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Ref: EN010157

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2 July 2026

Dear Colin McAllister,

**PLANNING ACT 2008****APPLICATION FOR DEVELOPMENT CONSENT FOR THE PEARTREE HILL SOLAR FARM**

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

**1. Introduction**

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the Examining Authority’s (“ExA”) report dated 2 April 2026. The ExA consisted of two examining inspectors, Alex Hutson (Panel Lead) and Marie-Louise Milliken. The ExA conducted an examination (“the Examination”) into the application submitted on 21 February 2025 (“the Application”) by RWE Renewables UK Solar and Storage Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Peartree Hill Solar Farm and associated development (“the Proposed Development”). The Application was accepted for Examination on 21 March 2025. The Examination began on 22 July 2025 and closed on 6 January 2026. The Secretary of State received the Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”) on 2 April 2026.
- 1.2. On 30 April 2026, the Secretary of State issued a letter seeking information on a number of matters (“the first information request”). On 15 May 2026, Interested Parties (“IP”) were invited to comment on the responses received (“the all-IPs consultation”). On 10 June 2026, the Secretary of State issued a second letter (“the second information request”) seeking an update on various outstanding agreements. On 17 June, the Secretary of State issued a third letter (“the third information request”) seeking an update on crown consent.
- 1.3. The Proposed Development comprises the construction, operation and maintenance and decommissioning of a solar photovoltaic (“PV”) electricity generating facility with an export capacity exceeding 50 megawatts (“MW”) (Work No.1), Battery Energy Storage System

(“BESS”) (Work No.2) and other associated development (Work No.3 - 9), with the solar PV generating facility and BESS connected to the National Grid at Creyke Beck substation [ER 1.3.6]. The Proposed Development is located north of the city of Hull and east of the town of Beverley and lies within the administrative area of East Riding of Yorkshire Council (“ERYC”) and is wholly in England [ER 1.3.2].

- 1.4. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers [ER 6.1.1], as set out in the draft Order submitted with the Application.
- 1.5. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website<sup>1</sup> is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 3, 4, 5 and 6 of the ExA’s 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 principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA’s Report under the following broad headings:
  - Need and Alternatives (including Climate Change)
  - Air Quality
  - Biodiversity
  - Cultural Heritage
  - Land, Soil and Groundwater
  - Landscape and Visual (including Good Design)
  - Noise and Vibration
  - Population
  - Transport and Access
  - Cumulative and Combined Effects
- 2.2. The ExA recommended that the Secretary of State should make the Order in the form attached [ER 8.3.1].
- 2.3. This letter is intended to be read alongside the ExA’s Report and, 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’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of the Secretary of States conclusions and recommendations.

## **3. Summary of the Secretary of State’s Decision**

- 3.1. 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

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<sup>1</sup> <https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010131>

the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”) respectively.

- 3.2. 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 written representations (“WR”), local impact reports (“LIR”) and relevant representations (“RR”) received during and after the close of the Examination, as well as and responses to the Secretary of State provided during the decision-making stage.
- 4.2. The 2024 National Policy Statements (“NPS”) EN-1, EN-3 and EN-5, which came into effect on 17 January 2024 to replace the 2011 version of the NPSs, have effect for the ExA’s consideration of this Application and for the Secretary of State’s decision-making. Consequently, it is to be determined under the provisions of section 104 of the 2008 Act. Section 104 of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant NPS [ER 2.2.4] which has effect in relation to the development to which the application relates, any LIRs, and any other matters important and relevant to the Secretary of State’s decision except to the extent that one or more of subsections (4) to (8) apply. On 24 April 2025, a consultation on draft revisions to NPS EN-1, EN-3 and EN-5 was launched, and the revised NPSs were laid in Parliament on 13 November 2025. On 6 January 2026, the 2025 versions of NPS EN-1, EN-3 and EN-5 came into force. Whilst these 2025 versions of the NPSs do not have effect for this Application, they are capable of being important and relevant considerations in the Secretary of State’s decision-making process. 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.
- 4.3. A revised draft of the National Planning Policy Framework (“NPPF”) was published in February 2025, followed by a subsequent consultation which closed on 10 March 2026. Additionally, the Clean Power Action Plan (“CP2030”) was published on 13 December 2024 and sets out a pathway to a clean power system. The Secretary of State has had regard to these publications and finds that there is nothing contained within these publications which would lead him to reach a different decision on the Application.
- 4.4. The Secretary of State also recognises the 15 May 2024<sup>2</sup> Written Ministerial Statement (“WMS”) on the use of Best and Most Versatile (“BMV”) land as an important and relevant consideration in the determination of this Application.
- 4.5. In each section of the report, the ExA identified the relevant policy and legislative background, followed by a summary of the application as submitted, before considering the principal issues arising under each topic area and setting out its findings and conclusions. These findings and conclusions, in turn, identify whether the effects carry little, moderate, great, or very great weight for, or against, the making of the Development Consent Order (“DCO”). Where the effect is considered neutral, it does not affect the planning balance [ER

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<sup>2</sup> <https://questions-statements.parliament.uk/written-statements/detail/2024-05-15/hcws466>

3.1.2]. The Secretary of State notes that the weighting descriptors used by the ExA differ from those laid out on page 175 of NPS EN-1. Having reviewed the ExA's considerations and conclusions, the Secretary of State considers that where the ExA has referred to 'little' weight, this can be equated to 'limited' weight, and 'very great' can be equated to 'substantial'. The Secretary of State will use the descriptors as laid out in NPS EN-1 when ascribing his weightings and whilst the terminology used will differ to this limited extent, the difference in terminology does not indicate a disagreement with the ExA unless this is specifically stated.

