



Department for  
Energy Security  
& Net Zero

# Habitats Regulations Assessment for an Application Under the Planning Act 2008

## Dean Moor Solar Farm

Regulation 63 of the Conservation of  
Habitats and Species Regulations 2017

2 July 2026

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## List of abbreviations

Term	Abbreviation
Adverse Effect on Integrity	AEoI
Alternating Current	AC
Appropriate Assessment	AA
Biosecurity Management Plan	BMP
Construction Environmental Management Plan	CEMP
Development Consent Order	DCO
Environmental Statement	ES
European Economic Area	EEA
Examining Authority	ExA
Functionally Linked Land	FLL
framework Decommissioning Management Plan	fDMP
Habitat Regulations Assessment	HRA
hectares	ha
Interested Parties	IPs
invasive non-native species	INNS
kilovolts	kV
Landscape Ecological Management Plan	LEMP
Likely Significant Effect	LSE
Nationally Significant Infrastructure Project	NSIP
National Site Network	NSN
Natural England	NE
nautical mile	nm
megawatts	MW
Point of Connection	POC
Report on the Implications for European Sites	RIES
River Derwent and Bassenthwaite Lake	RD&BL
Solar Photovoltaic	PV
Special Areas of Conservation	SACs
Special Protection Areas	SPAs

Statement of Common Ground	SoCG
Statutory Nature Conservation Body	SNCB
Supplementary Advice on Conservation Objectives	SACO
The Planning Inspectorate	PINS
The Secretary of State for Energy Security and Net Zero	The Secretary of State
United Kingdom	UK

## 1 Introduction

### 1.1 Background

This is a record of the Habitats Regulations Assessment (“HRA”) that the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) has undertaken under the Conservation of Habitats and Species Regulations 2017<sup>1</sup> (“the Habitats Regulations”) as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 (“the 2019 Regulations”) in respect of the Development Consent Order (“DCO”) for Dean Moor Solar Farm and its associated infrastructure (the “Project”). The Examining Authority (“ExA”) defines this as the “Proposed Development”. For the purposes of these Regulations, the Secretary of State is the competent authority.

The Project comprises the construction, operation, and decommissioning of a solar photovoltaic (‘PV’) energy generating station with a total capacity exceeding 50MW comprising solar PV arrays, grid connection infrastructure, associated infrastructure, and green infrastructure.

As the solar generating station would have a capacity of more than 50MW, the Project falls within s15(2) of Planning Act 2008 and meets the definition of an NSIP set out in s14(1)(a) of the Planning Act 2008<sup>2</sup>. As such, the Project requires development consent in accordance with s31 of Planning Act 2008.

The Project was accepted by the Planning Inspectorate (“PINS”) on 15 April 2025 and one Inspector was appointed as the Examining Authority (“ExA”) for the Application. The Examination of the Project Application began on 22 July 2025 and concluded on 5 January 2026. The ExA submitted its report of the Examination including its recommendation (“the ExA’s Report”) to the Secretary of State on 02 April 2026. Numbered references to the ExA’s Report are presented in the format “[ER \*.\*]”.

This HRA also contains a consideration of the potential effects of the Project upon protected sites in European Economic Area (“EEA”) States (“transboundary sites”). This is described in more detail in Section 6 of this document.

### 1.2 Habitats Regulations Assessment

The Habitats Regulations aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. In the UK, the Habitats Regulations apply as far as the 12 nautical miles (nm) limit of territorial waters.

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<sup>1</sup> <https://www.legislation.gov.uk/ukxi/2017/1012/contents>

<sup>2</sup> Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025 changes the threshold to 100MW for solar. As this application was submitted before the Order came into force, the 50MW threshold applies

The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation (“SACs”). The Regulations also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas (“SPAs”). SACs and SPAs together, referred to as European sites in legislation, form part of the United Kingdom (UK’s) National Site Network (“NSN”).

The Convention on Wetlands of International Importance 1972 (“the Ramsar Convention”) provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively referred to in this document as “protected sites”).

Regulation 63 of the Habitats Regulations provides that:

*...before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.*

And that:

*In the light of the conclusions of the assessment, and subject to regulation 64, the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).*

This Project is not directly connected with, or necessary to, the management of a protected site. The Habitats Regulations require that, where the Project is likely to have a significant effect on any such site, alone or in-combination with other plans and projects, an appropriate assessment (“AA”) is carried out to determine whether the Project will have an adverse effect on the integrity (“AEol”) of the site in view of that site’s Conservation Objectives. The following assessments are collectively referred to as an HRA:

- Stage 1: Assessment of likely significant effects (“LSE”);
- Stage 2: Appropriate Assessment to determine whether there is an AEol of a protected site;
- Stage 3: Assessment of Alternative Solutions;
- Stage 4: Imperative Reasons of Overriding Public Interest; and
- Stage 5: Compensatory measures.

Consent for the Project may be granted only after having ascertained that it will not adversely affect the integrity of protected sites, and no reasonable scientific doubt remains.

The Secretary of State has had regard to relevant guidance on the application of HRA published by PINS (2025)<sup>3</sup> and the European Commission (2019)<sup>4</sup>, together with published joint guidance by Department for Environment Food and Rural Affairs (“Defra”), Natural England (“NE”), the Welsh Government and Natural Resources Wales (2021) on ‘Habitats Regulations Assessment protecting a European site’<sup>5</sup>.

There are no parallel consents required for the Project which would require an additional HRA to be carried out by any other competent authority.

With regards to the ruling of the European Court of Justice (ECJ) in *People Over Wind, Peter Sweetman v Coillte Teoranta (C-323/17)* (the Sweetman Judgement), in reaching his conclusions regarding LSE, the Secretary of State took no account of measures intended to avoid or mitigate effects on any protected site.

### 1.3 Site conservation objectives

Where an AA is required in respect of a protected site, Regulation 63(1) of the Habitats Regulations requires that it be an AA of the implications of the plan or project for the site in view of its conservation objectives. Government guidance also recommends that in carrying out the LSE screening, applicants must check if the proposal could have a significant effect on a protected site that could affect its conservation objectives.

