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Ref: EN010140

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3 December 2025

Dear [redacted],

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE HELIOS RENEWABLE ENERGY PROJCT

This decision was made by Minister Martin McCluskey, 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 3 September 2025. The ExA consisted of two examining inspectors over the course of the Examination; Philip Brewer was appointed as the replacement single appointed person for Ken Taylor on 11 February 2025. The ExA conducted an Examination into the application submitted on 2 July 2024 ("the Application") by Enso Green Holdings D Limited ("the Applicant") for a Development Consent Order ("DCO") ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the Helios Renewable Energy Project and associated development ("the Proposed Development"). The Application was accepted for Examination on 30 July 2024. The Examination began on 3 December 2024 and closed on 3 June 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 3 September 2025.

1.2. On 26 September 2025, a letter seeking information was issued by the Secretary of State seeking information on several matters ("the information request"). On 15 October 2025, Interested Parties ("IPs") were invited to comment on the responses received ("the consultation").

1.3. The Order, as applied for, would grant development consent for a ground mounted solar photovoltaic ("PV") generating station with associated works comprising: a battery energy storage system ("BESS"), works in connection with an onsite substation, electrical cable connections, and works relating to existing utilities, land enclosure, access and drainage, works relating to National Grid Electricity Transmission's existing Drax substation, temporary construction compounds, works to facilitate access for all works and works for areas of green

infrastructure [ER 1.3.2]. The PV panels will utilise a Single Axis Tracker ("SAT") system [paragraph 3.4.13 of APP-023]. The proposed development is located wholly within the English administrative area of North Yorkshire Council ("NYC") [ER 1.4.1].

1.4. The Applicant also seeks compulsory acquisition ("CA") and temporary possession ("TP") powers [ER 6.1.1], set out in the draft Order submitted with the Application.

1.5. Published alongside this letter on the Planning Inspectorate's National Infrastructure Project website[1] is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report"). The ExA's findings and conclusions are set out in Chapters 3 to 7 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 *.*.*"].

2. Summary of the ExA's Report and Recommendation

2.1. The main 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 [ER 3.1.4]:

- Need case
- Alternatives and site selection;
- Biodiversity and ecology;
- Greenhouse gas emissions;
- Health and safety;
- Heritage;
- Landscape and visual;
- Noise and nuisance
- Socio-economic;
- Soils and agriculture
- Traffic and transport; and
- Water

2.2. The ExA recommended that the Secretary of State should **grant consent** with an Order in the form attached at Annex C to the ExA's 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. The Proposed Development comprises a generating station which is neither a wind-powered installation nor an offshore installation and has a capacity in excess of 50 megawatts (MW). It therefore falls within sections 14(1) and 15 of the 2008 Act as a Nationally Significant

[1] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010140

Infrastructure Project ("NSIP") and is subject to the requirement for a DCO under section 31 of the 2008 Act.

3.2. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement ("NPS") which has effect in relation to development of the description to which the application relates, along with local impact reports and other important and relevant matters. Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply. The Secretary of State has determined this application in accordance with the relevant NPSs and has concluded that subsections (4) to (8) are not applicable in this case.

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

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

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

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

4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination and responses to the Secretary of State provided during the decision-making stage. 351 Relevant Representations ("RRs") were made in respect of the Application. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA.

4.2. The Secretary of State has had regard to the Local Impact Report ("LIR") submitted by NYC, 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. This includes policies set out in NPSs EN-1, EN-3 and EN-5 as designated on 17 January 2024 ("the 2024 NPSs") which are "relevant" NPSs in respect of the Application for the purposes of section 104(2) of the 2008 Act.

4.3. On 24 April 2025, further revised drafts to NPS EN-1, EN-3 and EN-5 were published (''the 2025 draft NPSs''). The Secretary of State noted that, in accordance with the transitional provisions set out in section 1.6 of draft EN-1, the 2024 NPSs continued to have effect for applications accepted for examination prior to the publication of any subsequent amendments. As this Application fell to be considered by the Examining Authority during that period, the 2024 suite of NPSs had effect for the ExA's examination and recommendation. The Secretary of State has therefore had regard to the 2024 NPSs in reaching this decision.

4.4. 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") 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.

4.5. The Secretary of State also recognises the 15 May 2024 Written Ministerial Statement ("WMS") regarding the use of Best and Most Versatile ("BMV") land as an important and relevant consideration for this application.

4.6. The Secretary of State agrees with the ExA in respect of the following issues:

- Heritage - little negative weight [ER 5.4.5]
- Landscape and visual – moderate negative weight [ER 3.8.64]
- Socio-economic – little positive weight [ER 3.10.25]
- Traffic and transport - little negative weight [ER 3.12.28]

4.7. 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. This includes matters on which further information has been sought.

- Need
- Alternatives and site selection
- Biodiversity and ecology
- Greenhouse gas emissions
- Health and safety
- Noise and nuisance
- Soils and agriculture
- Water

<u>Need</u>

4.8. The ExA considered the need for the Proposed Development with reference to NPS EN-1. The ExA noted that the Applicant relied on the urgent national need identified in those statements for the rapid deployment of low-carbon electricity generation and associated storage infrastructure, including the anticipated five-fold increase in solar capacity by 2035 [ER 3.2.10]. No statutory party disputed the principle of need; Natural England ("NE") offered no comment, and NYC noted the national need for energy security [ER 3.2.14]. While Carlton Parish Council and individual respondents expressed concern about the scale of the scheme and the use of agricultural land [ER 3.2.15, ER 3.2.17], the ExA did not find submissions that questioned the principle of the need for development [ER 3.2.23]. In considering need, the ExA considered the government's objectives for the energy system set out in EN1, including to ensure an energy supply which is secure, reliable, affordable, and consistent with net zero emissions in 2050 [ER 3.2.26].

4.9. The ExA concluded that, considering EN-1, the need for the development is established and it assigned substantial weight to the need case for the making of the Order [ER 3.2.31, ER 5.4.5].

The Secretary of State's Conclusion

4.10. The Secretary of State is satisfied that the need case for the Proposed Development is well established, including in respect of its effect on decarbonising the UK power sector. The Secretary of State therefore agrees with the ExA that the principle of and need for the Proposed Development carries substantial weight in favour of making the Order.

Alternatives and site selection

4.11. The ExA found that whilst the Applicant provided little information about reasonable alternatives within its 5km search radius area from the Point of Connection ("PoC") connection at Drax, it did nevertheless explain the selection process followed [ER 3.3.20] and considered this to be satisfactory. The ExA concluded that the applicants approach was in accordance with the relevant provisions of NPS EN-1 and EN-3 [ER 3.3.27], but did not accord with NPS EN-5 paragraph 2.9.20 [ER.3.3.29] with specific reference to a lack of evidence that the Applicant had considered overhead lines as a factor in its site selection process which could have enabled it to widen its search area and potentially reduce the use of BMV agricultural land.

The Secretary of State's Conclusion

4.12. The Secretary of State notes the concerns of NYC in its LIR [REP2-034, ER 3.3.9], and that the site selection process and consideration of alternatives remained an area of disagreement in the SoCG [REP7-013, ER 3.3.11]. The Secretary of State also notes that almost half of all RRs raised concerns over alternative locations for the reasons set out in [ER 3.3.14]. Post hearing submissions from Helios Agricultural Land Threat are also noted [ER 3.3.16].

4.13. NPS EN-5 relates to Electricity Networks Infrastructure and paragraph 1.6.2 sets out that the NPS covers above ground electricity lines that meet a specific, stated criterion as at i-iv. Whilst the Proposed Development does not fall within any of the stated criterion as it does not include overhead lines, the Associated Development subject of Work Nos.3, 4, 4A, 5, 6 and 8A falls within the scope of NPS EN-5 paragraph 1.6.4 (i) as it constitutes "*associated development for which consent is sought along with an NSIP such as an offshore wind generating station or relevant overhead line*."

4.14. In the information request, the Secretary of State requested that the Applicant provide additional detailed reasons and considerations for the 5km search radius from the grid connection point at Drax power station, and the consideration of alternative sites within the 5 km search radius, the suitability of the 5km search area, including environmental and economic reasons, and an explanation of why alternatives were discounted within the area.

4.15. On 13 October 2025, the Applicant stated at paragraphs 3.2.1 - 3.2.3 of the information request response[2], that there is no Government guidance available on what a reasonable search area is, and that consequently each application should be considered on its own facts, referring to paragraphs 2.10.24, 2.10.25 and 2.10.60 of NPS EN-3 that this will involve taking commercial, planning and environmental, and practical constraints into account. The

[2] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001120-C1-007%20Enso%20Green%20Holdings%20D%20Limited-%20The%20Applicant%E2%80%99s%20Response%20to%20the%20Secretary%20of%20State%E2%80%99s%20Request%20for%20Information.pdf

Applicant then elaborated on the site selection approach as set out in the Alternative Site Assessment [APP-227]. The Applicant stated that the starting point in site selection was the receipt of a grid connection offer from National Grid setting the PoC, and in this case, the PoC was confirmed as being at National Grid Drax 132kv Substation in a grid connection offer letter dated December 2020.

