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Ref: EN010159

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8 July 2026

Dear Mr Boyd,

PLANNING ACT 2008**APPLICATION FOR DEVELOPMENT CONSENT FOR THE ONE EARTH 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 8 April 2026. The ExA consisted of two examining inspectors, Edwin Maund and Alex Jack. The ExA conducted an examination ("the Examination") into the application submitted on 27 February 2025 ("the Application") by One Earth Solar Farm Limited ("the Applicant") for a Development Consent Order ("the Order") under section 37 of the Planning Act 2008 ("the 2008 Act") for the One Earth Solar Farm and associated development ("the Proposed Development"). The Application was accepted for Examination on 27 March 2025. The Examination began on 8 July 2025 and closed on 8 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 8 April 2026.
- 1.2. On 1 May 2026, a consultation letter was issued by the Secretary of State seeking information on several matters ("the first information request").¹ On 21 May 2026, Interested Parties ("IPs") were invited to comment on the responses received ("the all-IP consultation") and 15 responses were received.² On 17 June 2026, the Secretary of State issued a second letter ("the second information request") seeking an update on various outstanding

¹ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001412-Information-Request-OESF.pdf>

² <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001440-All%20IPs%20Consultation%20Letter%20-%20One%20Earth%20Solar%20Farm.pdf>

agreements.³ On 23 June 2026, the Secretary of State issued a third letter inviting IPs to comment on an updated Funding Statement submitted by the Applicant.⁴ On 26 June 2026, the Secretary of State issued a fourth letter (“the fourth information request”) to the Applicant and The Crown Estate seeking an update on the exact date on which confirmation of the signed agreement of Crown consent would be submitted.⁵

- 1.3. The Proposed Development comprises the construction, operation and maintenance, and decommissioning of a solar photovoltaic (“PV”) array electricity generating facility. The project includes solar PV panels, battery energy storage systems (“BESS”), on-site substations and associated grid connection infrastructure which will allow for the generation and export of 740 megawatts (“MW”) of electricity to the proposed National Grid High Marnham Substation [ER 1.3.5]. The Proposed Development is defined as a Nationally Significant Infrastructure Project (“NSIP”) under the 2008 Act. The Proposed Development lies within Nottinghamshire County Council (“NCC”), Lincolnshire County Council (“LCC”), Bassetlaw District Council (“BDC”), Newark and Sherwood District Council (“NSDC”) and West Lindsey District Council (“WLDC”) administrative areas [ER 1.3.3].
- 1.4. The Order, as applied for, would grant development consent for [ER 1.3.6]:
 - Work No. 1 – a ground mounted PV generating station with a gross electrical output capacity of over 50MW, including solar panels fitted to mounting structures and power conversion stations (“PCS”).
 - Work No. 2 – energy storage facilities comprising BESS compounds including BESS units, transformers and associated bunding, various ancillary electrical equipment, containers or enclosures housing some or all elements of the BESS compound either together or separately, monitoring and control systems, heating, ventilation and air conditioning systems, fire safety infrastructure containers, or similar structures to house spare parts and materials, acoustic fencing, and ancillary buildings.
 - Work No. 3 – works in connection with two on-site substation compounds including the substations and works associated with the substations including switch room buildings and ancillary equipment, control buildings, metering equipment, offices, welfare and storage facilities.
 - Work No. 4 – works to lay high voltage electrical cables and access for the electrical cables, including works to lay electrical cables including 400 kilovolt (“kV”) cables connecting the authorised development to the proposed National Grid High Marnham Substation and electrical engineering works in an around the National Grid High Marnham Substation.
 - Work No. 5 – works including laying of electrical cables up to 132kV, fencing, security measures, landscape and biodiversity mitigation and enhancement, vegetation removal, infrastructure connections and diversions, access works, earthworks and drainage works.

³ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001452-Information%20Request%20Letter%20-%20One%20Earth%20Solar%20Farm.pdf>

⁴ [https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001475-Funding%20Statement%20All%20IPs%20Consultation%20Letter%20-%20One%20Earth%20Solar%20Farm%20\(005\).pdf](https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001475-Funding%20Statement%20All%20IPs%20Consultation%20Letter%20-%20One%20Earth%20Solar%20Farm%20(005).pdf)

⁵ <https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN010159-001487-Information%20Request%20Letter%20-%20consultation%205%20-%20One%20Earth%20Solar%20Farm.pdf>

- Work No. 6 – temporary construction and decommissioning compounds including up to two primary temporary construction and decommissioning areas (Work No. 6A) and up to ten secondary temporary construction and decommissioning areas (Work No. 6B).
- Work No. 7 – works to facilitate access to Work Nos. 1 to 6 and 8, including the creation of accesses from the public highway and streets, visibility splays, works to alter the layout of any street or highway and to widen and surface the streets and to make and maintain passing places.
- Work No. 8 - works to create, enhance and maintain green infrastructure and mitigation, including landscape and biodiversity mitigation and enhancement areas, habitat creation and management, laying down of permissive paths, signage and information boards, improvements to existing and laying down of new public rights of way, signage and information boards.
- Associated development – works to facilitate the Proposed Development, including, but not limited to, fencing, utilities works, drainage and road improvements.

- 1.5. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, as set out in the draft Order submitted with the Application.
- 1.6. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website⁶ is a copy of the ExA’s Report. The ExA’s findings and conclusions are set out in Chapters 3 to 7 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 case;
 - Consideration of alternatives;
 - Sequential Test;
 - Biodiversity and ecology;
 - Landscape and visual;
 - Historic environment;
 - Transport and access;
 - Agriculture (land) and soils;
 - Human health;
 - Hydrology and hydrogeology;
 - Air quality;
 - Carbon and climate;
 - Noise and vibration;
 - Socio-economic matters; and,

⁶<https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010159>

- Cumulative effects.

- 2.2. The ExA concluded the Sequential and Exception Tests for flooding set out in National Policy Statement (“NPS”) EN-1: Overarching National Policy Statement for Energy (“NPS EN-1”) have not been passed. Taking this into account and having had regard to all important and relevant matters, the ExA concluded that there is a conflict with national policy. As such, in line with section 104 of the 2008 Act, the ExA recommended that the Development Consent Order (“DCO”) should not be granted [ER 8.2.17].
- 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 his conclusions and recommendations.

3. Summary of the Secretary of State’s Decision

- 3.1. The Secretary of State has considered the overall planning balance and, for the reasons set out in this letter, has concluded that the public benefits associated with the Proposed Development outweigh the harm identified, and that development consent should therefore be granted.
- 3.2. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting consent for the proposals in the Application. This letter is a statement of the reasons for the Secretary of State’s decision for the purposes of section 116 of the 2008 Act and the notice and statement required by Regulations 31(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (“the EIA Regulations”).
- 3.3. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.

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

- 4.1. The Secretary of State has considered the ExA’s Report and all other material considerations, including representations received after the close of the ExA’s Examination and responses to the Secretary of State provided during the decision-making stage. The Secretary of State has had regard to the Local Impact Reports (“LIRs”) submitted by NCC, LCC, BDC, NSDC and WLDC, environmental information as defined in Regulation 3(1) of the EIA Regulations, and to all other matters which are considered to be important and relevant to the Secretary of State’s decision as required by section 104 of the 2008 Act. This includes relevant policy set out in NPS EN-1, NPS EN-3: National Policy Statement for Renewable Energy Infrastructure (“NPS EN-3”) and NPS EN-5: National Policy Statement for Electricity Networks Infrastructure (“NPS EN-5”).
- 4.2. The Secretary of State notes that the 2024 NPSs had effect for the ExA’s consideration of this Application and for the Secretary of State’s decision-making. 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, these versions of NPS EN-1, EN-3 and EN-5 came into force. Whilst these 2026 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.

- 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 was published on 13 December 2024, and updated in April 2025, which 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 Written Ministerial Statement (“WMS”) on the use of Best and Most Versatile (“BMV”) land, and the National Planning Practice Guidance: Flood Risk and Coastal Change (“NPPG”) which was published in 2014 and most recently updated in September 2025, as important and relevant considerations in deciding this Application.
- 4.5. 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, and having received clarifications from the ExA, the Secretary of State considers that the ExA’s ‘little’ weight can be equated to ‘limited’ weight, and ‘very great’ can be equated to ‘substantial’. The Secretary of State uses the descriptors in NPS EN-1 when ascribing his weightings and whilst the terminology differs to this limited extent, it does not indicate a disagreement with the ExA unless explicitly 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:
- Need case – substantial positive weight [ER 3.2.33];
 - Consideration of alternatives – no ascribed weight [ER 3.3.43];
 - Landscape and visual – moderate negative weight [ER 3.6.192];
 - Historic environment – moderate negative weight [ER 8.2.6];
 - Transport and access – little negative weight [ER 3.8.55];
 - Human health – little negative weight [ER 3.10.81];
 - Air quality – neutral weight [ER 3.12.35];
 - Noise and vibration – neutral weight [ER 3.12.93]; and,
 - Socio-economic matters – neutral weight [ER 3.12.130].
- 4.7. The Secretary of State agrees with the weighting ascribed by the ExA on the following matters but has provided further commentary and analysis, which is set out within this letter:
- Biodiversity and ecology – moderate positive weight [ER 3.5.137]; and,
 - Carbon and climate – no ascribed weight [ER 3.12.61].
- 4.8. On the following matters, the Secretary of State ascribes a different weight to the ExA and has provided further commentary and analysis, as set out within this letter:
- Sequential Test – ascribed very great negative weight by the ExA [ER 3.4.89];
 - Agriculture (land) and soils – ascribed moderate negative weight for BMV and little positive weight for soil health and land use by the ExA [ER 3.9.188]; and,
 - Hydrology and hydrogeology – ascribed great negative weight by the ExA [ER 3.11.74].
- 4.9. The ExA ascribed a separate moderate negative weighting to cumulative effects [ER 3.13.113]. The Secretary of State has considered the relevant cumulative effects in his

weighting for each individual planning issue and agrees with the Applicant's conclusions in Environmental Statement ("ES") Chapter 18 Cumulative Effects [REP6-012] that the Proposed Development would not result in significant intra-project cumulative effects. The Secretary of State has therefore not ascribed any separate weighting to cumulative effects to avoid the double counting of effects.

