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30 October 2026

Dear [redacted],

PLANNING ACT 2008

APPLICATION FOR DEVELOPMENT CONSENT FOR THE SEA LINK PROJECT

This decision was made by Minister Curran, 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 30 July 2026. The ExA consisted of five examining inspectors, Sarah Holmes (lead member of the panel), Dr Richard Hunt, Luke Regan, Steven Rennie and Nancy Thomas. The ExA conducted an Examination into the application submitted on 27 March 2025 ("the Application") by National Grid Electricity Transmission plc ("the Applicant") for a Development Consent Order ("DCO") ("the Order") under section 37 of the Planning Act 2008 ("the Planning Act") for the Sea Link project and associated development ("the Proposed Development"). The Application was accepted for Examination on 23 April 2025. The Examination began on 5 November 2025 and closed on 5 May 2026. The Secretary of State received the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report") on 30 July 2026.

1.2. On 28 August 2026 the Secretary of State issued a letter seeking information on several matters ("the first information request"[1]). A correction letter was issued on 1 September 2026 to amend a minor error[2]. On 21 September 2026, Interested Parties ("IPs") were invited to

[1] EN020026-003706-Sea Link August 2026 Request for Information.pdf
[2] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-003706-Sea%20Link%20August%202026%20Request%20for%20Information.pdf

comment on the responses received ("the first all-IPs consultation[3]"). On 9 October 2026, the Secretary of State issued a second request for information letter[4].

1.3. The Order, as applied for, would grant development consent for the reinforcement of the electricity transmission network between Kent and Suffolk, achieved by a high voltage direct current ("HVDC") link between the proposed substation near Sizewell in Suffolk and the existing Richborough to Canterbury 400 kilovolt overhead line ("OHL") close to Richborough in Kent. The scheme includes the following elements:

1.4. Suffolk onshore scheme:

- A connection from the existing transmission network via a new substation near Friston.
- A high voltage alternating current ("HVAC") underground cable of approximately 1.9 kilometres ("km") in length between the new substation and a proposed converter station near Saxmundham.
- A 2 gigawatt ("GW") HVDC converter station plus external equipment.
- A HVDC underground cable connection of approximately 10 km in length between the proposed converter station and a transition joint bay ("TJB") approximately 900 metres ("m") inshore from a landfall point where the cable transitions from onshore to offshore technology.
- A landfall on the Suffolk coast, between Aldeburgh and Thorpeness.

1.5. The offshore scheme:

- Suffolk landfall where the cable route transitions between the marine and terrestrial environment.
- Marine HVDC cable route approximately 122 km long from the TJB in Suffolk to a TJB in Kent.
- Kent landfall where the cable route transitions between the marine and terrestrial environment in Kent, located in the Pegwell Bay area to the south of Cliffsend.

1.6. Kent onshore scheme:

- Kent landfall in Pegwell Bay.
- A TJB approximately 800 m inshore to transition from offshore HVDC cable to onshore HVDC cable, before continuing underground for approximately 1.7 km to a new converter station.
- A 2 GW HVDC converter station near Minster, with a new permanent access from the A256.
- A new substation adjacent to the new converter station.
- Removal of approximately 2.2 km of existing HVAC OHL, and installation of two sections of new HVAC OHL, together totalling approximately 3.5 km, each connecting the new substation with the existing Richborough to Canterbury OHL.

[3] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-003962-All-IPs%20letter%20-%20Sea%20Link%2022%20Sept%202026.pdf
[4] https://nsip-documents.planninginspectorate.gov.uk/published-documents/EN020026-004013-Request%20for%20Information%20to%20the%20Applicant.pdf

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

1.8. Published alongside this letter on the Planning Inspectorate's National Infrastructure Project website[5] is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA's Report"). The ExA's findings and conclusions are set out in Chapters 3, 4, 5 and 6 of the ExA's Report, and the ExA's summary of conclusions and recommendation is at Chapter 8. All numbered references, unless otherwise stated, are to paragraphs of the ExA's Report "[ER *.*.*]".

2. Summary of the ExA's Report and Recommendation

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

- Need for the Proposed Development;
- Alternatives;
- Benthic Ecology;
- Marine Mammals;
- Marine Physical Environment;
- Fish and Shellfish;
- Commercial Fisheries;
- Shipping and Navigation;
- Marine Archaeology;
- Agriculture and Soils;
- Landscape and Visual;
- Design;
- Ecology, Biodiversity and Ornithology;
- Cultural Heritage;
- Water Environment;
- Geology and Hydrogeology;
- Traffic and Transport;
- Air Quality;
- Noise and Vibration;
- Health and Wellbeing;
- Socio Economics, Recreation and Tourism;
- Climate Change; and
- Intra-project Cumulative Effects.

2.2. The ExA recommended that the Secretary of State should grant development consent for the Proposed Development [ER 5.3.1].

[5] https://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN020026

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

3. Summary of the Secretary of State's Decision

3.1. On 31 March 2022, the Secretary of State issued a direction under section 35 of the Planning Act that the Proposed Development should be treated as a development of national significance for which development consent is required.

3.2. Section 104(2) of the 2008 Act requires the Secretary of State, in deciding an application, to have regard to any relevant National Policy Statement ("NPS"). Subsection (3) requires that the Secretary of State must decide the application in accordance with the relevant NPS except to the extent that one or more of subsections (4) to (8) apply.

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

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

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

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

4.1. The Secretary of State has considered the ExA's Report and all other material considerations, including representations received after the close of the ExA's Examination and responses to the Secretary of State provided during the decision-making stage. 6,061 Relevant Representations ("RRs") were made in respect of the Application [ER 3.1.3]. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA. The Secretary of State has had regard to the Local Impact Reports ("LIR") submitted by Dover District Council ("DDC") [REP1-127], East Suffolk Council ("ESC") [REP1-128], Kent County Council ("KCC") [REP1-129], Suffolk County Council ("SCC") [REP1-130] and [REP1-131] and Thanet District Council ("TDC") [REP1-132] [ER 2.2.1], environmental information as defined in regulation 3(1) of the EIA Regulations, and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act including relevant policy set out in the NPSs EN-1 and EN-3.

4.2. The Secretary of State notes that, in accordance with the transitional provisions set out in section 1.6 of EN-1, the 2024 NPSs had effect for the ExA's consideration of this Application. As such, the Secretary of State has had regard to the 2024 NPSs in making this decision. On 24 April 2025, a consultation on the draft revisions to NPS EN-1 and EN-3 was launched and revised NPSs were laid in Parliament on 13 November 2025, which came into effect on

6 January 2026 (“the 2025 NPSs”). Whilst these 2025 versions of the NPSs do not have effect for this Application, they are capable of being important and relevant considerations in the Secretary of State’s decision-making process and have been considered accordingly in the making of this decision.

4.3. In early 2026, the Friston Substation was renamed Kiln Lane Substation by National Grid Electricity Transmission (“NGET”) following requests from local residents. Accordingly, the Secretary of State will adopt this new name in all references to the former Friston Substation in this decision letter.

4.4. The Secretary of State has also had regard to the updated National Planning Policy Framework (“NPPF”) from February 2025 which was released during the Examination. The NPPF was updated on 17 August 2026. Where the Secretary of State refers to the NPPF it is in regard to the August 2026 version. The Secretary of State had regard to these publications and finds that there is nothing contained within them which would lead her to reach a different decision on the Application.

4.5. 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 for the Proposed Development – very great/substantial weight;
- Alternatives – neutral weight;
- Benthic Ecology – little negative weight;
- Marine Mammals – little negative weight;
- Marine Physical Environment – little negative weight;
- Fish and Shellfish – little negative weight;
- Commercial Fisheries – little negative weight;
- Shipping and Navigation – neutral weight;
- Marine Archaeology – neutral weight;
- Agriculture and Soils – moderate negative weight;
- Landscape and Visual – great negative weight;
- Design – little negative weight;
- Ecology, Biodiversity and Ornithology – moderate negative weight;
- Cultural Heritage – moderate negative weight;
- Water Environment – neutral weight;
- Geology and Hydrogeology – little negative weight;
- Traffic and Transport – little negative weight;
- Air Quality – little negative weight;
- Noise and Vibration – little negative weight;
- Health and Wellbeing – little negative weight;
- Socio Economics, Recreation and Tourism – little negative weight;
- Climate Change – neutral weight; and
- Intra-project Cumulative Effects – moderate negative weight.

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

4.7. The paragraphs below set out the matters where the Secretary of State has further commentary and analysis to add beyond that set out in the ExA's Report, including those matters on which further information has been sought.

Need for the Proposed Development

4.8. Approximately 100 RRs questioned the need for the Proposed Development. The Applicant responded to these concerns explaining why the network required reinforcement between Suffolk and Kent and signposting to its alternatives assessment [REP2-024] [ER 3.2.8]. At Issue Specific Hearing 1 [EV3-001] the Applicant clarified the need case, explaining that the Proposed Development was intended to do two key things. First to provide a route for power out of Kent at times of low wind and high interconnector imports and second to provide an additional route for power to flow out of East Anglia into the network at times of high wind. The Applicant also confirmed that it has a statutory obligation under section 9 of the Electricity Act 1989 to develop an "efficient, coordinated, and economical system of electricity distribution and transmission". The Applicant stated that in addition to the specific needs addressed solely by the Proposed Development it would also make a vital contribution to the wider need to provide further power flows out of East Anglia as a region. The Applicant noted that in meeting this wider regional need, the Proposed Development would operate alongside other proposed and consented National Grid Electricity Transmission reinforcement projects, including the consented OHL between Bramford and Twinstead and the proposed new OHL between Norwich and Tilbury [REP1-124] [ER 3.2.13].

4.9. The ExA concluded that on the basis of the submitted evidence, there was a compelling and urgent need for the Proposed Development and as such, ascribed it substantial positive weight in the planning balance. The ExA considered that the Applicant had demonstrated that the Proposed Development represents an economic and efficient approach to reinforce the national network to accommodate new generation connections (as confirmed in Clean Power 2030) and would also reinforce the network to ensure that it is sufficiently resilient and capacious to reliably supply present and/or anticipated future levels of demand in line with EN-1 paragraph 3.3.78 [ER 3.2.22]. This is further supported by paragraph 2.1.5 in EN-3 (2024) and paragraph 1.1.1 in EN-5, both of which discuss the urgent need for new major electricity infrastructure [ER 3.2.24].

Alternatives

4.10. The ExA noted that over 2,220 RRs were concerned that alternatives had not been appropriately assessed by the Applicant [ER 3.3.9], with over 1,300 RRs expressing concern that the use of brownfield sites had not been sufficiently considered [ER 3.3.14]. The Applicant stated that it was constantly assessing new technologies and looking for different ways to future-proof the electricity transmission network and went on to explain that it recognised that in Europe there was a trend towards multiple windfarms feeding into offshore converter stations. However, the Applicant stated that on the continent, offshore windfarm

arrays are typically smaller and generate less power than the larger arrays that are located around the UK coastline. The Applicant also noted that underground and offshore HVDC cables which can carry more than 2 GW are not yet available. The Applicant supplied two examples of projects in Europe, detailing the number of cables coming ashore to connect to the onshore networks. The Applicant concluded that the evidence showed that the offshore grid approach does not result in less onshore infrastructure, nor did it consider that approach represented a feasible solution to the network reinforcement that the Proposed Development was seeking to provide [REP2-014] [ER 3.3.11].

4.11. Regarding brownfield sites, the Applicant explained that the Proposed Development was not intended to take power to London and that it had to bypass the network around London, Kent, and the Thames Estuary, to reduce the potential for bottlenecks on the network in these areas, while also providing further network capacity relief for the generators connecting in Essex. Consequently, the Applicant explained that the Proposed Development must connect no further west than the Canterbury North Substation in Kent, and in Suffolk connect in the Sizewell area, in order to enable power transfer from the Sizewell Generation Group [REP1-124] [ER 3.3.15]. The Applicant further noted that during option appraisal a variety of potential areas for new infrastructure had been assessed, including the brownfield sites suggested within the RRs, but the brownfield sites within the areas of search were considered too small to accommodate the required infrastructure [REP2-024] [ER 3.3.16].

4.12. In relation to the suggestion that the substation be positioned at or near Sizewell the Applicant explained that for economic and efficiency reasons a connection into an existing substation is preferred to building a new substation. The Applicant explained that given that the Kiln Lane Substation was included in an existing consented DCO, it was logical to plan to connect into this substation rather than seeking consent for a separate substation, which would likely be within or very close to the Suffolk and Essex Coast and Heaths National Landscape ("NL") [ER 3.3.19].

4.13. The ExA was satisfied that at a strategic level, the Applicant has adequately considered alternatives to the Proposed Development. The ExA therefore concluded that there are no matters relating to the consideration of alternatives which would weigh for or against the Order being made.

The Secretary of State's Conclusion

4.14. The Secretary of State considers that the Proposed Development complies with the relevant NPSs and is satisfied with the conclusions drawn by the ExA regarding the need for the Proposed Development. She also agrees with the contribution it would make to the strategic reinforcement of the electricity network to support the government's offshore wind generation infrastructure [ER 3.2.25].

4.15. Regarding alternatives, the Secretary of State agrees with the ExA's conclusions that the Applicant has considered alternative locations, routes as well as technological and environmental constraints for the Proposed Development and is in line with EN-1, EN-3 and EN-5 on this matter.

4.16. The Secretary of State agrees with the ExA's conclusions and that, subject to consideration of specific impacts, there would be no conflict in principle between the Proposed Development and national or local planning policy. The Secretary of State agrees that there

is an urgent need for the Proposed Development and ascribes this substantial positive weight in the planning balance.

Benthic Ecology

4.17. The ExA [ER 3.4.102] concluded that there would be no likely significant effects on benthic ecology receptors and that the Proposed Development would accord with EN-1, EN-3 and EN-5 as well as relevant local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement. Taking account of the mitigation and monitoring commitments, including possible remediation actions secured through the Order, the ExA concluded that all effects would be small and not significant, although it is unlikely that all adverse effects could be completely avoided.

Sandwich Bay to Hacklinge Marshes Site of Special Scientific Interest ("SSSI") - benthic

4.18. Concerns were raised during Examination regarding possible effects on the intertidal benthic habitats at the Kent landfall, including Sandwich Bay to Hacklinge Marshes SSSI [REP7-364]. The Applicant responded to Natural England's ("NE") concerns at the final Deadline [REP7-258] that, based on the nature and scale of the works, any material from the HDD exit pits would be temporarily stored within the cofferdam so that it can be used to backfill the HDD exit once HDD installation is complete. Due to the late stage of Examination, NE did not confirm whether its outstanding concerns were resolved. NE's response to the first information request [C1-146] provided an updated benthic risk and issues log [C1-147]. While NE considered this matter resolved, other issues remained outstanding, including uncertainty regarding the nature of the impacts on intertidal features of the SSSI. NE suggested further information is required to inform a review of the impact assessment and, until then, reasonable scientific doubt remains as to the nature of impacts to intertidal features of the SSSI.

4.19. The Secretary of State is content that, whilst some details remain undefined, such as the locations and widths of access routes across the mudflats, the Order and control documents secure that detailed design will be finalised post consent, subject to the results of pre-construction saltmarsh surveys and in consultation with the statutory nature conservation body ("SNCB"), Kent Wildlife Trust ("KWT") and National Trust ("NT") as appropriate (commitment B67 [C1-197, C1-215]). The EA [C2-020] reviewed the commitments associated with the works and associated trenchless crossing methods. Subject to no access being taken across saltmarsh to reach mudflat areas it has no concern regarding the proposed measures, but wishes to be a named consultee on commitment B67. The Secretary of State agrees and has amended the Order to require that the EA must also be consulted with regard to commitment B67 and B70. The Secretary of State considers that the other concerns of NE are resolved or can be resolved during detailed design and approval of post-consent control documents. For example, NE [C2-026 – C2-027] advises that the definition of "edge of the saltmarsh" in commitment B69 must be agreed with the regulators in consultation with the SNCB as part of the Landfall Method Statement ("LMS") / Cable Specification and Installation Plan ("CSIP"). The Secretary of State agrees and considers this is already secured, as NE as the relevant SNCB is already named as a consultee for the LMS and CSIP in the Order and deemed Marine Licence ("dML"). The Secretary of State is satisfied that the ES assesses an appropriate worst-case scenario and that the information available is sufficient for the purposes of decision making.

4.20. Whilst the outline In-Principle Monitoring Plan ("oIPMP") [REP7-167] commits to benthic and intertidal ecology monitoring, there is no specific monitoring of the recoverability of the mudflats from jack-up barge depressions as suggested by NE [C1-147]. The Secretary of State agrees with the ExA [ER 3.4.86] and NE that monitoring as proposed in the oIPMP should include monitoring of mudflats at the Kent Landfall and has adopted the ExA's recommended changes to condition 4 of Schedule 16 to secure this.

4.21. The Secretary of State agrees with the ExA [ER 3.4.84 et seq.] and considers the Applicant's responses to be reasonable and demonstrate that there would be no residual significant adverse effects on the SSSI. She considers that sufficient information is provided to describe the proposed works and assess their potential effects on the intertidal environment.

Benthic monitoring and Benthic Mitigation Plan

4.22. The Secretary of State notes that Natural Environment and Rural Communities (NERC) Act 2006 section 41 habitats of principal importance ("HPIs") must be included in pre-construction surveys in accordance with condition 15 of Schedule 16 (the dML) of the Order. The results of the pre-construction surveys must inform the Benthic Mitigation Plan, secured by condition 16 of Schedule 16 and the micro-siting plan as part of the CSIP secured by condition 4. These plans must demonstrate how the Applicant has avoided and mitigated impacts on all HPIs as far as possible. The Secretary of State has adopted the ExA's recommended wording of condition 16 and made the amendments proposed by the Marine Management Organisation ("MMO") [C1-005] and NE [C1-146] in response to the first information request.

4.23. Based on the monitoring conditions secured by the draft Order, the ExA found [ER 3.4.100] that the MMO would have appropriate control over the offshore cable installation process with pre and post construction monitoring secured to ensure that adverse impacts to offshore ecology, including benthic ecology, would be avoided or minimised to an acceptable level. The Secretary of State agrees and is satisfied that there are appropriate pre-construction monitoring mechanisms to ensure avoidance and mitigation of sensitive habitats as far as possible and that post-construction monitoring is secured in the Order.

Subtidal chalk habitat

4.24. ES Part 4 Chapter 2 [REP7-099, REP2-035] identifies approximately 250 m^2 of subtidal chalk habitat, which is stated to be an irreplaceable habitat, near the Kent landfall which could be at risk of disturbance and permanent loss. The ExA noted [ER 3.4.35] that EN-1 paragraph 5.4.53 states "*The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of any irreplaceable habitats, including ancient woodland, and ancient and veteran trees unless there are wholly exceptional reasons and a suitable compensation strategy exists."* The ExA recommended that subtidal or intertidal chalk or clay are not included within the NPPF definition of 'irreplaceable habitats'. As such, the use of the term 'irreplaceable habitat' by the Applicant and NE is not the same as the term as defined for the purposes of the national policy test in EN-1 paragraph 5.4.53 and therefore does not apply.

4.25. The Secretary of State in her first information request invited the Applicant to explain whether it considered EN-1 paragraph 5.4.53 to be relevant in this instance. The Applicant responded [C1-178] that subtidal chalk is not included in EN-1's list of irreplaceable habitats and that marine irreplaceable habitats are currently independent of terrestrial irreplaceable habitats

statutory guidance which EN-1 references. The Applicant stated that a 2023 report[6] by NE was used to define irreplaceable habitats in the ES, but this is not statutory guidance, does not define a legal threshold, and it is independent from terrestrial and intertidal irreplaceable habitats referred to in EN-1. The Applicant reiterated that the area of chalk mapped during baseline surveys was estimated to be less than 250 m^2 and is outside any designated or protected site. This habitat was assigned a high sensitivity rating on a precautionary basis, as the offshore baseline surveys provided no evidence that this habitat supports biological communities indicative of high-quality examples. Due to the localised nature of the installation activities and the small-scale installation footprint compared to the much wider available area of subtidal chalk habitat on the Thanet Coast, the physical disturbance, and hence permanent loss of this habitat, was predicted to be of small magnitude.

4.26. KWT responded [C1-004] that it considers EN-1 paragraph 5.4.53 to be directly relevant to the Secretary of State's consideration of the potential loss of chalk habitat and how it considered that the information provided during the Examination indicates that the extent, distribution and ecological characteristics of the chalk habitat has not been sufficiently established to support the Applicant's conclusion that the impacts are not significant and that the Applicant has not demonstrated that the chalk habitat being predominantly below the seabed means it is of low ecological value. The Secretary of State notes that whilst NE did not comment specifically on the relevance of paragraph 5.4.53 or suggest that a compensation strategy is required, it does hold outstanding concern [C2-027, C2-032] regarding the Applicant's characterisation of the ecological importance and rarity of subtidal chalk.

4.27. The Secretary of State is content that the Applicant has appropriately assessed a worst-case loss of subtidal chalk in EIA terms, ascribing it a high sensitivity and low magnitude of effect, resulting in a minor adverse effect which is not significant. Whilst she acknowledges that the Applicant and ExA both interpret EN-1 paragraph 5.4.53 to not encompass marine irreplaceable habitats and the compelling argument given to justify their positions, she also notes the definition of irreplaceable habitats in paragraph 5.4.14 is not explicitly limited to terrestrial or intertidal habitats and that potential marine irreplaceable habitats are not out of the scope of the NPS.

4.28. On that basis and for the avoidance of doubt, the Secretary of State considers that wholly exceptional reasons clearly exist to permit the potential loss of the chalk habitat in this instance, premised on the urgent and compelling need for the Proposed Development. The Secretary of State notes that, notwithstanding the chalk habitat is outside any designated site, it is a HPI and therefore must be included in the pre-construction surveys and BMP as described above. The Secretary of State has amended condition 16 of Schedule 16 to require that if, on receipt of the results of the further pre-construction surveys, the MMO in consultation with the SNCB consider that micrositing cannot avoid the loss or deterioration of the chalk habitat and, taking into account the age, uniqueness, species diversity or rarity of the chalk habitat in question, it should be considered an irreplaceable habitat, the Applicant must propose a suitable compensation strategy, which must be implemented as approved by the MMO in consultation with the SNCB.

