7]. As there are no landscape designations within the LVIA study area, the Applicant's assessment focused on the effects on the landscape character areas [ER 3.14.18]. For the OnSS, localised significant effects were identified within the Surfleet and Gosberton Local Landscape Character Area. However, the Applicant considered that these

effects would reduce to not significant as planting mitigation matures after an approximate 15-year period [ER 3.14.18 to 3.14.26].

- 4.145. The Applicant identified significant visual effects during construction for certain receptors, including residents and walkers near construction compounds: these would be adverse, short term over the 42-month construction period, and reversible [ER 3.14.28]. For the OnSS, significant effects were identified for several viewpoints during both the construction and operational phases of the Proposed Development. However, mitigation planting would reduce such effects to not significant within 15 years [ER 3.14.27 to 3.14.34]. The cumulative impact assessment identified significant cumulative effects in relation to the OnSS and nearby developments, however these effects would also be reduced to not significant as mitigation planting matures [ER 3.14.35 to 3.14.39].
- 4.146. The ExA was satisfied that the outline CoCP sets out appropriate measures to refine the layout of each temporary construction compound as part of the detailed design stage [ER 3.14.48]. These measures would aim to increase the separation distance from visual receptors. Where agreed by landowners, residents, LCC and the Local Planning Authority ("LPA"), seeded soil bunds or solid fencing would also be used to create temporary screens for residents overlooking a temporary construction compound [ER 3.14.48].
- 4.147. The ExA agreed with the Applicant and LCC that the OnSS has the greatest potential for significant onshore visual effects, due to its scale and modern appearance against a rural landscape [ER 3.14.63]. The ExA agreed with LCC that the careful and well considered detailed design of both the appearance of the OnSS and associated mitigation planting is key to achieving the reduction in significant residual effects that have been assessed as likely to occur in Chapter 28 of the ES [ER 3.14.69].
- 4.148. Taking all matters into account, the ExA considered that the landscape and visual effects, both alone and cumulatively, weighed moderately negative against the Order being made within the overall planning balance [ER 3.14.70].

The Secretary of State's conclusion

- 4.149. The design and the landscape and visual impacts of the Proposed Development are closely related issues. The Secretary of State wishes to highlight that the 'Good Design' section of this Decision Letter (paragraph 4.10) also explores the design and potential visual impacts of the OnSS (paragraph 4.15) including a focus on the need for the design of the OnSS to incorporate both architectural and screening elements to alleviate the impacts of the OnSS on the rural character of the landscape. There is also additional information provided by the Applicant [C1-049] and LCC [C2-008] in relation to the visual impacts of the OnSS (paragraph 4.23 and 4.24 of the 'Good Design' section) which is relevant to the issues raised in this section. The Secretary of State has considered these points together when reaching his conclusions on both the design and the landscape and visual impacts resulting from the Proposed Development and notes that under Requirement 9 and Requirement 10 of the DCO, respectively, the detailed designs and plans remain subject to the approval of LCC (in consultation with specific parties, including the relevant planning authority).
- 4.150. The Secretary of State recognises that significant adverse landscape and visual effects would occur during the construction of the Proposed Development and during the initial operational years, particularly in relation to the OnSS. However, these effects are expected

to reduce over time as mitigation planting becomes established across an approximate 15-year period. Therefore, after this time, it is anticipated that the effects would likely no longer be significant.

- 4.151. The Secretary of State agrees with the ExA that although mitigation measures will reduce the severity of impacts, the Proposed Development, in particular the OnSS, would result in a change to the character of the local landscape. The Secretary of State therefore agrees with the ExA and assigns moderate negative weight to the landscape and visual effects of the Proposed Development.

Onshore ecology and ornithology

Biodiversity Net Gain ("BNG")

- 4.152. In relation to BNG the ExA considered the commitment in the OLEMS [REP6-070] secured by Requirement 10 and Requirement 12 of the draft DCO [AS-042] would deliver a net gain. It considered that the commitment should be viewed positively in the planning balance. However, as the amount of net gain has yet to be defined, the ExA assigned little weight to this matter [ER 3.15.93]. The Applicant's Biodiversity Net Gain Strategy [AS-014] sets out a net loss of -0.80% for habitat units, and a net gain of +14.40% for linear units (hedgerows) and +0.08% for riparian/watercourse units, however these percentages were not specifically secured within any DCO requirements.
- 4.153. On the matter of BNG, NE noted the Applicant's commitment to follow standard best practice, and that it was content with the BNG being secured by the OLEMS and the DCO [REP1-062]. Finally, it stated that it would have no further comments to make on BNG [REP1-062].
- 4.154. The Secretary of State notes that in NPS EN-1, paragraph 4.6.7 states that in England, applicants for onshore elements of any development are encouraged to use the latest version of the biodiversity metric to calculate their biodiversity baseline and present planned biodiversity net gain outcomes. In his first information request¹¹, the Secretary of State requested that the Applicant provide an updated BNG strategy ([AS-011], and [AS-014] to [AS-020]) using a Defra biodiversity metric, rather than the Applicant's own metric. The Secretary of State specifically requested that the BNG is presented using final percentages for each unit type (i.e. Habitat, Hedgerows, and Watercourse (if applicable)).
- 4.155. In its response [C1-049], the Applicant stated that it thought that its BNG assessment used the statutory biodiversity metric. Although the Secretary of State considers that the Applicant set out the breakdown of units differently to how they are typically presented, the Secretary of State does consider that the Applicant's Biodiversity Net Gain Strategy uses the Defra biodiversity metric appropriately. He is satisfied with the level of detail, and he is content that the Biodiversity Net Gain Strategy ensures the habitats will be monitored and maintained for 30 years, in line with Defra's Biodiversity Net Gain Guidance.¹²

¹¹ https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002379-Outer%20Dowsing%20OWF%20Information%20Request%20Letter_.pdf

¹² [Understanding biodiversity net gain - GOV.UK](#)

- 4.156. Although LCC was not asked about this matter, it commented that it was happy with the Applicant's use of the metric, but wanted a minimum of 10% BNG secured in the DCO [C1-013]. The Secretary of State acknowledges LCC's view that a higher level of BNG would be preferable and is disappointed by the low levels of BNG currently presented, and he has inserted a requirement into the DCO to ensure no onshore transmission work can commence until a biodiversity strategy has been submitted and approved by the relevant planning authority. He requests that post-consent, the Applicant will look for further opportunities for habitat enhancements and encourages the Applicant to work collaboratively with LCC on this matter, especially during the consultation of the final detailed Ecological Management Plan. In particular, the Secretary of State notes the Applicant's commitment within its OLEMS [REP6-070] to use offsite habitat enhancement to deliver an overall net gain for the Proposed Development, if there is a shortfall in overall biodiversity units as is currently documented for habitat units in [AS-014].
- 4.157. This commitment to 'no net loss' formed part of the Secretary of State's reasoning to give the Proposed Development little negative weight for onshore ecology in agreement with the ExA. Consequently, he has secured the Applicant's Biodiversity Net Gain Strategy specifically within Requirement 33 of Schedule 1 to the Order and has also specifically outlined the need for the Proposed Development to have no net biodiversity loss. The Requirement ensures that no phase of the onshore transmission works may commence until the Biodiversity Net Gain Strategy has been submitted and approved by the relevant planning authority, in consultation with the relevant SNCB. If a shortfall in units remains following the detailed design stage, it also ensures that measures to ensure no net loss are secured prior to construction works being completed.

Updates to the Outline Landscape and Ecological Management Strategy

- 4.158. In the first information request, Lincolnshire Wildlife Trust ("LWT") was invited to confirm whether the amendments made by the Applicant to the OLEMS [REP6-070] at Deadline 6 satisfied its concerns raised in [REP2-070] and [REP4-145]. LWT did not provide a response to this information request.
- 4.159. Also in relation to the OLEMS, at the end of Examination, NE had outstanding concerns regarding the Applicant's additional mitigation measures for pink footed geese ([REP4a-086] and [REP4a-144]), and the ability of the OLEMS to mitigate impacts on curlew, golden plover and lapwing [REP4-070]. The Applicant consequently made amendments to the OLEMS addressing these concerns, including a commitment to consider the necessity for visual screening in the seasonally restricted area, and removing any screening in the event of red weather warnings. Additionally, the Applicant has added a commitment to the Schedule of Mitigation [REP6-074] to have an Ecological Clerk of Works ("ECow") advise on impacts to birds from soft start works. Following the Applicant's updates to the OLEMS, the Secretary of State invited NE to comment. NE confirmed [C1-007] in its response to the Secretary of State's first request for information that following the Applicant's various updates, it had no outstanding concerns in relation to onshore ecology and ornithology.