The Sequential Test

- 4.10. The ExA noted that paragraph 5.8.21 of NPS EN-1 sets out the approach to applying the Sequential Test and that paragraph 174 of the NPPF reaffirms the approach in NPS EN-1 paragraph 5.8.6 that the purpose of the Sequential Test is to direct development away from the areas at greatest risk of flooding and that development should not be permitted if there are reasonably available sites at lower risk of flooding [ER 3.4.2 et seq.]. The NPPG also outlines how the Sequential Test is to be applied [ER 3.4.9]. Paragraph 28 of the NPPG states that in undertaking the Sequential Test, consideration is to be given to 'reasonably available' sites, and that sites should be considered as such for the purposes of the Sequential Test if their location "*is suitable for the type of development proposed, they are able to meet the same development needs and they have a reasonable prospect of being developed at the same time as the proposal*". The NPPG also states that these sites could include a series of smaller sites which together accommodate the development [ER 3.4.11 et seq.].
- 4.11. The Applicant's assessment of alternatives and its case in relation to the Sequential Test is set out in its Planning Statement [APP-168], including the Site Selection Report contained in Appendix 1. During the Examination, the Applicant also submitted documents providing more detailed justification for the conclusions reached, comprising The Sequential and Exception Test Assessment [REP2-080] and Addendum [REP3-069], along with further submissions [REP5-071] and [REP6-058] [ER 3.4.23 et seq.]. In summary, the Applicant considered that its approach is in accordance with and in complete compliance with national policy, the advice on the approach set out in the NPPF and NPPG, and case law [ER 3.4.61].
- 4.12. The Secretary of State notes that NCC and LCC as the Lead Local Flood Authorities for the Proposed Development shared their concerns regarding the approach to the Sequential Test during the Examination. NCC noted that the Applicant's retrospective alternative site search exercise during the Examination undermined confidence that a robust approach had been taken [ER 3.4.37]. That said, NCC acknowledged the approach appeared to be satisfactory in principle, notwithstanding reservations about its authenticity [ER 3.4.37]. LCC's concerns related to whether the Applicant had given due consideration to smaller land parcels that could be combined and whether the Applicant had only considered land where there were willing landowners to reduce the potential need to exercise CA powers [ER 3.4.40]. LCC noted that the lower land parcel size limit of 250 hectares ("ha") assessed by the Applicant could be called into question as other NSIPs within Lincolnshire have smaller land parcels making up their order limits [ER 3.4.44 et seq.].
- 4.13. The ExA noted that, although it had sympathy with concerns raised by NCC and other IPs that a retrospective exercise places doubt on the integrity of the process, it is a reasonable practice when questions have been raised over the suitability of the original exercise [ER 3.4.70]. Despite this, the ExA was not persuaded that the Applicant's overall site selection approach was fully justified given the importance of flood risk assessments across planning policy [ER 3.4.75]. While the ExA found the search radius for alternative sites was reasonable, the ExA could not find a logical explanation for a 250ha minimum land parcel

size when other NSIPs had evidenced that land parcel areas of a considerably smaller size can achieve the delivery of large-scale solar developments [ER 3.4.76 and 3.4.78].

- 4.14. The ExA also considered that the Applicant's approach did not give confidence that the Sequential Test's importance had been sufficiently prioritised in the initial site selection process in light of the very clear approach in NPS EN-1, the NPPF and the NPPG [ER 4.3.78]. The ExA considered that by misapplying the clear policy direction to avoid areas of flood risk in the first instance, the Applicant's Sequential Test did not align with national policy [ER 3.4.81]. In these circumstances, the ExA found that the Proposed Development did not accord with paragraph 5.8.36 of NPS EN-1, which directs the decision maker to be satisfied that the Sequential Test has been satisfied as part of the site selection. The ExA concluded that this non-compliance with policy must carry very great weight against making the Order [ER 3.4.89]. The ExA also stated that due to the Applicant's failure to meet the Sequential Test and Exception Test (discussed in the Hydrology and Hydrogeology section of this letter), in line with section 104 of the 2008 Act, consent should not be granted [ER 8.2.17].
- 4.15. The Secretary of State has considered the ExA's conclusions, the concerns raised by statutory consultees and IPs during the Examination, the Applicant's assessment and responses, as well as post-examination submissions and responses to the information request letters and the all-IP consultation. The Secretary of State notes paragraph 5.8.10 of NPS EN-1 states that the Sequential Test should consider reasonably available, lower risk sites appropriate for the Proposed Development. If these are found, the Applicant then needs to justify why they are not proposed, accounting for wider sustainable development objectives which could include the application of other relevant policies. The Sequential Test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need. As stated in paragraph 27a of the NPPG, a number of alternative land parcels at lower risk of flooding should only be considered where such land parcels could accommodate the development in a way which would still serve its intended market(s) as effectively.

The Secretary of State's Conclusion

- 4.16. With regards to the Applicant's search radius for assessment of alternative sites, the Secretary of State considers that the Applicant has sufficiently justified the initial 10km search radius in section 4.3 of The Sequential and Exception Test Assessment [REP2-080] and section 3 in The Sequential and Exception Test Assessment Addendum [REP3-069]. The Secretary of State also recognises that the Applicant carried out a sensitivity test in [REP2-080] to demonstrate that even if a 15km radius was used, there are no reasonably available land parcels in a lower flood zone as an alternative to the Order Limits.
- 4.17. The Secretary of State notes that one of the key criteria for the search for alternative sites was size, as the overall site area for the Proposed Development needed to be large enough to accommodate the 740MW generating capacity secured for the 2029 grid connection agreement. A conservative overall site area of 985ha was therefore used by the Applicant, which is the same land take as required for the solar PV areas and associated infrastructure. This overall site area calculation is also in line with guidance in paragraph 2.10.17 of NPS EN-3 which states that a solar farm requires 2 to 4 acres for each MW of output. The Applicant also considered that if more than two disparate land parcels were proposed, this would significantly add to delivery timescales and have an impact on the efficient use of land. Therefore, an overall site that constitutes more than two smaller land parcels would not represent a realistic alternative to the Order Limits. Nonetheless, the Applicant undertook a

further sensitivity test [REP3-069], undertaking a search of collective alternative land parcels of 250ha with the understanding that four of these land parcels would need to be identified to constitute a reasonable alternative site to the Order Limits. In [REP3-069], the Applicant also provided further justification for the 6km limit between potential collective alternative sites that was used to be able to meet the Proposed Development's objectives. It stated that any connection further than 6km requires large cable corridor widths if using a 33kV connection, with less ability to avoid sensitive environmental receptors and more disturbance. If multiple sites are required further away, additional substations may also be required. The Secretary of State notes that there is neither guidance nor policy that states a fixed land parcel size for searches for reasonably available land must be used. The Secretary of State considers the reasoning provided by the Applicant is sufficient in this case.

- 4.18. Paragraph 28 of the NPPG states that *"sites should be considered 'reasonably available' for the purposes of the sequential test if their location is suitable for the type of development proposed, they are able to meet the same development needs and they have a reasonable prospect of being developed at the same time as the proposal"*. The Secretary of State agrees with the ExA that unwilling landowners could potentially delay the development process (through the requirement of CA) and therefore even if alternative land were found, this land would be unlikely to be able to be developed at the same time as the Proposed Development to meet the 2029 connection agreement date. However, ultimately, this was not a determining factor in the Applicant's Sequential Test exercise, but a consideration in the wider balancing exercise of site search criteria including other planning, commercial and environmental constraints.
- 4.19. Although the Secretary of State notes that the site selection criterion regarding flood risk could have been more strongly worded so that avoiding areas of flood risk was clearly prioritised as part of the assessment of alternatives from the outset for the Proposed Development, the Secretary of State agrees with the ExA that it is reasonable and appropriate that a retrospective exercise was undertaken during the Examination when questions were raised over the original exercise's suitability. The Secretary of State considers that the Applicant undertook a balanced approach to applying the site selection criteria to select a site that was appropriate for the use proposed, weighing up a number of factors.
- 4.20. The Secretary of State disagrees with the ExA's conclusions that the Applicant's approach to the Sequential Test is not compliant with relevant policy. The test set out in section 5.8 of NPS EN-1, the NPPF and the NPPG all establish the need for a reasonable and proportionate sequential assessment. Each case's assessment of alternatives should be considered on its own merits as the site selection approach may differ depending on the constraints to that individual project, with reference to paragraphs 2.10.24, 2.10.25 and 2.10.60 of NPS EN-3. The Secretary of State considers that it is therefore a matter of judgement for the Applicant in the first instance as to what is reasonable and proportionate for the Proposed Development. The Secretary of State also notes that a range of search radii and site area sizes have been found to be acceptable in previous cases. Therefore, while some contextual comparison with other NSIPs is acceptable, the Secretary of State considers that there is no policy basis that evidence from other NSIP assessments and decisions should form the basis of a conclusion on whether the Sequential Test has been met or that there are site search radius and site size area thresholds that should be applied.
- 4.21. Despite the Applicant's additional retrospective exercises in assessing alternative sites for the Proposed Development, the Secretary of State notes that the Applicant did not identify

any alternative suitable sites wholly within Flood Zone 1, and then partially within Flood Zone 1. Therefore, the Secretary of State concludes that the Applicant has applied the Sequential Test for flood risk as part of the site selection as required by paragraph 5.8.36 of NPS EN-1 and the relevant policy on alternatives in section 4.3. The Secretary of State ascribes neutral weight to the Applicant's assessment of alternatives, including consideration of the Sequential Test, because it should not affect the planning balance once it has been established the Sequential Test has been met. Matters regarding site-level application of the sequential approach within the Proposed Development's design and the Exception Test are discussed in the Hydrology and Hydrogeology section of this letter.

Hydrology and Hydrogeology

- 4.22. The Applicant's assessment of the water environment is set out in ES Chapter 7 Hydrology and Hydrogeology [REP7-012] with supporting figures [REP5-026] and appendices [APP-094, REP7-010, APP-096 and REP7-006] [ER 3.11.4 et seq.]. The Applicant's Flood Risk Assessment and Outline Drainage Strategy ("FRA") [REP7-010] confirmed the Proposed Development is partially located in Flood Zone 3. The Applicant, in its Sequential and Exception Test Assessment [REP2-080] submitted during the Examination, set out how the Sequential Test, and the two elements of the Exception Test described in paragraph 5.8.11 of NPS EN-1, have been met [ER 3.11.29].
- 4.23. The ExA was satisfied that the Applicant's assessment considered all relevant potential environmental impacts in respect of the water environment, during the construction, operation and decommissioning phases of the Proposed Development, in accordance with sections 5.8 and 5.16 of NPS EN-1 [3.11.65]. However, for the reasons set out below, the ExA concluded that the Proposed Development would not remain safe and operational during its lifetime. Therefore, the ExA concluded that the Exception Test had not been satisfied. As a result, the ExA recommended the Proposed Development should not be consented in its current form. The ExA recommended that if the Secretary of State concluded differently on the Exception Test, then the risk of flooding to the Proposed Development, identified policy non-compliance and presence of residual impacts, should bear a great negative weight against making the Order [ER 3.11.74].

The Risk of Fluvial Flooding to the Proposed Development – Power Conversion Stations

- 4.24. The Applicant explained its sequential approach to the proposed layout in the FRA [REP7-010], locating above ground equipment outside areas at risk of flooding where possible [ER 3.11.33]. Where infrastructure could not be located outside of such areas, the equipment would be raised above the ground level sufficiently to not be at risk, with the solar panels being raised up to 1.8m above ground level [ER 3.11.35 et seq.]. During the Examination, the Applicant stated that whilst proposed PCS (also referred to as 'inverters' in the Applicant's assessment and the ExA Report) are sensitive equipment, they must be distributed close to solar arrays for operational reasons. As such, a sequential approach to locating PCS was not possible in the Application but strict design parameters and flood mitigation would be secured in Requirement 5 and Requirement 22 of the draft Order [ER 3.11.37]. Table 2.1 of the Outline Design Parameters [REP5-016] secures that PCS located outside of the design flood event would not exceed a height of 4.5m above ground level. PCS within the design flood event would be raised on stilts no higher than 6m above ground level, the worst-case design height assessed in the ES [ER 3.11.38].