Defra Guidance indicates that disturbance to a species or deterioration of a protected site must be considered in relation to the integrity of that site and its conservation objectives<sup>6</sup>. It states that *“the integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was designated”*.

Conservation objectives have been established by NE. When met, each site will contribute to the overall favourable conservation status of the species or habitat feature across its natural range. Conservation objectives outline the desired state for a protected site, in terms of the interest features for which it has been designated. If these interest features are being managed in a way which maintains their nature conservation value, they are assessed as being in a ‘favourable condition’. An AEol is likely to be one which prevents the site from making the same contribution to favourable conservation status for the relevant feature as it did at the time of its designation. There are no set thresholds at which impacts on site integrity are considered adverse. This is a matter for interpretation on a site-by-site basis, depending on the designated feature and nature, scale, and significance of the impact.

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<sup>3</sup> Nationally Significant Infrastructure Projects: Advice on Habitats Regulations Assessments - GOV.UK

<sup>4</sup> European Commission (2019) Managing Natura 2000 sites: The provisions of Article 6 of the Habitats Directive 92/43/EEC:  
[https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/EN\\_art\\_6\\_guide\\_jun\\_2019.pdf](https://ec.europa.eu/environment/nature/natura2000/management/docs/art6/EN_art_6_guide_jun_2019.pdf)

<sup>5</sup> Habitats regulations assessments: protecting a European site [HTML] | GOV.WALES

<sup>6</sup> <https://www.gov.uk/guidance/appropriate-assessment>

NE has issued generic conservation objectives, which should be applied to each interest feature of the site. Supplementary advice on conservation objectives (“SACOs”) for each site underpins these generic objectives to provide site-specific information and give greater clarity to what might constitute an adverse effect on a site interest feature. SACOs are subject to availability and are currently being updated on a rolling basis.

Where supplementary advice is not yet available for a site, NE advises that HRAs should use the generic objectives<sup>7</sup> and apply them to the site-specific situation. For SPAs, the overarching objective is to avoid the deterioration of the habitats of qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Habitats Regulations. This is achieved by, subject to natural change, maintaining and restoring:

- the extent and distribution of the habitats of the qualifying features;
- the structure and function of the habitats of the qualifying features;
- the supporting processes on which the habitats of the qualifying features rely;
- the populations of the qualifying features; and
- the distribution of the qualifying features within the site.

For SACs, the overarching objective is to avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving favourable conservation status of each of the qualifying features. This is achieved by, subject to natural change, maintaining and restoring:

- the extent and distribution of the qualifying natural habitats and habitats of qualifying species;
- the structure and function (including typical species) of qualifying natural habitats;
- the structure and function of the habitats of qualifying species;
- the supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- the populations of qualifying species; and
- the distribution of qualifying species within the site.

The conservation objectives and, where available, supplementary advice on conservation objectives have been used by the Secretary of State to consider whether the Project has the potential to have an AEoI of sites, either alone or in-combination with other plans or projects. The SACOs relevant to this HRA, as published by NE and the Joint Nature Conservation Committee are referenced in Table 1 of this document for protected sites considered as part of the AA for the Project.

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<sup>7</sup> <http://publications.naturalengland.org.uk/publication/6734992977690624?cache=1656417868.31>

## 1.4 The Report on the Implications for European Sites and statutory consultation

Under Regulation 63(3) of the Habitats Regulations the competent authority must consult the appropriate Statutory Nature Conservation Body (“SNCB”) and have regard to any representation made by that body within such reasonable time as the authority specifies. NE is the SNCB for England and for English waters within the 12 nm limit.

The ExA, with the support of the Planning Inspectorate’s Environmental Services Team, produced a Report on the Implications for European Sites (“the RIES”) [PD-016]. The purpose of the RIES was to compile, document, and signpost information submitted by the Applicant and IPs during the Examination (up to 28 October 2025). It was issued to ensure that Interested Parties (IPs), including NE as the SNCB under Regulation 5 of the Habitats Regulations, had been formally consulted on Habitats Regulations matters in respect of the Application for the Project during the Examination.

The RIES was published on the PINS NSIP website and the ExA notified IPs that it had been published. Consultation on the RIES was undertaken between 18 November 2025 and 22 December 2025 and comments were received from the Applicant [REP6-016] and NE [REP6-023].

For the avoidance of doubt, the Secretary of State considers all representations made by all IPs on HRA matters throughout the entirety of the Examination process. The Secretary of State does not rely solely on consultation on the RIES to inform his conclusions on matters relevant to the HRA, but he does consider that the RIES can formally support his duties to consult on AAs. The Secretary of State has undertaken further consultation during the determination period and considers that [these], in addition to the extensive consultation undertaken during the Examination have adequately fulfilled his duties to consult on the AA under Regulation 63(3) of the Habitats Regulations and Regulation 28(4) of the Offshore Habitats Regulations.

## 1.5 Documents referred to in this HRA

This HRA has taken account of, and should be read in conjunction with, the documents produced as part of the Application and Examination, which are available on the PINS NSIP website<sup>8</sup>. In particular:

- the ExA’s Report;
- the RIES (PD-016);
- the Applicant’s assessment of effects, including:
  - the Applicant’s Information to inform a Habitats Regulations Assessment Report (“HRA Report”) [REP5-018];
- the Environmental Statement (“ES”) [APP-031 – APP-175]; and
- the Statement of Common Ground (“SoCG”) with NE [REP4-011]

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<sup>8</sup> <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010140>

- Plus, all other information submitted during the Examination and during the Secretary of State's consideration of the Application.

The final signed SoCG between the Applicant and NE [REP4-011] was submitted at Deadline 4. The SoCG confirmed that all HRA matters were agreed between the two parties, and that there were no HRA matters outstanding between them in respect of the Project.