The Secretary of State's conclusion

- 4.160. The Secretary of State notes the ExA's conclusions on onshore ecology and ornithology, the assessments conducted and conclusions reached by the Applicant throughout the Examination, and the responses received to the Secretary of State's requests for

information. He considers that the Applicant has made sufficient amendments to their OLEMS and Schedule of Mitigation to resolve NE and LWT's concerns during Examination.

- 4.161. Following the addition of a BNG requirement into the Order (Requirement 33 of Schedule 1 to the Order), the Secretary of State agrees with the little negative weighting ascribed by the ExA [ER 3.15.95] and therefore ascribes a little negative weight to the matter in the planning balance.

Onshore traffic and transport

- 4.162. The ExA considered the effects of the Proposed Development on onshore traffic and transport, including impacts during construction, operation and decommissioning. The Applicant's assessment identified potential impacts on the local highway network, property access and public rights of way ("PRoWs").
- 4.163. The ExA noted that the Transport Assessment ("TA"), the Outline Construction Traffic Management Plan ("Outline CTMP"), the Travel Plan, and the Outline Public Access Management Plan ("Outline PAMP") provide a robust framework for understanding and managing the likely effects of construction traffic. These measures are secured through Requirements 18 (secures the CoCP), 21 (secures the Outline CTMP and TP), and 22 (secures the Outline PAMP) [ER 3.18.74].
- 4.164. The ExA noted LCC's concerns regarding the potential for significant effects if multiple NSIPs proceeded concurrently in the region but found the Applicant's cumulative assessment was proportionate and based on the best available information at the time of submission [ER 3.18.76]. The ExA considers that the Applicant's engagement with other NSIPs and participation in the Lincolnshire Energy Forum, as acknowledged by LCC, provides a constructive basis for future coordination [ER 3.18.73]. However, the coordination of cumulative traffic impacts across multiple NSIPs with overlapping construction periods remains an area of strategic importance [ER 3.18.76]. The ExA therefore highlighted that the Secretary of State may wish to consult with LCC on whether further measures are required at a regional level to manage cumulative impacts from multiple NSIPs being constructed concurrently [ER 3.18.76].
- 4.165. Due to the minor adverse residual effects identified in Chapter 27 of the ES, and the potential for adverse cumulative impacts should other NSIPs proceed concurrently, the ExA assigned a little negative weight to the onshore traffic and transport impacts both for the project alone and cumulatively against making the Order [ER 3.18.78].

Outstanding matters resolved through information requests

- 4.166. Based on the ExA's suggestion, in the first information request the Secretary of State asked LCC to confirm whether it considered the Applicant's methodology for calculating the cumulative traffic impact assessment remains appropriate in light of any updates to both the Application and any updates to the construction programmes of other NSIPs in the region after the close of examination. LCC was also asked if it considers any further measures are required at a regional level to manage cumulative traffic impacts and whether it had had any further engagement with the Applicant on this matter.

- 4.167. In its response [C1-013] LCC confirmed that the Applicant had appropriately considered the cumulative traffic impacts of the Proposed Development with existing developments (or those with permission). However, LCC noted that the Proposed Development is only the second DCO to progress beyond the examination stage in this area (the other is Boston Alternative Energy Facility, which remains unimplemented).
- 4.168. LCC suggested that a more flexible approach is needed to manage cumulative traffic impacts to allow for inevitable changes in delivering these large infrastructure projects (especially during construction). More mitigation measures would be required as cumulative impacts increase, as at some stage a tipping point would be reached where the necessary mitigation measures would be so onerous that it would compromise the viability of development. LCC proposed the establishment of a Joint Construction Traffic group with statutory requirements to involve each consented DCO developer. This group would manage and agree on changes to construction schedules to ensure cumulative traffic impacts remain at an acceptable level. Another option, which is less viable due to costs and timescales, is to carry out large scale improvements to the highways network to increase capacity.
- 4.169. LCC stated that whilst it has continued dialogue with the Applicant since the Examination closed, there had been no further discussion on potential measures to address concerns about cumulative impacts on the highway network as further projects arise. LCC is making all developers of emerging NSIP proposals in the area aware of its concerns regarding the cumulative impact of construction traffic on the highway network.
- 4.170. The Applicant commented on LCC's response to the Secretary of State's first information request in their response to the first all-IPs consultation [C3-026]. The Applicant stated that it would not be appropriate to include a requirement compelling the Applicant to be involved in a Joint Construction Traffic group. However, the Applicant acknowledged the benefits of information sharing and cooperation between developers and has been participating in the South and East Lincolnshire Linear Energy Projects Forum ("SELLEPF"). The Applicant stated that the purpose of the group is to share information and cooperate in the management of common activities, such as construction traffic movements. The Applicant intends to use information regarding other SELLEPF projects when it finalises the Construction Traffic Management Plan ("CTMP"), which will be drafted in line with the Outline CTMP for pre-construction approval by LCC in accordance with Requirement 21 (Traffic) of the draft DCO.

The Secretary of State's conclusion

- 4.171. The Secretary of State notes LCC's response to the first information request confirming the Applicant had appropriately considered the cumulative traffic impacts of the Proposed Development with existing developments (or those with permission).
- 4.172. However, recognising the potential for cumulative impacts should other DCOs in the area proceed concurrently, the Secretary of State agrees that the approach suggested by LCC, which includes regional coordination mechanisms (whilst dependent on ongoing engagement between the Applicant and LCC) would provide a good strategy for future mitigation of cumulative impacts and a basis for future coordination between other NSIP developers. It must be noted however, that LCC's suggestion is not a Requirement that can be secured by the DCO and therefore cannot be factored into the Secretary of State's planning balance exercise.

4.173. The Secretary of State agrees with the ExA that the Applicant has undertaken a thorough and policy-compliant assessment of onshore traffic and transport effects, both for the Proposed Development alone and cumulatively. The Secretary of State therefore attributes a little negative weight to onshore traffic and transport impacts in the overall planning balance.

Cumulative and interrelated effects

The Galahad gas platform decommissioning

4.174. The Galahad gas platform is located within the array area and was not considered within the cumulative impact assessment for marine physical processes, marine water and sediment quality or benthic ecology chapters. At Deadline 6 NE identified that the removal of the platform topsides and monopod, due to take place in 2026, may overlap with the construction of the Proposed Development (Appendix B4 to its Deadline 6 submission [REP6-146]), and reflected it as a moderate issue in its Deadline 6 Risk and Issues Log Appendix J6 [REP6-153]. NE advised that this must be considered in the relevant impact assessments and the relevant documents need to be updated [ER.3.4.52]. The ExA was not provided with any evidence from NE or any other Interested Party ("IP") that this issue would alter the Applicant's conclusions [ER 3.4.53].

4.175. As NE's position on this issue [REP6-146] was submitted at the final deadline, the ExA appreciated that neither the Applicant nor IPs had been able to submit their views during the Examination, and recommended that the Secretary of State may wish to seek the views of the relevant IPs on this matter before reaching a conclusion [ER 3.4.54].

4.176. In the first information request, the Secretary of State invited the Applicant and relevant IPs to comment on NE's submissions [REP6-146]. Perenco UK Limited (the owner of the Galahad gas platform) stated that based on currently contracted arrangements it was confident that the removal of the Galahad gas platform topsides and monopod would be completed by Q4 2025, and therefore, there would be no overlap with such removal operation and the construction of the Proposed Development. In its response, the Applicant stated that decommissioning was anticipated to occur in 2026.¹³

4.177. In the fifth information request, the Secretary of State sought further clarification on the decommissioning dates and Perenco UK Limited confirmed that the Galahad gas platform topsides and monopod was removed in August 2025.¹⁴

The Secretary of State's conclusion

4.178. The Secretary of State has considered NE's position. However, following receipt of responses from IPs and the Applicant, the Secretary of State is satisfied that the decommissioning of the platform will not overlap with any construction activities associated with the Proposed Development. On that basis, the Secretary of State considers there is no

¹³ https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002483-272TheApplicantsResponsetotheRequestforInformation_577659_1.pdf

¹⁴ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010130-002606-Perenco's%20Response%20to%20SoS%20Information%20Request%20Letter%20dated%2010%20December%202025.pdf>

potential for any cumulative effects to arise in this regard and therefore no need for such effects to be assessed as part of the cumulative impacts assessment.