- 4.6. 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:
- Air Quality – neutral weight [ER 3.3.38];
  - Biodiversity – limited positive weight [ER 3.4.62];
  - Cultural Heritage – limited negative weight [ER 3.5.50];
  - Land, Soil and Groundwater – limited negative weight [ER 3.6.81];
  - Landscape and Visual (including Good Design) – significant negative weight [ER 3.7.64];
  - Noise and Vibration – limited negative weight [ER 3.8.48];
  - Population – neutral weight [ER 3.9.75].
  - Transport and access – limited negative weight [ER 3.10.66].
  - Cumulative and Combined Effects – limited negative weight [ER 3.11.18].
- 4.7. The paragraphs below set out matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA's Report, including those matters on which further information has been sought:
- Need and Alternatives (including Climate Change)
  - Biodiversity
  - Land, Soil and Groundwater
  - Compulsory Acquisition and Temporary Possession

#### Need and Alternatives (including Climate Change)

- 4.8. The ExA concluded that the Proposed Development would constitute low carbon infrastructure under NPS EN-1 paragraph 4.2.5. The ExA also stated that NPS EN-1 paragraphs 3.2.6, 3.2.7 and 4.2.2 establish an urgent need for the Proposed Development that should be afforded substantial weight in the planning balance, as it is needed for the United Kingdom ("UK") government to meet its energy security and net zero ambitions [ER 3.2.62].
- 4.9. The ExA was satisfied that the Applicant had undertaken an appropriate Greenhouse Gas ("GHG") assessment in accordance with section 5.3 of NPS EN-1, and that its conclusions around emissions over the lifetime of the Proposed Development are reasonable and justified [ER 3.2.54].
- 4.10. The ExA also considered that the Applicant had adequately assessed all alternatives. Accordingly, matters relating to alternatives were treated as a neutral consideration that did not affect the planning balance. The ExA further ascribed the issue of need very great positive weight (equivalent to the 'substantial weight' cited in NPS EN-1) [ER 3.2.64].

#### *The Secretary of State's Conclusion*

- 4.11. The Secretary of State agrees with the ExA that the need for the Proposed Development is well established and recognises its potential contribution towards meeting low carbon and renewable energy generation targets.
- 4.12. As stated in previous decision letters, and pointed out by the Applicant [APP-044], the Secretary of State considers that comparison to a counterfactual unabated Combined Cycle Gas Turbine (“CCGT”) facility is an inappropriate baseline, noting that since 2011 NPS EN-1 and as confirmed by the NPS EN-1 2024, requires all combustion power stations with a capacity over 300MW to be constructed as Carbon Capture Ready, and he therefore does not consider it viable to use unmitigated emissions as a baseline any longer. The Secretary of State disagrees with the assertion made in the Applicant’s Environmental Statement (“ES”) [APP-044] that the total lifecycle carbon intensity value cannot be directly compared with the UK grid carbon intensity or projected future intensities published by the Department for Energy Security and Net Zero (“DESNZ”). Notwithstanding this, he is satisfied that the Proposed Development would deliver substantial greenhouse gas savings when assessed against the current grid mix and thereby contributing significantly to the UK’s net zero objectives.
- 4.13. Accordingly, the Secretary of State is content that the Project will contribute to the UK government’s energy security and net zero ambitions, and in accordance with NPS EN-1, should be afforded substantial weight in the planning balance.
- 4.14. The Secretary of State is satisfied that the Applicant’s assessment sufficiently meets the policy requirements across NPSs EN-1, EN-3 and EN-5 in that there will be clear benefits to climate change, the alternatives have been considered appropriately, and the requirements in relation to grid connection have been met.
- 4.15. The ExA ascribed the combination of the urgent need for the Proposed Development and the beneficial effects on climate change very great positive weight, and it confirmed that this weight is equivalent to the ‘substantial weight’ identified in NPS EN-1 [ER 3.2.64]. For the avoidance of any doubt, and for consistency with the policy set out in paragraph 3.2.7 of NPS EN-1, the Secretary of State also ascribes the need case substantial positive weight. While the ExA’s conclusions are different in terminology, the weighting ascribed is the same in every other sense.

### Biodiversity

- 4.16. The ExA concluded that it was satisfied that the Applicant had undertaken an adequate assessment of effects in relation to biodiversity matters and that the proposed mitigation would be appropriately secured. Given this, the ExA concluded that the Proposed Development would not result in significant adverse effects on biodiversity, including protected species or designated sites, in accordance with NPS EN-1, NPS EN-3 and NPS EN-5 [ER 3.4.59].

### *Ground Nesting Bird Mitigation*

- 4.17. On 30 April, the Secretary of State sought more information from the Applicant in the first information request regarding ground nesting birds – specifically asking the Applicant to provide further justification as to how it planned to achieve the breeding density of 0.56

skylark territories per hectare associated with 'Organic Set Aside' <sup>3(03)</sup>, as stated in its outline Landscape and Ecological Management Plan ("oLEMP") [REP6-025]. The Applicant provided a detailed response [C1-002], outlining how poor the current habitat suitability is, and how the Applicant intends to create a new flower rich grassland mitigation habitat with attributes of Organic Set Aside. The Applicant described the management that will take place after ground nesting birds have bred to achieve these attributes including cutting/grazing in the winter months and a cessation of fertiliser, herbicide and pesticide application that will likely increase the insect biomass of the fields, which is critical for feeding chicks.

#### *Ground Nesting Bird Mitigation Conclusion*

- 4.18. The Secretary of State welcomes the additional detail provided by the Applicant on its flower rich grassland mitigation area for ground nesting birds and how it intends to manage the area to reflect attributes typical of Organic Set Aside. The Secretary of State acknowledges the further studies signposted by the Applicant regarding the potential for solar farms to bolster local ecosystems and ornithological diversity.
- 4.19. The Secretary of State also recognises the monitoring commitments set out in section 19.3.3 of the Applicant's oLEMP [REP6-025], which outlines how the Applicant will monitor the breeding bird population for the lifetime of the Proposed Development to identify whether the Proposed Development is maintaining no net loss of breeding birds, and increasing the local carrying capacity to 0.56 territories per hectare. The oLEMP also includes a commitment to instigate remedial actions such as providing areas of short sward at the start of ground nesting bird season, if the number of birds falls below baseline conditions. Given the additional information provided by the Applicant, and the commitments outlined in the oLEMP (secured via Requirement ("R") 9 of the DCO), the Secretary of State is satisfied that the Applicant has suitably mitigated for potential impacts to ground nesting birds.