[6] TILLIN, H.M., CALTON, B., NWOKOCHA, E., TYLER-WALTERS, H., LEE, M. 2026. Developing an Approach for Mapping Marine Irreplaceable Habitats in English waters NECR642. Natural England.

The Secretary of State's Conclusion

4.29. Whilst NE [C1-147] maintains that some issues remain unresolved, for example, that no sensitivity information is provided for subtidal chalk and that the habitat has not been adequately characterised or assessed, the Secretary of State agrees with the ExA's recommendations and considers the Applicant's responses, summarised in [REP7-258], further support the ExA's conclusions. The Secretary of State finds the Applicant's assessment to be sufficient, noting that it ascribes a high sensitivity to subtidal chalk and identifies the worst-case magnitude of effect.

4.30. The Secretary of State agrees with NE [C1-147 Appendix E point 7] that Register of Environmental Actions and Commitments ("REAC") commitment BE07 should be revised and requested the Applicant to update the REAC and associated control documents to secure that "The Applicant will avoid relocating any sediment to within 50 m of any Annex I *Sabellaria spinulosa* reef and/or any NERC section 41 habitats and species, identified during pre-construction surveys, unless otherwise agreed by the MMO in consultation with the statutory nature conservation body." This amendment captures other section 41 habitats and species, including chalk, whilst retaining flexibility where relocation of sediment within like-habitat types may be preferable. The Secretary of State also agrees with NE and requested amendments to REAC commitment MPE13 to secure that grout bags must not be used adjacent to Goodwin Sands Marine Conservation Zone (MCZ) unless filled with locally sourced sediment similar to that within the placement footprint. The Applicant provided an updated REAC [C1-215, final version C3-014] and oOCEMP [C1-194, final version C3-008] as requested. The Applicant included a further commitment (BE08) to explicitly consult the MMO and SNCB on the scope of pre-construction surveys, detailed design and post construction monitoring requirements when developing the final Monitoring Plan secured under condition 15(4) of the dML to be approved by the MMO.

4.31. Overall, the Secretary of State agrees with the ExA's recommendations on all other matters relating to benthic ecology and she ascribes the residual temporary adverse effects on benthic ecology receptors little negative weight in the planning balance.

<u>Marine Mammals</u>

4.32. The ExA was satisfied that there would be no likely significant effects on marine mammals and that the Proposed Development would accord with EN-1, EN-3 and EN-5 as well as local and national policies and strategies [ER 3.5.32]. The ExA also agreed with the conclusions of the Applicant's ES on marine mammals, which found that the residual harm would be no more than of minor significance and that, whilst there are likely to be some impacts from underwater sound, vessel collision risk, airborne sound, and visual disturbance, these impacts would be small and not significant [ER 3.5.33].

Emergency use of hovercraft

4.33. NE [REP7-274] raised concerns regarding the late addition of commitment GG45 in the REAC [REP7-359] which stated that up to three hovercraft would be on standby at Pegwell Bay and used for emergencies only during construction, with NE also stating that further information on the use of the hovercraft was required [ER 3.5.25]. This issue is also relevant to potential disturbance of birds associated with the Sandwich Bay to Hacklinge Marshes SSSI [ER 3.14.109].

4.34. In her first information request, the Secretary of State invited the Applicant to update GG45 in the REAC to strengthen the commitment concerning the use of hovercraft, and to define 'emergency use'. In its response of 18 September 2026, the Applicant [C1-178] stated that it was content to update REAC commitment GG45 and the outline Offshore Construction Environmental Management Plan ("Offshore CEMP"), in accordance with the proposed wording from the Secretary of State. The Applicant also confirmed that it had engaged further with NE on this matter after the close of Examination during a meeting on 14 July 2026.

4.35. Regarding the definition of 'emergency use', the Applicant stated that a definition for 'emergency' in relation to the use of hovercraft is: '*a time-critical intervention in a serious and unexpected accident, event or situation which threatens damage sufficient to cause danger to persons or property.'* The Applicant confirmed that this definition had been included in REAC commitment GG45 in the updated REAC, Offshore CEMP and Outline Onshore Construction Environmental Management Plan ("Onshore CEMP") submitted to the Secretary of State.

4.36. The Applicant also stated, by email dated 10 September 2026, that NE had confirmed its agreement with the definition of 'emergency' set out above. The Applicant explained that the definition had been developed by reference to the wider definition of 'emergency' in the draft DCO.

4.37. In response to the Applicant's definition, NE [C1-146] stated that it welcomed the requirement limiting the use of the hovercraft to emergency situations. Notwithstanding this, in recognition of the overlapping regulatory remits, NE advised that the definition of an 'emergency' should be agreed with the MMO, the Local Planning Authority and the relevant SNCB prior to the first deployment of the hovercraft.

4.38. NE was also invited to advise whether the updated GG45 in the REAC was sufficient to avoid adverse effects on marine mammals and designated sites from the use of hovercraft. In response NE [C1-146] stated that following its meeting with the Applicant in July 2026 to discuss outstanding issues, it had provided the following advice to the Applicant on 31 July 2026:

> *"We acknowledge that the use of the hovercraft is only in the event of an emergency (i.e. rescuing someone) and therefore that it can be hard to estimate/predict to quantify impacts. However, as advised in the meeting we would normally expect the project to quantify and assess a WCS (in line with our advice provided at D.7) and would require further info on timings, extent and duration of works as well as the phase of work that it would be considered for, in order to assess the disturbance impact to the designated features of the site (namely birds and seals). We would also want an agreed/secure access location, and a map showing the route that would be taken in the event of emergencies.*
>
> *In addition, there would need to be mitigation in relation to:*
>
> - *not over revving engine/s;*
> - *the speed of travel;*
> - *avoidance of seals both in the water and at haul out locations; and*
> - *a direct a route as possible proposed (i.e. no zig-zagging) (sic.)."*

4.39. Following a call with the Applicant dated 9 September 2026 where the Applicant explained that it will be using the definition of 'emergency' contained in the DCO, NE confirmed that whilst it was content with the proposed definition in general terms, it advised that this needs further refinement in relation to the proposed use of a hovercraft.

4.40. KWT responded [C1-004] that it supports the proposed strengthening of commitment GG45 subject to the definition of 'emergency use' being sufficiently precise to ensure that the exception is limited to a genuine and unforeseen event where hovercraft use is necessary to address an immediate risk to health, safety or the environment. KWT also requested that the Applicant should be required to notify KWT of any emergency use of hovercraft, in addition to NE and TDC, as the organisation managing relevant conservation interests at Pegwell Bay.

4.41. In response to the all-IPs consultation, the Applicant [C3-002] reiterated that the use of hovercraft in Pegwell Bay is not a planned activity as part of the Proposed Development and would be available for emergencies only. Commitment GG45 in the REAC has been updated in response to the Secretary of State's previous request. To further strengthen its commitments, the Applicant provided an updated Outline CSIP [C3-016] to outline its approach to using best practice guidance for the emergency use of the hovercraft in Pegwell Bay in accordance with advice from NE. These updates include the need for consultation prior to commencement of landfall activities regarding hovercraft access locations to the intertidal area and indicative routes which could be taken in the event of an emergency and commitments to following best practice and mitigation as advised by NE [C1-146]. These will be presented within the intertidal works methodology and mitigation plan for Pegwell Bay as secured within Condition 4 of the dML. Additionally, the Applicant stated that it engaged with the MMO on 8 October 2026 with regard to its definition of emergency at Pegwell Bay and that the MMO had confirmed it is content with the current wording within GG45. A seasonal restriction from November to February for construction activities in Pegwell Bay has already been committed in the REAC (B59) and the oOCEMP in line with the Secretary of State's previous request to avoid impacts to overwintering birds using the intertidal mudflats.

4.42. NE [C2-026] welcomed the inclusion within commitment GG45 to agree hovercraft egress and routes post consent with NE prior to construction and welcomed the definition of 'emergency works', but considered it could be strengthened by including '…make safe'. Whilst NE's updated Risks and Issues Log [C2-027] suggests this issue remains unresolved, its cover letter [C2-026] states that NE considered hovercraft use now resolved.

The Secretary of State's Conclusion

4.43. The Secretary of State considers that the Proposed Development complies with the relevant NPSs and agrees with the conclusions drawn by the ExA regarding effects on marine mammals. She also agrees with the conclusions of the ES that the residual harm would be of no more than minor significance, and that whilst there are likely to be some impacts from underwater sound, vessel collision risk, airborne sound and visual disturbance these impacts would be small and not significant [ER 3.5.33]. The Secretary of State is also content with the responses provided by the Applicant and NE regarding the use of hovercraft and she has amended the Order to require that the definition of emergency must be agreed by the MMO in consultation with TDC and NE prior to first deployment and that the Applicant must report all instances of emergency hovercraft use to NE, TDC and KWT within 24 hours. She is content that any other outstanding concerns of NE and other IPs are minor, do not prevent her from reaching a conclusion on the likely significant effects of the Proposed Development

on marine mammals, and can be further progressed during detailed design post-consent and through the preparation and approval of the Onshore [C3-010] and Offshore [C3-008] CEMPs and CSIP [C3-016].

4.44. The Secretary of State agrees with the recommendations of the ExA on all other matters relating to marine mammals and ascribes this matter little negative weight in the planning balance.

Marine Physical Environment

4.45. The ExA considered [ER 3.6.69 et seq.] that the Proposed Development satisfies the requirements in EN-1, EN-3, and EN-5 as well as relevant policies in the UK Marine Policy Statement, the South East Inshore Marine Plan and the East Inshore and Offshore Marine Plans. The ExA agreed with ES Part 4 Chapter 1 [REP7-097] which concludes that whilst residual adverse effects may arise, these are of small magnitude and would not be significant. The ExA is satisfied that the Applicant has demonstrated that effects can be satisfactorily mitigated and managed and that appropriate mitigation is included in the oCEMP, oOCEMP and relevant requirements in the Order. The Secretary of State agrees with the ExA and has incorporated the ExA's recommended changes to the DCO in the Order as made.

Coastal erosion monitoring

4.46. At Deadline 7, ESC [REP7-197] suggested that paragraph 5.6.17 of EN-1 supported the requirement for a deed of obligation with the Applicant in respect of coastal erosion monitoring. Due to its late submission, the Applicant was unable to respond to this submission during the Examination.

4.47. In response to the Secretary of State's first information request, the Applicant [C1-178] stated that commitments to coastal erosion monitoring in Suffolk are already secured within the oIPMP secured under Condition 15 of the dML. The Applicant explained that monitoring secured within the final IPMP will present final details on approach/strategy and data collection in agreement with regulators and consultation with stakeholders. The Applicant considered that there is no need for coastal erosion monitoring to be secured in a deed of obligation as it is already secured in the dML. The current intention is that the Applicant will carry out the monitoring, so no fund is needed for ESC to carry out this monitoring. Should it be more effective or efficient for the monitoring to be carried out by ESC, the Applicant would work with ESC to agree methods and funding outside the DCO process.

4.48. On the basis that the ExA concluded that the Proposed Development would not give rise to coastal erosion or cable exposure and the Applicant has committed to undertake coastal monitoring in the oOCEMP [REP7-127], the ExA [ER 3.6.40] did not support ESC's proposals for a separate monitoring and mitigation fund.

4.49. The Secretary of State invited the Applicant to comment on the outstanding issues raised by the EA [REP7-362], including whether there is a REAC commitment for remediation of cables if there is a risk of exposure or they become exposed. In response, the Applicant [C1-178] confirmed that it has further engaged with the EA after the close of Examination and had received email confirmation on 24 July 2026 that following updates to MPE06 in the REAC at Deadline 7, the EA agreed that the commitment now provides an appropriate

framework for monitoring and managing this matter and that the EA "agree with the Applicant's proposed approach and are content for this issue to be resolved".

The Secretary of State's Conclusion

4.50. The Secretary of State has given due consideration to the conclusions drawn by the ExA, the responses received from her first information request and the all-IPs consultation. After reviewing the additional information, the Secretary of State agrees with the ExA's recommendations on all marine physical environment matters and ascribes such matters little negative weight in the planning balance.

Commercial Fisheries

4.51. The ExA concluded that there would be no likely significant effects on commercial fisheries and was satisfied that the Proposed Development would accord with EN-1, EN-3 and EN-5 (2024) [ER 3.8.39]. The ExA noted that there would likely be some minor adverse effects on commercial fisheries from temporary loss and alteration of fishing grounds, temporary displacement of fishing activities, and obstruction of navigation routes to commercial fishing grounds during construction. During operation there would be minor adverse effects from loss or alteration of fishing grounds and displacement of commercial fishing activities. There would be similar minor adverse effects during decommissioning as during construction. The residual cumulative effects of the Proposed Development on commercial fisheries would be minor adverse and not significant. The ExA was therefore satisfied that the proposed mitigation measures would be adequate and are properly secured by Schedule 16 (DML) of the DCO [ER 3.8.40].

4.52. The ExA also stated that the Applicant had adequately assessed the cumulative effects of the development with other offshore developments and has secured appropriate mitigation and the assessment accorded with paragraph 2.8.72 of EN-3 which requires that applicants assess the cumulative impacts of infrastructure [ER 3.8.38] and ascribed this topic little negative weight in the planning balance.

Assessment of effects on commercial fisheries

4.53. The ExA noted that Thanet Fishermen's Association ("TFA") [RR-5373], Kent and Essex Inshore Fisheries and Conservation Authority ("KEIFCA") [RR-2976] and Whitstable Fishermen's Association ("WFA") [RR-6041] raised a range of concerns regarding the Applicant's ES, particularly that inadequate consideration has been given to impacts on bottom drift fishing. In response, the Applicant confirmed [REP1A-033] that an outline Fisheries Liaison and Coexistence Plan ("oFLCP") would be provided which would include engagement with fisheries and updated its assessment [REP1A-009] to reflect that bottom drift nets make contact with the seabed and therefore have potential to snag on seabed obstacles. An oFLCP was provided at Deadline 4 [REP4-081] and under the terms of the dML condition 4(1)(f) the final FLCP must be in accordance with it. However, in response to the ExA's second written questions ExQ2CF5 [PD-021] only the Eastern Inshore Fisheries Conservation Authority ("EIFCA") responded [REP5-191] in relation to the adequacy of the oFLCP and it raised no concerns [ER 3.8.23].

4.54. In her first information request, the Secretary of State invited TFA, KEIFCA and WFA to confirm whether their concerns have been addressed. The Applicant did not respond to this specific question.

4.55. In response, TFA [C1-129] raised a number of issues, noting that previous concerns it raised had not yet been addressed. It also expressed that it was unclear on how many opportunities it would have to safeguard that significant mitigation points are included in the dML and are robust, before the dML is fully granted. TFA asked for consultation on the final FLCP before that point is reached and consent is granted.

4.56. KEIFCA's [C1-134] response was similar to TFA's, citing a number of concerns, the core concerns being:

- Permanent loss or temporary displacement of bottom drift net fishing grounds, including impacts associated with cable protection, cable crossings, cable exposure and inadequate burial;
- Risk of loss or damage to bottom drift nets through snagging on cable protection or other seabed obstructions associated with the project; and
- Cumulative and long-term impacts on the viability of the bottom drift net fishery arising from this project alongside other existing and future pressures in the Thames Estuary.

4.57. KEIFCA stated in its response that given the importance of the final FLCP to the resolution of the outstanding fisheries concerns it identified, it wanted to be formally named as a consultee in the development, review and final approval of the FLCP.

4.58. WFA's [C1-106] responses mirrored that of TFA and KEIFCA, stating that its concerns regarding impacts on bottom drift fishing, as set out in its RR (RR-6041) had not been addressed by the oFLCP, submitted at Deadline 4 in February 2026. WFA requested that a number of measures are secured through the dML and wanted to be a named consultee in the final FLCP.

4.59. In response to the all-IPs consultation, the Applicant confirmed that the oFLCP [REP4-081] submitted during the Examination is an outline, high-level document, as appropriate for this stage of the Project. The FLCP is intended to be developed further through ongoing stakeholder consultation and the detailed design process, with the final FLCP secured under Condition 4 of the dML and approved by the MMO.

4.60. To further strengthen the commitments in the outline FLCP, the Applicant included a new commitment within the REAC (CF09):

> *"In the development of the final Fisheries Liaison and Coexistence Plan secured under Condition 4 of the DML, the Applicant will consult with relevant commercial fisheries stakeholders identified by the Fisheries Liaison Officer, including, but not limited to, relevant associations such as Thanet Fishermen's Association, Whitstable Fishing Association, Kent & Essex Inshore Fisheries and Conservation Authority and the Thames Estuary Fishermans Association. Informed by this ongoing stakeholder engagement and the detailed design process, design measures specific to fisheries activities, including but not limited to bottom drift net fishing, will continue to be developed and refined to minimise potential impacts as far as reasonably practicable".*

4.61. In response to the all-IPs consultation, TFA and WFA both welcomed the opportunity to comment further on the Applicant's responses, adding to the comments both parties made in their response to the Secretary of State's first request for information. WFA recognised

the progress made, but did not consider that the Applicant's further submissions yet provided sufficient certainty that impacts on the cockle fishery and on bottom drift net fishing will be avoided, minimised or mitigated, as required by South East Marine Plan Policy SE-FISH-2. TFA's response mirrored that of WFA, stating that while it recognised that the Applicant will continue to work on the FLCP, its main concern was that the FLCP does not contain any of the mitigation concerns raised by fisheries through this process so far and requested that its concerns form the basis of the FLCP discussions around all forms of mitigation and that the MMO is fully aware of these concerns when considering the final FLCP.

The Secretary of State's Conclusion

4.62. The Secretary of State notes the concerns raised by WFA, EIFCA, TFA, and KEIFCA and their requests to be added as consultees to the FLCP. This is achieved through the new REAC commitment CF09, which should help to minimise the impacts on commercial fisheries.

4.63. Despite this, the Secretary of State recognises that there may still be some minor adverse effects on commercial fisheries from temporary loss and alteration of fishing grounds, temporary displacement of fishing activities, and obstruction of navigation routes to commercial fishing grounds during construction and operation, but agrees with the ExA that the residual cumulative effects of the Proposed Development on commercial fisheries would be minor and not significant.

4.64. The Secretary of State therefore agrees with the ExA that there would be no likely significant effects on commercial fisheries and that the Proposed Development is in accordance with EN-1, EN-3 and EN-5, as well as other relevant policies [ER 3.8.39]. The Secretary of State ascribes this matter little negative weight in the planning balance.

Agriculture and Soils

4.65. The ExA concluded that the Proposed Development would comply with paragraphs 5.11.12 and 5.11.34 of EN-1, insofar as it would not site development on best and most versatile ("BMV") land without justification and would minimise the effects on BMV land and was satisfied that the mitigation measures would be secured through requirements 6(1)(l), 6(1)(m) and 9 of the DCO [ER 3.11.57]. However, the ExA considered that there would be significant adverse effects on soils and BMV land. The loss of 10.91 ha of BMV land in Suffolk and 12.21 ha in Kent would endure beyond the operation of the Proposed Development in the locations of the substations and converter stations. The ExA therefore ascribed this matter moderate negative weight in the planning balance.

Agricultural Land Classification ("ALC") surveys

4.66. The ExA noted that NE was unable to review the updated Agricultural Land Classification ("ALC") survey data [REP7-150, REP7-152] due to its late submission in the Examination period and was invited to provide its comments in the first information request. In its response, NE [C1-146] welcomed the completion of the detailed ALC surveys for the Suffolk and Kent Onshore Schemes as they represented a substantial improvement on the predictive information available at the time of the Preliminary Environmental Report ("PEIR") and respond in part to its previous advice.

4.67. However, NE stated that the reports did not fully resolve its concerns, noting that in Suffolk a material area remains reliant on predictive modelling, including a majority of the reported

Grade 2 land. The comparison between the predictive and updated datasets is also affected by changes to the Order Limits and should be repeated on a like-for-like spatial basis. However, in Kent, the survey coverage is substantially more complete, but further justification is required for the assignment of Grade 3b solely by reference to Flood Zone 3. NE also advised that the ALC and soil information should be expressly linked to the latest Soil Management Plan ("SMP"). The secured plan should show how mapped soil types and ALC grades will inform avoidance, stripping, storage, reinstatement, target restoration profiles, specialist supervision, monitoring and aftercare. The objective should be to return temporarily disturbed BMV land to its pre-construction agricultural quality, so far as practicable, and all other soils to a condition suitable for the intended after-use.

4.68. NE [C2-028, C2-029] stated it had reviewed the outline SMPs provided at Deadline 6 [REP6-069, REP6-067] and considered they represent a substantial improvement and now provide a credible framework for soil protection, handling, reinstatement and aftercare, broadly reflecting the principles of the Defra *Construction Code of Practice for the Sustainable Use of Soils on Construction Sites*. NE advised that the plans remain outline and that there are several matters which should be addressed or clarified in the final SMPs.

4.69. In response to the Secretary of State's all-IPs consultation, the Applicant [C3-002] noted NE's further actions that would resolve its concerns regarding ALC surveys, responding to each individual point.

4.70. In relation to points (i) and (ii) of NE's actions, the Applicant stated that approximately 38.5 ha of Grade 2 land in Suffolk remains classified using predictive data. The area was omitted as access could not be secured at the time of survey, owing to ongoing third-party construction activities within the area [REP7-150]. Where those third-party construction activities have concluded and access can be secured, the Applicant stated that it commits to undertaking pre-construction soil and ALC surveys to obtain the outstanding field data. The resulting detailed survey information will replace the predictive classification for this area and will supplement the information used to develop the final SMP (commitment AS01 in the REAC [C1-215]). This additional survey information would not alter the assessment of effects presented in the ES [PDA-019] as explained in Appendix E of [REP7-150].