- 4.25. Following the Examination, the ExA deduced that the Outline Design Parameters [REP5-016] provided flexibility to raise the PCS located within the design flood event by 1.5m (the difference between 4.5m and 6m). The ExA noted, although it admitted it was difficult to determine an accurate depth from the information provided, Figure 3-9 of the FRA [REP7-010] identified where solar arrays could flood to depths of up to 2m and Figure 3-10 identified where solar panels would need to be raised up to 1.8m. Therefore, the ExA inferred, in the absence of assessment from the Applicant, that the PCS may need to be raised by a similar height so as not to be submerged and that this is not accounted for in the Outline Design Parameters [REP5-016] secured in the draft Order [ER 3.11.41 and 3.11.42]. The ExA also noted that, as a result, the possible effect of the PCS on fluvial flood storage may not have been fully assessed in the FRA [REP7-010]. For this reason, the ExA conservatively concluded that the Applicant had not demonstrated the Proposed Development would not increase the risk of fluvial flooding elsewhere [ER 3.11.50].
- 4.26. The ExA recognised that it may be possible to apply the sequential approach to siting the PCS in the detailed design to avoid the deepest flooded areas. However, it concluded that, given the extent of land in the Order Limits which could require raising and the operational need for PCS at regular intervals in the solar arrays, this would likely be a significant challenge [ER 3.11.43]. The ExA doubted Requirement 22 of the draft Order satisfied the reasonable test set out in paragraph 57 of the NPPF as, in its view, the Applicant had not substantiated that the Requirement is achievable [ER 3.11.43]. As such, the ExA was not satisfied the Application was supported by an appropriate FRA that could reasonably be relied on for Requirement 22 of the recommended Order [ER 3.11.69]. Furthermore, appropriate mitigation to ensure the PCS would remain operational during a flood event had not been detailed in the FRA [REP7-010], contrary to the requirement of paragraph 5.8.15 of NPS EN-1 and paragraph 181 of the NPPF [ER 3.11.67].
- 4.27. In the first information request, the Secretary of State sought comments from the Applicant, the Environment Agency, LCC, NCC, BDC, NSDC and WLDC on the suitability of proposed amended wording for Requirement 22 of the Order. The amended wording would strengthen the detailed flood risk mitigation design in the Order to include the PCS within the design flood event (as defined in the FRA [REP7-010]), including confirmation that the lowest point of all solar panels and PCS (excluding any mounting structure) are above the design flood event.
- 4.28. The Applicant agreed with the amendments, subject to sub-paragraph 22(2)(b) where it requested inclusion of the 'design flood event' as defined in the FRA [REP7-010], rather than 'areas at risk of flooding' [C1-016]. This, in its view, would align the sub-paragraph with the rest of Requirement 22 to ensure the mitigation provided manages flood risk during the design flood event. The Applicant also proposed an amendment to sub-paragraph 22(3) to state that the detailed flood risk mitigation design must substantially accord with the FRA [REP7-010]. This would allow appropriate flexibility noting it would need to be approved by the relevant planning authority in consultation with the Environment Agency. LCC [C1-006] and NSDC [C1-008] confirmed they had no comments to make and WLDC [C1-012] agreed with the proposed amendments. The Environment Agency [C1-004] confirmed it was satisfied with the amended wording. Mr Fox expressed strong concerns that core safety issues in relation to flood risk and BESS fire safety management were being deferred to the post-consent stage of the Proposed Development and therefore it would be inappropriate for the Secretary of State to rely on Requirements within the Order to resolve such issues at the point of the decision [C1-002 and C1-003].

- 4.29. The Secretary of State has considered the responses received and has accepted the Applicant's proposed changes to Requirement 22 [C1-016], concluding that the changes are sufficient to secure the detailed flood risk mitigation design that must be approved by the relevant planning authority in consultation with the Environment Agency. With the strengthened wording in Requirement 22 secured in the Order and the outline parameters and height parameter plan also secured in Requirement 5, the Secretary of State considers that this provides adequate design mitigation so that the Proposed Development will be built within the design envelope assessed as the worst-case scenario in the ES, whilst ensuring that the PCS are not at risk of fluvial flooding during the design flood event, are safe for their lifetime, and do not increase the risk of fluvial flooding elsewhere in line with the conclusions of the ES [REP7-012], the FRA [REP7-010], and section 6 of the Sequential and Exception Test Assessment [REP2-080].
- 4.30. The Secretary of State notes that the ExA did not provide the Applicant opportunity to clarify or provide evidence regarding its deduction that the Outline Design Parameters [REP5-016] only provide flexibility to raise the PCS located in the design flood event 1.5m and that PCS may need to be raised as high as the solar panels. Without evidence of the actual heights of the PCS, the Secretary of State considers the ExA's conclusion that the Applicant had not met the Exception Test is unsubstantiated. The Secretary of State notes that in the FRA [REP7-010] a maximum flood depth of 1.41m has been assessed for all PCS structures estimated to be within the design flood extent and that, in reality, this would vary and depths would be much less in other areas (i.e. flood depth would be less at many columns and the loss of flood volume would therefore also be less). The Secretary of State therefore does not agree with the ExA that applying the sequential approach in siting the PCS during the detailed design to avoid the deepest flooded areas or to raise them above the design flood event once the exact height of the chosen PCS design is known would be a significant challenge. The Secretary of State is therefore satisfied that the reasonable test set out in paragraph 57 of the NPPF has been met.

The Risk of Fluvial Flooding to the Proposed Development – BESS and Substation Compound Access Roads

- 4.31. During the Examination, the Applicant explained that the BESS and substation compound access roads would be located outside of the design flood event [REP8-010]. Furthermore, due to the limited occupancy of the site, the temporary nature of the construction and maintenance activities, and the adoption of emergency procedures secured by environmental management plans, ES Chapter 7 [REP7-012] concluded a neutral effect of flood risk to users of the Proposed Development [ER 3.11.34].
- 4.32. The ExA deduced that the BESS and substation compound access roads, as described in section 4.3 of the Outline Battery Safety Management Plan ("oBSMP") [REP7-022], would be located in the design flood event [ER 3.11.39]. The ExA accepted the limited occupancy of the site during operation, and that the adoption of environmental management plans and emergency plans would help mitigate the risk to users of the site. However, the ExA found the Applicant had not demonstrated the sensitive BESS and substation compounds would have safe access and egress routes during a concurrent fire and flood event as required by paragraphs 5.8.36 of NPS EN-1 and paragraph 181 of the NPPF [ER 3.11.62 et seq.]. The ExA proposed amendments to Requirement 7 in the recommended Order which, in its view, provided the most suitable solution to adequately control the Proposed Development until a final Battery Storage Management Plan ("BSMP") is approved by the planning authority. The

proposed amendment would secure certainty that access routes to the BESS and substation compounds will be usable in a concurrent fire and flood event [ER 3.11.63].

- 4.33. In the first information request, the Secretary of State sought comments from the Applicant, the Environment Agency, LCC, NCC, BDC, NSDC and WLDC on the suitability of proposed amended wording for Requirement 7 of the Order. The wording proposed inclusion of Work No. 5 in the Requirement and ensuring that all required access to the BESS and substation compounds is achievable and safe during the design flood event. The Applicant agreed with the intention behind the amendments but suggested a number of changes. The Applicant requested a change to paragraph 7(1) to include specific reference to only the applicable parts of Work No.5 that relate to BESS and substation compound access roads [C1-016]. The Applicant also proposed, for the same reasons as Requirement 22, an amendment to paragraph 7(2) so that the final BSMP must substantially accord with the oBSMP. The Applicant stated it was not opposed to including a measure that requires demonstrating that access to the BESS and substation compounds is achievable during a design flood event but considered the most appropriate place to incorporate this measure was by specific mention within the oBSMP, rather than the Requirement. The Applicant provided an amended version of the oBSMP with its response which stated that at least one access to each BESS and substation compound shall be either located within Flood Zone 1 or, to the extent any part of that access is located outside of Flood Zone 1, designed and constructed to be functional during a design flood event (as defined in the FRA) [C1-019].
- 4.34. LCC [C1-006] had no comments on the amended wording. However, Lincolnshire Fire and Rescue suggested that paragraph 7(2) should include wording to ensure the final BSMP would be developed in accordance with national guidance, minimum safety standards and requirements, and compliance with relevant testing standards. LCC requested that the wording 'substantially in accordance with' be added back to paragraph 7(2), highlighting its response to Q10.2.1 to ExQ1 during the Examination. WLDC [C1-012] welcomed the additional focus in the proposed amendments to Requirement 7 to ensure achievable and safe access to the BESS and substation during the design flood event. However, it recommended the Applicant should be required to include information on flood mitigation measures in an updated revision of the oBSMP. The Environment Agency [C1-004] confirmed it was satisfied with the amended wording and NSDC [C1-008] stated it had no specific comments.
- 4.35. The Secretary of State has considered the responses received and agrees with the ExA that an amendment to Requirement 7 is the most suitable solution to ensure that the BESS and substation compound access roads are safe during a concurrent fire and flood event. The Secretary of State disagrees with the Applicant and concludes that a proposed amendment to the Requirement would secure certainty that all required access routes, rather than just one, to the BESS and substation compounds must be usable in a concurrent fire and flood event. The Secretary of State therefore rejects the Applicant's proposed updates in the oBSMP and has therefore listed the version of the oBSMP at the end of the Examination [REP7-022] in the DCO Certified Documents rather than the revised document provided by the Applicant in response to the first information request [C1-019]. However, the Secretary of State has accepted the Applicant and LCC's requested changes to paragraphs 7(1) and 7(2) of the Requirement. The Secretary of State notes Lincolnshire Fire and Rescue and WLDC's request for further detail in the oBSMP [REP7-022]. However, the Secretary of State is content that these changes are not required at this stage and WLDC will be one of the approving authorities of the final BSMP and Lincolnshire Fire and Rescue will be consulted before approval.