#### *Biodiversity Net Gain*

- 4.20. In regard to biodiversity net gain ("BNG"), the ExA concluded that the proposed BNG would accord with NPS EN-1, noting that the Applicant committed to 10% BNG in accordance with NPS EN-1. The ExA further noted that subject to mitigation and measures secured in the rDCO, it found that the Proposed Development would likely result in a net benefit to biodiversity and ecology within the Order Limits, over the long term [ER 3.4.61].
- 4.21. During Examination, the ExA [PD-008] requested that the Applicant, ERYC, the Environment Agency ("EA"), Natural England ("NE"), and Yorkshire Wildlife Trust ("YWT") consider whether any further requirements were needed to adequately secure BNG. YWT did not respond, and the Applicant and NE [REP1-093] concluded that no such requirement was required. However, ERYC judged that a requirement was appropriate.
- 4.22. At Deadline ("D")<sup>2</sup> the Applicant reiterated that it did not think any changes were necessary but did provide some without prejudice wording in the event that the Secretary of State felt minded to amend the DCO to secure specific BNG percentages. This without prejudice amendment includes a commitment to a minimum BNG of 55% for habitat units, 35% for hedgerow units, and 10% for watercourse units, calculated using the Department for

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<sup>3</sup> Donald, P.F. (2004). *The Skylark*. Poyser, London

Environment, Food and Rural Affairs (“Defra”) Statutory Biodiversity Metric, unless otherwise agreed.

#### *Biodiversity Net Gain Conclusion*

- 4.23. On the matter of BNG, the Secretary of State agrees with the Applicant and the ExA [ER.3.4.57] that it would be unreasonable and unjustified to require the Applicant to secure the BNG mitigation beyond the 40-year lifetime of the Proposed Development.
- 4.24. The Secretary of State welcomes the Applicant’s BNG plans. The BNG assessment outlines how the Applicant’s habitat creation and enhancements will achieve BNG scores of 61.78% for Habitat Units, 41.85 % for Hedgerow Units, and 10.06% for Watercourse Units (calculated using Defra’s Biodiversity Metric 4.0), with all trading rules having been met [REP2-023].
- 4.25. The Secretary of State has weighed this substantial BNG favourably in the planning balance. To place such weight on this measure, the Secretary of State needs comfort that these percentages will be achieved, and to maintain consistency with previous consented solar DCOs, in disagreement with the ExA, the Secretary of State has amended Requirement 7, which now sets out the specific percentages of BNG that are to be achieved by the Applicant.
- 4.26. The Secretary of State acknowledges that the exact percentages of BNG may vary slightly from those in [REP2-023] after alterations at the detailed design stage and that there may be a need for flexibility. Consequently, the Secretary of State has adopted the Applicant’s proposed wording, including the lower percentages proposed by the Applicant in [REP5-080], in his Requirement as opposed to the ones outlined in [REP2-023].
- 4.27. The Secretary of State agrees with the Applicants view in [REP5-080] that an amendment to the oLEMP is not necessary, as the final LEMP will need to be made in accordance with the amended requirement.

#### *The Secretary of State’s Conclusion on Biodiversity*

- 4.28. The Secretary of State agrees with the ExA’s conclusions that the Applicant had conducted an adequate assessment of effects in relation to biodiversity matters and that the Proposed Development would not result in significant effects on biodiversity. He also agrees that the Proposed Development, subject to proposed mitigation measures, would result in a net benefit to biodiversity and ecology.
- 4.29. The Secretary of State agrees with the weighting ascribed by the ExA and also ascribes this matter limited positive weight.

#### Land, Soil and Groundwater

- 4.30. The ExA concluded that it recognised the concerns relating to the loss of agricultural land. However, it noted that the effect of the temporary, albeit long term, loss of BMV agricultural land would not be significant in both a regional and national context, nor have a significant effect on the UK’s food security. The ExA noted that the total amount of BMV agricultural land affected by the Proposed Development within the East Riding of Yorkshire would equate to 0.1% of the total BMV agricultural land within the region and would therefore be minimal in this context [ER 3.6.76].

- 4.31. The ExA also found that the Applicant has demonstrated that the Proposed Development would accord with the principles of NPS EN-1 insofar as minimising any impacts on BMV agricultural land, and the use of mitigation measures to protect and maintain soil health and quality as outlined in the outline Soil Management Plan [REP5-073] [ER 3.6.77].

#### *Potential for Contamination to Waters*

- 4.32. In regard to the potential for contamination to waters, the ExA report noted that, by the close of the Examination, one matter remained outstanding concerning potential for water contamination. In particular, concerns had been raised that sensitive groundwater and surface water receptors could be contaminated by fire-fighting waters associated with the BESS if adequate drainage and containment measures were not in place [ER 3.6.37]. The Applicant stated that the choice of fire suppression system would be dependent on the BESS design and could comprise either an aerosol system or a gaseous asphyxiant, but not water. The Applicant further advised that the specific system would be determined following procurement discussions and the finalisation of the Battery Safety Management Plan ("BSMP"), in consultation with Humberside Fire and Rescue Service and the EA [ER 3.6.38]. Although discussions continued throughout D3, D4 and D5, the positions of the respective parties remained unchanged [ER 3.6.39].
- 4.33. The ExA sought an update on the issue at Issue Specific Hearing 3 and the EA provided a written submission prior to the hearing, [AS-025] stating that, unless the Applicant proposed a sealed drainage system for the BESS units to prevent contamination, its position would be unlikely to change [ER 3.6.40].
- 4.34. Further, the EA responded to the evidence presented by the Applicant, stating that, whether a BESS fire was extinguished using firewater or allowed to burn while adjacent units were damped down, chemicals could still be introduced to the firewater. The EA considered that, if not appropriately managed at the surface, this water could reach the groundwater and result in large-scale pollution [ER 3.6.39].
- 4.35. In its Closing Summary Statement, the Applicant [REP6-031] stated that detailed consideration had been given to the management of water run-off, following a source-pathway-receptor model, as required by the National Fire Chiefs Council guidance. The Applicant concluded that the likelihood of contaminated run-off occurring would be very low and that any potential pathway would be limited by the presence of low permeability or deep soils, together with the proposed embedded mitigation measures [ER 3.6.43]. The Applicant also advised that a sealed system, such as a lagoon as requested by the EA, would only activate and collect settled contaminants settled from a smoke plume where the plume travelled directly above the lagoon and contaminants settled within it. The Applicant therefore considered that a sealed system could not be guaranteed to be more effective at capturing airborne pollutants than the mitigation measures already proposed [ER 3.6.45]. Finally, the Applicant stated that a sealed system would result in an additional cost of approximately £2.5m and require a significant amendment to the Proposed Development layout, including the removal of panels and a consequent reduction in generation output or ecological mitigation and enhancement areas [ER 3.6.46].
- 4.36. The ExA report notes that in addition to its Closing Summary Statement, the Applicant provided a detailed response to the EA's Closing Summary Statement [AS-044] and updated the outline BSMP ("oBSMP") [AS-041] to include all but one of the EA's recommendations. The outstanding recommendation related to the provision of additional figures showing the