The Secretary of State's Conclusion

4.71. Whilst not ideal, the Secretary of State understands why the Applicant presented site specific ALC survey results at a late stage of Examination and the consequent retrospective exercise to reassess the validity of the ES due to the overlap with third party construction activities. It is fortunate that the ALC surveys largely support the predictive assessment included in the ES submitted with the application [PDA-019, PDA-023], albeit identifying a 4.4 ha increase in BMV within the Order Limits at Suffolk and 8.3 ha decrease in Kent ([REP7-150 and REP7-152]). The Secretary of State considers this provides some comfort that the remaining areas within the Order Limits which were not included in the ALC surveys are suitably identified and graded. The Secretary of State considers that she now has sufficient information for the purpose of decision making and that the Proposed Development would accord with paragraphs 5.11.12 and 5.11.34 of EN-1. The Secretary of State notes that the outline SMP secures that further necessary surveys will be undertaken where there are gaps in the existing survey data (as shown in [REP7-150 and REP7-152]) to inform the final measures within the SMP.

4.72. In response to the all-IPs consultation, NE [C2-026] stated that the revised Outline Soil Management Plans represent a substantial improvement and now provide a credible framework for soil protection, handling, reinstatement and aftercare. However, the documents remain outline plans and defer a considerable amount of essential site-specific information to final SMPs prepared by the works contractors. Consequently, their effectiveness depends on the deferred measures being clearly secured, completed before any soil-disturbing work and subject to appropriate technical review and enforcement.

4.73. NE went on to state that it welcomed the strengthened commitments in the clean oSMPs, including, completion of outstanding ALC and Soil Resources Surveys before construction; preparation of mapped soil-handling units; calculation and tracking of topsoil and subsoil volumes; separate handling and storage of soil horizons and soil types; appointment of a suitably qualified Soil Scientist; field assessment of soil plasticity before handling; defined responsibilities, inspections, reporting and corrective action; and preparation of parcel-specific aftercare arrangements, potentially extending for up to five years.

4.74. NE concluded that these provisions go some way towards addressing the principal concern identified in its previous response to the Secretary of State, namely that the ALC surveys provided baseline information but did not previously demonstrate how it would be translated into secured soil handling, reinstatement, supervision and monitoring requirements. Nevertheless, there are a number of key matters which should be addressed or clarified in the final SMPs, of which NE detailed in the same response.

4.75. The Secretary of State is content that the Applicant has gone as far as reasonably practical to mitigate the effects on agricultural land and agrees with the ExA that the Proposed Development would comply with paragraphs 5.11.12 and 5.11.34 of EN-1, insofar as it would not be sited on BMV land without justification and would minimise the effects on BMV land [ER 3.11.57]. However, she agrees with NE's response regarding the condition of the temporarily disturbed BMV land which should be returned to its pre-construction agricultural quality as far as practicable. She agrees with the ExA [ER 3.11.48 – 3.11.51] that the Onshore CEMP, SMPs and Requirement 9 of the Order would ensure that the effects on soils would be adequately mitigated and that land used temporarily during construction must be returned to its pre-development condition. The Secretary of State notes the Applicant's responses to NE's remaining concerns and is satisfied that the oSMP provides an appropriate framework to secure adequate mitigation and necessary surveys, and she has amended Requirement 6 of the Order to secure that NE must be consulted by the local authority / discharging authority on the SMPs post-consent.

4.76. The Secretary of State agrees with TDC [REP5-186, REP7-303] that the reinstatement of BMV land to its pre-development condition does not constitute a significant beneficial effect as suggested in the ES [PDA-019, PDA-023] and has not treated this as such. Instead, reinstatement is a necessary commitment to provide certainty as to the duration of the effect and therefore significance of the temporary loss of BMV. The Secretary of State agrees with the conclusions drawn by the ExA on all matters relating to BMV, agriculture and soils, recognising that there will be significant adverse residual effects on soils and BMV land during construction. The loss of some BMV land would endure throughout and possibly beyond the operation of the Proposed Development in the locations of the substations and converter stations [ER 3.11.58]. As such, the Secretary of State ascribes this matter moderate negative weight in the planning balance.

Landscape and Visual

4.77. The ExA broadly agreed with the identification of significant adverse landscape and visual effects during operation of the Proposed Development in Suffolk and Kent, some of which would endure beyond 15 years post construction, causing lasting landscape and visual harm. It also recognised that the mitigation offered by the Applicant did not go as far as requested by IPs, particularly in Suffolk, but the evolution of the landscape and ecological management plan ("LEMP") provides further opportunities for on-site landscape mitigation to be agreed, which would assist in addressing such concerns [ER 3.12.113].

4.78. EN-1 (2024) paragraph 5.10.5 recognises that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape. The ExA was satisfied that the Proposed Development would comply with paragraph 2.9.17 of EN-5 insofar as the Applicant had shown that undergrounding lines would not be feasible except where already proposed and the cumulative effects with other OHLs have been considered [ER 3.12.113].

4.79. The ExA noted that although significant adverse effects on the NL or Suffolk Heritage Coast ("SHC") had not been identified from the Proposed Development in the long term alone, the ExA considered that even minor or negligible effects constituted harm in this respect. Furthermore, a significant cumulative level of harm would occur in Suffolk for a temporary period during construction, including to the natural beauty of the NL. The ExA considered that the acid grassland enhancement would provide mitigation for the temporary direct effects of the Proposed Development on the acid grassland. However, the ExA did not consider that on its own this would provide mitigation for the residual cumulative harm to the natural beauty and special qualities of the NL [ER 3.12.114]. The ExA also considered that the contribution to the Furthering The Purposes ("FTP") compensation fund would enable the Proposed Development to assist with offsetting the harm to a reasonable degree and to conserve and enhance the natural beauty of the NL, thereby furthering the purposes of the designation, in accordance with paragraphs 5.10.33 and 5.10.34 of EN-1 and s85 of the Countryside and Rights of Way Act 2000 ("CRoW") Act.

4.80. In respect of the above, the ExA ascribed this matter great negative weight in the planning balance.

Matters resolved through consultation

4.81. The ExA noted that the Kent oLEMP [REP7-141] omitted figures and was therefore relying on Deadline 6 figures in [REP6-080]. Upon review, the Secretary of State noted that Annex A had been omitted entirely. In the first information request, the Applicant was requested to provide an updated and complete oLEMP. In response, the Applicant submitted a revised oLEMP with the missing figures and annex updated.

4.82. The ExA asked relevant stakeholders for details of suggested mitigation or compensation measures for the likely significant cumulative effects in ExQ2LVIA10 [PD-021]. SCC [REP5-204] responded that there would be limited scope to reduce adverse effects through embedded mitigation measures and the limited area within the Order limits would not facilitate offsetting measures [ER 3.12.98].

4.83. In response to ExQ3LVIA5 [PD-021] the Applicant explained [REP6-111] that mitigation for likely significant cumulative effects in relation to the natural beauty indicators was already included as set out in appendix A of [REP6-102], but without prejudice, the Applicant agreed

to provide a financial contribution to the FTP (a compensation package specifically for nationally significant infrastructure projects ("NSIPs") affecting protected areas, paid by developers to local councils on behalf of landscape partnerships to fund environmental and conservation enhancements), in consultation with SCC and Suffolk & Essex Coast & Heaths National Landscape (Partnership) ("SECHNLP") [ER 3.12.99].

4.84. The ExA considered that a financial contribution to the FTP compensation fund would be necessary to make the development acceptable in planning terms, as it would provide compensation for the significant residual cumulative effects on the NL and further the purposes of the NL. It would be directly related to the Proposed Development. The ExA had no substantive reasons to take a view that the contributions that would be secured by the Unilateral Undertaking ("UU") would not be fairly and reasonably related in scale and kind to the Proposed Development, but as the UU was submitted at the final Deadline, SCC had not had an opportunity to provide detailed comments on it [ER 3.12.112]. In her first information request, the Secretary of State invited SCC to provide comments on the UU.

4.85. In response, SCC stated that it was broadly content with the substance of the commitments in the UU but considered that they should be secured as a bilateral Deed of Obligation instead as explained in paragraph 5.3 of [REP7-367]:

> *"Paragraph 5.3: SCC considers that the agreement should be bilateral with SCC as a signatory for reasons which include the fact that the agreement creates obligations for SCC and to ensure that the agreement is enforceable by SCC. In what follows, SCC gives an account what has been proposed by the Applicant and what SCC considers should be secured instead, including proposed wording for the DCO to secure SCC's preferred approach for a Deed of Obligation to be entered into instead."*

4.86. Paragraphs 5.4 to 5.21 provide detail explaining SCC's position including wording to be included in the DCO should the Secretary of State decide that the UU should be a bilateral Deed of Obligation.

4.87. Paragraphs 5.22 to 5.24 detail SCC's outstanding concern with the current drafting of the UU in terms of monitoring fees, stating that its policy is to secure a fee of £577 for each trigger point in a planning obligation, whereas the UU secures only a single £577 fee towards SCC's costs of monitoring performance of the obligation, with no separate fee secured in relation to SCC's costs of monitoring the performance of the obligation at paragraph 2 of Schedule 1.

4.88. In the Statement of Common Ground ("SoCG") with SECHNLP, it states that the Proposed Development was going above and beyond regarding mitigation and landscape enhancement.

4.89. In response to the all-IPs consultation, ESC [C2-036] stated that it supported the additions made to the Suffolk oLEMP and had no further comments to make.

4.90. In the same response, NE [C2-026] stated that its comments regarding the assessment, evidence behind the suitability of the 6 ha proposals and advice that impacts to acid grassland within a NL should be avoided, remain unchanged.

The Secretary of State's Conclusion

4.91. The Secretary of State agrees with the ExA that the Proposed Development would comply with EN-5 insofar as the Applicant had shown that undergrounding OHL would not be feasible except where already proposed and the cumulative effects with other OHLs have been considered. The Secretary of State also agrees with the identification of significant adverse landscape and visual effects during operation in Suffolk and Kent, some of which would endure beyond 15 years post construction, causing lasting landscape and visual harm, and agrees with the ExA that the mitigation offered by the Applicant did not go as far as that requested by IPs, particularly in Suffolk, but the evolution of the LEMP provides further opportunities for on-site landscape mitigation to be agreed, which would assist in addressing such concerns [ER 3.12.113].

4.92. The Secretary of State also agrees with the ExA that the contribution to the FTP compensation fund would enable the Proposed Development to assist with offsetting the harm to a reasonable degree, and to conserve and enhance the natural beauty of the NL, thereby furthering the purposes of the designation, in accordance with paragraphs 5.10.33 and 5.10.34 of EN-1 and s85 of the Countryside and Rights of Way Act ("CRoW") Act [ER 3.12.115]. The Secretary of State also agrees with the ExA that a UU is a sufficient mechanism for securing the relevant planning obligations for the Proposed Development. Regarding the topic of monitoring fees, the Secretary of State is disappointed that there is no agreement yet between the Applicant and SCC, but she agrees that the single monitoring fee set out in the UU is adequate, and that paragraph 2 of Schedule 1 allows for additional costs to be recovered in relation to the deed of adherence.

4.93. Although there will be some residual significant effects of the Proposed Development on landscape and visual receptors and there would be minor (not significant) adverse effects on the NL and the SHC, notwithstanding the contribution to the FTP compensation fund [ER 3.12.116], the Secretary of State is content that the mitigation and contribution to the FTP fund proposed by the Applicant will reduce some of the effects on the visual receptors and ascribes this matter great negative weight in the planning balance.

Design

4.94. The ExA stated that the Applicant had gone some way to meeting the requirements of EN-1 in taking account of the functionality and aesthetics of the Proposed Development through the design process. However, due to the lack of progress towards favoured design choices for the converter stations, the ExA was not satisfied that the Applicant has considered both functionality and aesthetics as far as possible, as envisaged by paragraphs 4.7.7, 4.7.11 and 4.7.12 of EN-1, or taken sufficient account of the need to consider good design as set out in paragraphs 2.4.1-4 of EN-5 and paragraph 2.5.1 of EN-3. The ExA also stated that the Applicant had not demonstrated that impacts would be minimised by design, as required by paragraphs 2.5.2 of EN-3 [ER 3.13.33].

4.95. The ExA concluded that it had secured adequate controls over design through its amendment to Requirement 3, but that did not address the identified policy failure and as such, ascribed the matter little negative weight in the planning balance [ER 3.13.34].

Matters resolved through consultation

4.96. In her first information request, the Secretary of State requested the Applicant to provide an update on whether it had identified favoured choices for the converter stations and if it had, how those designs met the requirements set out in paragraphs 4.7.7, 4.7.11 and 4.7.12 of EN-1, paragraphs 2.4.1-4 of EN-5, paragraphs 2.5.1 and 2.5.2 of EN-3, and paragraphs 2.9.18 and 2.9.19 of EN-5. In response, the Applicant [C1-178] stated that it had demonstrated how principles of good design and the referenced NPS policies are complied with in Section 6.3 of Application Document 7.1 (D) Planning Statement; with principles of good design informing project development from the earliest stages of optioneering. Key elements of good design, such as landscaping, had been carefully considered and designed, with solutions set out in the LEMP and other related management plans.

4.97. The Applicant explained that the four options discussed in the Design Approach Document primarily concern the external appearance of buildings within the perimeter fence of the converter and substations; which are important components of design, but are far from being the only consideration when considering whether the converter stations and substations, or the Sea Link project as a whole, complies with good design policies in EN-1 and EN-5.

4.98. The Applicant noted that retaining four design options at the application stage provides flexibility on matters such as the layout of buildings, cladding materials and rooflines. These are matters frequently determined after consent for infrastructure projects and it is not considered necessary for these details to be determined for policy compliance to be achieved. This is particularly in the context of the significant design work, commitments, parameters and requirements secured in the Sea Link DCO, which will ensure that good design principles are considered as detailed design progresses; and in the context of a project where the technical requirements strongly influence the final design. The need for flexibility between the options, and the potential for options to be combined to create a cohesive scheme is confirmed in Section 8 of Application Document 7.11.1 (B) Design Approach Document – Suffolk and Section 7 of Application Document 7.11.2 (B) Design Approach Document – Kent.

4.99. The Applicant argued that retention of optionality was essential to enable the final design to be informed by the detailed design, contractor input, further design review panel input and engagement with stakeholders as required by the Key Design Principles (GE.2) in Table 3.1 of Application Document 7.12.1 (D) Design Principles – Suffolk and Table 3.1 of Application Document 7.12.2 (C) Design Principles – Kent.

4.100. The Applicant stated that main works contractors have now been appointed for both the converter/substations and cable works and are progressing designs, but these have not been finalised or discussed in detail with relevant planning authorities and other consultees. The feedback from planned engagement sessions will be taken into consideration when finalising the designs. Set out in Table 3.1 of Application Document 7.12.1 (Version D) - Design Principles Suffolk [REP7-346], there is also a commitment to coordinate the design with the emerging LionLink converter station proposals in Suffolk and this engagement is ongoing, a workshop was planned with LionLink in the week beginning 21 September 2026.

4.101. The Applicant detailed the design approach for the DC Halls, justifying the simplistic design approach by incorporating it into the overall landscape and heritage. The Applicant also detailed the ways it considered this was compliant with relevant design policies in the NPSs.

The Secretary of State's Conclusion

4.102. The Secretary of State agrees with the ExA that the Applicant has gone some way to meeting the requirements of EN-1, taking into account the functionality and aesthetics of the Proposed Development through the design process. Due to the initial lack of progress towards favoured design choices, the ExA was not satisfied the Applicant had considered both functionality and aesthetics as far as possible, as envisaged by paragraphs 4.7.7, 4.7.11 and 4.7.12 of EN-1, or taken sufficient account of the need to consider good design as set out in paragraphs 2.4.1 - 4 and 2.9.17 of EN-5 and paragraph 2.5.1 of EN-3.

4.103. Following the response received from her first information request and the all-IPs consultation, the Secretary of State appreciates that the Applicant has and is considering how the impacts would be minimised by design, and how the Proposed Development would meet the functionality and aesthetics criteria set out in EN-1 and the good design criteria in EN-3 and EN-5. However, as there are still no final designs, the Secretary of State agrees with the weighting given by the ExA and ascribes this matter as little negative weight.

<u>Ecology, Biodiversity and Ornithology</u>

4.104. The ExA [ER 3.14.332] considered that there would be short to medium term significant adverse effects due to temporary and permanent habitat loss during construction. The ExA recommended these harms attract substantial weight against the Proposed Development. In addition, minor adverse effects would remain during construction and operation due to disturbance of protected species and habitat loss. These harms would be offset in Suffolk and Kent by the Applicant's BNG proposals, habitat creation and habitat management measures, which the Applicant assessed as being of moderate beneficial significance. Overall, the ExA considers that ecology, biodiversity and ornithology matters should attract moderate weight against the making of the order.

Sandwich Bay to Hacklinge Marshes SSSI – breeding bird assemblages

4.105. The ES [REP7-099] identifies potential disturbance of breeding birds of the Sandwich Bay to Hacklinge Marshes SSSI due to noisy construction works (those generating peak noise levels above 60 decibels ("dB")), namely:

- site preparation, earthworks and foundation creation at the Minster Converter and Substation adjacent to the SSSI; and
- installation of the two pairs of new OHL pylons (PC 54 A&B and PC 53 C&D) either side of the SSSI.

4.106. Without additional mitigation beyond the embedded mitigation (such as noise fencing), a significant adverse effect on the SSSI is likely. The Applicant proposed additional mitigation through REAC commitments B45 and B50, consisting of seasonal restrictions and checks by an ecological clerk of works ("ECoW")/ornithologist, to avoid significant disturbance effects. The Applicant considered that this would reduce the effect on breeding birds to minor adverse and not significant.

4.107. NE [REP7-364, REP5-216, REP4-169, REP3-117, RR-3920] was concerned that tree height reductions at the SSSI and pylon installation works on either side of the SSSI could affect breeding bird assemblages. NE suggested that the definition of the breeding season in the oCEMP, which secures seasonal restrictions on works, should be updated to March to

September inclusive, or that REAC commitments B65 and B45 should include supervision by an ECoW.

4.108. KWT [REP1-152, REP3-092, REP4-124] objected to works during the breeding season which could lead to displacement, nest failure, territory loss and disruption to site fidelity. Save Minster Marshes ("SMM") [REP1-246] stated that construction works should be restricted to October and November to avoid all disturbance on protected species. The Campaign to Protect Rural England ("CPRE") [REP4-108] considered that tree height reductions should be prohibited between March and September inclusive and agreed [REP3-082] with KWT regarding prohibiting works likely to cause disturbance during the breeding season of March – September.

4.109. The ExA recommended [ER 3.14.120] that without a seasonal restriction and supervision by a qualified ornithologist/ECoW as advised by NE, it was not satisfied that a temporary significant adverse effect on the SSSI could be avoided. In the first information request, the Secretary of State invited the Applicant to provide an updated oCEMP and REAC which amended references in commitment B45 to the breeding season from 'March to August' to 'March to September' and to require supervision by a qualified ornithologist/ECoW during all months. NE was invited to advise whether it considers this commitment would avoid temporary adverse effects on the breeding bird assemblage from disturbance during construction.

4.110. NE [C1-146] advised that, subject to the breeding bird season being amended from March to September inclusive and the requirement for works to be supervised by an ECoW and/or qualified ornithologist, it is satisfied that temporary adverse impacts to the breeding birds associated with the SSSI from disturbance during construction are unlikely to occur landwards of the sea defence.

4.111. The Applicant [C1-178] reiterated that measure B45 of the REAC and the Kent onshore oLEMP acknowledge that the bird breeding season can extend into September, however it recognised the wording could be clearer and made minor amendments [C1-216, C1-213]. The Applicant reiterated that it cannot commit to undertaking all noisy works outside of March – September.

4.112. The Secretary of State does not agree that further amendments are required to the seasonal restrictions and mitigation secured in the oCEMP and REAC to avoid a significant adverse effect on breeding birds of the SSSI, as suggested by the ExA, and she considers the ExA's recommendation does not accurately reflect NE's final advice on this matter. The ExA [ER 3.14.119] suggested that NE advised that any works undertaken during the breeding season should be supervised. The Secretary of State notes that NE's final risks and issues log [REP7-364, which refers to REP5-216] provides more qualified advice. NE's advice remains that the breeding bird season should be considered to be March to September inclusive, and that any works which are likely to disturb breeding birds should preferably be timed to avoid these months wherever practicable. Where this is not practicable, NE advises that an ECoW is appointed to undertake a thorough check of all vegetation for signs of breeding activity before works proceed, and that works should cease if necessary to avoid disturbance to breeding birds. NE's advice therefore did not require ecological supervision of all works undertaken during the breeding season, but applied that safeguard to works likely to disturb breeding birds (i.e. works generating noise over 60dB) where the seasonal restriction could not practicably be implemented.

4.113. The Secretary of State does not consider that all works must be prohibited between March and September or that an ECoW must supervise all works during the breeding season. She notes that the ES [REP7-099] describes how the 60dB threshold to identify potential for disturbance of birds was modelled. The Applicant calculated noise contours to identify the areas of the SSSI which could be subject to maximum noise levels above 60dB and therefore subject to disturbance. This threshold takes into account embedded mitigation and is considered to be precautionary and is stated to be agreed with NE and the Royal Society for the Protection of Birds ("RSPB").

4.114. The Applicant explained [REP6-102] that prohibiting noisy works during September would present an unacceptable constraint on pylon installation. These works are programmed to be 40 days per tower, and committing to a March to September breeding and October to February winter restriction would prevent necessary works entirely. The Applicant therefore commits to a breeding season restriction of March to August (REAC measure B45) and a wintering season restriction on pylon installation works (REAC measure B51) of November to February, thus leaving September (so long as checks by a qualified ornithologist/ECoW are undertaken prior to works commencing) and October to undertake noisy pylon installation works.

4.115. Regarding noisy works at the Minster Converter Station and Substation, the Applicant [REP6-102] explains that an extension of the restriction secured in B50 from March to June to March to August would elongate the construction programme by 9 – 10 months and result in a delay to the operational deadline.