4.16. The Applicant confirmed in paragraph 3.2.4 of the information request response that a 5km search area was then established based on a 5km radius from the PoC which it considered proportionate when considered alongside the energy generation capacity of the Proposed Development of 190MW, stating that after this distance, increased electrical transmission losses and increased installation costs would affect the viability of the Proposed Development. The Secretary of State notes the Applicant's position that cabling costs vary significantly depending on land conditions and the need to cross major obstacles. The Secretary of State also notes the Applicant's position at paragraphs 3.2.8 and 3.2.9 of the information request response that alternative locations within or just outside the 5km search radius area would have required river or railway crossings, adversely impacting the commercial viability and adverse environmental impacts of the Proposed Development. In addition, the Secretary of State also notes that the land immediately surrounding the PoC and to the north of the PoC was discounted as it is owned and operated by Drax Group. This land is either committed for their own development needs or is already developed (Drax Power Station) and land to the east hosts an onshore wind farm as detailed at paragraphs 3.2.26 and 3.2.27 of the Applicant's information request response. These constraints are also referred to by the ExA [ER 3.3.8].

4.17. The Applicant in the information request response set out the social and environmental constraints applied when assessing alternative locations within the 5km search radius area, reiterating the details set out in Appendix 2 of the Planning Statement: Alternative Site Assessment [APP-227], including the Combined Constraints Plan (figure 2.10, renumbered as figure A.1 in the information request response). The narrative on BMV agricultural land and the impact of the Proposed Development on it is discussed under the soils and agriculture heading at paragraph 4.70 onwards below.

4.18. The Secretary of State notes the Applicant's references to consented solar schemes and the search areas adopted in those cases. In summary, the Applicant concludes that as explained in the Alternative Site Assessment [APP-227], Environmental Statement ("ES") Chapter 4 Alternatives and Design Evolution [AS-013] and in its information request response at paragraph 3.2.10, that suitable land became available for the Proposed Development within the 5km search radius area and the search area radius did not need to be expanded to identify additional land.

4.19. The Secretary of State notes the Applicant's main reasons for selecting the site and the search radius considerations set out by the ExA at [ER 3.3.7] and reiterated in the Applicant's response to the information request.

4.20. On the matter of whether the Applicant should have considered overhead lines, given the ExA's reference to NPS EN-5 paragraph 2.9.20 that "*it is the government's position that overhead lines should be a strong starting presumption for electricity network developments in general*", [ER 3.3.209] and whether this could have enabled a wider search area, the Secretary of State is of the view that the ExA have misunderstood this policy. The policy is clearly expressed as being a presumption in relation to electricity network developments. It is not intended to be relevant to assessing the suitability of associated development within

an application for a generating station and cannot be read as encouraging the use of a longer overhead line in place of a shorter underground one. Having considered the ExA's conclusions on compliance with NPS EN-1 and EN-3 [ER 3.3.21 to ER 3.3.27] and alternatives and noting that mitigation will be secured through the implementation of a Soil Management Plan, the Secretary of State finds no policy conflict with NPS EN-5.

4.21. Taking account of the information submitted, the Secretary of State agrees with the ExA that the Applicant's approach to alternatives and site selection is consistent with NPS EN-1 and EN-3. The Secretary of State ascribes neutral weight to the Applicant's approach to alternatives.

Biodiversity and ecology

4.22. The ExA considered that the Applicant's approach and listed effects demonstrated that the Proposed Development is consistent with NPS EN-1 and NPS EN-3 in respect of both general biodiversity considerations and those specific to photovoltaic generation [ER 3.4.37 et seq., ER 3.4.46]. The ExA notes that the Proposed Development would lead to a quantified commitment to biodiversity net gain which would be bound within the draft DCO ("dDCO") [ER 3.4.31, ER 3.4.46]. The ExA found that the Proposed Development would lead to beneficial effects secured in the dDCO and therefore assigned moderate weight to the issue of biodiversity and ecology for the making of the Order [ER 3.4.47].

The Secretary of State's Conclusion

4.23. The Secretary of State notes that during the Examination, NYC raised concerns that remained unresolved at the close of the Examination, including in relation to ground nesting breeding birds and how mitigation areas would be surveyed and monitored by the Applicant [ER 3.4.21 et seq.]. NYC also disagreed with the conclusions of the assessment as set out in the ES on ground nesting birds and consider there to be a neutral residual effect rather than a beneficial effect.

4.24. In the information request, the Secretary of State asked NYC and Natural England ("NE") to confirm whether the Applicant's updated outline Landscape and Ecological Management Plan (oLEMP) [REP8-012] encompasses the full monitoring requirement expected for ground nesting bird mitigation areas. The Secretary of State also asked NYC and NE whether the oLEMP encompasses the monitoring requirements of both ground nesting bird habitat as well as the recording of the number and locations of plots.

4.25. On 1 October 2025, NE confirmed[3] it had no comments on the ground-nesting bird mitigation, noting that the oLEMP includes suitable site management measures for non-breeding lapwing habitat associated with the loss of functionally linked land for passage and wintering birds. NE also noted it will be consulted on the final LEMP, secured in the dDCO, which will outline monitoring requirements.

4.26. On 6 October 2025, NYC responded[4] that the oLEMP lacks sufficient detail, addressing habitat monitoring only and not bird species. NYC requested that the oLEMP specify repeat

[3] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001115-C1-002%20-%20Natural%20England.pdf
[4] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001116-C1-003%20-%20North%20Yorkshire%20Council.pdf

breeding bird surveys alongside annual skylark plot recordings, ideally for the lifetime of the Proposed Development. NYC also considered that the oLEMP should define the number of visits, survey methodology, reporting arrangements, and remedial actions to ensure mitigation effectiveness.

4.27. The Applicant also responded to the information request stating that it cannot be required to demonstrate use of the habitats by ground nesting birds because it is not possible to control where the bird species may or may not choose to nest. Instead, the Applicant considered it needed to demonstrate that suitable habitat, in line with Countryside Stewardship management practices as set out in AB4: Skylark Plots and IN140 Neutral Grassland for Lapwing, has been established, such that, if the species are present, they could use the habitat. The Applicant noted that Requirement 10 of the dDCO obliges it to record the details of the location of established ground nesting bird habitats each year to ensure compliance with the oLEMP throughout the lifetime of the Proposed Development. The Applicant considered this approach will be sufficient to monitor mitigation measures specified within the ES and noted that all matters had been agreed with NE. The Applicant further commented on this issue in its response to the consultation[5], repeating what it stated on 10 October 2025 and that the recording of skylark plots, and confirmation that the requisite habitats are in place, would be sufficient to monitor mitigation measures specified within the ES.

4.28. Whilst noting that NE had no comments on the mitigation or monitoring proposed, the Secretary of State agrees with NYC that the oLEMP could provide further detail. The Secretary of State acknowledges that identifying and recording instances of birds themselves provides this greater level of detail in respect of the effectiveness of the Proposed Development's habitat provision for ground nesting birds. Further, the Secretary of State does not consider that monitoring of either the birds or their habitats is guaranteed for the lifetime of the Proposed Development when the oLEMP and the dDCO only secure monitoring in years 5 and 10 of operation. As such, the Secretary of State has amended Requirement 10, paragraph (f) of the Order to include:

"(f) detailed arrangements for:

(1) regular monitoring of the condition and effectiveness of the habitat provided for ground nesting birds, including the recording of the number and location of any skylark plots provided.

(2) regular monitoring of the population and productivity of ground nesting birds.

The arrangements under (1) and (2) must be carried out for the duration of the lifetime of the authorised development, unless otherwise agreed in writing by the local planning authority."

4.29. With the inclusion of the amended Requirement 10, the Secretary of State agrees with the ExA that the Proposed Development will likely lead to beneficial effects on ecology and biodiversity and he ascribes this matter moderate positive weight in the planning balance.

[5] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001152-C2-014%20-%20Enso%20Green%20Holdings%20D%20Limited.pdf

Greenhouse gas ("GHG") emissions

4.30. The ExA considered that the Applicant had satisfactorily explained the limitations to its assessment of embodied carbon and how it would mitigate greenhouse gas emissions during construction [ER 3.5.15]. Nevertheless, the ExA refers to NPS EN-1 and found that the Applicants approach to a GHG assessment is generally consistent with the policy apart from the omission of an embodied carbon calculation, though the ExA did consider this was proportionate [ER 3.5.16 et seq.].