final drainage scheme, together with diagrams and cross-sections illustrating the different drainage solutions proposed across the scheme. The Applicant considered that the requested figures and diagrams requested would already be secured through Requirement 3 of the DCO, which relates to the detailed design of the Proposed Development [ER 3.6.47].

- 4.37. The Applicant considered that the inclusion of the additional commitments in the oBSMP, as requested by the EA, removed the need for any amendments to the existing drafting of R8 of the DCO [AS-037]. In noting the EA’s recommendation for further engagement on the issue, the Applicant stated that some of the relevant detail would only become available, or be capable of confirmation, following procurement of the BESS. The Applicant further noted that R8 provides for an oBSMP to be submitted to and approved by ERYC following consultation with HFRS and the EA and stated that it would welcome further engagement on the matter [ER 3.6.48].
- 4.38. The ExA concluded that with the mitigation proposed by the Applicant, the residual risk would be low and not significant [ER 3.6.78]. The ExA also noted that the Applicant had adequately assessed the effects of the Proposed Development on the water environment and concluded that there would be no significant effects on the water environment [ER 3.6.79].

*BMV*

- 4.39. In his information request of 30 April 2026, the Secretary of State requested that the Applicant provide a table outlining the Agricultural Land Classification (“ALC”) survey results for each of the Proposed Development’s key components surveyed within the Order Limits, the quantity of land that will be located under areas of permanent hardstanding, and the ALC grade of the land. In<sup>4</sup> response, the Applicant provided the table below:

<b>Proposed Permanent Infrastructure</b>	<b>Area of BMV land</b>
Project Substation East	0ha
New internal access track to Project Substation East	0ha
Project Substation West	0.66ha of grade 3a
New internal access track to Project Substation West	0.05ha of grade 3a

- 4.40. The Applicant stated that following the Secretary of State’s request, it had come to the Applicant’s attention that Project Substation West (located within Field E8) lies on Grade 3a BMV agricultural land. This therefore represents an error in ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077], and subsequently the Planning Statement [REP4-055], where the permanent loss of 0.71ha of BMV land should instead have been reported. The area of 0.71ha permanent loss equates to:

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<sup>4</sup> <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010157-001151-RWE%20Renewables%20UK%20Solar%20and%20Storage%20Limited%20-%20Response%20to%20Rfl.pdf>

- 0.49% of the total Grade 3a BMV present within the Site (144.8ha);
- 0.28% of the total BMV (Grades 1, 2 and 3a) present within the Site (249.9ha); and
- 0.08% of the total land area of the Proposed Development (893ha).

4.41. Upon review of this information, the Applicant concluded that the inclusion of 0.71ha of Grade 3a BMV land would not change the residual effects presented in ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077]. The Applicant went on to state that the permanent loss of 0.71ha BMV would change the magnitude of impact (change) assigned to the Grade 3a decommissioning phase assessment from negligible to minor as there would, in a worst case scenario, be a “Permanent, irreversible loss less than 5 hectares” as identified in Table 10-7 of ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077] at the point of decommissioning. The Applicant explained that this would result in a significance of effect of slight adverse or moderate adverse, and it is deemed that the significance effect would be slight adverse (not significant). The total area of loss is only 0.71ha and the range for minor magnitude of permanent loss is 0ha to 5ha; therefore, the area of loss is towards the lower end of the threshold. The magnitude of impact (change) for construction and operation would remain the same as stated in ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077] due to the impact being temporary for those phases. Although the magnitude of impact (change) assessed in ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077] for the decommissioning phase would change, the Applicant stated that the permanent loss of 0.71ha of Grade 3a BMV land would not alter the significance of effect reported in ES Volume 2, Chapter 10: Land, Soil and Groundwater [REP2-077]. The Applicant therefore considered that the conclusions of the assessment remain valid.

#### *The Secretary of State’s Conclusion*

- 4.42. The Secretary of State is satisfied with the ExA’s conclusions on the potential for contamination of water resources, noting that, with the mitigation proposed and secured, the residual risk would be low and not significant [ER 3.6.78]. He is also satisfied with the ExA’s conclusions regarding the effects of the Proposed Development on the water environment, noting that there would be no significant effects [ER 3.6.79].
- 4.43. The Secretary of State also agrees with the Applicant’s position, as set out above, that a sealed system cannot be guaranteed to be more effective than the proposed mitigation measures and that the introduction of such a system would result in significant additional costs and design implications. The Secretary of State is therefore satisfied with this matter and agrees with the ExA that there would be no significant effects on the water environment and also agrees with the ExA that the sequential and exception tests in respect of flood risk have been met [ER 3.6.79].
- 4.44. The Secretary of State recognises the concerns regarding the loss of BMV agricultural land for energy infrastructure developments. However, he agrees with the ExA’s conclusion that the Applicant has taken sufficient steps to mitigate impacts on BMV agricultural land and considers that the 0.1% of total BMV agricultural land within the East Riding of Yorkshire that would be affected by the Proposed Development to be minimal. This is consistent with paragraph 5.11.34 of NPS EN-1, which states that, where schemes are to be sited on BMV land, the Secretary of State should take into account the economic and other benefits of that land. The Secretary of State agrees with the ExA that the Applicant has done so in this instance and is also satisfied with the response provided by the Applicant following his

information request. The Secretary of State therefore agrees with the weighting ascribed by the ExA and ascribes this matter limited negative weight in the planning balance.