4.116. NE asked [REP5-216] that the REAC was updated to include reference to the supervision of an ECoW under B45, B50 and B65. The Secretary of State notes that the final REAC [C1-215] commitment B45 (concerning pylon installation works) and B50 (concerning activities relating to construction of the Minster Converter Station and Substation) both require supervision of noisy works by a qualified ornithologist/ECoW during the months where noisy works are not prohibited, but that the works will only occur if no active nests of SSSI qualifying birds are identified. No noisy pylon works are permitted between March and August and no noisy converter station and substation works are permitted between March and June. For the remaining months between March and September, the requirement for pre-commencement checks and halting works if evidence of bird nesting is found is secured. The Secretary of State acknowledges that avoiding the breeding season entirely would be preferable, however she considers the Applicant has established that doing so would not be feasible and she is satisfied that the measures secured will avoid significant adverse effects on breeding birds of the SSSI as concluded in the ES [REP7-099].

4.117. Nevertheless, the Secretary of State considers that there should be oversight of the outcomes of such checks undertaken by the ornithologist/ECoW and requested the Applicant to update the REAC to secure that the Applicant must provide a report to the relevant local planning authority and NE, prior to, or as soon as reasonably practicable after, noisy works (generating over 60 dB at the SSSI) are undertaken during the bird breeding season, which detail the pre-commencement checks undertaken and any evidence of bird nesting. The Applicant provided an updated REAC [C3-014] and oCEMP [C3-010] as requested. SMM [C2-006] considered this wording was not precise enough and that all works, not just noisy works, should be subject to pre-commencement checks. NE's updated Appendix B8 [C2-029] and Risk and Issues Log [C2-027] state that NE welcomes these changes and considers this issue to be resolved. However, its cover letter [C2-026] states that for this to be sufficient mitigation to avoid damaging impacts NE advise the area of

search needs to be clearly defined based on type of activity, direct area of impact of 'activities taking place' and adoption of a suitable disturbance buffer. NE also highlighted that this commitment should not only apply to notified features of the SSSI, but also all breeding birds under the Wildlife and Countryside Act 1981 and in particular Schedule 1 Species at this location.

4.118. The Secretary of State considers that commitments B45 and B50 are clear that the search area and area of impact will be the area of the SSSI subject to noise over 60dB as determined following detailed design. Commitment B44 also secures noise reduction methods and monitoring adjacent to the SSSI to confirm the mitigation measures met the required noise thresholds. The precise area can be agreed by the relevant local authority / discharging authority in consultation with the SNCB in discharging the LEMP and Onshore CEMP post-consent. The Secretary of State is satisfied that the measures secured will avoid significant adverse effects on breeding birds of the SSSI and that there is appropriate oversight of the measures.

4.119. Regarding tree height reductions, REAC [C1-215] commitment B65 secures that no operational tree height reductions can take place between March and September inclusive. The Secretary of State does not consider that commitment B65 requires additional supervision by an ECoW as suggested by NE, as no works which could cause disturbance are permitted. Regarding construction phase tree height reductions, the Applicant has explained [EV6-014] that the trees are currently short enough that no height reduction will be required for construction. The Secretary of State notes that B02 already secures that where possible, vegetation with potential to support breeding birds will not be removed during the bird breeding season (March to September) and if any works become necessary during that time, works will be supervised by an EnvCoW. Nevertheless, the Secretary of State requested the Applicant to update the REAC [C3-014] and oCEMP [C3-010] to secure that commitment B65 applies equally to the construction phase.

4.120. Overall, the Secretary of State is satisfied that adequate avoidance and mitigation measures are secured to ensure significant adverse effects on breeding birds of the SSSI can be avoided.

Trenchless landfall works

4.121. The Secretary of State is acutely aware of the importance of a trenchless landfall installation method as a fundamental means of avoiding and mitigating what could otherwise be significant adverse effects at the Kent and Suffolk landfall locations, if for example open cut trenching methods were used and notes that many representations were received which raise concern that HDD is not feasible and the Applicant will seek to revert to open-cut trenching methods. The ExA [ER 3.14.46 et seq.] recommended that Requirement 16 and schedule 16, condition 10 of the dDCO, together with the mitigation commitments summarised in the REAC, would ensure that the Applicant would not be able to revert to open cut trenching. However, the ExA considered that uncertainty remained regarding the mitigation measures that would apply should the Applicant opt for a trenchless crossing method other than horizontal directional drilling ("HDD"). For example, commitment B59 in the oCEMP [REP7-129] and oOCEMP [REP7-127] makes provision for trenchless landfall works but then refers to the provision of a HDD landfall method statement. The ExA considered that to avoid uncertainty regarding the controls applicable to trenchless crossings where an alternative trenchless method is used, the Secretary of State may wish to obtain

an updated version of the REAC, oCEMP and oOCEMP replacing references to 'HDD' with 'trenchless crossings'.

4.122. In the first information request, the Applicant was invited to review and update the REAC, oCEMP, oOCEMP and any other relevant control document to identify and replace references to 'HDD' with 'trenchless crossings', to ensure controls would apply to any method of trenchless crossings regardless of the eventual method employed. In response to the Secretary of State's information request, the Applicant [C1-178] confirmed that amendments have been made to the REAC [C1-215], oCEMP [C1-196] and oOCEMP [C1-194] as requested.

4.123. In response, NE [C2-026] noted that whilst HDD and Direct Pipe methods are mentioned in the Project Description [REP7-089], microtunnelling is not. NE also stated that microtunnelling is likely to result in a greater environmental footprint and it is unclear whether an appropriate worst-case scenario has been assessed.

4.124. The Secretary of State notes that, as defined in the rDCO, ""trenchless landfall techniques" means cable installation techniques at a landfall which do not involve a trench and which may include HDD, microtunnelling or Direct Pipe". She notes that the Applicant considers HDD to be an appropriate worst-case scenario [REP7-089], stating that HDD is considered to have a similar footprint and installation parameters as Direct Pipe and is therefore presented in further detail in the ES as the reasonable worst case installation method. However, she also notes that the Landfall Feasibility Technical Note [Appendix A of APP-321] states that, while microtunnelling is a viable option for the length and ground conditions, "*this method introduces a significant increase in transport movements to the landfall, has the same microtunnel boring machine removal considerations from the intertidal as Direct Pipe, and also has confined spaces working as a health and safety issue that must be addressed*". The Secretary of State can find no explanation or compelling justification from the Applicant to justify that microtunnelling would not result in new or materially worse environmental effects compared to HDD or Direct Pipe methods, or that there are any other feasible trenchless techniques beyond HDD, Direct Pipe or microtunnelling. Based on the information available, she therefore agrees with NE's concern and has removed microtunnelling and specified in the Order that only HDD or Direct Pipe methods may be used.

4.125. Regarding Direct Pipe, NE [C2-026] noted that whilst there is a commitment [B43] to not excavate within saltmarsh to retrieve a Direct drill head should installation failure occur, the implications of contingency measures on the ecological receptors to retrieve equipment and make further attempts to install the cable are not clearly defined, particularly what would happen with excavated soils. The Secretary of State notes that potential effects of stuck drilling equipment were raised during Examination [ER 3.14.55 – 3.14.56]. The Applicant explained [REP7-093] that stuck equipment would be freed by additional tooling work at the entry or exit pits. In the unlikely event that stuck equipment must be retrieved, it would initially use a second drilling string to follow the stuck string and clean the bore to allow the stuck equipment to be pulled out by the drilling rig. In the extremely unlikely event that a drilling string cannot be recovered it will be left in situ, having no ecological implications given the depth below ground and thus lack of connection to surface features, and a new route would be drilled on a parallel alignment within the Order Limits. REAC commitment B22 also ensures there would be no excavation to remove stuck drilling equipment within the Leiston-Aldeburgh SSSI. Condition 15 (1) of the dML secures that a CSIP must be approved by the MMO in consultation with the SNCB and must include a sediment disposal management plan. The outline CSIP [C3-016, Section 8] summarises the proposed approach to handling

excavated sediment. The Secretary of State considers that implications of stuck equipment and sediment disposal have been adequately defined and assessed and agrees with the ExA [ER 3.14.78] that significant adverse effects would be avoided.

4.126. NE [C2-030] stated that the use of open cut techniques for cable repair/replacement at both landfalls should be subject to a separate marine licence as they are not assessed as part of the current EIA. The Secretary of State agrees. She considers that Schedule 3 Requirement 16 and Schedule 16 Condition 21 could be interpreted to prohibit open cut trenching between the onshore TJB and *onshore* entry/exit pits, and she has therefore included a further condition that no open-cut trenching is permitted for repair and maintenance of cables between the entry/exit pits.

4.127. The Secretary of State noted that HDD entry/exit pits at the Suffolk landfall are within the subtidal zone, whereas the pits at the Kent landfall are within the intertidal zone. With reference to KWT's representation [Table 2.6 of REP2-034] that it considered it was unclear why the same avoidance-led design applied at Suffolk has not been implemented in Kent, particularly given the recognised sensitivity and statutory protection of the intertidal mudflat habitats within the Thanet Coast and Sandwich Bay complex, the Secretary of State invited the Applicant to summarise or signpost to the reasons to explain the different approaches at the two landfall locations.

4.128. The Applicant [C1-178] referred to the Landfall Feasibility Technical Note [APP-321] which demonstrates that the coastal bathymetric conditions at the Suffolk and Kent landfalls differ considerably, with the Kent coastline characterised by a more gradual nearshore seabed gradient resulting in shallower water extending further offshore than at Suffolk, which informed the design and assessment of the respective landfalls. Achieving an HDD exit point in the subtidal zone at Pegwell Bay would require a minimum HDD length of 2.5 km. Whilst this is technically feasible, it would require installation of an HDD rig on a jack-up barge located in the intertidal area. This would increase the construction programme by up to two and half times compared with the proposed approach. The only technically feasible alternative capable of achieving a landfall installation length of approximately 2.5 km whilst avoiding the intertidal area would be a full-scale tunnel. Such an approach would require substantially greater construction activity, materials, excavated spoil management and carbon emissions than the proposed HDD solution. Other installation methods of microtunnelling and Direct Pipe installation technology are not considered feasible at that length.

4.129. The Secretary of State considers that the Applicant has sought to avoid significant adverse effects on ecology, biodiversity and ornithology. She acknowledges the concerns of IPs regarding reverting to open-cut trenching in future. She agrees with the ExA and is content that the Order secures that only trenchless landfall methods are permitted. Any open-cut trenching would require a separate application, which would be considered on its own merits at that time, taking into account the likely significant effects of that approach. She also considers that it is in the Applicant's interest to propose a feasible method at this stage, as there is no certainty that any future request to revert to open-cut trenching would be approved. The Applicant has explained that it considers a trenchless method is feasible in its Landfall HDD Feasibility Technical Note [APP-321] and so the Secretary of State does not expect this should arise.

Bird collision risk with overhead lines

4.130. Many IPs in Kent [ER 3.14.150] suggested that bird collisions with pylons and OHLs would be increased due to the increased wirescape and funnelling of birds due to the additional OHL crossings over the River Stour. An incident where a group of swans were killed in a collision with OHLs was cited [RR-1898, RR-4652, REP1-148, REP1-213].

4.131. The Applicant undertook a collision risk assessment [C1-188], which was supported by a vantage point survey [REP1A-023] and an OHL mortality monitoring report [APP-251]. The Applicant concluded that whilst collision risk would increase, for most bird species transiting through the 'at risk' zone, avoidance would result in fewer than one individual potentially colliding with the proposed new OHL annually. For species which are predicted to experience greater than one collision mortality annually, these figures are low in comparison to regional populations. This is considered to be a minor adverse effect which is not significant. REAC commitment B55 secured by Requirement 5 of the Order provides for use of bird diverters on new OHLs to reduce collision risk further, which reduces the effect to negligible. The Applicant considered [REP2-022] that the swan collision incident occurred 22 years ago in a different location and cannot be taken to represent a trend or common occurrence. The assessment of alternatives [APP-044, REP2-034] explains the constraints for an underground solution to cross the River Stour and why an overhead line is proposed. NE agreed that collision risk is unlikely to be materially affected but supported further consideration being made of installing diverters on other lines in the area [REP5-199, REP5-221].

4.132. The ExA considered [ER 3.14.158] that the Applicant has provided an assessment of collision risk for the proposed River Stour OHL crossing, which recognises its value as a migration corridor. The ExA considered that the Applicant has provided reasons for its site location and for ruling out undergrounding in this location (see ER Section 3.3). The OHL would cross a flight path, which is not consistent with EN-5 paragraph 2.10.2. Whilst the Applicant suggests birds are habituated to avoid the wirescape, the ExA considered that the OHLs could increase funnelling of birds travelling inland from the intertidal areas in Pegwell Bay.

4.133. The ExA recommended [ER 3.14.159] that, although IPs supported use of diverters on existing lines, it did not receive robust justification as to why this was necessary in the proposed location. However, the ExA recognised that there is some uncertainty in the real-world behaviour of bird movements and considered that inclusion of a monitoring commitment would ensure that, if effects were worse than predicted, there would be the ability to fit additional diverters at a later stage. The ExA recommended [ER 3.14.160] that appendix B of the Kent oLEMP [REP7-141] should be updated to secure two years of collision monitoring of the new OHL arrangement from commencement of operation and that REAC commitment B55 should be updated to include the following text:

> *"In the event that collision monitoring surveys in the oLEMP identify that collisions with existing lines are worse than predicted due to the new overhead line arrangement, the applicant will consult with the statutory nature conservation body regarding the need for additional diverters on existing lines. Where consultation with the statutory nature conservation body indicates that additional mitigation is required, diverters shall be fitted on the existing lines, or other appropriate measures agreed with the statutory nature conservation body."*

Taking these measures into account, the ExA was satisfied with the assessment of collision risk and considered that significant adverse effects may be avoided.

4.134. In response to the first information request, the Applicant provided an updated Kent oLEMP [C1-203] to secure two years of collision monitoring of the new OHL connection and the existing Richborough to Canterbury OHL located within the Order Limits. REAC measure B55 was updated [C1-215] in line with the Secretary of State's request.

4.135. KWT [C1-004] welcomed the proposed requirement for collision monitoring and the mechanism for securing additional mitigation where monitoring demonstrates that collision rates are greater than predicted. However, KWT reiterated that bird deterrents/diverters should be installed from the commencement of operation rather than waiting for the results of collision monitoring. KWT also considered that two years of monitoring may fail to capture the full range of factors, including weather, which influence bird movements and collision risk, suggesting a five-year minimum monitoring period.

4.136. The Secretary of State notes that REAC measure B55 already secures bird diverters on new sections of line which are visible in low light conditions and at night, and that the additional monitoring and adaptive management provisions secured serve to validate the conclusions of the ES with regard to the new wirescape, and secure additional diverters on the existing OHLs where consultation with NE indicates that additional mitigation is required, if an increased cumulative effect on bird collisions was to arise. The Secretary of State agrees with the Applicant [C3-002] and is satisfied that two years of monitoring is sufficient and proportionate, noting the Applicant's responses to Examination which suggest that risk of significant adverse effects arising from collision is low. The Secretary of State is satisfied with the arrangements for validation monitoring and adaptive management and notes that the details of the monitoring and diverter/deterrent methods can be agreed with the local authority/discharging authority, in consultation with the relevant consultees, including NE.

Protected Species

4.137. SMM [REP1-246, REP2-103, REP6-214, REP7-210] highlighted potential impacts on beaver using the River Stour and the ditch network within Minster Marshes. It suggested that beaver presence had been confirmed in 2025 following the Applicant's surveys and provided evidence of a beaver lodge [REP6-214]. KWT [REP7-202] maintained that the Applicant's approach to beaver surveys was flawed. Riparian mammal issues were agreed in the KCC SoCG [C1-193] and were not highlighted as outstanding matters in the TDC [REP7-214], EA [REP7-362], CPRE [REP7-193] or ESC [REP7-198] summary statements; or the TDC [REP7-303], SCC [REP7-302], ESC [REP7-301] and NE [REP7-363] PADSS.

4.138. The Applicant [REP6-108, REP7-257] explained that the presence of beaver on the River Stour had been established through its riparian mammal surveys. It acknowledged that the proposed temporary bridge could interact with the lodge identified by SMM if the lodge remained present when installation is proposed in 2028, but stated that the bridge abutments or alignment could be moved within the Order limits to avoid the lodge, or where avoidance was not possible, an appropriate licence would be sought from NE to permit its removal subject to suitable mitigation and / or compensation as determined by NE. The ExA [ER 3.14.269] considered that, in the worst-case scenario, removal of a beaver lodge could be required and could constitute a licensable activity and a significant adverse effect on beaver habitat in the absence of mitigation. In response to the Secretary of State's information request, the Applicant provided an updated ES [C1-188] that considered the potential effects

on the beaver lodge. The updated ES concludes that, with the mitigation secured, loss of riparian mammal habitat could result in a minor adverse effect that would not be significant, while effects arising from the killing or impeded passage of riparian mammals would be negligible. KWT [C2-021] and SMM [C2-006] expressed concern that the updated ES focusses on the loss of a lodge, without due regard to disturbance and potential effects on burrows, which can extend up to 15 metres inland from the bank. The Secretary of State also notes NE's advice [C2-026] that methodology for avoiding impacts to beavers and seeking necessary licences from NE should be included in the REAC and LEMP. While beavers fall within the Applicant's consideration of riparian mammals, NE states this does not in itself demonstrate that the specific avoidance and licensing measures sought by NE in relation to the potential beaver lodge have been secured.

4.139. The Secretary of State is satisfied that the Applicant must undertake pre-commencement surveys which must establish whether beaver or their breeding sites or places of rest/shelter are present and likely to be affected. Whilst she acknowledges the lack of reference to burrows in the ES, she considers that the pre-construction surveys for riparian mammals secured in the oLEMP – Kent [C1-205] and commitment B75 in the REAC must include beaver surveys undertaken to the same standard as the baseline surveys[7], which included detailed searches for field signs, including feeding remains, scent sites and scent mounds, canals, dams, burrows and lodges [C1-188, APP-154]. The Secretary of State expects the local authority/discharging authority, in consultation with NE, to require robust pre-construction surveys to identify the likely presence of beaver and their habitat, to inform detailed design and consideration of avoidance of adverse effects as part of the LEMP. Where effects cannot be avoided such as through design and siting of the temporary bridge, the Secretary of State notes that the Applicant would be required to obtain any necessary protected species licence from NE before carrying out otherwise licensable activities. It would be for NE, as the relevant licencing body, to determine any such application against the applicable licensing tests, including whether the proposed action would be detrimental to the maintenance of the beaver population at a favourable conservation status in its natural range. If NE was not content that the proposed works would not harm the long-term conservation status of the species, it would not grant a licence to carry out the works. Beaver are considered to be of regional importance and the Secretary of State considers that, on a worst-case basis, should removal of a lodge be necessary, there could be a temporary and reversible adverse effect on the availability of beaver habitat, subject to any mitigation and/or compensation required through the licensing process. However, having regard to the further surveys and consideration of avoidance secured and the enduring requirement to obtain any necessary protected species licence the Secretary of State agrees with the conclusion of the updated ES [C1-188] that the residual effects would be minor adverse and not significant in EIA terms.

4.140. Regarding water vole, the Applicant updated the ES [REP7-093] during Examination in response to comments from ESC, the RSPB and NE concerning risk to water vole from potential frac out and committed to mitigation and additional surveys post-consent [REP7-129]. The ExA [ER 3.14.53] was satisfied with the Applicant's proposed mitigation measures for frac out in the REAC and control documents secured by Requirements 5 and 6 of the dDCO. However, the ExA agreed with NE's comments regarding water vole at Leiston-

[7] Campbell-Palmer, R., Puttock, A., Wilson, K. A., Leow-Dyke, A., Graham, H. A., Gaywood, M. J., & Brazier, R. E. (2020). Using field sign surveys to estimate spatial distribution and territory dynamics following reintroduction of the Eurasian beaver to British river catchments. *River Research and Applications*, 37(3), 343-357.

Aldeburgh SSSI and recommended that, to avoid potential adverse effects on water vole, commitment B62 [REP7-129] should be updated to include water vole in pre-commencement surveys of the trenchless crossing route. The Secretary of State invited the applicant to secure this. The Applicant agreed and provided an updated REAC [C1-215], outline Offshore [C1-194] and Onshore [C1-196] CEMPs and oLEMP (Suffolk) [C1-200] to secure additional water vole surveys. The Secretary of State is satisfied that significant adverse effects on riparian mammals are unlikely.

4.141. Regarding great-crested newt, the ES scopes out an assessment of effects as the Applicant had agreed with NE to use the District Level Licencing ("DLL") scheme. However, the Secretary of State noted that a copy of the Impact Assessment and Conservation Payment Certificate ("IACPC") had not been provided to the Examination. The Secretary of State requested this in the first information request and the Applicant responded [C1-178] with copies of the IACPCs for the Suffolk and Kent onshore elements of the Proposed Development which were issued on 26 May 2026 and 22 July 2026 respectively. This provides confirmation of the conservation payment requirements associated with the application of the great-crested newt DLL scheme to the Proposed Development.

4.142. The ExA considered concerns raised by IPs regarding the adequacy of the Applicant's hazel dormouse surveys in Suffolk and Kent, including concerns regarding survey effort and the Applicant's conclusions as to the likely absence of dormice. NE highlighted the potential for hedgerow removal to affect dormice in Suffolk and supported the need for pre-construction surveys in Zone D [ER 3.14.250–3.14.251].

4.143. The Applicant stated during the Examination that no previous records of dormice had been identified in this part of Suffolk despite extensive survey work associated with other infrastructure projects, and that only one ambiguous record had been obtained from its survey effort. The Applicant similarly stated that there were no existing records of dormice for the Kent onshore site and that the required survey effort had been exceeded. Precautionary working methods were therefore proposed for both Suffolk and Kent [ER 3.14.252–3.14.254].

4.144. The ExA was satisfied that, having regard to the single ambiguous record in Suffolk and the acknowledged absence of dormice in that area, the baseline surveys were sufficient for assessment and decision-making. It considered that, in the unlikely event that dormice were present, the proposed pre-construction surveys and precautionary working methods secured through the oLEMP, oCEMP and any licensing requirements would be sufficient to avoid significant effects. The ExA was also satisfied with the Applicant's assessment in Kent [ER 3.14.256].