4.31. The ExA concluded that the Proposed Development would likely lead to significant beneficial effects in terms of GHG emissions and accords with NPS EN-3 as well as NPS EN-1. The ExA assigned great weight to the matter of GHG emissions for the making of the Order.

The Secretary of State's Conclusion

4.32. The Secretary of State notes paragraph 5.3.4 of NPS EN-1, which the ExA refers to in its conclusions [ER 3.5.17]. The Secretary of State notes that this paragraph stipulates that all proposals for energy infrastructure projects being considered under the 2008 Act should include a whole life GHG assessment which includes measurement of embodied GHG emissions impact from the construction stage, decommissioning GHG impacts, and the mitigation taken to reduce these impacts at all stages. The Secretary of State also notes paragraphs 5.3.6 and 5.3.7 of NPS EN-1 which state that the Applicant should look for opportunities to mitigate GHG emissions in the design and that these steps and further mitigation should be explained in a GHG Reduction Strategy secured under the Order.

4.33. In the information request, the Secretary of State sought clarification from the Applicant in respect of the Proposed Development according with these relevant paragraphs of NPS EN-1 and their intended outputs. On 10 October 2025, the Applicant responded and provided a whole-life GHG emissions assessment including consideration of embodied carbon and potential emissions during all development phases. The Applicant evidenced that the carbon emissions for the construction, operation and decommissioning of the Proposed Development, including the assumed primary materials and related supply chain emissions for the construction of components of the Proposed Development. The Applicant also updated the National Grid carbon intensity figure used, with the updated information considering the 2029 forecast. Overall, the Applicant concluded that the Proposed Development could save over 200,000 tonnes of carbon dioxide equivalent over a 40-year lifetime. Despite being calculated to a greater degree of detail in this response by including new emissions during construction and decommissioning, the Applicant stated that this did not change the conclusions on residual effects in the ES and that the Proposed Development will offset emissions from construction during operation which will lead to a major beneficial effect at the local level. The Applicant also stated that a standalone GHG Reduction Strategy would not be required for the Proposed Development due its positive role in decarbonising the energy sector.

4.34. The Secretary of State notes the more detailed explanation of how the development accords with paragraphs 5.3.4 to 5.3.7 of NPS EN-1, provided by the applicant in response to the information request. However, the Secretary of State is disappointed with the Applicant's approach in the original application, in which the assessment lacked sufficient detail when compared with those prepared for other solar farm developments. The Secretary of State is also disappointed that the Applicant provided an adequate whole-lifecycle assessment, including embodied carbon, only after this was specifically requested at the decision-making

stage, notwithstanding the clear requirement set out in NPS EN-1. In addition, the Secretary of State considers that information on GHG emissions resulting from land-use change has not been logically or transparently incorporated within the Applicant's overall GHG assessment but instead appears only in limited detail within the ES Chapter 14 - Soils and Agriculture [APP-034]. Whilst the Secretary of State is disappointed that the Applicant considers that a GHG Reduction Strategy is not required to be secured in the Order, notwithstanding paragraph 5.3.7 of NPS EN-1, the Secretary of State is satisfied with the Applicant's explanation that mitigation will be secured in the Construction Environmental Management Plan and the Construction Traffic Management Plan which are secured in the Order and together effectively serve as a GHG Reduction Strategy in all but name.

4.35. Notwithstanding the points raised in relation to the Applicant's overall approach, the Secretary of State is now satisfied that the Applicant's response to the information request shows that the Proposed Development is in accordance with NPS EN-1. As such, and in agreeing with the ExA that the Proposed Development will have a beneficial effect on GHG emissions, the Secretary of State includes the matter of GHG emissions within the weight ascribed to the need for the Proposed Development (see paragraph 4.10 above) because the delivery of low carbon energy generation which has beneficial effects in terms of reducing emissions to meet net zero is inherently tied to the urgent need case outlined in NPS EN-1. The Secretary of State notes that the Proposed Development will still lead to GHG emissions despite causing a net overall beneficial saving of emissions. He also notes that the Applicant has updated its calculations from the high-level calculations made in the Application to show that these emissions will be higher than previously assessed, largely due to the consideration of embodied carbon during construction within the updated calculations. The Secretary of State is satisfied with the level of mitigation outlined in the relevant plans provided by the Applicant. The Secretary of State has included the positive effect the Proposed Development will have on decarbonising the energy sector in the need case. To prevent double counting the effect of the Proposed Development on GHG emissions in the planning balance, the Secretary of State considers there is no separate weighting, it is incorporated into the weighting for Need (see paragraph 4.10 above).

Health and safety

4.36. The ExA considered three separate and specific matters under this issue; Public Health, the safety of the BESS, and aviation safety relating to the Burn Gliding Club [ER 3.6.1]. The Secretary of State notes that in overall conclusion of these matters that the ExA assigned little negative weight against the making of the Order [ER 3.6.88]. The Secretary of States agrees with the specific conclusions in respect of Public Health but has further comment in relation to BESS safety and aviation safety which are addressed in the section below.

BESS safety

4.37. The Secretary of State notes that concerns were raised in relation to site safety including the BESS in about one third of the relevant representations received [ER 3.6.38] for the reasons summarised [ER 3.6.39]. Representations from others at [ER 3.6.41] and responses to Applicants Written Summary of the Applicant's Oral Submissions – Issue Specific Hearing 2 ("ISH2") [ER 3.6.47] are also noted.

4.38. The Applicant has prepared an outline Battery Safety management plan ("BSMP"). The Secretary of States notes that North Yorkshire Fire and Rescue Service ("NYFRS") directed the Applicant to National Fire Chiefs Council ("NFCC") guidance and grid-scale best practice

guidance [ER 3.6.46] and consultation and communication with NYFRS had informed the outline BSMP [ER 3.6.36]. The ExA confirmed no legislative requirement to consult the Health and Safety Executive [ER 3.6.49].

The Secretary of State's Conclusion

4.39. Noting that the SoCG with NYFRS had not been finalised [ER 3.6.68] and that Requirement 9 of the dDCO requires the BSMP to be submitted to and approved by the Local Planning Authority ("LPA"), with no further engagement with NYFRS, (save for in the event of changes to the outline BSMP), the Secretary of State in his information request invited NYFRS to comment on the Applicants outline BSMP.

4.40. No response was received from NYFRS. The Applicant did confirm in the information request response with reference to the Statement of Commonality [REP8-017], that NYFRS advised on 4th April 2025 that the appropriate point for the NYFRS to respond would be at the consultation stage with the LPA when the requirement to submit a final Battery Safety Management Plan is discharged. The Secretary of State notes that Requirement 9 in the dDCO [REP9-003] does not include any requirement for consultation with NYFRS from the LPA, unless changes are proposed to the outline BSMP. The Secretary of State considers that consultation with NYFRS should be undertaken at the submission stage and has modified Requirement 9 accordingly. Subject to the modification of Requirement 9, the Secretary of State agrees with the ExA and the Applicant that matters of detailed design and operation can be conducted following consent to enable effective consultation with NYFRS [ER 3.6.68].

4.41. On this matter, the Secretary of State agrees with the findings and conclusions of the ExA and assigns neutral weight to the making of the Order in respect of fire safety.

Aviation Safety

4.42. On the matter of aviation safety, the ExA assessed the following impacts specific to those raised by the Burn Gliding Club ("BGC") in their relevant representation [RR-043]; the impact of glint and glare, thermal updraughts and engine failure after take-off ("EFATO") [ER 3.6.56].

4.43. Taking each in turn, the ExA found that the Applicant's response on glint and glare through a new requirement for a mitigation strategy was reasonable [ER 3.6.78]. On the matter of thermal updraughts, the ExA was satisfied that the Applicant's arguments were reasonable [ER 3.6.80]. With regard to EFATO, the Secretary of State notes that the ExA at [ER 3.6.79] found that none of the parties provided any form of quantified risk assessment with and without the Proposed Development, and concluded that without such that it would be unreasonable to require the Applicant to reduce its solar panel coverage in the absence of such evidence.

The Secretary of State's Conclusion

4.44. NPS EN-1 paragraph 5.5.60 requires the Secretary of State to be satisfied that the impacts of proposed energy developments do not present risks to physical safety, and where they do, provided that the Secretary of State is satisfied that appropriate mitigation can be achieved, or appropriate requirements can be attached to any Development Consent Order to secure those mitigations, consent may be granted.

4.45. The Secretary of State notes that the CAA AAT in their RR advised that Cliffe Airfield should be consulted. The Applicant's response to the RR [REP1-004] confirms that consultation would be undertaken with Cliffe Airfield, and the Secretary of State notes that the Consultation report - key stakeholder list [APP-183] does not include Cliffe Airfield. In response to the information request the Applicant confirmed the reasons why direct consultation has not been possible with Cliffe Airfield due to it not being known who the aerodrome is owned or operated by, and that contact details for the operator cannot be located. Notwithstanding this, the Secretary of State notes that the potential effect of the Proposed Development on the Cliffe Airfield has been assessed in the Glint and Glare Study [REP4-010]. The Secretary of State notes that no other impacts on aviation safety at Cliffe Airfield have been identified to be assessed.