The Secretary of State's Conclusion

- 4.36. The Secretary of State is satisfied that the Applicant's assessment considers all relevant potential water environment impacts during the construction, operation and decommissioning phases of the Proposed Development in accordance with sections 5.8 and 5.16 of NPS EN-1. Except for the risk of fluvial flooding to the Proposed Development and the resulting effect of the PCS on fluvial flood storage, the Secretary of State agrees with the ExA on all matters regarding the water environment. The Secretary of State has considered the responses from IPs, including letters received from NSDC and the Mayor of Lincolnshire, but he is satisfied that they do not cause him to depart from the ExA's recommendations with regards to water quality and contamination matters with these issues addressed during the Examination. The Secretary of State is content that the Applicant has satisfactorily applied the sequential approach in the layout of the Proposed Development where possible, noting that the PCS must be located close to the solar arrays for operational reasons, and has secured the necessary detailed design mitigation in the Order to ensure that the sequential approach to the design continues post-consent.
- 4.37. In considering the Exception Test, the Secretary of State disagrees with the ExA and is satisfied that the Applicant, with the agreement of the Environment Agency, has adequately demonstrated that the Proposed Development would have a negligible effect on the risk of flooding elsewhere and agrees with the conclusions of the ES [REP7-012], FRA [REP7-010] and section 6 of the Sequential and Exception Test Assessment [REP2-080]. The mitigation measures set out in section 6 of the Sequential and Exception Test Assessment [REP2-080] and the strengthening of Requirement 22 in the Order alongside Requirement 5 will ensure that PCS must be located outside of or raised above the design flood event in the detailed design of the Proposed Development, but within the Outline Design Parameters [REP5-016] assessed in the ES.
- 4.38. The Secretary of State concludes that the Applicant's assessment of the water environment accords with the provisions of NPS EN-1, NPS EN-3, NPS EN-5, the NPPF and Local Plans. The Secretary of State concludes that the Exception Test, in line with paragraphs 5.8.11 and 5.8.12 of NPS EN-1, has been met to ensure that the Proposed Development will be designed and constructed to be safe for its lifetime due to mitigation secured in the Order. He also concludes that the Proposed Development will provide wider sustainability benefits to the community that outweigh the residual negligible flood risk, as established by the Proposed Development's need case. The Secretary of State notes the residual likely effects on the water environment are identified between neutral and minor adverse in Table 7-4 of ES Chapter 7 [REP7-012]. The Secretary of State finds that the Proposed Development's potential impacts on the water environment will be satisfactorily mitigated and managed through the measures and commitments in ES Chapter 7 [REP7-012], the FRA [REP7-010] and the Commitments Register [REP3-059], secured by relevant articles of the Order. Therefore, hydrology and hydrogeology matters carry neutral weight in the planning balance.

Biodiversity and Ecology

- 4.39. The Applicant's ES Chapter 6 Biodiversity [REP6-008] assesses effects on both species and habitat receptors. Overall, the Applicant's assessment predicted residual effects ranging from non-significant adverse to significant beneficial depending on the receptor, summarised in Table 6.11 [REP6-008]. The ExA considered that the Applicant had appropriately assessed the likely significant effects ("LSE") on protected species across the construction, operation, and decommissioning phases of the Proposed Development and agreed with the

assessment conclusions for both protected species and habitats [ER 3.5.128 et seq.]. The ExA agreed there would be adverse effects during the construction phase but that these would be temporary and minimised through environmental management plans [ER 3.5.128 and 3.5.131]. The ExA agreed with the Applicant that the Proposed Development would likely have significant beneficial residual effects on biodiversity and ecology during the operational phase [ER 3.5.136].

- 4.40. Except for the justification for ornithological mitigation, discussed below, the Secretary of State is satisfied that appropriate mitigation has been developed and secured (summarised in Table 6.6 of [REP6-008]).

Breeding Birds

- 4.41. In ES Chapter 6 Biodiversity [REP6-008], the Applicant concluded that for skylark the Proposed Development would not have a significant effect in EIA terms, considering the effect of habitat loss, degradation and disturbance, as well as habitat creation and enhancement. For breeding birds (other than skylark) the Applicant concluded that the Proposed Development would have a significant (in EIA terms) beneficial effect. No significant cumulative effects on ornithology were identified by the Applicant in ES Chapter 18 Cumulative Effects [REP6-012].
- 4.42. The Secretary of State considered that the Applicant needed to justify further that the mitigation for the Proposed Development is sufficient. Therefore, in the first information request, the Secretary of State asked the Applicant to provide additional justification for the conclusions for skylark and that the mitigation, compensation and enhancement provided was sufficient (including the applicability of skylark plots in grasslands) to support the local population and mitigate the area of habitat loss. In the first information request, the Secretary of State also requested the Applicant to further justify the sufficiency of the mitigation provisions and the ES conclusion for breeding birds; considering the area of habitat loss and breeding densities expected across the different habitats created.
- 4.43. The Applicant responded on each of the matters raised [C1-016]. The Applicant provided its justification on the use of skylark plots in grassland, and highlighted the measures are supported by the management measures secured in the Outline Landscape and Ecology Management Plan ("OLEMP") [REP7-018]. The Applicant noted, in its view, skylark plots within the grassland will ensure that a range of different sward heights, and therefore foraging opportunities, exist at all times within the bird breeding season. The Applicant evidenced that the skylark plots had the potential to improve both the territory density and number of potential breeding attempts for the species, and that the presence of skylark plots would not conflict foraging opportunities for other species.
- 4.44. The Secretary of State is satisfied with the justification provided on the applicability of skylark plots in grassland with the clarification on how these will be managed and also welcomes the Applicant's updated OLEMP [C1-017] which includes the use of skylark plots within sacrificial crop areas as required and appropriate, to maximise the skylark mitigation. The Secretary of State also notes that plots would be situated at least 50m from field boundaries as skylarks do not typically nest in proximity to boundary features.
- 4.45. The Applicant relied on the provision of skylark plots, the creation of 234ha of new species rich grassland without ground infrastructure, and wider foraging habitat within the solar array to justify that the 144 breeding pairs of skylarks assumed to be displaced by the Proposed Development can be accommodated elsewhere within the Order Limits. The Applicant noted

that densities of breeding pairs per hectare recorded in grassland are greater than in intensive cereal crops and that densities of skylark per hectare can be greater than 0.27 (highlighting that organic set-aside has an average density of 0.56 per hectare). The Secretary of State however notes that the Applicant's response to the first information request quotes the scale of nesting habitat as 234ha which, due to the 50m offset from boundaries, does not reflect that only 81ha would be managed specifically for skylark (as stated in the ES) including the provision of plots. It remains the case that the Applicant has not indicated the targeted breeding density used to design the mitigation areas and linked this directly to the area of habitat loss/pairs disturbed. As such, the Secretary of State applies a precautionary approach, acknowledged by the Applicant in its response to the first information request, to the scale of the positive effects on skylark reported in the ES for the operational phase of the Proposed Development.

- 4.46. The Applicant considers [C1-016] that additional habitat for skylark on- or off-site would not be required as it considers breeding density is unlikely to be a limiting factor across the areas of habitat creation. South Clifton Parish Council responded to the first information request stating that, given the scale of the Proposed Development and the extent of land use change involved, it considers it reasonable that these matters were examined carefully [C1-011]. The Secretary of State acknowledges the mitigation measures proposed and has seen no evidence suggesting that there would be a significant adverse effect on skylark or that additional land would be required to provide further mitigation habitat. He notes that LCC, in response to the all-IP consultation confirms agreement with the on-site provisions for ground nesting farmland birds [C2-010]. However, based on the evidence presented, the Secretary of State considers that no positive weighting should be afforded in the planning balance for skylark. The Secretary of State does highlight that the OLEMP secures skylark monitoring to record breeding densities and usage to inform any adaptive management measures required. He considers the monitoring of the mitigation's effectiveness should reflect the final area of habitat loss (developed areas) associated with the approved layout and the associated skylark displacement, which would be facilitated through the finalisation and approvals of the Landscape and Ecology Management Plan ("LEMP").
- 4.47. In respect of breeding birds other than skylark, the Applicant's response to the first information request [C1-016] provided further justification to support the conclusions in the ES that the Proposed Development would have a significant beneficial effect. The Applicant acknowledged that solar farms managed for biodiversity do not provide positive benefits to all bird species and that there would be short term adverse effects during the construction phase, but the majority of the farmland bird community is expected to benefit in the operational phase. The Secretary of State acknowledges the evidence provided to support the Applicant's claims that the Proposed Development would provide more and better managed habitats that are typically considered to have significantly greater biodiversity interest than intensively managed arable farmland. This beneficial effect to other breeding birds overall is considered in the overall weight attributed to biodiversity and ecology, however the Secretary of State highlights the importance of the monitoring secured within the OLEMP to validate the ES conclusions or require adaptive management.

Wintering Birds

- 4.48. The Applicant concluded that the Proposed Development would not have a significant effect in EIA terms on wintering birds [REP6-008]. In a similar manner to skylark, in the first information request letter the Secretary of State asked the Applicant to justify the conclusions in the ES by explaining how mitigation is specifically targeted to wintering birds.

4.49. The Applicant clarified details of the mitigation for wintering birds in its response to the first information request [C1-016]: the habitat creation (including coastal and floodplain grazing marsh) will provide greater areas of wetter habitat than currently present as agricultural drainage will no longer be required. The Secretary of State notes the ES reported adverse effects during the construction phase and beneficial effects during the operation phase (both not significant in EIA terms). The Secretary of State acknowledges the opportunities and potential benefits to wintering birds, but notes that the Applicant has not detailed in full how the hydrology across coastal and floodplain grazing marsh habitats will be managed to maintain the conditions that would benefit wintering birds. The Secretary of State notes that the OLEMP includes establishing a steering group to ensure that the creation and management of new habitats and those subject to enhancement, is delivered effectively. The Secretary of State considers it appropriate in this case, based on the low level of effect, that delivery of coastal and floodplain grazing marsh (with a hydrological approach to ensure it is suitable for wintering species such as golden plover and lapwing) will be agreed as part of the finalisation of the LEMP. He notes that LCC, in response to the all-IP consultation, confirmed agreement with the on-site provisions for wintering birds [C2-010]. The Secretary of State is satisfied that there would be no significant adverse effects on wintering birds. However, based on the evidence presented, no positive weighting is afforded in the planning balance for wintering birds.

Ornithology - Summary

4.50. South Clifton Parish Council [C1-011] responded to the first information request on the Applicant's reliance on assumed habitat performance in relation to skylark and wider biodiversity benefits; highlighting *"the importance that any claimed 'significant beneficial effects' are supported by realistic and evidence-based assumptions, particularly in relation to farmland bird species and wintering bird populations that are characteristic of the local landscape"*. The Secretary of State agrees. LCC responded to the all-IP consultation [C2-010] to state that it considers that adequate on-site provision has been made for both ground nesting farmland birds and wintering birds. The Council agreed that there may be a minor negative impact on breeding birds during the construction phase and an overall positive impact on breeding birds during the operational phase. The Council considered that the provision of mitigation for breeding and wintering birds is adequately secured in the OLEMP. The Secretary of State agrees.

4.51. Overall, the Secretary of State recognises the ornithological mitigation has been designed to manage habitats so that there are ecological benefits during the operational phase of the Proposed Development. However, he considers the Applicant could have done more to demonstrate the link between the amount of habitat created and the number of birds impacted by habitat loss. Given the measures and processes secured in the OLEMP, he is satisfied there would be no significant adverse effects on ornithological receptors and that the management of habitats can create beneficial effects to a number of species. He notes that solar PV has been found to be generally beneficial for many farmland bird species, but not for all ground nesting species which require wide sightlines to nest.