### Structure of this HRA

The remainder of this HRA is presented as follows:

- Section 2: provides a general description of the Project;
- Section 3: presents an assessment of the extent to which the Project could have a significant effect on protected sites and qualifying features alone or in-combination with other plans or projects;
- Section 4 and 5: presents an assessment to the extent which the project could have an adverse effect on the site integrity along or in-combination with other plans and projects;
- Section 6: presents a transboundary assessment; and
- Section 7: presents the Secretary of State's conclusions;

## 2 Project description

The Project is a low-carbon, ground-mounted solar PV generating station with associated infrastructure, including an on-site grid connection, with an operational lifespan of up to 40 years.

It is designed to deliver 150MW of alternating current (“AC”) electricity based on a grid connection agreement with Electricity North West Limited, although the application seeks consent for a generating station over 50MW with no specified output limit.

A parameter-based (“Rochdale envelope”) approach has been adopted to allow flexibility in design and to accommodate technological advancements. The ES defines maximum parameters and assesses worst-case effects, with detailed design subject to approval under Schedule 2, Requirement 3 of the DCO.

The final iteration of the design is secured through Requirements and control documents listed in Schedule 2 of the DCO.

ES Chapter 3 [APP-034] provides a full description of the Project.

The main works comprise:

- **Work No. 1:** A ground-mounted solar PV generating station (>50MW), including solar panels, mounting structures and power conversion systems.
- **Work No. 2:** Grid connection infrastructure, including up to two substations, a control building, and a Point of Connection (“POC”) compound with electrical equipment (transformers, circuit breakers, harmonic filters), alongside communication infrastructure, security fencing and cables.
- **Work No. 2A:** Up to two POC masts.
- **Work No. 3:** Electrical cabling connecting the generating station and grid infrastructure, together with internal access tracks and crossings, drainage infrastructure, security and monitoring systems (including CCTV and lighting), operational facilities, and landscaping, drainage and biodiversity mitigation works.
- **Work No. 4:** Up to five temporary construction compounds, including site offices, welfare facilities, storage areas, parking and security infrastructure.
- **Work No. 5:** Works to facilitate vehicular access, including new or improved access points, road widening, visibility splays and traffic management measures.
- **Work No. 6:** Green infrastructure works, including landscaping, habitat creation and management, drainage features, watercourse enhancements, permissive paths, and boundary treatments.

Further associated development is set out in Schedule 1 of the DCO. Environmental mitigation and enhancement measures would be delivered in accordance with the Landscape Strategy Plan (“LSP”) [REP2-046] and managed through the outline Landscape and Ecological Management Plan (“oLEMP”) [REP5-016].

### 2.1 Project location

The site lies within the Cumberland Council administrative area and is wholly in England. It lies within close proximity to the English administrative areas of Northumberland County Council, Northumberland National Park Authority, Westmorland and Furness Council and the Lake District National Park, and the Scottish administrative areas of Dumfries and Galloway Council and Scottish Borders Council.

ES Chapter 3 [APP-034] describes the site and its surroundings. The site extends to approximately 276.5ha and is located around 600m east of Gilgarran, 1km south-west of Branthwaite, and approximately 5km inland from the coast at Workington. The largely rural area includes scattered properties, some in close proximity to the site.

The landscape is characterised by undulating pastoral land and moorland, generally falling from south to north, with a plateau near the southern boundary. Features include hedgerows, scrub, woodland (including ancient woodland to the west), several watercourses, and overhead electricity lines supported by wooden and lattice pylons.

The site is bounded by rural roads on three sides, with Gilgarran Road bisecting it east–west. Land to the north largely comprises restored opencast mine workings and the operational Potato Pot Wind Farm, while land to the south is partly used for sheep grazing. Dean Moor Motorcross Park lies to the south of Dean Cross Road, outside the Order limits.

The 'Order Limits' are outlined in red in Figure 1.

