Planning Inspectorate

The Planning Act 2008

Sea Link

Examining Authority's Report

of Findings and Conclusions

and

Recommendation to the Secretary of State for

Energy Security and Net Zero

Examining Authority

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30 July 2026

The Planning Inspectorate **ERRATA SHEET – [INSERT PROJECT NAME] Ref. [INSERT REF NUMBER]**

Examining authority's Report of Findings and Conclusions and Recommendation to the Secretary of State for the Department of Energy Security and Net Zero, dated [INSERT DATE]

Corrections agreed by the Examining Authority prior to a decision being made

Vol	PDF Page No.	Para	Error	Correction	ExA comment
	66	3.5.6	North=east	Should be north-east	Agreed
	184	3.14.119	60dB LAmax	Not sure what this should be?	Missing abbreviation: LA_{max} is the maximum A - weighted sound pressure level recorded over the period stated.
	327	3.21.7	dependant	should be dependent	Agreed
	232	3.15.33	Straddling	S should be lowercase "straddling"	Agreed
			Scottish Power	Should be ScottishPower in all instances	Agreed
	3	Overview	Examination Closed date	The overview table states that the examination closed on the 5th August 2026. However, paragraph 1.4.3 states that it closed on the 5 May 2026.	Agreed
	153	3.12.101	[REP7-717]	Reference should be [REP7-171]	Agreed
	429	6.8.13	NR	Beginning of penultimate line should read "NWL", not NR	Agreed

OVERVIEW

Application Information Details	
File Ref	EN020026
Application Dated	27 March 2025
Inspectorate Received Data	27 March 2025
Applicant	National Grid Electricity Transmission plc
Accepted for examination	23 April 2025
Examination Started	5 November 2025
Examination Closed	5 August 2026
Relevant Secretary of State(s)	Secretary of State for the Department of Energy Security and Net Zero
Recommendation Submitted	30 July 2026

The proposed development comprises the reinforcement of the electricity transmission network between Kent and Suffolk. This would be 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:

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.

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.

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 totally approximately 3.5 km, each connecting the new substation with the existing Richborough to Canterbury OHL.

Summary of Recommendation:

Subject to considerations outlined in paragraph 8.3.1 of this report, the Examining Authority recommends that the Secretary of State for Energy Security and Net Zero should make the order in the form attached.

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1. INTRODUCTION

1.1. BACKGROUND TO THE EXAMINATION

1.1.1. An application for the Sea Link project (the proposed development) was submitted by National Grid Electricity Transmission plc (the applicant) to the Planning Inspectorate on 27 March 2025 (reference EN020026). The application was submitted under section (s) 37(2) of the Planning Act 2008 (PA2008) and accepted for examination under s55 of the PA2008 on 23 April 2025 [PD-001]. This report sets out the Examining Authority's (ExA) findings, conclusions and recommendations to the Secretary of State for the Department of Energy Security and Net Zero (DESNZ).

1.1.2. The proposed development did not fall within the definition of a Nationally Significant Infrastructure Project (NSIP) as defined in part 3 of the PA2008. However, on 4 March 2022, the applicant submitted a request to the Secretary of State for Business, Energy and Industrial Strategy (now the Secretary of State for DESNZ) for a direction pursuant to s35(1) of the PA2008 that the proposed development be treated as a project of national significance. In a direction dated 31 March 2022, the Secretary of State confirmed that the proposed development is nationally significant and directed that it should be treated as development for which development consent is required. In the annex to the direction the Secretary of State stated:

"The proposed project is of national significance, taking into account that it is a large-scale linear electricity transmission reinforcement project of approximately 130km in length and that it has a two Gigawatt capacity to transmit electricity."

1.1.3. On this basis the proposed development requires development consent in accordance with s31 of the PA2008.

1.1.4. The Examination Library (EL) provides a record of all application documents and submissions to the Examination, each of which is given a unique reference number e.g. [APP-001]. The reference numbers are used throughout this report, and hyperlinks are included to allow the reader to access them directly.

1.1.5. This report does not contain extensive summaries of the documents and representations received. Readers are referred to relevant material using linked EL references. Full regard has been had to all such material and to all important and relevant matters arising from it in all conclusions drawn by the ExA and the recommendation made in this report.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

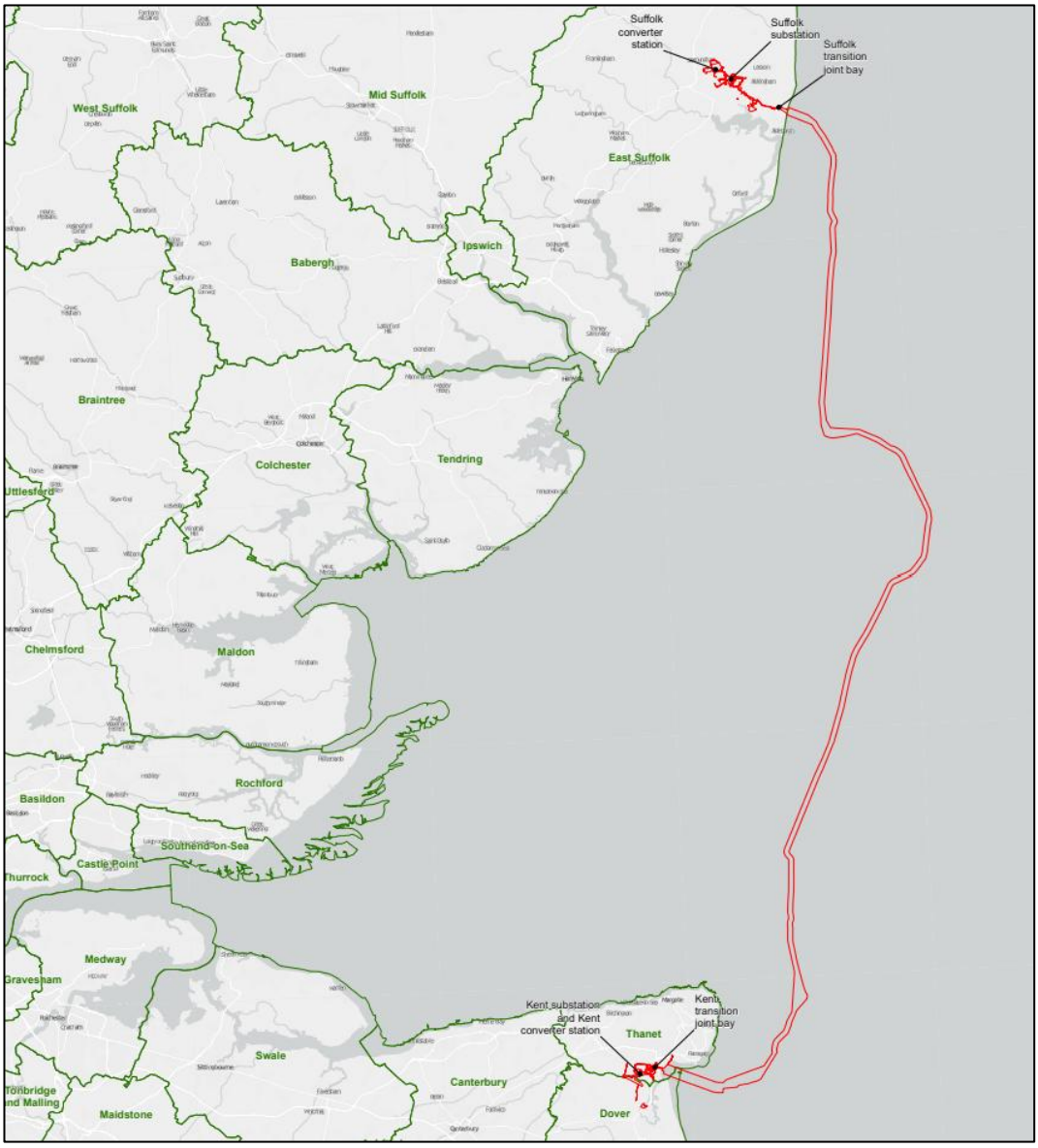
1.2.1. On 27 May 2025, Sarah Holmes, Richard Hunt, Stephen Rennie, Nancy Thomas, and Simon Warder were appointed as the ExA for the application under s61 and s65 of the PA2008 [PD-004]. Sarah Holmes was appointed as the lead member. On 12 September 2025, Simon Warder resigned, and Luke Regan was appointed to the ExA [PD-009].

1.3. THE APPLICATION

LOCATION OF THE PROPOSED DEVELOPMENT

1.3.1. The location of the proposed development is shown in the Location Plan [CR1-002] (extract shown in the figures below) and the final versions of the land plans (Suffolk [REP6-002] and Kent [REP5-003]). The site lies within Suffolk County Council (SCC), East Suffolk Council (ESC), Kent County Council (KCC), Thanet District Council (TDC) and Dover District Council (DDC) administrative areas and is wholly in England. The offshore scheme is located wholly within English Territorial Waters.

Figure 1: Overall location plan (extract from 2.2.1 Location Plan [CR1-002])



1.3.2. The Planning Statement [REP6-054] provides a detailed description of the surrounding area. The characteristics of the surrounding area are summarised below.

SUFFOLK ONSHORE

1.3.3. The Suffolk section of the proposed development is located within the administrative boundaries of SCC and ESC.

1.3.4. The most northernly point of the Suffolk onshore section of the order limits is to the south-east of Saxmundham along the B1119. Other than the town of Saxmundham, the area is predominantly rural, dominated by large to medium scale agricultural fields of arable crops. To the south of Saxmundham and partially within the order limits is the River Fromus.

1.3.5. Moving south-east, the order limits are dominated by large to medium scale agricultural fields which are interspersed with mature woodland areas, small clusters of dwellings and scattered properties. There are large commercial warehouses close to the order limits, situated between Saxmundham and Friston.

1.3.6. The order limits extend to the north of Friston village and then extend southwards parallel with Aldeburgh Road and Saxmundham Road towards the North Sea coast. The Suffolk landfall is situated just north of the settlement of Aldeburgh and south of the village of Thorpeness.

1.3.7. At the landfall the cable alignment would cross underneath the Suffolk & Essex Coast and Heaths National Landscape, Royal Society for the Protection of Birds North Warren Reserve, Leiston-Aldeburgh Site of Special Scientific Interest (SSSI), the Haven Local Nature Reserve, Disused Railway Line (Aldringham to Aldeburgh) County Wildlife Site (CWS) and would be close to Suffolk Shingle Beaches CWS. A works compound would be situated adjacent to the Sandlings Special Protection Area.

1.3.8. Other notable settlements that are located close to the order limits include the villages of Leiston, Knodishall Common and Sternfield. The surrounding area is also crossed by major road corridors, including the A1094 and the B1121. The River Alde flows to the south of the Suffolk onshore section of the proposed development.

1.3.9. The Sizewell nuclear site is located approximately 5 kilometres (km) to the north of the order limits. There are two existing 400 kilovolts (kV) overhead lines (OHL)s that cross the order limits, connecting the existing Sizewell substation to the Bramford substation.

Figure 2: Location plan Suffolk (figure 2.2.2 [CR1-002])

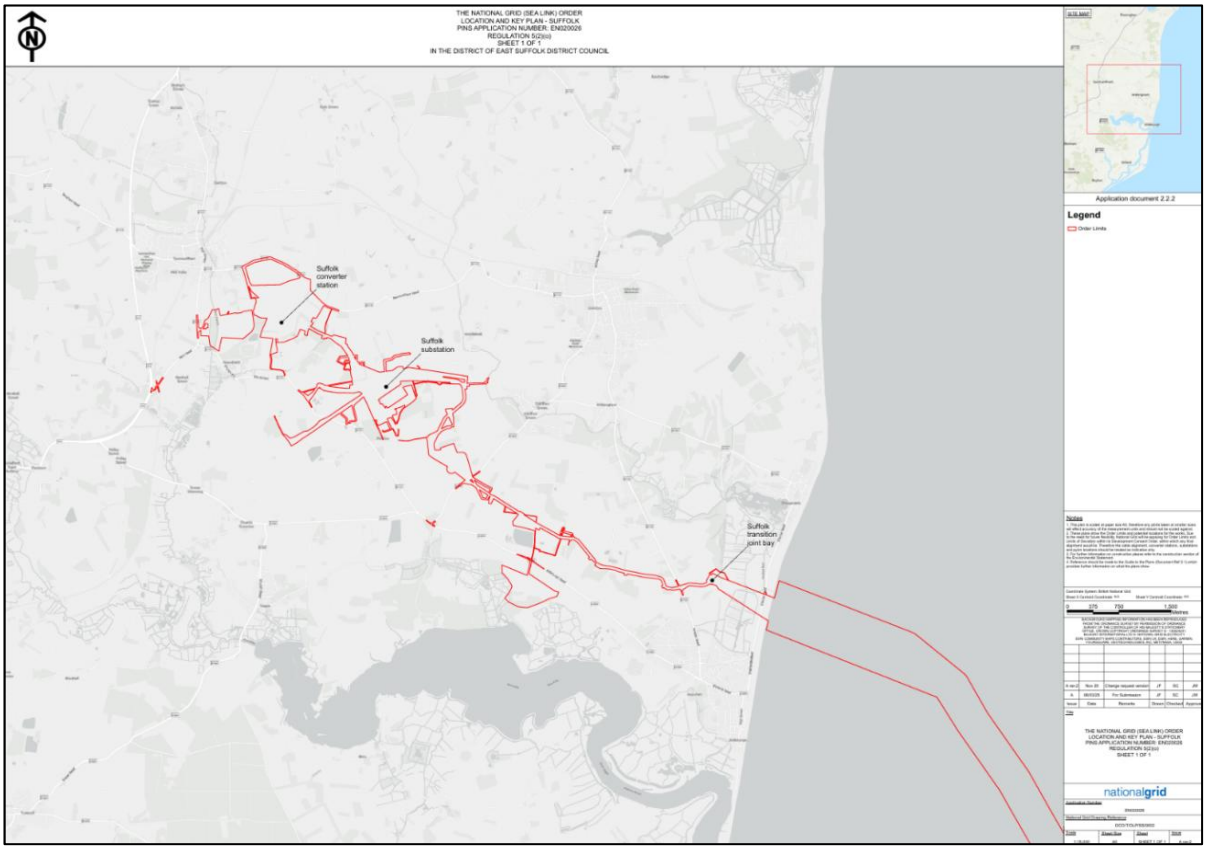
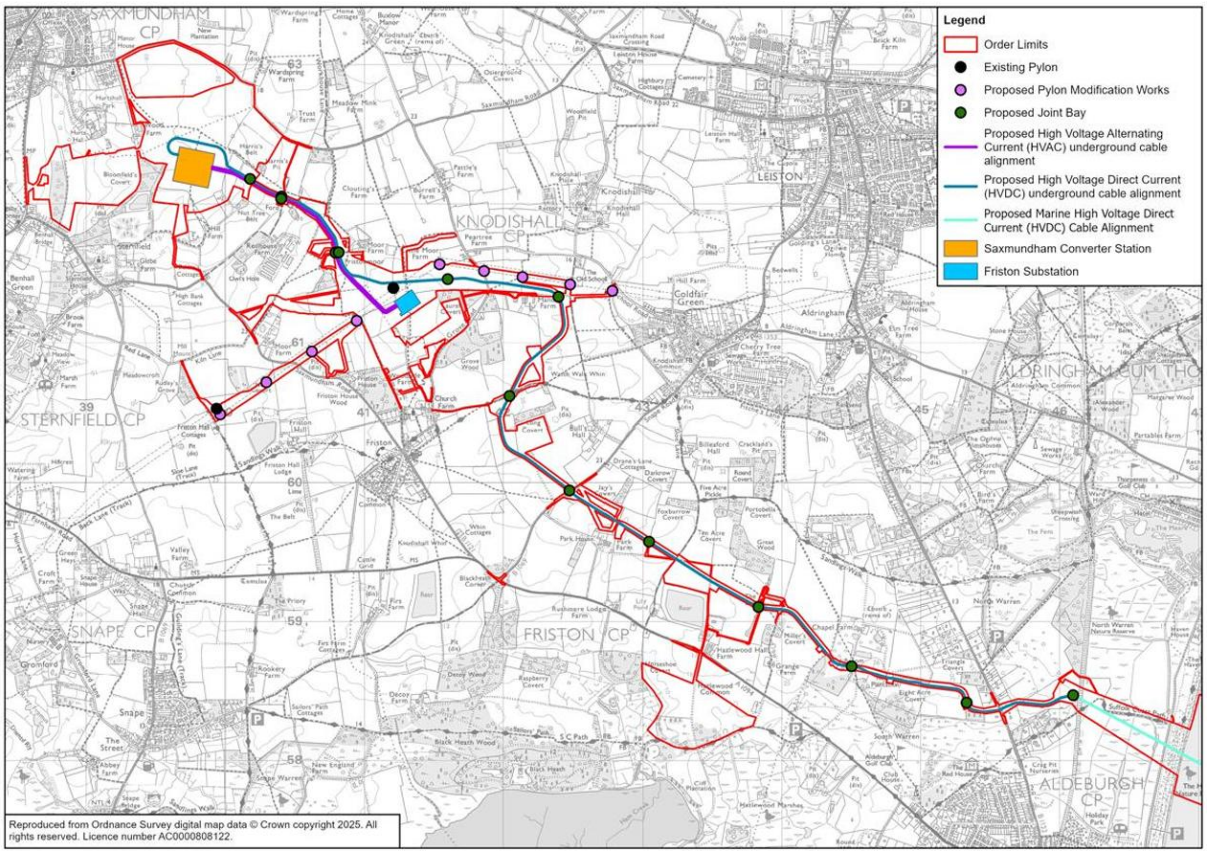


Figure 3: Suffolk onshore scheme (without the change request) order limits (plate 3.1 [AS-016])



OFFSHORE

1.3.10. The offshore section of the proposed development is located wholly within English territorial waters and lies within the east inshore and south-east inshore marine plan areas.

1.3.11. The order limits extend over a length of approximately 122 km from mean high-water springs (MHWS) at the Suffolk landfall, situated just north of the settlement of Aldeburgh and south of the village of Thorpeness, to MHWS at the Kent landfall, situated approximately 300 metres (m) to the south of Cliffsend and slightly to the north of Pegwell Bay Country Park. The order limits cross the Suffolk Coastal Waters, East Anglian Shipping Waters, Eastern English Channel Approaches and the Goodwin Sands and North Dover Strait Marine Character Areas.

1.3.12. The offshore section of the proposed development is located to the west of London Array offshore wind farm and to the east of Thanet, Greater Gabbard and Galloper offshore wind farms. Parts of the Outer Thames Estuary and Thanet Coast and Sandwich Bay Ramsar and Special Protection Areas are located within the order limits. Also within the order limits are parts of the Southern North Sea and the Sandwich Bay Special Areas of Conservation (SAC) and the Thanet Coast SAC, and Sandwich and Pegwell Bay National Nature Reserve. Parts of the Leiston Aldeburgh and Sandwich Bay to Hacklinge Marshes (SBHM) SSSI are also located within the order limits.

Figure 4: Location plan (plate 3.3 [AS-016])

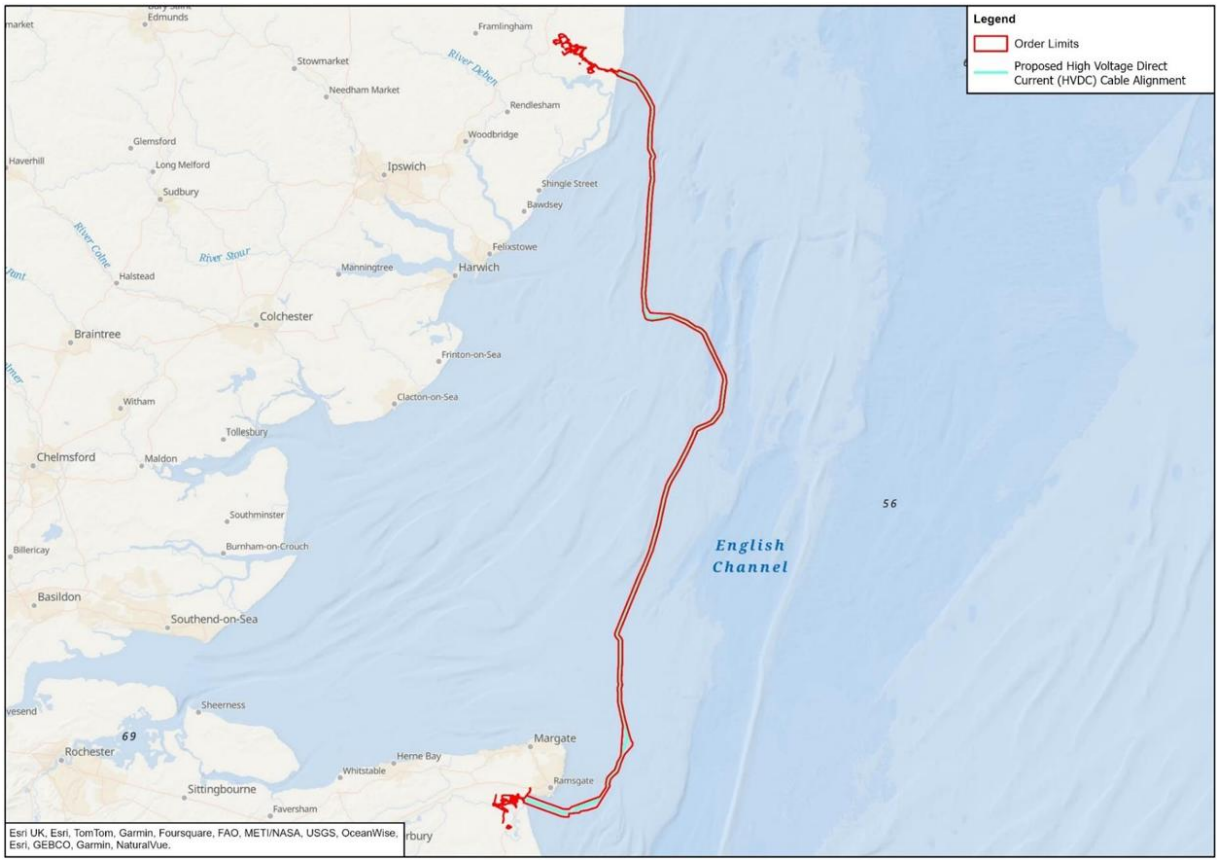
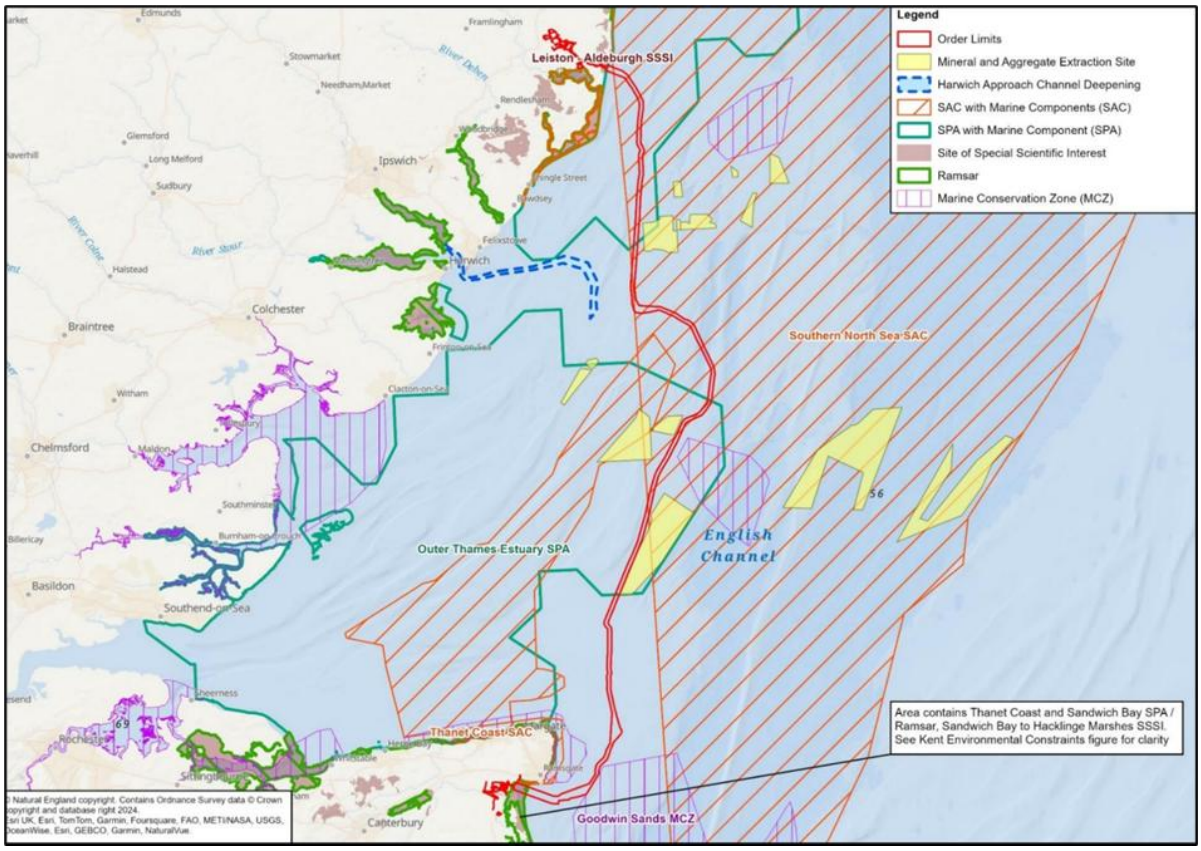


Figure 5: Offshore environmental constraints (plate 1.3 [AS-016])



KENT ONSHORE

1.3.13. The Kent onshore section of the proposed development is located within the administrative boundaries of KCC, TDC and DDC.

1.3.14. The Kent landfall is situated within Pegwell Bay, to the south of Cliffsend and to the north of Pegwell Bay Country Park. Sandwich Road runs in a south-west to north-east direction and passes through the order limits to the west of the landfall, continuing towards Cliffsend.

1.3.15. The landscape surrounding the Kent landfall includes the low-lying coastal areas extending around Pegwell Bay which are characterised by larger areas of saltmarsh and intertidal mudflat along the coastline.

1.3.16. From the Kent landfall, the order limits continue westwards through the northern half of St Augustine's Golf Course, before crossing the A256 (Richborough Way). Richborough Energy Park and a wastewater treatment works (Weatherlees Hill Wastewater Treatment Works) are located approximately 500m and 130m respectively to the south of the order limits. The Great Oaks Small School, to the north-east of the Weatherlees Hill Wastewater Treatment Works, is immediately adjacent to the order limits.

1.3.17. Moving west, the Kent section of the proposed development is in an area which is rural to semi-rural. The landscape rises towards the settlement of Minster, comprising some large field enclosures. The railway line connecting Minster (approximately 140m to the north of the order limits) and Sandwich (approximately 2.2km to the south of the order limits) passes through the order limits. The inland section of SBHM SSSI extends along part of the railway line and is also designated as Woods and Grasslands Minster Marshes Local Wildlife Site.

1.3.18. The order limits cross the River Stour and extend westwards, in an area designated as the Ash Levels and South Richborough Pastures Local Wildlife Site. The existing Richborough to Canterbury 400 kV OHL crosses through the far western extent of the order limits.