Biodiversity Net Gain

4.52. ES Chapter 6 Biodiversity [REP6-008] and the Applicant's Biodiversity Net Gain ("BNG") Assessment [REP6-016] demonstrate the potential to deliver an on-site net gain of:

- 3439.80 habitat units, an increase of 111.37%;
- 363.34 hedgerow units, an increase of 92.64%; and,

- 87.57 watercourse units, an increase of 63.61%.

- 4.53. During the Examination, the draft Order (as reflected in [REP9-006]) was revised to specifically secure a minimum commitment to the delivery of BNG within a standalone Requirement to reflect the Applicant's intention to deliver ecological enhancement measures and BNG as part of the Proposed Development. The ExA considered that the Proposed Development would likely have significant beneficial residual effects on biodiversity and ecology during the operational phase of the Proposed Development. The ExA also considered that the BNG provisions and extent of habitat provision mean that significant beneficial residual effects on the local biodiversity and ecology would be further enhanced [ER.3.5.136].
- 4.54. Requirement 9 in the Order as made by the Secretary of State requires a BNG strategy to be approved by the relevant planning authority and include details of how the strategy will secure a minimum of 50% BNG in area-based habitat units, a minimum of 50% BNG in hedgerow units and a minimum of 10% BNG in watercourse units. The Secretary of State notes that it is not currently mandatory for NSIPs to deliver BNG and welcomes the Applicant's ambition and minimum commitment. The Secretary of State considers that the BNG secured is substantial and is also satisfied that the implementation of BNG is secured through Requirement 9(3) of the Order which requires the BNG strategy to be substantially in accordance with the OLEMP.

The Secretary of State's Conclusion

- 4.55. The ExA concluded that the Proposed Development is likely to result in a net improvement in the long-term biodiversity and ecology of the site and consequently should be ascribed moderate positive weight in favour of making the Order [ER 3.5.137]. The Secretary of State has considered both the minimum BNG that is secured in the Order as well as the residual effects on all ecological receptors, both beneficial and adverse, and agrees that overall, a moderate positive weight is assigned to the planning balance. The identified benefits for some breeding bird species are factored into the Secretary of State's overall weighting for biodiversity and ecology of moderate positive where sufficient evidence has been provided.

Agriculture (Land) and Soils

- 4.56. ES Chapter 8 Land and Soils [REP5-022] assessed effects on receptors including geological units, groundwater, mineral safeguarding areas and soils (considering soil quality and the availability of agricultural land). The Secretary of State agrees with and adopts the conclusions of the ExA on these effects, including that the use of BMV land has been adequately justified. It is noted however that the Proposed Development occupies a total area of 660.9ha of BMV land (specifically, Agricultural Land Classification ("ALC") grade 2 and 3a), which the ExA incorrectly referenced as grades 1 and 2 at [ER 3.9.159].
- 4.57. The Secretary of State agrees with the moderate negative weighting assigned by the ExA to agriculture and soils due to the unavailability of BMV land over a 60-year period (long-term but temporary). He notes the Applicant reported moderate adverse effects on very high sensitive soils in the ES (in regard to the unavailability of agricultural land) but highlighted the mitigation so that the ALC grade will not be changed by the Proposed Development and that there is a reversible reduction in availability of agricultural land. While the Secretary of State considers that the unavailability of BMV land for the Proposed Development's lifetime is of a moderate adverse effect for high sensitivity soils due to the area of BMV impacted, he notes that the Outline Soil Management Plan [REP5-042] secures monitoring and remedial

action if necessary to ensure that ALC grade and soil properties are both restored to the same status as prior to the Proposed Development.

4.58. The Secretary of State welcomes the Applicant's acknowledgement [REP3-065] that some ecological enhancement would be retained post-operation and thus, as a worst-case, there would also be an associated permanent loss of BMV, which is assessed in the ES. Although he notes that no other areas from the Proposed Development are considered to result in permanent loss, as is the case for some projects, he does not consider this to materially alter his conclusion.

4.59. Regarding cumulative effects, the Secretary of State notes that the figures quoted in the ExA Report [ER 3.13.66] reflect the Proposed Development alone and that the cumulative figures (as reflected in [ER 3.9.104]) were updated throughout Examination and are reported in [REP6-012] as:

“Based on the areas of BMV land within the Order Limits, the temporary change in land use as a result of the Proposed Development will affect 0.03% of BMV land within Lincolnshire and 0.5% of BMV land within Nottinghamshire. If all the ‘reasonably foreseeable’ schemes (including the Proposed Development) within Lincolnshire proceed, the change in land use would be 1.75% (including temporary and permanent schemes). The change in land use in Nottinghamshire, including the Proposed Development (for temporary and permanent schemes) would be 2.57%.”

4.60. The Applicant also reported [REP6-012] that the total BMV land take of all temporary and permanent developments considered in the cumulative assessment is 10,201.86ha, which is 0.061% of the total Utilised Agricultural Area within the UK. The Secretary of State notes that the ExA considered the Proposed Development to be a large-scale proposal and together with other projects in both Lincolnshire and Nottinghamshire the scale of loss of BMV should be regarded as significant [ER 3.9.168] but, that in a regional and national context, it would not be significant [ER 3.13.70]. The Secretary of State considers that the scale of the unavailability/loss of BMV land for the Proposed Development cumulatively with other projects should be regarded as having a moderate adverse effect for very high sensitivity soils due to the area of BMV land impacted. However, in the context of the overall area of BMV land across Lincolnshire and Nottinghamshire and the UK, it is not significant. He also notes the iterations of the reported cumulative loss of BMV land through the Examination and considers that the values presented in paragraph 7.5.2 of the Applicant's response to the first information request [C1-016] do not align with the values reported in the final version of ES Chapter 18 Cumulative Effects [REP6-012] noted above. For the avoidance of doubt, the Secretary of State has considered the latter to inform his conclusion that regionally and nationally effects of the unavailability of BMV land are not significant.

4.61. The ExA noted that, in its view, the loss from UK farming production as a result of the Proposed Development was not evidenced to be significant in the UK national food security context [ER 3.9.65]. No questions were raised in the first information request concerning agriculture and land use, however the Applicant sought to clarify the information available in the Examination phase and provided further evidence on food security matters in relation to current cropping and yield [C1-016]. The Applicant contextualised the yield from land across the Order Limits at the scale of UK production and concluded that the Proposed Development would have negligible effect in terms of UK food security.

The Secretary of State's Conclusion

- 4.62. The Secretary of State acknowledges the long-term but temporary unavailability of BMV land for the Proposed Development alone and cumulatively, as well as the reported permanent loss of BMV land from projects including the Proposed Development, and this is considered in the overall moderate negative weight ascribed to agriculture and soils in the planning balance. While he considers that for the highest sensitivity soils there would be a moderate adverse effect in terms of unavailability due to the area impacted, in the context of the BMV land available regionally and nationally this is not significant.
- 4.63. The moderate negative weighting also encompasses all other effects reported in the ES Chapter 8 Lands and Soils [REP5-022]. The Applicant considered there would be beneficial effects on soil quality during the operational phase of the Proposed Development (significant in EIA terms for very high sensitivity soils and not significant for other high and medium sensitivity soils). The Secretary of State agrees that there could be beneficial effects to soils. However, with the evidence provided, the beneficial effects are unquantified and uncertain. As such, he disagrees with the ExA [ER 3.9.188] that a separate weighting of limited positive is appropriate considering the benefits identified to soil quality.
- 4.64. The Secretary of State considers that the Applicant has reasonably evidenced the required use of BMV land and that there would be no conflict with NPS EN-1 and EN-3. The Secretary of State also agrees with the ExA that the loss of farming production is not significant in the context of UK national food security. Given the area of BMV land that would be unavailable for the duration of the Proposed Development, and cumulatively across Lincolnshire and Nottinghamshire, a moderate negative weighting is ascribed as per the ExA recommendation to effects on agriculture and soils. No separate weighting has been ascribed in the planning balance by the Secretary of State for the predicted beneficial effects to soil quality.

Climate and Carbon

- 4.65. The Applicant provided a greenhouse gas ("GHG") assessment in ES Chapter 14 Climate and Carbon [APP-043], which estimated the life cycle GHG emissions from all phases of the Proposed Development, and a climate change resilience assessment, which considered the ability of the Proposed Development to adapt to and be resilient to potential future changes in climate.
- 4.66. The GHG assessment provided contextualisation against the UK's carbon budgets and described the embedded measures to reduce emissions secured in the draft Order. The Applicant also estimated the life cycle GHG emissions of the Proposed Development combined with the proposed National Grid High Marnham Substation (into which the Proposed Development is likely to connect) [APP-148]. The Applicant concluded the Proposed Development would have a significant (beneficial) effect in EIA terms due to the indirect GHG emissions avoided by the Proposed Development and its role in the transition to net zero [APP-043].
- 4.67. The ExA concluded that the Proposed Development would contribute positively to climate change mitigation, but that its benefits are inherently captured within the weighting attributed to the need case [ER 3.12.61]. The Secretary of State agrees that no separate weighting should be assigned. He agrees that the Proposed Development would have a beneficial effect in relation to climate change as a result of indirect GHG emissions avoided. However, the Secretary of State notes the Applicant's method for calculating the savings and payback

period by reference to the displacement of natural gas-fired power generation from Combined Cycle Gas Turbines and that the carbon savings (energy offset) and payback period is not provided in context of the current UK grid mix or future energy mix. The Secretary of State considers that the predicted grid average intensity is an appropriate baseline against which to estimate future carbon savings. The Secretary of State notes the Applicant does (in addition to consideration of the existing land use) compare the carbon intensity of the Proposed Development with other forms of energy generation (including renewable sources and natural gas fired power station operating with Carbon Capture and Storage technology) and the Secretary of State considers that using the grid average intensity, the Proposed Development would nonetheless represent an emissions saving, as the grid average during the Proposed Development's operation will include fossil fuel generation. The Secretary of State is therefore satisfied that the Proposed Development would result in carbon savings during operation and would support the trajectory to net zero.

- 4.68. The Applicant identified no significant effects on the Proposed Development due to future climate change [APP-043]. The ExA reported the impacts of climate change on other topics considered during the course of the Examination in the relevant topic sections of its report, where appropriate [ER 3.12.37]. The Secretary of State agrees that no separate weighting should be applied to this matter, and that climate change is considered as required in the separate topic areas; specifically flooding and safety matters in the Hydrology and Hydrogeology section of this letter.

The Secretary of State's Conclusion

- 4.69. The Secretary of State concludes that the Proposed Development is in accordance with NPS EN-1. He attributes no separate weighting to climate and carbon and has included the positive effect the Proposed Development will have on decarbonising the energy sector in the need case in agreement with the ExA. The impacts of climate change on the Proposed Development are considered as necessary in the relevant topic areas, namely hydrology and hydrogeology.