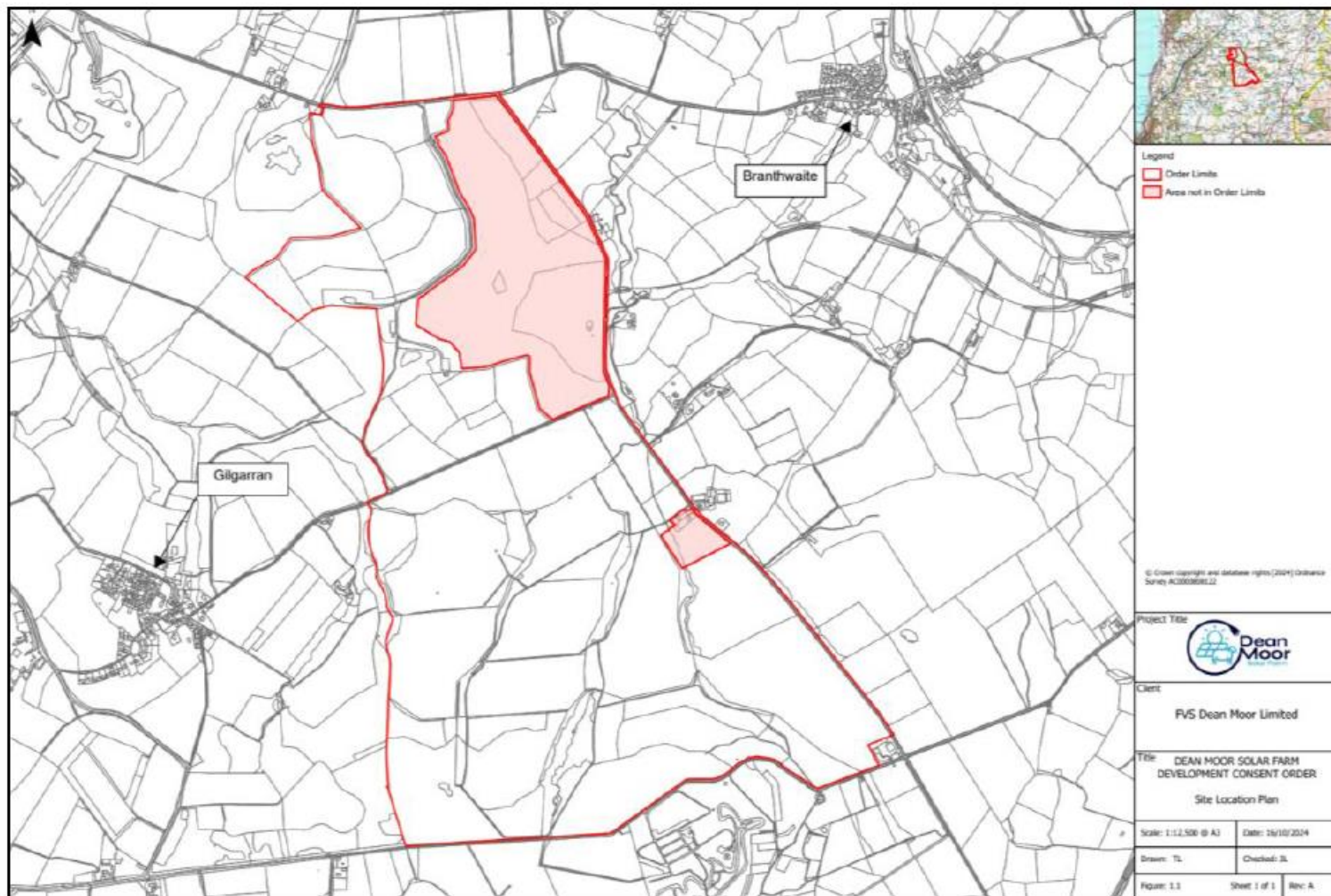


Figure 1 The Order Limits (note that areas shaded red do not form part of the order limits)

## 2.2 Changes to the Application during Examination

Although no formal change requests were made by the Applicant, changes to the key application documents, including the wording of the draft DCO, were submitted and updated during the examination. The changes principally sought to address points raised by the ExA and IPs and to update or provide additional information resulting from discussions that had occurred during the examination.

The Applicant's changes to the application documents, together with any additional information submitted, are detailed in the Final Application Guide submitted at deadline 6 [REP6-002]. This provides a guide to all documents submitted as part of the application and was updated throughout the examination. It provides a full record of all documentation submitted to the examination.

The Secretary of State has considered these changes, and concludes that the proposed changes, alone or cumulatively, are not so substantial that they would constitute a materially different project and that the proposed changes would not result in any change, or any new significant effects for any topic assessed within the ES or the HRA Report.

### 3 Stage 1: Screening for Likely Significant Effects (“LSEs”)

Under Regulation 63 of the Habitats Regulations, the Secretary of State must consider whether the Project will have an LSE on a protected site, either alone or in-combination with other plans or projects. The purpose of this section is to identify any LSEs on protected sites that may result from the Project and to record the Secretary of State’s conclusions on the need for an AA.

#### 3.1 Protected sites

The spatial relationship between the Order Limits of the Project and protected sites is shown in Figure 2 below:

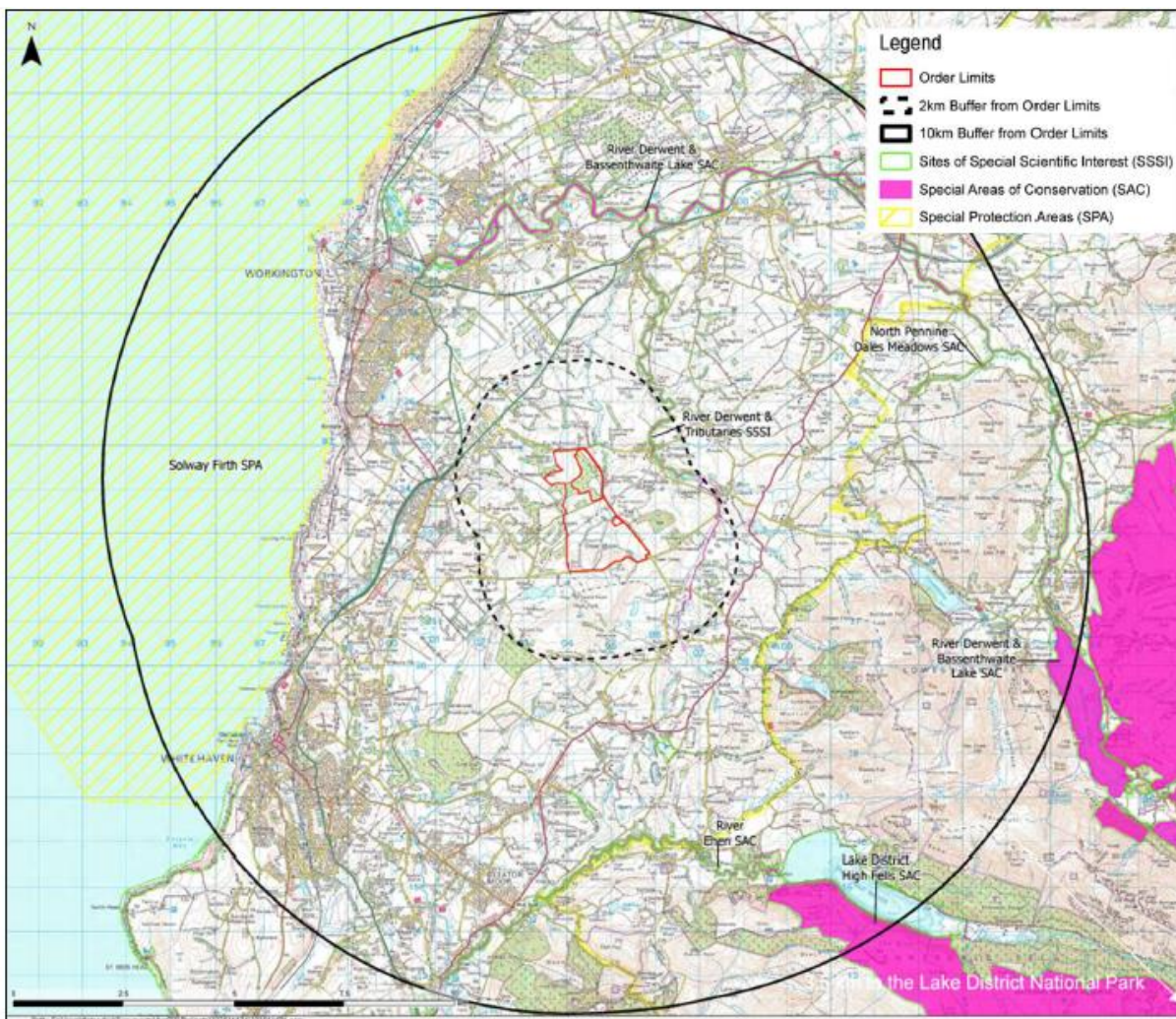


Figure 2: Spatial relationship between the Projects Order Limits and protected sites, taken from [REP5-018]