4.145. Following the Examination, the Secretary of State invited the Applicant to explain how the survey methodology used for the Suffolk and Kent dormouse surveys accorded with the relevant Dormouse Conservation Handbook and to provide further justification for its conclusions of likely absence of hazel dormice for both onshore schemes. NE was invited to comment on the Applicant's survey methodology and conclusions.

4.146. In response, the Applicant [C1-178] stated that the original Suffolk survey exceeded the minimum survey effort required by the guidance applicable at the time. It further confirmed that an updated survey of Zone D was being undertaken using a methodology agreed with ESC and in accordance with the third edition of the Hazel Dormouse Conservation Handbook (2025) and the Hazel Dormouse Mitigation Handbook (2025). At the time of the

Applicant's response, the survey was approximately 70% complete and no evidence of dormice had been identified. The Applicant considered that this supported the conclusion of its original survey and the generally low expectation of encountering dormice in this part of East Suffolk. For Kent, the Applicant stated that the original survey had similarly exceeded the minimum survey effort required by the guidance applicable at the time and a further survey was being undertaken.

4.147. NE [C1-146] noted that there have been past dormouse records close to the Suffolk scheme footprint, confirming dormouse presence in this area. NE advised that there appear to have been potential dormouse nests identified as part of the Scheme survey effort, which were subsequently discounted from further survey effort. NE considered that residual risk around the presence of dormice remains which the Applicant has not sufficiently addressed. NE advised that it could not agree that the Applicant's dormouse surveys met standard best-practice guidance and considered that limitations in survey effort for both Suffolk and Kent onshore schemes meant that residual uncertainty remained regarding the presence of dormice. In particular, NE identified concerns with the number and frequency of nest-tube checks and with survey coverage in parts of both the Suffolk and Kent Onshore Schemes. NE therefore considered that the likelihood of dormouse presence should be reassessed and supported further surveys prior to construction, advising that a mitigation licence was likely to be required should dormice be identified.

4.148. The Secretary of State has considered the Applicant's dormouse surveys, the ExA's conclusions, the further information provided by the Applicant, responses from NE and IPs. She agrees with NE's concerns regarding the adequacy of the original survey effort and the consequent residual uncertainty as to the presence of hazel dormice within the onshore schemes. She also notes the record of hazel dormice within proximity to the Suffolk scheme. Notwithstanding this uncertainty, the Secretary of State is satisfied that the measures secured through the oLEMP, oCEMP and relevant commitments, including further pre-construction surveys, which she notes are currently underway by the Applicant and are being undertaken using updated hazel dormouse survey guidelines, and precautionary working methods, provide an appropriate means of identifying and managing potential effects on hazel dormice. Should dormice be identified, any activities which would otherwise constitute an offence would be subject to the requirement to obtain any necessary protected species licence from NE. The Secretary of State therefore considers there are sufficient safeguards to ensure that the Proposed Development would not give rise to significant adverse effects on hazel dormice and agrees with the ExA's overall recommendation on this matter.

Mitigation measures

4.149. The ExA [ER 3.14.141] noted that the final Kent oLEMP [REP7-141] appeared to be missing figures. In response to the Secretary of State's information request, the Applicant provided an updated version with the figures included [C1-205]. In response to the all-IPs consultation, KWT [C2-021] and SMM [C2-006] noted that Figure 4 [C1-205] is titled 'golden plover and skylark enhancement area' and expressed concern that they understood this area was being proposed to compensate for loss of habitat used by wintering golden plover and lapwing. They state that the inclusion of skylark raises questions about the intended purpose of the site and that the shared benefit has not been demonstrated through the proposed habitat design, management prescriptions and evidence of suitability for each target species. The Secretary of State notes that whilst the title has changed, the equivalent figure in the Kent oLEMP submitted at Application [APP-349] clearly identifies this area as the golden plover and skylark habitat enhancement area. The ES [C1-188], REAC [C3-014] commitment B54,

and the Applicant's representations during Examination (such as [REP2-014] [REP2-024] [REP2-034]) also identify that the measure is proposed to enhance the longer-term habitat availability for golden plover and breeding farmland birds including skylark. She considers it is clear from the Application and Examination documents that whilst the main purpose of the enhancement area will be to mitigate habitat loss for golden plover and skylark, it is intended to be managed favourably for other wintering and nesting farmland birds. Other mitigation is secured to avoid what would otherwise constitute significant adverse effects on lapwing, including REAC commitment B51 to prohibit pylon base works in winter and other habitat creation. All matters relating to skylark, golden plover and proposed mitigation are agreed in the final SoCG with KCC [C1-193]. NE does not hold outstanding concerns regarding the proposed mitigation. The ExA [ER 3.14.140 – 3.14.141] was satisfied that the oLEMP addresses NE's [REP7-277] advice regarding the need for an outline management plan for the mitigation land. This is subject to approval by the relevant planning authority/discharging authority in consultation with NE, allowing opportunity for amendment. The Secretary of State does agree that detailed design is lacking but is satisfied that an appropriately designed enhancement area can be finalised and agreed post consent and in consultation with NE and the relevant local authority. She therefore agrees with the ExA on this matter, noting that a significant adverse effect remains due to loss of habitat in the short-medium term.

4.150. The ExA [ER 3.14.282] noted that during Examination, the Applicant partially amended the control documents so that they referred to an Environmental Clerk of Works ("EnvCoW") rather than an ECoW. The ECoW was suggested to have the power to stop works if required (paragraph 1.6.1 of the Kent oLEMP [REP7-141]), a provision which is not included in the Suffolk oLEMP [REP7-140]. The ExA [ER 3.14.286] considered that the late replacement of the term ECoW with EnvCoW creates uncertainty regarding the management of ecological works. The ExA was not clear whether the Applicant is now committed to managing oLEMP works with an ECoW. Whilst the EnvCoW is stated to have access to suitably qualified ecologists, the ExA did not consider that the skillsets are the same and could result in ecological matters being deprioritised. The EnvCoW is also not stated to have the power to stop works. Consistent with EN-1 paragraph 5.4.35, the ExA recommended that the Secretary of State requests clarification from the Applicant of the circumstances in which an EnvCoW or an ECoW would be used and their relevant powers to ensure that best practice in ecological management would be followed and that relevant ecological mitigation in control documents would be implemented appropriately.

4.151. In response to the first information request, the Applicant [C1-178] reiterated that the distinction between the responsibilities of the EnvCoW and ECoW are stated in paragraph 1.6.1 of the Kent oLEMP. The EnvCoW will be responsible for ensuring construction environmental mitigation measures are correctly implemented, monitored and maintained. In addition, an ECoW will be appointed. The ECoW will be a suitably qualified ecologist and will draw upon other specialist suitably qualified ecologists as necessary, such as to undertake surveys. The scope of the ECoW will be advised by the ecologist and landscape architect based on relevant environmental commitments, the findings of the pre-commencement walkovers and update surveys, protected species licensing requirements and with reference to the relevant Proposed Development programmes. The ECoW will have authority to stop works if required or require amendments to working methods if ecologically sensitive features are encountered. The disparity with the same text in the Suffolk oLEMP is an error that has been corrected by inserting the text above to match the wording in the Kent oLEMP, clarifying that the ECoW has authority to stop works if required, or require amendments to working methods.

Terrestrial unexploded ordnance (UXO)

4.152. Many IPs identified UXO as an issue [ER 3.14.180]. SMM [REP1-246] and others [REP1-213], [REP1-237] highlighted WWII weapons testing in Pegwell Bay and considered that UXO risk had not been properly assessed. SMM suggested that this had been a major issue for the Nemo Link project. TDC [RR-5372, REP1-132] noted that UXO were a significant prospect. KCC [REP1-129] was content with the Applicant's proposed approach. ESC [REP4-117, REP5-189, REP6-160] considered that impacts and mitigation for terrestrial UXO had not been fully addressed (particularly close to the trenchless crossing compound and Leiston-Aldeburgh SSSI), although it acknowledged that UXO surveys would require SSSI assent and RSPB agreement [REP7-260]. SCC [REP5-204, REP6-141] was content with the approach, subject to implementation of measures in the updated UXO risk assessment [REP7-129]. The RSPB [REP1-165, REP4-142, REP5-203, REP7-054, REP7-209] remained concerned regarding UXO detonation and disposal and wanted further assessment of the potential for damage and disturbance.

4.153. At Deadline 7, NE [REP7-364, REP7-269, REP7-270] suggested that the REAC [REP7-359] should be updated such that UXO surveys at Leiston-Aldeburgh SSSI and Sandwich Bay to Hacklinge Marshes SSSI would be undertaken outside the core wintering and breeding bird seasons to avoid a red risk in relation to UXO and [REP7-270] suggested that a UXO investigation and mitigation plan should be secured.

4.154. The Applicant [REP7-054, REP7-093, REP7-095, REP7-129] updated its assessments with a high-level assessment of terrestrial UXO risks which it considered not to be significant. The Applicant [REP6-108, REP7-093] clarified that although some areas were identified as having a moderate to high-risk UXO classification, there was no recorded ordnance at the specific HDD locations, unlike in nearby projects. The Applicant considered that the trenchless crossing depth was generally below the maximum penetration depth for UXO and therefore very unlikely to be encountered. In Kent, [REP7-095] suggested that any UXO clearance would be subject to SSSI assent and would be timed to occur outside the bird breeding season. The Applicant considered that detonation would be unlikely to be required if UXO were found. The Applicant [REP6-108] also observed that it was subject to separate statutory assent processes for SSSIs. The Applicant updated UXO commitment GG39 in the oCEMP [REP7-129] and the REAC [REP7-359], providing for implementation of measures set out in the UXO risk assessments [REP7-129], including consultation with NE and the RSPB.

4.155. In response to the first information request, NE [C1-146] welcomed the inclusion of commitment GG39 in the REAC and oCEMP and considered that, with an amendment, it is appropriate to mitigate impacts to the Sandwich Bay to Hacklinge Marshes SSSI in Kent and Leiston-Aldeburgh SSSI and Sandlings SPA in Suffolk. NE suggested that "*they* [the Applicant] *will consult Natural England and RSPB in advance to take measures and protect Sites of Specific Scientific Interest where practicable*" should be amended to "*they will work with Natural England and the RSPB in advance to agree a methodology and timing to ensure that impacts to the SSSI are avoided or minimised*". In response to the all-IPs consultation, the Applicant provided an updated REAC [C3-014] to amend the wording as suggested by NE.

4.156. The ExA [ER 3.14.190] noted the lack of records of UXO at the trenchless compound in Suffolk and is satisfied that combined with the subsequent depth of drilling, the risk of encountering UXO is low and therefore the risk of harm to Leiston-Aldeburgh SSSI is low. In

Kent, the ExA considers that avoiding the breeding season would avoid impacts on breeding bird populations at Sandwich Bay to Hacklinge Marshes SSSI. The ExA was satisfied that the REAC [REP7-359] and oCEMP [REP7-129] include measures to address the risk of UXO. On the basis that UXO surveys would require SSSI assent, the ExA is satisfied that the REAC does not need to secure the timing of UXO surveys or a separate UXO investigation and mitigation plan. The Secretary of State agrees with the ExA's recommendations.

Biodiversity Net Gain ("BNG")

4.157. The Applicant submitted a Biodiversity Net Gain Feasibility Report [REP1A-025] and a signed UU [REP7-352] committing to 10% net gain. It considered a s106 agreement or requirement was unnecessary in respect of its voluntary offer [REP6-109].

4.158. The ExA recommended [ER 3.14.323, ER 3.14.331] that whilst the UU lacks detail, it generally meets the requirements of EN-1 paragraph 4.1.18 for obligations. The ExA would have afforded greater positive weight to BNG measures had the Applicant provided greater clarity regarding the measures and a more transparent framework for the delivery of the measures, secured by a bilateral s106 agreement negotiated with relevant stakeholders. The ExA [ER 3.14.324] noted that the Suffolk oLEMP [REP7-140] included track changes in paragraph 1.2.7 relating to BNG reporting that make the final BNG provisions ambiguous and that submission of the UU at D7 [REP7-352] did not allow time for IPs to comment.

4.159. In response to the Secretary of State's information request, the Applicant provided an updated Suffolk oLEMP [C1-201] without tracked changes.

4.160. ESC [C1-056] stated that it considers a s106 UU is an inappropriate mechanism for securing BNG, as it would not allow ESC to:

- agree the precise performance standards which will apply for the long-term management and maintenance of the BNG over the 30-year period;
- specify the monitoring methodologies to be used (for consistency in assessing the performance of the BNG across the 30-year period);
- specify the precise control timing, review points and contingencies (e.g. regarding remediation if required) to apply for the duration of the 30-year period – thus providing a clear path and structure for review of the performance of the BNG; and
- enter into obligations itself in respect of the above, relating to the mechanics of the necessary processes, mechanisms, triggers and enforcement options.

4.161. ESC noted that paragraph 5.2.3 of the draft UU states that the UU will be of no further effect if the Order is "varied or revoked or otherwise withdrawn otherwise than with the consent of National Grid". Whilst ESC can accept "revoked or otherwise withdrawn", ESC does not accept that the agreement should cease to have effect if the Order is "varied", for example through a material or non-material change to the Order approved by the Secretary of State. ESC reviewed the updated D7 UU [REP7-352] but considers it is largely unchanged and therefore its concerns remain.

4.162. The Secretary of State agrees with many of ESC's concerns [C1-056, REP7-176] and considers that the lack of detail provided in the UU and lack of a transparent and enforceable delivery mechanism, casts doubt at this stage that measures will be delivered and maintained in the long term, in agreement with ESC and other IPs [ER 3.14.312 et seq.].

The Secretary of State notes that the Suffolk oLEMP states [C1-201] that the Proposed Development is seeking to achieve a 10% net gain in biodiversity units to align with National Grid commitments *where possible.* The UU provides no detail of specific onsite or offsite BNG measures such as the location or proportion of BNG proposed in Suffolk or Kent. The UU does not reflect the published local nature recovery strategy ("LNRS") or updating the BNG reporting to reflect changes to the Order limits, until detailed design. The UU commits to maintaining BNG for 30 years, not for the lifetime of the Proposed Development. Despite these concerns, BNG is not a statutory legislative requirement for the Proposed Development and the Secretary of State ascribes BNG no weight in the planning balance.

The Secretary of State's Conclusion

4.163. The Secretary of State is satisfied that effects on beaver are not likely to be significant and EN-1 paragraph 5.4.55 is not relevant, and that temporary construction effects on breeding birds of the Sandwich Bay to Hacklinge Marsh SSSI are not likely to be significant and EN-1 paragraph 5.4.8 is not relevant. She considers that the proposals for BNG should be given no weight. The Secretary of State agrees with the ExA's recommendations on all other matters relating to ecology, biodiversity and ornithology. The Secretary of State ascribes the identified residual adverse effects on ecology, biodiversity and ornithology moderate negative weight in the planning balance.

Cultural Heritage

4.164. The ExA was content that the Applicant had sought to identify and assess the particular significance of any heritage asset that may be affected, including the setting of the heritage asset in accordance with EN-1 including paragraph 5.9.9 [ER 3.15.174], and that the Applicant had secured methodologies to record and advance understanding of the significance of heritage assets, proportionate to the degree of significance of the asset in accordance with an agreed and secured Written Scheme of Investigation as required by EN-1 including paragraph 5.9.17 [ER 3.15.175].

4.165. The ExA considered there were appropriate controls on the design of the Proposed Development and the Applicant had considered known heritage assets and their status in this regard, in accordance with EN-3, paragraph 2.5.2 [ER 3.15.176].

4.166. Regarding cumulative impacts, the ExA recognised the impacts with other developments on heritage assets and historic landscapes but was satisfied that this would not result in a greater level of impact for any heritage asset above the level assessed when considered in isolation for the Proposed Development [ER 3.15.179].

4.167. The ExA was satisfied that the Proposed Development would result in less than substantial harm to the setting of Hurts Hall, Hill Farmhouse, the Church of St Mary in Friston, and Saxmundham Conservation Area, along with any other heritage asset where harm to its setting has been identified. In line with EN-1 paragraph 5.9.32 and the NPPF paragraph 215, the less than substantial harm is weighed against the public benefits of the Proposed Development at section 5 of the ExA report [ER 3.15.182].

4.168. The ExA concluded that it had not identified any instances in which the Proposed Development is likely to result in substantial harm to or loss of any heritage asset [ER 3.15.183], but given that the Proposed Development would result in adverse impacts to some archaeological features as set out in the ES, moderate residual adverse effects to the

significance of a number of listed buildings and also the character and appearance of a conservation area, the ExA ascribed this matter moderate negative weight in the planning balance [ER 3.15.185].

Impact on heritage assets from Kiln Lane Substation development

4.169. There are two different scenarios for the development of the Kiln Lane Substation in Suffolk and the associated impacts. This is mentioned throughout the ExA report under different topic headings (Landscape and Visual, Traffic and Transport and Cultural Heritage). The two scenarios are:

- Kiln Lane Substation is constructed under the development consent granted to Scottish Power Renewables ("SPR"), pursuant to 'The East Anglia ONE North (EA1N) Offshore Wind Farm Order 2022' and 'The East Anglia TWO (EA2) Offshore Wind Farm Order 2022'; or
- Kiln Lane Substation is built as part of the Proposed Development.

4.170. As set out in the Applicant's ES Chapter 4 [REP6-020] and above, in the first scenario the Kiln Lane Substation is constructed under the SPR consent (with the Proposed Development only needing to build a connection into it), with the second scenario assuming the Kiln Lane Substation is built as part of the Proposed Development. In the ExA report, the different scenarios were discussed, but according to the Applicant's website, construction for the Kiln Lane substation commenced in September 2026 under the SPR consent, therefore scenario 1 appears to have been taken forward for the Proposed Development. The potential impacts stemming from the construction of the Kiln Lane Substation include changes to the setting of heritage assets, physical disturbance from construction, operation and decommissioning and the removal of archaeological remains that may be present.

The Secretary of State's Conclusion

4.171. The Secretary of State agrees with the ExA that the Proposed Development complies with the relevant NPSs and is satisfied with the conclusions drawn by the ExA regarding cultural heritage for the Proposed Development and is also satisfied that the Applicant has attached great weight to the conservation of the impacted assets in accordance with paragraph 5.9.27 of EN-1.

4.172. The Secretary of State agrees with the ExA and has not identified any instances in which the Proposed Development is likely to result in substantial harm to or loss of any heritage asset identified in the Order limits. However, she does recognise that the Proposed Development would still result in the adverse impact to some archaeological features as set out in the ES, moderate residual adverse effects to the significance of a number of listed buildings and also the character and appearance of a conservation area. The Secretary of State therefore agrees with the weighting ascribed by the ExA and ascribes this matter moderate negative weight in the planning balance.

<u>Water Environment</u>

4.173. The ExA [ER 3.16.77] was satisfied that the flood risk assessment for the Proposed Development complies with the requirements of EN-1 and EN-5, having particular regard to sections 5.8 and 5.16 which relate to flood risk and water quality matters respectively. The ExA [ER 3.16.78] recommended that there would be no significant residual effects and ascribed the matter neutral weight in the planning balance.

Sequential and exception tests

4.174. The ExA [ER 3.16.45] was satisfied that the temporary drainage basin previously located in flood zone 3a had been replaced by a linear drainage feature which would avoid works in flood zone 3. The Applicant stated that SCC was also in agreement with the amended proposal, but the ExA noted that SCC had not confirmed this.

4.175. In the Secretary of State's first information request, SCC was invited to confirm whether it agreed with the drainage design change to replace the temporary drainage basin previously located in flood zone 3 with a linear drainage feature to avoid works in flood zone 3 [reference 6 of REP7-173 and REP7-148], and to confirm whether this change resolved its outstanding concerns regarding the sequential and exception tests [Chapter 8 of REP7-367] and its suggestion that there should be an additional requirement [REP7-368].

4.176. In response to the same information request, the EA [C1-105] noted that this issue relates to issue EA070 of the EA's RR [RR-1586]. To provide the EA with confidence that the detailed design will not lead to development in flood zone 3, the EA suggested adding a requirement to the Order to secure that no works related to Work No. 2 or 5 may commence until details of the temporary drainage solution have been submitted to and approved by SCC, in consultation with the EA. The EA confirmed that it is content to resolve issue EA070 provided its suggested requirement is included in the DCO. SCC [C1-169] confirmed that as lead local flood authority, it is supportive of the change made and the proposed wording suggested by the EA and considers this matter resolved subject to that requirement being incorporated into the Order. Regarding the sequential and exception tests, SCC defers to the EA, but noted that commitment W05 of the CEMP had been updated to resolve its concerns regarding the storage of construction materials and temporary access routes in areas of high surface water flood risk. Regarding SCC's suggestion for a requirement to secure wider sustainability benefits for those affected by increased flood risk proposed in item 6 of [REP7-368], SCC acknowledges that the resolution of its concerns on the sequential and exception tests means the original rationale for this requirement falls away but noted that it remains for the decision maker to decide whether the Proposed Development meets the sequential and exception tests.

4.177. The Applicant provided an updated draft DCO [C1-180] which includes the requirement as proposed by the EA and an updated Suffolk Drainage Strategy [C1-211] Appendix F which provides an illustrative arrangement of the drainage features. The Secretary of State has incorporated the requirement into the made Order, and notes that the Drainage Management Plans secured in Requirement 6(1) of the Order must be in accordance with the Drainage Strategies.

Vertical Limits of Deviation ("LoD")

4.178. The EA requested that the DCO (Part 2 Principal Powers) should be updated to specify that finished levels should be no lower than stipulated in the Flood Risk Assessment [REP7-362] and the Applicant was invited to propose wording to secure this, or if not, provide a justification why. The EA was also invited to advise whether the Applicant's responses in [REP7-174] resolved its other outstanding concerns.