5. Habitats Regulation Assessment

- 5.1. The Secretary of State has undertaken a Habitats Regulations Assessment ("HRA") and has carefully considered the information available, including the HRA Report [REP2-019] and ES submitted by the Applicant, the Report on the Implications for European Sites [PD-012] produced by the ExA, representations made by Natural England ("NE") and 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 was identified [REP2-019] to have the potential to have an LSE on the following protected sites in regard to project alone effects and effects in-combination with other plans or projects:
- Humber Estuary Special Area of Conservation ("SAC"); and,
 - Humber Estuary Ramsar Site.
- 5.4. The Applicant concluded that there would be no Adverse Effect on the Integrity ("AEol") of the Humber Estuary SAC or Ramsar Site. NE did not dispute the Applicant's assessment or

conclusions [REP7-036] and the ExA concluded that an AEol of the Humber Estuary SAC or Ramsar Site could be excluded [ER 4.6.7].

- 5.5. The Secretary of State is satisfied that suitable mitigation has been identified and secured, including that the cable route under the River Trent must be constructed using trenchless crossing methods, as secured in the Outline Construction Environmental Management Plan [REP7-014]. He also notes that monitoring of lamprey has also been secured in the OLEMP for a period of five years to better inform future assessments of electromagnetic fields and validate the conclusions of the HRA Report.
- 5.6. Based on the information available to him, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not cause a AEol of any feature of any protected sites and that appropriate and proportionate mitigation and monitoring has been secured.

6. Consideration of Land Rights and Related Matters

- 6.1. The ExA concluded on the planning balance that the Proposed Development would contravene relevant NPS policy (section 104(3) of the 2008 Act) and that its adverse impacts would outweigh its benefits (section 104(7) of the 2008 Act). In such circumstances, the CA tests set out in section 122 of the 2008 Act would not be met [ER 6.6.3 et seq.]. However, the ExA stated that in the event the Secretary of State disagrees with the conclusions of the ExA and the case for the Proposed Development is made, the ExA considered that [ER 6.6.8]:
 - The need to secure the land and rights required to construct the Proposed Development within a reasonable timeframe and to ensure the development would remain operational would represent a substantial public benefit to weigh in the planning balance;
 - The private loss to those affected has been mitigated through the selection of the application land, the undergrounding of the cables, and the extent of the rights and interests proposed to be acquired;
 - The Applicant has explored all reasonable alternatives to the CA of the rights and interests sought;
 - There are no alternatives which ought to be preferred where CA powers remain;
 - Adequate and secure funding would be available to enable the CA within the statutory period following the Order being made; and,
 - That an appropriate framework for compensation exists, and the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate extent.
- 6.2. The ExA also stated that if the Secretary of State is minded to accept the Proposed Development based on its compliance with national policy, the Proposed Development would also comply with section 122(3) of the 2008 Act and that other land related powers in the Order would be necessary and justified for the Proposed Development to proceed [ER 6.6.9].
- 6.3. The ExA advised the Secretary of State that the Applicant's view be sought in respect of outstanding matters relating to proposed protective provisions, and that The Crown Estate's confirmation be sought that Crown consent will be forthcoming [ER 8.2.10]. The Secretary of State sought updates from the relevant parties in the first and second information requests as discussed below.

Exolum Pipeline System Limited

- 6.4. Following the close of the Examination, the Applicant wrote to the Secretary of State [PIR-001] to confirm that the commercial agreement between the Applicant and Exolum Pipeline System Limited (“Exolum”) had been signed. The Applicant provided the agreed protective provisions and requested that these be included in the Order. The Applicant considered that through the protection afforded by the agreed protective provisions, the CA provisions in the draft Order can be granted without serious detriment to the carrying on of Exolum’s statutory undertaking.
- 6.5. The Secretary of State is satisfied with the updates from the Applicant and has included the agreed protective provisions, as provided by the Applicant, in the Order.

National Grid Electricity Distribution (East Midlands) Plc

- 6.6. The Applicant confirmed in its closing statement [REP9-028] that the protective provisions with National Grid Electricity Distribution (East Midlands) Plc (“NGED”) had been agreed and were in a final form. However, the finalisation of the protective provisions was subject to a commercial agreement between the Applicant and NGED, which was not concluded at the close of the Examination.
- 6.7. Following the close of the Examination, NGED wrote to the Secretary of State [PIR-002] to confirm NGED and the Applicant had reached an agreement on commercial terms for the protection of NGED's apparatus and entered into an asset protection agreement on 12 February 2026. Subsequently, NGED withdrew its objection to the Proposed Development.
- 6.8. In its response to the second information request letter, the Applicant [C3-003] provided the agreed protective provisions for NGED.
- 6.9. The Secretary of State is satisfied with the updates from the Applicant and NGED and has included the agreed protective provisions, as provided by the Applicant, in the Order.

Network Rail Infrastructure Limited

- 6.10. In the first information request, the Applicant and Network Rail Limited (“Network Rail”) were requested to provide updates regarding whether protective provisions had been agreed between the two parties and whether Network Rail have any outstanding objections. The Applicant was also requested to comment on Network Rail’s final Examination submission [AS-072] regarding its outstanding objection to the Applicant’s proposed protective provisions [REP9-006].
- 6.11. In its response to the first information request [C1-016], the Applicant stated that discussions are well progressed and largely agreed. Addleshaw Goddard LLP on behalf of Network Rail confirmed discussions were ongoing but at an advanced stage regarding the inclusion of Network Rail's standard protective provisions in the Order and associated side agreement [C1-023].
- 6.12. In its response to the second information request [C3-004], Addleshaw Goddard LLP on behalf of Network Rail stated that, subject to completion of the side agreement, Network Rail and the Applicant have agreed the form of the protective provisions but that the side agreement must be entered into before Network Rail can withdraw its objection.

- 6.13. In its response to the second information request [C3-003], the Applicant stated it has continued to engage with Network Rail in relation to Heads of Terms and that there remain a small number of outstanding commercial points which the Applicant is currently reviewing with the intention of providing a response to Network Rail as soon as possible. It also agreed that both parties have reached agreement on the protective provisions and are now in the process of formalising the agreement.
- 6.14. With regards to plot numbers 05-008, 05-010, 05-011, 07-002*, 07-015, 08-003, 08-004, 08-005, 08-006, 08-007, 08-008, 08-009, 14-019, the Secretary of State agrees with the ExA that this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the powers sought. The Secretary of State did not receive the agreed protective provisions before issuing his decision. In the absence of these, the Secretary of State agrees with the ExA and considers that the protective provisions proposed by Network Rail [AS-072] in the recommended Order would appropriately safeguard Network Rail's position and have been sufficiently justified by Network Rail. This version of the protective provisions has therefore been included in the Order.

Northern Powergrid (Yorkshire) Plc

- 6.15. In the first information request, the Applicant and Northern Powergrid (Yorkshire) Plc ("Northern Powergrid") were requested to provide updates regarding whether protective provisions had been agreed. The Applicant was also requested to comment on the final Examination submission from Northern Powergrid [AS-071] regarding its outstanding objection to the Applicant's proposed protective provisions [REP9-006]. In its response to the first information request [C1-016], the Applicant confirmed that protective provisions for the benefit of Northern Powergrid had been agreed. The Applicant provided the updated protective provisions agreed with Northern Powergrid and requested that these be included in the Order.
- 6.16. In its response to the first information request [C1-013], Weightmans LLP, on behalf of Northern Powergrid, also confirmed that protective provisions and an Asset Protection Agreement had been agreed with the Applicant and that this resolves Northern Powergrid's concerns for the Proposed Development. The response also confirmed Northern Powergrid's agreement to insert these protective provisions into the Order as requested by the Applicant.
- 6.17. Weightmans LLP, on behalf of Northern Powergrid, wrote again to the Secretary of State in response to the all-IP consultation [C2-003] confirming that internal processes for both parties were on-going with regards to the engrossments and authorised signatories for the agreed Asset Protection Agreement and bespoke protective provisions but that processes would be completed shortly.
- 6.18. The Applicant also responded to the all-IP consultation [C2-020] stating that protective provisions and associated commercial negotiations have been agreed. The Applicant provided the agreed protective provisions and requested that these be included in the Order.
- 6.19. The Secretary of State notes the updates from the Applicant and Northern Powergrid and has included the agreed protective provisions, as provided by the Applicant, in the Order noting Weightmans LLP's response to the first information request.

Trent Valley Internal Drainage Board

- 6.20. In the first information request, the Applicant and Trent Valley Internal Drainage Board were requested to provide updates regarding whether protective provisions had been agreed and if any further progress had been made with regards to obtaining consent under section 150 of the 2008 Act to disapply section 23 of the Land Drainage Act 1991. No response was received from Trent Valley Internal Drainage Board to this letter.
- 6.21. In its response to the first information request [C1-016], the Applicant confirmed it had received a response from the Trent Valley Internal Drainage Board on 14 May 2026 to progress negotiations of protective provisions. The Applicant stated it would endeavour to agree protective provisions with the Trent Valley Internal Drainage Board as soon as possible. In its response to the all-IP consultation [C2-020], the Applicant stated that it received comments from the Trent Valley Internal Drainage Board on the draft protective provisions on 22 June 2026.
- 6.22. In its response to the second information request [C3-003], the Applicant stated it had received further proposed amendments from the Trent Valley Internal Drainage Board that the Applicant considers are unreasonable and are not able to be resolved at this late stage. The Applicant requested that its preferred protective provisions be included in the Order. Separately, as agreement had not been reached with the Trent Valley Internal Drainage Board, the Applicant no longer seeks the disapplication of section 23 of the Land Drainage Act 1991 under Article 6(1)(a) of the draft Order.
- 6.23. On 3rd July 2026, the Secretary of State received a submission from the Trent Valley Internal Drainage Board stating that discussions are being undertaken between its legal representatives and the Applicant. However, the document has not currently reached a point of agreement between parties. It advised that there is no memorandum of understanding or Statement of Common Ground in place and at this time the Board are not in receipt of a crossing schedule.
- 6.24. The Secretary of State acknowledges the updates from the Applicant and the Trent Valley Internal Drainage Board. The Secretary of State agrees with the ExA that, although the Trent Valley Internal Drainage Board has provided an update, because it has not made any further submissions in respect of the amendments to the protective provisions proposed by the Applicant, no further amendments should be made. Therefore, he has accepted the Applicant's proposed protective provisions [REP9-006]. The Secretary of State is satisfied that, as worded, the protective provisions provide sufficient protection to ensure that there would not be serious detriment to the Trent Valley Internal Drainage Board's undertakings. Furthermore, in line with the recommended Order, he has not included the provision of disapplying section 23 of the Land Drainage Act 1991. It is understood that the Applicant will seek the relevant consents under section 23 of the Land Drainage Act 1991 post-consent.

National Grid Electricity Transmission Plc

- 6.25. In the first information request, the Applicant and National Grid Electricity Transmission Plc ("NGET") were requested to provide updates regarding whether protective provisions had been agreed. In its response to the first information request [C1-016], the Applicant confirmed that protective provisions for the benefit of NGET had now been agreed. The Applicant provided the updated protective provisions agreed with NGET and requested that these be included in the Order.