As illustrated in Figure 2, the Applicant used a search area of 10km to identify relevant protected sites, in which five protected sites fell within this Zone of Influence (“ZOI”):

- River Derwent and Bassenthwaite Lake (“RD&BL”) SAC (1.2km away and hydrologically connected via watercourses)
- Solway Firth SPA (5km away)
- River Ehen SAC (6.1km away)
- Lake District High Fells SAC (8km away)
- North Pennine and Dales Meadows SAC (8.9km away)

Section 3 of the HRA Report [REP5-018] sets out the process used to identify sites and features for assessment. This included a scoping exercise to determine whether the Project could give rise to impact pathways associated with the pressures and threats for which European sites are designated.

This exercise concluded that there were no relevant impact pathways by which the Project could affect the following sites (see Table 3.3 and paragraph 4.1.2 of the HRA Report [REP5-018]):

- River Ehen SAC – designated for the presence of freshwater pearl mussel and Atlantic salmon, ruled out due to no hydrological linkage to the Project .
- Lake District High Fells SAC - designated for a range of upland habitats including heathland, tarns (waterbodies), grassland, bogs, scree, woodland, and tall herb communities; scoped out on the basis of distance.
- North Pennine Dales Meadows SAC - designated due to the presence of mountain hay meadows and Molinia meadows, scoped out on the basis of distance.

However, the Applicant identified possible pathways for LSE on the RD&BL SAC and the Solway Firth SPA as discussed in section 3.2.

### **3.1.1 Appropriateness of search area and protected sites**

The ExA questioned the NE on the appropriateness of the 10km search area for identifying protected sites ([PD-007] – Q1.0.15), particularly in light of references in the HRA Report (e.g. paragraph 4.3.14 and Appendix C) to NE advice suggesting potential functional linkage with Morecambe Bay and Duddon Estuary SPA, which was not included in the assessment. This concern was also raised by Cumberland Council in its LIR [REP2-058].

NE [REP2-060] confirmed that the 10km zone of influence is appropriate and precautionary, including for mobile species and functionally linked land. In relation to Morecambe Bay and Duddon Estuary SPA, NE advised that extending the search beyond 10km (e.g. to reflect the up to 50km foraging range of herring gull) would not be reasonable and agreed that all relevant sites and features had been identified.

While Cumberland Council initially shared these concerns, it subsequently confirmed ([REP4-030], [REP3-019]) that it was satisfied with the HRA Report [REP5-018] and aligned with NE’s position. No additional protected sites were identified by IPs.

Subsequently, the ExA [ER 4.2.8] was satisfied that all relevant protected sites had been identified.

Based on the information before him, the views of IPs and the ExA, the Secretary of State is content that the correct protected sites have been identified.

## 3.2 Likely Significant Effects alone

The Applicant identified the effects considered to have the potential to result in LSEs, from the Project alone in Sections 4 of the HRA Report [REP5-018].

The pressures considered by the Applicant in the HRA Report [REP5-018] to have the potential to result in LSEs were:

- Pollution to groundwater (construction)
- Siltation (construction)
- Change in species distribution (construction)
- Other ecosystem modifications (impacts to functionally linked land) (construction and operation)

Section 4.4 of the HRA Report provides the screening conclusions provided by the Applicant. Due to hydrological linkage as well as recordings of Herring Gull within the Order Limits, the potential for LSE alone was identified for the following two protected sites:

- River Derwent and Bassenthwaite Lake SAC
- Solway Firth SPA

### 3.2.1 Decommissioning

The HRA Report did not assess decommissioning impacts, which the ExA queried ([PD-016] – Q.1).

The Applicant explained that decommissioning phase impacts were generally expected to be similar or less to those during construction and that, on this basis, there was no potential for LSE to occur in respect of European sites [REP6-016].

The ExA [ER 4.2.24; 4.3.11] considered that, given the reliance on mitigation secured through the framework Decommissioning Management Plan (“fDMP”), there would be a potential for LSE in the decommissioning phase, in relation to the construction pathways screened in by the Applicant.

In relation to the Solway Firth SPA, the ExA [ER 4.2.25; 4.3.5] considered that decommissioning works had the potential to affect the ability of the site to support the herring gull feature of the SPA, for example through disturbance and displacement. The ExA therefore recommended that this phase be included within the assessment of ‘Other ecosystem modifications’ affecting the herring gull feature of the SPA.

Based on the information before him, the Secretary of State agrees with the ExA that impact pathways associated with the decommissioning phase have the potential for LSE, given their similarity in scale and magnitude to construction impacts.

### 3.2.2 Invasive non-native species

The ExA questioned ([PD-016] – Q.3) why the HRA Report ([REP5-018] – Table 3.3) did not assess impacts from the spread of invasive non-native species (“INNS”) to the RD&BL SAC, given that the outline Construction Environmental Management Plan (“oCEMP”)[AS-026] secures a Biosecurity Management Plan (“BMP”). The Applicant [REP6-016] confirmed that no INNS are present on site and that the BMP is a precautionary, best-practice measure rather than mitigation for European sites.