Figure 6: Location plan Kent (figure 2.2.3 [CR1-002])

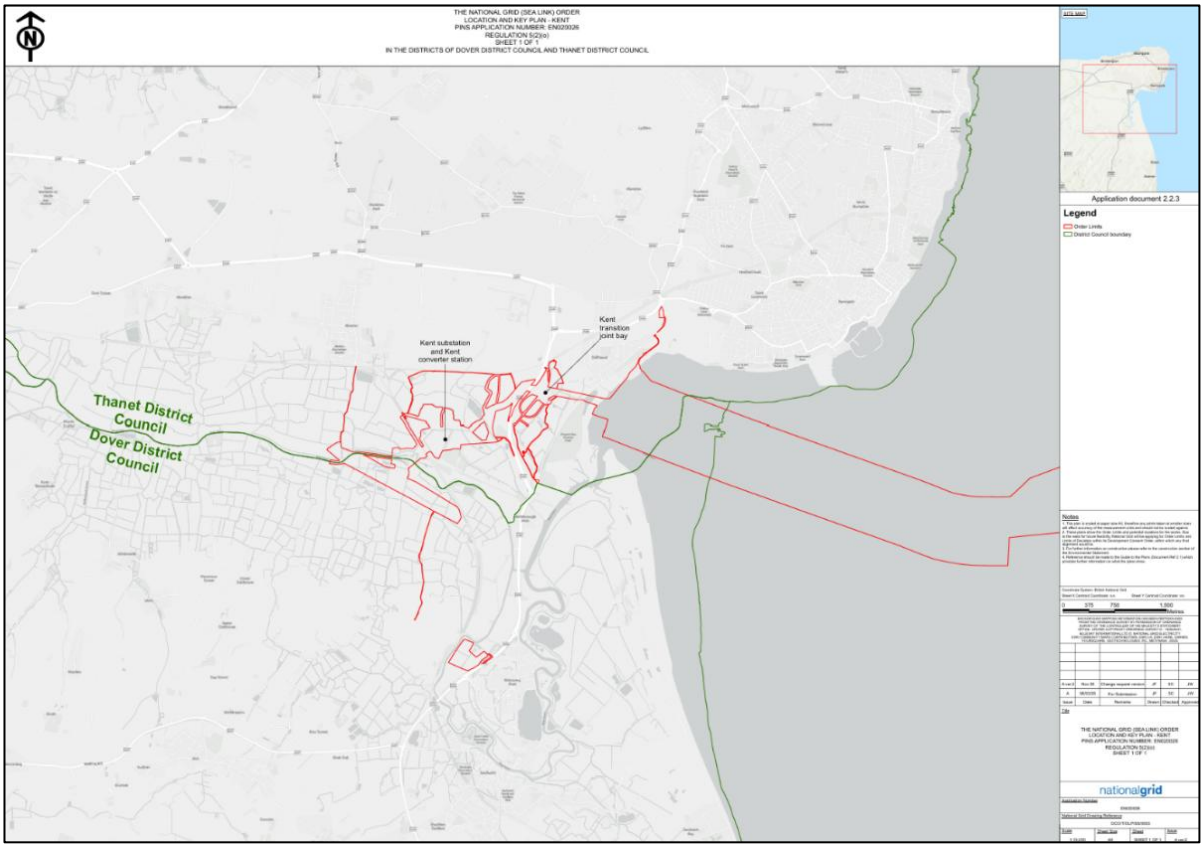
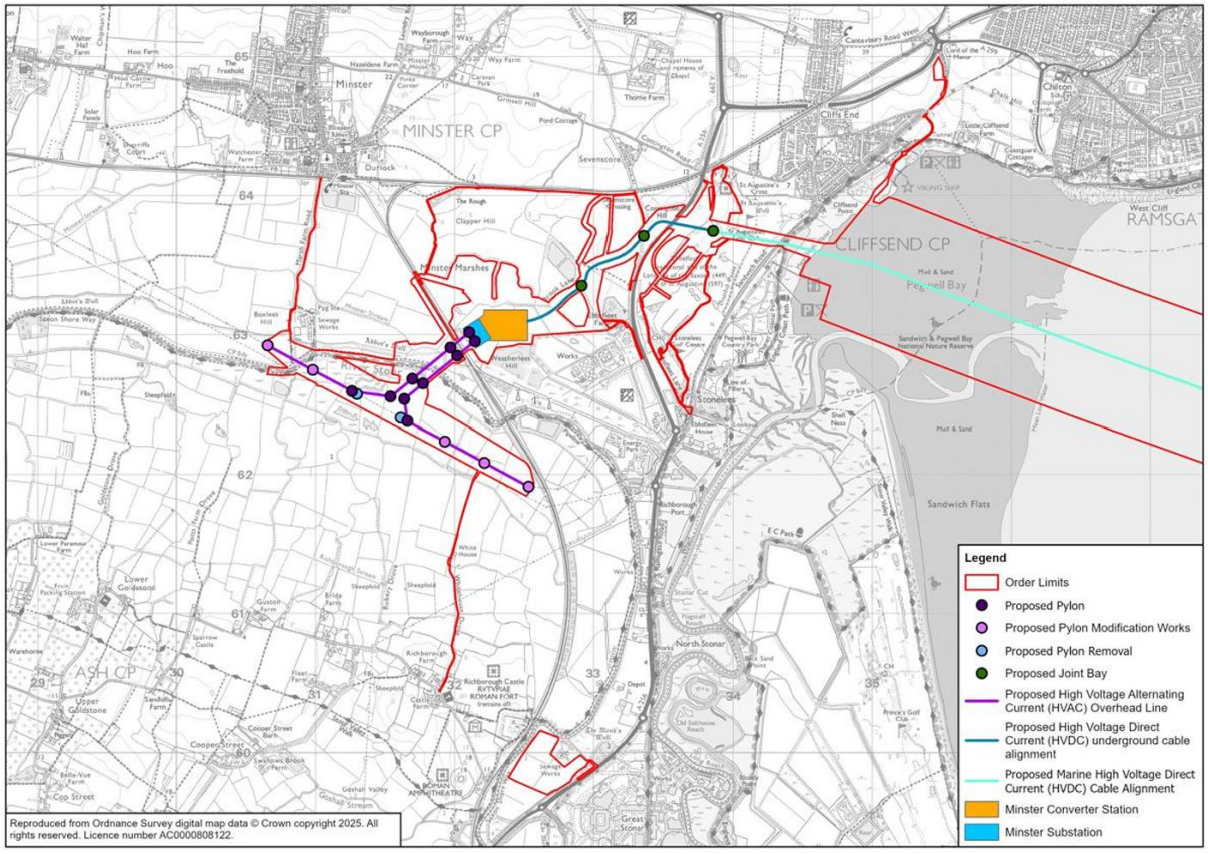


Figure 7: Kent onshore scheme (without the change request) order limits (plate 3.2 [AS-016])



DESCRIPTION OF THE PROPOSED DEVELOPMENT

1.3.19. The proposed development comprises the reinforcement of the electricity transmission network between Kent and Suffolk. This would be achieved by a High Voltage Direct Current (HVDC) link between the proposed substation near Sizewell in Suffolk and the existing Richborough to Canterbury 400kV OHL close to Richborough in Kent. Schedule 1 of the draft Development Consent Order (dDCO) [REP7-002] describes the proposed development in terms of works numbers which includes the following elements:

1.3.20. Suffolk onshore scheme:

- A connection from the existing transmission network via Friston substation, including the substation itself. Friston substation already has development consent as part of other third-party projects. If Friston substation has already been constructed under another consent, only a connection into the substation would be constructed by the proposed development (work numbers 1A and 1B).
- A high voltage alternating current (HVAC) underground cable of approximately 1.9 km in length between Friston substation and a proposed converter station near Saxmundham (work number 2).
- A 2 gigawatt (GW) HVDC converter station plus external equipment and associated access road (work numbers 3A and 3B).
- A HVDC underground cable connection of approximately 10 km in length between the proposed converter station and a transition joint bay (TJB) approximately 900 m inshore from a landfall point where the cable transitions from onshore to offshore technology (work number 5).
- A landfall on the Suffolk coast, between Aldeburgh and Thorpeness (work number 5).

1.3.21. The offshore scheme:

- Approximately 122 km of subsea HVDC cable, running between the Suffolk landfall location and the Kent landfall location (work number 6).

1.3.22. Kent onshore scheme:

- Kent landfall in Pegwell Bay (work number 7).
- 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 (work number 7).
- A 2 GW HVDC converter station near Minster, with a new permanent access from the A256 (work numbers 9A and 9B).

- A new substation adjacent to the new converter station (work number 11).
- Removal of approximately 2.2 km of existing HVAC OHL, and installation of two sections of new HVAC OHL, together totally approximately 3.5 km, each connecting the new substation with the existing Richborough to Canterbury OHL (work number 12).

1.3.23. Further details of the proposal for each work number can be found in schedule 1 of the recommended Development Consent Order (rDCO) in appendix A to this report.

RELEVANT PLANNING HISTORY

1.3.24. Section 3 of the applicants Planning Statement [REP6-054] summarises the relevant planning history within the order limits, notably the made orders for East Anglia One North and East Anglia Two windfarms.

1.4. THE EXAMINATION

START OF THE EXAMINATION

1.4.1. There were three relevant representation (RR) periods; 8 May to 23 June 2025, 18 July to 18 August 2025, 29 August to 18 September 2025. 6042 RRs were received ([RR-0001] to and including [RR-6042]). All received our Rule 6 Letter [PD-010] made under the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) and were provided with an opportunity to become involved in the examination as an interested party (IP). All RRs have been fully considered by the ExA.

1.4.2. The preliminary meeting (PM) took place on 5 November 2025 [EV2-005]. The ExA's subsequent procedural decisions and the examination timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter dated 10 November 2025 [PD-013].

1.4.3. The examination began on 5 November 2025 and concluded on 5 May 2026. The principal components of and events around the examination can be seen in the examination timetable [PD-013] and are summarised below.

PROCEDURAL DECISIONS

1.4.4. The procedural decisions taken by the ExA are recorded in the EL referenced [PD-]. They detail the ExA's decisions relating to the procedure of the examination and did not bear on the ExA's consideration of the planning merits of the proposed development.

STATEMENTS OF COMMON GROUND

1.4.5. The applicant's Statement of Commonality [REP7-013] provides the status of statements of common ground (SoCG). The ExA note some errors between this document and the SoCG submitted. By the close of the examination, the following bodies had concluded and signed statements of common ground (SoCG) with the applicant:

- Thanet District Council [REP7-017]
- Dover District Council [REP7-019]
- East Suffolk Council [REP7-049]
- Marine Management Organisation [REP7-015]
- Harwich Haven Authority [REP7-023]
- Maritime and Coastguard Agency [REP7-025]
- Port of London Authority [REP7-027]
- Trinity House [REP7-029]
- Sandwich Port and Haven Commissioners [REP7-033]
- Port of Ramsgate [REP7-035]
- Suffolk & Essex Coast & Heaths National Landscape Partnership [REP7-052]
- Royal Society for the Protection of Birds [REP7-054]
- London Gateway Port Limited [REP7-043]
- Anglian Water [REP7-056]
- EDF – Nuclear General Limited [REP7-062]
- Network Rail [REP7-063]
- Scottish Power Renewables [REP7-069]
- Sizewell C [REP7-071]
- Suffolk Constabulary [REP7-073]
- UK Power Networks [REP7-075]
- Historic England [REP7-350]
- National Grid Lion Link Ltd [REP7-083]

1.4.6. The SoCGs with the following bodies remained unsigned at the end of the examination:

- Kent County Council [REP7-021]
- Suffolk County Council [REP7-355]
- Natural England [APP-323]
- UK Chamber of Shipping [REP7-031]
- Environment Agency [REP5-088]
- Cadent Gas Limited [REP7-058]
- East Suffolk Water Management Board [REP7-060]

- Northumbrian Water [REP7-065]
- Virgin Media [REP7-077]
- Vodaphone [REP7-079]
- National Trust [REP7-344]
- East of England Ambulance Service [REP7-081]
- Southern Water [REP7-041]
- Aldeburgh Golf Club [REP7-045]
- EXA Infrastructure UK Limited [REP1-090]
- Helios Energy [REP1-091]
- River Stour Internal Drainage Board [REP7-067]
- Southern Gas Networks Limited [REP7-047]

1.4.7. The signed SoCGs have been taken fully into account by the ExA in all relevant sections of this report. The weight (if any) to be afforded to unsigned SoCGs in particular contexts is considered in the relevant sections of this report.

WRITTEN QUESTIONS, SITE INSPECTIONS AND HEARINGS

1.4.8. To ensure the ExA had as much information as it needed as early as possible in the process we requested, under s89(3) of the PA2008, and received additional and updated documents during the pre-examination period [PD-005], [PD-006], [PD-007] and [PD-008].

Table 1: Summary of the principal components of and events around the examination

Written questions and requests for information	
ExQ1	[PD-017]
ExQ2	[PD-021]
ExQ3	[PD-023]
Requests for further information and comments	Rule 17 [PD-014] [PD-015] [PD-025] Report on Implications for European Sites [PD-022] Schedule of Changes to the draft Development Consent Order [PD-024]
Hearings	
The following issue specific hearings (ISH)s were held:	• ISH1 [EV3-001] • ISH2 [EV6-002] • ISH3 [EV9-001]

The following compulsory acquisition (CAH)s were held:	• CAH1 [EV6-001] • CAH2 [EV8-001]
The following open floor hearings (OFH)s were held:	• OFH1 [EV4-001] • OFH2 [EV5-001] • OFH3 [EV7-001]
Site inspections	
The ExA carried out the following unaccompanied site inspections:	• Monday 23 June 2025 (afternoon) [EV1-001] • Tuesday 24 June 2025 (morning and early afternoon) [EV1-002] • Tuesday 24 June 2025 (afternoon) [EV1-003] • Wednesday 25 June 2025 (morning) [EV1-004] • Wednesday 25 June 2025 (afternoon) [EV1-005] • Thursday 26 June 2025 (morning) [EV1-006] • Thursday 26 June 2025 (afternoon) [EV1-007] and [EV-008] • Friday 27 June 2025 (morning) [EV1-009] • Tuesday 30 September 2025 (afternoon) [EV1-010] • Wednesday 1 October 2025 (morning) [EV1-011] • Wednesday 1 October 2025 (afternoon) [EV1-012] • Thursday 2 October 2025 (morning) [EV1-013] • Tuesday 4 November 2025 (afternoon) [EV1-014] • Friday 7 November 2025 (morning) [EV1-016] • Friday 7 November 2025 (morning and early afternoon) [EV1-017] • Tuesday 11 November 2025 (evening) [EV1-019] • Wednesday 12 November 2025 (afternoon) [EV1-018] • Friday 27 February 2026 (evening) [EV1-020] • Saturday 28 February 2026 (evening) [EV1-021] • Monday 9 March 2026 (afternoon) [EV1-022] • Tuesday 10 March 2026 (morning and early afternoon) [EV1-023] • Wednesday 11 March 2026 (morning) [EV1-024]

The ExA carried out the following access required site inspections:	• Friday 7 November 2025 (morning) [EV1-015]

1.4.9. No accompanied site inspections were undertaken.

1.5. CHANGES TO THE APPLICATION

1.5.1. Changes to the key application documents, including the wording of the dDCO, were submitted and updated during the examination. The changes sought to address points raised by IPs and the ExA and to update or provide additional information resulting from changes and discussions that had occurred during the examination.

1.5.2. The applicant's changes to the application documents, together with any additional information submitted, are detailed in the Application and Examination Document Tracker [REP7-156]. This provides a guide to all documents submitted as part of the application and was updated at each deadline (DL) when new or revised documents were submitted. It provides a full record of all documentation submitted into the examination up to and including DL7. The applicant has not included documents submitted between DL7 and the close of the examination within this guide.

CHANGE REQUEST

1.5.3. The applicant submitted a Notification of Intention to Submit a Request for Proposed Changes "*Change Notification*" on 16 September 2025 [AS-138]. In its Rule 9 letter, 25 September 2025 [PD-011] the ExA agreed with the applicant that regulations 5 to 19 of the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 (CA Regulations) would be engaged and advised the applicant about the procedural implications of the proposed changes and consultation requirements.

1.5.4. The applicant submitted a formal change request on 26 November 2025 [CR1-001] (comprising documents [CR1-001] to [CR1-070]. Table 2.1 in the Change Request Schedule of Changes [CR1-054] lists the consequential changes to the DCO application documents.

1.5.5. The applicant described the changes as:

- Change 1 - change to access at the former Hoverport, Pegwell Bay, Kent.
- Change 2 - change to limits of deviation for Friston (Kiln Lane) substation, Suffolk.
- Change 3 - change to the order limits east of Friston to provide flexibility in relation to heritage feature, Suffolk.

- Change 4 – change to the order limits to include any works required to Benhall Railway Bridge, Suffolk.
- Change 5 - increase in area for maintenance of a new hedge to south of B1119.

1.5.6. The ExA agreed with the applicant that none of the proposed changes were so material that it constituted a materially different project. The proposed changes were not considered, individually or cumulatively, to lead to the project being different in nature or substance to that which was originally applied for.

1.5.7. The ExA therefore issued a procedural decision [PD-015] to accept the changes into the examination, subject to the subsequent fulfilment of duties under Regulations 7, 8 and 9 of the CA Regulations.

1.5.8. The applicant subsequently provided a Regulation 9a notice [CR1-071] and Regulation 9b certificate [CR1-072] to demonstrate that it fulfilled those duties.

1.5.9. The ExA thereafter examined the application as changed and it is upon that basis that this report is written.

1.6. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

1.6.1. Aside from the three unilateral undertakings listed below no agreements or undertakings under s106 of the Town and Country Planning Act 1990 were put before the examination.

1.6.2. The updated Consents and Agreements Position Statement [REP4-009] sets out the other required consents and the position as to the status of securing those consents.

1.6.3. At DL7 the applicant submitted the following unilateral undertakings:

- Unilateral Undertaking in Relation to BNG from National Grid to (1) Thanet District Council (2) Dover District Council and (3) East Suffolk Council [REP7-352]
- Unilateral Undertaking in Relation to the River Fromus Contingency Fund from National Grid to East Suffolk Council [REP7-353]
- Unilateral Undertaking in relation to s85 National Landscapes from National Grid to Suffolk County Council [REP7-354]

2. HOW THE APPLICATION IS DETERMINED

2.1. LEGISLATION AND POLICY

2.1.1. This section identifies the key legislation and policy that the Examining Authority (ExA) considers to be important and relevant to its findings and recommendations to the Secretary of State.

2.1.2. A full list of relevant primary and secondary legislation, including but not limited to duties arising under the Equality Act 2010, Human Rights Act 1998 and the Climate Change Act 2008 (as amended), can be found in appendix C of this report. All applicable legislation has been considered by the ExA as required and its findings and recommendations are framed so as to identify and enable the Secretary of State to discharge all applicable statutory considerations or duties.

THE PLANNING ACT 2008 (PA2008)

2.1.3. The PA2008 provides the basis for decision-making in relation to Nationally Significant Infrastructure Projects (NSIP). As the National Policy Statements (NPS)s for Energy have effect in relation to development that is the subject of this application, this application is to be assessed against section (s) 104 of the PA2008.

2.1.4. S104(2) of the PA2008 sets out the matters to which the Secretary of State must have regard in deciding an application submitted in accordance with the PA2008. In summary, the matters set out in s104(2) include any relevant NPSs, the appropriate marine policy documents, local impact report (LIR)s, matters prescribed in relation to the development, and any other matters the Secretary of State thinks are both important and relevant to the decision.

2.1.5. S104(3) of the PA2008 requires the Secretary of State to decide the application in accordance with any relevant NPS that has effect in relation to this application, subject to the exceptions in subsections 104(4) to (8) as follows:

- Deciding the application in accordance with any relevant NPS would lead to the UK being in breach of any of its international obligations.
- Deciding the application in accordance with any relevant NPS would lead to the Secretary of State being in breach of any duty imposed on her or him by or under any enactment.
- Deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment.
- The adverse impact of the proposed development would outweigh its benefits.

- Any condition prescribed for deciding an application otherwise than in accordance with an NPS is met.

2.1.6. This report sets out our findings, conclusions and recommendations taking these matters into account and applying s104 of the PA2008.

MARINE AND COASTAL ACCESS ACT 2009

2.1.7. The Marine and Coastal Access Act 2009 sets the framework for the marine planning system in the UK. It provides for the preparation of a UK Marine Policy Statement, marine plans for UK marine areas and the system of marine licensing. In deciding an application for an order granting development consent, the Secretary of State must have regard to (amongst other things) the appropriate marine policy documents, which in this case are the UK Marine Policy Statement and the East Inshore Marine Plan and South East Inshore Marine Plan.

NATIONAL POLICY STATEMENTS

2.1.8. With regard to the purposes of s104(2)(a) of the PA2008, the ExA considers that the following NPSs are relevant to this application:

- NPS EN-1 - overarching NPS for energy
- NPS EN-3 - the NPS for renewable energy infrastructure
- NPS EN-5 - the NPS for electricity networks infrastructure

2.1.9. All three NPSs were published in November 2023 and came into force on 17 in January 2024 and are the relevant designated NPSs for this project.

2.1.10. NPS EN-1 sets out general principles and generic impacts to be considered in applications for energy NSIPs. All other energy NPSs sit within the policy framework provided by this NPS. It provides the primary basis for determining if development consent should be granted for energy development. Other energy NPSs are used together with this NPS.

2.1.11. NPS EN-3 sets out planning policy for renewable energy generating developments for which development consent is required. NPS EN-3 paragraph 1.6.3 details infrastructure covered by this NPS as including "…offshore transmission infrastructure projects in English waters which are directed into the NSIP regime under section 35 of the Planning Act 2008. This could include… … 'bootstraps' to support the onshore network which are routed offshore." For that reason, the ExA considers NPS EN-3 to be applicable to the proposed development under the PA2008 s104(2)(a).

2.1.12. NPS EN-5 details assessment criteria specific to electricity networks development. The assessment criteria for electric lines include the consideration of good design, climate change adaptation, electric and magnetic fields (EMF)s and of impacts relating to biodiversity, geological conservation, landscape and visual, noise and vibration effects amongst others.

2.1.13. The ExA has considered the above NPSs in full in examining the application. Where it is relevant to do so, the ExA draws on individual paragraphs contained within the NPSs within the topics in sections 3 and 5 of this report.

2.1.14. A revised suite of energy NPSs which came into force on 6 January 2026. NPS EN-1 (2026), at paragraph 1.6.2, states that for any application accepted for examination before the publication of the approved 2025 amendments, the 2024 suite of NPSs should have effect in accordance with the terms of those NPSs. Paragraph 1.6.3 goes on to state that any emerging draft NPSs (or those designated but not yet having effect) are potentially capable of being important and relevant considerations in the decision-making process. The extent to which they are relevant is a matter for the relevant Secretary of State to consider within the framework of the Planning Act 2008 and with regard to the specific circumstances of each Development Consent Order application.

OTHER RELEVANT GOVERNMENT POLICIES, STRATEGIES AND PUBLICATIONS

2.1.15. Other relevant government policies, strategies and publications have been taken into account by the ExA (as listed in appendix C of this report), including the following:

- The UK Marine Policy Statement (2011)
- The National Planning Policy Framework
- Net Zero: The UK's Contribution to Stopping Global Warming Emissions
- Ten Point Plan for a Green Industrial Revolution
- Energy White Paper: Powering our Net Zero Future
- Industrial Decarbonisation Strategy (HM Government, 2021)
- Net Zero Strategy: Build Back Greener
- British Energy Security Strategy (2022)
- Powering up Britain (DESNZ, 2023)
- Clean Power 2030 Action Plan (2024)

2.1.16. These policies are also discussed in more detail in section 3 within ‘The Need for the proposed development’.

2.2. LOCAL IMPACT REPORTS

2.2.1. Five LIRs were submitted into the examination at D1 by the following local authorities:

- Dover District Council [REP1-127]
- East Suffolk Council [REP1-128]
- Kent County Council [REP1-129]
- Suffolk County Council [REP1-130] and [REP1-131]
- Thanet District Council [REP1-132]

2.2.2. LIR content has been considered through the examination and in this report. It must be considered during the decision by the Secretary of State pursuant to the PA2008 s104(2)(b).

2.2.3. The issues raised are considered in further detail in relation to relevant planning issues in section 3 of this report.

2.2.4. Amongst other matters, LIRs identify local policies (including those from the development plan) which are capable of being important and relevant considerations under s104(2)(d) of the PA2008. The applicant submitted its comments on the LIRs in [REP2-026], [REP2-027], [REP2-028], [REP2-029] and [REP2-030].

2.3. ENVIRONMENTAL IMPACT ASSESSMENT

2.3.1. On 24 October 2022, the applicant submitted a scoping report to the Secretary of State under regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs) in order to request an opinion about the scope of the Environmental Statement (ES) to be prepared (a scoping opinion) [APP-299]. It follows that the applicant is deemed to have notified the Secretary of State under regulation 8(1)(b) of the EIA Regs that it proposed to provide an ES in respect of the project. Therefore, in accordance with regulation 6(2)(a) of the EIA Regs, the proposed development is EIA development.

2.3.2. On 1 December 2022, the Planning Inspectorate provided a scoping opinion [APP-300] on behalf of the Secretary of State.

2.3.3. In August 2025, the applicant provided the Planning Inspectorate with certificates confirming that s56 and s59 of the PA2008 and regulation 16 of the EIA Regs had been complied with ([OD-001], [OD-004], [OD-006] and [OD-007]).

2.3.4. Overall, the ExA considers that the ES, as supplemented with additional information during the examination, is sufficient to enable the Secretary of State to take a decision in compliance with the EIA Regs.

2.4. HABITATS REGULATIONS ASSESSMENT

2.4.1. The Secretary of State is the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended) ('the Offshore Marine Regulations'). The Habitats Regulations were amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019.

2.4.2. The proposed development is one that has been identified as giving rise to the potential for likely significant effects on European sites and hence is subject to a Habitats Regulations Assessment (HRA). As is the convention and to inform Secretary of State decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in appendix B of this report, a summary of which can be found in section 4.

2.5. TRANSBOUNDARY EFFECTS

2.5.1. A transboundary screening under regulation 32 of the EIA Regulations was undertaken on behalf of the Secretary of State on 31 July 2023 [OD-002] following the applicant's request for an EIA scoping opinion. On the basis of the information provided by the applicant and taking a precautionary approach, the Inspectorate concluded that the proposed development was likely to have a significant effect on the environment in the following European Economic Area (EEA) member states:

- Belgium (potential impacts on marine mammals, commercial fisheries and other sea users (interconnectors))
- France (potential impacts on marine mammals and other sea users (interconnectors))
- Germany (potential impacts on commercial fisheries and other sea users (interconnectors))
- The Netherlands (potential impacts on marine mammals, commercial fisheries and other sea users (interconnectors))

2.5.2. The 4 EEA states were notified of the proposed development. Belgium requested to be involved in the transboundary consultation procedure. Germany confirmed it did not wish to participate. France and The Netherlands did not respond.

2.5.3. A second screening was published on 15 May 2025 following acceptance of the Development Consent Order (DCO) application. In light of the additional information provided by the applicant, the Inspectorate found that the proposed development was not likely to have a significant effect on the environment in Germany and that potential impacts to commercial fisheries and marine mammals in Belgium, France and the Netherlands are not likely to result in significant effects. However, the Planning Inspectorate remained of the view that the proposed development is likely to have a significant effect on the environment in Belgium, France and the Netherlands due to potential impacts on other sea users (interconnectors).

2.5.4. Accordingly, transboundary consultation was undertaken under regulation 32 of the EIA Regulations, resulting in the following actions:

- 28 May 2025, Belgium submitted a relevant representation [RR-0053] regarding potential impacts to commercial fisheries.
- 2 July 2025, The Netherlands submitted a relevant representation [RR-6037] [OD-003] regarding impacts from EMF to fish and sediment plume arising from cable installation leading to turbidity affecting fish and benthic ecology.
- No response was received from France.

2.5.5. The applicant did not specifically respond to the representations from Belgium and The Netherlands but did include an assessment of the matters raised by the EEA states in the ES, including Marine chapters 2, Benthic Ecology, 3 Fish and Shellfish Ecology and 8, Commercial Fisheries. The ExA's consideration of these matters is set out in sections 3.4, 3.7 and 3.8 of this recommendation.

2.5.6. Belgium and The Netherlands were registered as interested parties (IP)s and received updates during the examination. No further representations were received from Belgium or The Netherlands during examination.

2.5.7. The regulation 32 duty is an ongoing duty and, on that basis, the ExA has considered whether any facts have emerged to change the Inspectorate's screening conclusions up to the point of closure of the examination. The ExA is content that the duties under regulation 32 have been satisfied.

2.6. MADE ORDERS

2.6.1. Section 1.3 of the final Explanatory Memorandum [REP7-004] describes the other made orders upon which the applicant has relied in drafting its dDCO [REP7-002].

3. THE PLANNING ISSUES

3.1. INTRODUCTION

3.1.1. This section sets out the Examining Authority's (ExA) findings and conclusions on the planning issues. The section is structured firstly to examine matters of principle, including need and alternatives. It then addresses individual planning issues, set out in individual sections. The order in which all these section headings are presented should not be taken to imply any order of merit.

3.1.2. In each section, the ExA will provide a summary of the application as made, then report on the main issues examined for each topic. Findings and conclusions will then be drawn for each topic, with reference to the relevant policy background, and whether the effects carry no residual effects or issues which affect the planning balance or carry little weight, moderate weight, great weight, or very great weight for or against the making of the Development Consent Order (DCO).

3.1.3. The ExA received over 6000 relevant representations (RR). The ExA considered that in the interests of readability it would not be appropriate to report every RR submitted for a particular topic. Instead, where appropriate, the ExA has listed a small number of RRs for each topic to provide an example of the concerns that were raised. The ExA wishes to emphasise that the examples cited are a sample from the RRs and should not be taken as an indication that the ExA considers these RRs more important than any other RRs that were submitted. When considering a topic, the ExA has had regard to all submissions.

INITIAL ASSESSMENT OF PRINCIPAL ISSUES (IAPI)

3.1.4. As required by section (s) 88 of the Planning Act 2008 (PA2008) and rule 5 of the Infrastructure Planning (Examination Procedure) Rules 2010, the ExA made an IAPI arising from the application in advance of the preliminary meeting (PM). This formed an initial assessment of the issues based on the application documents and submitted RRs. The list of issues relates to all phases of the proposed development. The IAPI was raised at the PM, and no other key topics were identified during the examination. The IAPI can be found in annex C of the Rule 6 Letter [PD-010].

3.1.5. The ExA considers that the issues raised by interested parties (IP) were broadly in line with the IAPI and were subject to written and oral questioning during the examination. The ExA has nevertheless had regard to all submissions from IPs and has reported on these, if required, within each topic below.

3.2. THE NEED FOR THE PROPOSED DEVELOPMENT

APPLICATION SUMMARY

3.2.1. The Planning Statement, section 1.2 [REP6-054] states that the proposed development is needed because the existing electricity transmission network does not have enough capacity to reliably and securely transport all the new energy expected to be connected to the network in the future, while working to the required standards. The Planning Statement [REP6-054] goes on to explain that the way electricity is generated in the UK is changing rapidly, with the country transitioning to more secure, cheaper, and cleaner forms of energy such as new offshore windfarms. This is a result of the UK government's commitment to achieving net zero by 2050 and the delivery of up to 50 gigawatt (GW) of offshore wind energy by 2030.

3.2.2. The applicant states that because of the transition to new forms of energy generation the electricity transmission network is undergoing an overhaul to ensure it is ready for the anticipated increase in supply and demand [REP4-011]. The applicant explains that the existing transmission network infrastructure in East Anglia and the south-east of England was not originally designed to accommodate the large volumes of generation capacity that is planned to connect to the network in these areas [REP4-011]. The applicant goes on to state that the network in and between East Anglia and the south-east of England therefore needs reinforcing for the following four main reasons:

- The existing transmission network was not designed to transport electricity from where it is increasingly being generated (largely offshore).
- The growth in offshore wind, interconnectors and nuclear power means that more electricity will be generated in the years ahead than the current network is able to reliably transport.
- As a country, electricity demand is forecast to at least double by 2050, increasing the amount of energy needed to be transported to homes and businesses.
- Upgrading the existing network as it is today (such as through replacing cables to carry more power) will not be enough to meet the increasing need for electricity whilst operating to required standards.

3.2.3. The Funding Statement [REP4-011] confirms that the proposed development is just one of several electricity network reinforcements that it states are needed to ensure the electricity transmission network is fit for the future.

3.2.4. The Planning Statement, section 1.2 [REP6-054] explains that the transmission system in East Anglia was built primarily to serve consumer demand from homes and businesses in the region. For many years the only significant power stations generating in the East Anglia region were the Sizewell A and the Sizewell B nuclear power stations, Spalding North and Sutton Bridge gas fired power stations, and some further smaller 132 kilovolt (kV) connected gas fired power stations. Section 1.2 [REP6-054] goes on to state that this generation capacity has recently been increased due to several offshore windfarms, with the existing generation in East Anglia totalling 7,687.4 megawatt (MW) of installed capacity. This is expected to grow substantially in coming years, with connection agreements being signed for 27,329.3 MW of new installed capacity in the East Anglia region, over three times that capacity installed at present. These connection agreements comprise a large volume of offshore wind generation (including East Anglia Offshore Wind), gas-fired generation, energy storage projects, a nuclear power station (at Sizewell C) and additional interconnector capacity. Section 1.2 [REP6-054] concludes that without reinforcement, the existing network will not be sufficient to accommodate these new power sources.