4.46. On the matter of glint and glare, some matters of principle were agreed around the involvement of BGC in the Glint and Glare Mitigation Strategy ("GGMS") in a final SoCG [REP7-015]. The Secretary of State notes that the GGMS added under Requirement 20 by the Applicant in the dDCO, [ER 3.6.59] would only be submitted to NYC for approval, with submission at the same time to BGC. Notwithstanding the Applicant's statement in the final SoCG [REP7-015] that "the Applicant will share the output of the modelling with BGC, but their consent will not be sought as the modelling outputs are binary and will be implemented in accordance with the strategy and DCO requirement," the Secretary of State considers that BGC should nonetheless be formally consulted at the appropriate stage before the GGMS is confirmed. Accordingly, Requirement 20 has been amended to ensure that NYC undertakes consultation with BGC. On the matter of thermal updraughts, the Secretary of State notes and agrees with the ExA's findings and conclusion that should effects occur, they can be managed by the glider pilots using the controls available to them [ER 3.6.80].

4.47. The Secretary of State notes that EFTAO was a safety matter identified in the relevant representation [RR-072] from the UK Civil Aviation Authority's Airfield Advisory Team ("CAA AAT") dated 26 September 2024 who noted that EFATO is "particularly eye catching due to the proximity of this proposal to Burn Airfield" and that "it is accurate to state that development in the vicinity of an aerodrome can reduce emergency landing site options to pilots." BGC identified in [REP5-024] that some of the solar panels in fields 3, 5 and 6 should be removed in the interest of aviation safety in the event of an EFATO.

4.48. In view of the lack of any quantified risk assessments and to be satisfied that the Proposed Development would not present risks to physical safety that cannot be mitigated, the Secretary of State requested in the information request that both the Applicant and BGC provide further information. The Applicant was requested to (a) clarify how land rights and ownership might affect emergency responses, (b) review, and if necessary, update their assessments on the Proposed Development's impact on aviation operations, and (c) explain what mitigation measures have been incorporated into the layout and design to safeguard against EFATO. BGC was requested to provide (a) evidence that the request to remove some of the solar panels is necessary and (b) information on the impact of not providing a safety zone or not removing those panels would have on overall operations and viability of BGC. Both parties responded to the information request. Additionally, both parties provided comments on each other's responses submitted during the consultation which are not considered to raise or introduce any new material considerations.

4.49. The General Aviation Awareness Council ("GAAC") responded[6] on behalf of BGC and confirmed that BGC requested areas (fields 3, 5 and 6) be left available to allow realistic options for landing in the event of EFATO. The GAAC commented that these areas are required to allow for up to two aircraft (the tow aircraft and the glider) to land ahead or with minimal turning, as set out in Combined Aerodrome Safeguarding Team ("CAST") Advice Note 5 paragraph 2.2.2.

4.50. The GAAC stated that Fields 3, 5 and 6 are currently in use as farmland and are available for use in EFATO situations. The GAAC requested that these fields be retained free from structures, noting that doing so, alongside the planned solar panels, would preserve critical areas for safe emergency landings.

4.51. The Secretary of State notes the two appeal decisions under The Town and Country Planning Act ("TCPA") 1990 referred to by the GAAC on behalf of BGC in its response to the information request. Notwithstanding that the appeal decisions fall under a separate planning regime, it is acknowledged that the decisions identify that EFATO related issues were identified as increasing harmful risk to the safe functioning of aviation operations and weighed against those development proposals. However, each application is considered on its individual merits, and the constraints identified in relation to other proposals are not necessarily directly applicable to the circumstances in this case. The Secretary of State does not consider that the circumstances surrounding the two appeal decisions referred to provide strong evidence in support of the request of BGC to remove some of the solar panels in fields 3, 5 and 6.

4.52. In response to the request to provide information on the impact of not providing a safety zone or not removing some of the panels on the overall operations and availability of the aerodrome and the gliding club, the GAAC confirm BGC currently benefits from having 6 available runway directions, enabling it to operate with an "into wind component" under most conditions. The Secretary of State acknowledges the issues identified by the GAAC that could arise for BGC, including potential insurance and liability issues, reduced attractiveness for members and visitors, and reduced operational capacity.

4.53. Finally, the GAAC referred to several key provisions in CAST Advice Note 5 that it considers particularly important. In summary, the GAAC highlighted that:

- Advice Note 5 applies to all categories of aerodromes.
- It is primarily concerned with development in the vicinity of an aerodrome and generally considers a 5 km zone to be relevant.
- The Advice Note confirms that solar energy generation is known by the CAA to have an impact on aviation.
- Developers are expected to consult aerodrome operators early in the planning process.
- EFATO (Engine Failure After Take-Off) is another consideration.
- The note captures the overriding safety priority: a pilot's ability to safely navigate airspace around an aerodrome is paramount.

[6] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001117-C1-004%20-%20Burn%20Gliding%20Club.pdf

- A reasonable and pragmatic approach should be taken when assessing development impacts.

4.54. Guided by these provisions – and based on the expert views of the management and users of Burn Airfield and the British Gliding Association ("BGA") – the GAAC concluded that establishing a safety zone and removing some of the proposed solar panels in fields 3, 5, and 6 is necessary, reasonable, and pragmatic, and is fully consistent with CAST Advice Note 5.

4.55. The Secretary of State requested the Applicant review and if necessary, update their assessments of the impact of the Proposed Development on aviation operations. The Applicant makes reference at paragraph 4.2.9 to CAST Advice Note 5 and a literature review of relevant guidance including The Glider Pilot's manual published by Ken Stewart, that recommends that an area may be considered safe to perform an emergency landing for gliding pilots following Glider Launch failure ("GLF") is defined as 45 degrees either side of the runway centreline out to 2 km from the launch points. The response focuses on and cross references the High-level Investigative Report [REP7-017] figures from which figures at Appendix B of the Applicant's response were reproduced as part of the Applicant's response. The Applicant concluded at paragraph 4.2.13 of their response to the information request that in considering the percentage of land that remained available, a significant impact is not anticipated. Most significantly, gliders can remain flying in a forward direction without being significantly impacted by the Proposed Development, which is considered best practice in accordance with the guidance.

4.56. The Applicant confirmed that mitigation has not been incorporated into the layout and design to safeguard against EFATO risk as it is not considered that the Proposed Development would significantly impact EFATO/GLF, with reference to each of the runways as summarised below, and shown on the figures at Appendix B:

- Runway 19 is unaffected due to no solar panels occupying the defined 90 degree/2km area;
- In the event of EFATO/GLF from runway 7, a pilot can remain flying forward and would be unaffected by the Proposed Development; and
- From runway 15, the Proposed Development would affect a lateral distance between 510m and 840m along the runway centreline, noting that in the event of EFATO/GLF, a pilot has the option to perform a right hand turn within the defined sector.

4.57. The Secretary of State notes the GAAC's consultation response[7] raises concerns over the Applicants' response to the information request. The GAAC considers that the Applicant's analysis based solely on the areas of proposed solar panel coverage that ignores other land that is currently unavailable for an emergency does not properly represent the scale of the loss of land currently available and disagrees with the Applicant's conclusions in relation to EFATO and Runways 7, 15 and 19,

4.58. In the Applicant's assessment of significance and response to the information request for clarification on how land rights and ownership might affect emergency responses –

[7] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001150-C2-012%20-%20Burn%20Gliding%20Club.pdf

particularly whether they could restrict or otherwise influence the options available in the event of an EFATO – the Applicant advised that no agreements exist between BGC and the landowners involved in the Proposed Development which would keep the land available for emergency use. The Secretary of State notes the Applicant's position that no agreement exists with the landowners involved in the Proposed Development to retain the land for EFATO use, and that, consequently, the land could be made unavailable at any time even in the absence of development. However, the Secretary of State does not consider this a relevant consideration, emergency use of land does not require an agreement and the development must be considered from the current baseline conditions with respect of aviation safety. The Secretary of State considers that the *current openness* of this land and the impact of the development is the material consideration relating to safety and operational resilience of BGC and aerodrome.

4.59. The Secretary of State notes the operational details of BGC, set out in Appendix 1 to the summary note of BGCs submissions and evidence at ISH2 [REP5-024] detailing that the Club offers flight experiences and training and the experience ranges from experienced cross country glider pilots with more than 1,000 hours in gliders to beginners learning to fly gliders. It is also noted that BGC operates routinely on Thursdays and weekends, and on an ad hoc basis on other days, throughout the year, with some 7,000 movements per year. While the Secretary of State notes the representations about the potential impact on the attractiveness of the BGC, he has not been persuaded that the Proposed Development would significantly impact the overall operations and viability of the aerodrome and BGC.