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 summarise the key conclusions of, and must be read alongside, the HRA, which sets out in full the Secretary of State's detailed consideration of these matters.
- 5.3. The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from 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:
- Collision mortality of the kittiwake feature of the Flamborough and Filey Coast SPA, in-combination with other plans or projects;
 - Displacement and disturbance of the guillemot feature of the Flamborough and Filey Coast SPA, in-combination with other plans or projects;
 - Seabird assemblage feature (due to collision mortality of the kittiwake component and displacement and disturbance of the guillemot component) of the Flamborough and Filey Coast SPA, in combination with other plans or projects;
 - Displacement and disturbance of the guillemot feature of the Farne Islands SPA, in-combination with other plans and projects;
 - Physical habitat loss of supporting habitat of the reefs feature of the IDRBNR SAC; and

- Physical habitat loss of the sandbanks which are slightly covered by seawater all the time feature of the IDRBNR SAC.

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 two primary objectives for the Proposed Development as set out by the Applicant [REP6-036] are:

- To generate low carbon electricity from an OWF to support the urgent need for decarbonisation of the UK electricity supply; and
- 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 AEol 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. 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, either alone or collaboratively with RWE's proposed Dogger Bank South offshore windfarm, or a provision of a monetary contribution to strategic compensation through the Marine Recovery Fund. 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 1 of Schedule 22 adequately secures the further work required to progress the proposed compensatory measures.
- 5.21. 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. This includes:
- A predator eradication and control scheme in Plémont, Jersey; and
 - Provision of spaces for guillemot on up to two multi-species offshore artificial nesting sites; and
 - Additional measures in the southwest of England involving recreational disturbance reduction; or
 - The provision of a monetary contribution to strategic compensation through the Marine Recovery Fund.
- 5.22. The Secretary of State is satisfied that the necessary compensatory measures for guillemot can be secured and delivered to protect the coherence of the UK NSN as required by Regulations 29 and 36 of the Offshore Habitats Regulations and Regulations 64 and 68 of the Habitats Regulations. Having made amendments, he considers that Part 2 of Schedule 22 adequately secures the further work required to progress the proposed compensatory measures.
- 5.23. The Applicant submitted a package of compensatory measures for the reefs feature and sandbanks which are slightly covered by seawater all the time feature of the IDRBNR 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. Provisions related to other proposed measures such as the creation of biogenic reef have been removed from the Order.

- 5.24. The Secretary of State is satisfied that the necessary compensatory measures for reefs and 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 3 and Part 4 of Schedule 22 to the Order adequately secures the further work required to progress the proposed compensatory measures.

The Secretary of State's conclusion on the HRA

- 5.25. An AEol on the Flamborough and Filey Coast SPA, the Farne Islands SPA, and the IDRBNR 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 IDRBNR SAC to ensure that the overall coherence of the UK NSN is maintained.

6. Compulsory Acquisition

- 6.1. The ExA recommended, subject to the Applicant providing a final and complete Book of Reference ("BoR") which accords with the final Schedule of Changes to the BoR [REP6-015], that if the Secretary of State grants development consent for the Proposed Development the following powers are granted:
- The CA powers included in the draft DCO (including the currently preferred versions of PPs unless alternatives have been agreed since the close of the Examination).
 - The TP powers included in the draft DCO.
 - The powers authorising the CA of Statutory Undertakers ("SUs")' land and rights over land included in the draft DCO.
 - The powers authorising the extinguishment of rights and removal of apparatus of SUs included in the draft DCO [ER 6.8.1].
- 6.2. The ExA examined CA objections against the tests in sections 122 and 123 of the 2008 Act, having regard to the 'Guidance Related to Procedures: for the Compulsory Acquisition of Land (the former Department for Communities and Local Government Guidance) (September 2013)' ("DCLG Guidance"). The ExA also considered objections to the application for TP powers under articles 28 and 29 of the draft DCO and by those who may be able to make a claim under section 10 of the Compulsory Purchase Act 1965 or Part I of

the Land Compensation Act 1973. Similarly, the ExA had regard to the Human Rights Act 1998 and the Equalities Act 2010 ("EA2010") in considering the application for the grant of CA and TP powers [ER 6.5.58].

- 6.3. The ExA considered that two issues warranted further consideration during the Examination. These related to:
- Compliance with section 122(2) of the 2008 Act and DCLG Guidance.
 - The acquisition of land interests/and or TP powers by agreement (covered in the sub-section on Updates on outstanding agreements of this Decision Letter).

Compliance with section 122(2) of the 2008 Act and DCLG Guidance - Work No. 17 - NGSS Location

- 6.4. Section 122(2) of the 2008 Act states that land subject to CA must be required for the development to which the development consent relates, must be required to facilitate or be incidental to the development (or is replacement land which is to be given in exchange for the order land under section 131 or 132). The DCLG Guidance states that the land to be taken must be no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate [ER 6.5.17].
- 6.5. For Work No. 17 the Applicant seeks to acquire permanent rights and to impose a restrictive covenant over 161 hectares (ha) of land allowing a 400 kilovolt (kV) connection between the Applicant's proposed OnSS and a new NGSS which is intended to form part of a separate application, but which would be located at an undetermined location within the connection area [ER 6.5.18].
- 6.6. At the outset of the Examination the ExA was not satisfied that the information provided by the Applicant set out a compelling case in the public interest, as required by section 122(3) of the 2008 Act, for the acquisition of permanent rights over the full extent of land identified as being required for Work No.17. The ExA was also not satisfied that the reasons given by the Applicant for the acquisition of permanent rights over the full extent of land met the conditions of section 122(2) of 2008 Act [ER 6.5.21]. The ExA asked the Applicant to demonstrate further evidence to show that it would genuinely require the flexibility to route underground 400kV cables anywhere within the entirety of the connection area [ER 6.5.22].
- 6.7. The Applicant's position at CAH1 [EV4-002], [EV4-004] and [EV4-006] was that once the precise location of the NGSS is known, then it would be possible to identify a more precise route for the cable, but at present it was not possible to define a more precise route and hence rights over the whole connection area would be required [ER 6.5.29].
- 6.8. The Applicant highlighted that similar approaches have been adopted in other consented DCOs [ER 6.5.26] and that control over the exercising of these CA powers is provided by Articles 20 and 22 in the draft DCO which would limit the exercising of powers to acquire both land and rights in land to those areas which are required for the authorised development, or which are required to facilitate or are incidental to it [ER 6.5.33]. The Applicant also emphasised that the extent of land sought reflects the uncertainty over the NGSS location and is necessary to ensure delivery of critical national priority ("CNP") infrastructure [ER 6.5.39, 6.5.40 and 6.5.43].

- 6.9. While the ExA recognised that the Order Limits are very wide it considered that the powers in the draft DCO (under Articles 20 and 22) would eventually restrict the Applicant to no more than needed and therefore the net position would be a reduced Order Limits and Order Land. The ExA noted that the Secretary of State has accepted this approach in other Orders [ER 6.7.3].
- 6.10. The ExA was therefore satisfied that the land subject to CA is required for the development to which the development consent relates or is required to facilitate or be incidental to the development and that the land and rights to be taken are no more than is reasonably required for the purposes of the development, is no more than is reasonably necessary and is proportionate and thus complies with section 122(2) of the 2008 Act and DCLG Guidance [ER 6.7.4].

The acquisition of land interests/and or TP powers by agreement

- 6.11. Section 122(3) of the 2008 Act requires there to be a compelling case in the public interest for the CA of land [ER 6.5.44].
- 6.12. At the start of the Examination, the ExA noted that RRs were received from a number of Affected Persons (“APs”). However, the ExA noted that there were no significant issues raised by APs relating to the Applicant’s level of engagement in order to secure land rights that the Applicant deemed necessary for the Proposed Development by negotiation in accordance with DCLG Guidance and the Crichel Down Rules (“Department for Levelling Up, Housing and Communities”, July 2019) [ER 6.5.47].
- 6.13. The ExA noted that the Applicant provided a Land Rights Tracker (“LRT”) which identified the status of negotiations with APs prior to the start of the Examination, and this was updated throughout the Examination process [ER 6.5.48]. The ExA noted that the Applicant’s response to CAH2AP1 [REP6-114] provided an account of the steps the Applicant had taken in order to consult and negotiate with APs. In addition, the Applicant explained that the status shown in the tracker was not indicative of negotiations which the Applicant termed “*truly open*”. The Applicant explained that this was because its tracker would only categorise agreements as closed when an option agreement has reached completion and was not formatted to indicate where Heads of Terms (“HoTs”) have been agreed or an option agreement has been signed [ER 6.5.49].
- 6.14. In the Applicant’s response to CAH2AP1 [REP6-114] the Applicant confirmed that there were 9 outstanding agreements with 8 APs where the Applicant could not confirm that agreement would be likely to be reached prior to the decision on its Application [ER 6.5.51].
- 6.15. Taken overall, the ExA’s view is that the Applicant’s provision of a LRT and its commitment to regularly updating this document over the course of the Examination has assisted the ExA in understanding the extent and consistency of engagement between the Applicant and APs [ER 6.5.53].