3.2.5. The Statement of Reasons (SoR) section 2.2 [REP7-007] provides further technical detail to explain why the areas of East Anglia and Kent specifically need reinforcement. Section 2.2 explains that the substantial increase in generator-driven power flows out of East Anglia including the Sizewell Generation Group and the requirement for generation export from Kent under high import conditions requires management with a single solution, allowing power flows to move in either direction to resolve and support 2000 MW of shortfall in each area [REP7-007]. Section 2.2 states that during high generation outputs from the Sizewell Generation Group, during a fault 2000 MW can be transported to Kent preventing overloads in East Anglia. Vice versa, during high interconnector import to Kent, during a fault 2000 MW can be transported to the Sizewell Generation area managing overloads in Kent prior to 2035. Therefore, a single solution with full power flow control uniquely satisfies both the need in Sizewell Generation Group and Kent SC2 boundary from 2030 [REP7-007]. Section 2.2 concludes that without reinforcement, the capacity of the existing network in East Anglia and the southeast is insufficient to accommodate the connection of proposed new power sources connecting in the area [REP7-007].

3.2.6. The Planning Statement [REP6-054] states that the proposed development is specified as one of the three projects identified in the National Energy System Operator (NESO) Clean Power 2030: Advice on achieving clean power for Great Britain by 2030. The applicant provides a quote from the NESO report which states that "Three projects have been identified as critical to delivering a network which

supports the clean power pathways, but at present have delivery dates after 2030. Support is therefore needed to bring these projects forward for 2030 delivery. These are projects in East Anglia and in the south-east that are critical for connecting offshore wind in the North Sea and supporting the flow of clean power. Our assessment suggests that without these projects, the clean power objective would not be achieved, leaving the clean power target short by around 1.6% in 2030 (assuming a typical weather year) and consumers could face extra constraint costs of around £4.2 billion in 2030."

3.2.7. The Strategic Options Back Check Report [APP-320] details the backchecking exercise undertaken by the applicant, at the time of the Development Consent Order (DCO) application, to establish if the needs case as described above was still valid. This report concludes that the applicant considers that the proposed development remains the optimal option to progress to meet the needs case.

EXAMINATION ISSUES

3.2.8. Approximately 100 relevant representations (RRs) questioned need (including [RR-1070], [RR-1219], [RR-1222], [RR-2122] and [RR-5118]). Several interested parties (IP)s specifically questioned whether the proposed development would still be needed given that the Nautilus Interconnector scheme no longer has a connection offer at Friston, if the proposed LionLink Interconnector was not given development consent or if an offshore hub was utilised (including [RR-0273], [RR-0747], [RR-5623] and [RR-5624]). The applicant responded to these concerns explaining why the network required reinforcement between Suffolk and Kent and signposting to its alternatives assessment [REP2-024].

3.2.9. East Suffolk Council (ESC) [RR-1420] considered that the need for the proposed development only arose once Sizewell C and the LionLink Interconnector were operational. ESC stated that because Sizewell C was awaiting final investment decision and LionLink Interconnector was not yet consented, then the reinforcement which would be provided by the proposed development was not yet required [RR-1420]. The applicant disagreed with ESC, stating that the proposed development was required to address need drivers across both East Anglia and south-east, and in effect would simultaneously resolve distinct issues on different parts of the network, which could take effect in either region at different times. The applicant concluded that the need for the proposed development was not confined to Sizewell C and LionLink Interconnector being operational [REP2-014].

3.2.10. ESC Local Impact Report (LIR) [REP1-128] stated that the application for the proposed development should have been delayed (by a year or more) to facilitate coordination with the LionLink Interconnector. The applicant's response to ESC

stated that because of the importance of delivering the project it could not risk a delay to align with another project over which it had no control. The applicant explained that this would be an unacceptable risk to its obligations under its Accelerated Strategic Transmission Investment licence to deliver the proposed development, and to the government objectives of the Clean Power 2030 Action Plan to deliver clean power by 2030 [REP2-027].

3.2.11. The LIRs from Dover District Council [REP1-127], Kent County Council [REP1-129], Suffolk County Council [REP1-130] and Thanet District Council (TDC) [REP1-132] confirmed that none of the councils disputed the need for the proposed development but raised concerns over how it would be mitigated and coordinated with other consented and proposed projects. TDC stated that whilst it was supportive of the aims of the proposed development and agreed that it would provide a national benefit to energy security and net zero targets in the long term it had specific concerns in relation to the impact on the environment at the local and regional level [REP1-132].

3.2.12. Through issue specific hearing 1 (ISH1) [EV3-001], and first (ExQ1) [PD-017] and second (ExQ2) [PD-021] written questions the Examining Authority (ExA) sought further detail and clarification on the proposed development's need case.

3.2.13. At ISH1 [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 time 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 the project 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 new overhead line (OHL) between Bramford and Twinstead and the proposed new OHL between Norwich and Tilbury [REP1-124].

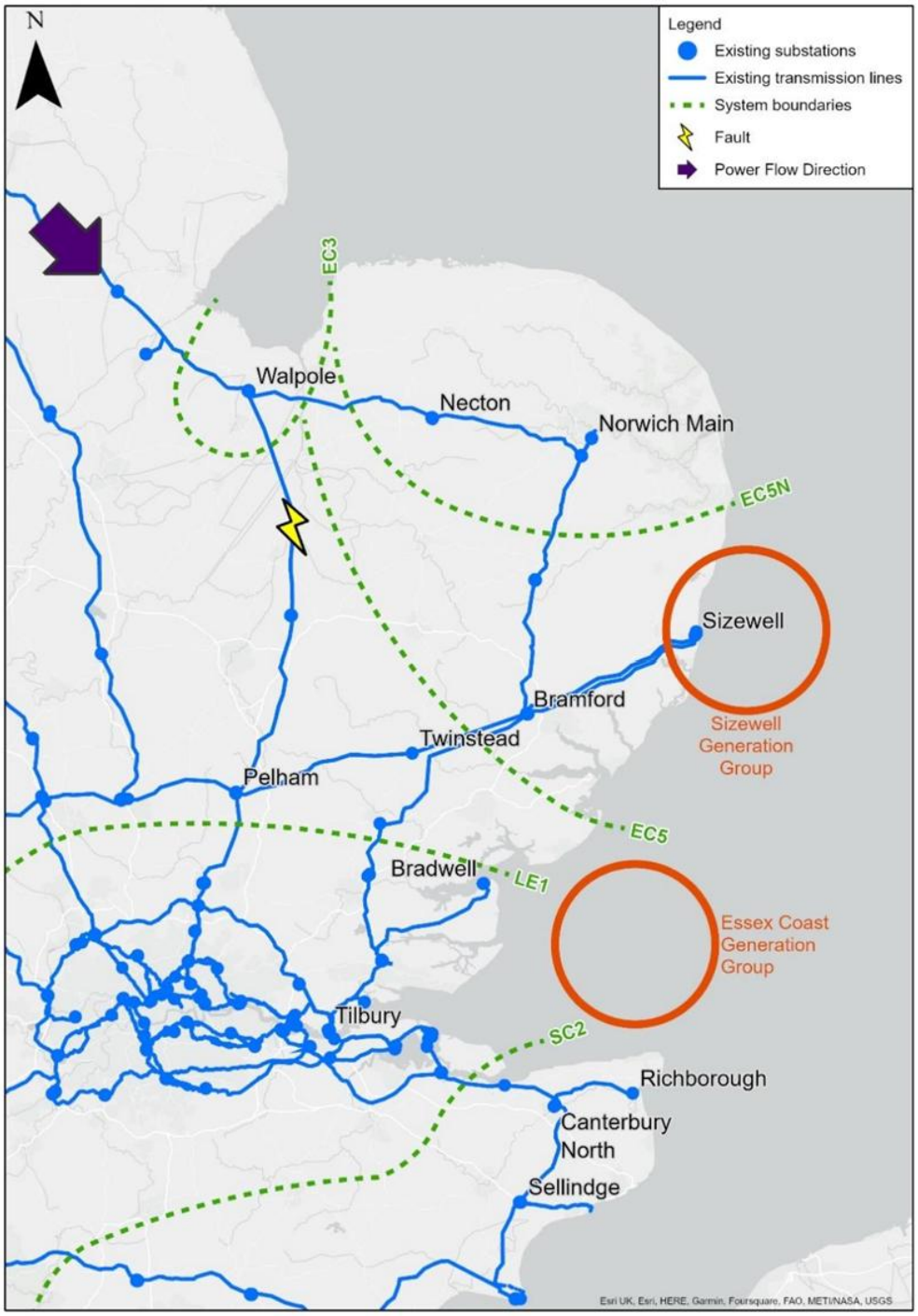
3.2.14. In ExQ1 question 1GEN5 [PD-017] the ExA acknowledged that there would be no requirement to apply the NESO energy transmission design principles to the proposed development. However, the ExA asked that if they did apply, whether the proposed scheme would be in accordance with them. In response [REP3-069] the

applicant confirmed that throughout the development of the proposed project it had followed the National Grid process and procedures which follow the principles of the NESO Design Principles, and it was of the view that the proposed development was broadly in accordance with the NESO design principles. The applicant also noted that the proposed development had been regularly assessed by NESO and consistently recommended for progression. The applicant stated that in recent years NESO's assessments had developed in line with its evolving design principles, aimed at delivering a Centralised Strategic Network Plan, and the proposed development had remained a key component of that plan [REP3-069].

3.2.15. Suffolk Energy Action Solutions Ltd (SEAS), a community group founded to campaign against the plans to make Friston and nearby parts of the Suffolk coastal district into a major energy hub, stated in [RR-5210] and maintained throughout the examination that there was no need for the proposed development because they considered that the required reinforcement could be achieved through an upgrade of the existing network ([REP1-281], [REP1A-187], [REP2-111], [REP2-112], [REP3-102], [REP3-125], [REP3-144], [REP4-156], [REP4-238], [REP5-147], [REP5-205], [REP5-206], [REP6-256A], [REP7-211] and [REP7-292]). SEAS also considered that the assumptions underpinning Clean Power 2030 were out of date, stating that since Five Estuaries Offshore Wind Farm now had an agreement to connect to a node close to Lawford in Essex, and Rampion Extension (also known as Rampion 2) was a windfarm off the South coast of Sussex, then the proposed development was no longer required to accommodate them [REP3-144].

3.2.16. In response to ExQ2 question 2GEN1 [PD-021] the applicant provided a detailed response to the outstanding concerns raised by SEAS. The applicant stated that increasing capacity by upgrading the existing network would not address the need. The applicant explained that addressing the requirements of the Sizewell Generation Group or Kent in isolation would not resolve the other issues, namely EC5 and LE1 boundary (shown in the figure below) requirements in the network that the proposed development would address. The applicant also noted that dealing with each issue in isolation would not be efficient nor economical [REP5-142].

Figure 8: East Anglia and south-east region transmission system and system boundaries (extract from plate 3.2 [APP-320])



3.2.17. The applicant also stated that SEAS was incorrect to infer that the offshore wind farms (Five Estuaries and Rampion 2) were ever planned to connect directly to the proposed development. The applicant clarified that these wind farms had always been planned to connect elsewhere in the network stating that Five Estuaries and Rampion Extension connection locations had not changed since Clean Power 2030 was produced. The applicant noted that Clean Power 2030 Annex 2, Section 2.4 (page 8) states that the proposed development is required to facilitate the transfer

of clean power throughout East Anglia and the connection of Five Estuaries and Rampion 2. The applicant explained that Rampion 2 connects within SC2 boundary and Five Estuaries connects between the EC5 and LE1 boundaries and the proposed development is required to reinforce these boundaries [REP5-142] and [REP6-106].

ExA's findings

3.2.18. The Overarching National Policy Statement (NPS) for Energy (2024) (EN-1) paragraph 3.2.6 states that 'the Secretary of State should assess all applications for development consent for the types of infrastructure covered by this NPS on the basis that the government has demonstrated that there is a need for those types of infrastructure which is urgent, as described for each of them in this Part.' Paragraph 3.2.7 goes on to state that the Secretary of State has determined that substantial weight should be given to this need when considering applications for development consent under the Planning Act 2008 (PA2008).

3.2.19. Powers under section 35 of PA2008 have been used to allow the Secretary of State to give a direction for the proposed development to be treated as a nationally significant infrastructure project. In these circumstances, EN-1 paragraph 3.2.12 states that where an application is for electricity network infrastructure, which is not covered by sections 15 to 21 of PA2008, the Secretary of State should give substantial weight to the need established at EN-1 paragraphs 3.3.65 to 3.3.83.

3.2.20. EN-1 paragraph 3.3.65 states that there is an urgent need for new electricity network infrastructure to be brought forward at pace to meet the government's energy objectives. Paragraphs 3.3.68 to 3.3.70 discuss the need for reinforcement of the onshore and offshore transmission network and the crucial national benefits of increased system robustness.

3.2.21. The ExA understand ESC's view that the need for the proposed development would only arise once Sizewell C and the LionLink Interconnector were operational. However, we are satisfied with the applicant's explanation of its need case, being the reinforcement of the network between Suffolk and Kent and not being dependent on other schemes. Furthermore, the ExA is satisfied with the applicant's justification that local grid upgrades, as suggested by SEAS, would not satisfy the need case. In relation to SEAS assertion that the assumptions underpinning Clean Power 2030 were out of date the ExA agrees with the applicant's position. We are content that the assumptions underpinning Clean Power 2030 remain current at time of writing and, can and should, be applied to the proposed development.

3.2.22. The ExA is satisfied that, on the basis of the submitted evidence, there is a compelling and urgent need for the proposed development. The ExA considers that

the applicant has 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.

3.2.23. In considering the 'economic and efficient' approach (EN-1 paragraph 3.3.78) the network project needs to follow good design, avoidance and mitigation principles (and/ or biodiversity compensation where needed for transmission in the marine environment), as referenced in EN-5. The ExA considers these aspects within the specific topics (section 3.13 design and section 3.14 ecology, biodiversity and ornithology) later in this report.

3.2.24. The NPS for Renewable Energy Infrastructure (2024) (EN-3) paragraph 2.1.5 echoes EN-1 in identifying an urgent need for new major electricity infrastructure.

3.2.25. The NPS for Electricity Networks Infrastructure (2024) (EN-5) paragraph 1.1.1 states "The security and reliability of the UK's current and future energy supply is highly dependent on having an electricity network which will enable the new electricity generation, storage, and interconnection infrastructure that our country needs to meet the rapid increase in electricity demand required to transition to net zero, while maintaining energy security." Paragraph 1.1.3 goes on to state "The electricity network infrastructure to support the government's offshore wind ambition is as important as the offshore wind generation infrastructure. Without the development of the necessary networks to carry offshore wind power to where it is needed in the UK, the offshore wind ambition cannot be achieved."

3.2.26. EN-5 paragraph 2.7.2 states that wherever reasonably possible applications for new generating stations and their related infrastructure should be contained in a single application. However, EN-5 does acknowledge that a consolidated approach may not always be possible, nor represent the most efficient strategy for delivery. EN-1 paragraph 3.3.79 states that delays in the approval of associated new network developments could cause significant economic waste and set back the strategically vital goals of decarbonisation and energy security. Consequently, the ExA is satisfied with the applicant's explanation why the proposed development could not be aligned with the LionLink Interconnector given the potential delays that could result.

3.2.27. EN-1, EN-3 and EN-5 (2026) contain similar policy provisions to the 2024 versions but with the additional inclusion of embedding the Clean Power 2030 Action Plan (published by the government in December 2024) within EN-1 (2026). The proposed project is identified in Clean Power 2030 and therefore the inclusion of the Clean

Power Action Plan within EN-1 (2026) lends further weight to the need case for the proposed development.

CONCLUSIONS

3.2.28. NPS EN-1, EN-3 and EN-5 demonstrate a clear need for the proposed development, with particular reference to EN-1 paragraph 4.1.3 which states that the Secretary of State must start with a presumption in favour of granting consent to applications for energy NSIPs.

3.2.29. Subject to the mitigation hierarchy being applied and controlled within the recommended DCO, which will be discussed below, the ExA is satisfied that the need for the proposed development has been demonstrated in accordance with the provisions of the NPS framework. EN-1 paragraph 3.2.7 directs that this need attracts substantial weight in decision making. Consequently, the ExA attributes very great weight to the contribution that the proposed development would make toward satisfying the urgent need for new electricity network infrastructure in the UK.

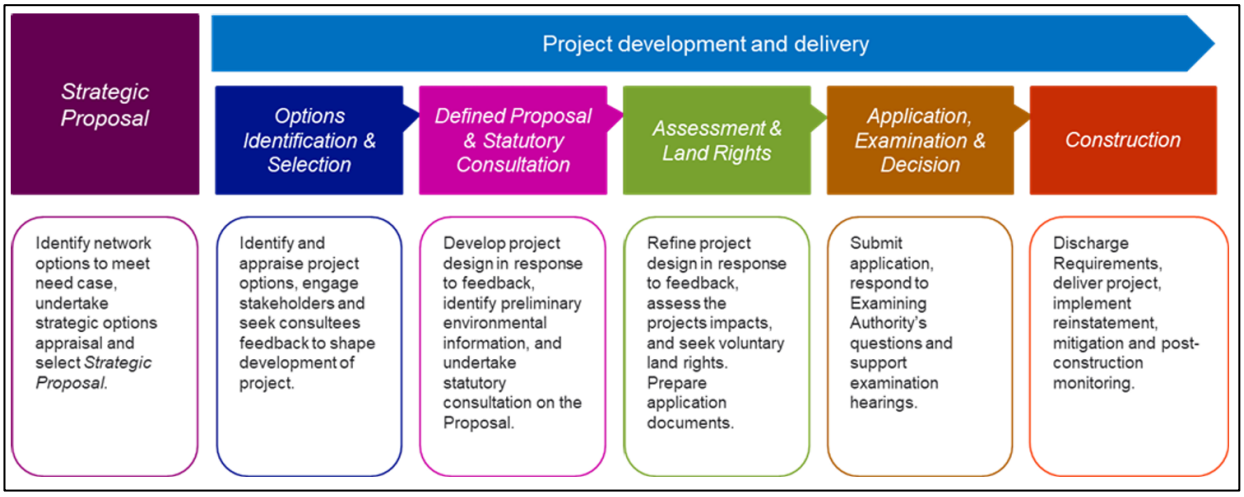
3.2.30. The ExA considers that EN-1, EN-3 and EN-5 (2026), which are important and relevant, reinforce the substantial weight to be given to the need case for the proposed development.

3.3. ALTERNATIVES

APPLICATION SUMMARY

3.3.1. Environmental Statement (ES) Part 1, Chapter 3 [APP-044] documents the main alternatives considered. The Design Development Report [APP-321] provides an overview of the design evolution of the proposed development. Section 2 of the ES Non-Technical Summary (NTS) [AS-016] explains how option appraisal sits within the applicant's approach to project development and delivery as illustrated in the figure below.

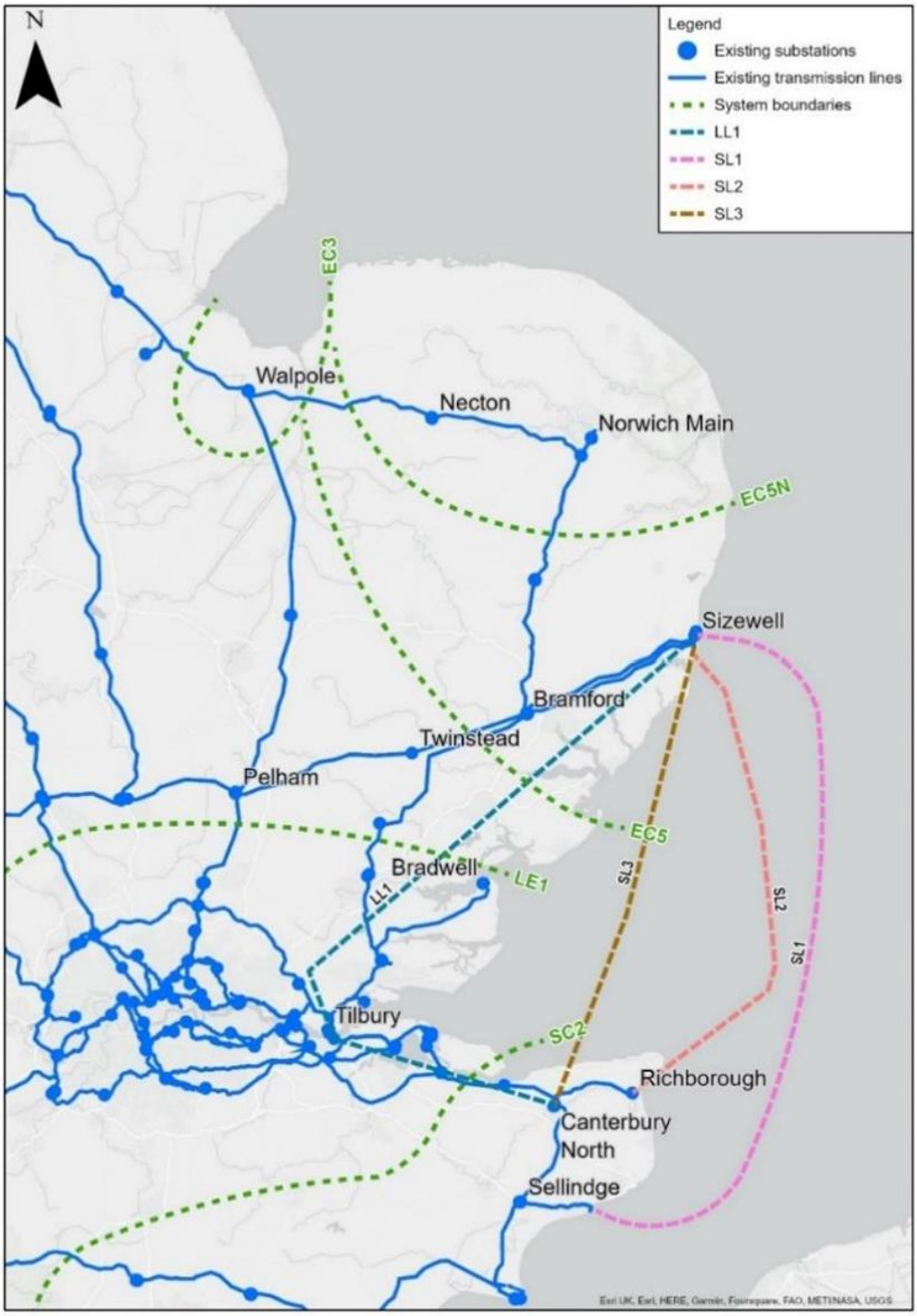
Figure 9: The applicant's approach to project development and delivery (extract from plate 2.1 of the NTS [AS-016])



3.3.2. ES Part 1, Chapter 3 [APP-044] explains that following the identification of the need for the network reinforcement to connect into the Sizewell area in East Anglia and into the south of England, four alternative strategic options were appraised (the locations of each are shown in the figure below):

- SL1 - Sizewell Area to Sellindge area subsea, approximately 180 kilometres (km).
- SL2 - Sizewell Area to Richborough area subsea, approximately 120 km.
- SL3 - Sizewell Area to Canterbury area subsea, approximately 120 km.
- LL1 - Sizewell Area to Canterbury area onshore, approximately 220 km.

Figure 10: The four alternative strategic options (extract from plate 3.2 from ES Part 1, Chapter 3 [APP-044])



3.3.3. As part of the strategic optioneering for the proposed development the applicant considered:

- the technology options available for each of the four options for transmission system reinforcement:

    - high-voltage direct current (HVDC) or alternating current (HVAC) subsea cable were considered for the three offshore options
    - overhead line (OHL), underground HVAC cables, gas insulated lines (GIL), and onshore HVDC for the four onshore options

- environmental and socio-economic constraints relevant to each option
- the lifetime costs of each technology option as well as the initial capital cost

3.3.4. The applicant also states that the four strategic options were assessed as to whether they offered any material additional system benefits for the transmission system beyond meeting the identified reinforcement need. ES part 1, chapter 3 [APP-044] explains that such additional benefits were considered because some degree of futureproofing may negate the need for further network reinforcement works in the near future.

3.3.5. ES Part 1, Chapter 3, section 3.5 [APP-044] concludes that option SL2 (Sizewell area to Richborough area subsea) would best balance overall technical, cost, environmental, and socio-economic considerations. The applicant states that the key factors that influenced this decision included:

- Option LL1 (Sizewell to Canterbury area onshore) would have the lowest capital cost connection, but with a higher lifetime cost than the offshore HVDC solutions. Option LL1 would be subject to increased costs for crossing of the River Thames (likely by tunnel) and for any underground cable sections.
- None of the environmental and socio-economic impacts of the remaining offshore options (SL1, SL2 and SL3) were considered to be issues that could not be mitigated with careful consideration of routeing and use of appropriate technologies to overcome specific constraints, as is consistent with the requirements of the energy National Policy Statements (NPS)s.
- The lowest cost subsea options were SL2 and SL3 (a connection from Sizewell Area to Richborough area and Sizewell Area to Canterbury area via a 2000 megawatt (MW) Voltage Source Converter HVDC connection).
- From an environmental and socio-economic perspective, option SL2 was preferred over option SL3 due to the marine constraints off the north Kent coast and onshore siting opportunities close to existing OHL at Richborough.

3.3.6. ES Part 1, Chapter 3, section 3.6 [APP-044] explains that once the preferred strategic option (SL2) was identified, the applicant undertook a Corridor Preliminary Routeing and Substation Siting Study [APP-368] to identify the emerging preference locations for the proposed development. Section 3.6 sets out the preferred landfall areas of search, converter site option areas and terrestrial and marine route corridors that

were selected, including the reasons for the selection and the alternatives that were considered.

3.3.7. ES Part 1, Chapter 3, section 3.7 [APP-044] details the alternatives considered at the defined proposal and statutory consultation stage. The Options Selection and Design Evolution Report (October 2023) [APP-369] explains the evolution of the proposed development, from the non-statutory consultation to the statutory consultation.

3.3.8. ES Part 1, Chapter 3, section 3.8 [APP-044] goes on to describe how the design of the proposed development evolved from the statutory consultation to the point of application. Further detail of this work is contained within the Design Development Report [APP-321]. ES Part 1, Chapter 4 [REP1A-003] sets out the description of the project, as applied for, that emerged from the alternatives process.

EXAMINATION ISSUES

3.3.9. Over 2200 relevant representations (RR)s were concerned that alternatives had not been appropriately assessed by the applicant. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- The use of an integrated offshore grid.
- The use of sites with fewer environmental impacts including consideration of brownfield sites.
- Alternative access route to the converter station at Saxmundham, Suffolk.
- Underground rather than overhead crossing of the River Stour, Kent.

THE USE OF AN INTEGRATED OFFSHORE GRID

3.3.10. Over 1000 RRs (including [RR-0484], [RR-1859], [RR-2880] and [RR-5210]) were concerned that the use of an integrated offshore grid had not been considered by the applicant as an alternative.

3.3.11. The applicant responded to this concern stating that it was constantly assessing new technologies and looking for different ways to future-proof the electricity transmission network. The applicant explained 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 high voltage direct current cables which can carry more than 2 gigawatt

(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]

3.3.12. In issue specific hearing 1 (ISH1) [EV3-001] the ExA explored whether the need for the proposed development could be met by an alternative such as an offshore grid. The applicant confirmed that the need for the proposed development was to strengthen the onshore transmission system and so necessitated connecting into the onshore networks in the south-east and East Anglia. The applicant explained that the concept of an 'offshore grid' generally related to multiple offshore windfarms connecting offshore to reduce the number of export cables coming ashore and the amount of onshore infrastructure. The applicant concluded that this wider network design point was beyond the remit of this application for network reinforcement [REP1-124].

ExA's findings

3.3.13. The Overarching NPS for Energy (EN-1) (2024) paragraph 4.3.22 states that given the level and urgency of need for new energy infrastructure only alternatives that can meet the objectives of the proposed development need to be considered by the Secretary of State. The evidence in this case is clear that an integrated offshore grid would not be an alternative that would meet the reinforcement objectives of the proposed development. The ExA accepts that position and therefore concludes that it is not an alternative that the Secretary of State needs to consider.

THE USE OF SITES WITH FEWER ENVIRONMENTAL IMPACT INCLUDING CONSIDERATION OF BROWNFIELD SITES

3.3.14. Over 1300 RRs were concerned that the use of brownfield sites had not been sufficiently considered (often combined with the suggestion that an offshore grid should be used). Over 200 RRs (including [RR-1268], [RR-2980], [RR-4006], [RR-4653] and [RR-5131]) expressing this concern included specific locations that they believed should have been considered by the applicant. These locations included RAF Leiston, the Isle of Grain, Bradwell-on-sea, Tilbury, Dungeness and the Thames Estuary.

3.3.15. 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]. The applicant stated that connecting at Bradwell or the Isle of Grain was discounted due to these locations being too far south, demanding more new infrastructure and defeating the purpose of an efficient network upgrade [REP2-014].

3.3.16. The applicant stated that during option appraisal a variety of potential areas for new infrastructure had been assessed, including the brownfield sites suggested within the RRs. However, the applicant explained that the brownfield sites within the areas of search were considered too small to accommodate the required infrastructure [REP2-024].

3.3.17. Several RRs (including [RR-0550], [RR-4482] and [RR-5944]) raised specific concerns about the location of the proposed new infrastructure and particularly the site of the converter station in Saxmundham. Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210] and [REP2-113] stated that the converter station should be located at RAF Leiston and the substation at or near Sizewell.

3.3.18. The applicant explained that whilst using land at RAF Leiston was considered (option Area C and Site 4 [APP-044]) it was not selected as the preferred site and therefore was not progressed through environmental impact assessment. The applicant noted that the information gathered at the option selection stage indicated that development of a converter station at RAF Leiston (Site 4) would have the potential to result in significant environmental effects on many of the receptors identified as well as potentially any additional receptors that may have been identified through detailed site surveys. The applicant also stated that RAF Leiston did not comply with the National Planning Policy Framework definition of previously developed land or brownfield land [REP2-014] and [REP6-113].

3.3.19. 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 Friston 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 area of outstanding natural beauty (AONB) [REP2-014].

3.3.20. Several RRs (including [RR-3066], [RR-4892] and [RR-5841]) raised environmental concerns in relation to the choice of landfall and the converter and substation site in

Kent. Kent Wildlife Trust [RR-2980] considered that there were alternatives which would have lower environmental impact than the chosen landfall in Pegwell Bay and the use of Minster Marshes. Campaign to Protect Rural England (CPRE) Kent [RR-1070] did not consider that the proposed landfall location in Kent was justified.