4.60. Both the Applicant and BGC responded to the matters in the information request on aviation safety in respect of the impact of the Proposed Development on BGC. Whilst BGC provided some detail of general impacts that may arise, specifically insurance and liability consequences if safety recommendations (such as the exclusion zones requested) are not followed, reduced attractiveness for members and visitors, and reduced operational capacity the Secretary of State considers that the response lacked specific and quantified evidence to demonstrate risks to aviation safety cannot be mitigated.

4.61. The Applicant has also not provided quantified evidence comparing scenarios with and without the Proposed Development. Notwithstanding the points raised in relation to the Applicants approach to assessing impacts, the Secretary of State agrees with the conclusion of the ExA that it would be unreasonable to require the applicant to reduce its solar panel coverage in the absence of such evidence [ER 3.6.79]. Further the Secretary of State agrees with the ExA that the Proposed Development would be in accordance with relevant parts of section 5.5 of NPS EN-1, and that there would be an adverse, but not significant adverse effect on the operation of BGC [ER.6.87]. The Secretary of State assigns limited weight against the making of the Order.

Noise and nuisance

4.62. Although the ExA noted the presumption in EN-1 that the Secretary of State should assume the relevant pollution control regime will be properly enforced [ER 3.9.21], the ExA also highlighted the specific policy relating to noise [ER 3.9.22] and nuisance [ER 3.9.23] which emphasise that adverse effects should be minimised and not exceed limits specified in the development consent.

4.63. In relation to statutory nuisance, the ExA highlighted paragraphs 4.15.1 to 4.15.7 of NPS EN-1, in which Section 158 of the 2008 Act provides statutory authority for the purpose of

providing a defence in any civil or criminal proceedings for nuisance. The policy states this would include a defence for proceedings for nuisance under Part III of the Environmental Protection Act 1990, but only to the extent that the nuisance is the inevitable consequence of the authorised development [ER 3.9.24]. The ExA highlighted that paragraph 4.15.7 NPS-EN1 refers to Section 158(3) of the 2008 Act in which the defence of statutory authority is subject to any contrary provision made by the Secretary of State in that particular Order [ER 3.9.25].

4.64. The ExA considered the Proposed Development is in accordance with NPS EN-1 and EN-3 for nearly every matter [ER 3.9.27, ER 3.9.30].

4.65. However, regarding noise nuisance, the ExA found the Proposed Development would not inevitably cause noise nuisance and so Section 158 of the 2008 Act would not automatically provide a defence to claims of such [ER 3.9.28]. The ExA found that the Applicant's proposed contrary provision in the draft DCO ("dDCO") named "Defence to proceedings in respect of statutory nuisance" would have the effect of weakening the provisions of the Environmental Protection Act 1990 with regard to public protection from nuisance and would therefore be disproportionate, unnecessary, and inconsistent with paragraph 4.12.10 of NPS EN-1 [ER 3.9.29, ER 7.5.16 et seq.].

4.66. The ExA concluded that, with "Defence to proceedings in respect of statutory nuisance" retained in the Order, it would assign a little weight to the matter of noise and nuisance against making the Order [ER 3.9.31 ER 7.5.20]. Conversely, and as the ExA removed from the recommended DCO ("rDCO"), if this provision is not included in the Order, then the ExA assigned neutral weight to noise and nuisance with regard to the making of the Order [ER 3.9.30, ER 5.3.10, ER 7.5.20].

The Secretary of State's Conclusion

4.67. In respect of "Defence to proceedings in respect of statutory nuisance", the Secretary of State disagrees with the ExA and considers that the Applicant's article is heavily precedented. Further, given one of the Order's purposes is to bring several permissions within one consent, the Secretary of State considers it is appropriate to provide the requested defence to proceedings under section 82(1) of the Environmental Protection Act 1990 in order to prevent delays to the Proposed Development. The Secretary of State considers the Applicant has assessed the noise impacts of the Proposed Development and that, with the inclusion of the amended Requirement 23 (discussed below), the impacts remain as per the Applicant's ES, i.e. negligible [ER 7.5.19].

4.68. The Secretary of State considered further information was required from the Applicant and NYC on Requirement 23 (Operational Noise), including further information in relation to alternative wording for the requirement which focused on ensuring noise remained at the level assessed in the ES, as well as monitoring this noise. On 6 October 2025, NYC responded[8] considering that assessment of rating levels (LAr) should be used within Requirement 23. NYC also provided further detail to the Secretary of State's suggested requirement to ensure both enforceability and acoustic robustness which it considered provides a proportionate mechanism for investigation and mitigation of operational noise. NYC concluded on operational noise by suggesting that, whilst monitoring of operational

[8] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001116-C1-003%20-%20North%20Yorkshire%20Council.pdf

noise was included in Requirement 23, a Noise Management Plan should also be secured prior to operation to support long-term compliance, monitoring, and community engagement. On 10 October 2025, the Applicant responded to the information request stating that it agreed with using LAr within Requirement 23 in the dDCO and regarding the alternative wording put forward by the Secretary of State it suggested removing the word 'operational' from the requirement's drafting as it would not be possible to provide an operational noise assessment prior to the commencement of the Proposed Development. NYC responded[9] to the consultation on 12 November 2025, and the Applicant responded on 14 November 2025 – both parties stated that agreement had been reached on the wording of Requirement 23 and provided the updated text. The Secretary of State is satisfied with the agreed wording for Requirement 23 and that it will help address concerns raised during the consultation. As such, he has inserted the updated text into the Order.

4.69. Noting the inclusion of the Applicant's provision "Defence to proceedings in respect of statutory nuisance" as well as the agreed upon Requirement 23 both in the Order, the Secretary of State disagrees with the ExA that this matter should be ascribed a little negative weight [ER 3.9.31] and instead concludes that the matter of noise and nuisance is neutral in the planning balance.

Soils and Agriculture

4.70. The ExA sets out the Agricultural Land Classification ("ALC") of the site as considered by the Applicant at [ER 3.11.3] as detailed in the ES Appendix 14.1: ALC [APP-171] of the site. 383ha - representing 97.3% of the agricultural land within the Order limits – would comprise BMV agricultural land. Of this, 176.5ha (44.9%) is classified as Grade 1 or Grade 2 BMV land, and 206.5ha (52.4%) as Grade 3a BMV land. The cable route corridor was not surveyed, and other elements of the Proposed Development comprise non-agricultural land [AS-014, ER 3.11.4].

4.71. The ExA identified that agricultural land concerns were raised in around two thirds of the relevant representations made [ER 3.11.18]. NYC raised concerns in its LIR that the area surrounding the grid connection at Drax comprises extensive areas of BMV agricultural land, as well as the Applicant's response to those concerns [ER 3.11.15]. The use of BMV land was not agreed in the final SoCG with NYC [ER 3.11.17].

4.72. In relation to BMV agricultural land, the ExA asked the Applicant, at ISH1, to justify the use of BMV agricultural land. The "ExA questioned why this site had been chosen for the Proposed Development if the vast majority is BMV land. In response, the applicant acknowledged that while there is policy that states that poorer quality land should be preferred to be used for developments such as this, there is no absolute requirement or sequential test approach requiring the avoidance of BMV land" [REP1-007, ER 3.11.21].

4.73. The ExA referred to the policy position in NPS EN-1 and EN-3 in respect of development on agricultural land and the impacts on soil or soil resources [ER 3.11.27 – 3.11.30]. Although not specifically referenced by the ExA, the Secretary of State recognises the 15 May 2024 WMS regarding the use of BMV agricultural land as an important and relevant consideration in the deciding of this Application.

[9] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001151-C2-011%20-%20North%20Yorkshire%20Council.pdf

4.74. The ExA noted the Applicant's use of the Institute of Environmental Management and Assessment ("IEMA" – now the Institute of Sustainability and Environmental Professionals) guidance [ER 3.11.5 et seq], and conclusion that the Applicant considers it appropriate that the assessment makes moderate significance impacts not "significant" in EIA terms [ER 3.11.6].

4.75. The ExA was concerned regarding the Applicant's methods, and its conclusions on the effect of the Proposed Development on agricultural land in ES Chapter 14: Soils and Agricultural Land [APP-034], as summarised at ER 3.11.24.

4.76. The ExA found that the non-availability of nearly 400ha of land for 40 years, of which 176ha is grades 1 and 2, would amount to a significant adverse effect [ER 3.11.32].

4.77. The ExA concluded that the Applicant's assessment is unreliable to the extent that there would likely be a significant adverse effect because of the amount and period of loss of BMV agricultural land but that the approach is nevertheless in accordance with NPSs EN-1 and EN-3 [ER 3.11.33]. Overall, the ExA assigned great weight to the issue of soils and agriculture against the making of the Order.