4.179. The Applicant [C1-178] responded that it had met with the EA and agreed to revisit all environmental topics to confirm whether greater cable depths would change the likely significant effects as predicted in the ES at Suffolk landfall. The Applicant provided a Suffolk

Landfall Trenchless Installation Depth Review Assessment Technical Note [C1-208], the conclusion of which is that no new or different likely significant effects would occur should the cable depth extend below 25m for any topic, except for geology and hydrology. For this topic, the only concern would be if the cable installation entered the chalk aquifer strata which underlies the crag, coralline crag, and London clay strata. However, given the chalk aquifer is approximately 70m below ground level, there is no potential for this to occur. On this basis, the Applicant considers it is not necessary to propose any additional wording in respect of Article 5, Part 2.

4.180. The EA [C1-105] confirmed that the Applicant's response to the EA's concerns [REP7-174] together with the REAC [REP7-360] commitment W34 to construct the River Stour crossing with a soffit level above the 0.5% annual exceedance probability flood level including a minimum freeboard allowance of 300 mm, and Requirement 3 of the Order ensures that there are suitable mechanisms to secure finished levels in accordance with the FRA. The EA therefore confirmed that its flood risk concerns are resolved. Regarding vertical LoDs, the EA confirms it had reviewed the Applicant's Technical Note [C1-208] and, given that works are unlikely to extend beyond 25 m and to the depth of the chalk aquifer, and commitments B09 and B60 in the REAC which would minimise impacts from frac out and drilling fluid release, the EA was content to resolve its concern relating to the interaction with groundwater bodies.

4.181. In response to the all-IPs consultation, the Applicant stated that the potential for flooding of the land within and surrounding the Order Limits of the Suffolk Onshore Scheme has been assessed within the Flood Risk Assessment [REP6-052]. The FRA, informed by latest available flood data sources, demonstrates that within the Order Limits, land to the west of the railway line is at low risk of flooding from rivers and the sea (Flood Zone 1) during present day and in future climate change scenarios. If in more extreme flooding scenarios the railway barrier was breached, there would be no operational above ground project infrastructure within the flood extent, so no potential for the Proposed Development to cause changes in water levels. During construction of the Proposed Development there would be one temporary construction compound in this location. Several commitments are secured through the DCO, detailed in the REAC [C1-215], to prevent any impacts to existing flood barriers and compromise to existing drainage routes during the construction stage of the Proposed Development:

4.182. W12 secures that at the Suffolk landfall the offshore cables will be brought onshore using a trenchless technique, avoiding physical disturbance of several watercourses and areas of coastal floodplain. Monitoring of existing flood defences would be undertaken during the cable installation in agreement with EA protocols to ensure no detriment to the integrity of these structures. W07 secures that the contractor(s) will subscribe to the EA's Floodline service, and implement a suitable flood risk action plan, should a flood occur or be forecast. W10 secures that severance of existing land drainage routes would be managed during construction through provision of temporary alternative drainage routes, and these drainage systems would be permanently reinstated or rerouted ensuring their existing function is maintained.

4.183. These measures would therefore safeguard the integrity of existing flood barriers and drainage routes and prevent any impacts on flood risk to land within Aldeburgh.

4.184. The Secretary of State agrees with the ExA and Applicant that no significant effects on the water environment are likely due to onshore underground works. Whilst she is content that

technical and financial considerations are likely to prevent works from extending deeper than 25 m, she has amended the Order to secure that onshore cable installation may deviate downwards to such extent as the undertaker considers necessary or convenient, but no more than 60 m below existing ground levels.

The Secretary of State's Conclusion

4.185. The Secretary of State agrees with the ExA's recommendations on all matters relating to the water environment and ascribes these matters neutral weight in the planning balance.

Traffic and Transport

4.186. The ExA was satisfied that there would be no likely significant traffic and transport effects and that the Proposed Development would accord with EN-1, EN-3 and EN-5 as well as local and national policies and strategies, together with all other relevant legislation, and there are no other important or relevant considerations [ER 3.18.139].

Use of Heavy Goods Vehicles ("HGVs")

4.187. The ExA did however recognise that for Suffolk, cumulatively with other projects, there could be much higher levels of traffic, including HGVs, compared to baseline figures. However, these impacts would be temporary through the construction period and would fluctuate between higher and lower traffic levels. With the mitigation and commitments secured, the ExA concluded that there would not be significant adverse traffic and transport effects in either Suffolk or Kent during any phase of the development, either for the Proposed Development alone or in combination with other projects. The ExA considered the residual cumulative impacts on the road network would not be severe. However, there would be some adverse effects, such as the increase in traffic levels, including HGVs, which would result in some driver delay. The ExA ascribed this matter little negative weight in the planning balance [ER 3.18.140].

Matters resolved through consultation

4.188. The ExA noted that SCC's LIR [REP1-130] set out its concerns regarding the use of Benhall railway bridge on the B1121 as part of the Applicant's proposed route for access to the Suffolk Saxmundham converter station site and to transport heavy goods and abnormal indivisible loads ("AILs"). SCC stated that the structural condition of the bridge meant that it had been restricted to a weight limit of 46 tonnes. SCC also noted that the geometry of the B1121, the bridge and its proximity to the A12 could cause significant traffic management issues that the Applicant should consider [ER 3.18.92]. Options were submitted by the Applicant, with a preference for the repairing of the existing bridge being set out in the Suffolk oCTMTP [REP7-121].

4.189. The ExA stated that no structural survey of the bridge had been completed, though there is no reason to conclude that the bridge cannot be repaired to remove the weight restriction. Even if this option was not possible, then alternative options such as the use of a mini-bridge solution have been set out. The ExA concluded that from the information before it, the use of Benhall railway bridge for AILs is feasible and so there is no need to discount this route for AILs. Furthermore, the ExA understood that a structural survey was underway but not completed at the end of Examination.

4.190. In her first information request, the Secretary of State invited the Applicant to provide an update on whether the structural survey had been completed for Benhall railway bridge. In response, the Applicant [C1-178] stated that it has submitted a final Approval in Principle ("AIP") document to SCC Highways for review on 1 September 2026, SCC had acknowledged receipt, and it was awaiting a response. The Applicant also provided a timeline of the review of the document.

4.191. The Applicant stated that it had submitted the same AIP to Network Rail in October 2025 and had an agreed version by December 2025. Following sign off of the AIP from SCC, the Applicant will arrange a meeting with SCC and Network Rail to find a date for the survey and agree a sign-off process for the risk assessments and method statements associated with the survey. National Grid Ventures (LionLink) will also have a team present at the survey.

The Secretary of State's Conclusion

4.192. The Secretary of State agrees with the ExA that there would be no likely significant traffic and transport effects [ER 3.18.140]. She also considers that the Applicant has taken the necessary steps in engaging with SCC and Network Rail on the matter to come to an agreed position. Regarding cumulative impacts, the Secretary of State agrees with the ExA that for Suffolk, cumulatively with other projects in the vicinity, there could be much higher levels of traffic generated by various consented NSIP schemes, including HGVs, than compared to baseline figures but with the mitigation and commitments secured, believes that there would not be significant adverse traffic and transport effects in either Suffolk or Kent during any phase of the development, either for the Proposed Development alone or in combination with other projects.

4.193. The Secretary of State notes that SCC submitted a review of the Applicant's ES Traffic and Transport section before the first information request was published and before the final AIP document was sent to SCC, detailing some outstanding concerns regarding this topic.

4.194. The Secretary of State agrees with the ExA on all matters relating to traffic and transport and ascribes this matter little negative weight in the planning balance.

Climate Change

4.195. The ExA [ER 3.23.51 et seq.] was satisfied that the Proposed Development complies with the relevant requirements of EN-1, EN-3 and EN-5 regarding climate change. The Applicant has assessed GHG emissions associated with the Proposed Development and identified measures to reduce emissions across all development phases. With regard to climate adaptation and resilience, the ExA considered that the embedded mitigation measures are appropriate to protect the Proposed Development from climate related weather phenomena and the Applicant's assessment is in accordance with requirements of NPS EN-1 section 4.10, EN-3 paragraph 2.48 and EN-5 section 2.3.

Use of sulphur hexafluoride insulated switchgear

4.196. The Secretary of State noted that the ES [APP-085] assumes that no sulphur hexafluoride (SF_6) will be used in the Proposed Development. Other representations by the Applicant [REP4-094, REP5-135, REP5-131, REP6-111] state that SF_6 equipment may be used at locations other than Kiln Lane substation. The Secretary of State invited the Applicant to explain why potential fugitive emissions of SF_6 had been scoped out of the ES, noting that SF_6 is a potent greenhouse gas.

4.197. The Applicant explained [C1-178] that for several necessary equipment items a technically viable SF_6-free solution is either not available, or would be disproportionately commercially restrictive at the time of writing. The Applicant stated that it is working proactively with its equipment manufacturers to minimise equipment requiring SF_6 as new technology becomes available. It stated that it was also vital that any SF_6 used within the Applicant's infrastructure remained in situ, as the gas is essential for the insulation of high voltage electrical parts. The Applicant explained that SF_6 is not vented out and that the handling of the gas is heavily controlled if and when it is necessary to empty the equipment for maintenance or repair. In addition, the Applicant confirmed that it has committed to implementing an emissions monitoring and control plan that would be fully compliant with the Fluorinated Gas ("F-gas") Regulation and any successor legislation. This is in line with REAC measure CC03. The Applicant maintained that the risk of fugitive emissions occurring in quantities sufficient to contribute to climate change is so low that potential climate change effects are neither likely nor significant. It therefore considered that potential fugitive emissions of SF_6 should remain scoped out of the ES.

The Secretary of State's Conclusion

4.198. The Secretary of State notes that the ExA considered the Applicant's evidence on the availability of SF_6-free alternatives to be relatively high level but sufficient to satisfy the requirements of EN-5. The ExA also noted that REAC commitment CC03 provides for a further evaluation of SF_6-free solutions at the detailed design stage [ER 3.19.54]. EN-5 does not preclude the use of SF_6 in all circumstances and the ExA did not therefore consider it appropriate to secure a prohibition on the use of SF_6 equipment [ER 3.19.55].

4.199. The Secretary of State notes that REAC commitment CC03 secures an F-gas Regulation-compliant emissions monitoring and control plan and is satisfied that the potential use of SF_6 does not alter the conclusions of the ES.

4.200. The Secretary of State therefore agrees with the ExA's conclusions regarding the potential use of SF_6 and considers that the relevant requirements of EN-5 have been adequately addressed. She also agrees with the ExA [ER 3.23.50] that the Applicant's greenhouse gas assessment meets the requirements of EN-1 paragraphs 5.3.4 and 5.3.5 and agrees with the ExA's recommendations on all other matters relating to climate change, ascribing no weight to climate change matters in the planning balance.

Noise and Vibration

4.201. The ExA was satisfied that the Proposed Development would accord with the noise and vibration requirements in EN-1, EN-3 and EN-5, as well as national and local policies and strategies and relevant legislation and that there are no other important or relevant considerations [ER 3.20.90].

4.202. The ExA also agreed with the Applicant's ES on noise and vibration for Suffolk [AS-109] and Kent [AS-111] that the construction noise and operational noise and vibration effects from the proposed converter station and substation sites in Suffolk and Kent would not be significant. This conclusion took into account the ExA's proposed requirement 18 'control of operational noise' and amendment to article 49 in the rDCO as well as appropriate mitigation in the outline construction noise and vibration management plan ("oCNVMP") [REP6-082], [REP6-084], oCEMP [REP7-129] and REAC [REP7-359]. The ExA considered that these

measures provide for the effective management and control of noise as set out in EN-1 paragraph 5.12.17 [ER 3.20.91].

4.203. Whilst the Applicant's noise assessment concluded that effects would not be significant and the Applicant had proposed measures to mitigate and minimise noise, the ExA considered that the Proposed Development would result in elevated construction noise over a period of approximately four years. During operation there would also be permanent changes to the noise character of the proposed converter and substation locations, albeit that the absolute noise levels attributable to the Proposed Development are predicted to be low. The ExA ascribed this matter little negative weight in the planning balance.

Matters resolved through consultation

4.204. The ExA noted that at Deadline 7, ESC suggested that paragraph 4.2.14 of NPS EN-1 supported the requirement for a deed of obligation with the Applicant in respect of Environmental Health Officer ("EHO") support, but due to the late nature of the submission, the Applicant was unable to respond to this. In her first information request, the Secretary of State requested that the Applicant provide an update on the submission made by ESC.

4.205. In response, the Applicant [C1-178] noted that the Proposed Development is not predicted to result in any likely significant noise effects during the construction or operational stage. This has been achieved through the nature of the Proposed Development, good design, locating noise generating equipment away from noise sensitive receptors, and through the introduction of noise reduction and mitigation measures during the construction and operational periods.

4.206. Regarding ESC's submission about the appointment of an EHO, the Applicant stated that it and ESC had frequent discussions over community benefits and the Applicant had always been clear that this could only be delivered in the context of National Grid's Community Fund discussed below at paragraph 4.246.

4.207. The Applicant stated that impacts from noise and vibration will be managed through commitments in the REAC, the new operational noise requirement and through development of the Noise and Vibration Management Plan, for which ESC would be the discharging authority or a consultee. These commitments already provide reassurance that noise levels will not be significant and provide ESC with the opportunity to influence measures introduced to ensure this is the case. The Applicant has also agreed to enter into a Planning Performance Agreement ("PPA") to fund time for ESC to engage on development of the final Noise and Vibration Management Plan, covering officer time to input and review the document.

4.208. In her first information request, the Secretary of State also invited the Applicant and the relevant councils to provide comments on the inclusion of the final wording of Requirement 18. In response, the Applicant [C1-178] stated that subject to the comments it provided regarding Work No.1B, it welcomed the proposed amendment to Requirement 18 and supported the inclusion of the additional wording.

4.209. The Applicant noted that the proposed requirement provides a clear and robust mechanism for controlling operational noise through the submission and approval of a detailed operational noise assessment prior to operation of Work Nos 1B, 3B, 9B and 11. The requirement effectively ensures that the assessment is based on the final specification and

layout of plant and equipment and that any necessary mitigation measures are identified and secured before operation commences the Applicant and considered that the proposed wording provides an effective means of securing the operational noise limits assessed during the Examination and ensures that compliance will be demonstrated using the recognised methodology set out in BS 4142:2014+A1:2019. The requirement also appropriately secures the implementation and ongoing maintenance of any mitigation measures for the lifetime of the development.

4.210. Accordingly, the Applicant supported the inclusion of Requirement 18 in the DCO and had added the text to the draft DCO submitted with its covering letter submission. The Applicant deleted the corresponding commitments from the REAC to avoid duplication and ensure adoption of the wording proposed by the Secretary of State (NV07, NV09 and NV11). The Applicant is not able to include reference to Work No.1B in the draft Requirement because Work No.1B (Friston (Kiln Lane) substation) is to be constructed and operated pursuant to the East Anglia TWO Offshore Wind Farm Order 2022 (EA2 Order), following completion of a Transfer of Benefit Agreement with East Anglia TWO Limited, and must comply with the requirements under that Order, in particular Requirement 27 which controls noise during the operational phase and imposes a combined noise rating level for the operation of the Kiln Lane substation and the substations to be constructed under the East Anglia 2 Order and the East Anglia ONE North Offshore Wind Farm Order 2022.

4.211. As a result of this, the Applicant considers that commitment NV12 within the REAC submitted in response to the Secretary of State letter remains the appropriate restriction alongside Requirement 18 which addresses operational noise for Works Nos 3B, 9B and 11.

4.212. ESC [C1-056] stated that throughout the Examination it had consistently requested that the Applicant propose an operational noise rating level, secured via a DCO Requirement that is the lowest that can reasonably be achieved, with full justification as to why that is the case. ESC also requested that the Applicant demonstrate that this rating level satisfies relevant national policy in terms of significance of impact. The ExA's schedule of changes to the draft DCO [PD-024] also appeared to indicate that the ExA was not satisfied with 34 dB as an operational noise rating level for the converter station.

4.213. ESC noted that based on the BS4142 significance criteria, which dictate that >+10 dB is indicative of significant adverse effect, and the fact that the worst affected receptor (R_5764) has been assessed to have a night-time background sound level of 22 dB (see Table 1.3 of [AS-119]), a 34 dB operational noise rating level would be greater than the significant observable adverse effect level (SOAEL). Whilst ESC remained concerned about adverse effects arising from operational noise from the converter station, ESC acknowledged that the ExA's proposed operational noise rating level of 32 dB at the converter station site would satisfy policy based on the BS4142 significance criteria.

4.214. ESC concluded that it strongly objected to the proposed Requirement 18 wording which would secure a rating level of 34 dB for the Suffolk Converter Station and the Kiln Lane Substation.

4.215. SCC [C1-169] stated that whilst it supported the principle of a requirement for operational noise, it deferred to ESC in respect of the detail of the wording of the proposed requirement since noise is a district function.

4.216. TDC [C1-007] stated that its EHO was content with the proposed wording for Requirement 18 (Control of operational noise). Sub-paragraphs (1) and (2) establish the substantive obligation: the operational noise assessment must be based on final plant and layout, must demonstrate compliance with the rating levels in sub-paragraph (3), and must identify any mitigation needed to achieve that compliance with the approved assessment, and mitigation will be binding for the life of the development. On this basis, the 34 dB LAr figures in sub-paragraph (3) operate as an overarching ceiling rather than the operational target itself. The intent is that a lower, site-specific rating level will be pursued and secured through the assessment and approval process wherever practicable, with 34 dB acting as the backstop limit that must not be exceeded in any event. TDC concluded by noting it was satisfied this achieves the outcome discussed with the ExA.

4.217. KWT [C1-004] stated that it supported the proposed wording of Requirement 18 in principle and welcomed the requirement for the operational noise assessment to be based on the final specification and layout of plant and equipment, rather than relying solely on assumptions made at the application stage. KWT also supported the requirement that any mitigation measures identified as necessary to achieve compliance must be implemented prior to operation and maintained for the lifetime of the Proposed Development. However, KWT considered that the Requirement could be strengthened to include provision for post-commissioning noise monitoring, to verify that the operational noise levels predicted in the approved assessment are being achieved in practice. Where monitoring demonstrates that the rating levels are exceeded, or that the approved mitigation is not effective, the Applicant should be required to undertake additional mitigation or remedial measures. KWT proposed a series of recommendations to Requirement 18 to strengthen it, considering that these amendments would provide greater certainty that Requirement 18 will secure the intended environmental outcome in practice, rather than simply establishing compliance based on predictions made before operation.

4.218. In response to the all-IPs consultation, the Applicant [C2-053] noted KWT's request for operational noise monitoring and associated provisions following commissioning of the development. In response to comments from KWT on the need to specify monitoring of noise limits, the Applicant provided additional text for Requirement 18 committing to provide details setting out how monitoring would be carried out in the unlikely event that a complaint alleges that noise levels are higher than secured. These details would be produced prior to the relevant works being brought into operation. The Secretary of State updated the wording of Requirement 18 accordingly.

4.219. KCC and DDC did not comment further on this matter.

The Secretary of State's Conclusion

4.220. The Secretary of State agrees with the ExA's conclusions on this matter and is content that the Proposed Development accords with the noise and vibration requirements in EN-1, EN-3 and EN-5 as well as other relevant policies. She also notes that the impacts from the construction noise and operational noise and vibration effects from the proposed converter station and substation sites in Suffolk and Kent would not be significant. This is with the inclusion of Requirement 18 'Control of operational noise' proposed by the ExA.

4.221. Despite the Applicant committing to measures and mitigation to manage noise and vibration, there would be an elevation in construction noise over a period of approximately four years. There would also be a permanent change to the noise character of the proposed converter

and substation locations. With this in mind, the Secretary of State ascribes this matter little negative weight in the planning balance.

Health and Wellbeing

4.222. The ExA was satisfied that there would be no likely significant impacts on health and wellbeing, particularly mental health, including for vulnerable people or those with protected characteristics. However, this is on the basis of more restrictive core working hours that the ExA included in the rDCO to provide some respite for local communities and individual residents, through the construction period. Without the more restrictive core working hours the ExA considered that the overall impact to health and wellbeing would be harmful to a significant level, especially when considered cumulatively with other developments, particularly for East Suffolk where other major developments are being constructed [ER 3.21.97].

4.223. With the inclusion of the revised working hours specified within requirement 7 of the rDCO and the amended wording to REAC commitment HW03, the ExA was satisfied that the Proposed Development accords with EN-1, EN-3 and EN-5 as well as local and national policies and strategies, together with all other relevant legislation, and there are no other important or relevant considerations [ER 3.21.98]. The ExA concluded that even with the mitigation, given that this is a major development with a long construction programme, there would still be some adverse impacts to local residents and communities near the Proposed Development areas and ascribed this matter little negative weight in the planning balance [ER 3.21.99].

Matters resolved through consultation

4.224. The ExA noted that the ES Health and Wellbeing chapters did not conclude that there would be significant adverse effects. The ExA further noted that the Applicant had committed to a process of recording and responding to potential welfare concerns raised, with health and wellbeing ("HW") HW03 in the REAC [REP7-359]. The ExA considers that it would be beneficial for the councils to be kept up to date with any reported welfare concerns because of their overarching responsibilities for the local communities and recommended that the Secretary of State adopt wording to the REAC commitment HW03 to reflect this [ER 3.21.47]. However, this amendment was drafted after the close of Examination and the Applicant and relevant councils were not able to review it.

4.225. In her first information request, the Secretary of State sought further information from the Applicant on this matter. In response, the Applicant [C1-178] stated that the wording of commitment HW03 has been updated as requested within the REAC submitted in response to the Secretary of State's first letter.

4.226. ESC [C1-056] stated that it welcomed the commitment to sharing potential welfare concerns with SPR (where relevant and consent is given), helping to facilitate a coordinated response from both developers. Whilst ESC also welcomed the commitment to potential welfare concerns being shared with relevant district and county councils, it stated that it would not be able to assist in the process of resolving such concerns unless sufficient detail is provided by the undertaker, which would give rise to data protection considerations. Therefore, ESC considered that similar caveats regarding consent being sought from the individual and the minimum level of detail being shared should also be included in the commitment to sharing

information with the councils. ESC also queried what this “established process” entails and requested that further detail is provided in this regard.