3.3.21. The applicant stated that the proposed development considered six landfall areas of search within the Kent study area. The applicant explained that national and international designated sites for nature conservation were unavoidable at any of these landfall areas of search, with all potential landfall locations resulting in varying degrees of interaction with these designations. The applicant confirmed that these included four areas along the north Kent coast, one area between Margate and Broadstairs and one area in Pegwell Bay. The applicant explained that the north Kent coast landfall areas of search were not progressed due to significant technical and environmental constraints on the marine approaches, and the landfall close to Broadstairs was not progressed due to significant constraints on the onward terrestrial route corridor. The applicant concluded that the landfall at Pegwell Bay, following the process of options appraisal and the application of the mitigation hierarchy, was identified as the preferred location [REP2-022].

3.3.22. The applicant explained that two areas were identified for the proposed location of the converter and substation (Area A and B [APP-044]) which were based on the need to be within 5 km of the network connection point. The applicant confirmed that the Minster site, located adjacent to and encompassed by Richborough Energy Park (Area A) was identified as preferred based on key factors including avoiding designated sites, a shorter connection route and the opportunity to site the converter station in an area adjacent to similar infrastructure and industrial land uses [REP2-022].

ExA's findings

3.3.23. In light of the above, the ExA finds that adequate regard has been had to alternatives and that the legislative requirement under regulation 14(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) to consider alternatives as part of the Environmental Impact Assessment (EIA) process has been met.

3.3.24. NPS EN-1 (2024) paragraph 4.3.15 states that applicants are obliged to include in their ES, information about reasonable alternatives they have studied. This should include an indication of the main reasons for the applicant's choice, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility. The ExA is satisfied that ES Part 1,

Chapter 3 [APP-044] includes sufficient information on the reasonable alternatives studied.

3.3.25. The ExA considers that the applicant has demonstrated that a systematic and logical appraisal of strategic alternatives, routeing and siting options was carried out in designing and refining the proposed development. We therefore find that adequate regard has been had to alternatives and that the legislative and policy requirements have been met.

ALTERNATIVE ACCESS ROUTE TO THE CONVERTER STATION AT SAXMUNDHAM, SUFFOLK

3.3.26. Suffolk County Council (SCC) stated that as the local highway authority it was not persuaded that there had been adequate investigation of alternative access routes (for construction and operation) to the Saxmundham converter station ([RR-5209], SCC Local Impact Report (LIR) [REP1-130] and SCC Principal Areas of Disagreement Summary Statement (PADSS) [REP3-081]). SCC suggested that the alternative access route, which it considered should have had further consideration by the applicant, was based on one which had already been considered, and discounted by the applicant; 'Sizewell Relief Road/ B1122' (section 3.8 [APP-044]). SCC suggested that the lower part of their alternative route (proposed Saxmundham converter station to Theberton) would be as shown as the yellow route in ES Part 1, Chapter 3 Main Alternatives Considered, figure 6.4.1.3.20 [APP-206] with the upper part following the pink route in ES Part 2, Chapter 7 Traffic and Transport, figure 6.4.2.7.3 [APP-234] between Theberton and the A12 [REP4-149] (see the two figures below).

Figure 11: Extract from ES Part 1, Chapter 3 Main Alternatives Considered, figure 6.4.1.3.20 [APP-206] to explain SCC proposed alternative access to the Saxmundham converter station.

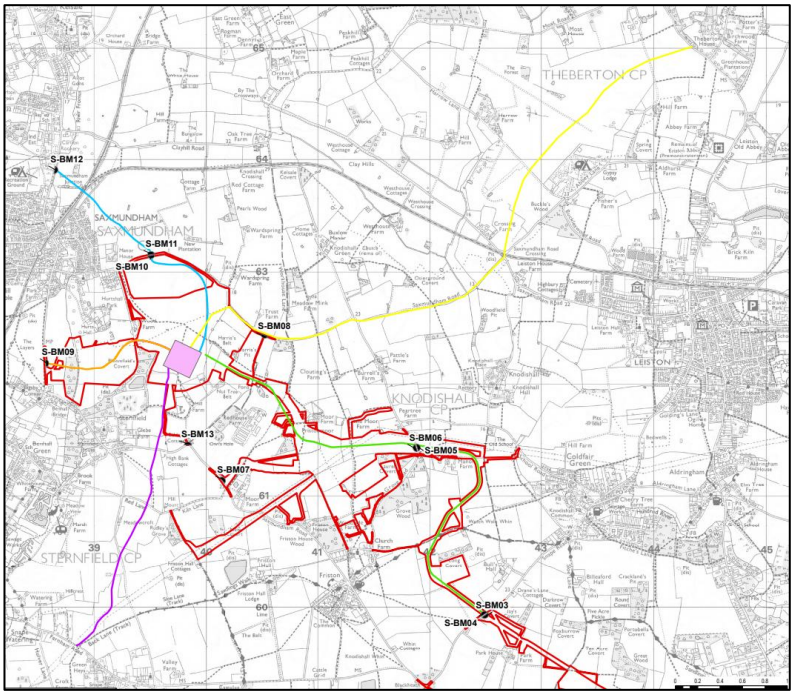
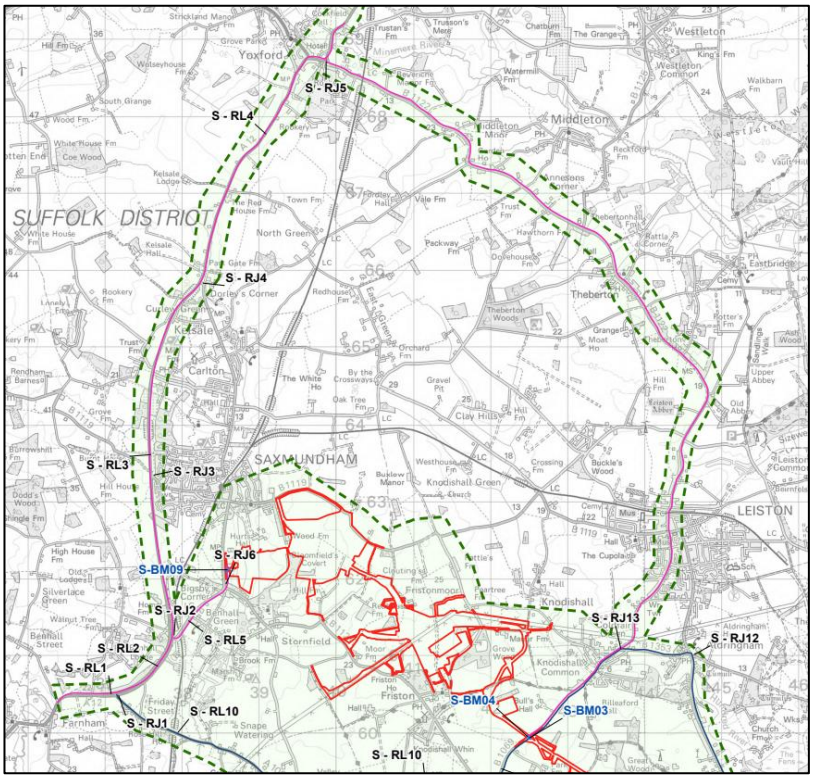


Figure 12: Extract from ES Part 2, Chapter 7 Traffic and Transport, figure 6.4.2.7.3 [APP-234] to explain SCC proposed alternative access to the Saxmundham converter station.



3.3.27. The applicant disagreed with SCC's suggestion that it had not adequately explored the comparative merits of the access options. The applicant stated that options for accesses to the Saxmundham converter station were identified and assessed as

detailed in ES Part 1, Chapter 3 Main Alternatives Considered [APP-044] with the five preferred options shown in figure 11 above. The applicant confirmed that the appraisal assessed the five options and concluded that the western access (orange line) remained the preferred option. The applicant stated that this route was preferred because it provided the shortest access off the A12 and minimised the amount of construction traffic on the rest of the local road network, whilst providing a dedicated purpose-built access into the site which would result in fewer complications with regards to maintenance activities during the operational stage of the proposed development. The applicant stated that whilst it accepted that other parties may prefer an alternate access route, it was the applicant's view that it had provided sufficient evidence that adequate consideration was given to the northern access route to the converter station site, advocated by SCC [REP5-125].

3.3.28. In relation to the upper part of the route suggested by SCC, which followed the pink line from Theberton to the A12 (shown in figure 12 above), the applicant noted that this was the cable abnormal indivisible load (AIL) route and an alternative route for the transformer and other AILs required for the converter station works. The applicant clarified that this route was not the preferred route for the converter station AILs and was included in the documents to demonstrate that deliveries to site were viable if the Benhall Rail Bridge solutions to either repair or overbridge were not able to be used [REP5-125].

3.3.29. SCC suggested that part of the route (which followed the pink line from Theberton to the A12 (shown in figure 12 above) could utilise the Sizewell link road (which is the same as the Sizewell relief road) when it became available for use and that this would supersede the need to use the B1122 [REP4-149]. The applicant stated that irrespective of the construction programme for the Sizewell relief road, it was unable to rely on the consent for a road which is being promoted as part of another Development Consent Order (DCO), as it would not have control over the delivery of that asset [REP5-125].

3.3.30. SCC maintained its view that the potential issues posed by its proposed route had practical, deliverable solutions which was not the case for the applicant's route given the uncertainties over the Benhall Rail Bridge and the unsuitability of alternative options presented for AIL deliveries [REP6-141]. However, SCC conceded that if the proposed development was to be consented on the basis of what was feasible within the order limits, that it would be necessary for access to the Saxmundham Converter Station to be achieved via the B1121 using the Benhall Rail Bridge rather than the alternative it advocated [REP7-367].

ExA's findings

3.3.31. The ExA is mindful that SCC's proposed alternative route, the majority of which is outside the order limits of this application, would require consideration of compulsory acquisition of land and rights. The ExA therefore considers that SCC's proposed alternative does not present a realistic prospect of delivering the same infrastructure capacity in the same timescale (in accordance with EN-1 paragraph 4.3.23), given that it is not included in this, or any other, application for development consent. In addition to this, the ExA has not been presented with any evidence to indicate that the proposed access route would give rise to unacceptable environmental effects. As a result, the ExA is satisfied that the applicant's consideration of the alternative accesses to the Saxmundham converter station complies with national policy.

UNDERGROUND RATHER THAN OVERHEAD CROSSING OF THE RIVER STOUR, KENT

3.3.32. Several IPs (including Bird Wise East Kent [RR-0584], Monkton Parish Council [RR-3796] and Thanet District Council's LIR [REP1-132]) were concerned about the use of OHLs for the River Stour crossing in Kent due to the potential risk they posed to birds. CPRE Kent ([RR-1070], [REP1-147] and [REP1-148]) considered that the construction of OHLs crossing the River Stour would create a hazardous barrier of OHLs and pylons in a location where many thousands of birds move between feeding, roosting and migratory stopover areas. CPRE Kent considered that the applicant had not produced any clear or independently verifiable evidence to demonstrate that undergrounding as an alternative was technically or environmentally unfeasible [REP1-148].

3.3.33. The applicant explained [REP2-034] that the OHL option avoided the need to site a permanent cable sealing end compound within Flood Zones 2 and 3 which had technical constraints associated with construction and would result in impact on non-designated heritage assets and a greater amount of permanent habitat loss. The applicant acknowledged the potential for bird collision risk from the OHL option and confirmed that this had, and would be, considered and reduced as much as possible through the design of the proposed development. The applicant also stated that it would include mitigation such as bird diverters where required. The applicant noted that the amount of OHL incorporated into the proposed development was a relatively small length of the connection provided, and that where OHLs were proposed, alternative options had been considered in ES part 1, chapter 3 Main Alternatives Considered [APP-044].

3.3.34. The ExA examined the applicant's proposed mitigation in relation to potential bird strikes as part of the examination of the ecology, biodiversity and ornithology topic (section 3.14 of this report).

ExA's findings

3.3.35. The NPS for Electricity Networks Infrastructure (2024) (EN-5) paragraph 2.9.20 states that it is the government's position that OHLs should be the strong starting presumption for electricity networks developments in general. EN-5 states that this presumption is only reversed if a proposed development would cross part of a nationally designated site, although states (paragraph 2.9.22) undergrounding would not be required in those situations where it is considered infeasible in engineering terms. Whilst the ExA is content that the location of the proposed crossing of the River Stour is not within a nationally designated site there is one (Sandwich Bay to Hacklinge Marshes SSSI) between the river and the proposed substation and convertor station. However, the ExA is content that the technical constraints identified by the applicant would also apply to the proposed route beyond the River Stour and crossing the SSSI and therefore OHLs would also be acceptable in this location.

3.3.36. EN-5 paragraph 2.11.1 states that where biodiversity impacts are identified, including those associated with bird collision with OHLs, the Secretary of State should be satisfied that all feasible options for mitigation have been considered and evaluated appropriately. Paragraph 2.11.3 states that in relation to landscape and visual effects the Secretary of State should be satisfied that all feasible options for mitigation, including the rationalisation, reconfiguration, or undergrounding of existing electrical networks infrastructure, have been considered and evaluated appropriately. The ExA is satisfied that the applicant has explained why undergrounding is not feasible in this location due to the technical and environmental constraints discussed above. The ExA considers that the applicant has considered and evaluated alternative options for the crossing of the River Stour and proposed mitigation to reduce the bird collision risk associated with use of OHLs.

CONCLUSIONS

3.3.37. In terms of the strategic question of alternatives, the ExA is satisfied that the alternative options for the proposed development have been rigorously tested by the applicant. The ExA concludes that the applicant has considered all reasonable alternatives to each element of the proposed development in the ES, and that the scheme represents the most appropriate location having regard to environmental and technical constraints of the proposed and other sites considered.

3.3.38. The ExA is satisfied that the assessment of strategic alternatives to the proposed development is in accordance with NPS EN-1, EN-3 and EN-5 (2024) as well as local policies and strategies and all other relevant legislation and there are no other important or relevant considerations.

3.3.39. Consequently, we are satisfied that at a strategic level, the applicant has adequately considered alternatives to the proposed development. The ExA therefore concludes that there are no matters relating to the consideration of alternatives which would weigh for or against the order being made. The specific tests relating to alternatives, when considering the habitats regulations assessment and land rights, are considered in sections 4 and 6 of this report.

3.4. BENTHIC ECOLOGY

APPLICATION SUMMARY

3.4.1. The applicant's assessment of the potential effects of the proposed development on benthic ecology is set out in the Environmental Statement (ES):

- Part 4 Marine Chapter 2 Benthic Ecology [REP7-099]
- Part 4 Marine Chapter 2 Benthic Ecology - Figures [REP1-067]

3.4.2. Marine cumulative effects, including benthic ecology, are included in the following ES chapters:

- Marine Chapter 10 Intra-Project Cumulative Effects [APP-083]
- Marine Chapter 11 Inter-Project Cumulative Effects [APP-084]

3.4.3. The assessment in [REP7-099] is supported by the following appendices and accompanying figures:

- Benthic Characterisation Report (Original Report) [APP-196]
- Geophysical Survey Interpretation (Additional Surveys) [APP-197]
- Intertidal Surveys 2023 [APP-198]
- Subtidal Survey Report (Additional Surveys) [AS-035]
- Marine Plan Policy Assessment [APP-298]
- Electric and Magnetic Field Compliance Report [APP-298]
- Cable Burial Risk Assessment [PDA-039]
- Outline Cable Specification and Installation Plan [REP7-159]
- Outline Offshore Invasive Non-Native Species Management Plan [REP5-078]

3.4.4. The additional surveys listed above [APP-197], [AS-006] were undertaken by the applicant following a route change prior to submission of the application, where the

order limits deviate from the Benthic Characterisation Report 2021 [APP-196] survey area. This was done to assess areas that were not included in the original survey.

3.4.5. The applicant also submitted a Marine Conservation Zone Assessment (MCZA) [REP7-087]. The applicant sets out that the purpose of this report is to inform the MCZA process in determining whether there is a likely significant risk to a Marine Conservation Zone (MCZ) during the phases of the proposed development. The Marine and Coastal Access Act 2009 (MCAA) with regard to MCZs sets out in section (s)125 the general duties for public authorities such as that an authority must exercise its functions in a way that it considers best furthers the conservation objectives stated for the MCZ; and where it is not possible to exercise its functions in a manner which furthers those objectives, exercise them in the manner which the authority considers least hinders the achievement of those objectives. The act also sets out the duties for public authorities in relation to certain decisions relating to MCZs under s126 of the MCAA.

3.4.6. Paragraph 2.1.4 [REP7-099] lists the other chapters in the ES and other documents which the benthic ecology chapter should be read in conjunction with.

3.4.7. The MCZA [REP7-087] lists the MCZs considered at screening and stage 1, the features and impact pathways, as well as the conservation objectives and which information would be needed to carry out the assessment. In line with Marine Management Organisation (MMO) guidelines, the MCZA also sets out the projects considered and assessed for cumulative effects, and confirmed in [REP7-173] that no other projects had been identified.

3.4.8. [REP7-009] includes the following impacts that have been scoped in for assessment in the ES:

- temporary physical disturbance to benthic habitats and species
- direct loss of subtidal benthic habitats and species due to placement of hard substrates on the seabed
- temporary increase in suspended sediment concentrations (SSC) and sediment deposition leading to increased turbidity and smothering effects and possible contaminant mobilisation
- changes to marine water quality during cable installation and cable lay from the use of drilling fluids
- introduction and spread of invasive non-native species (INNS) via the addition of cable protection during construction and maintenance
- underwater sound impacts on marine invertebrates
- effects of electromagnetic field (EMF) emissions

- disturbance to benthic habitats and species due to subsea cable thermal emissions

3.4.9. The applicant sets out [REP7-099] that following stakeholder consultation, changes to marine water quality from accidental leaks and spills from vessels, including loss of fuel oils, and the potential impact of the introduction of INNS via vessel hull or ballast water, were scoped out of the ES.

3.4.10. Section 2.6 [REP7-099] states that a 17km wide area around the centre line of the offshore order limits has been selected as the study area. The applicant explains that this was done to encompass all potential impact pathways for benthic receptors. However, the intertidal area off the Suffolk coast at the landfall has not been included in the study area as the applicant explains that the use of trenchless cable burial techniques would avoid the intertidal zone, with the entry/ exit point within the subtidal environment.

3.4.11. The baseline conditions are set out in section 2.7 of [REP7-099]. This includes the subtidal and intertidal surveys [APP-196] [APP-197] [APP-198] and [AS-006]. These were to characterise the benthic ecological conditions and map the extent of benthic habitats. A desk study was also conducted (paragraph 2.4.5 of [AS-020]) which included a number of sources, such as the European Union Nature Identification System for classifying benthic habitats; and the Marine Life Information Network for habitat and species sensitivity assessments (2023).

3.4.12. Two intertidal habitats of conservation importance were identified in the baseline study, which are the intertidal mudflats and coastal saltmarshes in the Kent intertidal area.

3.4.13. For the subtidal area the applicant identified the following habitats and species of conservation importance:

- sandbanks which are slightly covered by sea water all the time
- communities on soft circalittoral rock
- subtidal sands and gravels
- Ross-worm (Sabellaria spinulosa)
- Blue mussel beds

3.4.14. Sites designated for benthic ecology are listed in table 2.15 of [REP7-099], which include the following:

- Leiston-Aldeburgh Site of Special Scientific Interest (SSSI)
- Outer Thames Estuary Special Protected Area (SPA)
- Southern North Sea Special Area of Conservation (SAC)

- Orford Inshore Marine Conservation Zone (MCZ)
- Margate and Long Sands SAC
- Kentish Knock East MCZ
- Thanet Coast MCZ
- Thanet Coast SAC
- Thanet Coast SSSI
- Sandwich Bay SAC
- Thanet Coast and Sandwich Bay SPA
- Sandwich Bay to Hacklinge Marshes SSSI
- Goodwin Sands MCZ

3.4.15. For matters relating to European sites and habitat regulations assessment (HRA), see Appendix B HRA of this report.

3.4.16. The baseline study also included a chemical analysis, an assessment of fish supporting habitats, and also a study of INNS (of which four were recorded, paragraph 2.7.50 [REP7-099]).

3.4.17. The applicant states [APP-084] that due to other projects overlapping or being in close proximity to the offshore order limits there is potential for direct and indirect cumulative impacts on benthic ecology receptors. This is considered in the assessment.

3.4.18. The assessment criteria are set out, in terms of assessing the sensitivity of benthic receptors, the magnitude of benthic effects, and the significance of benthic effects, in paragraphs 2.4.26 – 2.4.32 [REP7-099]. More detail on the approach to this assessment is set out in Part 1 Introduction Chapter 5 EIA Approach and Methodology [APP-046].

3.4.19. In terms of assumptions and limitations, the applicant explains in [REP7-099] that from sampling it can be difficult to interpolate data collected from discrete sample locations to cover the whole study area and to define the precise extent of each biotope. The applicant also explains that the classification of the community data into biotopes is not always straightforward as some communities do not readily fit the available descriptions in the biotope classification system.

3.4.20. The applicant explains in paragraph 2.5.3 [REP7-099] that the flexibility allowed in the proposed development has been taken into account, as consideration has been given to the potential for effects to be of greater or different significance should any of the permanent or temporary infrastructure elements be moved within the limits of deviation (LoD) or order limits. The applicant states that construction could commence in any year up to five years from any granting of the DCO which is

assumed to be 2026. Therefore, consideration has been given to whether the effects reported would be any different if works were to commence in any year up to year five.

3.4.21. Section 2.8 of [REP7-099] sets out the proposed development design and embedded mitigation. Embedded mitigation includes sensitive routeing and siting of infrastructure and temporary works, along with commitments made within the Register of Environmental Actions and Commitments (REAC) [REP7-359]. Relevant measures include the need for a biosecurity plan and for the target burial depth of the proposed cables to be between 1 metre (m) and 2.5m (although this is subject to local geology and the possible presence of obstructions) [REP7-099].

3.4.22. Following an assessment of the potential benthic ecology impacts and likely significant effects in section 2.9 of [REP7-099] the applicant concludes that there would be no impact with a residual effect magnitude of more than small with no more than minor adverse (not significant) significance. The summary of effects is set out in table 2.19 of [REP7-099]. Therefore, the applicant proposes no additional mitigation measures or monitoring, because there were no likely significant effects to benthic ecology identified in the ES. Furthermore, under section 2.12 [REP7-099] the applicant states that predicted disturbance from the proposed development is short term and local and is therefore not anticipated to be sufficient to influence benthic ecology receptors outside UK waters and subsequently cause transboundary effects.

3.4.23. For cumulative impacts with other projects, the applicant concludes in [APP-084] that effects are likely to be highly localised and short-term and for each potential impact the assessment considers these to be not significant.

3.4.24. For matters relating to intra-project cumulative effects for benthic ecology with other environmental effects, see section 3.24 of this report.

EXAMINATION ISSUES

3.4.25. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- robustness of the benthic assessment and the mitigation proposed relating to cable works
- potential impacts on Goodwin Sands MCZ
- impact to the intertidal area (including mudflats) benthic ecology at the Kent landfall

- the need for monitoring and adaptive management or remediation

ROBUSTNESS OF THE BENTHIC ASSESSMENT AND THE MITIGATION PROPOSED RELATING TO CABLE WORKS

3.4.26. Natural England (NE) [RR-3920] stated that the submitted ES needed to be updated to consider all potential pathways of effect on intertidal and subtidal benthic habitats. Until this was completed, NE said it would be unable to agree with the applicant's conclusions relating to various MCZs and SACs.

3.4.27. In response, the applicant updated all habitats and pathways identified as missing or incomplete by NE, including updates to peat and clay exposures, subtidal chalk, reefs and sea-caves as per the Thanet Coast SAC, updates to Sabelleria spinulosa and mussel bed sensitivity and their distribution in the corridor near Goodwin Sands MCZ [REP7-258].

3.4.28. NE raised concerns with regard to the assessment of offshore chalk and clay habitats [REP7-273]. NE stated that areas of sub-cropping chalk and clay, covered by a thin veneer of sediment, which have the potential to be impacted by construction works (temporary disturbance) or placement of infrastructure (permanent habitat loss) should be considered the same as outcropping subtidal chalk and clay exposures. NE advised that measures to avoid impacts or if not possible, to reduce impacts as far as possible, should apply to shallow sub-cropping chalk and clay when covered by a sediment veneer as to outcropping chalk and clay.

3.4.29. In the updated ES chapter [REP7-099] the applicant stated that chalk habitat was the least common broadscale habitat seen throughout the offshore scheme area but was identified in higher concentrations in nearshore areas close to both landfalls, where the area of surficial chalk mapped was estimated to be less than 250 square metres. The applicant went on to explain that the habitat type communities on circalittoral rock, includes clay exposures and soft chalk, was identified in very small patches throughout the offshore areas. The applicant from its data estimated the total area of outcropping clay within these areas of the offshore scheme cable corridor, to be 6.125 square kilometres, with there being an approximate loss of 6% of outcropping clay as a result of the proposed cable works. The applicant concluded that impacts to clay and chalk would represent a small magnitude of impact.

3.4.30. NE [REP7-273] noted that no sensitivity information was provided for physical disturbance impacts to subtidal chalk. The applicant [REP7-099] confirmed that it had considered that peat and clay exposures have high sensitivity to physical disturbance, as they do not recover from physical impacts and are therefore irreplaceable habitats. The applicant also stated that soft chalk habitats are also

recognised as irreplaceable habitats and have high sensitivity to any type of physical disturbance. As such, the applicant considered that the high sensitivity of chalk has been factored into the applicant's assessments of benthic impacts in its ES.

3.4.31. In terms of the proposed potential use of Benthic Mitigation Plans (BMP), NE [REP7-273] welcomed this commitment (Register of Environmental Actions and Commitments (REAC) commitment BE05), for agreement with the Marine Management Organisation (MMO) in consultation with the relevant statutory nature conservation body (SNCB), if benthic habitats of principal importance (Natural Environment and Rural Communities Act 2006 (NERC Act) Section 41) were identified during pre-construction surveys. The final submitted draft Development Consent Order (dDCO) [REP7-002] included under condition 15 of Schedule 16 (the Deemed Marine Licence (DML)) that: BMPs would be necessary where benthic habitats of principal importance were identified during pre-construction surveys, and additional mitigation was required to avoid or reduce impacts impact on these habitats.

ExA's findings

3.4.32. The National Policy Statement (NPS) EN-3 (2024) states that offshore wind construction, maintenance and decommissioning activities can cause loss and temporary disturbance of subtidal habitat and benthic ecology (paragraph 2.8.122).

3.4.33. Furthermore, paragraph 2.8.234 of NPS EN-3 states that mitigation measures which applicants are expected to have considered include surveying and micrositing of the turbines and re-routing of the export and inter-array cables to avoid adverse effects on sensitive/ protected habitats, biogenic reefs or protected species. Whilst what is proposed is not an offshore windfarm, measures such as micrositing and routing are considered by the ExA to be applicable to this proposal. This is in accordance with paragraph 1.6.3 of NPS EN-3, which states that this NPS will apply to offshore transmission infrastructure projects in English waters.

3.4.34. From the various updates to the benthic chapter of the ES [REP7-099] including at the final deadline, the ExA is satisfied that the applicant has considered all the potential pathways of effect on intertidal and subtidal benthic habitats. Furthermore, the applicant provided a detailed response to all of the benthic comments from NE through the applicant's Comments on Natural England's Risk Issue Log [REP7-258]. With this information, together with all else submitted through the course of examination and the applicant's responses to NE's submissions, the ExA concludes that there has been a robust assessment of potential benthic issues. Furthermore, the updates to sensitivity ratings for chalk

and clay (to a high sensitivity due to the irreplaceable nature of these habitats) is considered reasonable.

3.4.35. The ExA acknowledge that there would be some loss of subtidal chalk and clay as a result of the cable installation. The small-scale installation footprint would mean a small magnitude of loss. It is noted by the ExA that paragraph 5.4.53 of NPS EN-1 states that the Secretary of State should not grant development consent for any development that would result in the loss or deterioration of any irreplaceable habitats, unless there are wholly exceptional reasons and a suitable compensation strategy exists. However, subtidal or intertidal chalk or clay is not included in the definitions within the National Planning Policy Framework (NPPF) of irreplaceable habitats. As such, the irreplaceable habitats being referred to by NE are not the same as irreplaceable habitats as set out in national policy and so this NPS test does not apply.

3.4.36. There is limited mention of habitats covered by a thin veneer of sediments within the ES [REP7-099], with this matter being raised by NE late in the examination [REP7-273]. However, REAC commitment BE06 [REP7-359] has committed to minimise potential impacts on habitats of principal importance (qualifying as Annex 1 habitats under the Conservation of Species and Habitats Regulations 2017 (Habitats Regulations), NERC Act section 41 habitats and species) during all phases of cable routing and design, including via micrositing where possible and consideration of the use, type and location of cable protection. Furthermore, commitment BE07 of the REAC [REP7-359] states that it would avoid relocating any sediment to within 50m of any Annex II Sabellaria spinulosa reef.

3.4.37. As such, there is a strong commitment by the applicant to minimise harm to benthic features qualifying as Habitats Regulations Annex I habitats and NERC Act Section 41 habitats and species. The ExA considers that this should also include habitats with a thin veneer of sediment, as highlighted by NE.

3.4.38. It should be noted that much of this information from the applicant was submitted on the final deadline and so there was no opportunity for NE to respond. The Secretary of State may wish to consult with NE on the deadline 7 applicant submissions that relate to benthic ecology, such as the revised ES benthic ecology chapter [REP7-099] and the applicant's Comments on Natural England's Risk Issue Log [REP7-258].

3.4.39. The ExA welcomes the commitment to a BMP. However, the ExA considers that such a commitment should be included as a separate condition within schedule 16 (the Deemed Marine Licence) of the recommended DCO (rDCO). This is because the ExA considers that whether a BMP is necessary should be a judgement agreed by the

MMO, based on pre-construction survey information and the final proposed cable route. Also, the ExA considers that the BMP should be submitted to and approved in writing by the MMO prior to offshore works commencing and should include a timetable for implementation of the mitigation and details of any necessary post construction monitoring. As such, the ExA agrees that BMPs are a suitable approach and whilst it could be that none are necessary, this should be a decision with the agreement of the MMO, which is not reflected in condition 15 of the applicant's dDCO DML [REP7-002].

3.4.40. Overall, with a standalone condition within schedule 16 of the rDCO and the other commitments secured that are acknowledged above, the ExA is satisfied that the proposed cable works in the offshore environment would avoid and if necessary minimise adverse effects to important and protected habitats and species. This would be in accordance with NPS EN-3.

POTENTIAL IMPACTS ON MARINE CONSERVATION ZONES

3.4.41. The extent of the order limits for the cable corridor extends immediately adjacent to the edge of the designated Goodwin Sands MCZ for approximately 3.2 kilometres. The applicant explains [REP7-099] that this MCZ is designated for the protection of subtidal coarse sediment, subtidal sand, blue mussel beds, moderate energy circalittoral rock and Sabellaria spinulosa reefs.