Secretary of State’s consideration of issues relating to CA and TP not resolved during Examination

- 6.16. Considering the ExA’s conclusions on CA and TP, and these being subject to a final and complete BoR being provided by the Applicant, the Secretary of State considered that further

investigation was needed in relation to two issues not resolved during Examination. Those issues were:

- The incomplete BoR submitted by the Applicant at the end of Examination.
- Outstanding agreements relating to CA and TP.

Book of Reference/Land Rights Tracker

- 6.17. At the end of Examination, the Applicant submitted Revision 9 of the BoR [REP6-013]. However, the ExA noted that this document did not include parts 1 to 5, rendering it incomplete, unfit for purpose and non-compliant with part 7 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (“APFP Regulations”) [ER 6.2.4]. Whilst the omission of a complete and final BoR at Deadline 6 represented a hurdle for the ExA in its attempt to conclude its findings in relation CA and TP matters, the ExA decided to treat this omission as an administrative oversight [ER 6.2.5].
- 6.18. The Applicant provided a Schedule of Changes to the BoR and updated LRT at the end of Examination. However, because the BoR was incomplete, the ExA was unable to cross check this information against the corresponding revision to the BoR [ER 6.2.8].
- 6.19. The Applicant provided a revised version of the BoR [DD-007] on 10 July 2025, in addition to a version with tracked changes. Whilst the submission of a complete BoR was necessary, for verification purposes the Secretary of State needed to ensure that the information held within the revised BoR was accurate and reflected the information held in documents related to land rights issues. In the second information request the Secretary of State requested the Applicant to submit a document clearly outlining the changes to the BoR and LRT and also explaining how these relate to other documents provided at the close of Examination for verification purposes. The Applicant was also asked to provide evidence confirming consultation with landowners affected by these changes, and to specify whether any of the changes to the BoR had altered the Order Limits.
- 6.20. The Applicant responded to the Secretary of State’s second information request [C3-025] stating that the Land Plans were updated at Deadline 6 to reflect changes to plots as a result of updated landowner and occupier data obtained through a HM Land Registry refresh of the Order Limits and information provided by APs. As a result, an additional four APs were identified and recorded in the BoR. The Applicant provided evidence of consultation with the newly affected APs and also confirmed that these changes did not alter the Order Limits. Despite the Secretary of State’s request, the Applicant did not provide a document which outlined the changes to the various CA and TP documents.
- 6.21. In the fourth information request the Applicant was asked to provide a clear and comprehensive justification for the inconsistencies the Secretary of State had identified between the LRT and the BoR. The Applicant was also asked to provide an updated version of the LRT which incorporated all the changes to the most recent BoR including updates to plots, owners, occupiers, tenants and Category 2 interests. In response, the Applicant provided justification for the differences between the LRT and the BoR. This justification highlighted the nuances in how negotiations are reported in the LRT which may give the impression that the BoR and LRT remain inconsistent, but the Applicant stated that they are not [C6-005]. The Applicant also accepted that there were some minor inconsistencies between the two documents and provided updated versions of the LRT [C6-014] and BoR

[C6-006] to correct the inconsistencies. The Applicant highlighted that the updates to the documents made were to fix inconsistencies between the BoR (as submitted on 10 July 2025) and LRT (as submitted at Deadline 6), and do not represent any updates to the factual position on interests and negotiations as at the close of Examination.

Updates on outstanding agreements

- 6.22. The Secretary of State noted that 9 agreements with 8 APs were outstanding where the Applicant could not confirm that agreement would be likely to be reached prior to the Secretary of State's decision [ER 6.5.51].
- 6.23. In the fifth information request, the Applicant and several APs, Louise Jane Brooks, Julie Ann Mason, the Environment Agency, The Crown Estate (c/o The Crown Estate Rural), George Hays and Sons, St Johns College ("SJC"), Jarred Thomas Wright & William Eric Creasey & Davina Lynette, were requested to provide an update on whether they have reached an agreement in their respective negotiations. The Secretary of State received responses from the Applicant [C7-008] and several of the APs [C7-002, C7-004, C7-005, C7-006]. The responses received confirmed that whilst some parties and the Applicant may have progressed in their negotiations resulting in some signed HoTs, all agreements still remain outstanding with no option agreements yet signed.

Walter Smith (Gosberton) Ltd (Brown & Co) – on behalf of Jarred Thomas Wright, William Eric Creasey and Davina Lynette

- 6.24. On 14 December 2025, in response to the fifth information request Jarred Thomas Wright, William Eric Creasey and Davina Lynette [C7-002] confirmed that agreements had not been reached between with the Applicant. Subsequently, on 19 December 2025 the Applicant responded to the fifth all-IPs consultation [C9-004] and stated that the parties had met on 16 January 2026 to discuss the final outstanding points of disagreement. The Applicant stated that the parties have now agreed and signed HoTs as of 16 January 2026 and instructed their respective solicitors to finalise the option agreement.

The Environment Agency ("EA")

- 6.25. The EA responded to the fifth information request that it is still in negotiations with the Applicant and has engaged legal support. In response to the fifth all-IPs consultation the Applicant stated that on 22 December 2025 it received the EA's mark-up of the HoTs, which were returned to the EA on 12 January 2025. The Applicant stated that it was hopeful that the HoTs will be agreed and signed in the near future.

J B Boulton on behalf of Julie Ann Mason

- 6.26. The Applicant and Julie Ann Mason signed HoTs on 24 October 2025, and the option agreement is being finalised.

The Crown Estate and the Crown Estate Rural

- 6.27. Finally, the Crown Estate and the Applicant have agreed a joint statement as follows: "*The terms are largely agreed with only the consideration for landscaping works as defined by Work No. 23 outstanding; as the Crown Estate must seek to ensure its compliance with the*

Crown Estate Act with regard to best consideration for any and all disposals. The parties are in the final stages of negotiation, with both parties committed to agree terms by the end of January 2026.”

Updates on Statutory Undertakers

- 6.28. Regarding SUs, the Secretary of State notes that the ExA was satisfied that the powers sought are necessary for the Proposed Development and the test in section 138(4) of the 2008 Act has been met and there would be no serious detriment to the undertaking of these SUs [ER 6.7.18].

Protective Provisions for InterGen/ Spalding Energy Company Limited

- 6.29. InterGen/Spalding Energy Company Limited did not engage during Examination. However, in response to the first all-IPs consultation, the Secretary of State received documentation from InterGen (acting on behalf of Spalding Energy Company Limited and Spalding Energy Expansion Limited) [C2-003] regarding its operation of critical natural gas pipelines infrastructure that may be affected by the Proposed Development. As this information was not submitted or considered during Examination by the ExA or the Applicant, the third information request asked the Applicant to engage with InterGen to review the plans submitted and confirm in principle whether or not appropriate PPs can be incorporated into the DCO.
- 6.30. On 17 December 2025, the Applicant [C5-009] and InterGen [C5-006] confirmed that agreement on a form of PPs had now been reached. The Applicant has included the agreed terms for the PPs for the benefit of InterGen in the draft DCO.