4.227. In response to the all-IPs consultation, the Applicant [C2-053] stated that it was pleased to note ESC’s confirmation that the Heads of Terms are acceptable, subject to agreeing the financial compensation, and will progress the voluntary agreement. The Applicant also noted that it did not agree that further amendments to Requirement 7(9) were necessary. The construction noise control framework secured through the DCO, including the Noise and Vibration Management Plan and the requirement to obtain approvals under section 61 of the Control of Pollution Act 1974, already provides a clear and comprehensive mechanism for controlling construction activities undertaken outside core working hours, including "essential" activities. Detailed contractor-specific noise assessments will be subject to local planning authority approval through the section 61 process before works can commence, ensuring that the nature, timing and extent of any out-of-hours activities are appropriately assessed and controlled. Accordingly, the DCO and certified documents already secure the outcomes sought by ESC and provide sufficient oversight of essential activities without the need for further amendment to Requirement 7(9).

The Secretary of State’s Conclusion

4.228. The Secretary of State is satisfied that the Proposed Development accords with the health and wellbeing requirements in EN-1, EN-3 and EN-5 as well as other relevant policies and also welcomes the updated wording of commitment HW03 from the Applicant. She is also satisfied that no further amendments to Requirement 7(9) are necessary in order to meet the policy requirements.

4.229. The Secretary of State is content that there would be no likely significant effects on health and wellbeing, particularly mental health, including for vulnerable people or those with protected characteristics. Despite the mitigation proposed and the restricted core working hours, the Secretary of State agrees with the ExA that this is a major development with a long construction programme of work and there would still be some adverse impacts on local residents and communities. Therefore, the Secretary of State ascribes this matter little negative weight in the planning balance.

<u>Socio Economics, Recreation and Tourism</u>

4.230. The ExA was satisfied that there would be no likely significant impacts on socio-economic, tourism and recreation receptors and was content that the proposals on this matter accorded with EN-1, EN-3 and EN-5 as well as local policies and strategies and all other relevant legislation, and there are no other important or relevant considerations [ER 3.22.100].

4.231. The ExA acknowledged that there would be economic benefits through some local job creation and occupancy of accommodation, for example, enhanced with the Skills, Supply Chain and Employment Plan (“SSCEP”) as required in the DCO under Requirement 6. However, there would also be some adverse impacts to the tourism sector of the local economies due primarily to the construction works discouraging visitors to these areas. The tourism impact would be at a greater level in Suffolk than Kent due to the cumulative impact with the other NSIPs in the East Suffolk area.

4.232. The ExA concluded that because the tourism impacts are considered likely to outweigh the positive economic effects from the Proposed Development to a small degree, and taking into

account that there would be both positive and negative impacts to the socio-economics of the areas where the Proposed Development would take place, it ascribed this matter a little negative weight in the planning balance.

Matters resolved through consultation

4.233. The Applicant submitted a SSCEP for inclusion in the DCO (requirement 6), but the ExA found that the plan fell short of what was expected. This view was shared by SCC [ER 3.22.86].

4.234. The ExA noted that EN-1 states such a plan should include detailed arrangements to promote local employment and skills development opportunities. However, the submitted SSCEP was very high-level and lacks detail, especially on how the Applicant would use the plan to benefit the skills and employment opportunities of those already living near the Proposed Development. The SSCEP includes signposting commitments and ways to raise awareness of existing schemes and initiatives, without providing any new substantive strategy to promote local employment and skills. There are also no measurable commitments to provide local training, apprenticeships, or jobs [ER 3.22.94].

4.235. In the first information request, the Applicant was requested to provide justification for the lack of detail in the SSCEP and to provide an update if it has been developed further to address SCC's concerns. The Applicant responded [C1-178] that the final SSCEP [REP6-101] is proportionate and policy compliant and did not agree that the SSCEP lacks detail or that it should be treated as an outline document. The SSCEP does not represent mitigation of any socio-economic, recreation or tourism effects, but rather a plan to help maximise the positive gain for the local community. It was prepared after contractors had been appointed so incorporated contractor input that would normally only be done after consent.

4.236. The Applicant stated that the SSCEP sets out clear actions, delivery arrangements and timelines capable of being implemented post-consent. While contractor-specific detail will continue to evolve throughout delivery, this is normal for NSIPs at this stage and is already accommodated by existing DCO mechanisms allowing for adaptive delivery and proportionate engagement.

4.237. The Applicant also provided further responses to SCC's concerns, confirming that engagement with the Regional Skills Coordination Function has been acknowledged and embedded within the SSCEP [REP6-101]. The Applicant has also considered SCC's comments on the currently submitted SSCEP in response to Action Point 27 of [REP6-184].

4.238. As set out in the Suffolk Socio-Economics, Recreation and Tourism ES Chapter, the Proposed Development is not expected to give rise to significant adverse socio-economic effects, either alone or cumulatively. In accordance with national policy, mitigation is only required where significant adverse effects are identified.

4.239. In this context, the Applicant does not consider a mitigation-focused SSCEP to be necessary or justified. This position is reiterated by the Applicant in [REP6-111].

4.240. The Applicant was requested to provide further details on how it plans to minimise the impacts on tourism within Suffolk and Kent, how those benefits could be maximised, the plan for its implementation, and the role of the relevant councils and other parties to achieve this. In response, the Applicant said that it had given detailed consideration to the potential effects of the Proposed Development on tourism and the visitor economy in Suffolk and Kent. The

Applicant's assessment concludes that the Proposed Development would not give rise to significant adverse effects on tourism or the visitor economy in either Suffolk or Kent, whether considered alone or cumulatively with other NSIPs. This conclusion is reinforced by the evidence submitted throughout the Examination which included demonstrating that the Proposed Development represents a limited adverse impact compared with major cumulative schemes, such as Sizewell C.

4.241. The Applicant reviewed evidence from comparable NSIP schemes to determine whether visitor perceptions could constitute a pathway to adverse tourism effects and its conclusion was that this does not translate into measurable effects on visitor numbers, expenditure or tourism employment. Nevertheless, the Applicant stated it had considered how potential impacts can be minimised and how opportunities for local economic benefit can be maximised during construction.

4.242. The Applicant outlined REAC commitments SE04 and SE05, which provide a proportionate mechanism to identify and respond to emerging issues and opportunities during construction. SE04 commits the Applicant to liaise with ESC, SCC, the Local Destination Management Organisation ("DMO") and the Local Visitor Economy Partnership ("LVEP") during construction to discuss how potential impacts on tourism within Suffolk could be minimised and benefits be maximised, such as through considering the use of vouchers for workers to spend eating out in the local area and/or encouraging workers to remove high visibility jackets when work is finished. Liaison, where practical, will be undertaken through existing working groups which were established for the Sizewell C project. The Applicant will also liaise with KCC, TDC and relevant tourism organisations during construction to discuss how potential impacts on tourism within Kent could be minimised and benefits be maximised. For example, this could include discussions with local cafes to assist in providing catering and/or hot drinks during works at particular locations. These discussions have started with relevant businesses since the close of Examination.

4.243. Due to the historically different opinions over the measures that will be effective and a lack of engagement between stakeholders on how the project could adversely affect tourism (and therefore mitigate those effects) or deliver benefits, the Applicant considers it more effective to have a flexible approach guided by discussions and learning on other projects, rather than commit to further measures now that may not achieve the anticipated benefits.

4.244. Regarding SE05, the Applicant stated that for works in Suffolk, it will establish a process to monitor where workers are staying by type of accommodation and location on a quarterly basis and agree how this information will be provided to ESC. Where required, the Applicant will discuss potential actions with ESC, DMO and the LVEP to agree what steps will be taken to encourage more workers to stay in accommodation less commonly used by tourists to the coast. This could include discussions with other developers in the Suffolk area about shared use of specialist accommodation or encouraging use of accommodation in a larger settlement such as Ipswich or surrounding areas with financial incentives and/or transport from Ipswich to work locations. The Applicant recognised seasonal variations and that in the cooler months outside holiday periods it may be beneficial to the economy for accommodation to be occupied by workers because it would not be occupied by tourists. This will be taken into account when determining whether steps should be taken to encourage workers to stay outside the area in consultation with ESC, DMO and LVEP.

4.245. In addition, and outside of the DCO process, subject to the Proposed Development receiving consent, the Applicant will deliver a Community Fund of over £2 million, split broadly evenly

between Suffolk and Kent. The Community Fund is being developed following consultation with local communities and stakeholders, which ran from 30 June to 5 August 2026. The Community Fund will support initiatives which provide benefits to local communities and economies hosting permanent new above ground infrastructure, in line with Government guidance. The Secretary of State places no reliance on the Community Fund in making this decision on the application for development consent.

4.246. The Applicant said that relevant local authorities and other parties will continue to have an integral role on the Proposed Development through participation in ongoing engagement arrangements as described above and in particular in terms of the sharing of local intelligence regarding visitor economy trends and emerging issues; identifying opportunities to support the tourism sector and assisting in the dissemination of information through established local networks.

4.247. In response to the all-IPs consultation, ESC [C2-036] stated that it welcomed the Applicant's further consideration of tourism and visitor economy matters but did not think the response addressed the questions the Secretary of State asked in her first information request. ESC maintained its objection to the Applicant's statement that the Proposed Development will not give rise to significant adverse effects on tourism or the visitor economy in either Suffolk or Kent, whether considered alone or cumulatively with other NSIPs and requested that the Applicant strengthen its commitments by providing a defined tourism and visitor economy monitoring framework, including agreed indicators, baselines, annual/quarterly reporting arrangements, cumulative monitoring, and clear triggers for intervention, together with a commitment to develop and implement appropriate mitigation measures where monitoring identifies emerging impacts.

4.248. SCC [C2-027] in its response to the all-IPs stated that whilst the Proposed Development alone may not result in "significant adverse effects on tourism", SCC has been keen to stress that the cumulative impact and effects of multiple simultaneous NSIPs are potentially significant. SCC also stated that the steps outlined are encouraging especially the commitment to work with local and regional tourism bodies and organisations. However, SCC maintains its position set out in paragraphs 3.10 to 3.17 of [REP7-367] as many of the concerns set out there are not addressed by these commitments, such as the need to contribute to and build upon Sizewell C's tourism monitoring and mitigation measures in a coordinated way given the increased level of impact caused by the Proposed Development.

The Secretary of State's Conclusion

4.249. The Secretary of State is content that the Proposed Development accords with NPSs EN-1, EN-3 and EN-5 and other relevant policies and that there would not be any likely significant impacts on socio-economic, tourism and recreation receptors stemming from the Proposed Development.

4.250. The Secretary of State is also satisfied with the responses the Applicant has provided through the first information request and the all-IPs consultation and agrees with the Applicant's reasoning that the SSCEP is designed to maximise positive outcomes regarding socio-economics and it is not intended to function as mitigation for adverse effects as no significant adverse effects have been identified. The Secretary of State does however agree with the ExA that there would be some economic benefits through local job creation, occupancy of accommodation and economic drivers such as construction workers

purchasing items at local outlets in the surrounding towns, but there will also be negative impacts such as a reduction in tourism due to the construction period.

4.251. The Secretary of State therefore ascribes this matter little negative weight in the planning balance.

Other consultation matters

4.252. In the Secretary of State's first information request, the Applicant was requested to provide the document reference numbers for the ES (together with any supplemental or additional environmental information), in the event that the DCO is consented and these documents need to be certified. In response, the Applicant [C1-178] stated that it had included an updated list of document references in Schedule 19 (Certified Documents) of the dDCO.

4.253. In response to the all-IPs consultation, The Coal Authority [C2-003] stated that it reviewed the site location plan provided and can confirm that the site falls within its defined Development Low Risk Area and on this basis, it did not have specific comments to make.

4.254. In response to the all-IPs consultation, the Maritime & Coastguard Agency [C2-037] stated that having considered the information provided and the consequential amendments made to the application documents, it saw no conflict or any adverse effect between the requirements previously sought by the MCA and those agreed with the Applicant.

4.255. A substantial amount of correspondence was submitted during the decision-making period; directly to the Secretary of State and in response to the first information request and the all-IPs consultation. The Secretary of State also acknowledges the additional responses received from IPs not targeted in her first information request. A large majority of the principal issues raised include:

- the need for the Proposed Development and the lack of alternatives explored by the Applicant;
- the lack of clarity regarding the designs for the converter stations;
- the funding of the Proposed Development, which is discussed further below;
- the use of BMV land;
- impacts on tourism; and
- the impacts on a number of environmentally protected and sensitive areas.

4.256. These issues have been addressed in various chapters throughout this decision letter where relevant and the ExA's recommendation report. Due to the large volume of correspondence received, the Secretary of State has been unable to address these responses individually, but she considers it pertinent to directly acknowledge all the responses that have been received and considered.

4.257. The funding of the Proposed Development was a key issue raised by many IPs throughout the decision-making period. On 1 September 2026, the Office for Gas and Energy Markets ("Ofgem") conducted an independent review into the financial viability of the Proposed Development, costing it at approximately £3.2 billion, almost triple National Grid's costing of £1.1 billion. Subsequently, the Secretary of State's first information request received over 250 pieces of correspondence enquiring about this matter.

4.258. The Secretary of State notes the publication of this report, which is a consultation on Ofgem's project assessment. Although this is not a fundamental planning matter, due to the volume of engagement, the Secretary of State reviewed the Funding Statement [REP4-011] and Ofgem's consultation and maintains her agreement with the ExA's conclusion that the Proposed Development has been adequately assessed from a financial perspective and that there will be enough capital funding for the development.

4.259. Suffolk Energy Actions Solutions ("SEAS") [C2-045], in response to the all-IPs consultation, raised the issue of harmonics, based on the assessment published by Ofgem. The assessment stated that:

> *"The harmonic studies undertaken indicated that, even with the largest filter solutions proposed by bidders on the Project, compliance with applicable harmonic limits was unlikely to be achieved under all system conditions... We consider that addressing the identified harmonics issue is a necessary component of delivering the Outputs and consumer benefits associated with Sea Link".*

4.260. The Applicant responded [C3-002] that harmonics on the transmission system are electrical disturbances occurring at frequencies that are integer multiples of the 50 Hz fundamental frequency. Harmonics are present across National Grid's transmission network, with any equipment connected to a network having the potential to create disturbances. The location and extent of harmonics experienced on a given area of the network change over time as more equipment is connected or disconnected, and where there are changes to the network itself. Harmonic levels are both a function of the physical system and the equipment connected to it; they exist at all times and over wide areas. Harmonics are about electrical disturbance rather than audible noise, although harmonics and the management of harmonics can lead to audible noise.

4.261. The issue identified in the Ofgem Project Assessment is associated with the design of equipment at Suffolk Converter Station to ensure harmonic compliance. The Suffolk Converter Station design has always included harmonic filters to manage harmonics. These filters are shown, for example, on the Design and Layout Plans – Suffolk Typical Suffolk Converter Station Layout Plan (GIS) [APP-037]. Harmonic filters are outdoor equipment located within the compound of the converter station. The precise nature of the equipment within the Suffolk Converter Station is a detailed design matter. The DCO allows for flexibility in the layout, appearance and specification of outdoor equipment to enable a final design to be produced post consent. As the design progresses and the selection of equipment is finalised, it will differ from that envisaged at earlier stages in the design process and it is necessary for the DCO to provide flexibility to enable this to occur.

4.262. The Applicant stated that it was confident that no works outside the scope of the Sea Link Development Consent Order project are required to achieve harmonics compliance, with compliance achieved using harmonic filter technology within the Converter Station compound.

4.263. The Secretary of State has considered all responses and agrees with the Applicant that the ES and Order define and assess a reasonable design envelope put forward by the Applicant which it considers allows for a solution to manage harmonics. As the transmission owner, it is in the Applicant's interest to do so. However, the Secretary of State notes that design is an ongoing process and not every detail can, or must, be known at this stage. If a further

solution is required which is outside of the development authorised in the Order and assessed in the ES, that would be subject to any other consent and assessment requirements applicable at that time.

DESNZ Post Consent Unit

4.264. The ExA noted that on 24 April 2026 the Applicant submitted its approach to adopting the DESNZ Requirement Discharge Unit for the Proposed Development [AS-167]. The Applicant explained that, considering the likely establishment of a DESNZ unit, it was proposing amendments to the DCO to provide a mechanism for that DESNZ unit to have jurisdiction in respect of the discharge of requirements [ER 7.4.61].

4.265. SCC raised concerns in relation to DESNZ being the discharging authority for the Proposed Development, stating that whilst it welcomed the approach that retains the relevant local authorities as a potential discharging authority, it could not accept that this should be a matter for the Applicant's discretion. SCC also considered that there was a lack of precision in the consultation arrangements with relevant local authorities in those cases where the DESNZ unit is to be the discharging authority [ER 7.4.63].

4.266. ESC considered that the Applicant's proposed introduction of a mechanism whereby requirements could be discharged by the new DESNZ unit (if successfully implemented) seemed somewhat premature [ER 7.4.65].

4.267. The ExA understood the reasoning for the Applicant's proposed amendments to the DCO. However, due to the late stage of the Examination that these proposed changes were submitted (five working days before the Examination closed), there was no opportunity for the ExA to examine the proposals or for meaningful consultation with IPs [ER 7.4.67].

4.268. The ExA stated that it was clear from the number of representations made that there was considerable objection to the Applicant's proposed drafting which would provide a mechanism to include a DESNZ unit. Considering that no input or formal guidance from DESNZ was submitted to the Examination and given the lateness this matter was introduced by the Applicant, the ExA agreed with ESC that the consideration of the mechanism by which requirements could be discharged through the new DESNZ unit was premature in the context of Sea Link [ER 7.4.68].

4.269. In the first information request, the Applicant was requested to comment on SCC's suggested drafting for Schedule 4 [REP7-366] regarding the procedure for the discharge of requirements by DESNZ. In response, the Applicant stated that SCC's proposed wording for Schedule 4 suggests removing the ability of the Applicant to submit applications to discharge requirements directly to a DESNZ post consent unit and instead proposes the introduction of a 'call in' procedure similar to that included in Section 77 of the Town and Country Planning Act 1990. The proposal by SCC to replace a new unit set up for post consent discharge functions with a call-in function is not considered to be in line with how the Government stated that the DESNZ unit would operate. The Applicant considered it would work against the Government's stated aim to 'speed up decisions on the meeting of post-consent requirements' and would provide no material benefit compared to the existing appeals process set out in the DCO.

4.270. The Secretary of State confirms that a Post Consent Unit has been established and will be the discharging authority for most of the Requirements in the Order, excluding any conditions

or approvals in the dML. However, all relevant local and county planning authorities which would previously have been the relevant planning authority, have been written into the Order as consultees, in addition to any consultees that are already named. The Secretary of State notes the guidance on discharge of requirements for nuclear and electricity transmission[8]Development Consent Orders, published by the Post Consent Unit on 27 October 2026 and confirms that Schedules 3, 4 and 20 of the DCO have been amended to allow the Post Consent Unit to discharge the majority of post consent requirements, in consultation with relevant consultees.

5. Habitats Regulations Assessment

5.1. The Secretary of State has undertaken a Habitats Regulations Assessment ("HRA") and has carefully considered the information presented during the Examination, including the HRA Report [REP7-119] as submitted by the Applicant, the ES, representations made by IPs and the ExA's Report. The Secretary of State has had regard to representations submitted post-Examination which are available on the Planning Inspectorate's Nationally Significant Infrastructure Project web page. The Secretary of State considers that the Proposed Development has the potential to result in a Likely Significant Effect on 14 protected sites when considered alone and in-combination with other plans or projects.

5.2. The Secretary of State has undertaken an Appropriate Assessment in respect of the Conservation Objectives of the sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an Adverse Effect on Integrity of the identified protected sites. Based on the information available to her and subject to the mitigation measures as secured in the Order, the Secretary of State is satisfied that the Proposed Development, either alone or in-combination with other plans or projects, will not adversely affect the qualifying features of any protected sites. The full reasoning is set out in the HRA for this Proposed Development, which has been published alongside this decision letter.

6. Compulsory Acquisition

6.1. The ExA recommended that in the event the Secretary of State is minded to grant development consent for the Proposed Development, that:

- The Compulsory Acquisition ("CA") powers included in the DCO be granted, subject to consents being forthcoming from the relevant Crown authorities in relation to Crown land and the NT's objection being withdrawn (to avoid the need for a Special Parliamentary Procedure).
- The Temporary Possession ("TP") powers included in the DCO be granted.
- The CA of Statutory Undertakers ("SUs") land and rights over land included in the DCO be granted.
- The powers authorising the extinguishment of rights and removal of apparatus of SUs included in the DCO be granted.
- The powers included in the DCO to apply, modify or exclude a statutory provision be granted.
- The CA of rights over open space included in the DCO be granted [ER 6.9.1].

[8] https://www.gov.uk/government/publications/post-consent-unit-guidance-on-discharging-requirements

6.2. In the first information request, the Secretary of State asked the Applicant, The Crown Estate ("TCE"), London Gateway Port Limited ("LGPL"), Network Rail ("NR"), Northumbrian Water Limited ("NWL"), the National Highways Authority ("NHA") and the SPR parties (on behalf of the East Anglia ONE North Limited and East Anglia TWO Limited Offshore Wind Farms, which will be referenced as "EA1NL and EA2L") and Affected Parties ("APs") on the status of all outstanding agreements.

The Crown Estate

6.3. TCE did not respond to the Secretary of State's first information request, but the Applicant stated that the parties have reached agreement on the form of the section 135 consent documentation, which was progressing through The Crown Estate's internal approval process. On 8 October 2026, The Crown Estate [C1-247] submitted the section 135 Crown Consent agreement to the Secretary of State.

Network Rail

6.4. NR responded [C1-160] to the Secretary of State's first information request stating that it was still in discussions with the Applicant with regard to the inclusion of NR's standard protective provisions ("PPs") in the draft Order and associated side agreement. Network Rail hoped to be able to confirm that the side agreement has been entered into and would be in a position to withdraw its objection. The Applicant's response [C1-178] stated that although progress had been made in narrowing the issues, the parties had not reached agreement on a revised set of PPs to be included in the draft DCO and the Applicant's position remained as at Deadline 7.