The ExA [ER 4.2.18] considered that the BMP, secured through the CEMP, constitutes additional mitigation. For this reason is concluded that, on a precautionary basis, this impact pathway should be included in the LSE assessment and taken forward to AA at the construction stage for the aquatic features of the RD&BL SAC.

Based on the information before him, the Secretary of State agrees with the ExA that the spread of INNS should be included within the LSE assessment.

However, the Secretary of State agrees with the Applicant that the BMP represents a best practice measure for NSIP-scale developments, which can be taken into account in the assessment of LSE rather than constituting mitigation specifically intended to address impacts on the features of the RD&BL SAC. He further concludes that, given the separation between the Order Limits and the RD&BL SAC, the nature and scale of the Project, and the absence of INNS on site, the Project would not result in the introduction or spread of INNS within the RD&BL SAC due to the lack of a viable impact pathway. Accordingly, he concludes that there would be no LSE from INNS, and this pressure does not need to be considered within the AA.

### 3.2.3 In-stream works

The ExA questioned ([PD-016] – Q.2) the Applicant’s assumption in the HRA Report (paragraph 5.2.12 [REP5-018]) that there would be no risk to the aquatic features of the RD&BL SAC from in-stream or bankside works, given that the oCEMP [AS-026] includes mitigation measures for such activities.

The Applicant [REP6-016] responded that fish survey data indicates a very limited assemblage within Thief Gill (a tributary of the River Marron), and that in-stream works would be minimal due to the use of the existing access track network. Any works would be limited to repair and maintenance of existing culverts, comparable to ongoing agricultural activities, and undertaken in accordance with a secondary permit/consent from Cumberland Council as Lead Local Flood Authority and governed by the CEMP’s ecological management requirements.

The Applicant confirmed that any such works would be confined to existing crossings and, given the distance to the SAC and the limited suitability of Thief Gill to support qualifying features, concluded that no LSE would arise. It also noted that such works are unlikely to be required during decommissioning.

Notwithstanding this, the ExA [ER 4.2.16] considered that limited in-stream works may be required and, on a precautionary basis, concluded that there is a potential for LSE at the construction stage for the aquatic features of the RD&BL SAC.

Based on the information before him, the Secretary of State agrees with the ExA that a credible impact pathway exists from potential in-stream and/or bankside works to aquatic features of the

RD&BL SAC, as evidenced by the inclusion of control measures within the oCEMP. He therefore considers that this impact pathway has the potential for LSE and takes it forward to be assessed at AA.

### 3.2.4 Operational water pollution

In the HRA Report [REP5-018], the Applicant asserted that, during operation, amongst other embedded measures, stock fencing and reduced grazing, supported by a grazing management plan, would prevent bank erosion and reduce nutrient inputs, as secured within the oLEMP, thereby supporting a conclusion of no LSE.

The ExA [ER 4.3.13] considered that because such measures constitute mitigation, operational water pollution should be screened in for LSE. NE [REP6-023] did not dispute the Applicant's conclusion.

Based on the information before him, and applying the precautionary principle, the Secretary of State agrees with the ExA that LSE from operational water pollution cannot be excluded, as the Applicant has relied on mitigation measures to discount impacts. Therefore, such measures are more appropriately considered at the AA stage.

## 3.3 Likely Significant Effects in-combination

When assessing the implications of a plan or project in light of the Conservation Objectives of protected sites, it is necessary to consider the potential for in-combination effects (i.e. the effects of the project combined with potential effects of other planned projects), as well as effects due to the project in isolation.

PIN's HRA guidance<sup>9</sup> details what should be considered within in-combination assessments and states that other plans or projects should include (but is not limited to):

- projects that are under construction;
- permitted application(s) not yet implemented;
- submitted application(s) not yet determined;
- all refusals subject to appeal procedures not yet determined;
- projects on the Planning Inspectorate's national infrastructure's programme of projects; and
- projects identified in the relevant development plan (and emerging development plans - with appropriate weight being given as they move closer to adoption).

Section 2.4 of the HRA Report [REP5-018] detailed the Applicant's approach to assessing in-combination effects. The projects included within the in-combination assessment were set out in Sections 4 and 5 of the HRA Report [REP5-018].

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<sup>9</sup> Nationally Significant Infrastructure Projects: Advice on Habitats Regulations Assessments - GOV.UK

An additional 31 cumulative schemes were identified by Cumberland Council during the Examination. The Applicant subsequently provided a Cumulative Assessment Technical Note ([REP3-008] – Appendix A), which described the schemes, their locations, and an assessment of the potential for likely significant cumulative effects for each environmental aspect, including biodiversity.

The Applicant subsequently concluded that no in-combination LSE have been identified for the sites and qualifying features where LSE were excluded from the Project alone. This was not disputed by any IP and the ExA was satisfied with the scope, methodology and conclusions of the in-combination assessment.

### 3.4 Likely Significant Effects conclusion

The Secretary of State has carefully considered the potential effects of the Project on all qualifying features of the protected sites identified, and raised during the Examination, to determine whether there will be LSEs in the context of the Habitats Regulations. The Secretary of State considers that sufficient information has been provided to inform an assessment in line with his duties under the Habitats Regulations.

Based on the information before him, the views of IPs and NE, as well as the recommendations of the ExA, the Secretary of State concludes that LSE from the Project, alone and in-combination with other plans or projects, could occur during construction, operation, and decommissioning of the Project. Table 1 of this document presents the protected sites for which the Secretary of State considers that significant effects cannot be excluded, either alone or in-combination, alongside the qualifying features and effects that have been considered in the screening of LSE. Table 1 of this document therefore presents the protected sites taken forward to AA to consider whether the Project would result in an AEoI.

## 4 Appropriate Assessment Methodology

The requirement to undertake an AA is triggered when a competent authority, in this case the Secretary of State, determines that significant effect on a protected site either alone or in-combination with other plans or projects can-not be ruled out for a plan or project. Guidance issued by Defra<sup>10</sup> states that the purpose of an AA is to assess the implications of the plan or project in respect of the site's conservation objectives, either individually or in-combination with other plans and projects, and that the conclusions should enable the competent authority to ascertain whether the plan or project will adversely affect the integrity of the site concerned. The focus is therefore specifically on the species and/or habitats for which the protected site is designated.