The Secretary of State’s conclusion

- 6.31. The Secretary of State considers that he now has a complete and compliant BoR to enable a decision to be made on CA and TP matters. The Secretary of State wishes to highlight that the Applicant’s omission of a complete BoR during Examination caused significant difficulties with making a timely decision on this Application. Verification is usually undertaken during Examination but due to the administrative error from the Applicant, the Secretary of State had to undertake this process through a series of information requests. This step should be completed by the Applicant during the Examination process, and applicants should not presume that the Secretary of State will undertake this work in future cases.
- 6.32. The Secretary of State has noted the responses and objections from APs. Whilst negotiations are ongoing in respect to outstanding agreements, the Secretary of State concludes that the powers sought are necessary to construct, operate, and maintain the Proposed Development and the powers sought satisfy the conditions set out in the relevant CA sections of the 2008 Act and the DCLG Guidance related to procedures for the CA of land (DCLG, September 2013).
- 6.33. With regards to the Crown Estate, the Secretary of State agrees with the ExA that the Order can authorise the CA or TP of those plots of land and / or interests which are Crown land because the Crown Estate provided its consent in writing on 9 April 2025 for the purposes of sections 135(1) and (2) of the 2008 Act [ER 6.6.62].

- 6.34. Separately, the Secretary of State also notes from the Applicant's joint statement with the Crown Estate provided in response to the fifth information request in relation to landscaping works as defined by Work No. 23 that the parties remain hopeful a voluntary agreement can be acquired in respect to those works, for which negotiations are in the final stages.
- 6.35. The Secretary of State agrees with the ExA that sections 122(2), s122(3) and the DCLG Guidance are met as the Applicant has demonstrated that the land is required for development and there is a compelling case in the public interest for the land to be acquired. In relation to Works No. 17 (NGSS connection area), the Secretary of State agrees with the ExA on the restricting capacity of Articles 18 and 20 in the DCO and is therefore content on that basis.
- 6.36. The Secretary of State concludes that the 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 SUs, should be granted. The Secretary of State has also added the agreed Spalding Energy Spalding Limited / InterGen PPs to the other agreed PPs in the Order.
- 6.37. As set out in section 9 of this Decision Letter, the Secretary of State has reduced the time period for the exercise of authority to acquire land compulsorily from seven years to five years from the day the Order is made (see article 19 of the DCO). The Secretary of State has reduced this time limit because he considers this to be an appropriate and proportionate timeframe for the exercise of the CA powers in respect of the Proposed Development and to align with the commencement time limit of five years in the DCO.
- 6.38. 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.

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

- 7.1. The Secretary of State acknowledges the ExA's recommendation that he should make the Outer Dowsing Offshore Wind Farm DCO in the form proposed at Appendix E of the ExA's Report [ER 8.3.1].
- 7.2. 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:
- Alternatives – The Applicant provided sufficient details of and consideration of alternatives [ER 3.2.41]
 - The Need for the Proposed Development – Very great positive weight [ER 3.2.42]
 - Offshore and Intertidal Ornithology – Great negative weight [ER 3.5.133]
 - Marine Mammals – Little negative weight [ER 3.6.72]
 - Oil, Gas and other Offshore Infrastructure – Moderate negative weight [ER 3.7.172]
 - Fish and Shellfish Ecology – Little negative weight [ER 3.8.47]
 - Commercial Fisheries and Fishing – Little negative weight [ER 3.9.29]
 - Shipping and Navigation – Little negative weight [ER 3.10.48]
 - Civil and Military Aviation and Communication – Little negative weight [ER 3.11.52]

- Seascape and Visual Effects – Moderate negative weight [ER 3.12.66]
- Land use, Geology and Ground Conditions – Moderate negative weight [ER 3.13.198]
- Landscape and Visual Effects – Moderate negative weight [ER 3.14.70]
- Onshore Ornithology and Ecology – Little negative weight [ER 3.15.95]
- Historic Environment and Cultural Heritage – Offshore and Onshore – Little negative weight [ER 3.16.70]
- Onshore Water Environment – Little negative weight [ER 3.17.46]
- Onshore Traffic and Transport – Little negative weight [ER 3.18.78]
- Onshore Noise and Vibration – Little negative weight [ER 3.19.43]
- Socio-economic Effects – Little positive weight [ER 3.20.37]
- Climate Change – Neutral weight (does not affect the planning balance) [ER 3.21.41]

7.3. The Secretary of State has departed from the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:

- Good Design: ascribed little negative weighting by the ExA. The Secretary of State notes that the Applicant has not progressed the designs of the OnSS and not yet decided on a technology type. Although the Applicant confirmed that the plans will be confirmed post-consent and will need to be approved by the local authority, Lincolnshire County Council stated it was not possible to comment on how the OnSS will affect the local character and landscape. As it is not possible to gain a clear understanding of the likely impacts of the OnSS, the Secretary of State has ascribed moderate negative weight to Good Design to reflect this uncertainty.
- Benthic Ecology, Intertidal, Subtidal and Coastal Effects: ascribed little negative weighting by the ExA. The Secretary of State disagrees with the conclusions in the Applicant's ES and the subsequent conclusions drawn by the ExA. The Secretary of State has ascribed moderate negative weight to Benthic Ecology, Intertidal, Subtidal and Coastal Effects. A brief rationale for the Secretary of State's decision to amend the weighting can be found at paragraphs 4.43 - 4.45 in this Decision Letter, and the full rationale can be found in his HRA.
- Cumulative and Interrelated Effects: ascribed neutral weighting by the ExA. The Secretary of State has not ascribed a weighting to this matter to avoid double counting as cumulative effects are weighted in other chapters in this Decision Letter.

7.4. However, the various changes to weightings do not alter the Secretary of State's overall assessment of the planning balance and his decision to consent the Application. The Secretary of State has ascribed substantial positive weight regarding the need for the Proposed Development. As noted in paragraph 4.7 of this Decision Letter, the ExA ascribed this matter very great positive weight and confirmed that this weight is equivalent to the substantial weight identified in NPS EN-1. As stated above, for the avoidance of any doubt, and for consistency with the policy set out in paragraph 3.2.7 of NPS EN-1, the Secretary of State also ascribes the need case substantial positive weight. While the ExA's conclusions are different in terminology, the weighting ascribed is the same in every other sense.

7.5. The Secretary of State recognises that all NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed

by the ExA as having not breached NPS EN-1, NPS EN-3 and NPS EN-5, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured. However, in regard to wake effects above, the ExA found that the Applicant had not meaningfully adhered to the approach set out in 2024 NPS EN-1 paragraph 2.1.8 in terms of the early application of the mitigation hierarchy or 2024 NPS EN-3 paragraphs 2.8.48 and 2.8.203, 2.8.344, 2.8.345 and 2.8.348 that require engagement and co-operation to minimise impacts and ensure successful co-existence. As stated in paragraph 4.88 of this Decision Letter, the Secretary of State considers that the Proposed Development is unlikely to cause disruption in regard to wake effects but considers that the Applicant's late engagement with the issue does not constitute a meaningful compliance in line with NPS EN-3.

- 7.6. For the reasons given in this Decision Letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts. The Secretary of State considers that the national need for the Proposed Development as set out in the relevant NPSs outweighs its potential adverse impacts, as mitigated by the proposed terms of the Order. The Secretary of State concludes that development consent should be granted for Outer Dowsing Offshore Wind.
- 7.7. 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 East Lindsey District Council, Boston Borough Council, South Holland District Council and Lincolnshire County Council, the 2024 NPSs and the 2025 NPSs, NPPF, Planning Practice Guidance, relevant WMSs, 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. The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent, including the modifications set out in section 9 of this Decision Letter.
- 7.8. Finally, the Secretary of State wishes to highlight that in order to maintain the efficient functioning of the development consenting regime, he may not always request further information on matters. It should be assumed that he will not do so, and he will therefore make decisions on the evidence provided following receipt of the ExA Report.

8. Other Matters

Monitoring of environmental impacts

- 8.1. Monitoring of environmental impacts is required by NPS EN-1 paragraph 4.2.12 and EN-3 paragraphs 2.8.83 and 2.8.221. Monitoring is also set out within Guidelines for Environmental Impact Assessment such as the Chartered Institute of Ecology and Environmental Management ("CIEEM") Guidelines for Ecological Impact Assessment in the UK and Ireland, and British Standard ("BS") 42020:2013 (Biodiversity – Code of practice for planning and development). OWFs are expected to conduct monitoring of the actual impacts versus the predicted impacts outlined in the ES, and to detect any actual impacts that are significantly beyond those predictions. Monitoring will also improve the evidence base to enable better decision making in future EIAs and HRAs.