3.4.42. In NE's response [REP7-273] to the updated Marine Conservation Zone Assessment [REP6-017] it stated that insufficient evidence has been provided to support the negligible indirect impact conclusions for Goodwin Sands MCZ. NE states that change to marine process could have implications for benthic features. This was an issue first raised by NE at RR stage [RR-3920] where NE stated that whilst cable protection would not be required directly within Goodwin Sands MCZ, it was concerned that the applicant had failed to consider the potential for benthic ecological halo effects which could be expected following the placement of structures on the seabed. NE explained that with localised changes to biological communities colonising hard structures (such as cable protection), combined with resultant changes to physical processes, the subsequent biological structure and function of the benthos could be expected to be altered over an area multiple times that of the original infrastructure footprint and may therefore extend into and overlap with features and/ or impact supporting processes within Goodwin Sands MCZ [RR-3920].

3.4.43. NE advised [REP7-273] that it believes that indirect effects on features of the MCZ could be resolved through a commitment to not place cable protection along the section of the route running parallel to the MCZ (except for at cable crossings). In

the final NE PADSS [REP7-364] NE10 and Appendix D7 [REP7-272] NE also advised that a more detailed assessment of the worst case scenario for cable protection could resolve its concerns.

3.4.44. In response, in the updated ES [REP7-099] the applicant set out that this MCZ is a natural morphologically dynamic area and has proven resilient to and recovered from dredging activities carried out in 1998 with it being recognised as a closed sediment system. This means that the sandbanks are a largely self-contained and dynamic entity where little sand enters or leaves. The applicant went on to state that the protrusion of cable protection (a maximum of 1.5m above the sea floor for cable crossings and 1m for any remedial cable protection), would not cause any significant interference with flow dynamics or sediment transport patterns on a scale that would lead to a change in morphology of the Goodwin Sands MCZ.

3.4.45. In regard to what NE termed the halo effect, the applicant responded [REP2-024] that there was very little evidence of cable protection resulting in any halo effect from cable protection structures. Furthermore, the applicant stated that regardless of the type of cable protection, these structures do not sit very high above the seabed. The applicant explained that whilst such structures may be colonised by epifauna, they do not sit very high above the seabed and there is not, therefore, the vertical depth gradient seen on windfarm turbines that would support the development of such diverse filter feeding communities. The applicant also noted the limited surface area of cable protection available for colonisation by fauna.

3.4.46. The applicant does not anticipate the need for continuous external cable protection adjacent to the Goodwin Sands MCZ, on the basis of confidence in achieving the required depth of cable lowering [REP7-099]. However, the applicant in the REAC [REP7-359] commits that if external cable protection is required locally, to limiting its use to no more than 500m in total, whether continuous or cumulative, within sections of the offshore cable corridor adjacent to the Goodwin Sands MCZ (reference MPE13). Also, as part of REAC commitment MPE13, the applicant states that where reasonably practicable, and in line with the applicant's commitment to sensitive routing, the offshore cable corridor would be micro-routed to maintain a separation distance of at least 100m from the boundary of the Goodwin Sands MCZ. This commitment is also included in the offshore CEMP [REP7-127].

3.4.47. Whilst there remained concerns on this matter from NE at the close of examination, MMO [REP7-015] recorded agreement on there being no impacts to Goodwin Sands MCZ based on the cable corridor being routed outside of the site designation.

3.4.48. NE [REP5-222] also raised sandwave levelling as a concern for Goodwin Sands MCZ, as it could result in indirect effects on benthic receptors. It [REP7-272] advised

monitoring evidence of areas affected by pre-sweeping/ sand wave lowering to demonstrate recovery should be provided. The applicant [REP7-173] responded that it would not be feasible or necessary to monitor the negligible scale of effect predicted due to highly dynamic, rapidly moving sandbanks.

3.4.49. Finally, MMO [REP7-015] advised that it agreed there would be no impact on Goodwin Sands MCZ and did not dispute the applicant's conclusions on the other MCZs assessed.

3.4.50. Further to Goodwin Sands MCZ other MCZs were considered. Firstly, the applicant updated the MCZA [REP7-087] in response to [PD-025] to confirm the condition of Thanet Coast and Dover to Deal MCZs, so that the report set out details for all assessed MCZs.

3.4.51. NE [REP7-277] agreed with the applicant's decision to screen out Foreland MCZ, the Swale Estuary MCZ and Blackwater, Crouch, Roach and Colne Estuary MCZ based on these sites being beyond the 17km precautionary buffer for indirect impacts. NE also agreed with the applicant's stage 1 conclusions that the conservation objectives of Dover to Deal and Orford Inshore MCZ would not be hindered due to these sites being beyond the 17km precautionary buffer for indirect impacts. It advised that the conservation objectives of Medway Estuary MCZ would not be hindered.

3.4.52. NE [REP5-22] raised concerns about the conservation objectives of Thanet Coast and Kentish Knock East MCZs being hindered due to the placement of cable protection, but in response to [PD-025] confirmed that it was satisfied this would not occur.

ExA's findings

3.4.53. NPS EN-1 (paragraph 5.6.13) states that the applicant should be particularly careful to identify any effects of physical changes on the integrity and special features of Marine Protected Areas (MPA), which include MCZs. Paragraph 5.4.51 states that the Secretary of State is bound by the duties on public authorities in relation to MCZs imposed by sections 125 and 126 of the Marine and Coastal Access Act (MCAA) 2009. For example, this includes that a public authority must exercise its functions in the manner which the authority considers best furthers the conservation objectives stated for the MCZ; but where it is not possible to exercise its functions in a manner which furthers those objectives, exercise them in the manner which the authority considers least hinders the achievement of those objectives.

3.4.54. Paragraph 2.8.310 of NPS EN-3 states that the Secretary of State should consider any negative impacts from external cable protection on benthic habitats, and a

balance between protection of various receptors must be made, with all mitigation and alternatives reviewed.

3.4.55. NPS EN-3 (paragraph 2.8.304) states that the designation of an area as a protected site (including MCZs) does not necessarily restrict the construction or operation of offshore wind farms or offshore transmission in, near, or through that area. However, it may make consent for such construction more difficult to secure.

3.4.56. In this case, the proposed cable route would be outside of Goodwin Sands MCZ, though the order limits are immediately adjacent to it. The ExA is satisfied from the applicant's evidence that the MCZ is generally resilient with a largely closed sediment system. In the ExA's view, based on the evidence before it, the proposed cable protection would not present a substantial structure with only a small height above seabed level, thereby having minimal impact to natural seabed processes. This in turn means it would be unlikely to have any significant associated impacts on benthic ecology in the MCZ.

3.4.57. The ExA understands the potential for halo effects, but in this case agrees with the applicant that the limited height and surface area of any potential cable protection should be sufficient to avoid such impacts. This is based on the evidence submitted, though it is acknowledged that current levels of evidence relating to halo effects from cable protection is very limited.

3.4.58. The ExA also welcomes the commitments mentioned above, such as MPE13, which should further reduce the potential for benthic adverse impacts within the MCZ, especially that the offshore cable corridor would be micro-routed to maintain a separation distance of at least 100m from the boundary of the Goodwin Sands MCZ where practicable. This should allow for a sufficient separation distance between the final cable route and the MCZ boundary to reduce the potential for adverse impacts.

3.4.59. With regard to the monitoring of sandwave levelling near Goodwin Sands MCZ, as suggested by NE, the ExA consider that based on the evidence before it there would not be any clear benefit to this monitoring due to the dynamic nature of these sandbanks.

3.4.60. Considering all the MCZs, the ExA is satisfied based on applicant's assessment and advice of NE and MMO that the correct MCZs and impact pathways have been identified in the MCZA, and that there would be no hindrance of the conservation objectives of any MCZ including:

- Dover to Deal MCZ

- Orford Inshore MCZ
- Thanet Coast MCZ
- Kentish Knock East MCZ
- Goodwin Sands MCZ

3.4.61. Overall, on this matter, the ExA considers that there would be no significant residual effect on the MCZ which could hinder the conservation objectives of this designated site. As such, the proposal accords with NPS EN-1 and EN-3 on this issue, along with the Marine and Coastal Access Act 2009.

IMPACT TO INTERTIDAL AREA (INCLUDING MUDFLATS) BENTHIC ECOLOGY AT THE KENT LANDFALL

3.4.62. The HRA (Appendix B to this report) addresses several of the impact pathways for the intertidal area to the extent that they relate to qualifying features of European sites considered under the Habitat Regulations.

3.4.63. Concerns remained through the examination phase relating to the potential impact of the proposed works in the Kent intertidal area on habitats from different IPs. For example, Thanet District Council [REP7-303] opposed the use of the mudflats and the hoverport with the potential impact on protected species and qualifying features of the designated sites. Furthermore, Kent Wildlife Trust [REP7-202] stated that the intertidal mudflats, a priority habitat and key foraging resource, would be directly affected by open-cut trenching and the construction of a cofferdam within the habitat itself.

3.4.64. Within the ES [REP7-099] the applicant explains that the Kent landfall would be located at Pegwell Bay. The applicant noted that as with the Suffolk landfall, a trenchless solution, such as horizontal direct drilling (HDD), would be employed. The entry/ exit point would be located within the Kent intertidal zone. The ES also identified a saltmarsh and mudflats in this intertidal zone. The applicant describes the saltmarsh at Pegwell Bay as representative of a coastal saltmarsh, a habitat of principal importance under Section 41 of the NERC Act. The mudflats are also a habitat of principal importance under Section 41 of the NERC Act, with the applicant stating that mudflats are highly productive areas which, together with other intertidal habitats, can support large numbers of predatory birds and fish.

3.4.65. The applicant identified the Kent landfall as located within the Sandwich Bay SAC and the Sandwich Bay to Hacklinge Marshes SSSI, which are designated for the protection of a range of habitats, such as dunes and coastal grasslands above the marine environment, and saltmarsh and mudflats in the intertidal marine environment. There is also the designated Thanet Coast SSSI, which the applicant

describes as being located to the north of the landfall site, which is designated for the protection of foreshore habitats, such as sand and mudflats and areas of saltmarsh and coastal lagoons.

3.4.66. The applicant's submitted Pegwell Bay Construction Method Technical Note [REP7-146] explained that the marine cables would extend from the mudflats in Pegwell Bay to the onshore transition joint bay, passing beneath the Pegwell Bay saltmarsh and the shallow lagoon.

3.4.67. Save Minster Marshes (SMM) [REP6-148] stated that species such as *Macoma balthica* and *Laniche conchilega* are highly intolerant to substratum loss, which would be a direct result of the of the proposed dredging and rock matting works. SMM stated that it was unclear how the applicant has been able to square this apparent inconsistency between the high benthic intolerance of these species on the one hand, and the conclusion that the mudflat habitats would be able to tolerate any temporary disturbance on the other.

3.4.68. SMM [REP6-148] also questioned how it was possible that protective mats on the intertidal area between the hoverport and the exit pits would be effective when the mudflats contain soft-bodied invertebrate species which are a principal food source for wading birds, and where 20 tonne vehicles would be driving over them. SMM argued that the protective mats would not address the crushing of benthic fauna beneath them. NE [REP7-272] advised that the selected protective matting should be suitable for the receiving environment and conditions and that scheduling works during drier conditions may also help to reduce impacts on the intertidal mud/ sandflats.

3.4.69. The applicant responded to these matters [REP7-257] and set out the duration of the Pegwell Bay installation activities, and hence disturbance to the mudflats, would be periodic and short-term. Furthermore, where small areas of sediment were excavated, such as for the cofferdam and the cable trenching and burial, these would be backfilled using excavators. The applicant highlighted that the benthic communities would not exhibit any long-term effects from such temporary disturbance.

3.4.70. The applicant [REP7-257] went on to explain that the other activities at Pegwell Bay, that have the potential to cause disturbance to benthic habitats, involve the movement of plant and vehicles across the mudflats within the order limits, during the different stages of the construction period. However, the applicant explained that all plant and vehicles operating on the mudflats in Pegwell Bay would be low ground pressure vehicles, which would have a typical ground pressure lower than the pressure exerted by the average human while standing. The applicant also

stated that the possible placement of protective mats would also minimise potential disturbance to the mudflat, from transiting plant and vehicles.

3.4.71. NE [REP7-273] noted that the revised ES [REP7-099] stated that any indentations upon the mudflat surfaces would be undetectable after a single, or at most, a few tidal cycles. NE welcomed this but advised that monitoring would be required to validate this. NE stated that this should include pre-construction and post-construction monitoring of intertidal mudflats to validate predictions for the recovery of mudflat morphology and infaunal communities within the ES and to inform if further monitoring or remedial works are required.

3.4.72. The applicant [REP7-099] confirmed that the use of a trenchless technique for the installation of the cable in the transition between the onshore and offshore schemes would avoid the saltmarsh habitat entirely. The applicant also committed through the REAC [REP7-359] that there would be no vehicular or pedestrian access across the saltmarsh (commitment B67) with the trenchless crossing exit pits in Pegwell Bay at least 105m seaward from the edge of the saltmarsh (commitment B69).

3.4.73. For the mudflats, the updated ES [REP7-099] stated that the intertidal mudflats have a low sensitivity to temporary physical disturbance. Furthermore, that due to the temporary and limited footprint compared to the wider available area of this habitat, and the understood and evidenced ability for infaunal species associated with intertidal mudflat to exhibit rapid recovery to disturbance, the physical disturbance and/ or temporary loss of this habitat was predicted to be of small magnitude. The applicant also committed through the REAC [REP7-359] to engage with NE, Kent Wildlife Trust and the National Trust on construction access routes across the mudflats and the use of low ground pressure vehicles (commitment reference B67). The applicant concluded that there would be a minor effect on benthic receptors through temporary disturbance, which would not be significant.

3.4.74. NE [REP7-277] also raised concerns about the use of jack-up barges (JUB)s. NE was not supportive of their use within benthic MPAs or intertidal supporting habitats for SPAs due to the resulting leg depressions from jack-up legs and changes to intertidal and benthic communities [REP6-245]. The HRA (Appendix B of this report) covers JUB matters relating to the Thanet Coast and Sandwich Bay SPA and Ramsar site.

3.4.75. The applicant responded [REP7-257] that the JUB that could be used at Pegwell Bay would be significantly smaller than those used in the offshore environment, such as the examples provided by NE. Therefore, the applicant stated that the size of the disturbance at Pegwell Bay would be, from the JUB legs, very limited in extent and number. The applicant explained that the JUB would be in place for a maximum of

120 days and that any effects would be short-term as any imprints or depressions left when the JUB was removed could easily be backfilled by the excavators on site. The applicant concluded that any impact of a JUB in relation to mudflat disturbance at the HDD exit location would be very small in scale and would be temporary.

3.4.76. NE, in its Risk and Issue Log [REP7-364] also raised some concern with potential benthic impacts to the Sandwich Bay and Hacklinge Marshes SSSI. NE stated that storage options for material from landfall exit pits should be explored to minimise impacts within the SSSI. Furthermore, NE stated that further information was required to inform a review of the impact assessments, but until then there remained reasonable scientific doubt of the nature of impacts to the intertidal features of the SSSI.

3.4.77. The applicant responded [REP7-258] regarding the storage options for materials confirming 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. The volume of material would be quantified post-consent, as part of the detailed engineering of the HDD installation.

3.4.78. The applicant also highlighted the sediment modelling undertaken for Pegwell Bay which indicates that the temporary presence of the cofferdam is not predicted to have a significant effect on sediment movement and hence no impact on benthic habitats. Furthermore, the modelling indicated that increases in SSC and sediment deposition at the landfall locations are highly localised.

ExA's findings

3.4.79. In NPS EN-1 (2024) it sets out at paragraph 5.4.7 that any SSSIs are also designated as sites of international importance and will be protected accordingly. Those that are not, or those features of SSSIs not covered by an international designation, should be given a high degree of protection.

3.4.80. In this case the ExA is satisfied that the applicant has considered the potential impacts to the intertidal benthic features of the Sandwich Bay and Hacklinge Marshes SSSI and that from a benthic ecology perspective it would be protected accordingly. However, the responses from the applicant on this matter were submitted at the final deadline and NE has not had the opportunity to consider these comments.

3.4.81. NPS EN-3 states that applicants should have regard to the specific ecological and biodiversity considerations that relate to proposed offshore renewable energy infrastructure developments including intertidal and subtidal seabed habitats and

species (2.8.98). NPS EN-3 also states that the Secretary of State should be satisfied that cable installation and decommissioning has been designed sensitively, considering intertidal/ coastal habitats.

3.4.82. NPS EN-3 (2024) also sets out that effects on intertidal/ coastal habitat cannot be avoided entirely (2.8.226) but that landfall and cable installation and decommissioning methods should be designed appropriately to minimise effects on intertidal/ coastal habitats, taking into account other constraints (2.8.227). The NPS advises that where applicable, use of HDD techniques should be considered as a method to avoid impacts on sensitive habitats and species (2.8.228).

3.4.83. The applicant is proposing trenchless methods for the landfall connection at Kent, such as HDD, which the ExA is satisfied would avoid any significant effect on saltmarsh benthic ecology at Pegwell Bay.

3.4.84. The ExA accepts that there would be some impact to the Pegwell Bay mudflats, such as the use of a cofferdam and the construction access route from the hoverport to the HDD intertidal exit/ entry location. However, the applicant has provided evidence that the benthic communities would not exhibit any long-term effects from such temporary disturbance. Furthermore, the use of protective mats and low ground pressure vehicles would help minimise any impact.

3.4.85. With regard to JUB, the assessment considers that a small vessel would be used which would have less of an impact from its legs on the seabed than some of the larger vessels used on other infrastructure projects. The ExA considers that this would result in small scale and temporary impact to the mudflats in the intertidal area.

3.4.86. The ExA is satisfied that with the commitments made by the applicant, the adverse effects on the benthic ecology of the mudflats and the intertidal areas at Pegwell Bay from the construction phase would be appropriately minimised. The ExA notes that the outline In Principle Monitoring Plan (oIPMP) submitted at the final deadline commits to benthic and intertidal ecology monitoring, though there is no specific mention of monitoring the recoverability of the mudflats. The monitoring of mudflats recovery should be detailed in the monitoring plan, which is to be agreed by the MMO under condition 4(1)(l) of the dDML, (see the section below).

3.4.87. With the commitments and mitigation secured, the ExA consider that the proposed cable installation has been designed sensitively for this intertidal area to avoid significant benthic ecology impacts and that overall the proposals would accord with NPS EN-1 and EN-3 on this matter.

THE NEED FOR MONITORING AND ADAPTIVE MANAGEMENT OR REMEDIATION

3.4.88. NE noted [RR-3920] that there did not appear to be an offshore oIPMP accompanying the application. It then stated that an oIPMP should be developed to monitor the impacts (temporal and spatial changes) on residual concerns in relation to protected habitats and those of conservation importance.

3.4.89. In response to the ExA's written question 1GEN67 [PD-017], which questioned the lack of dDCO DML monitoring conditions, the applicant responded [REP3-069] noting that the ES had concluded that no likely significant impacts post additional mitigation were anticipated for the offshore environment. The applicant confirmed that pre-commencement surveys would be undertaken to inform routing for the marine cable installation and burial.

3.4.90. NE [REP5-199] responded by stating that an oIPMP was necessary. Furthermore, NE stated that if NERC Act section 41 habitats and species are found, then post installation surveys would be required to demonstrate either avoidance or that habitats have recovered where impacts where unavoidable. NE noted that if impacts are found to be not as predicted in the ES, then there should be a requirement on the applicant to undertake further monitoring and/ or remediation.

3.4.91. NE [REP7-271] also proposed that the wording of condition 15(4)(1)(iii) of the dDCO DML [REP7-002] be amended to make it clear that a micro siting plan, to be informed by pre-construction baseline surveys, is needed to micro site around features of archaeological or ecological importance.

3.4.92. The MMO [REP5-175] considered that both the proposed Benthic Mitigation Plans and oIPMP must be secured via licence conditions on the DCO DML as the MMO cannot exercise its compliance and enforcement duties set out under the Marine and Coastal Access Act 2009 for measures outlined in the REAC [REP7-359].

3.4.93. In response the applicant submitted an oIPMP [REP7-167] and secured this under dDCO DML condition 4 [REP7-002]. However, NE [REP7-273] stated that whilst it welcomed the outline oIPMP and the steps the applicant has taken in providing it, it was limited in scope and further work was required in order to ensure it is fit for purpose.

3.4.94. The ExA's Schedule of Changes to draft Development Consent Order [PD-024] included proposed new DCO DML conditions for pre-construction surveys, benthic mitigation plans to be based on the pre-construction surveys, and a condition requiring post-construction surveys and monitoring, all of which would need to be agreed in advance with the MMO. Furthermore, the post-construction survey and monitoring condition also required adaptive management or mitigation if these

surveys identified unanticipated impacts or impacts significantly beyond those predicted.

3.4.95. The MMO welcomed the ExA's suggested dDCO DML conditions on pre-construction surveys, the benthic mitigation plans, and the post construction surveys as appropriate and is satisfied [REP7-203]. NE also stated that it fully supported the inclusion of the monitoring and benthic mitigation plan conditions [REP7-271].

3.4.96. In response, the applicant [REP7-085] stated that it agreed with the ExA that it was appropriate to include a condition dealing with pre-condition surveys for the offshore works. However, it proposed changes on the basis that the as-built positioning of the cable route within the order limits may be further determined by a number of real-time engineering and environmental factors, with intricate micro routing activities made during cable laying activities. As such, the applicant proposed a new condition 15 in the dDCO DML [REP7-002] dealing with pre and post condition surveys, a benthic mitigation plan and adaptive management plan. The applicant considered that the proposed approach dealt with the ExA's concerns.

ExA's findings

3.4.97. NPS EN-3 states that owing to the complex nature of offshore wind development, and the difficulty in establishing the evidence base for marine environmental recovery, the Secretary of State should, where appropriate, request the applicant undertake environmental monitoring prior to and during construction and operation (paragraph 2.8.295).

3.4.98. The ExA recognises that the applicant has submitted an oIPMP and also the proposed new condition 15 in the dDCO DML [REP7-002] dealing with pre and post condition surveys. Whilst this is welcomed, the applicant's proposed condition 15 does not require the agreement of the MMO of what is proposed in terms of the pre-construction surveys or where benthic mitigation plans are necessary based on these surveys. The ExA considers that a more appropriate process would be for pre-construction proposals to be agreed by the MMO, with the final route then approved by the MMO based on the pre-construction results and whether a benthic mitigation plan(s) is necessary. However, if unanticipated effects arose or were worse than predicted in the ES following the post-installation surveys and monitoring, remediation and/ or mitigation would need to be submitted for agreement by the MMO. This is reflected in the schedule 16 conditions 4(1)(l), 15, 16 and 17 in the rDCO.

3.4.99. The ExA also agrees to the wording proposed by NE for condition 4(1)(iii) of the DML so that a micro-siting plan is required, if any micro-siting is necessary with the cable installation. This wording has been incorporated into Schedule 16 of the rDCO.

3.4.100. Based on the monitoring conditions within the rDCO the ExA finds that there would be appropriate control for MMO for the offshore cable installation process with pre and post construction monitoring secured to ensure that adverse impacts to offshore ecology, including benthic, would be avoided or at least minimised to an acceptable level. The proposed development would accord with NPS EN-3 on this matter with these rDCO DML conditions.

3.4.101. The applicant, NE and MMO will not have seen the final versions of the monitoring and benthic mitigation plan conditions in the dDCO DML as this was formed after the close of examination, though similar worded conditions were included in the ExA's Schedule of Changes to draft Development Consent Order [PD-024].

CONCLUSIONS

3.4.102. On the above matters the ExA is satisfied that there would be no likely significant effects on benthic ecology. The ExA is satisfied that the proposed development on this matter accords with NPS EN-1, EN-3 and EN-5 as well as local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement, together with all other relevant legislation, and there are no other important or relevant considerations.

3.4.103. On the basis of the mitigation commitments and monitoring, including possible remediation action, secured through conditions in Schedule 16 of the rDCO, these impacts would be small and not significant. However, it remains unlikely that all adverse impacts could be avoided. As such, the ExA considers that matters relating to benthic ecology attracts a little weight against the making of the order.

3.5. MARINE MAMMALS

APPLICATION SUMMARY

3.5.1. The applicant’s assessment of the potential effects of the project on marine mammals is set out in the Environmental Statement (ES) Part 4, marine Chapter 4 Marine Mammals [REP7-101]. The potential impacts on marine mammal features of European Sites for Habitats Regulations Assessment (HRA) purposes is set out in appendix B and summarised in section 4 of this report. The ES marine mammals chapter is supported by the following figures and appendices:

- ES figures Marine Mammals [REP1-011]
- ES appendix Pegwell Bay Seal Survey Report [REP1-003]
- Seals and Airborne Sound Disturbance Technical Note [REP1-122]

3.5.2. The ES should be read in conjunction with the documents listed in section 4.1 of [REP7-101], including the following:

- Register of Environmental Actions and Commitments (REAC) [REP7-359]
- outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127]
- outline Marine Mammal Mitigation Plan (oMMMP) [REP7-125]
- Pegwell Bay Construction Method Technical Note [REP7-146]
- ES Part 4 Marine Chapter 11 Inter-Project Cumulative Effects [REP1A-011]
- Areas of Safeguarded Water Depth - Consideration of Additional Installation Requirements [REP5-139]

3.5.3. The ES assesses the following impact pathways set out in section 4.3 of [REP7-101]:

- Underwater sound (excluding unexploded ordnance) (UXO).
- Potential for indirect effects through impacts to prey species.
- Vessel collision risk.
- Airborne sound and visual disturbance.
- Reduction in water quality due to discharges and unplanned releases.
- Accidental leaks and spills from vessels.
- Disturbance electromagnetic field emissions.

3.5.4. The ES sets out in section 4.6 that underwater sound from UXO detonation would be considered in a separate marine licence application and has therefore been scoped out from further assessment.

3.5.5. The applicant's approach to the study area is explained in section 4.6. For cetaceans there are different sized study areas based on species-specific management units, as set out in table 4.8 [REP7-101].

3.5.6. The applicant's study area for pinnipeds is based on seal management units (SMU)s as explained in section 4.6 of [REP7-101]. The offshore scheme falls entirely within the south-east England SMU for harbour and grey seals. The north=east England SMU has also been considered, as connectivity between these areas may occur due to foraging distances. The study area is shown on figure 6.4.4.4.1 of [REP1-011].

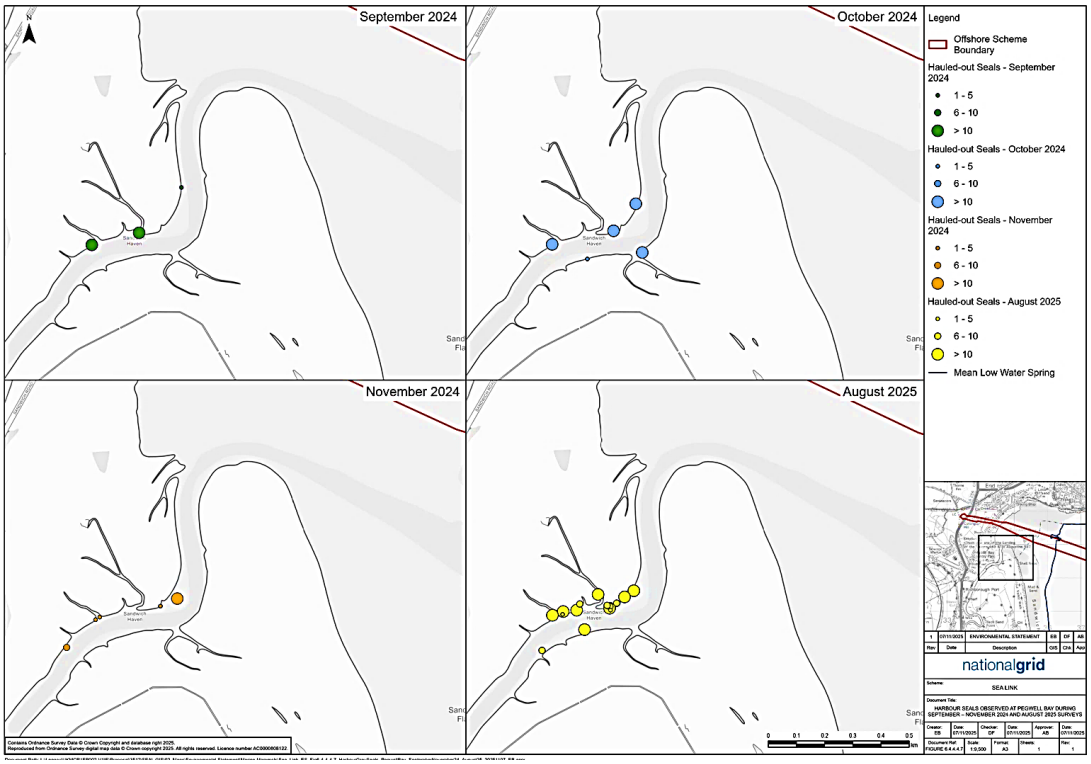
3.5.7. The applicant sets out baseline conditions in section 4.7 of [REP7-101] for the species within the two groups of marine mammals most likely to occur - cetaceans and pinnipeds. The protection status for the four most common cetacean species present in the study area is set out in table 4.9. The density estimates for the four cetacean species are shown on the relevant figures in [REP1-011]. The applicant considers that harbour porpoise is the cetacean species most likely to occur within the study area, with the Southern North Sea Special Area of Conservation (SNS SAC) being designated specifically for harbour porpoise. The applicant sets out the abundance and density estimate for harbour porpoise in table 4.10 [REP1-011].

3.5.8. In terms of seals, the applicant sets out in section 4.7 of [REP7-101] that UK waters support important populations of both harbour seal and grey seal. The distribution of the two seal species based on the data described by the applicant in section 4.7 is shown on figure 6.4.4.4.6 of [REP1-011]. Harbour seals live in discrete regional populations, usually staying within 50 kilometres (km) of the coast. They come ashore at haul-out sites, where they rest, breed and moult. They are known to haul-out on coastal sites in the Greater Thames Estuary and at Pegwell Bay, as well as the outer sandbanks of Margate Sands, Goodwin Knoll and Goodwin Sands, shown on plate 4.2 of [REP7-101].

3.5.9. The applicant sets out in section 4.7 of [REP7-101] that grey seals also use haul-out sites for breeding, resting and moulting. Most of the UK grey seal population is in Scottish waters but a number of haul-out sites have also been observed within the Greater Thames Estuary, shown on plate 4.4 of [REP7-101]. The applicant explains that they occur in their greatest numbers along offshore sandbanks, such as at Kentish Knock and Goodwin Sands, but are also observed on sandbanks within the estuary and the coast, including at Pegwell Bay in small numbers. The applicant states that they are not thought to breed in the area and are likely seasonal visitors.