In line with the requirements of Regulation 63 of the Habitats Regulations:

*“In considering whether a plan or project will adversely affect the integrity of the site, the competent authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which it proposes that the consent, permission or other authorisation should be given.”*

The purpose of this AA is to determine whether an AEoI on the features of the protected sites identified in Table 1 of this HRA, as a result of the Project alone or in-combination with other plans or projects, can be excluded in view of the site's conservation objectives and using the best scientific evidence available.

In accordance with the precautionary principle embedded in the integrity test and established through case law, the Secretary of State may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the protected site, and this must be demonstrated beyond all reasonable scientific doubt. If the Secretary of State cannot exclude AEoI of the affected protected sites beyond all reasonable scientific doubt, then he can only agree to a plan or project if it complies with the requirements of Regulation 64 of the Habitats Regulations. Regulation 64 provides that the Secretary of State may agree to the plan or project only if satisfied that there are no alternative solutions, that the plan or project must be carried out for imperative reasons of overriding public interest (IROPI) and compensatory measures are secured to ensure that the overall coherence of the network of European sites is maintained.

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<sup>10</sup> <https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site>

## 5 Stage 2: Appropriate Assessment

The Secretary of State has undertaken an objective scientific assessment of the implications of the Project on the qualifying features of the protected sites identified in his screening assessment, using the best scientific evidence available. The assessment has been made in light of the site's conservation objectives.

### 5.1 River Derwent and Bassenthwaite Lake SAC

#### 5.1.1 Construction

The Applicant's HRA Report [REP5-018] provided an assessment which addressed the potential for AEol arising during construction from:

- pollution to groundwater, water pollution and siltation during construction affecting otter, Atlantic salmon, and river, sea and brook lamprey; and
- changes in the distribution of otter, Atlantic salmon, and river, sea and brook lamprey during construction.

The Applicant identified mitigation measures in Section 5 of the HRA Report [REP5-018], including the protection of watercourses during construction, the prevention of spillages and the mobilisation of soils and sediments, and the safeguarding of otters and other aquatic species associated with the SAC. These measures are secured through the oCEMP [AS-026] and the oSMP [AS-024]. The Applicant also included specific measures within the oCEMP to minimise the potential effects of in-stream works on fish.

On the basis of the proposed mitigation, the Applicant concluded that the Applicant would not adversely affect the integrity of the RD&BL SAC and its qualifying features, either alone or in combination with other plans and projects.

Neither the ExA nor any IPs disputed this conclusion, and NE confirmed its agreement with the Applicant's conclusion of no AEol in respect of the RD&BL SAC [REP2-060].

Regarding impact pathways resulting from decommissioning, the ExA considered that the mitigation measures secured in the fDMP are sufficient to support a conclusion of no AEol.

Based on the information before him, and subject to the mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the integrity of the RD & BL SAC as a result of pollution to groundwater, water pollution and siltation or changes to species distribution in construction or decommissioning.

#### 5.1.2 Operation

As noted in section 3.2.4, the Applicant did not assess the potential for AEol arising from operational water pollution, a position which the ExA disputed. Despite this, the ExA [ER 4.5.5] considered that there is sufficient information before the Secretary of State to enable him to

undertake an AA. The ExA [ER 4.4.11] concluded that, in light of the grazing management measures as secured in the oLEMP, it was satisfied that the Project would not adversely affect the integrity the RD&BL SAC from operational water pollution either alone or in combination with other projects or plans.

The Secretary of State notes that operational activities would be infrequent and limited in scale, resulting in minimal risk of pollution events. In addition, a number of measures are proposed to enhance and restore the Project site, which would prevent pollutants or sediments entering surface water drains and subsequently the RD&BL. For example, drainage infrastructure and swales incorporated into the design would attenuate surface water flows, while vegetated buffer strips and enhanced marginal planting would slow runoff and prevent the mobilisation of pollutants and sediments into watercourses.

The Secretary of State considers that these measures, taken together with the proposed grazing controls, represent mitigation measures that are intended to improve the existing baseline contribution of the Site to water quality.

The Secretary of State further notes that at the end of Examination, NE confirmed that it considered the Project will not have an adverse effect on the site integrity of any European Sites either alone or in combination with other plans or projects.

Therefore, based on the information before him, the views of NE and the ExA, and subject to the mitigation measures secured in the final Order, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the integrity of the RD & BL SAC as a result of operational water pollution.

## 5.2 Solway Firth SPA

The Applicant's HRA Report [APP-156] provided an assessment of the potential for AEol arising from 'other ecosystem modifications', comprising the loss of functionally linked open grassland habitat available to herring gull (a component of the non-breeding waterbird assemblage) during construction and operation.

The Applicant concluded that, having regard to the availability of suitable alternative habitat, the low ecological reliance on the Project site for loafing, and the potential for birds to utilise the Morecambe Bay and Duddon Estuary SPA further south, the Project alone would not adversely affect the integrity of the SPA.

On that basis, the ExA was satisfied that the loss of supporting habitat during the construction and operational phases would not result in AEol on the Solway Firth SPA non-breeding waterbird assemblage.

The ExA had previously recommended that LSE arising from impacts to functionally linked land during the decommissioning phase should also be assessed. The Applicant argued [REP6-016] that, given the limited scope of works during decommissioning, any effects would be negligible. Having regard to this, and the measures secured through the fDMP, the ExA concluded that there would be no AEol on the Solway Firth SPA non-breeding waterbird assemblage during the decommissioning phase.

In relation to in-combination effects, only the Lostrigg Solar development, located adjacent to the Site's northern boundary, was considered. The Applicant concluded that, given the gregarious nature of herring gulls, their wide-ranging foraging behaviour, and their ability to utilise a variety of habitats, the Project would not adversely affect the integrity of the Solway Firth SPA in combination with Lostrigg Solar.

NE confirmed its agreement with the Applicant's conclusion of no AEoI in respect of the Solway Firth SPA [REP2-060].