- 8.2. The Secretary of State has noted the Applicant's approach to monitoring the environmental impacts of the Proposed Development, particularly in relation to Offshore Ornithology and Benthic Ecology. For example, at the end of Examination, the Applicant's IPMP [REP6-054] contends that for Offshore and Intertidal Ornithology, *"Monitoring should be targeted to address significant evidence gaps or uncertainty, where there is a potential for significant impact. In this instance no monitoring or independent surveys are required."* However, the Secretary of State notes that throughout the Examination the Applicant has submitted arguments that assessment approaches for ornithology are over-precautionary e.g. [REP2-057 and REP4a-048]. He also notes that NE provided advice on how post-consent monitoring could help address some of these risks e.g. [REP3-075 and REP6-156]. Despite this, the Applicant remained unwilling to commit to post-consent monitoring of ornithology impacts. NE provided detailed discussion on this matter in [REP6-156]. The Secretary of State considers that, during Examination, the Applicant's approach and position on ornithology monitoring and precaution were directly contradictory.
- 8.3. During the decision-making stage, the Secretary of State requested updates to the IPMP to ensure post-consent monitoring was fit for purpose and complied with NPS EN-1 and EN-3. The Applicant included most of these requests but did not include requested commitments for benthic monitoring. Consequently, the Secretary of State considers the Applicant's proposals for monitoring the environmental impacts of the Proposed Development are not fully aligned with the requirements of NPS EN-1 and EN-3.
- 8.4. However, the Secretary of State considers there is still the opportunity to resolve the shortcomings in the IPMP at the post-consent stage. Specifically, as it is an outline document, additional monitoring which has not been included by the Applicant within the IPMP, but that is considered necessary by the MMO and NE as design details are finalised, can and should be included in the final monitoring plans that are required under the relevant DMLs in the Order. The Secretary of State expects the Applicant to work cooperatively with the MMO and NE to develop these final monitoring plans and to incorporate outstanding comments such as those raised by NE [C8-004], where appropriate. Specific matters that required further comment have been addressed in the relevant sections of this Decision Letter.

Equality Act 2010

- 8.5. 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 partnerships¹⁵; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

¹⁵ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 8.6. 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.
- 8.7. 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.
- 8.8. 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

- 8.9. 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.
- 8.10. 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

- 8.11. 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 the area of outstanding natural beauty, in accordance with section 85(A1) of the Countryside and Rights of Way Act 2000 (“CRoW Act”) (which was amended by section 245 of the Levelling Up and Regeneration Act 2023 (“LURA Act”). The Secretary of State considers that the Application is consistent with furthering that objective. The ExA agreed with the conclusions of the SLVIA which did not identify significant effects for national landscapes assessed, including the Lincolnshire Wolds Area of Outstanding Natural Beauty (“AONB”) and the Norfolk Coast AONB [ER 3.12.56]. The Secretary of State further notes that no IPs identified concerns regarding seascape effects on national landscapes. In terms of the policy test set out in NPS EN-1 paragraph 5.10.8 and 5.10.34 which relates to projects outside the boundaries of nationally designated landscapes which may have impacts within them, NE stated its position [REP4-143] which is that the test is not applicable because the Proposed Development would not have significant effects on a national landscape. The ExA concurs with the view which is consistent with NPS EN-1 paragraph 4.3.8 which states that in the NPS, “*the terms ‘effects’, ‘impacts’ or ‘benefits’ should be understood to mean likely significant effects, likely significant impacts, or likely significant benefits.*” [ER 3.12.57].

8.12. Nevertheless, the ExA stated that even if a conclusion of an impact on national landscapes had been reached, the policy tests had been met [ER 3.12.58]. It was also noted by the ExA that the ORCPs are proposed to be located as far away as possible from the coastline to minimise visual effects, and therefore the ExA considered that these measures are sufficient, appropriate and proportionate to the type and scale of the development. Accordingly, the ExA concludes that the Proposed Development meets the policy test in NPS EN-1 [ER 3.12.59]. Taking all of this into account, the Secretary of State considers that all possible steps have been taken to further the purposes of national landscape to comply with the duty in accordance with section 85(A1) of the CRoW Act (which was amended by section 245 of the LURA Act).

Marine Management Organisation – outstanding issues relating to Deemed Marine Licence drafting

- 8.13. During the Examination there were numerous issues which the MMO and the Applicant debated at length. At the close of Examination, the MMO still had concerns [REP6-134] with the drafting contained within the DMLs and the Transfer of Benefit provision in the draft DCO [Table 5, ER 7.4.23]. Due to the discussions still ongoing at the close of Examination, the Secretary of State sought further information from the MMO and the Applicant on the status of the outstanding objections from the MMO [ER 7.4.38]. The MMO provided a response [C1-006] to the first information request outlining issues already captured within the ExA Report and adding further concerns which had not been considered during the Examination process.
- 8.14. The MMO considers [C1-006] that DMLs should have an end date included to keep them in line with other Marine Licenses that include construction and maintenance activities. This makes it clear that a full reassessment will be required at the end date to ensure that required modelling is reviewed and reassessed [ER 7.4.23]. The Secretary of State considers that decommissioning provides an appropriate milestone which acts as the end point for the DMLs and acknowledges previous DCOs have taken this approach. The Secretary of State therefore does not agree with the MMO that an end date needs to be specified and therefore has not included an end date in any modifications to the DMLs.
- 8.15. The MMO requested [C1-006] the inclusion of a review mechanism regarding offshore decommissioning prior to the Secretary of State's decision. The Secretary of State has considered the MMO's position, but agrees with the Applicant that Requirement 7 of the rDCO is consistent with recently made offshore windfarm DCOs and remains sufficient. The Secretary of State therefore deems the requested inclusion of a review mechanism in favour of the MMO unnecessary.
- 8.16. The MMO proposed amendments to the chemical conditions in various DMLs including the addition of new definitions [C1-006]. The Secretary of State notes that this issue was raised during Examination with the Applicant subsequently adding wording to the relevant conditions. The MMO remained dissatisfied with the provisions and requested that further amendments, including the addition of defined terms, be added for greater clarity. The Secretary of State disagrees with the MMO and considers the current wording of these provisions to be sufficient and consistent with previously made DCOs. The Secretary of State also notes that the MMO is the approving authority which provides sufficient control that submissions and approved details are satisfactory.

- 8.17. Throughout the Examination, the MMO [REP6-134] maintained that it is inappropriate to place a timeframe on the MMO to make decisions on technical matters such as the approval plans required under the DMLs. The Secretary of State has considered the MMO's position, but considers it is standard practice to include determination timescales in DMLs. The Secretary of State also notes that the determination timescales align with corresponding commencement timelines which warrants their inclusion.
- 8.18. Article 5 of the DCO gives the Secretary of State the power to permanently transfer the benefits of the DCO, including the DMLs, to a third-party (following consultation with the MMO where a DML is to be transferred). The MMO, in its written submission [RR-042] confirmed that it does not consider that the 2008 Act allows the Secretary of State to make a provision to transfer the benefit of the DML in the way that is proposed. The ExA sets out its assessment [from ER 7.4.19 to 7.4.22] and the Secretary of State has considered the MMO's position and ExA's views. The Secretary of State agrees with the ExA that the power to transfer the benefit of the DCO, including the DMLs, should remain in any DCO granted. The Secretary of State considers the rationale applied in previous cases to be sound. Namely, that the DCO process under the 2008 Act is specifically designed to provide a 'one-stop shop' for obtaining consent with one legal instrument as its control. The legislation would not achieve its purpose if different parts of the DCO required approval from different bodies. The Secretary of State agrees that the power to vary DMLs lies with the MMO. However, the Secretary of State does not consider that this frustrates the transfer of benefit process under Article 5. Paragraph (12) of Article 5 disapplies sections 72(7) and (8) of the Marine and Coastal Access Act 2009 ("MCAA") to allow the Secretary of State to carry out the bespoke transfer process set out therein. The power to amend the DML upon transfer to change the name of the undertaker is expressly retained in paragraph (12) and only the MMO is authorised to effect that change. Should any substantive amendments be required, then an application would need to be made to the MMO under section 72 of the MCAA in the usual way. Article 5 does not cut across the variation process under the MCAA, and it is unclear to the Secretary of State what enforcement issues would arise given that Article 5 does not affect or impede on the MMO's power to revoke or suspend a DML under sections 72(1) or (2) MCAA. The power to disapply a statutory provision which relates to any matter for which provision may be made in the Order is secured under section 120(5)(a) of the 2008 Act. The Secretary of State therefore disagrees with the MMO and considers that it is acting within the parameters of its powers under the 2008 Act by including Article 5 in the DCO.
- 8.19. The Secretary of State notes the MMO's objection to the 'force majeure' (now Notification of Unauthorised Deposits) provisions in the DMLs on the basis that it duplicates section 86 of the MCAA and the dropped objects conditions. This was dealt with during the Examination where the Applicant removed 'force majeure' wording and replaced it with 'unauthorised deposits', of which the MMO also requests this wording to be removed. Section 86 (action taken in an emergency) sets out defences which are available to a person charged with an offence under section 85 (breach of requirement for, or conditions of, a licence). These Conditions put in place requirements for notification and removal where a force majeure event results in unauthorised deposits. The Secretary of State agrees with the ExA's conclusions [ER 7.4.31 and 7.4.32] and disagrees with the MMO with regard to dropped objects. Using Schedule 10 Part 2 by way of example, the Secretary of State considers that the different notice requirements and references to "*danger or hazard to navigation*" in condition 11(10) and "*safety of human life and/or the vessel*" in condition 12(1) clearly distinguish the function of these provisions.