## **5. Habitats 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 [REP5A-004] as submitted by the Applicant, the Report on the Implications for European Sites [PD-018] 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 on the following protected sites in regard to project alone effects and effects in-combination with other plans or projects:
  - Humber Estuary Special Protection Area;
  - Humber Estuary Special Area of Conservation;
  - Humber Estuary Ramsar; and
  - Hornsea Mere Special Protection Area.
- 5.4. Following updates made to assessments by the Applicant during Examination, the conclusions provided by the Applicant in the HRA Report [REP5a-004] were agreed by NE [REP5-087]. The ExA concluded that adverse effects on integrity could be excluded [ER.1.5.5].
- 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 an adverse effect on the integrity of any feature of any protected sites.

## **6. Consideration of Land Rights and Related Matters**

- 6.1. The Secretary of State notes that to support the delivery of the Proposed Development, the Applicant is seeking powers of CA and TP of land and rights which it had not been able to acquire by voluntary agreement.
- 6.2. The Applicant is seeking these powers to:
  - acquire land permanently within the Order limits;
  - temporarily possess land within the Order limits;
  - acquire existing rights and restrictive covenants over some of the land within the Order limits;
  - acquire identified special category land within the Order limits;
  - extinguish existing rights and restrictive covenants over some of the land within the Order limits;
  - create new rights and restrictive covenants over some of the land within the Order limits; and
  - temporarily suspend existing rights and restrictive covenants over some of the land within the Order limits in order to construct, operate and maintain the Proposed Development [ER 6.1.1].

### *The ExA's Conclusions*

- 6.3. The ExA concluded that it was satisfied, and recommended to the Secretary of State, that a compelling case in the public interest exists for the following reasons:
- the development for which the land is sought would be in accordance with national policy as set out in NPS EN-1, NPS EN-3 and NPS EN-5 and development consent should be granted;
  - NPS EN-1 identifies a critical need for renewable energy of the type that is the subject of this application;
  - there is a need to secure the land and rights required to deliver the proposed development and to construct it within a reasonable timeframe;
  - there is a need to secure land identified as open space/common land, which is needed to allow the installation, protection and maintenance of a 132 kiloVolt cable which would connect the solar array to Creyke Beck substation;
  - the proposed development represents a substantial public benefit to weigh in the balance;
  - the private loss to those affected has been mitigated through the selection of the land and the minimisation of the extent of the rights and interests proposed to be acquired;
  - the private losses suffered are not such as to outweigh the public benefits that would accrue from the grant of the CA and TP powers which are sought;
  - the Applicant has, to the extent possible, explored all reasonable alternatives to the CA of the land and rights sought, although for a project of this nature it is reasonable that the applicant should retain CA and TP powers in a made Order, as a guarantee against the possible failure of voluntary agreements which if left unmitigated could cause substantial timescale and delivery cost over-runs that would not be in the public interest;
  - there are no viable alternatives which ought to be preferred;
  - funding is available to meet any compensation liabilities for CA and/ or TP and the draft DCO ("dDCO") makes provision to ensure this; and
  - CA and TP for the proposed development can be delivered in a manner in full accord with all relevant human rights considerations [ER 6.6.3].

### *Outstanding Agreements*

- 6.4. At the close of the Examination, a number of parties had unsigned agreements, and the Secretary of State sought the following updates from The Crown Estate and the Applicant, respectively, in his first information request.

### *The Crown Estate*

- 6.5. In the first information request, the Secretary of State requested the Applicant to provide an update on the case for crown consent being granted for the Proposed Development. In its response of 14 May 2026, the Applicant stated that it was engaged in active discussions with The Crown Estate in relation to the provision of S135 consent which was close to being concluded and submitted for the Crown's formal internal approval process, and that the parties aimed to reach agreement shortly after 14 May 2026. This update was agreed between the solicitors acting for The Crown Estate and RWE Renewables UK Solar and Storage Limited. In his second information request of 9 June 2026, the Secretary of State requested that the Applicant and The Crown Estate provide an update on the case of crown consent. In response to the second information request of 16 June 2026, the Applicant confirmed that the legal representatives acting for The Crown Estate Commissioners confirmed that The Crown Estate was now in a position to grant s135 consent for the

Proposed Development. In response to the third information request of 19 June 2026, the Applicant confirmed that it would aim to provide the Secretary of State with the signed s135 consent document by 30 June 2026.

- 6.6. On 29 June 2026, the Crown Estate provided a letter to the Secretary of State, confirming that it had reached a separate agreement with the Applicant and confirmed its consent to the CA of the third party interest in Plot 13-4 (to the extent that this formed part of The Crown Estate) for the purpose of section 135(1) of the Act. The Crown Estate stated that consent was subject to the inclusion of its proposed wording of Article 40 in the Order and that it would be consulted on any variation to the Order that is proposed which could affect any other provisions of the Order which are subject to sections 135(1) and 135(2) of the Act. The Crown Estate confirmed its consent to Articles 3, 4, 5, 21, 26(4), 33, 34, 40 and 44 of the Order to the extent that they are included in the Order, applying in relation to Plot 13-4 for the purposes of section 135(1) of the Act.
- 6.7. The Secretary of State notes the proposed wording provided by the Crown Estate and has decided to include this in the Order.

#### *National Gas Transmission plc*

- 6.8. In response to the first information request, the Applicant confirmed that an agreement on all outstanding matters had been reached. Once signed, the protective provisions contained in Schedule 12, Part 5 of the draft DCO submitted before the close of the Examination [AS-037] would be replaced by the version now agreed in principle by the parties. On the 10 June 2026, National Gas Transmissions plc confirmed that it had reached an agreed position with the Applicant and as a result, it wished to withdraw its objection to the Order. National Gas Transmission preferred protective provisions were included in its D6 submission. In response to the second information request, the Applicant also confirmed that agreement has been reached with National Gas Transmission plc. The Applicant also confirmed that it would provide the agreed protective provisions to replace those currently included in Part 6 of Schedule 12 of the draft DCO.