The Secretary of State's Conclusion

4.78. The Secretary of State shares the concerns of the ExA that the Applicant relied on its own judgment and interpretation of IEMA's guidance to conclude that the effects on agricultural land would not be significant. The ExA noted the Applicant's interpretation was influenced by the Proposed Development's 40-year duration, which the Applicant distinguishes between the temporary use of BMV agricultural land and permanent loss of BMV agricultural land [ER 3.11.25]. Whilst the IEMA guidance does not constitute statutory or binding policy text, the Secretary of State considers that it nevertheless represents recognised best practice.

4.79. Notwithstanding the non-availability of 383ha of BMV land for 40 years, the Secretary of State recognises that grazing will be able to continue during the operational phase in respect of this temporary loss of BMV land as discussed at paragraphs 4.88 below. Regarding the potential for BMV land to be sealed or irreversibly developed, the Secretary of State notes that ES Chapter 14: Soils and Agricultural Land [APP-034] at Tables 14.6 and 14.7 identifies an estimate of land affected by fixed equipment (but considered as temporary loss by the Applicant) during the construction and operational phases. The Secretary of State assesses that a total of 10ha of BMV agricultural land is identified as affected, comprising 3.8ha for the internal access tracks, 0.2ha for the field stations and 6ha for the on-site substation and BESS, of which 0.1ha is Grade 1, 7ha is Grade 2 and 2.9ha is Grade 3a BMV agricultural land.

4.80. The Secretary of State notes that Table 14.14 of the ES Chapter 14: Soils and Agricultural Land [APP-034] assigns the impact of the construction and operational phases as moderate adverse and not significant, which contrasts with the summary of construction effects at paragraph 14.9.3 that assigns the effect overall as significant because of the effect on Grades 1 and 2 BMV agricultural land [APP-034]. The Secretary of State finds the Applicant's conclusions inconsistent.

4.81. The Secretary of State notes that Table 14.13 of the ES Chapter 14: Soils and Agricultural Land [APP-034] lists development schemes included in the assessment of cumulative

effects and the Applicant's conclusion at paragraph 14.8.4 that, whilst the collective total of BMV land sealed or irreversibly developed by the schemes shown in Table 14.2 (this appears to be an erroneous reference that should be table 14.13) will exceed 20ha, and will amount to a major adverse effect (which is significant), the Proposed Development does not contribute to that effect due to its temporary nature. The paragraph concludes that the cumulative effect of the Proposed Development therefore is negligible, which is not significant, but the combined effect remains major adverse. However, given the temporary sealing over of 10ha of BMV agricultural land affected by fixed equipment (the Secretary of State does not disagree with the Applicant but he notes that applicants of some other similar developments consider within the worst case assessment that such equipment may have an irreversible impact meaning the land cannot be returned to agricultural use), the Secretary of State considers that the Proposed Development does need to be considered in terms of its contribution to cumulative effects on BMV land.

4.82. In decision making, NPS EN-1 paragraph 5.11.34 is explicit that the Secretary of State should ensure that Applicants do not site their scheme on BMV agricultural land without justification. Where schemes are to be sited on BMV agricultural land, the economic and other benefits of that land should be taken into account, and where development is demonstrated to be necessary, areas of poorer quality should be preferred to those of higher quality.

4.83. As referred at paragraph 4.14 above, to further explore the issue as to why the site had been chosen for the Proposed Development and of direct relevance to soils and agriculture, the Secretary of State asked that the Applicant clarified its 5km radius search area in the information request. The Applicant was asked to provide with reference to NPS EN-1, information clarifying the necessity of BMV land required for the Proposed Development, and further detail on the suitability of the 5km radius search area, including environmental and economic reasons, including why alternatives were discounted in the area.

4.84. As detailed at paragraphs 4.15 and 4.16 above, the Applicant explained its reasons for establishing a 5km search radius from the PoC at Drax, which the Secretary of State finds acceptable and is satisfied with. In terms of BMV land, at paragraph 3.2.11 of its response to the information request, the Applicant states it was cognisant of the fact that there is a very high proportion of the Proposed Development located on BMV agricultural land, but that given the constraints in identifying a viable grid connection route, it is necessary for the Proposed Development to be located on the site selected.

4.85. The Applicant concludes at paragraph 3.2.20 of its information request response, with reference to the combined constraints plan at Figure A.1, (a copy of that submitted as part of the Planning Statement [APP-227]), that the siting of the Proposed Development on BMV agricultural land within the 5km radius search area is unavoidable as all land of a size capable of accommodating the Proposed Development is of some degree of BMV agricultural land. The Applicant further states at paragraph 3.2.21 of its response that, within the 5km search radius from the PoC, 78.78% of land is either Grade 1 or Grade 2, and 18.54% is Grade 3 and that there is no Grade 4 or 5 ALC land within the search area.

4.86. Notwithstanding that paragraph 2.10.30 of NPS EN-3 does not prohibit the development of ground mounted solar on BMV agricultural land, the impacts are expected to be considered as set out in NPS EN-3. The Secretary of State is satisfied that justification has been provided for the siting on BMV agricultural land, considering economic and other benefits, and that there would be no conflict with NPS EN-1 and EN-3. The Secretary of State has

therefore considered that justification in his conclusions on alternatives and site selection at paragraph 4.21 above, and not in his conclusions on soil and agriculture below.

Soil management

4.87. NPS EN-3 paragraph 2.10.32 sets out that where solar development is sited on agricultural land, consideration may be given as to whether the proposal allows for continued agricultural use and/or can be co-located with other functions.

4.88. The information request response from the Applicant at paragraph 3.2.9 sets out detail on the impact on BMV agricultural land with reference to the ES Chapter 14: Soils and Agricultural Land [APP-034], and confirms that the site could still be used for agricultural practices such as grazing livestock during the operational phase, and that the cable route corridor will be available for continued farming use. The Secretary of State notes that the final LEMP subject to Requirement 10 must include details of ongoing management including seasonal grazing regime. The ES Chapter 3: Site and Development Description paragraph 3.4.13 [APP-023] details that the SAT PV at its highest point (when tilted at 60 degrees) will be up to 3m above existing ground levels and at the lowest point up to 900mm above existing ground levels to allow for movement of grazing sheep underneath. Further to concerns raised by a resident at the ISH1 regarding tracking panels and grazing movements, the Applicant reiterated at paragraph 3.2.45 onwards of [REP1-007] that tracking panels do not affect grazing sheep who can graze comfortably stating that the minimum height of panels is 900mm above existing ground level, so would allow free movement of sheep beneath the panels.

4.89. In addition, the Secretary of State notes that the ES Chapter 14: Soils and Agricultural Land [APP-034], identifies in the summary of operational phase effects, a benefit on soil health and its carbon-holding benefits [ER 3.11.10].

4.90. The Secretary of State agrees with the ExA's findings that the Applicant's approach to minimise adverse impacts on soil quality during the construction of the Proposed Development accords with NPS EN-3 paragraph 2.10.45 in respect of a soil management plan secured in the DCO [ER 3.11.31] at Requirement 8.

4.91. Overall, the Secretary of State agrees with the ExA that the Proposed Development is consistent with the policy requirements of NPS EN-1 and EN-3 in respect of soils and agriculture. However, considering the substantial proportion of BMV agricultural land required, the 40-year duration of the Proposed Development (despite noting that the Applicant highlights all temporary loss is not irreversible and there is to be no permanent loss of BMV agricultural land), and the major adverse cumulative effect of development on BMV agricultural land identified in the ES (despite the Applicant's position that the Proposed Development does not contribute to these cumulative effects), the Secretary of State considers the impacts on soils and agriculture to be significant.

4.92. The Secretary of State considers that, despite the potential ability to use the land for grazing and beneficial effect on soil health, the proportion of the Proposed Development which is BMV land and is temporarily unavailable is still high. The Secretary of State considers this significant adverse effect applies when considering the Proposed Development alone and in combination with other developments. Therefore, while the ExA attributed great negative weight to the issue against the making of the Order, the Secretary of State assigns the matter of soils and agriculture significant negative weight in the planning balance.

Water

4.93. The Secretary of State notes that in the Applicant's final SoCG with the Environment Agency ("EA") [REP8-015] all matters were shown as agreed, and similarly with NYC, all water environment matters were shown as agreed in the draft SoCG with NYC [REP5-010] which remained the case in the final SoCG with NYC [REP8-016]. [ER 3.13.38 and 3.13.40].

4.94. In respect of flood risk and water quality and resources the ExA concluded that the Proposed Development is in accordance with policies NPS EN-1 and EN-3, and on the matter of harm and benefit that the Applicant's assessment is reliable and there would be a likely minor adverse effect but not significant. The ExA assigned neutral weight to the issue with regard to the making of the Order [ER 3.13.60].