3.5.10. The applicant explains in section 4.7 of [REP7-101] that four project specific surveys for seals at Pegwell Bay were carried out in the period September to November 2024 and August 2025, with the primary aim of determining the specific haul-out locations of the Pegwell Bay seals. The methodology and findings are set out in [REP1-003]. The locations of the hauled-out seals are shown on figure 6.4.4.4.7 of [REP1-011] below, which is at the mouth of the River Stour.

Figure 13: Harbour seals observed at Pegwell Bay during September - November 2024 and August 2025 surveys figure 6.4.4.4.7 of [REP1-011]



3.5.11. The proposed development design includes embedded mitigation measures to reduce impacts to marine mammals through sensitive routing and siting of infrastructure and temporary works in section 4.8 of [REP7-101].

3.5.12. The following control and management measures are set out in the REAC [REP7-359], the oOCEMP [REP7-127] and the oMMMP [REP7-125] which are secured by requirement 5 and condition 4(1)(b) and 4(1)(c) of Schedule 16 (Deemed Marine Licence) of the Development Consent Order, pursuant to which the final OCEMP and MMMP would be required. The final version of the MMMP would require approval by the Marine Management Organisation (MMO) in consultation with the statutory nature conservation body and the Joint Nature Conservation Committee (JNCC).

- MM01 - adherence to JNCC guidance to minimise impacts from underwater sound generated from known project activities.
- MM02 - adherence to JNCC guidance to assess the significance of noise disturbance.
- MM03 - no offshore construction or UXO clearance until participation in the Development Coordination Forum has been confirmed.
- MM04 - applicant will seek to carry out survey activities during summer months.
- GM03 - controls and management measures relating to offshore pollution.

- FSF01 - target depth of lowering.
- LVS02 - all vessels must comply with regulations relating to the prevention of collisions at sea and the prevention of pollution from ships.
- LVS05 - measures relating to the release of drilling fluids into the marine environment.

3.5.13. The applicant's assessment of impacts and likely significant effects is set out in section 4.9 of [REP7-101]. The applicant summarises the impact pathways and maximum design scenarios in table 4.16 of [REP7-101].

3.5.14. The summary of effects on marine mammals is set out in table 4.22 of [REP7-101]. The applicant concludes that there would be no likely significant effects on marine mammals as a result of the proposed development. The applicant states that as no likely significant effects on marine mammals are identified, no additional mitigation is proposed.

3.5.15. The applicant carried out a cumulative assessment in [REP1A-011] and concluded that there would be no significant cumulative effects in relation to any of the impact pathways considered, as summarised in tables 11.20 and 11.29.

EXAMINATION ISSUES

3.5.16. Over 400 relevant representations (RR) raised concerns about the effects of the development on marine mammals, particularly in relation to seals at Pegwell Bay. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issue considered during the examination was:

- the adequacy of the baseline information, assessment of effects and the proposed mitigation measures

ADEQUACY OF BASELINE INFORMATION, ASSESSMENT OF EFFECTS AND MITIGATION

3.5.17. A large number of RRs and written representations raised concerns about the baseline data and assessment methodology, and effects on marine mammals, including [RR-0308], [RR-0861], [RR-4143], [RR-4959], [RR-4563], [RR-1500], [RR-1898], [RR-0278], Kent County Council (KCC) [REP1-129], Kent Wildlife Trust (KWT) [RR-2980], [REP1-152], Natural England (NE) [RR-3920], JNCC [RR-2635], Kent and Essex Inshore Fisheries and Conservation Authority [RR-2976].

3.5.18. NE [RR-3920] queried the figures used from the range of abundance estimates for the cetacean and pinniped species considered in the assessment. Additional

information was provided by the applicant in [REP1-056] but NE remained concerned [REP7-274] that the density estimates used to assess the number of each seal species potentially affected were not presented in a table, whereas that information was presented for cetacean species in table 4.14. The applicant provided quantification of the number of seals that could be disturbed by underwater sound produced during the proposed development in [REP7-101] in section 4.9. This was based on the most recent population estimates for seals within the south-east England SMU and equates to 0.75% of the harbour seal population and 0.55% of the grey seal population. The data used refers to Special Committee on Seals 2025 in section 4.9 of [REP7-101]. NE remained concerned [REP7-274] at the source of the data in relation to density estimates for seals which reference the most recent estimates in Carter et al 2025, which NE understands to relate only to Scotland. Neither of the documents are referenced in full in section 4.12.

3.5.19. KWT considered there to be a need for additional surveys for seals in [AS-077], [REP1-152], carried out over more than one survey season during the key life stages. The applicant carried out an additional survey in August 2025 and provided a Seals and Airborne Sound Disturbance Technical Note [REP1-122] as well as a response to KWT's concerns in [REP2-015]. Save Minster Marshes (SMM) [REP7-210] remained concerned that noise modelling for seals was inadequate.

3.5.20. KWT in [REP2-054] and [REP3-092] in response to the ExA's first written questions ExQ1MM4 [PD-017] reiterated its view that there was a lack of project-specific surveys especially for cetaceans, and queried whether the assessment takes account of an increasing population size and expanding range for several marine mammal species. The applicant responded in [REP4-083] that its approach to baseline data was proportionate. KWT responded [REP4-124] to the issue specific hearing (ISH) 2 action point 35 [EV6-033] by providing extracts from the Kent Dolphin Project (KDP) Report 2025 which related to cetaceans and pinnipeds. KWT considered that the KDP report undermined the applicant's assessment that some cetacean species, such as bottlenose dolphin, were unlikely to occur within the study area, and that Kent's coastal waters were important for cetaceans.

3.5.21. The applicant responded to KWT in [REP5-132] that KDP data could not be used to provide the species density data that is needed for a quantitative impact assessment, as the time period or level of sightings effort was not clear. The applicant considered that data did not provide details of the number of individuals that have been sighted. Marine mammal density data using data from the Small Cetaceans in European Atlantic waters and the North Sea (SCANS) data had been used in the ES to allow marine mammal densities to be reliably determined.

3.5.22. In ExQ3MM2 [PD-023] the ExA requested that KWT provide the KDP report so that the applicant could update the ES to include qualitative data from marine mammal observations in the area. The applicant included this information in [REP7-101] as part of its baseline in section 4.7. The applicant stated that harbour porpoise was the most frequently reported species and that the sightings hotspots may reflect a natural bias in marine mammal sightings from popular coastal locations. The applicant considered that the KDP report also highlighted the need for further research into lesser documented species. The applicant also noted in [REP7-101] section 4.7 that sightings of other less frequently observed cetacean species were over a period of 120 years with some species only being recorded once. The inclusion of the KDP report information did not change the applicant's overall assessment of effects in [REP7-101].

3.5.23. KWT [REP7-202] voiced uncertainty regarding the use of the KDP 2025 report as interested parties (IP)s did not have the opportunity to review how this data was interpreted or applied by the applicant and considered that this represented a clear evidential gap at the point of decision-making.

3.5.24. KWT [REP7-202] maintained its concerns set out in [RR-2980] and [REP1-152] that disturbance to marine mammals through construction had not been properly assessed by the applicant through the range of impact pathways. It considered that the effects on marine mammals have been underplayed by the applicant and effects on haul out areas, prey availability and acoustic disturbance should be assessed.

3.5.25. In [REP7-274] NE raised concerns regarding the late addition of commitment GG45 in the REAC [REP7-359] which stated that hovercraft at Pegwell Bay would be on standby and used for emergencies only during construction. NE's concerns related to the additional risk of disturbance to seal colonies in the area, with insufficient information on the timings, extent and duration of works as well as the phase of works the emergency use would be intended to cover. NE stated that further information on the use of the proposed hovercraft was required. The use of hovercraft is referred to in [REP7-146]. In response to the ExA's question ExQ1NV4 [PD-017] regarding the inclusion of hovercraft in the technical note, the applicant responded in [REP3-069] that hovercraft would not form part of the planned use during construction and would only be required for safety purposes. The noise levels for hovercraft were not therefore provided or assessed, as they would be a health and safety requirement for emergency use only, in the event that there would be a need to travel quickly across mudflats or areas of very shallow water that would be difficult for any other emergency vehicles to access. The applicant explained that its approach was consistent with noise modelling onshore which does not consider any potential for emergency vehicles needing to access the site.

The applicant considered that it would be unlikely that the hovercraft would need to be used. The applicant committed in GG45 of the oCEMP [REP7-129] that hovercraft would be used for emergencies only.

3.5.26. In relation to the assessment of Goodwin Sands, the ExA asked (ExQ1MM1 [PD017]) for further clarification of the statement in section 4.9 of [REP7-101] that cable installation would only take place in the vicinity of Goodwin Sands at high tide, and that therefore seals would not be hauled out on the sands and could not be affected by airborne sound or visual disturbance. In response to ExQ2MM1 [PD-021] and ExQ3MM3 [PD-023] the applicant provided an updated assessment of the effects of airborne sound and visual disturbance in [REP7-101]. This acknowledged that cable installation operations may occur at low tide when seals are hauled out on Goodwin Sands. The applicant assessed that the haul-out location is approximately 1.2km away from the order limits at the closest point, with most of the sandbank much further away. Therefore, the applicant considered that the potential for disturbance from the presence of cable laying vessels would be limited. Furthermore, the applicant stated that cable installation vessels and support vessels would be constantly moving at low speeds in an area where seals are already significantly habituated to distant vessel movements.

3.5.27. Various IPs including KCC [REP1-129], JNCC [REP6-264], [REP6-239], KWT [REP3-091, NE [REP3-119], SMM [REP2-210] made comments in relation to the oMMMP. The oMMMP [REP7-125] was updated to take into account the comments from JNCC and NE. The statement of common ground (SoCG) with KCC [REP7-021] confirmed that it had no outstanding concerns in relation to marine mammals including mitigation but the SoCG was unsigned. NE [REP7-364] confirmed that its concerns with the oMMMP have been resolved.

ExA's findings

3.5.28. The ExA considers that the scope of the ES was appropriate, taking into account the temporary nature of the construction effects. While NE raised some queries with regard to the baseline information, it confirmed that overall it was satisfied that the outcome of the assessment would not change.

3.5.29. While SMM raised some concerns in relation to the noise assessment and oMMMP at deadline 7, the applicant has consulted with relevant statutory and non-statutory consultees and organisations, including regarding noisy activities, and has taken into consideration data from the KDP. The applicant has referenced the relevant JNCC guidance and agreed mitigation with JNCC and NE. While KWT is concerned that the data from KDP has not been subject to review by other bodies, it has been included by the applicant to supplement its assessment and does not indicate that the effects

would be more significant than set out in [REP7-101], nor that the proposed mitigation is inadequate. Although the SoCG with KCC is unsigned, the ExA has no reason to consider that the oMMMP is defective.

3.5.30. In relation to the use of hovercraft in Pegwell Bay, the Secretary of State may wish to undertake further consultation within NE to ascertain its final position on the effects on marine mammals from emergency use of hovercraft.

3.5.31. The ExA is satisfied that the ES carried out an assessment of the effects on marine mammals with appropriate baseline information and mitigation, in accordance with paragraphs 2.8.101 and 2.8.131 of National Policy Statement (NPS) EN-3. The ExA concludes that the proposed development would accord with paragraphs 2.8.104 and 2.8.133 of NPS EN-3 and paragraph 5.4.35 of NPS EN-1.

CONCLUSIONS

3.5.32. On the above matters, the ExA is satisfied that there would be no likely significant effects on marine mammals. The ExA is satisfied that on this matter the proposed development would accord with NPS EN-1, EN-3 and EN-5 as well as local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement, together with all other relevant legislation, and there are no other important or relevant considerations.

3.5.33. The ExA agrees with the conclusions of the ES on the topic of marine mammals, where the residual harm is of no more than of minor significance. 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, for the reasons set out in this section. As such, the ExA considers that this matter attracts a little weight against the making of the order.

3.6. MARINE PHYSICAL ENVIRONMENT

INTRODUCTION

3.6.1. This section considers the effects of the proposed development on the marine physical environment (MPE) including marine and coastal processes as well as coastal change. Effects on ecological receptors due to changes in the MPE are considered in section 3.14 (ecology, biodiversity and ornithology), appendix B (habitats regulations assessment (HRA)) and section 3.4 (benthic ecology).

APPLICATION SUMMARY

3.6.2. The applicant's assessment of the potential effects of the proposed development on the MPE is set out in Environmental Statement (ES) Part 4, Marine Chapter 1 [REP7-097].

3.6.3. The chapter considers the following topics in accordance with relevant assessment methods as set out in section 1.3 [REP7-097]:

- changes to seabed bathymetry and morphology
- changes to local and regional beach and coastal morphology
- changes to coastal morphology as a result of climate change
- changes to sediment transport regimes and patterns
- changes to hydrodynamic regimes and patterns
- the impact of the proposed development on sand waves and bedforms
- the impact of the proposed development on designated sites
- changes to suspended sediment concentration of the water column and the extent and impact of deposition of sediment onto the seabed
- changes to marine water quality from accidental leaks and spills from vessels, including loss of fuel oils and release of seabed contaminants

3.6.4. The assessment is supported by the following appendices and accompanying figures:

- Suspended Sediment Modelling [APP-195]
- Benthic Characterisation Report (Original Report) [APP-196]
- Geophysical Survey Interpretation (Additional Surveys) [APP-197]
- Intertidal Surveys 2023 [APP-198]
- Subtidal Survey Report (Additional Surveys) [AS-035]
- ES Figures Marine Physical Environment [REP6-044]

3.6.5. In addition, the following documents were submitted during examination:

- Landfall Sediment Modelling Report Aldeburgh [PDA-037]
- Landfall Sediment Modelling Report Pegwell Bay [PDA-038]
- Sea Link Cable Burial Risk Assessment [PDA-039]
- Change Request: Appendix A Saltmarsh Technical Note [CR1-056]
- Offshore Decommissioning Technical Note [REP4-091]
- The Coralline Crag Technical Note [REP4-102]
- Pegwell Bay Saltmarsh Limits Topographic Survey [REP6-119]
- Additional Sediment Dispersion Modelling - Technical Note [REP6-120]
- Outline Cable Specification and Installation Plan [REP7-159] (oCSIP)

- Pegwell Bay Construction Method Technical Note [REP7-146]

3.6.6. Cumulative MPE effects are considered in ES Part 4 marine chapters 10 Intra-Project Cumulative Effects [APP-083] and 11 Inter-Project Cumulative Effects [REP1A-011] and their associated appendices and figures. Additional assessment information is provided in appendix C LionLink Updates – Review of Cumulative Assessments [REP5-127] and Inter-Project Cumulative Effects Update - Technical Note [REP6-098].

3.6.7. Section 1.1 [REP7-097] identifies a range of application documents that should be read in conjunction with ES Part 4 Marine Chapter 1. Marine policy is considered in the Marine Plan Policy Assessment [APP-298].

3.6.8. Section 1.6 [REP7-097] defines the study area used to establish baseline conditions and identify potential impacts on the physical environment. This is an area below Mean High Water Springs (MHWS) in both Suffolk and Kent and largely within a 500 metre (m) wide corridor offshore ('the offshore scheme boundary'). The applicant defines inshore and offshore as <12 nautical miles (nm) and >12 nm from land respectively but also defines nearshore and offshore environments where water depth is <15m and >15m respectively.

3.6.9. Section 1.4 [REP7-097] sets out guidance and methods used to inform the assessment of potential effects. It defines sensitivity, magnitude of impact and significance of effect criteria based on the generic approach set out in ES Part 1, Chapter 5 [APP-046] and in tables 1.8 and 1.9 [REP7-097]. The applicant states in section 1.4 [REP7-097] that a precautionary approach based on the worst case has been adopted, which allows for the application of professional judgement when determining significance.

3.6.10. Assumptions and limitations to surveys are identified in the relevant survey report appendices (as referenced above). Assumptions relating to use of publicly available data sources, modelling and empirical datasets, rather than specific field measurements and flexibility are set out in section 1.4 [REP7-097]. The applicant assumes that the ES provides sufficient spatial and temporal coverage to take account of natural variation in conditions.

3.6.11. The applicant also considers a range of scenarios and a sensitivity test in section 1.5 and table 1.17 [REP7-097] including:

- Movement of the permanent or temporary infrastructure within the limits of deviation (LoD).
- A worst-case cable burial technique.
- Build out in any of the 5 years following a consent in 2026 onwards.

- Maximum design scenarios.

3.6.12. The applicant's baseline description incorporates desktop review and project specific survey data (section 1.7 [REP7-097]). It identifies sensitive designated and non-designated features in the study area relevant to the topic. In Suffolk and offshore these include Leiston-Aldeburgh Site of Special Scientific Interest (SSSI) and the Haven Local Nature Reserve (LNR). Impacts on the Outer Thames Estuary Special Protection Area (SPA) are considered in the Report to Inform Habitats Regulation Assessment [REP7-119]. Non designated sites include sandbank features such as Aldeburgh Napes and Aldeburgh Ridge. The Coralline Crag, a weakly cemented, slightly gravelly very silty sand with frequent shell fragments, is identified as an important feature for determining regional hydrodynamics, sediment transport patterns and coastal geomorphology [REP4-102].

3.6.13. In Kent and offshore the sites comprise Thanet Coast and Sandwich Bay SPA and Ramsar, Thanet Coast Special Area of Conservation (SAC), Sandwich Bay SAC, Sandwich Bay to Hacklinge Marshes (SBHM) SSSI, Sandwich and Pegwell Bay National Nature Reserve (NNR), Goodwin Sands Marine Conservation Zone (MCZ) and Thanet Coast MCZ. The ES also references 'Sandbanks MCZ' which Natural England (NE) stated was not a recognised designated site. This remained uncorrected at the close of examination. Non-designated features include Cross Ledge Sandbank.

3.6.14. Section 1.7 [REP7-097] sets out the evolution of the baseline. The ES applies Environment Agency (EA) guidance on wind speed and wave height predictions and Met Office UK Climate Projections 2018 (UKCP18) high emissions scenario (RCP 8.5) data for sea level rise. It highlights uncertainty in characterising impacts of climate change on the physical environment based on projected sea level rise and changing storm conditions.

3.6.15. Section 1.9 [REP7-097] discusses the potential physical environment impacts during construction and operation, such as disturbance of seabed sediments due to pre-sweeping and trenching activities.

3.6.16. Section 1.8 [REP7-097] describes the proposed design, mitigation and enhancement measures. The applicant (section 1.7 [REP7-097]) identifies opportunities for conservation of the physical environment. It explains how the environmental impacts would be avoided or reduced through the design of the proposed development (embedded or design mitigation) and describes the essential mitigation measures proposed. These measures include the commitments detailed in the outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127], the Register of Environmental Actions and Commitments (REAC) [REP7-

359] and the outline In-Principle Monitoring Plan (oIPMP) [REP7-167]. These documents are secured by schedule 16 (the Deemed Marine Licence (DML)) of the draft DCO (dDCO) [REP7-002].

3.6.17. Section 1.9 and table 1.18 [REP7-097] conclude that there would be no residual significant effects on the MPE during construction, operation or decommissioning. No significant cumulative effects are identified in ES Part 4 Marine Chapters 10 [APP-083] and 11 [REP1A-011].

EXAMINATION ISSUES

3.6.18. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main MPE issues considered during the examination were:

- effects of trenchless crossings
- hydrodynamic effects in Pegwell Bay including River Stour migration
- contamination in Pegwell Bay (hoverport and other historic use) and offshore
- impacts on sandbank features

EFFECTS OF TRENCHLESS CROSSINGS

3.6.19. Many Suffolk representations including the Aldeburgh Society [RR-5376], Aldeburgh Town Council [RR-0094], Alde and Ore Association [REP7-361], NE [RR-3920], [REP7-272], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210], [REP7-211], Leiston-cum-Sizewell Town Council [RR-3118] and others [RR-1037], [RR-1639], [RR-1852], [RR-3589] raised concerns with the potential for cable laying to erode or damage the shingle seabed or the coastal shingle cliffs between Aldeburgh and Thorpeness in Suffolk, affecting their flood protection function.

3.6.20. SEAS [REP4-152] highlighted that accelerated coastal erosion had led to housing demolitions at Thorpeness following storm events and the exposure of a fibre-optic cable in 2018 due to high winds and tides. It emphasised the need for long term beach profile monitoring at the landfall with trigger points for remedial action and reporting. East Suffolk Council (ESC) [REP1-128] noted the dynamic nature of the coastline and that the Shoreline Management Plan (ShMP) policy for the proposed landfall site is managed realignment. It was concerned about the potential for cable exposure during the lifetime of the cable [REP7-049]. In response to ExA question ExQ2GEN17 [REP5-189] and in [REP7-308] ESC requested long term coastal erosion monitoring, citing historic 5m vertical reduction in beach levels. ESC [REP7-301], [REP7-308] also sought a requirement for the undertaker to submit a landfall construction method statement and landfall monitoring plan.

3.6.21. The applicant (section 1.7 [REP7-097] and [REP6-106]) distinguished between erosion of the soft glacial till cliffs at Thorpeness (due to beach draw down and wave action) and the erosion of underlying hard geology of the Coralline Crag that stabilises the coastline between Thorpeness and Aldeburgh. It explained that erosion events north of Thorpeness were unrepresentative of the situation at the proposed development landfall location. The applicant [REP7-049] stated that ESC had referred to a 6m beach level reduction, which was not supported by its coastal modelling studies or review of the EA National Coastal Erosion Risk Management 2 projections, which indicated a maximum range of around 2.5m. In [REP7-257] the applicant explained that it had taken into account the most recent data from the Anglian Coastal Monitoring Programme for the Suffolk landfall and incorporated this into the ES. The applicant made provision for coastal erosion monitoring in the oOCEMP [REP7-127]. In [REP6-106] it explained that the oCEMP measure B59 [REP7-127] would require the applicant to provide a landfall construction MS.

3.6.22. SEAS [RR-5210] and others including [RR-3589] and [RR-5890] also highlighted the potential for cumulative effects from multiple major energy schemes to affect the same coastline including Sizewell C, ScottishPower Renewables (SPR) East Anglia One North (EA1N) and East Anglia Two (EA2) projects and National Grid Ventures LionLink interconnector project.

3.6.23. The applicant (table 2.62 [REP2-034]) ruled out the potential for cumulative effects on coastal erosion based on the localised and temporary nature of works and the separation distance between proposed developments.

3.6.24. ESC [REP1-128], [REP7-308], [REP7-049] considered that a minimum cable burial depth 25m beneath the foreshore (as shown in [APP-321]) was necessary to avoid cable exposure and remedial works such as open cut trenching in future. The council cited precedent in SPR's EA1N and EA2 projects, suggesting that mitigation was essential due to erosion issues on the Suffolk coast and the lack of representative data, which necessitated a precautionary approach. ESC also wanted details of mitigation for cable exposure. In [REP7-049] ESC sought a new requirement in relation to landfall works. SEAS [REP4-152] questioned whether erosion profiles had been fully modelled against burial limits for the operational lifespan.

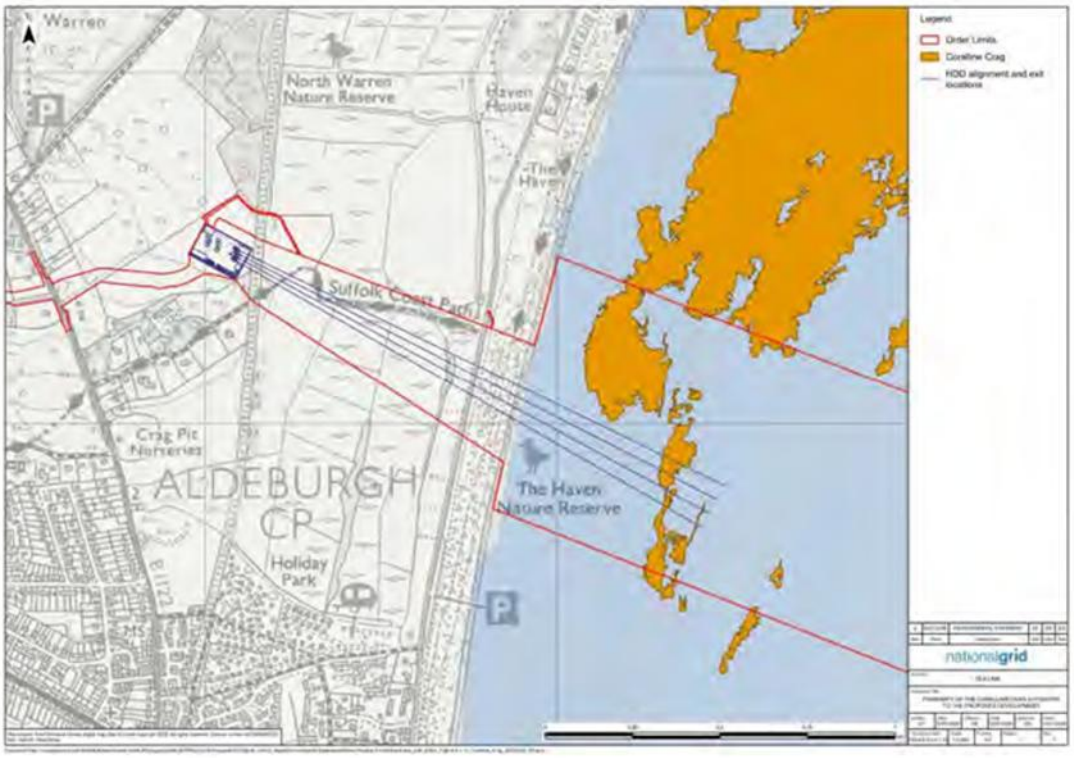
3.6.25. The applicant (table 4.11 [REP7-089]) and [APP-321] suggested a likely 17 to 25m depth of burial at the Suffolk landfall. In [REP7-049], [REP7-257] the applicant disagreed with the need to secure a minimum 25m depth of burial requirement due to the low likelihood that the cable would be exposed at a proposed burial depth of -10.5m below ordnance datum. It considered this to be 3.5m below the depth of

closure (the depth that waves would no longer influence sediment processes in the littoral zone) in the event of a significant, 250m climate change-related coastal retreat [REP6-106]. The applicant emphasised the erosion resistant nature of the Coralline Crag. The applicant explained [REP7-049] that in event the proposed trenchless methodology changed to direct pipe, this could be safely bored at -10.5m with no frac out risk due to the low fluid pressure. REAC [REP7-359] commitment MPE14 requires the applicant to achieve a -10.5m burial depth.

3.6.26. The EA [RR-1586], NE [RR-3920] and IPs including Alde and Ore Association [RR-0091], the Aldeburgh Society [RR-5376] and others [RR-2886], [RR-3025] were concerned about the impact of the proposed development on the Coralline Crag. IPs considered that trenchless crossing works (including cable protection measures) could affect the crag's role in coastal protection and lead to changes in sediment deposition and erosion, which could also give rise to cumulative effects with other major energy projects. ESC [REP1-128] welcomed the embedded mitigation measures to minimise disturbance to the crag but sought detail regarding the frequency and extent of post-burial monitoring. It recommended annual surveys for the first three years after construction, then 5 yearly intervals until decommissioning.

3.6.27. The applicant [REP1A-033], [REP2-014], [REP32-034], [REP4-102], [REP4-085], [REP6-108] responded that the horizontal directional drilling (HDD) exit point would target an exit location beyond the continuous Coralline Crag outcrop (see figure below), with sufficient depth of seafloor sediments to ensure the duct end and cable could be buried using lowering; therefore there would not be a risk of exiting where the Coralline Crag is at the surface and no pre-cut trenching, cable protection or cofferdam on the crag would be required. [APP-299], [APP-368] and appendix H of [REP4-086], provided justification for the proposed cable routing. The applicant also explained that during detailed design, the HDD contractor would microsite the exit points based on seafloor surveys and ground investigations. It also suggested the nearshore seabed had low sensitivity and would recover quickly due to natural processes. The rDCO requirement 16 and condition 10 secure a trenchless crossing exit at least 45m east of the Coralline Crag.

Figure 14: Extract from ES Part 4, Chapter 1, figure 6.4.4.1.15 showing approximate location of trenchless crossing exit pits to east of continuous Coralline Crag outcrop.



3.6.28. IPs in Suffolk including the Royal Society for the Protection of Birds (RSPB) [REP1-158] and ESC [REP1-128] and in Kent including Kent Wildlife Trust (KWT) [RR-2980], [REP1-152], RSPB Thanet Group [RR-4652], Bird Wise East Kent (BWEK) [RR-0584] and the Council for the Protection of Rural England (CPRE) Kent [REP3-082] suggested that trenchless crossing techniques could fail, requiring the applicant to fall back on open cut trenching across the designated sites in Suffolk and Kent. IPs considered that this could lead to worse effects than predicted in the ES. Kent IPs suggested that Nemo Link interconnector (Nemo Link) works in Pegwell Bay were an example of trenchless techniques failing .

3.6.29. The applicant [REP2-034], [REP7-258] considered that its proposed approach was robust, there was no reason to suppose that its trenchless solution would not work, and that this would require a change application and updated assessment. It included wording in requirement 16 and condition 10 of schedule 16 of the dDCO [REP7-002] and in the REAC [REP7-359] and oOCEMP [REP7-127] (commitments GG35 and B21) to exclude the use of open cut solutions in the designated sites. The applicant [REP4-084] explained that unlike the proposed development, Nemo Link's ES assumed an open cut working as a worst case, therefore its works were consistent with the assessed method.

3.6.30. CPRE Kent [REP7-193], KWT [REP7-202], RSPB [REP7-209], Save Minster Marshes (SMM) [REP7-210] and Alde and Ore Association [REP7-361] remained sceptical about the viability of trenchless crossings.

3.6.31. In ExQ1ECOL04 [PD-017] the ExA asked the applicant to provide a mitigation plan to account for the possibility that HDD failed. The applicant [REP3-069] responded that if HDD failed, the mitigation plan was to install with an alternative trenchless option, using the same entry/ exit points, and therefore it would not result in any greater environmental impacts. It signposted to consideration of alternative trenchless working methods in appendix A of the Design Development Report [APP-321].

3.6.32. In order to understand whether Nemo Link had implications for the proposed development, the ExA requested details about Nemo Link project in [EV3-002]. Nemo Link Ltd provided application, decision and post consent information in [REP4-127] to [REP4-137] including its ES.