- 6.26. Eversheds Sutherland, on behalf of NGET, responded to the first information request [C1-007] confirming that NGET had reached agreement with the Applicant in respect of the protective provisions. It also confirmed that NGET had agreed commercial terms documented in a separate agreement with the Applicant, which had not yet been completed. NGET anticipated being in a position to withdraw its representation to the Order once that agreement had been executed.
- 6.27. The Secretary of State is satisfied with the updates from the Applicant and NGET and has included the agreed protective provisions, as provided by the Applicant, in the Order.

The Crown Estate

- 6.28. In the first information request, the Secretary of State requested the Applicant provide an update on the case for Crown consent being granted for the Proposed Development. In its response [C1-016], the Applicant stated that it was engaged in active discussions with The Crown Estate in relation to the provision of section 135 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 the Applicant.
- 6.29. In its response to the all-IP consultation [C2-020], the Applicant confirmed that Heads of Terms in respect of a voluntary agreement have been agreed with The Crown Estate and would shortly be circulated for signature. It also stated that legal representatives acting for The Crown Estate Commissioners have confirmed that The Crown Estate Commissioners are now in a position to grant section 135 consent and that, subject to The Crown Estate's final internal authorisation process, the section 135 consent documentation will be issued for execution.
- 6.30. In the second information request, the Secretary of State requested a further update from the Applicant and The Crown Estate on the status of Crown consent being granted for the Proposed Development. The Applicant responded [C3-003] stating that Heads of Terms were in agreed form and that the Applicant is awaiting copies of the agreed documents for signature from The Crown Estate's representatives. Once the Heads of Terms have been signed, legal representatives will be instructed to formalise the agreement.
- 6.31. In the fourth information request, the Secretary of State requested a further update from the Applicant and The Crown Estate as to the exact date by which the signed agreement will be submitted to the Secretary of State. Town Legal LLP on behalf of The Crown Estate provided a letter on 26 June 2026 confirming that it reached a separate agreement with the Applicant and confirmed its consent to the CA of the third-party interest in Plot 04-009 for the purpose of section 135(1) of the 2008 Act. The Crown Estate stated consent was subject to inclusion of its proposed wording to Article 48 of the draft Order (Article 47 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 section 135(1) and 135(2) of the 2008 Act. The Crown Estate confirmed its consent to Articles 3, 4, 5, 17, 19, 27, 30, 31, 39, and 48 of the draft Order (Articles 3, 4, 5, 17, 19, 26, 29, 30, 38 and 47 in the Order) to the extent that they are included in the Order, applying in relation to Plot 04-009 for the purpose of section 135(2) of the 2008 Act. The Secretary of State notes the proposed wording provided by the Crown consent and has decided to include this in the Order.

Outstanding Land Rights Matters

- 6.32. At the close of the Examination, a number of parties had unsigned agreements on land rights matters. The Secretary of State sought updates from the relevant parties in the first and second information requests as discussed below.

Rights in respect of plot number 11-008

- 6.33. In the first information request, the Secretary of State requested the Applicant to provide an update on its position in respect of the rights sought over land plot number 11-008 in the Land and Rights Negotiations Tracker [REP9-014]. The Applicant confirmed that plot 11-008 forms part of the adopted highway within the jurisdiction of LCC and has been identified in the Book of Reference [REP9-012] as being owned by Mr David Young [C1-016]. It is the Applicant's understanding that David Young's ownership of the land is a result of a HM Land Registry error and, therefore, Mr Young believes that, in respect of plot 11-008 specifically, he is not an Affected Party and as such is unable to progress a voluntary agreement in respect of the permanent rights sought.
- 6.34. The Applicant stated that LCC is the responsible highways authority, but because it is not the legal owner of the land, it would not be appropriate for the Applicant to progress a voluntary agreement with LCC in respect of this plot. The Applicant confirmed it will continue to undertake property diligence as required in relation to this plot with a view to rectifying this error with HM Land Registry but must retain record of Mr Young's interest in the plot in the Book of Reference until such time that the HM Land Registry confirms that this is an error.
- 6.35. The Secretary of State acknowledges the update from the Applicant and the commitment from the Applicant to continue to undertake property diligence as required. The Secretary of State concludes that the Applicant has satisfactorily demonstrated the need for the rights and powers over this plot of land to undertake the works, and that seeking rights over the plot is reasonably required and proportionate and therefore satisfied that it meets the tests in section 122(3) of the 2008 Act.

Rights in respect of plot numbers 05-011, 05-011a, 06-003, 06-003a, 07-011, 07-015, 08-001, 08-002, 08-003, 08-004, 08-005, 08-006, 08-007, 08-008, 08-009, 08-010 and 08-011 - J G Pears Property Limited

- 6.36. In the first information request, the Secretary of State requested the Applicant and J G Pears Property Limited ("J G Pears") to provide an update on their positions in respect of the rights sought by the Applicant over land plot numbers 05-011, 05-011a, 06-003, 06-003a, 07-011, 07-015, 08-001, 08-002, 08-003, 08-004, 08-005, 08-006, 08-007, 08-008, 08-009, 08-010 and 08-011 in the Land and Rights Negotiations Tracker [REP9-014].
- 6.37. The Applicant stated that on 16 January 2026, it followed up with J G Pears seeking a response to the updated Heads of Terms and commercial offer [C1-016]. The Applicant received a response on 28 January 2026 which provided reasons why the commercial aspects of the updated Heads of Terms were not agreeable to J G Pears. The Applicant confirmed it continues to engage with J G Pears and a meeting was arranged for 20 May 2026 where it was hoped that material progress would be made towards reaching an agreement.
- 6.38. Squire Patton Boggs (UK) LLP, on behalf of J G Pears, responded to the first information request setting out similar updates to those provided by the Applicant, but reiterated J G

Pears' view that more should have been done by the Applicant to avoid the need for it to rely on CA powers.

- 6.39. In response to the all-IP consultation [C2-020], the Applicant stated its disagreement with the narrative provided by Squire Patton Boggs (UK) LLP and that it had made reasonable efforts to negotiate the acquisition of land rights by agreement, in accordance with established guidance and practice. The Applicant stated that, to date, a voluntary agreement has not been possible, with the issue remaining between the parties being one of land valuation rather than the principle of grant/acquisition. The Applicant confirmed it will continue to engage with J G Pears to seek a voluntary arrangement.
- 6.40. The Secretary of State acknowledges the updates provided by both parties and is content that, given negotiations are ongoing and agreements are progressing, this should not hinder making the Order. The Secretary of State agrees with the ExA that this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights affecting the J.G Pears' land.

Rights in respect of plot numbers 03-005 and 04-002 - P & L Farming Partnership Ltd

- 6.41. In the first information request, the Secretary of State requested the Applicant and P & L Farming Partnership Ltd ("P & L Farming") to provide an update on their positions in respect of the rights sought by the Applicant over land plot numbers 03-005 and 04-002 in the Land and Rights Negotiations Tracker [REP9-014].
- 6.42. The Applicant stated that the option agreement is in an agreed form but is yet to be completed due to ongoing negotiations with Harworth Estates (Agricultural Land) Limited ("Harworth Estates") in relation to an overage provision on the land [C1-016]. The Applicant confirmed it was waiting for feedback from P & L Farming's appointed agent. Without this feedback, the Applicant has been unable to provide an indicative timeframe for completion of the option but will endeavour to resolve this. No response was received from P & L Farming.
- 6.43. In response to the all-IP consultation, the Applicant provided an update that the position on overage relating to land owned by Harworth Estates has now been agreed [C2-020]. The option is in agreed form, and P&L Farming's legal representatives are reviewing the final option lease agreement.
- 6.44. The Secretary of State acknowledges the updates from the Applicant and is content that, given negotiations are ongoing and agreements are progressing, this should not hinder the making of the Order. The Secretary of State agrees with the ExA that this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights affecting the land.

Rights in respect of plot numbers 14-017, 14-018, 14-019, 15-012, 15-013, 15-015, 15-016 and 15-017 - Railway Paths Limited

- 6.45. In the first information request, the Secretary of State requested the Applicant and Railway Paths Limited ("Railway Paths") to provide an update on their positions in respect of the rights sought by the Applicant over land plot numbers 14-017, 14-018, 14-019, 15-012, 15-013, 15-015, 15-016 and 15-017 in the Land and Rights Negotiations Tracker [REP9-014].

- 6.46. The Applicant stated that following receipt of the section 135 consent from the Department for Transport, who hold a restrictive covenant over Railway Paths' land, Heads of Terms were issued to Railway Paths on 26 February 2026 [C1-016]. Upon issue, the agent instructed by Railway Paths raised a number of initial queries, which were addressed on 16 March 2026. On 21 April 2026, its initial feedback on the Heads of Terms was received. Amendments were subsequently made, and further responses to these points were provided on 30 April 2026. The agent has confirmed that they are currently reviewing the revised Heads of Terms and will respond shortly. The Applicant is hopeful that an agreement will be reached shortly.
- 6.47. Railway Paths responded to the second information request [C3-002] stating that it did not have an update to provide, confirming it had not had any substantive engagement with the Applicant since its land referencing agents contacted Railway Paths to confirm its interests in 2024. However, the Applicant in its response [C3-003] stated that it had responded to Railway Path's initial queries on proposed Heads of Terms and continues to seek feedback. The Applicant understands that Railway Paths' appointed agent will provide substantive comments on the Heads of Terms in the near future. The Applicant confirmed it will continue to engage with Railway Paths' appointed agent and does not at this stage envisage that there will be any material reason why an agreement should not be reached.
- 6.48. The Secretary of State acknowledges the updates from the Applicant and Railway Paths and is content that, given negotiations are ongoing and agreements are progressing, this should not hinder the making of the Order. The Secretary of State agrees with the ExA that this land is required for a legitimate purpose, that the powers sought are necessary and proportionate and that there is a compelling case in the public interest for the proposed acquisition of new rights affecting the land.

Other Outstanding Land Rights Matters

- 6.49. In the first information request, the Secretary of State requested the Applicant to provide any further updates regarding any other land rights agreements. The Applicant provided an update regarding Richard Henry Strawson that the Applicant's appointed agents re-approached the landowner's agent on 11 May 2026 to confirm that the landowner remains of the view that they wish to wait until the cable route within their land has been confirmed before progressing further discussions. Richard Strawson's appointed agent has subsequently confirmed that the position remains unchanged and as such the Applicant will engage as required when further detailed information is available with regards to cable routing [C1-016].
- 6.50. With regards to Network Rail, the Applicant's appointed agents have been progressing negotiations with Network Rail in relation to the permanent rights being sought. Email correspondence has been ongoing since January 2026, and meetings have been held on 2 March 2026 and 28 April 2026, respectively. In the most recent meeting on 28 April 2026, Network Rail provided detail on the commercial aspects of the draft agreement. The Applicant is currently reviewing this information.
- 6.51. The Secretary of State is satisfied with the update from the Applicant on the outstanding land agreements and notes that the Applicant has made efforts to secure agreements where possible.