#### *Network Rail*

- 6.9. In response to the first information request, the Applicant confirmed that an agreement on all outstanding matters had been reached. Once signed, the protective provisions contained in Schedule 12, Part 7 of the draft DCO submitted before the close of the Examination would be replaced by the version agreed by the parties. In response to the second information request, the Applicant confirmed that agreement had been reached with Network Rail and stated that Network Rail would be in a position to withdraw its objection to the Proposed Development shortly. The Applicant also stated that it will provide the protective provisions to replace those currently included in Part 7 of Schedule 12 of the draft DCO.

#### *National Grid Electricity Transmission plc*

- 6.10. In response to the first information request, the Applicant confirmed that an agreement on the majority of outstanding matters had been reached, with one issue relating to the wording of the indemnity within the protective provisions remaining under discussion. The Applicant is confident that an agreement will be reached in due course. Once an agreement is reached, the protective provisions contained in Schedule 12, Part 6 of the draft DCO submitted before the close of the Northern Powergrid. On 16 June 2026, the Secretary of State received

confirmation that the Applicant and NGET have reached an agreed position in relation to its protective provisions, subject to completion of a confidential side agreement. NGET stated that it cannot withdraw its objection until the agreement is complete but will update the ExA and the Secretary of State once this position has been reached.

- 6.11. In response to the second information request, the Applicant confirmed that an agreement has been reached with NGET and it would be in a position to withdraw its objection shortly. The Applicant also stated that it would provide the agreed protective provisions to replace those currently included in Part 6 of Schedule 12 of the draft DCO. On the 26 June 2026, the Secretary of State received confirmation from NGET that it had withdrawn its objection to the Proposed Development and provided the agreed protective provisions with the Applicant.

#### *Northern Powergrid Yorkshire*

- 6.12. In response to the first information request, the Applicant stated that despite its efforts, it had not been able to reach an agreement with Northern Powergrid Yorkshire (“NPY”) in relation to its protective provisions. Whilst consensus had been reached on the majority of issues, the parties were ultimately unable to agree on the terms of the indemnity provision. The Applicant’s position in this regard was set out in Table 1 of the Closing summary statement [REP6-031]. Northern Powergrid’s position was set out in a letter to the Planning Inspectorate dated 6 January 2026 and its position has not changed since following the Secretary of State’s request for information. In response to the second information request, the Applicant confirmed that there had been no change to the position regarding negotiations with Northern Powergrid.
- 6.13. The ExA noted that the Applicant’s closing summary statement [REP6-031] highlighted a single outstanding concern of NPY. This related to Schedule 12, Part 8, paragraph 103(2)(b) of the dDCO (indemnity) providing for the applicant to be exempt from any liability for indirect or consequential losses for third parties from damage or interruption which is not reasonably foreseeable [ER 6.5.73].
- 6.14. NPY confirmed its single outstanding concern, with reasons, in a submission just before the close of the examination [AS-033]. Given the timing, the Applicant had no opportunity to respond to the submission. NPY took the view that, whilst circumstances which would allow for the recovery of costs and losses from not reasonably foreseeable damage or interruption would likely be limited, the provision should be deleted as it would impose an unreasonable and open-ended liability on NPY because of work carried out by the Applicant. Effectively, NPY would have to bear any losses for claims made against it where such claims were to arise solely because of the Applicant’s works [ER 6.5.74].
- 6.15. It was the ExA’s view that NPY’s position was reasonable and justified, as it seemed to the ExA unfair for it to bear any relevant costs and losses claimed by third parties for works carried out by the Applicant, foreseeable or otherwise. Furthermore, the ExA considered that the Applicant has not fully and adequately justified its position. Given this and noting the provision has not been included in bespoke PPs for NPY in two recently made DCOs, the ExA recommended that Schedule 12, Part 8, paragraph 103(2)(b) was deleted from the dDCO [ER 6.5.75].
- 6.16. With the deletion of the provision as described above, the ExA was satisfied that there would be no serious detriment to the carrying on of NPY’s undertaking and as such, the provisions of s127 of the Planning Act 2008 (“PA2008”) would be satisfied. Furthermore, NPY indicated

that its objection would be withdrawn were the disputed provision to be deleted. The ExA is also satisfied that the powers sought by the Applicant are necessary for the proposed development and consistent with s138 of PA2008 [ER 6.5.76].

### *Other Matters*

- 6.17. The Secretary of State also notes the submission made by the British Horse Society (“BHS”) in response to his all-IPs consultation of 18 May 2026. In its response, the BHS reiterated the concerns it raised in the Examination [RR-023] regarding the timescales for any closure or diversions to Public Rights of Way’s and the need to secure the promised permissive paths and proposed routing [ER 3.9.48]. The Secretary of State has considered the submission made by the BHS but considers that with the proposed mitigation by the Applicant, these concerns have been met.

### *The Secretary of State’s Conclusion*

- 6.18. The Secretary of State agrees with the ExA’s conclusion that there is a compelling case in the public interest for the CA and TP powers and that the Proposed Development would comply with the 2008 Act.
- 6.19. Despite the Applicant not being able to come to an agreement with NPY and Network Rail, the Secretary of State agrees with the ExA in which there would be no serious detriment to the carrying on of NPY’s undertaking and as such, the provisions of s127 of PA2008 would be satisfied and is content with the powers being sought by the Applicant.
- 6.20. With respect to the CA of special category land, the Secretary of State agrees with the ExA’s conclusions and is content that the special category land when burdened with the Order right would be no less advantageous than it was before to all relevant persons and the public in accordance with s 132(3) of the Planning Act 2008 and accordingly would not be subject to the special parliamentary procedure.
- 6.21. 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.
- 6.22. The Secretary of State is satisfied with the application for CA and TP powers because the rights sought are for identified legitimate purposes and are compatible with human rights tests and he considers that the DCO secures land rights powers appropriately in relation to the relevant legislation and policy.