3.6.33. IPs in Suffolk including ESC [AS-076], Suffolk County Council [AS-083], [RR-2426], Substation Action Save East Suffolk [RR-4887], Friston Parish Council [REP7-201], SEAS [REP7-211] and in Kent including [RR-1661], BWEK [RR-0584], KWT [REP4-124] suggested that, to avoid future disruption, the applicant should co-ordinate with other projects. IPs suggested that the proposed development could provide additional ducts for projects requiring landfall in the same location, such as the proposed LionLink Interconnector in Suffolk and the proposed Aberdeenshire to Richborough project in Pegwell Bay.

3.6.34. The applicant [REP2-014], [REP2-034] explained its reasons for not seeking powers for works that could form part of emerging proposals in its coordination document [APP-363]. These included lack of certainty regarding other projects' designs, implications for consenting and programme, lack of reference to these works in the section (s)35 direction, whether compulsory acquisition would be justifiable as well as commercial and regulatory factors.

3.6.35. At deadline (DL) 7, ESC [REP7-197] suggested that paragraph 5.6.17 of National Policy Statement (NPS) EN-1 supported the requirement for a deed of obligation with the applicant in respect of coastal erosion monitoring. Due to the late nature of the submission, the applicant was unable to respond to this submission.

3.6.36. The ExA examined trenchless crossing effects, including depth of burial, impacts on the Coralline Crag, likelihood of failure and co-ordination of landfall activities in hearings [EV3-002], [EV3-006], [EV6-022], [EV6-033] and [EV9-012], [EV9-018] and in written questions [PD-017], [PD-021], [PD-023] and [PD-025].

ExA's findings

3.6.37. NPS EN-1 paragraph 5.6.10 requires assessment of coastal geomorphology and sediment transfer modelling, where relevant, to assess impacts and identify mitigation or compensation. The ExA considers that the applicant's ES, accompanying appendices, technical notes and measures summarised in the REAC satisfy this requirement. The ExA notes that the applicant's documents take account of climate change and the relevant ShMP, UK Marine Policy Statement and East Inshore and East Offshore Marine Plan.

3.6.38. NPS EN-1 paragraph 5.6.2 emphasises the need to avoid inappropriate development in, and to direct development away from, areas vulnerable to coastal change. NPS EN-1 paragraph 5.6.17 suggests that new development should not normally be consented in areas of dynamic shorelines where sediment flow could be inhibited or coastal processes impacted. Consent should only be granted where the Secretary of State is satisfied that the benefits (including need) outweigh the adverse impacts. Whilst the landfall location in Suffolk is identified as dynamic and vulnerable to coastal change, the ExA is satisfied with the applicant's ES conclusions [REP7-097] that effects on coastal processes would be minor or negligible and not significant due to the proposed use of trenchless crossings. Further consideration of benefits is provided in sections 3.2 and 5 of this report.

3.6.39. NPS EN-1 paragraph 5.6.16 requires the Secretary of State to be satisfied that a proposed development would be resilient to coastal erosion and deposition, taking account of climate change. The ExA agrees that, even when taking climate change into account, the proposed cable depth in Suffolk below the depth of closure, combined with the erosion resistant nature of the Coralline Crag is sufficient to ensure that cable would remain buried and therefore resilient to erosion and deposition. The Coralline Crag plays an important role in controlling and stabilising the coastline between Thorpeness and Aldeburgh. The ExA considers that the applicant [REP7-097], [APP-321], [REP4-102] has provided information to demonstrate that a trenchless technique would minimise impacts on the continuous Coralline Crag outcrop. The ExA notes that the Secretary of State is required to attach substantial weight to the risk of coastal erosion. However, the ExA considers that the proposed exit pit location would be sufficiently distant from the shoreline to avoid direct impacts to or from the shoreline and to minimise any indirect impacts.

3.6.40. The ExA has considered ESC's proposed coastal monitoring fund. On the basis that the ExA has 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 does not support ESCs

proposals for a separate monitoring and mitigation fund. This matter is also considered in section 3.16 of this report.

3.6.41. The ExA has considered the wording of requirement 16 and condition 10 in the draft DCO [REP7-002] and considers that it is ambiguous because of the potential for trenchless crossing works to be directed from the sea to the shore. The ExA has therefore amended the term exit to 'entry/ exit', which is also consistent with the works descriptions in Schedule 1. The ExA also considers that the wording of requirement 16(5) and condition 10(5) would not preclude an exit or entry between the shore and the Coralline Crag continual outcrop. To avoid ambiguity, the provisions have been amended in the rDCO as follows *"Exit or entry to trenchless landfall techniques must occur at least 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical note."*

3.6.42. NPS EN-1 section 5.6 requires careful identification of physical changes on designated ecological sites and for mitigation or compensation of adverse effects to be proposed in consultation with the Marine Management Organisation (MMO), EA and other statutory consultees. NPS EN-3 section 2.8 highlights that effects on intertidal/ coastal habitat cannot be avoided entirely and that HDD should be considered to avoid impacts on sensitive habitat and species. The ExA considers that the applicant's proposed use of a trenchless crossing would avoid direct impacts on designated sites in Suffolk and sensitive coastal saltmarsh habitat in Kent, although it would not fully avoid temporary works within the intertidal mudflats of the SBHM SSSI during construction.

3.6.43. Use of a trenchless crossing technique would be secured by requirement 16 and condition 10 of schedule 16 of the rDCO. The ExA is satisfied with the requirement and condition and does not consider that the proposed wording would enable open cut working to be used as an alternative to trenchless working. Whilst it has not provided a specific mitigation plan document, the ExA is satisfied that the applicant has identified relevant mitigation to account for HDD failure. The ExA has reviewed the Nemo Link ES material and agrees that the Nemo Link ES was predicated on use of open cut trenching not HDD. The ExA considers that the applicant's statement of common ground with MMO [REP7-015], EA [REP7-174], RSPB [REP7-054], National Trust [REP7-344] and Natural England's DL7 cover letter [REP7-268], demonstrate that it has consulted with relevant consultees regarding mitigation albeit that full agreement of all measures may not have been achieved.

3.6.44. The ExA has considered the proposed requirement wording in ESC's representation [REP7-049] in relation to landfall works but considers that the necessary controls would be provided by requirement 16 of the rDCO, condition 4 and condition 10 of

schedule 16 of the rDCO, and commitments MPE06, MPE08 and MPE14 in the REAC [REP7-359].

3.6.45. NPS EN-1 section 4.11, NPS EN-3 section 2.8 and NPS EN-5 sections 2.7, 2.12 and 2.13 emphasise the need for co-ordinated design of onshore-offshore grid transmission for projects on similar timelines. The ExA recognises that provision of additional ducts would reduce future disruption from similar projects but acknowledges the constraints set out by the applicant in this case and therefore accepts that whilst desirable it is not possible to secure provision of additional ducts at the proposed landfall sites in this instance.

HYDRODYNAMIC EFFECTS IN PEGWELL BAY INCLUDING RIVER STOUR MIGRATION

3.6.46. The EA [RR-1586], [REP2-050], [REP5-173], [REP6-162] highlighted that the mouth of the River Stour had migrated approximately 700m northwards in Pegwell Bay since 1900 and could move further during operation, risking cable exposure. It recommended [EV6-022] that cables should be buried at least 3m below the bed of the low flow channel of the river to avoid this or for the applicant to commit to dredging. The EA wished to avoid a future situation where large retaining structures might be required in Pegwell Bay for cable protection. NE [REP4-191] expressed similar concerns and suggested that future cable protection works would require a separate marine licence from the MMO. KWT [REP4-124], [REP7-265] and SMM [REP6-148] expressed concerns regarding channel migration and disturbance of wildlife in the designated sites in Pegwell Bay.

3.6.47. After initially assuming that the River Stour was relatively stable and would not migrate northwards to the extent that it would affect buried cables, the updated ES [REP5-019] acknowledged the potential for future migration. The applicant subsequently sought to secure mitigation measures in the form of monitoring and contingency plans as well as avoidance of sheet piling and dredging in requirement 18 'River Stour Channel' in the dDCO [REP7-002] based on wording provided by the EA [REP6-162]. The applicant [REP4-085], [REP4-086] suggested that deeper burial was feasible but noted this would increase disturbance effects to wildlife and that thermal constraints could affect the cable performance. It maintained that a 1.5m burial depth was adequate.

3.6.48. The MMO [REP7-203] preferred that dDCO [REP7-002] requirement 18 should be secured in the DML at schedule 16 to allow it to carry out its regulatory functions. NE [REP6-244], [REP7-272] was broadly supportive of the requirement but suggested that additional assessment of the river mouth was required and that monitoring should be captured in the IPMP and commence as soon as possible. NE [REP7-271] advised that it should be a consultee to requirement 18 and sought

further assessment [REP7-364]. The EA [REP7-199] suggested the issue of 3m depth of burial was ongoing. KWT [REP7-265] was concerned that the proposed requirement could allow changes to previously assumed techniques (such as trenchless installation) but supported long term monitoring [REP6-169].

3.6.49. NE [REP7-272], [REP7-364] highlighted the potential for erosional effects within Pegwell Bay and the saltmarsh due to use of cofferdams and maintained that additional information was required at the close of examination. However, no red risk issues remained in tab D (physical environment) or tab J (Kent landfall) of NE's risk and issue log that related to hydrodynamic effects [REP7-364].

3.6.50. The applicant considered that updated sediment dispersion modelling [REP6-120], [REP6-108] ruled out impacts from cofferdams and there was no requirement for saltmarsh monitoring as predicted changes in current speed would be low. It suggested that oOCEMP [REP7-127] commitment B59 secured approval of an HDD method statement and drilling fluid management plan by MMO in consultation with stakeholders such as NE. The applicant replied [REP7-258] to outstanding matters in NE's DL 6 risk and issue log but was unable to comment on the final risk and issue log [REP7-364] before examination close.

3.6.51. The ExA examined this matter in hearings [EV3-007], [EV6-022], [EV6-033] and [EV9-012] and written questions [PD-017] and [PD-021].

ExA's findings

3.6.52. NPS EN-1 paragraph 5.6.11 requires an applicant's ES to assess effects on the coast and tidal rivers. NPS EN-1 paragraph 5.6.15 also requires that applicants propose appropriate mitigation in consultation with the MMO and EA. The ExA considers that [REP7-097] has assessed the effect of potential River Stour migration. The wording of requirement 18 [REP7-002] would secure a monitoring and contingency plan for the River Stour migration, which would be subject to approval by the MMO in consultation with the EA. This would preclude the use of piling or dredging. Having considered the MMO's [REP7-203], the ExA has included requirement 18 as DML condition 18 in schedule 16 of the rDCO, including NE as a consultee. The ExA does not agree that remedial works would require subsequent consent from the MMO under a separate marine licence, since condition 12 of the rDCO provides for cable remedial burial. However the ExA notes that such works would be subject to an intertidal works methodology and mitigation plan approved by the statutory nature conservation body (SNCB). This would ensure that any disturbance of the designated sites and their features would be taken into account and appropriately mitigated, including SBHM SSSI and the Sandwich and Pegwell Bay NNR.

3.6.53. In respect of effects relating to the proposed cofferdam in Pegwell Bay, the ExA considers that the applicant has either provided the necessary information or that this would subsequently be provided. This would be, for example, by virtue of the measures set out in the oIPMP [REP7-167], oCSIP [REP7-159], HDD landfall method statement and landfall monitoring included in REAC [REP7-359] commitment B59 and oOCEMP [REP7-127] commitments B68 and MPE06, as well as rDCO schedule 16, conditions 4 (pre-construction plans and documents) and 15 (pre-construction surveys and monitoring).

3.6.54. NPS EN-3 section 2.8 and NPS EN-5 section 2.13 require applicants to consider the best ecological outcomes when considering matters such as burial depth and impacts on intertidal habitats and to seek to minimise environmental impacts. NPS EN-3 paragraph 2.8.228 highlights that use of trenchless techniques such as HDD should be considered as a method to avoid impacts. The ExA notes that the applicant has proposed and secured a trenchless method of working. The ExA has considered whether a deeper cable burial depth than the 1.5m proposed would be preferable to avoid future cable exposure and remedial works. However, the ExA is of the view that a substantially deeper burial depth, 3m below the low flow level of the River Stour channel would tend to increase the duration and scale of effects and disturbance of wildlife in the intertidal area during construction and is therefore not preferable. The ExA considers that the approach satisfies the requirements of the NPSs.

CONTAMINATION IN PEGWELL BAY (HOVERPORT AND OTHER HISTORIC USE) AND OFFSHORE

3.6.55. Thanet District Council (TDC) [REP4-160], KWT [REP6-169], and other IPs in Kent including [RR-4033], [RR-5417], [REP1A-103], [REP1A-091], [REP4-208], [REP6-200], identified that the former hoverport site had been constructed using colliery spoil and that the concrete pad was gradually breaking up, risking release of heavy metal contaminants and fuel residues that could be tracked into the intertidal area in Pegwell Bay. IPs suggested that the proposed 40 tonne heavy goods vehicle movements at the hoverport could accelerate this degradation. TDC recommended controls on access to the intertidal area via the former hoverport [REP4-160]. NE [REP7-272], [REP7-364] identified this as an unresolved red risk in its risk and issue log.

3.6.56. The dDCO [REP7-002] included requirement 22 ‘access to Pegwell Bay’ to address TDC concerns. TDC [REP7-185] accepted the applicant’s proposed requirement wording but maintained an objection to use of the hoverport and intertidal area [REP7-185]. NE [REP7-364] acknowledged the use of protective measures such as track matting and structures to protect surface condition but identified access to the

bay via the hoverport as a red risk in its risk and issue log and principal areas of disagreement summary statement, suggesting that condition assessment of the hoverport should commence as soon as possible.

3.6.57. MMO [REP2-056] discussed the possibility of contamination in the lagoon, located south-west of the service station and west of the saltmarsh.

3.6.58. The applicant [CR1-056] provided information regarding potential contamination sources but ruled out [REP3-064], [CR1-055], [REP4-086] the potential for adverse effects because of the proposed trenchless crossing approach and the condition monitoring approach included in oOCEMP [REP7-127] commitment W37.

3.6.59. After initial questions regarding sediment sampling submissions and contamination, the MMO [REP2-056], [REP3-094], [REP4-126], [REP7-203] concluded that the applicant's chemical analyses showed that samples were generally below Action Level 1, except for minor exceedances of metals (arsenic, chromium and nickel) and sufficient to allow pre-sweeping areas (areas 4 and 5) to be designated as a disposal site. However, it disagreed with the applicant's proposed wording of the chemical drilling and debris condition 8(5) of schedule 16 of the dDCO [REP7-002].

3.6.60. The applicant [REP3-064] provided information regarding sediment sampling and stated [REP7-257] that no further questions had been raised by the MMO in this respect. The ExA notes that the wording of condition 8(5) in [REP7-002] aligned with the MMO's [REP7-203] suggested wording.

3.6.61. The ExA examined contamination from the hoverport access in hearings [EV3-002], [EV6-012], [EV6-033] and [EV9-012] and written questions [PD-017], [PD-21] and [PD-025]. The ExA considered sediment contamination in ExQ1PE3 [PD-017] and condition 8 wording in [PD-025]. Ecological effects of contamination are also considered in section 3.14 of this report.

ExA's findings

3.6.62. NPS EN-1 paragraph 5.11.8 requires consideration of the risk posed by contamination and how it is proposed to be addressed. NPS EN-5 section 2.14 requires consideration of impacts and mitigation relating to offshore-onshore transmission. The ExA considers that the applicant has provided an assessment of contamination risk and has proposed a working method and controls within the dDCO [REP7-002] that are capable of avoiding contamination impacts on the intertidal area and at the hoverport. Based on the applicant's responses and commentary from the MMO, the ExA also considers that the applicant's assessment demonstrates that contamination issues are unlikely to be significant in the offshore area.

THE EFFECT ON SANDBANK FEATURES

3.6.63. 24 IPs including [RR-5678], the International Union for the Conservation of Nature [RR-2128], Kent and Essex Inshore Fisheries and Conservation Authority [RR-2976], East Kent Climate Action [RR-1417], SMM [REP6-148] and KWT [RR-2980] were concerned about impacts on Goodwin Sands due to cable crossing, previous dredging, effects on morphodynamics and lack of proposed mitigation.

3.6.64. NE [REP7-272] highlighted the potential for works, such as pre-sweeping and laying of cable protection, to impact Goodwin Sands and Cross Ledge sandbank off the Kent coast and Aldeburgh Napes and Ridge sandbanks off the Suffolk Coast due to changes in sediment transport processes, which could affect their role in coastal protection. NE sought validation of assessed effects on the sand bank features, mapping of cable protection and pre-sweeping locations, clarification of worst-case scenario parameters and minor changes to ES wording. NE considered that a commitment to not placing external cable protection adjacent to Goodwin Sands would address its concerns about sediment transport and morphological changes to the feature. NE [REP7-272] maintained that additional assessment was required.

3.6.65. The applicant's assessment is provided in [REP7-097], [REP2-014], [REP7-087], [REP7-257] and [REP7-258]. Significant effects were ruled out for the following reasons:

- Aldeburgh Napes and Ridge – the cable would route between these features and therefore largely avoid the sandbanks. The presence of sandwaves indicates strong tidal currents and a likelihood of rapid recovery. Disturbed sediment would be deposited within the same sediment cell.
- Cross Ledge and Goodwin Sands – the cable route would avoid both features. Cable crossing points (requiring protection) would be a minimum of 260m from Goodwin Sands and 3 kilometres from Cross Ledge. There is a high likelihood that the maximum depth of lowering could be achieved based on ground conditions therefore cable protection would be unlikely to be required. Sedimentation at Goodwin Sands and Cross Ledge occurs on a regional scale and would be unaltered by the presence of areas of low lying protection. Previous major dredging at Goodwin Sands did not affect the stability of the feature. Cable protection would also be aligned with the direction of sediment transport, further minimising any effects.

3.6.66. The oOCEMP [REP7-127] commitment MPE13 suggested that continuous external cable protection was unlikely to be required adjacent to Goodwin Sands MCZ but if required would be limited to no more than 500m length in total, a maximum height of 1m and at least 100m offset from the boundary.

3.6.67. In line with NE requirements in [REP7-272], the oCSIP [REP7-159] commits to deposition of sediment within the order limits and for pre-sweeping material to remain within the same sedimentary system and be intelligently placed to quickly infill excavated depressions (unless otherwise advised by the MMO). It defines areas of likely pre-sweeping activity and cable protection (also [REP1-067]).

ExA's findings

3.6.68. NPS EN-3 paragraph 2.8.111 identifies the potential for projects to affect sediment transport, modify sandwaves and sea bed morphology and lead to direct and indirect effects that can affect wave climate and sediment transport. The ExA considers that the applicant has designed the cable route to largely avoid the main sandbank features and minimise sediment transport effects. The applicant also proposes mitigation to reduce impacts through retaining sediment locally. On this basis the ExA agrees that significant effects on sandbank features are unlikely. Whilst impacts from placing rock protection have been assessed as a worst case, the applicant considers that such use is unlikely (except for cable crossings) adjacent to Goodwin Sands and would be unlikely to significantly affect regional scale sedimentary processes. Based on the evidence of the stability of Goodwin Sands, the ExA considers that effects on Goodwin Sands would not be significant. Impacts on benthic habitats are considered further in section 3.4 of this report.

CONCLUSIONS

3.6.69. The ExA considers that the proposed development satisfies the MPE and contamination related requirements in NPS EN-1, NPS EN-3 and NPS 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 Plan. The ExA considers that subject to the demonstration of need and conclusions regarding alternatives as set out in sections 3.2 and 3.3 of this report, the proposed works are compliant with relevant local policies and that there are no other important or relevant considerations.

3.6.70. The ExA concurs with ES Part 4, Marine Chapter 1, section 1.9 [REP7-097] that the significance of effects from the proposed development on the physical environment would not be significant, although small magnitude adverse effects would arise.

3.6.71. The ExA is satisfied that the applicant has demonstrated that effects associated with the proposed development can be satisfactorily mitigated and managed and that appropriate mitigation is included in the oCEMP, oOCEMP and relevant requirements in the rDCO. The ExA highlights the following suggested changes to the dDCO [REP7-002], which have been carried through to its rDCO:

- Requirement 18 has been transferred to schedule 16 of the rDCO as condition 18 to allow the MMO to carry out its regulatory functions and the SNCB has been added as a consultee. Should the Secretary of State disagree, the ExA considers that the absence of a control in the DML would weigh negatively against the making of the order.
- Requirement 16 and condition 10 have been amended to reference entry and exit pits (to account for reversed working direction) and 16(5) and 10(5) have been amended to reduce ambiguity regarding the entry/ exit location relative to the continuous Coralline Crag.

3.6.72. Overall, the ExA considers that matters relating to the marine physical environment attract a little weight against the making of the order.

3.7. FISH AND SHELLFISH

INTRODUCTION

3.7.1. This section examines the effects of the proposed development on fish and shellfish in the offshore environment. For any coverage of fish and shellfish within river environments, please see section 3.14 of this report. Matters related to benthic ecology are addressed in section 3.4.

3.7.2. Issues relating to the effects on fish and shellfish species through physical disturbances are considered in this section, together with potential loss of habitat.

APPLICATION SUMMARY

3.7.3. The applicant's assessment of the potential effects of the proposed development on fish and shellfish, including cumulative effects, are set out in the Environmental Statement (ES):

- Part 4 Marine Chapter 3 Fish and Shellfish Ecology [AS-022]
- Marine Chapter 10 Intra-Project Cumulative Effects [APP-083]
- Marine Chapter 11 Inter-Project Cumulative Effects [REP1A-011]

3.7.4. The assessment in [AS-022] is supported by the following appendices and accompanying figures:

- ES Figures Marine Fish and Shellfish [APP-274]
- ES Figures Marine Herring and Sandeel Assessment Parts 1-3 [APP-275] to [APP-277]

3.7.5. Paragraph 3.3.3 of [AS-022] lists the other chapters of the ES and other documents which the ES Part 4, Chapter 3 [AS-022] should be read in conjunction with.

3.7.6. ES Part 4, Chapter 3 [AS-022] includes the following impacts that have been scoped in for assessment from the construction, operation/ maintenance, through to the decommissioning phases, as set out in paragraphs 3.3.7 to 3.3.10 [AS-022]:

- temporary physical disturbance to fish and shellfish habitat
- temporary increase in suspended sediment concentration (SSC) and subsequent sediment deposition leading to contaminant mobilisation, increased turbidity and smothering effects on fish and shellfish
- underwater sound
- underwater sound from unexploded ordnance (UXO)
- permanent loss of fish and shellfish habitat due to placement of hard substrates on the seabed
- disturbance to fish due to subsea cable electro-magnetic field (EMF) emissions
- potential effects on fish and shellfish due to subsea cable thermal emissions

3.7.7. As set out in paragraph 3.6.1 of [AS-022], the proposed offshore development extends from the Outer Thames Estuary and southern North Sea between the Suffolk and Kent coastlines. The study area is illustrated in figure 6.4.4.3.1 of [APP-274]. The applicant explains that the study area has been selected to encompass all zones of influence (ZoI) for fish and shellfish. For example, the largest ZoI extends 17 kilometres (km) from the proposed offshore development to consider the furthest extent of sediment deposition. Furthermore, as set out in paragraph 3.6.2 of [AS-022] any designated sites that lie onshore have also been included to consider the potential for an interaction between the offshore areas and potential migration routes of migratory fish.

3.7.8. Baseline conditions are set out in section 3.7 [AS-022]. The applicant has set out the desk study process undertaken in paragraph 3.4.2 of [AS-022], including key data sources. The baseline study included the identification of known protected fish and shellfish species (set out in table 3.8 of [AS-022]) and also designated sites. Within paragraph 3.7.3 of [AS-022] the ES identifies three designated sites located within 17km of the offshore scheme area where fish and shellfish are included as designated features, with a further site identified within the larger 50km distance from the offshore proposed development where migratory fish species are a designated feature. These are all Marine Conservation Zones (MCZs):

- Goodwin Sands MCZ
- Thanet Coast MCZ
- Dover to Deal MCZ

- Medway Estuary MCZ

3.7.9. Paragraph 3.7.3 of [AS-022] confirms there are no Special Areas of Conservation (SAC)s within the study area.

3.7.10. Project specific benthic surveys were carried out in the nearshore and offshore parts of the study area to assist in identifying any suitable spawning habitat for key demersal fish species including herring and sandeel (paragraph 3.4.4 of [AS-022]). Table 3.9 and table 3.10 of [AS-022] list the spawning grounds and nursery grounds within the study area respectively.

3.7.11. In terms of future baseline, the applicant concludes in paragraph 3.7.124 that over the proposed development's lifetime populations and/ or ranges of species are likely to change and shift as a result of climate change.

3.7.12. Within ES Part 4 chapter 11 [REP1A-011] the applicant states that due to other existing and proposed projects overlapping or being in close proximity to the offshore order limits there is potential for direct and indirect cumulative impacts on fish and shellfish receptors.

3.7.13. As set out in paragraph 3.4.3 of [AS-022] several factors were considered when assessing the impacts on fish and shellfish resulting from the offshore scheme, including sensitivity of the receptors, magnitude of the impact, and the overall significance of effects. This is further detailed in paragraphs 3.4.5 through to 3.4.11 [AS-022]. The appraisal methodology incorporated Chartered Institute of Ecology and Environmental Management guidance for ecological assessment in the United Kingdon (UK) (2018), along with professional judgement and other sources of guidance. Paragraph 3.4.10 [AS-022] confirms that a precautionary approach has been taken with the worst-case scenario assessed for each impact, in order to account for any uncertainty or lack of baseline survey data in the assessment.

3.7.14. Assumptions and limitations for the ES assessment of fish and shellfish [AS-022] are set out in paragraph 3.4.12. According to the applicant, this includes acknowledging that each contributing survey is a snapshot in time, due to the mobile nature of fish and some shellfish.

3.7.15. Table 3.13 of [AS-022] sets out the summary of impact pathways and the maximum design scenarios for each of those pathways.

3.7.16. The applicant states, in paragraph 3.8.1 of [AS-022], that the proposed development has been designed, as far as possible, to follow the mitigation hierarchy in order to, in the first instance, avoid or minimise fish and shellfish impacts and effects through

the process of design development, and by embedding measures into the design of the proposed development. These embedded measures include:

- the sensitive routing and siting of infrastructure and temporary works;
- relevant commitments made within the outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127], such as reference FSF01 to address the potential effects on fish from electro magnetic fields by having a target depth of lowering of the cable
- the seasonal restriction (1 November – 31 March) to most offshore cable installation activities, primarily due to the red-throated diver in the Outer Thames Estuary Special Protection Area (SPA)

3.7.17. Further to the above, control and management measures relevant to the potential impacts to fish and shellfish are set out in paragraph 3.8.4 of [AS-022] and included within the oOCEMP [REP7-127].

3.7.18. Section 3.9 [AS-022] sets out the assessment of the impacts and likely significant effects on fish and shellfish as a result of the proposed development, with table 3.15 [AS-022] providing a summary of these conclusions. The overall conclusion is that there would be no residual significant effects on the fish and shellfish during construction, operation and decommissioning, from any of the potential impact pathways. Therefore, the applicant sets out in paragraph 3.10.1 [AS-022] that no additional mitigation measures or monitoring have been recommended as a result of the impact appraisal.

3.7.19. For cumulative impacts, the ES [REP1A-011] in paragraph 11.4.8 concludes that cumulative impact from the proposed development and other offshore projects are likely to be highly localised and short-term. For each potential impact, the applicant's assessment concludes that no significant effects are likely to arise.

3.7.20. With regard to transboundary effects, the ES [AS-022] states in paragraph 3.12.2 that given the distance of the proposed development from French waters (approximately 25 km), there are not anticipated to be significant transboundary effects. The Planning Inspectorate's transboundary screening [OD-002] also identified no likely significant effects on fish and shellfish ecology in other European Economic states.

EXAMINATION ISSUES

3.7.21. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- effect on herring and sandeel spawning grounds through disturbance and SSC
- the effects on fish from offshore construction noise
- the effects on fish species through electro-magnetic fields (EMF) from subsea cables

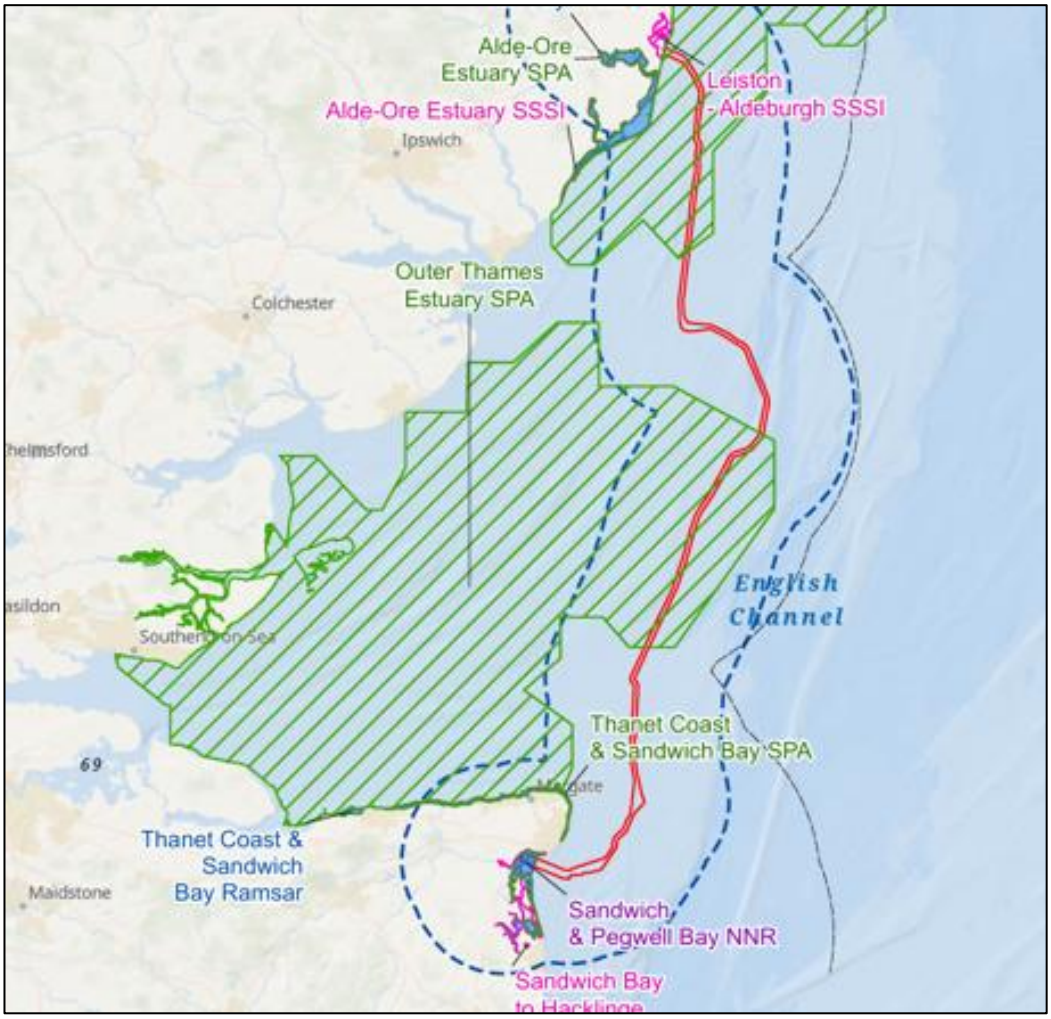
EFFECT ON HERRING AND SANDEEL SPAWNING GROUNDS THROUGH DISTURBANCE AND SUSPENDED SEDIMENT CONCENTRATIONS (SSC)

3.7.22. The Marine Management Organisation (MMO) [RR-3476] identified that the proposed offshore cable route would pass to the west of the Downs herring spawning ground, with a small section passing through what it termed as preferred herring spawning seabed habitat. The MMO stated that given the suitability of the seabed sediments for spawning in some areas of the order limits, it cannot be ruled out that some spawning by herring may occur within this boundary, albeit at a lower intensity than other areas of higher suitability [RR-3476]. This was based on the applicant's benthic surveys of the ES study area to assist in identifying suitable spawning habitat for key demersal fish species including herring and sandeel which identified sediment habitat preferences for these fish species [AS-022].