8.20. The Secretary of State also notes the request from the MMO [C5-003] to update the 'dropped objects' wording in the Schedule of Mitigation, and also within the CSIP, and the SPCMP. The Schedule of Mitigation is not a certified document under Schedule 21 of the Order (Documents to be certified) and as per Condition 13(1)(e)(Schedule 10, Part 2) the MMO control acceptance of the detailed Project Environmental Management Plan derived from the outline plans. As such the MMO can request this addition to the detailed plan post-consent. The Secretary of State expects the Applicant to cooperate with this request and include in the detailed plan if the MMO requires.

Marine and Coastal Access Act 2009 ("MCAA")

8.21. The Secretary of State notes his obligations under Section 126 of MCAA. The Applicant has submitted a Marine Conservation Zone ("MCZ") Assessment [APP-157], which includes screening to identify impact pathways and consider those MCZs that could be affected (other than insignificantly) by the Proposed Development. Having reviewed the evidence and rationale presented in [APP-157] the Secretary of State agrees with the screening and overall conclusions. Specifically, he concludes that the Proposed Development will not affect (other than insignificantly), the protected features of any MCZ or, any ecological or geomorphological process on which the conservation of any protected feature of an MCZ is (wholly or in part) dependent. The Secretary of State notes there are no relevant recommendations in the ExA Report and considers no further assessment is required.

9. Modifications to the draft Order

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

- Amendment to Article 3 (Development consent etc. granted by the Order) to limit the power to the Order limits only (by removing the reference to the location shown on the access to works plan).
- Moving the previous Article 5 (Operation of generating station) from Part 2 (Principal Powers) to Part 6 of the DCO (Operations) because it relates to operations specifically. All subsequent amendments to article numbers are reflected in this section.
- Amendments to Article 5 (Benefit of the Order) to provide a time limit of 28 days for the MMO to respond to any notification from the Secretary of State (Article 5(3)), to add an exception to the provision that the transferred benefit is not enforceable against the undertaker (in the case of a breach of obligation) (Article 5(5)) and to remove any ability for partial transfer of provisions under deemed marine licences by removing the words "*or part*" (Article 5(12)).
- Amendment to Article 7 (Defence to proceedings in respect of statutory nuisance) to cover a nuisance that relates to decommissioning (in addition to construction or maintenance which are already covered). This is because a nuisance could arise in respect of decommissioning in the same way as construction or maintenance. Additionally amendment Article 35 (Felling or lopping of trees and removal of hedgerows) to extend the provision to decommissioning (in addition to construction, maintenance and operation).
- Amendments to Article 9 (Application of the 1991 Act), Article 10 (Temporary closure of public rights of way) and throughout the Order to change references from "*stopping up*" and "*stop up*" to "*closure*" and "*close*" respectively, on the basis that "*stopping up*" has a

specific meaning, which is not relevant to these provisions. The Application of the New Roads and Street Works Act 1991 to street works under Article 9(1). Additionally, the inclusion of paragraph (5) of Article 10 to provide deemed consent where a highway authority fails to notify the undertaker of their decision to approve the temporary closure of public rights of way within 28 days. This time period has been replicated in Article 11(7) (Temporary closure of streets), Article 12(2) (Access to works) and Article 14(5) (Power to alter layout etc. of streets).

- Amendment to Article 17(5) (Authority to survey and investigate the land onshore) to provide that the land must be restored to its original condition following the completion of activities undertaken pursuant to this article.
- Removal of Article 19 (Removal of Human Remains) as there are no known burial grounds within the Order Limits and the process for removal of human remains that have been interred above 100 years should be captured by other processes within the Order (such as the Outline onshore written scheme of investigation for archaeological works).
- Addition to Article 18(2) (Compulsory acquisition of land) to include all relevant articles that affect the application of compulsory acquisition, in line with previous Orders.
- Amendment to Article 19 (Time limit for exercise of authority to acquire land compulsorily) to reduce the time period for exercise of authority to acquire land compulsorily from seven years to five years beginning on the day on which this Order is made. This is because the shorter time limit is more appropriate and proportionate in the context of the Proposed Development and to align with the commencement time limit of five years. There are consequential amendments to Article 22(6)(a) (Application of the Compulsory Purchase (Vesting Declarations) Act 1981) and Article 23(2)(b) (Modification of Part 1 of the Compulsory Purchase Act 1965) from a seven to a five-year period.
- Amendments to Article 24 (Acquisition of subsoil or airspace only), including the removal of “*or an interest in the whole*” (Article 24(1)) and addition of “*or airspace above a house, building or factory*” (Article 24(4)) in line with previous Orders.
- Amendment to Article 26(a)(ii) (Temporary use of land for carrying out the authorised project) to reduce the scope by which the undertaker may take temporary possession of the land.
- Amendment to Article 29 (Temporary use of land for maintaining authorised project) at sub-article (4) to include an exception to the notice of temporary possession where there is a risk to safety, in line with previous Orders.
- Amendment to Article 39(2) (Requirements, appeals etc.) to more narrowly provide that Schedule 20 (procedure for discharge of requirements) applies to consents, agreements or approvals that are “*granted, refused or withheld*”.
- Inclusion of new Article 48 (No double recovery) to clarify on that compensation is not payable in respect of the same matter twice, in line with previous Orders.

Amendments to Schedule 1 Part 1 (Authorised project) include:

- Removal of Work No. 10 in relation to biogenic reef within the IDRBNR SAC in line with the removal of this specific compensatory provision. It has been labelled as “*not used*” to minimise issues with referencing the Work Nos. in the Order and any associated documents.

Amendments to Schedule 1 Part 3 (Requirements) include:

- Addition to Requirement 18 (Code of construction practice) to include “*the relevant lead local flood authority*” and “*the relevant highway authority*” as consultees, in line with previous Orders.
- Amendments to Requirement 27 (Aviation Lighting) to ensure the Air Navigation Order 2016 applies to the authorised development notwithstanding its location outside the territorial sea, to clarify when the requirement is triggered, and for consistency of wording
- New Requirement 33 (Biodiversity Net Gain) to secure a biodiversity net gain strategy and to ensure any remaining shortfall in biodiversity units identified following detailed design must be secured prior to the construction works being completed. Consequential amendments to the definitions at Article 2 (Interpretation) and the list of certified documents at Schedule 21.
- New requirement 34 (Wake effects) to secure mitigation for wake effects which is summarised at paragraph 4.90 above.

Amendments to Schedules 10 to 15 (Deemed marine licences):

- Amendment to design parameters regarding maximum number of wind turbine generators.
- Removal of the definition of “*Cefas*”, “*European offshore marine site*”, “*European site*” and “*relevant site*” as they are no longer being used.
- Inclusion of the definition of “*the IDRB NR SAC*” to account for amends regarding deployment of cable protection provisions.
- Certain requirements to be in writing. For example (but not limited to), paragraph 17(2), Part 2, Schedule 10 (Pre-construction monitoring and surveys) for pre-construction surveys.
- Amendment to allow the marine mammal mitigation protocol to include the option for both deployment of noise mitigation systems and noise abatement systems and to align with amendments to outline marine mammal mitigation protocol.
- Amendments for post-construction surveys to clarify that “*licensed activities*” relates specifically to Works Nos. 1, 2, 4 and 8 and enable more than one survey.
- Amendments extend the submission timeframe for all marine mammal mitigation protocols and Site Integrity Plans from four to six months.
- Amendments to require MMO to consult relevant statutory nature conservation body in respect of approval for certain pre-construction plans and documentation.
- Amendments to include marine biosecurity plan and biogenic reef mitigation plan to pre-construction plans and documentation.
- Amendments to update address for Marine Management Organisation.
- Removal of Schedule 16 (Deemed marine licence under the 2009 Act – biogenic reef creation) to account for the removal of the reef creation compensatory measure and the licence no longer being required. It has been labelled as “*not used*” to minimise issues with referencing in the Order and any associated documents.