The Secretary of State's Conclusion

- 6.52. The Secretary of State notes the responses received to his information requests and the all-IP consultation, along with the objections and representations outstanding. The Secretary of State agrees with the ExA's conclusions at [ER 6.6.8] and considers that there is a compelling case in the public interest for the CA and TP powers that are being requested, and that these powers should therefore be granted.
- 6.53. The Secretary of State has considered the analysis set out in the ExA's Report and the conclusions set out therein and agrees that there is a compelling case in the public interest for the powers sought by the Applicant to be acquired compulsorily and he considers that the Order secures land rights powers appropriately in relation to the relevant legislation and policy.
- 6.54. 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. The Secretary of State considers that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest. As such, he concludes that the CA and TP powers sought are compatible with the Human Rights Act 1998.

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

- 7.1. The Secretary of State acknowledges the ExA's conclusion that the Proposed Development is contrary to NPS EN-1 in that the Applicant has not demonstrated that the approach to site selection was done sequentially as would be expected, and has not passed the Exception Test as the ExA was not satisfied the Proposed Development would remain safe and operational during its lifetime as expected by paragraph 5.8.36 of NPS EN-1 and notes to Table 2 of the NPPG [ER 8.2.11]. Accordingly, the ExA concluded the Sequential and Exception Tests had not been passed in these circumstances taking the above factors into account and, having had regard to all important and relevant matters, the ExA concluded that there is a conflict with national policy and as such in line with section 104 of the 2008 Act the DCO should not be granted [ER 8.2.17].
- 7.2. The Secretary of State agrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- Need case – substantial positive weight [ER 3.2.33];
 - Consideration of alternatives – no ascribed weight [ER 3.3.43];
 - Biodiversity and ecology – moderate positive weight [ER 3.5.137];
 - Landscape and visual – moderate negative weight [ER 3.6.192];
 - Historic environment – moderate negative weight [ER 8.2.6];
 - Transport and access – little negative weight [ER 3.8.55];
 - Human health – little negative weight [ER 3.10.81];
 - Air quality – neutral weight [ER 3.12.35];
 - Carbon and climate – no ascribed weight [ER 3.12.61];
 - Noise and vibration – neutral weight [ER 3.12.93]; and,
 - Socio-economic matters – neutral weight [ER 3.12.130].

- 7.3. The Secretary of State disagrees with the ExA's conclusions and the weight it has ascribed in the overall planning balance in respect of the following issues:
- The Sequential Test – ascribed very great negative weight by the ExA. The Secretary of State disagrees with the ExA's conclusions as he considers there is no policy basis for the Sequential Test not to have been met by the Applicant. Despite the Applicant's retrospective exercises in assessing alternatives, the Applicant did not identify any alternative suitable sites wholly within Flood Zone 1 and then partially within Flood Zone 1. The Secretary of State concludes that the Applicant has applied the Sequential Test for flood risk as part of the site selection as required by paragraph 5.8.36 of NPS EN-1 and the relevant policy on alternatives in section 4.3. The Secretary of State ascribes neutral weight to the Applicant's assessment of alternatives, including consideration of the Sequential Test, because it should not affect the planning balance either positively or negatively once it has been established the Sequential Test has been met.
 - Hydrology and hydrogeology – ascribed great negative weight by the ExA. The Secretary of State agrees with the ExA on all matters regarding the water environment except for the risk of fluvial flooding to the Proposed Development and the resulting effect of the PCS on fluvial flood storage. The Secretary of State concludes that the Applicant's assessment of the water environment accords with the provisions of NPS EN-1, NPS EN-3, NPS EN-5, the NPPF and Local Plans and that the residual effects identified will be satisfactorily mitigated and managed. With regards to the Exception Test, the Secretary of State concludes that the test has been met. Therefore, the Secretary of State disagrees with the ExA and has concluded that hydrology and hydrogeology matters carry a neutral weight in the planning balance.
 - Agriculture (land) and soils – ascribed moderate negative weight for BMV and little positive weight for soil health and land use by the ExA. The Secretary of State agrees that there could be beneficial effects to soils. However, with the evidence provided by the Applicant, the beneficial effects are unquantified and uncertain and as such he disagrees with the ExA that a separate weighting of limited positive is appropriate considering the benefits identified to soil quality. Given the area of BMV land that would be unavailable for the duration of the Proposed Development, and cumulatively across Lincolnshire and Nottinghamshire, a moderate negative weighting is ascribed to effects on agriculture and soils. No separate weighting has been ascribed in the planning balance by the Secretary of State due to the predicted beneficial effects to soil quality.
 - Cumulative effects – ascribed moderate negative weight by the ExA. The Secretary of State has considered the relevant cumulative effects in his weighting for each individual planning issue. The Secretary of State therefore disagrees with the ExA on this matter and has not ascribed any further weighting to cumulative effects to avoid the double counting of effects.
- 7.4. The Secretary of State's differing conclusions and weighting in respect of the Sequential Test and Hydrology and Hydrogeology mean that the Secretary of State disagrees with the ExA's conclusion that the Proposed Development is in conflict with national policy and its recommendation that consent should not be granted.
- 7.5. While the Secretary of State does not need to consider this matter further, for the reasons given in this letter, for completeness, the Secretary of State does not agree with the ExA that, if there were any failure to meet or properly apply the Sequential or Exception Test, those failures would in themselves require the Secretary of State to refuse the granting of consent. A combination of section 104 of the Act 2008 and the NPSs does not have the effect suggested by the ExA. Instead, these are matters that would be for the Secretary of

State to weigh in the balance. Therefore, even if the Secretary of State had agreed with the ExA that there was any policy failure in relation to the Sequential or Exception Test, in light of the substantial benefits of the Proposed Development and the clear findings of the Environment Agency that there will be a negligible real world increase in flood levels as a result of the Proposed Development, the Secretary of State can see no reason why he would not still conclude that the benefits of the Proposed Development would outweigh the adverse impacts.

- 7.6. It is recognised that all NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as having not breached NPS EN-1 and EN-3, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.
- 7.7. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts, and that the requirements of the Habitats Regulations are met.
- 7.8. The Secretary of State concludes that development consent should be granted for the Proposed Development. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order.
- 7.9. 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 NCC, LCC, BDC, NSDC and WLDC, the NPSs, NPPF, planning policy guidance, relevant WMSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the 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.
- 7.10. The Secretary of State has therefore decided to reject the ExA's recommendation to refuse granting development consent, and make the Order granting development consent, including the modifications set out in section 9 of this letter.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSGD"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender reassignment; disability; marriage and civil partnerships⁷; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

⁷ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 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.
- 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, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and considers the application consistent with furthering that objective, having also had regard to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when making this decision.
- 8.6. The Secretary of State is of the view that the ExA's Report, together with the Applicant's ES, considers biodiversity sufficiently to inform the Secretary of State in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

9. Modifications to the draft Order

- 9.1. Following consideration of the recommended Order provided by the ExA, the Secretary of State has made the following modifications to the recommended Order:
 - Paragraph 5 of page 4 which relates to common land has been deleted because it is not necessary and for consistency with the Secretary of State's preferred wording;
 - Article 2(1) has been amended to include a new definition for 'holding company';
 - Article 2(8) has been deleted because it is not necessary and for consistency with the Secretary of State's preferred wording;
 - Article 3(3) has been deleted for duplication and consistency with the Secretary of State's preferred wording;
 - Article 5 has been deleted for consistency with the Secretary of State's preferred wording;
 - Articles 6(5), 6(6), 6(7), 6(8) and 6(9) have been deleted because they are unnecessary and for consistency with the Secretary of State's preferred wording;
 - Article 10 has been amended for consistency with the Secretary of State's preferred wording;

- Article 12(7) has been deleted for consistency with the Secretary of State's preferred wording;
- Article 16(5)(c) has been amended for consistency with the Secretary of State's preferred wording;
- Article 20 has been deleted because it is not necessary and consistency with other recently made DCOs;
- Article 26(4) has been amended for consistency with the Secretary of State's preferred wording;
- Article 39(5) has been added to include a definition of 'tree preservation order';
- Article 44(7) has been amended to reflect the list of bodies who took part in the examination;
- Schedule 2, Requirement 7 in relation to battery safety management has been amended - see paragraphs 4.33 to 4.35 for details;
- Schedule 2, Requirement 22 in relation to flood risk mitigation has been amended – see paragraphs 4.27 to 4.29 for details; and,
- Schedule 14 has been amended to include updated protective provisions for NGET (Part 9), Northern Powergrid and NGED (Part 10).

9.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments and changes in the interests of clarity and consistency.

10. Challenge to Decision

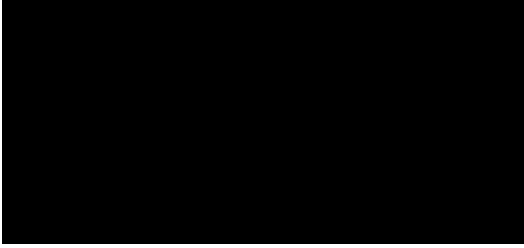
10.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

11. Publicity for Decision

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

Yours sincerely,



David Wagstaff OBE

Head of Energy Infrastructure Planning Delivery

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

Under section 118 of the 2008 Act, 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 six 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/EN010159>

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

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AEoI	Adverse Effect on Integrity
ALC	Agricultural Land Classification
BDC	Bassetlaw District Council
BESS	battery energy storage system
BMV	best and most versatile
BNG	Biodiversity Net Gain
BSMP	Battery Storage Management Plan
CA	compulsory acquisition
DCO	Development Consent Order
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
ER	paragraphs in the Examination Authority's Report
ES	Environmental Statement
ExA	the Examining Authority
FRA	Flood Risk Assessment and Outline Drainage Strategy
GHG	greenhouse gas
ha	hectares
HRA	Habitats Regulations Assessment
IP	Interested Party
kV	Kilovolt
LCC	Lincolnshire County Council
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LSE	likely significant effect
MW	megawatt
NCC	Nottinghamshire County Council
NE	Natural England
NGED	National Grid Electricity Distribution
NGET	National Grid Electricity Transmission
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance: Flood Risk and Coastal Change
NSDC	Newark and Sherwood District Council
NPS	National Policy Statement
NPS EN-1	National Policy Statement EN-1: Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure (EN-3)
NPS EN-5	National Policy Statement for Electricity Networks Infrastructure (EN-5)
NSIP	Nationally Significant Infrastructure Project
oBSMP	Outline Battery Safety Management Plan
OLEMP	Outline Landscape and Ecological Management Plan
PSED	Public Sector Equality Duty
PCS	power conversion station
PV	photovoltaic

Abbreviation	Reference
SAC	Special Area of Conservation
TP	temporary possession
WLDC	West Lindsey District Council
WMS	Written Ministerial Statement
2008 Act	Planning Act 2008