## **7. Secretary of State’s Consideration of the Planning Balance, Conclusion and Decision**

- 7.1. 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 and Alternatives (including Climate Change) - substantial positive weight;
  - Air quality – neutral weight;
  - Biodiversity – limited positive weight;
  - Cultural Heritage – limited negative weight;
  - Land, Soil and Groundwater – limited negative weight;
  - Landscape and Visual (including good design) – significant negative weight;
  - Noise and Vibration – limited negative weight;
  - Population – neutral weight;

- Transport and Access – limited negative weight;
  - Cumulative and Combined Effects – limited negative weight.
- 7.2. 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 the need for the development and the minor positive weight ascribed to the biodiversity benefits, outweigh the totality of its adverse impacts.
- 7.3. The Secretary of State concludes that development consent should be granted for the Peartree Hill Solar Farm. 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 Proposed Development’s potential adverse impacts, as mitigated by the proposed terms of the Order.
- 7.4. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA’s Report, the relevant Development Plans, the LIRs submitted by ERYC, the NPSs, draft NPSs, 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.
- 7.5. 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; gender reassignment; disability; marriage and civil partnerships<sup>5</sup>; 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. 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.

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<sup>5</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 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 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 under section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the Application is 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 ES, considers the conservation of 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.

#### Environmental Principles Policy Statement

- 8.7. From 1 November 2023, Ministers are under a legal duty to give due regard to the Environmental Principles Policy Statement when making policy decisions. This requirement does not apply to planning case decisions, and consequently the Secretary of State has not taken it into consideration in reaching the Secretary of State’s decision on this application.

### **9. Modifications to the draft Order**

- 9.1. The Secretary of State encourages the Applicant to consider an appropriate set of powers for the precise infrastructure sought. As set out in PINS Advice Note 15: drafting Development Consent Orders, in respect of draft wording used in previous DCOs, the Explanatory Memorandum should explain why particular wording is relevant to the proposed draft DCO, for example detailing what is factually similar for both the relevant consented NSIP and the Proposed Development. In this DCO the Secretary of State would have expected the Applicant to consider recent solar DCOs, and to explain any proposed use of provisions from DCOs from other contexts such as transport DCOs fully in their accompanying Explanatory Memorandum. The modifications below should be read in this context.
- 9.2. Accordingly, and following consideration of the recommended Order provided by the ExA, the Secretary of State has made the following modifications to the recommended Order:
- Amendment to the Order preamble to replace section 105(2) with section 104(2) of the Planning Act 2008, as a national policy statement has effect in relation to the Proposed Development.
  - Amendments to article 2(1) (interpretation) to amend the definition of “apparatus” in line with previous DCOs, to include a definition for the “date of decommissioning” as the term

is referred to in the requirements and to amend the definition of “local planning authority” to provide a broad statutory definition.

- Deletion of paragraphs (7), (8), (10) of article 2 as being unnecessary.
- Deletion of article 2(11) as considered too broad and for consistency with other DCOs.
- Deletion of article 2(12) as considered too broad and for consistency with other DCOs.
- Deletion of article 3(2) (development consent etc. granted by this Order) as considered too broad and for consistency with other DCOs.
- Amendment to article 5 (maintenance of authorised development) to insert a new paragraph (3) to address environmental assessment.
- Deletion of article 6 (maintenance of drainage works) to avoid inconsistency with existing statutory regimes and other provisions of the Order.
- Article 9 (disapplication and modification of legislative provisions), article 11 (street works), article 13 (power to alter layout, etc., of streets), article 15 (temporary closure or restriction of streets and public rights of way), article 16 (access to works), article 18 (traffic regulation measures), article 19 (discharge of water), article 21 (authority to survey and investigate the land) and Part 2 of Schedule 2 (procedure for discharge of requirements) have been amended to provide that where approval for any consent is deemed to have been given after the lapse of a particular period of time, that the undertaker must notify the appropriate consenting authority of this provision.
- Deletion of paragraph 2 of article 9 (disapplication and modification of legislative provisions) as it is unnecessary.
- Deletion of paragraph 2 of article 10 (defence to proceedings in respect of statutory nuisance) as compliance with approved plans may be relevant evidence but may not be the only factor to be considered given the relevant nuisances.
- Deletion of paragraph 7 of article 12 (application of the 1991 Act) as it is unnecessary given the content of article 12.
- Deletion of the reference to delay in article 15(5) (temporary closure or restriction of streets and public rights of way) and article 21(4) (authority to survey and investigate the land). This is not necessary given the provisions of paragraph (8) with which it may conflict.
- Removal of references in article 17(5) (traffic regulation measures) to exemptions in cases of emergency and changing the time period for notice to 28 days to prevent conflict with paragraph (8).
- Amendments to article 20 (protective works to buildings), including the inclusion of paragraph 4(b) in the counter-notice provision in paragraph 5, as well as removal of certain references to activities in connection with a survey which were deemed not necessary.
- Amendment to article 22 (compulsory acquisition of land) to include articles 25 (private rights over land) and 26 (power to override easements and other rights) as articles that the provision is subject to.
- Replacement of references to extinguished rights to rights which cease to have effect in article 26 (private rights over land) as considered more appropriate.