The Secretary of State's Conclusion

4.95. On 25 March 2025, the EA published new data following an updated National Flood Risk Assessment ("NaFRA"), which included the 'Flood Map for Planning – Flood Zones' provided data which shows the extent of land at present day risk of flooding from rivers ("fluvial") and the sea ("tidal"). The Secretary of State asked the Applicant in the information request to explain whether the updates have any implications for the conclusions of the ES, including the ES Chapter 9: Water Environment [APP-029] and the Flood Risk Assessment [REP7-008], and to provide revised documents, if necessary.

4.96. The Applicant submitted a 'Water Environment Supplementary Assessment 2' ("WASA2") [Appendix E in the Applicant's response document] to address the implications of the EA's national flood modelling on the Proposed Development. The Applicant commented that the EA approved site-specific flood model provides the best available information for the assessment of tidal and fluvial flood risk on the site. The updates to the EA's strategic flood models following the update to NaFRA2 are therefore considered not to be relevant with respect to fluvial and tidal flooding and the conclusions of the FRA (supported by approved site-specific flood model) remain unchanged.

4.97. Separately, in respect of surface water flooding, the Applicant commented that the strategic surface water flood model (Risk of flooding from Surface Water ("RoFSW")) dataset refined the extents of elevated surface water flood risk on the Site. At paragraph 2.14 of the WESA2 it is stated that "the assessment of surface water flood risk on the site remains broadly as assessed in the FRA, albeit with an increase in surface water flood extents (due to including an allowance for climate change within the RoFSW modelling)."

4.98. The WESA2 discussed flood mitigation measures. At paragraph 2.21 with respect to flood mitigation measure A, it is confirmed that due to the size of the Site and extensive areas of 'very low' risk, it remains possible to preferentially locate ancillary control equipment in areas of 'very low' surface water flood risk as part of the detailed site design. With respect to flood mitigation and adaptation measure B, the WESA2 at paragraph 2.22 comments that the extents of the elevated surface water flood risk has increased in the substation and BESS compound area taking into account the latest RoFSW dataset (which includes climate change). The WASA2 considered that it would still be possible to preferentially locate equipment in areas of 'very low' surface water flood risk as part of the detailed site design. On the matter of flood mitigation and adaption measure C, the WESA2 concluded at paragraph 2.24 that raising ancillary control equipment +0.3m (and up to +0.6m) above

existing ground level would continue to provide sufficient resilience to surface water flood risk. The modelled surface water flood depths remain consistent with the FRA.

4.99. The WESA2 concluded at paragraph 3.3 with respect to surface water flood risk the strategic surface water flood model (RoFSW dataset) refined the extents of elevated surface water flood risk on the site, and that although the extents of the elevated risk of surface water flooding have changed with the updated EA RoFSW dataset, the flood mitigation and adaption measures set out in the FRA remain appropriate.

4.100. The EA provided an update[10] on 5 November 2025 in response to the consultation stating that, in respect of the Applicant's FRA, the "publication of the updated Flood Map for Planning as part of the National Flood Risk Assessment (NaFRA2) in March 2025 does not change the outcomes". EA stated it was satisfied with the Applicant's hydraulic modelling and it considered that the mitigation principles in the FRA remain valid.

4.101. Taking into account the supplementary information received in the WESA2, as well as EA's response to the consultation, the Secretary of State is satisfied that mitigation and adaptation measures set out can be secured in the detailed design, under Requirement 3 (detailed design approval) and Requirement 21 (Flood Mitigation Strategy). The Secretary of State agrees with the conclusions of the ExA and assigns neutral weight to the making of the Order.

5. Habitat Regulation Assessment

5.1. The Secretary of State has undertaken a Habitats Regulations Assessment ("HRA") and has carefully considered the information presented during the Examination, including the HRA Report [REP8-013] as submitted by the Applicant, the Report on the Implications for European Sites ("RIES") [PD-008] as produced by the ExA, the ES, representations made by IPs, and the ExA's Report.

5.2. The Secretary of State's HRA is published alongside this letter. The paragraphs below should be read alongside the HRA which details in full the Secretary of State's reasoning for the conclusions set out in the HRA.

5.3. The Proposed Development had the potential to have a Likely Significant Effect ("LSE") on the following protected sites in regard to project alone effects and effects in-combination with other plans or projects:

- Humber Estuary Special Projection Area (SPA)
- Humber Estuary Ramsar site
- Lower Derwent Valley SPA
- Lower Derwent Valley Ramsar site

5.4. Following updates made to assessments by the Applicant during Examination, including provision of mitigation for lapwings, the conclusions provided by the Applicant in the HRA Report [REP8-013] were agreed by NE. The ExA concluded that Adverse Effects on Integrity (AEoI) could be excluded.

[10] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001141-C2-006%20-%20Environment%20Agency.pdf

5.5. Based on the information available to him, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not cause a AEoI of any feature of any protected sites.

6. Compulsory Acquisition, Land Rights and Related Matters

6.1. The ExA sets out the legislative and guidance background [ER 6.2.1 et seq] which he has considered.

6.2. The ExA notes that none of the land included in the CA request is Crown Land, National Trust Land, Open Space or common land [ER 6.3.2].

6.3. The ExA confirms that, to support the delivery of the Proposed Development, the Applicant is not seeking to acquire the freehold of any land but that it is seeking the following powers [ER 6.4.3]:

- Permanent acquisition of new rights (including restrictive covenants) (article 23 of the dDCO) – shown edged red and shaded blue on the Land and Crown Land Plan;
- Acquisition of subsoil (article 26 of the dDCO) – shown edged red and shaded blue on the Land and Crown Land Plan as it is presented together with new rights on the top section of the relevant plots; and
- Temporary use of land to permit construction and maintenance where the applicant has not yet exercised powers of compulsory acquisition (articles 30 and 31 of the dDCO) – shown blue where for a specific plot both temporary possession and new rights are sought.

6.4. The ExA concluded that there is accordance in the consideration of alternatives and site selection, based on a comparison of the Applicants approach with the policy position set out in EN-1 and EN-3 [ER 6.5.8]. Regarding the availability and adequacy of funding, the ExA was satisfied that the necessary funds would be available to the Applicant to meet the likely costs of CA [ER 6.5.13].

6.5. Regarding Statutory Undertakers (“SU”) land, rights and apparatus, as referred to previously, the only SU not to formally withdrawn it objection at the close of the Examination was Network Rail Infrastructure Limited (“NR”). The ExA set out reasons for this including that NR was hopeful that the parties would reach agreement during the Examination [ER 6.5.23].

6.6. At the close of the Examination, the Secretary of States noted that, except for NR, there were no outstanding objections from any Affected Persons (“APs”) or SUs [ER 6.5.3 and 6.5.49]. The ExA also confirmed that the applicant had options for leases secured for all those with a freehold interest in the land, except for Drax Power limited (“DPL”) [ER 6.5.48].

6.7. In view of this, the Secretary of State asked the Applicant and NR to provide an update on whether any agreement has been reached regarding respective Protective Provisions (“PPs”) in its information request. In addition, the Applicant and DPL were requested to provide an update on whether any agreement has been reached regarding the land rights for 12 of the 19 plots, which are owned by DPL, and which would facilitate the Proposed Development’s grid connection and Drax substation.

6.8. The Applicant responded that it had stated to NR that it only had rights of access over land within the Proposed Development’s Order Limits and no land or physical assets within the

Order Limits which in the Applicant's view could not coexist with the Proposed Development as there is no cause or intention of extinguishing these. As such, the Applicant did not consider PPs were required for NR. The Applicant also highlighted its view that NR could not qualify which elements of its property may be so affected by the Proposed Development such that there would be serious detriment to NR's undertaking. The Applicant concludes that its position has not changed since Deadline 9 [REP9-013] in which it stated that no agreement had been reached with NR, that NR's proposed PPs were disproportionate and inapplicable to the Proposed Development, and that the Applicant's preferred PPs should be retained in the Order.

6.9. NR responded[11] to the Secretary of State's information request that it was hopeful agreement would be reached with the Applicant but that it would not withdraw its objection to the Proposed Development until this occurred. NR's position therefore remained that its preferred PPs as per REP2-033 and attached to its response should be included in the Order.

6.10. The Applicant and NR[12] also both responded to the consultation on this matter on 14 November 2025. The Applicant again stated that no agreement had been reached, that its position remained as per Deadline 9, and that the discussions do not need to be resolved prior to the determination of the Application because they do not relate to concerns about any impacts on the operational assets or rights required to facilitate the operation of the railway network. NR's response stated that its position remained as per its response to the information request. NR further requested that limb (b) of the definition "railway property" be included in the PPs as it was omitted from a previous version of the dDCO. NR considered this extension of the definition is required to allow it to comply with its obligations to third parties to maintain specific works.