Amendments to Schedule 18 (Protective Provisions):

- Amendments to Part 7 (Protection for National Grid Electricity Transmission Plc) to account for changes agreed to between the Applicant and NGET, including definitions of “*NGET offshore buffer zone*” and “*NGET protective provisions offshore buffer zone plan*”. Relatedly, the inclusion of paragraph 17 (Restriction on authorised development) has been included to provide that the ANSs shall not be erected within or within 500m of the NGET offshore buffer zone.
- Amendments to Part 11 (Protection for Perenco Gas (UK) Limited, Perenco North Sea Limited, Everard Energy Limited, Ithaca MA Limited, and RockRose (UKCS2) Limited), including definitions for “*array area*” and changes to the definitions of different communications corridors to more accurately define agreed limits.
- Inclusion of Part 16 (Protection for Spalding Energy Company Limited and Spalding Energy Expansion Limited) for the jointly agreed protective provisions for Spalding Energy Company, Ltd and Spalding Energy Expansion Ltd (together “Intergen”) with the Applicant. Some changes have been made to align to the drafting amendments made to the Order.

Amendments to Schedule 19 (Arbitration Rules)

- Removal of Paragraph 7(2) (Confidentiality) to promote frank and full disclosure of any arbitration, except where the Arbitrator uses their discretion to direct that a part or the whole of a hearing is to be in private.
- Amendments to time periods to clarify proper interpretation and to reflect the longer time periods included in other Orders, for reasons of fairness.

Amendments to Schedule 21 (Documents to be certified)

- Amendments to Part 2 to include Biodiversity Net Gain Assessment Report.
- Updates to document references received post-Examination.

Amendments to Schedule 22 (Compensation provisions)

- Removal of Part 3 (Razorbill compensation measures) pertaining to the razorbill feature in the FFC SPA according to the rationale provided at paragraph 5.3.1.3 of the Secretary of State’s HRA.
- Amendments to Parts 1, 2, 4 and 5 of Schedule 22 to amend the process the undertaker must follow to provide compensation for kittiwake or make a payment to the Marine Recovery Fund (Part 1), to amend the process the undertaker must follow to provide compensation for guillemot and razorbill or make a payment to the Marine Recovery Fund (Part 2), and amend the process the undertaker must follow to make a payment to the Marine Recovery Fund to compensate for benthic impacts (Parts 4 and 5).

9.2. 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 and changes in the interests of clarity and consistency and changes to achieve consistency with other DCOs.

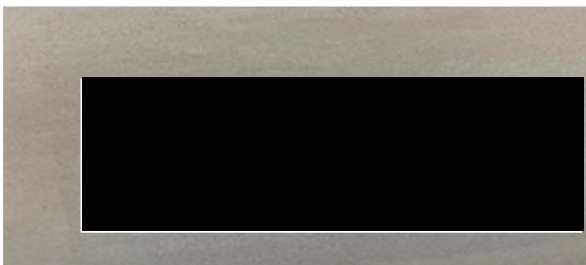
10. Challenge to decision

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

11. Publicity for decision

- 11.1. 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.
- 11.2. Section 134(6A) of the Planning Act 2008 provides that a compulsory acquisition notice shall be a local land charge. Section 134(6A) also requires the compulsory acquisition notice to be sent to the Chief Land Registrar, and this will be the case where the Order is situated in an area for which the Chief Land Registrar has given notice that they now keep the local land charges register following changes made by Schedule 5 to the Infrastructure Act 2015. However, where land in the Order is situated in an area for which the local authority remains the registering authority for local land charges (because the changes made by the Infrastructure Act 2015 have not yet taken effect), the prospective purchaser should comply with the steps required by section 5 of the Local Land Charges Act 1975 (prior to it being amended by the Infrastructure Act 2015) to ensure that the charge is registered by the local authority.

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Planning

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

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

<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010130>

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
AEP	Annual Energy Production
AIS	Air Insulated Switchgear
ALC	Agricultural Land Class
ANS	Artificial Nesting Sites
AONB	Area of Outstanding Natural Beauty
APFP	Applications: Prescribed Forms and Procedure) Regulations 2009
APs	Affected Persons
BoR	Book of Reference
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BS	British Standard
CA	Compulsory Acquisition
CEA	Cumulative effects assessment
CIEEM	Chartered Institute of Ecology and Environmental Management
CNP	Critical national priority
CoCP	Code of Construction Practice
CP2030	Clean Power 2030 Action Plan
CRoW Act	Countryside and Rights of Way Act 2000
CSIP	Outline cable specification and installation plan
CTMP	Construction Traffic Management Plan
DAD	Design Approach Document
DCO	Development Consent Order
DLCG Guidance	Guidance Related to Procedures: for the Compulsory Acquisition of Land (the former Department for Communities and Local Government Guidance) (September 2013)
DMLs	Deemed Marine Licences
DPS	Design Principles Statement
EA2010	Equalities Act 2010
ECC	Export Cable Corridor
ECOW	Ecological Clerk of Works
EEM	Embedded environmental measures
EGL3	Eastern Green Link 3
EGL4	Eastern Green Link 4
EIA	Environmental Impact Assessment
EIA Regulations	Environmental Impact Assessment Regulations (2017)
EIFCA	Eastern Inshore Fisheries and Conservation Authority
ES	Environmental Statement
ExA	The Examining Authority
FEED	Front End Engineering Design

FLOWW	Fisheries Liaison with Offshore Wind and Wet Renewables
GIS	Gas Insulated Switchgear
HE	Historic England
HoT	Heads of Terms
HRA	Habitats Regulations Assessment
HVAC	High Voltage Alternating Current
IDRDNR SAC	Inner Dowsing, Race Bank and North Ridge Special Area of Conservation
IP	Interested Party
IPs	Interested Parties
iPCoD	interim Population Consequences of Disturbance
IPMP	Offshore in-Principle Monitoring Plan
IROPI	Imperative Reasons of Overriding Public Interest
JNCC	Joint Nature Conservation Committee
LCC	Lincolnshire County Council
LURA Act	Levelling Up and Regeneration Act 2023
LIR	Local Impact Report
LRT	Land Rights Tracker
LSE	Likely Significant Effect
LVIA	Landscape and Visual Impact Assessment
LWT	Lincolnshire Wildlife Trust
MCAA	Marine and Coastal Access Act 2009
MCZ	Marine Conservation Zone
MDE	Maximum Design Envelope
MDS	Maximum Design Scenario
MMMP	Marine mammal mitigation protocol
MMO	Marine Management Organisation
MoD PSR	Ministry of Defence Primary Surveillance Radar
MPAs	Marine protected areas
MW	Megawatt
NATS	National Air Traffic Services
NE	Natural England
NERC	Natural environment and rural communities
NFFO	National Federation of Fishermen's Organisation
NGET	National Grid Electricity Transmission
NGSS	National Grid Substation
NAS	Noise Abatement Systems
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure
NSN	National Site Network

NSIP	Nationally Significant Infrastructure Project
OLEMS	Outline Landscape and Ecological Management Strategy
ORCP	Offshore Reactive Compensation Platform
OnSS	Onshore substation
Outline AQMP	Outline Air Quality Management Plan
Outline CTMP	Outline Construction Traffic Management Plan
Outline FLCP	Outline Fisheries Liaison and Coexistence Plan
Outline PAMP	Outline Public Access Management Plan
OWF	Offshore Wind Farm
the 2008 Act	The Planning Act 2008
PAM	Passive Acoustic Monitoring
PMP	Peat Management Plan
PPs	Protective Provisions
PRoW	Public Rights of Way
PSED	Public Sector Equality Duty
RCS	Reactive Compensation Substations
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RRH	Remote Radar Head
SAC	Special Area of Conservation
SELLEPF	South and East Lincolnshire Linear Energy Projects Forum
SJC	St Johns College
SMP	Outline Soil Management Plan
SNCB	Statutory nature conservation body
SoCG	Statement of Common Ground
SPA	Special Protection Area
SPCPMP	Outline Scour Protection and Cable Protection Management Plan
SSSI	Site of special scientific interest
SUs	Statutory undertakers
TA	Transport Assessment
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