- Amendments to articles 24(3) (time limit for exercise of authority to acquire land compulsorily), article 28 (application of the 1981 Act) and article 30 (modification of Part 1 of the Compulsory Purchase Act 1965) to reflect changes made by section 185 of the Levelling-up and Regeneration Act 2023 to the Compulsory Purchase Act 1965 and the Compulsory Purchase (Vesting Declarations) Act 1981.
- In article 25 (compulsory acquisition of rights and imposition of restrictive covenants), deletion of the provision relating to the exercise of powers for the benefit of statutory undertakers or other persons, and insertion of new provisions enabling the transfer of certain powers to undertakers, with the Secretary of State's consent, where required for apparatus.
- In article 28 (application of the 1981 Act), removal of references to powers proposed to be exercised on behalf of third parties because they were considered too broad.
- Deletion of article 31 (Modification of the 2017 Regulations) relating to direct vesting of land and rights in third parties as not considered appropriate or necessary.
- In article 33 (temporary use of land for carrying out the authorised development), removal of part of paragraph 1(a)(ii) in relation to exceptions to notice of entry, as this is an extension of usual powers which does not appear to have been explained or justified in this particular case.
- In article 34 (temporary use of land for maintaining the authorised development), removal of paragraph 4 in relation to exceptions to notice of entry, as this is an extension of usual powers which does not appear to have been explained or justified in this particular case.
- Removal of paragraphs (c) and (d) of Article 35 (statutory undertakers) as precautionary powers considered unnecessary and overly broad.
- Deletion of article 37 (acquisition of wayleaves, easements and other rights) and Schedule 11 as considered too broad and unnecessary.
- Deletion of article 43 (planning permission) as it is not considered necessary and creates potential ambiguity. Relevant provisions relating to the interaction with Field House Solar Farm and Carr Farm Solar Farm are contained in Schedule 2 (requirements).
- Removal of paragraph (2) of article 46 (certification of documents, etc.) as considered unnecessary.
- Inclusion of reference to new schedule 14 in article 44 (arbitration) to include arbitration rules for consistency with other DCOs, including amendments to stipulate that any decision of the Secretary of State is not subject to arbitration.
- Deletion of paragraph (3) of article 45(3) (requirements, appeals etc) as it conflates requirements with other consents and is not appropriate.
- Part 1 Schedule 2 (requirements):
  - deletion of paragraph (2) of requirement 2 (time limits) as no explanation has been provided for extension of commencement beyond 5 years;
  - amendment to requirement 3 (detailed design approval) such that details of the development must be in accordance with the design parameters assessed;
  - addition to requirements 4 (construction environmental management plan) and 9 (landscape and ecological management plan) to provide for data sharing with the relevant local environmental records centre; and

- addition to requirement 9 (landscape and ecological management plan) to include requirements for minimum biodiversity net gain.
  - Removal of requirement 19 (anticipatory steps towards compliance with any requirement) regarding anticipatory steps as not necessary and creates potential ambiguity.
  - Part 2 Schedule 2 (procedure for discharge of requirements):
    - Amendments to paragraph 21 (applications made under Part 1) to insert paragraphs (4) and (5) to provide that where consent is deemed to be given after a certain time period, that the undertaker must notify the relevant consenting authority of this provision at the time of the application. This is to ensure transparency and fairness; and
    - Amendments to paragraph 22 (further information regarding requirements) relating to procedure and timeframes to ensure consistency with other DCOs.
  - Deletion of paragraph 11 of Schedule 9 (modification of the compensation and compulsory purchase enactments for the creation of new rights and imposition of new restrictive covenants) to remove the application of the 2017 Regulations as it is considered unnecessary.
  - Replacement of Part 5 (for the protection of National Gas Transmission PLC as gas undertaker) of Schedule 12 (protective provisions) with newly agreed terms between the Applicant and the undertaker.
  - Insertion of a new Schedule 14 (arbitration rules).
- 9.3. In addition to the above, the Secretary of State has made various changes to the recommended Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments and to achieve consistency with other DCOs, changes in the interests of clarity and changes to ensure that the Order has its intended effect. The Order, including the modifications referred to above, is being published with this letter.

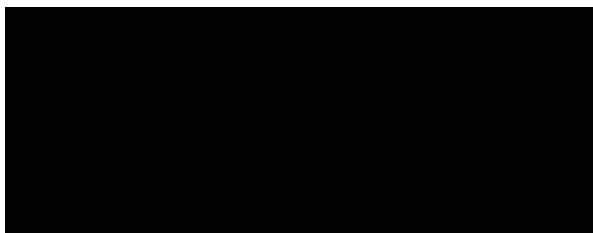
## **10. Challenge to decision**

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

## **11. Publicity for decision**

- 11.0. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 31 of the EIA Regulations.
- 11.1. Section 134(6A) of the 2008 Act 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 Development

## **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/EN010131>

**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**

<b>Abbreviation</b>	<b>Meaning</b>
<b>ALC</b>	Agricultural Land Classification
<b>BESS</b>	Battery Energy Storage System
<b>BHS</b>	British Horse Society
<b>BMV</b>	Best and Most Versatile
<b>BNG</b>	Biodiversity Net Gain
<b>BSMP</b>	Battery Safety Management Plan
<b>CA</b>	compulsory acquisition
<b>CCGT</b>	Combined Cycle Gas Turbine
<b>CP2030</b>	Clean Power Action Plan
<b>D</b>	deadline
<b>DCO</b>	Development Consent Order
<b>dDCO</b>	draft Development Consent Order
<b>Defra</b>	Department for Environment, Food and Rural Affairs
<b>DESNZ</b>	Department for Energy Security and Net Zero
<b>EA</b>	Environment Agency
<b>EIA Regulations</b>	Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
<b>ERYC</b>	East Riding of Yorkshire Council
<b>ES</b>	Environmental Statement
<b>ExA</b>	Examining Authority
<b>GHG</b>	Greenhouse Gas
<b>HRA</b>	Habitats Regulations Assessment
<b>IP</b>	Interested Party
<b>LIR</b>	Local Impact Report
<b>mw</b>	Megawatts
<b>NE</b>	Natural England

<b>NPS</b>	National Policy Statement
<b>NPPF</b>	National Planning Policy Framework
<b>NPY</b>	Northern Powergrid (Yorkshire) Plc
<b>oBSMP</b>	outline Battery Safety Management Plan
<b>oLEMP</b>	outline Landscape and Ecological Management Plan
<b>PA2008</b>	Planning Act 2008
<b>PSED</b>	Public Sector Equality Duty
<b>PV</b>	photovoltaic
<b>R</b>	requirement
<b>RR</b>	Relevant Representation
<b>TP</b>	Temporary Possession
<b>UK</b>	United Kingdom
<b>WMS</b>	Written Ministerial Statement
<b>WR</b>	Written Representation
<b>YWT</b>	Yorkshire Wildlife Trust