Cumberland Council initially raised concerns [REP2-058] regarding the sufficiency of evidence on herring gull use of the Project site and surrounding land, including the neighbouring Lostrigg Solar development. In particular, Cumberland Council questioned whether the Site functioned solely as a loafing area, noting that evidence indicated use for foraging associated with agricultural practices and periods of high rainfall, and sought further justification in this regard.

In response, the Applicant [REP3-008] relied on professional judgement and experience to explain the observed distribution of herring gull flocks and maintained that the assessment conclusions were robust.

Following further engagement with the Applicant and consideration of NE's position, Cumberland Council confirmed that it considered the HRA Report to be sound ([REP5-020] – CC.EC.4).

On the basis of the above, the ExA was satisfied with the Applicant's conclusions.

Based on the information before him, and subject to the mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the integrity of the Solway Firth SPA as a result of other ecosystems modifications comprising the loss of functionally linked land to Herring Gull during construction, operation or decommissioning.

### 5.3 Appropriate Assessment conclusion

As the competent authority under the Habitats Regulations for this Application under the Planning Act 2008, the Secretary of State has undertaken an AA in respect of the conservation objectives for two protected sites to determine whether the Project, either alone or in-combination with other plans or projects, will result in an AEoI.

The Secretary of State has carefully considered all the information available to him, including the recommendations of the ExA, the advice of NE as the SNCB, the views of all other IPs, and the Applicant's case.

Based on the available information before him, and subject to the mitigation measures as secured in the final Order, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, will not adversely affect the qualifying features of the RD & BL SAC and Solway Firth SPA. The Secretary of State is satisfied that further tests set out in the Habitats Regulations are therefore not required.

## 6 Transboundary assessment

The Secretary of State considers that it is important to consider the potential impacts on protected sites in other European Economic Area (“EEA”) states, known as transboundary sites. The ExA also considered the implications for transboundary sites. The conclusions of the ExA’s considerations and the Secretary of State’s own views on this matter are presented below.

On 14 September 2023, following the Applicant’s request for an EIA scoping opinion, PINS provided a transboundary screening opinion [APP-097]. PINS considered that the likelihood of transboundary effects resulting from the Project was so low that it did not warrant the issue of a detailed transboundary screening.

Pursuant to Regulation 32 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 and the United Nations Environment Programme Convention on Biological Diversity 1992 initial screening was undertaken on 14 September 2023, and a second on the 28 May 2025 following submission of the Application documents. On both screening occasions, PINS considered that the Project was unlikely to have a significant effect either alone or in-combination on the environment in an EEA state. No transboundary consultations were undertaken.

The applicant did not identify any LSE on non-UK European sites in EEA states in its HRA report [APP-156]<sup>11</sup> or within its ES [APP-031 – APP-175]. In consideration of impact pathways, no protected sites beyond 10km were identified to be included in the screening assessment. As such, no non-UK European sites in EEA were included in the Applicant’s final HRA Report [REP5-018] or within its ES [APP-031 – APP-175]. No impacts to protected sites outside of the UK were raised for discussion by any IPs during the Examination, including following publication of the Inspectorate’s transboundary screening<sup>12</sup>.

The Secretary of State has not been presented with any evidence to demonstrate that transboundary impacts would have an AEoI on any protected site in an EEA state. As such, the Secretary of State is satisfied that the Project, either alone or in-combination with other plans or projects, would not have an AEoI on any transboundary protected site. The Secretary of State is satisfied that further stages of a transboundary assessment are therefore not required.

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<sup>11</sup> Or within updated versions through Examination

<sup>12</sup> <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010140/EN010140-000474-EN010140%20-%20Regulation%2032%20Transboundary%20Screening.pdf>

## 7 Conclusion

The Secretary of State has carefully considered all information presented within the Application, during the Examination, and the representations made by NE and all IPs, along with the ExA's Recommendation Report.

The Secretary of State concludes that LSEs cannot be excluded at two protected sites, when the Project is considered alone. These LSEs were taken forward to an AA to consider whether the Project would result in an AEoI of the protected sites. Having considered the information available to him and having a full assessment of the potential for an AEoI of each of the protected sites for which the potential for LSE was identified, taking into account the views of the Applicant, NE and all IPs, as well as the recommendations of the ExA, the Secretary of State concludes that an AEoI can be excluded beyond reasonable scientific doubt, subject to the measures secured through the final Order.

As such, no further tests set out in the Habitats Regulations are required to be considered.

Table 1 - Protected sites and qualifying features where LSE have been identified

Protected Site	Supplementary Advice on Conservation Objectives (SACOs)	Relevant Qualifying feature(s)	Impact Pathway and Development Phase C= construction; O= operation and maintenance; D= decommissioning
River Derwent and Bassenthwaite Lake SAC	See footnote <sup>13</sup>	Annex II habitats present as a qualifying feature, but not a primary reason for the selection of this site: <ul style="list-style-type: none"> <li>• Sea lamprey <i>Petromyzon marinus</i></li> <li>• Brook lamprey <i>Lampetra planeri</i></li> <li>• River lamprey <i>Lampetra fluviatilis</i></li> <li>• Atlantic salmon <i>Salmo salar</i></li> <li>• Otter <i>Lutra lutra</i></li> </ul>	Pollution to groundwater and water pollution (point sources and diffuse pollution) (C, O, D)  Siltation (C, D)  Changes in species distribution (C, D)
Solway Firth SPA	See footnote <sup>14</sup>	ARTICLE 4.2 QUALIFICATION (2009/147/EC): non-breeding herring gull <i>Larus argentatus</i>	Other ecosystems modifications (disturbance to and/or loss of functionally linked land) (C, O, D)

<sup>13</sup> <https://designatedsites.naturalengland.org.uk/TerrestrialAdvicePDFs/UK0030032.pdf>

<sup>14</sup> <https://publications.naturalengland.org.uk/file/6161469779738624>

## Dean Moor Solar Farm Habitats Regulations Assessment

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