6.5. The PPs included in the draft DCO at Deadline 7 require the Applicant to enter into an asset protection agreement before undertaking any works within 15 metres of railway property or which may adversely affect railway property. NR considers that agreement of that document will provide it with the appropriate level of control and protection over its railway assets during the Applicant's works. Negotiation of a voluntary easement for the OHL rights over the railway was also ongoing. The Applicant has provided NR with details of the indicative OHL clearance, noting that this is subject to change through detailed design, and confirmation that it must comply with the minimum clearance requirements pursuant to the Electricity, Safety, Quality and Continuity Regulations 2002. The Applicant is awaiting confirmation from NR as to whether this is sufficient detail to allow heads of terms for the easement to be agreed.

6.6. In the absence of the final agreed form of the PPs between the Applicant and NR, the Secretary of State agrees with the ExA that the final version of the DCO [REP7-002] does include the drafting for provision 4 as requested by NR. As a result, the Secretary of State is satisfied that the DCO would provide an appropriate form of protection for NR, that the powers sought are necessary for the proposed development and therefore the tests in s127(5) and s138(4) would be met [ER 6.8.8].

Northumbrian Water Limited

6.7. NWL responded [C1-101] to the Secretary of State's first information request stating that it was awaiting the Applicant's response concerning cost-sharing for alternative apparatus required as a consequence of the Proposed Development but no agreement had been reached on the outstanding PPs. NWL noted that the Applicant has accepted that the

provision of alternative apparatus should be undertaken in accordance with section 185(5) of the Water Industry Act, and the PPs included in the draft DCO reflect this statutory position. However, the Applicant has introduced a cost sharing provision requiring NWL to contribute towards these costs. These provisions are inconsistent with, and seek to depart from section 185(5), under which charges are payable in accordance with the undertaker's published charging arrangements.

6.8. NWL stated that as drafted, the PPs contained in the draft DCO contain conflicting provisions, recognising the section 185 regime, whilst introducing a separate cost sharing mechanism that cuts across the section 185 regime without any clear statutory basis. The Applicant has not identified a lawful basis for the two regimes to operate alongside each other and upon which NWL could agree a costs regime for section 185 diversions that departs from the framework prescribed by section 185(5). If included in the DCO, these provisions would create a material risk of dispute regarding their interpretation and application, which will prejudice the efficient delivery of the Proposed Development. NWL considered this would be contrary to the purpose of PPs, namely to provide a clear and workable framework governing interactions between the undertaker for the Proposed Development and SUs.

6.9. NWL stated that the Applicant had proposed an amendment to the PPs which provides that the undertaker may depart from the costs regime in s185(5) where it is "lawful" to do so. However, NWL stated that the amendment implies that the PP cost-sharing mechanism may apply in circumstances that should be governed by section 185, and therefore does not provide a clear or definitive position on liability for the costs of alternative apparatus required as a result of the Proposed Development.

6.10. In the absence of the final agreed form of the PPs between the Applicant and NWL, the Secretary of State agrees with the ExA that the final version of the DCO [REP7-002] includes the majority of NWL's preferred drafting (including provision 8 expenses and costs) and has amended the DCO to reflect this. As such, she is satisfied that the DCO would provide an appropriate form of protection for NWL, and that the powers sought are necessary for the Proposed Development [ER 6.8.13].

SPR parties

6.11. The SPR parties responded [C1-164] to the Secretary of State's first information request reiterating what they stated in their Deadline 7 submission [REP7-194] that the Applicant, EA1NL and EA2L have agreed separate bespoke PPs for EA1NL and EA2L, supplying copies. However, given the side agreement had not yet been agreed and entered into, the SPR Parties understood that the Applicant will be submitting PPs with the addition of a provision allowing them to exercise CA and TP powers after 1 April 2029 (the date when the CA and TP powers under the EA1N and EA2 DCOs expire). The SPR Parties and the Applicant agreed that this wording is to be removed when the side agreement is entered into.

6.12. Following a query from the SPR parties about why these were not included in the final version of the dDCO the Applicant's solicitor responded that it did not consider bespoke PPs were required for SPR.

6.13. Regarding the commercial side agreement, the SPR Parties made good progress with the Applicant over the course of the Examination on a side agreement however this is not yet in

agreed form. An updated draft of the side agreement was sent to the Applicant's solicitors on 13 July 2026 and a further revised draft was received from the Applicant's solicitors on 10 September 2026. The SPR Parties and the Applicant were close to reaching agreement. The SPR Parties were confident agreement on the side agreement could be reached and undertook to notify the Secretary of State once the side agreement has been entered into. However, no agreement has yet to be received by the Secretary of State.

6.14. The Applicant's response was similar to the SPR parties: its lawyers were in correspondence with SPR's lawyers following the close of the Examination and PPs for the protection of EA1NL and EA2L have now largely been agreed in principle, subject to completion of the related mirror side agreements with each individual party. This provision has not been agreed between the Applicant and the SPR parties. However, negotiations are very close to resolving this issue and, subject to completion of the related side agreements, the Applicant is content with removing paragraph 4(3) from the PPs.

6.15. The Secretary of State welcomes the progress made between the Applicant and the SPR parties. However, she is content to agree with the ExA's conclusion on this matter and is satisfied that the DCO would provide an appropriate form of protection for the SPR parties (on the basis that a side agreement is in place), and that the powers sought are necessary for the Proposed Development [ER 6.8.19].

National Highways Authority

6.16. The NHA did not respond to the Secretary of State's first information request. The Applicant provided an update in its Appendix B: Schedule of Negotiations with Land Interests document, stating that whilst engagement is going on with the local highways authority, no voluntary rights are being sought in relation to the subsoil beneath the highway network.

Kent County Council

6.17. The ExA noted that the SoCG with KCC [REP7-021] remained unsigned at the end of examination, as KCC was seeking legal advice in relation to the PPs for highway works. In the first request for information, the Applicant and KCC were requested to provide an update on the status of the SoCG. In response, KCC and the Applicant stated that the SoCG was signed post Deadline 7, on 19 May 2026, and submitted the signed version with its response to the request for information.

6.18. In response to the all-IPs consultation, the Applicant [C2-053] stated that the PPs on highways works for KCC are now understood to be agreed, following a meeting between the Applicant and KCC to agree final changes on 13 October 2026. The final version was circulated to KCC on 15 October 2026 so formal written agreement had not yet been received at the time of writing.

Suffolk County Council

6.19. The Applicant also stated that it met most recently with SCC on highways PPs on 13 October and agreed to incorporate further amendments in response to comments received, in particular to increase the notice period between a programme of highway works and highway works commencing from 20 to 60 working days. This concession was made in recognition of the resourcing challenges SCC are experiencing associated with monitoring highways works across multiple DCO projects. The Applicant has also committed informally to providing programmes earlier than specified where possible and is working to do so.

6.20. In the same response to the all-IPs consultation, SCC [C2-017] provided its preferred amendments.

6.21. In response to the all-IPs consultation, the Applicant [C2-053] stated that it has been working with KCC and SCC to agree the PPs in Part 5 of Schedule 15 of the dDCO. Amendments have been made to the latest version in response to the latest comments and incorporated into the dDCO submitted with this letter. The Applicant understands that the PPs are now fully agreed with KCC. Amendments have also been made in response to comments from SCC, but the PPs were not fully agreed between the parties at the time of writing. In the absence of a final agreed form of the PPs, the Secretary of State agrees and has amended the Order to align with the Applicant's final PPs which have been largely agreed with the other councils, despite comments from SCC.

London Gateway Port Limited

6.22. LGPL responded to the Secretary of State's first information request, stating that there had been no progress or contact with the Applicant regarding its PPs. LGPL stated its position remained the same as set out in its response dated 29 April 2026 to the Rule 17 request for information [REP7-180]. In summary, LGPL stated that it should have a right of approval in respect of the CSIP, NIP and offshore CEMP. In all other respects the PPs were agreed with the Applicant.

6.23. The Applicant stated that although dialogue between the parties is ongoing, PPs with LGPL are yet to be agreed. The outstanding issue in these negotiations relates to LGPL's desire to hold approval rights over key marine plans. The Applicant considers that, as agreed with other affected Port Authorities, LGPL should be consulted before plans are issued to the MMO. This approach will avoid conflict with the wider DML consultation and approval process.

6.24. In the absence of comments from LGPL on the Applicant's latest PPs, the Secretary of State agrees with the ExA and considers that the Applicant's version of PPs [REP7-002] should be accepted.

The National Trust

6.25. On 3 August 2026 the NT withdrew its objection to the Proposed Development.

The Book of Reference

6.26. In her first information request, the Secretary of State asked the Applicant to review and update the details in the book of reference ("BoR"), including for the three plots which are considered below. The Applicant responded that it was undertaking an overall data refresh of the BoR in anticipation of a decision and the need to serve S134 notices should consent be granted. Following an initial analysis of the titles, the Applicant stated that it was aware of approximately 80 potential changes to title registers, but this did not necessarily mean that all will result in changes that need to be reflected in the documents. The Applicant stated that an initial review indicated that these potential changes appear to be SPR acquisitions, which were anticipated and discussed throughout Examination, as well as property sales of Category 3 parties.

6.27. The Applicant stated that the Suffolk plots 2/11 and 2/11a are owned by Mr Rix and were the subject of discussion throughout the Examination. The Applicant stated it had agreed to

discuss again with Mr Rix to explore alternatives, and confirmed the plots are still required for permanent rights of access. The Applicant stated that the alternatives suggested by Mr Rix were unsuitable because they are either in 3rd party land not included in the Order limits, or hosting SPR landscaping and therefore inaccessible.

6.28. The access proposed for Plots 2/11 and 2/11a allows the Applicant maintenance access to the joint bays without needing to break through reinstated field boundaries. The Applicant seeks to use existing field gates, and the plots will be used primarily on foot or with 4x4 vehicles which can navigate around the crops to mitigate damage and will generally be used once a year.

6.29. The Applicant confirmed plot 2/39 is required to enable a hedge to be established and maintained as part of the landscaping proposals, mirroring the SPR proposal for Kiln Lane. The Applicant also confirmed plot 2/39 is unregistered and has not been identified by Mr Rix as being in his ownership during contact referencing.

The Secretary of State's Conclusion

6.30. The Secretary of State has noted the responses received and objections raised by APs. In most instances, voluntary agreements and/or PPs have been agreed between the Applicant and respective landowners, with the exceptions of KWT, John Robert Collins, Richborough Estates Limited, Andrew William Johnson, the Marquess Conyngham, Michael Neil Copinger Mahoney, Carlyon Estates Limited, and Aldeburgh Golf Club.

6.31. Whilst some negotiations are ongoing, the Secretary of State agrees with the ExA that the powers sought are necessary and that there would be no serious detriment, with the inclusion of PPs, to LGPL, Network Rail, Northumbrian Water Limited, the NHA, KCC and SCC and the SPR parties (on behalf of the EA1NL and EA2L) and the APs' undertakings.

6.32. The Secretary of State agrees with the ExA's conclusions that CA powers, PPs, TP powers, powers authorising the CA of SUs' land and rights over land, and the powers authorising the extinguishment of rights and removal of apparatus of SUs, be granted.

6.33. The Secretary of State has no reason to believe that the grant of the Order would give rise to any unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

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

7.1. The Secretary of State acknowledges the ExA's recommendation that the Proposed Development should be granted development consent.

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 for the Proposed Development – very great/substantial weight;
- Alternatives – neutral weight;
- Benthic Ecology – little negative weight;
- Marine Mammals – little negative weight;
- Marine Physical Environment – little negative weight;
- Fish and Shellfish – little negative weight;

- Commercial Fisheries – little negative weight;
- Shipping and Navigation – neutral weight;
- Marine Archaeology – neutral weight;
- Agriculture and Soils – moderate negative weight;
- Landscape and Visual – great negative weight;
- Design – little negative weight;
- Ecology, Biodiversity and Ornithology – moderate negative weight;
- Cultural Heritage – moderate negative weight;
- Water Environment – neutral weight;
- Geology and Hydrogeology – little negative weight;
- Traffic and Transport – little negative weight;
- Air Quality – little negative weight;
- Noise and Vibration – little negative weight;
- Health and Wellbeing – little negative weight;
- Socio Economics, Recreation and Tourism – little negative weight;
- Climate Change – neutral weight; and
- Intra-project Cumulative Effects – moderate negative weight.

7.3. Regarding CA and TP, the Secretary of State believes the Applicant has made a compelling case for the permanent and temporary possession of land within the Order limits where voluntary agreements have not been agreed.

7.4. All NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as having not breached NPSs EN-1, NPS EN-3 and NPS EN-5, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.

7.5. For the reasons given in this letter, the Secretary of State concludes that the benefits of the Proposed Development outweigh its adverse impacts. The Applicant has applied suitable mitigation where possible and through information requests from the Secretary of State, has reaffirmed and/or strengthened its commitments to environmental protection through management and control documents.

7.6. 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.

7.7. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the relevant Development Plans, the LIRs submitted by Dover District Council, East Suffolk Council, Kent County Council, Suffolk County Council and Thanet District Council, the 2024 NPSs, NPPF, Planning Practice Guidance, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. The Secretary of State confirms for the purposes of

regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

7.8. The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent, including the modifications set out in section 9 of this document.

8. Other Matters

Equality Act 2010

8.1. The Equality Act 2010 includes a public sector "general equality duty" ("PSED"). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following "protected characteristics": age; gender reassignment; disability; marriage and civil partnerships[9]; pregnancy and maternity; religion and belief; race; sex and sexual orientation.

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

8.3. During the Examination, the ExA identified two caravans which appeared to be in residential use ([EV1-002] and [EV1-003]) [ER 6.8.43]. The Applicant confirmed that the two caravans had not been identified through the normal land referencing activities [AS-084]. However, the Applicant stated that it had exercised diligent enquiry and confirmed that letters had previously been hand delivered to the occupiers of both caravans notifying them that the Proposed Development had been accepted for Examination [ER 6.8.44]. The Applicant stated that it had been in discussions with the occupier of the caravan within the Order limits [ER 6.8.46].

8.4. Whilst the ExA understood that the Applicant was working with the occupier to investigate where the caravan could be moved to, the ExA could not ignore the possibility that the occupier could be made homeless if the land on which the caravan stood was compulsorily acquired. The ExA therefore concludes that the Proposed Development would result in the permanent and irreversible displacement of the occupier of the caravan within the Order limits, as they would be required to relocate from their home.

8.5. In relation to the occupiers of the two caravans, the ExA worked on the basis that they may have protected characteristics. Due to the personal information contained in some of the evidence, not all of it was published in the examination library. However, all the information was before the ExA, which was satisfied that there was adequate evidence to support and confirm the representations made by all parties. The ExA was also satisfied that the Applicant has behaved reasonably with the occupiers of both the caravans and concluded that they had been offered a reasonable level of advice and support to navigate the process.

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

8.6. The Secretary of State has had due regard to this duty and has identified two parties with protected characteristics, but is satisfied that both parties will not be discriminated against as a result of the decision to grant consent to the Proposed Development.

8.7. 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

8.8. 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.

8.9. The Secretary of State is of the view that the ExA's Report, together with the EIA 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:

- amendment to article 2 (interpretation) to include all new definitions for the reasons set out in this letter and the deletion of paragraph 10, which is not considered necessary as a reduction or removal of an adverse environmental effect would not ordinarily constitute a materially new or materially different environmental effect;
- amendment to article 5 (limits of deviation) paragraph 5(d)(ii), to clarify that the undertaker may in respect of onshore underground electric line, deviate vertically downwards no more than 60m below existing ground levels;
- deletion of (previously) article 10 (planning permission and other consents) which is not considered necessary or appropriate due to the provision incorrectly seeking to preserve the validity of the Order despite potential incompatibilities with other consented infrastructure;
- amendment to article 20 (discharge of water) paragraph 4, to include the relevant legislation being the Water Resource Act 1991 and the exact distances in which the undertaker may carry out, maintain or decommission works near beds and banks of any watercourse;
- deletion of (previously) article 23 (human remains) which is not considered necessary or appropriate due to separate statutory requirements. This is consistent with the position taken in previous orders granted by the Secretary of State where there are no known human remains within the boundary of the proposed authorised development;

- amendment to schedule 15 (protective provisions) part 8 to reflect the Secretary of State's preferred set of protective provisions between the Applicant and Northumbrian Water Limited.

Schedule 3 modifications

- amendments to various provisions within this schedule where the relevant planning authority or the relevant highway authority has been changed to refer to the relevant discharging authority, as set out in schedule 20;
- amendment to requirement 2 (time limits) to allow for an extension of time limits in relation to commencement of the Order as this is a bespoke provision not relevant in the Order;
- amendment to requirement 6 (management plans to be approved) as the bodies listed as consultees in this paragraph can be found in Schedule 20;
- deletion of requirement 15(1)(a) and 15(2) which are now redundant as construction has already begun on the Kiln Lane substation and therefore alteration can be made to the new Kiln substation under this Order;
- amendment to requirement 18 (control of operational noise) to include further monitoring controls; and
- insertion of new requirement 23 (temporary drainage in Suffolk) to require the undertaker to secure approval from Suffolk County Council (in consultation with the Environment Agency) for a temporary drainage solution before commencing certain works, to ensure construction drainage is in place to manage and avoid increased flood risks.

Schedule 4 modifications

- amendments to various paragraphs within the schedule to reflect the relevant discharging authority required for each requirement as designated in schedule 20.

Schedule 20 modifications

- the following requirements contained in schedule 20 have been amended to designate the Secretary of State as the relevant discharging authority:
  - Requirement 3(1) (except Requirement 3(3));
  - Requirement 5;
  - Requirement 6;
  - Requirement 7 (except Requirement 7(9));
  - Requirement 8 (except Requirement 8(4));
  - Requirement 9;
  - Requirement 10;
  - Requirement 12 (except Requirement 12(3));
  - Requirement 13;
  - Requirement 14 (except for Requirement 14(2) and (5));
  - Requirement 18;
  - Requirement 19;
  - Requirement 20; and
  - Requirement 22.

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 Annex A to this letter.

11. Publicity for decision

11.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the Planning Act 2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

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

Yours sincerely,

Head of Energy Infrastructure Planning Delivery

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

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 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/EN020026

Any correspondence with the Department in relation to a claim for judicial review, or proposed claim for judicial review, should be sent by email to the following addresses:

energyinfrastructureplanning@energysecurity.gov.uk and

newproceedings@governmentlegal.gov.uk

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 (020 7947 6655).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AILs	Abnormal Indivisible Loads
ALC	Agricultural Land Classification
AIP	Approval in Principle
AP/APs	Affected Party/Parties
BMP	Benthic Mitigation Plan
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
CSIP	Cable Specification and Installation Plan
CA	Compulsory Acquisition
CEMP	Construction Environmental Management Plan
CPRE	Campaign to Protect Rural England
dB	Decibel
DCO	Development Consent Order
DDC	Dover District Council
DLL	District Level Licencing
dML	Deemed Marine Licence
DMO	Local Destination Management Organisation
ECoW	Ecological Clerk of Works
EA1N	East Anglia ONE North offshore wind farm
EA1NL	East Anglia ONE North Limited
EA2	East Anglia TWO offshore wind farm
EA2L	East Anglia TWO Limited
EHO	Environmental Health Officer
EIFCA	Eastern Inshore Fisheries Conservation Authority
EnvCoW	Environmental Clerk of Works
ESC	East Suffolk Council
EIA	Environmental Impact Assessment
EA	Environment Agency
EN-1	Overarching National Policy Statement for Energy
EN-3	National Policy Statement for Renewable Energy Infrastructure
EN-5	National Policy Statement for Electricity Networks Infrastructure
ES	Environmental Statement
ExA	The Examining Authority
F-gas	Fluorinated gas
FLCP	Fisheries Liaison and Coexistence Plan
FTP	Furthering The Purposes
GW	Gigawatt
HGV/HGVs	Heavy Goods Vehicle(s)
HPI/HPIs	Habitats of Principal Importance
HRA	Habitats Regulations Assessment

HVAC	High Voltage Alternating Current
HVDC	High Voltage Direct Current
HDD	Horizontal Directional Drilling
IACPC/IACPCs	Impact Assessment and Conservation Payment Certificate(s)
IP/IPs	Interested Party/Interested Parties
KCC	Kent County Council
KEIFCA	Kent and Essex Inshore Fisheries and Conservation Authority
KWT	Kent Wildlife Trust
LEMP	Landscape and Ecological Management Plan
LIR	Local Impact Report
LGPL	London Gateway Port Limited
LMS	Landfall Method Statement
LNRS	Local Nature Recovery Strategy
LoD/LoDs	Limits of Deviation
LVEP	Local Visitor Economy Partnership
MCA	Marine & Coastguard Agency
MCZ	Marine Conservation Zone
MMO	Marine Management Organisation
NL	National Landscape
NE	Natural England
NGET	National Grid Electricity Transmission
NHA	National Highways Authority
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NR	Network Rail
NSIP	Nationally Significant Infrastructure Project
NWL	Northumbrian Water Limited
oCEMP, oCNVMP, oFLCP, oLEMP, oOCEMP, oSMP	Relevant outline plans
Ofgame	Office for Gas and Energy Markets
oIPMP	Outline In-Principle Monitoring Plan
OHL	Overhead Line
PP	Protective Provisions
PPA	Planning Performance Agreement
PSED	Public Sector Equality Duty
REAC	Register of Environmental Actions and Commitments
RR/RRs	Relevant Representation(s)
RSPB	The Royal Society for the Protection of Birds
SEAS	Suffolk Energy Action Solutions
SHC	Suffolk Heritage Coast
SMM	Save Minster Marshes
SOAEL	Significant observable adverse effect level
SPR	Scottish Power Renewables

SSCEP	Skills, Supply Chain and Employment Plan
SMP	Soil Management Plan
SNCB	Statutory nature conservation body
SoCG	Statement of Common Ground
SCC	Suffolk County Council
SSSI	Site of Special Scientific Interest
SU	Statutory undertakers
TCE	The Crown Estate
TJB	Transition joint bay
TDC	Thanet District Council
The EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
The Planning Act	The Planning Act 2008
TP	Temporary Possession
UXO	Unexploded Ordnance
UU	Unilateral Undertaking
WFA	Whitstable Fishermen's Association