6.11. In respect of DPL, DPL did not respond to the information request or the consultation. However, the Applicant's response to the information request stated that negotiations with DPL were in advanced stages, and it was confident a voluntary legal agreement can be reached between the parties.

The Secretary of State's conclusion

6.12. The Secretary of State has noted the responses received. Whilst some negotiations are ongoing, the Secretary of State agrees with the ExA that the powers sought are necessary and further that there would be no serious detriment with the inclusion of the Applicant's preferred PPs for NR's undertakings [ER 6.5.26 et. seq]. The Secretary of State agrees with the Applicant [paragraph 2.1.37 onwards of REP9-013, ER 6.5.25] that paragraph 92(4) of the PPs maintains the complete prohibition on the Applicant's ability to unilaterally extinguish NR's rights over the relevant third-party plots NR is concerned with. As such, the Secretary of State agrees with the ExA and the Applicant, and he has omitted limb (b) of "railway property" from the PPs.

6.13. The Secretary of State agrees with the ExA's conclusions that there is a compelling case in the public interest for the CA and TP powers sought in respect of the relevant land shown in

[11] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001118-C1-005-%20Network%20Rail%20Infrastructure%20Limited.pdf
[12] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010140-001153-C2-015%20-%20Network%20Rail%20Infrastructure%20Limited.pdf

the land plans and that CA powers, PPs, TP powers, powers authorising the CA of SUs land and rights over land, and the powers authorising the extinguishment of rights and removal of apparatus of SU's, be granted. The Secretary of State notes that the granting of powers over DPL's plots does not prohibit a voluntary agreement being reached which override powers conferred in the Order.

6.14. 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 that the Secretary of State should grant consent with an Order in the form attached at Annex C to 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:

- Need - substantial positive weight [ER 3.2.31, ER 5.4.5]
- Biodiversity and ecology – moderate positive weight [ER 3.4.47, ER 5.4.5]
- Health and safety: public health – neutral weight [ER 3.6.67]
- Health and safety: battery energy storage system safety – neutral weight [ER 3.6.75]
- Health and safety: aviation safety – limited negative weight [ER 3.6.88, ER 5.4.5]
- Heritage - limited negative weight [ER 5.3.11, ER 5.4.5]
- Landscape and visual – moderate negative weight [ER 3.8.64, ER 5.4.5]
- Noise and nuisance – neutral weight [ER 3.9.30, ER 5.3.10]
- Socio-economic – limited positive weight [ER 3.10.25, ER 5.4.5]
- Traffic and transport - limited negative weight [ER 3.12.28, ER 5.4.5]
- Water – neutral weight [ER 3.13.60, ER 5.3.10]

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

- Alternatives – consistent with policy and so carries no weight (paragraph 4.21)
- Greenhouse gases – included in consideration of the need case so carries no weight (paragraph 4.35)
- Soils and agriculture – significant negative weight ascribed instead of great negative weight (paragraph 4.92)

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

7.5. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development, namely the substantial positive weight ascribed to its need and the moderate positive weight ascribed to the matter of biodiversity and ecology, outweigh the totality of its adverse impacts.

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

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 NYC, the NPSs, the NPPF, 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.

7.8. 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 document.

8. Other Matters

Equality Act 2010

8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender reassignment; disability; marriage and civil partnerships[13]; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts highlighted during the Examination [ER 8.2.7]. There can be detriment to affected parties but, if there is, it must be acknowledged and the impacts on equality must be considered.

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

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

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

protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

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

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

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:

- The Secretary of State has amended Article 6 to remove the exemption from consent to transfer the benefit of the order to a holding company, associated company or subsidiary of the undertaker, because the Secretary of State is not satisfied that such a transferee will be suitable where it does not also hold a licence under the Electricity Act 1989;
- The Secretary of State has removed Article 7 Planning Permission because it is not necessary.
- The Secretary of State has inserted a new Article 7 'Defence to proceedings in respect of statutory nuisance', see paragraph 4.67 for details.
- The Secretary of State has removed Article 8(a) and (b) referring to section 23 and section 66 respectively of the Land Drainage Act 1991 because no written consent was secured agreeing to their removal.
- The Secretary of State has inserted at Article 9(4) a definition to clarify apparatus in this article.
- The Secretary of State has inserted Article 16(4)(c) to provide for site notices
- The Secretary of State has amended Article 16 to confirm details of works and discharges of water.
- The Secretary of State has amended Article 17 to remove the deemed consent to discharge of water, because the Secretary of State is not satisfied that the owner of any watercourse, public sewer or drain 26 that may be affected has been made aware of, and had a chance to object, to the deemed consent provision
- The Secretary of State has inserted Article 18(8) and (9) to clarify liability and powers in this article.
- The Secretary of State has inserted Article 20(2) and deleted Article 34 to confirm no mines or minerals are included the power to acquire compulsorily.
- The Secretary of State has inserted Article 37(5) to provide for consent of the highway authority.

- The Secretary of State has amended Paragraph 1 of Schedule 1 to include the definitions of inverter, solar panel, substation, switchgear, transformer and trenchless installation techniques. It is noted they describe normal engineering functions or are bespoke to this development. It is also noted that no issues were raised in relation to these elements being required for the development so for clarity and surety the Secretary of State is happy to insert these definitions.
- The Secretary of State has amended Paragraph 1 of Schedule 1, the definition of "electrical cables". It is noted that no issues were raised in relation to the engineering functions required for the development and there are no conflicts in planning terms. For clarity and surety, the Secretary of State is happy to insert this definition.
- The Secretary of State has amended Paragraph 3(1) of Schedule 2 to require details of security measures and mitigation measures to be approved prior to commencement.
- The Secretary of State has amended Paragraph 6(1) of Schedule 2 to ensure the CTMP is in accordance with the outline CTMP.
- The Secretary of State has amended Paragraph 7(1) of Schedule 2 to ensure appropriate measures for the OEMP.
- The Secretary of State has amended Paragraph 9 of Schedule 2 to provide for appropriate consultation and details of the battery safety management plan.
- The Secretary of State has amended Paragraph 10 of Schedule 2 to provide for the latest BNG metric and agreed details for the landscape and ecological management plan.
- The Secretary of State has amended Paragraph 23 of Schedule 2 in accordance with the information request and consultation.
- The Secretary of State has amended Schedule 10 to clarify arbitration rules and provide for a determination on the confidentiality of a hearing.

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.

10. Challenge to decision

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

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

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

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

https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010140

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
AP	Affected Person
AEoI	Adverse Effects on Integrity
BESS	Battery Energy Storage System
BSMP	Battery Safety Management Plan
BGA	British Gliding Association
BGC	Burn Gliding Club
CA	Compulsory Acquisition
CAA	Civil Aviation Authority
CAA AAT	Civil Aviation Authority's Airfield Advisory Team
CAST	Combined Aerodrome Safeguarding Team
CEA	Cumulative effects assessment
CP2030	Clean Power 2030 Action Plan
DCO	Development Consent Order
DML	Deemed Marine Licence
DPL	Drax Power Limited
EA	Environment Agency
EEM	Embedded environmental measures
EFATO	Engine Failure After Take-off
EIA	Environmental Impact Assessment
ES	Environmental Statement
ExA	The Examining Authority
HALT	Helios Agricultural Land Threat
HE	Historic England
HRA	Habitats Regulations Assessment
HSE	Health and Safety Executive
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
IROPI	Imperative Reasons of Overriding Public Interest
ISH1	Issue Specific Hearing 1
ISH2	Issue Specific Hearing 2
LIR	Local Impact Report
LPA	Local Planning Authority
LSE	Likely Significant Effect
MMO	Marine Management Organisation
MW	Megawatt

NaFRA	National Flood Risk Assessment
NE	Natural England
NFCC	National Fire Chefs Council
NR	Network Rail
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NSN	National Site Network
NSIP	Nationally Significant Infrastructure Project
NYC	North Yorkshire Council
NYFRS	North Yorkshire Fire and Rescue
PA2008 / the 2008 Act	The Planning Act 2008
PoC	Point of Connection
PP	Protective Provisions
PSED	Public Sector Equality Duty
PV	Photovoltaic
RIES	Report on the Implications for European Sites
RoFSW	Risk of Flooding from Surface Water
RR	Relevant Representation
SAC	Special Area of Conservation
SAT	Single Axis Tracker
SNCB	Statutory nature conservation body
SoCG	Statement of Common Ground
SPA	Special Protection Area
SSSI	Site of special scientific interest
SU	Statutory undertaker
The EIA Regulations	The Infrastructure Planning Environmental Impact Assessment Regulations 2017
The Habitats Regulations	The Conservation of Habitats and Species Regulations 2017
The TCPA	The Town and Country Planning Act 1990
The Ramsar Convention	The Convention on Wetlands of International Importance 1972
TP	Temporary Possession
WESA2	Water Environment Supplementary Assessment 2
WMS	Written Ministerial Statement