3.7.23. Both herring and sandeel are listed as Natural Environment and Rural Communities Act (2006) species of principal importance. The applicant acknowledges that both herring and sandeel are likely to be particularly sensitive to removal and degradation of spawning habitat because of their specific sediment requirements, which could be caused by the installation of the proposed offshore cable [AS-022].

3.7.24. As an embedded measure of mitigation in the ES [AS-022] the applicant has included for fish and shellfish the full seasonal restriction (1st November – 31st March) in the Outer Thames Estuary Special Protection Area (SPA) of offshore cable installation activities. The applicant states that as a consequence it means that offshore cable works would not take place in much of the spawning seasons.

Figure 15: Cable route (in red) through the Outer Thames Estuary SPA (extract from figure 6.4.4.5.2 [REP5-032]



3.7.25. The MMO [RR-3476] noted the seasonal restrictions and stated that the period of the restrictions coincides with the spawning season for Downs herring (November to January) and also the spawning and hibernation period for sandeel (November to February), so may limit adverse impacts during these sensitive periods. MMO considered that this applies particularly to sandeel, which have widespread habitat in these locations in and near the order limits. The seasonal restriction is secured under conditions 4 and 11 of schedule 16 (the Deemed Marine Licence) dDCO [REP7-002] and as commitment O03 of the Register of Environmental Actions and Commitments (REAC) [REP7-359].

3.7.26. In response to action point 34 [EV6-033] arising from issue specific hearing 2 the MMO confirmed that herring and sandeel in the vicinity of the proposed works would benefit from the seasonal restrictions by removing potential impact pathways associated with offshore cable works during this period completely. The

MMO therefore considered that there is no requirement for further mitigation [REP4-126].

ExA's findings

3.7.27. The National Policy Statement (NPS) for Renewable Energy Infrastructure (EN-3) (2024) paragraph 2.8.148 states that there is the potential for the construction and decommissioning phases, including activities occurring both above and below the seabed, to impact fish communities, migration routes, spawning activities and nursery areas of particular species. Furthermore, at paragraph 2.8.250 this NPS states that construction of specific elements can be timed to reduce impacts on spawning or migration.

3.7.28. In this circumstance, the ExA accepts that the laying of the cable offshore has the potential to result in disturbance to both herring and sandeel which could have adverse effects on the population of these species in this area of the North Sea. However, as agreed by MMO, the seasonal constraints on offshore cable installation works, which is primarily included to safeguard red throated diver bird species, would have clear benefits for herring and sandeel. This is because the seasonal restriction covers much of the spawning season for both herring and sandeel.

3.7.29. The ExA finds that the restriction on cable works would benefit herring and sandeel. Overall, the ExA concludes that, based on the evidence submitted, there would be no significant effect on herring or sandeel and the proposed development would be in accordance with NPS EN-3 on this matter.

THE EFFECTS ON FISH FROM OFFSHORE CONSTRUCTION NOISE

3.7.30. The Environment Agency (EA) in its relevant representation [RR-1586] raised a concern under point EA019 that noise impacts from cable excavation have not been included in the ES assessment. The EA stated that certain techniques used to dredge or excavate material can be classed as noisy activities and may have an impact on fish, depending on the severity.

3.7.31. The applicant responded in detail [REP2-014], including stating that an assessment of potential noise effects from cable installation (including ploughing, jetting, and trenching) on fish was considered in the ES [AS-022] though this assessment screened out such effects on this receptor. This was because, as stated by the applicant, the noise level from construction activities would be very low and would not pose a risk of injury or significant disturbance to fish. It was considered by the applicant that fish would move from the potential noise injury zone and therefore avoid harm.

3.7.32. Following the information submitted by the applicant this issue is now agreed within the final statement of common ground between the applicant and EA [REP7-199].

ExA's findings

3.7.33. NPS EN-3 at paragraph 2.6.249 states that underwater noise mitigation can also be used to prevent injury and death of fish species. Based on the responses to the EA's concerns about noise impact to fish the ExA is satisfied that the noise impacts of offshore cable installation would not result in likely significant adverse impacts to fish species. On this matter the ExA concludes that the proposed development is in accordance NPS EN-3.

THE EFFECTS ON FISH SPECIES THROUGH ELECTRO-MAGNETIC FIELDS (EMF) FROM SUBSEA CABLES

3.7.34. In their relevant representation [RR-1412], the Eastern Inshore Fisheries and Conservation Authority (EIFCA) stated that not enough is known about electro-magnetic field impacts on marine fauna. The Eastern EIFCA remarked that this cannot be addressed by a single developer, but instead there is a responsibility for the marine cable industry to investigate and conduct research to reduce uncertainty.

3.7.35. In response to the Eastern EIFCA, the applicant [REP2-014] said that as cables were to be bundled (significantly reducing emissions of EMF) and would be buried for most of offshore proposed development there would be negligible potential for effects on fish and shellfish. Where burial cannot be achieved the applicant stated that the zone of influence for EMF is determined to be a precautionary maximum of 5 metres even for the most sensitive fish species, and so any effects would be very limited. Thus, the impact of EMF to fish was assessed as minor and not significant by the applicant [AS-022].

3.7.36. As set out in the oOCEMP [REP7-127] the primary method of cable installation across the offshore works area is proposed as burial. The minimum depth of lowering to the top of the cable would be 0.5 metres, with rock protection installed where cable protection is necessary.

3.7.37. The ExA also recognises that the Joint Nature Conservation Committee (JNCC) concluded in its relevant representation [RR-2635] that it notes the found of the ES [AS-022], which concluded no significant impact from EMF to the fish species assessed. The JNCC agreed with the conclusion of no adverse effect from this impact pathway.

ExA's findings

3.7.38. NPS EN-3 at paragraph 2.6.245 states that EMF in the water column during operation, in the form of electric and magnetic fields, should be reduced by use of armoured cables for inter-array and export cables. Paragraph 2.8.246 goes on to say that burial of the cable increases the physical distance between the maximum EMF intensity and sensitive species.

3.7.39. Whilst the ExA acknowledges that there might be a lack of understanding with regards to EMF impacts to fish from cables, from the evidence that is submitted the ExA considers that the proposed burial of the cables or use of cable protection or rock backfill would be sufficient to reduce the potential harm to a minimal level, in accordance with NPS EN-3.

CONCLUSIONS

3.7.40. On the above matters the ExA is satisfied that there would be no likely significant impacts on fish or shellfish species as a result of the project alone or cumulatively with other plans and projects. The ExA is satisfied that the proposals on this matter accords with NPS EN-1, EN-3 and EN-5 (2024) as well as local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement, together with all other relevant legislation, and there are no other important or relevant considerations.

3.7.41. The ExA accepts the conclusions of the ES on the topic of fish and shellfish, where the residual harm is no more than of minor significance, with there likely to be some impacts to fish and shellfish from EMF or construction noise for example. However, these impacts would be small in magnitude and not significant, for the reasons set out in this section. As such, the ExA considers that this matter attracts a little weight against the making of the order.

3.8. COMMERCIAL FISHERIES

APPLICATION SUMMARY

3.8.1. The applicant's assessment of the potential effects of the proposed development on commercial fisheries is set out in the Environmental Statement (ES) in Part 4, marine Chapter 8 Commercial Fisheries [REP1A-009]. It is supported by the following figures and appendices:

- ES appendix 4.8.A Commercial Fisheries Technical Report [REP1-007]

- ES figures marine Commercial Fisheries [REP5-034]

3.8.2. It should be read in conjunction with:

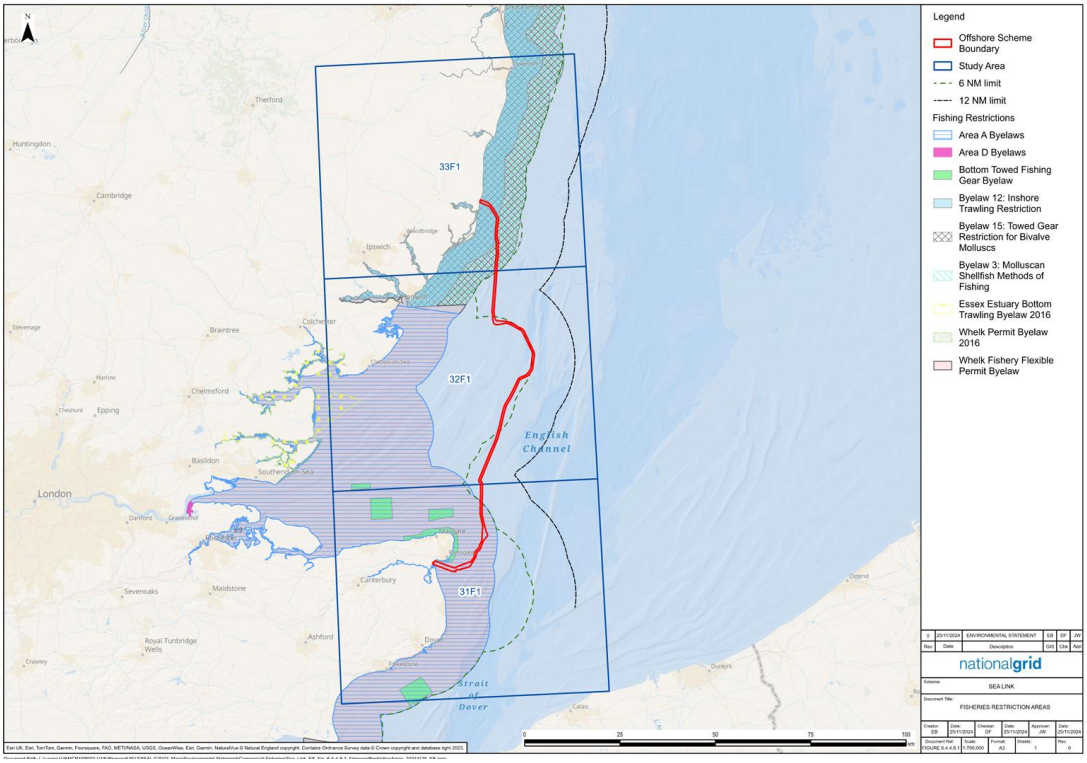
- ES Part 4 Marine Chapter 2 Benthic Ecology [REP7-099]
- ES Part 4 Marine Chapter 3 Fish and Shellfish Ecology [AS-022]
- ES Part 4 Marine Chapter 7 Shipping and Navigation [REP7-105]
- Outline Fisheries Liaison and Coexistence Plan (oFLCP) [REP4-081]
- Register of Environmental Actions and Commitments (REAC) [REP7-360]
- Outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127]
- Areas of Safeguarded Water Depth - Consideration of Additional Installation Requirements [REP5-139]

3.8.3. The ES considers the following potential impacts in accordance with the relevant assessment methods:

- Temporary loss and alteration of fishing grounds during construction and operation.
- Temporary displacement of commercial fishing activities during construction and operation.
- Loss or damage to fishing gear during construction and operation.
- Obstruction of navigation routes to commercial fishing grounds during construction.
- Indirect effects on commercial fisheries as a result of impacts on the ecology of commercial species during construction and operation.

3.8.4. The study area is based on the three statistical units in the southern North Sea International Council for the Exploration of Seas (ICES) mapping which overlap with the proposed development, shown on the figure below.

Figure 16: Study area (figure 6.4.4.8.1 [REP5-034])



3.8.5. Baseline information is set out in section 8.7 of [REP1A-009]. This includes vessel tracking data, surveillance sightings data, landings data, and consultation with stakeholders. The data sources used by the applicant are set out in table 8.7 [REP1A-009]. The sensitivity of commercial fisheries receptors is set out in table 8. The magnitude criteria are set out in table 8.9 and the criteria for determination of significance are set out in table 8.10.

3.8.6. The applicant concludes that United Kingdom (UK) vessels account for the largest share of fishers in the study area and are therefore the most likely to be impacted by the project. The applicant has undertaken engagement with local fishers as set out in section 8.3 [REP1A-009], including engagement with representatives of the majority of the ports adjacent to the cable route, consultees from the regional inshore fisheries conservation authorities and non- UK stakeholders from the European Union (EU). The applicant notes that local fishing grounds are located within the 12 nautical mile (nm) limit, with efforts mainly focused within the 6 nm. The applicant reports that many vessels are now multi-purpose and are switching gear types, while fishing efforts are becoming more local due to rising fuel costs.

3.8.7. The applicant identifies that the key receptors are mobile gear fisheries and static gear fisheries. Mobile gear fishing comprises dredgers, beam trawlers, and demersal trawls and seines. Static gear fishing comprises pots and traps, fixed and drift nets.

3.8.8. In terms of the spatial distribution of fishing activity, the applicant identifies some overlap of potting activity in the southern portion of the offshore scheme, eastward of Margate and to a lesser extent around the landfall in Pegwell Bay. The surveillance sitings data on figure 6.4.4.8.4 of [REP5-034] indicates that trawler activity overlaps with the cable route, particularly the northern half. The applicant also identifies overlap between the areas covered by fixed and drift nets and the offshore cable route, particularly in the southern half of the offshore scheme. In addition, the applicant notes activity in the study area from non-UK fisheries as set out in [REP1-007] and [REP5-034], including Belgian and French trawlers, but states there was little evidence of overlap with the offshore scheme. Table 8.12 indicates surveillance sitings by nationality [REP1A-009].

3.8.9. The applicant has provided analysis of landings data and reports that the highest average landings by UK vessels was recorded in ICES rectangle 31F1, close to the Kent coast. The applicant reports that this was followed by ICES rectangle 32F1 covering the northern part of the Thames Estuary towards the Essex coast. In terms of fishing method and species, the applicant states that dredging for cockles accounts for the majority of the overall value of landings for the study area, followed by pots and traps targeting whelk and edible crab and lobster, and both drift and fixed nets mainly targeting sole and bream. Overall, the applicant reports that the study area represents a valuable source of landings for local ports, which is illustrated on table 8.13 of [REP1A-009].

3.8.10. An analysis of the key gear types active within the study area, the seasonality and other characteristics of the activity is provided in section 8.7 [REP1A-009]. The applicant acknowledges that there is some uncertainty regarding the future baseline, as the latest published landings data only covered up to 2022 and the UK exited the EU Common Fisheries Policy in 2023, giving rise to future uncertainty.

3.8.11. Embedded mitigation measures proposed to reduce the effects are the sensitive routeing and siting of infrastructure and temporary works, minimising the amount of time the cable is unprotected and exposed to potential interactions with anchoring vessels or fishing gear during constructions. Commitments to secure these mitigation measures are summarised in the REAC [REP7-359].

3.8.12. Control and management measures are included in the oOCEMP [REP7-127], including the appointment of a Fisheries Liaison Officer (FLO) and the provision of a FLCP. An outline FLCP has been provided [REP4-081]. The OCEMP and the FLCP would be secured by the Deemed Marine Licence (DML) condition 4(1)(b) and 4(1)(f) respectively.

3.8.13. The assessments of impacts and likely significant effects is set out in section 8.9 of [REP1A-009]. Table 8.14 summarises the impact pathways and the maximum design scenario and the likely effects identified by the applicant for each pathway are summarised by gear type in tables 8.15 to 8.24 inclusive [REP1A-009]. Mobile gear includes dredgers, demersal and beam trawlers and seiners. Static gear includes pots and traps, drift and fixed nets.

3.8.14. The ES concludes in table 8.15 that there would be moderate adverse (significant) effects through the temporary loss and alteration of fishing grounds during construction on static gear fisheries [REP1A-009]. Mitigation through compensation would reduce the effect to minor and not significant as set out in section 8.10 of [REP1A-009].

3.8.15. Likely significant effects are also identified by the applicant during the operation phase due to loss and alteration of fishing grounds for static gear fisheries as summarised in table 8.20 [REP1A-009]. This would be due to the presence of cable protection where the minimum depth of lowering cannot be achieved, such as locations of cable crossings. In such areas, the applicant advises that cable protection would be present, designed in line with industry guidance to prevent the risk of towed fishing gears snagging, which could affect both mobile and fixed gear fishing. The applicant assesses that the risk would be medium to drift netters (static gear). The applicant proposes additional mitigation in the form of the FLCP and post construction surveys to confirm depth of lowering and monitor cable protection for potential snag risk. These would be secured through DML condition (4(1)(a) and 4(1)(f) and would reduce the potential effect to minor and not significant, as set out in section 8.10 [REP1A-009].

3.8.16. At decommissioning, the applicant concludes that the removal of buried cable would be likely to give rise to similar effects to those during the construction phase. Therefore, the applicant assesses that there would be potential moderate adverse effects on static gear fisheries (pots and traps), which could be reduced to minor and not significant through additional mitigation.

3.8.17. The additional mitigation for the effects of moderate adverse significance is set out in section 8.10 of [REP1A-009]. In summary, a FLCP would be prepared which would include procedures for compensating fishers for the relocation or removal of fishing gear during the construction phase. An oFLCP has been provided [REP4-081] with which the FLCP must accord. The applicant also sets out that the FLCP would include measures for engaging with the fisheries sector on cable protection design pre-construction and set out proposals for long term engagement with the fisheries sector. The applicant also committed to post installation surveys in the oFLCP to

confirm the depth of lowering and monitor cable protection for potential snag risk [REP4-081] which are secured in the DML condition 14. Table 4.1 of the oFLCP [REP4-081] sets out that the FLCP would include a commitment to set out procedures for evidence-based compensation for gear loss, damage, relocation and removal during operation.

3.8.18. In relation to all other impact pathways the applicant assesses that the risks would be either negligible or minor and therefore not significant in EIA terms [REP1A-009]. All potential effects with mitigation are set out in the summary appraisal at table 8.25 of [REP1A-009]. Taking into account the additional mitigation, the applicant concludes that there would be no likely significant adverse effects on commercial fisheries caused by the proposed development.

3.8.19. The applicant sets out in section 8.13 of [REP1A-009] that it does not predict any significant transboundary effects. The applicant explains that given the distance from non-UK waters, the short term and local nature of the proposed development is not anticipated to be sufficient to influence commercial fisheries receptors outside UK waters substantially to cause transboundary effects. The Planning Inspectorate's transboundary screening supported this conclusion [OD-002].

3.8.20. The applicant has provided a cumulative assessment of effects on commercial fisheries with relevant other developments in [REP1A-011]. Table 11.24 summarises the cumulative effects assessment on commercial fisheries receptors. It concludes that there would be moderate (significant) effects on static gear fisheries (pots and traps) during construction when considered with the other offshore developments listed in the table. Additional mitigation is set out in table 11.24. The measures include clearly communicating via a notice to mariners the timing of any temporary areas of exclusion from fishing grounds, a procedure for the claim of loss of or damage to fishing gear, and the appointment of a FLO. During operation, moderate (significant) effects were identified on static gear fisheries (fixed and drift nets) due to snagging risk on cable protection. The proposed mitigation would be as for construction, with the addition of communication and collaboration between developers. The additional mitigation would be secured through the FLCP and DML condition 4(1)(f).

3.8.21. Table 11.33 of [REP1A-011] summarises the cumulative effects and concludes that subject to the proposed mitigation the significance of the effect would be minor and not significant in Environmental Impact Assessment (EIA) terms.

EXAMINATION ISSUES

3.8.22. Approximately 20 relevant representations raised concerns about the effects of the proposed development on commercial fisheries. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- the assessment of the effects on commercial fisheries
- the adequacy of the proposed mitigation
- the assessment and mitigation of cumulative effects

ASSESSMENT OF EFFECTS ON COMMERCIAL FISHERIES

3.8.23. Thanet Fishermen's Association [RR-5373], Kent and Essex Inshore Fisheries and Conservation Authority (KEIFCA) [RR-2976] and Whitstable Fishermen's Association [RR-6041] raised a range of concerns regarding the applicant's ES. In particular there was concern that inadequate consideration had been given to impacts on bottom drift fishing. The applicant confirmed [REP1A-033] that an 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 obstacles during construction. 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. 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.

3.8.24. Leigh Port Partnership [RR-5380] and KEIFCA [RR-2976] both raised concerns that the interests of the cockle fishing industry in Leigh-on-Sea, Queenborough, Whitstable be recognised, while KEIFCA in particular noted that Pegwell Bay is an important and valuable cockle harvesting area. The ExA asked (ExQ2CF8 [PD-021]) relevant stakeholders whether the assessment on cockle harvesting in Pegwell Bay was sufficient. The ExA notes that there were no responses to this question.

3.8.25. Southwold Fishermens Group (SFG) [RR-5068] raised a concern that the proposed development would disturb some prime fishing grounds which would take a long while to recover. The SFG explained that as the fleet is mainly under 10 metres, travelling long distances to clear ground would not be possible. The ExA asked ExQ2CF10 [PD-021] to which the applicant responded in [REP5-135], indicating that the concerns raised by SFG were already covered in [REP1A-009] and [REP1-007]. The applicant explained how the assessment could be applied to SFG in particular, on the basis that most of the SFG fleet are likely to be potting vessels. The

assessment concluded that there could be significant effects on static gear fisheries due to temporary loss of fishing grounds, reduced to not significant effects with the proposed mitigation. The effects on fishing grounds is covered in the fish and shellfish section of this report. There was no further response from SFG.

3.8.26. The ExA asked stakeholders for comments on the applicant's updated assessment [REP1A-009] and [REP1-007] in ExQ2CF4 [PD-021]. EIFCA [REP5-191] responded that the baseline data and forecast methods appeared reasonable and the assessment of potential effects was adequate, although the importance of individual fishermen should be emphasised.

ExA's findings

3.8.27. The ExA is satisfied that the applicant's assessment has included robust baseline data and carried out consultation with a cross-section of the fishing industry. It has taken into account the characteristics of the fleet that would be affected and considers both direct and indirect impacts, following the provision of additional information in response to queries raised by stakeholders. The ExA concludes that the assessment accords with the provisions set out in National Policy Statement (NPS) EN-3, including paragraphs 2.8.153 to 2.8.159 insofar as they require that applicants consider the impacts on fishing activity and the effects of displacement, using robust baseline data and dialogue with the fishing industry.

ADEQUACY OF MITIGATION

3.8.28. EIFCA [REP1-150] raised concerns that the mitigation for the effects on static gear fishers was not clear. It encouraged the development of a FLCP with agreement with the fishing industry. The applicant provided the oFLCP [REP4-081]. In response to the ExA's question ExQ2CF6 [PD-021] the applicant confirmed that the oFLCP secured all the mitigation referred to in [REP1A-009], including provision for a procedure for the claim of loss, damage, relocation or removal of fishing gear to be developed in consultation with fisheries stakeholders for inclusion in the FLCP. The EIFCA provided its view in [REP5-191] that the oFLCP provides a clear overview of the approach to mitigation and compensation.

3.8.29. In response to concerns regarding mitigation raised in the relevant representations, the applicant provided new and amended commitments in the REAC [REP7-127]. The ExA asked ExQ1CF1 [PD-017] in response to concerns raised in relevant representations about mitigation, asking relevant stakeholders for comments on the updated Commercial Fisheries chapter of the ES [REP1A-009]. In response to ExQ2CF4 [PD-021] the EIFCA [REP5-191] confirmed that the embedded mitigation and compensation measures were in line with their requests in their written representation.

3.8.30. EIFCA suggested [RR-1422] that a seasonal pattern of construction activity could mitigate effects on fishing. The applicant responded [REP5-135] that it has already committed to a number of measures to minimise the effects on access to fishing grounds during cable works. Furthermore, the applicant set out its commitment to a seasonal restriction within the Outer Thames Estuary (OTE) Special Protection Area (SPA) where cable installation could only occur between 01 April and 31 October in the oOCEMP and the Red Throated Diver Protocol [REP7-142]. The applicant considered that further seasonal restrictions to mitigate potential disruption to fishing activities would not be required and would be difficult to deliver due to the varying seasonality of different target species.

3.8.31. KEIFCA [RR-2976] stated that mitigation would be required for the effects on cockle fishing in Pegwell Bay and there would need to be a commitment to define the extent and nature of the compensation measures before the development commences. This led the ExA to ask relevant stakeholders whether the mitigation proposed in section 8.10 of [REP1A-009] would be sufficient, and if not to specify what additional information was required ExQ2CF8 [PD-021]. There were no responses to ExQ2CF8.

3.8.32. EIFCA [REP1-150] raised a concern that compensation for lost access to fishing grounds may result in increased fishing effort elsewhere which could have effects on fish and shellfish populations, Marine Protected Areas (MPA) and on fishers operating in those areas. This led the ExA to ask ExQ2CF12 [PD-021] to which the applicant responded in [REP5-135] that it would not be able to prevent compensated fishers from choosing to fish elsewhere. The applicant explained that the majority of the area within the EIFCA district is covered by MPA designation, with the OTE SPA and Southern North Sea Special Area of Conservation, which coincides with the northern section of the study area. Therefore, fishers within the EIFCA district are already likely to be fishing in an MPA. Those who would normally fish outside an MPA, generally further south, may be displaced to an MPA area, but the applicant considered that the transient nature of the construction activity and its short duration would mean that any loss of access would be short term and temporary. The applicant considered that the likelihood of smaller vessels relocating from the south to the north was low and would be unlikely to impact on the MPA.

3.8.33. The ExA requested clarification in ExQ2CF2 [PD-021] as to how the post-installation surveys of cables relied upon as mitigation in section 8.10 of [REP1A-009] to confirm depth of lowering and for potential snag risk would be secured. The applicant responded in [REP5-135] that they would be secured through the Cable Specification and Installation Plan required to be submitted by DML condition

4(1)(a) and in accordance with the Outline Cable Specification and Installation Plan (oCSIP) [REP7-159]. Section 7 of the oCSIP sets out a programme of surveys.

ExA's findings

3.8.34. The ExA is satisfied that the mitigation measures outlined in [REP1A-009] to reduce the adverse effects so that they would not be significant is adequately secured. The proposed compensation for lost fishing gear or restricted access to fishing grounds may give rise to additional fishing efforts elsewhere but the ExA accepts that this would be limited in scale and therefore unlikely to give rise to significant indirect adverse effects. The ExA considers that the applicant has sought to minimise the loss of fishing opportunity, in accordance with paragraphs 2.8.318 to 2.8.323 of NPS EN-3.

3.8.35. The ExA is satisfied that the applicant would follow best practice for fisheries liaison, through the FLCP, which pursuant to DML condition 4(1)(f) must be substantially in accordance with the oFLCP, which itself is a certified document. The ExA therefore concludes that it would accord with paragraph 2.8.159 of the NPS EN-3.

CUMULATIVE EFFECTS

3.8.36. Several IPs, including National Federation of Fishermen's Organisations (NFFO) [RR-3917] and KEIFCA [RR-2976] raised concerns at the cumulative effects of offshore developments. NFFO expressed concern that the outer Thames region is one of the most heavily impacted marine regions in the UK due to offshore developments and associated cable infrastructure as well as ambitions for offshore grid network. NFFO stated that further displacement would result in economic harm through loss of earnings from the ground and additional steaming times during construction and operation of the project as well as contributing to the spatial squeeze on fisheries.

3.8.37. The ExA asked ExQ2CF7 [PD-021] to obtain views from stakeholders regarding the adequacy of the applicant's cumulative assessment and proposed mitigation, with a request that they explain whether additional information or mitigation is considered necessary. In response, the EIFCA [REP5-191] set out that reasonable considerations of cumulative effects with other developments had been carried out. There were no other responses to ExQ2CF7.

ExA's findings

3.8.38. The ExA is satisfied that the applicant has adequately assessed the cumulative effects of the development with other offshore developments and has secured appropriate mitigation. The ExA concludes that the assessment accords with

paragraph 2.8.72 of NPS EN-3 which requires that applicants assess the cumulative impacts of infrastructure.

CONCLUSIONS

3.8.39. On the above matters the ExA is satisfied that there would be no likely significant effects on commercial fisheries. The ExA is satisfied that the proposed development would accord with NPS EN-1, EN-3 and EN-5 (2024) as well as local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement, together with all other relevant legislation, and there are no other important or relevant considerations.

3.8.40. 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 is satisfied that the proposed mitigation measures would be adequate and are properly secured by Schedule 16 (DML) of the dDCO. As such, the ExA considers that this matter attracts a little weight against the making of the order.

3.9. SHIPPING AND NAVIGATION

APPLICATION SUMMARY

3.9.1. The applicant's assessment of the potential effects of the proposed development on shipping and navigation is in the Environmental Statement (ES) Part 4, Chapter 7 Shipping and Navigation [REP7-105]. It is supported by the following appendices:

- ES appendix Navigational Risk Assessment (NRA) [REP7-111]
- ES appendix NRA figures part 1 of 2 [REP6-048]
- ES appendix NRA figures part 2 of 2 [REP6-046]

3.9.2. It should be read in conjunction with:

- Outline Navigation and Installation Plan (oNIP) [REP7-144]
- Outline Cable Specification and Installation Plan (oCSIP) [REP7-159]

- Shipping and Navigation Under-Keel Clearance Marine Engineering Note [REP7-154]
- Water Depth Baseline Study - Shipping and Navigation Technical Note [REP7-161]
- Areas of Safeguarded Water Depth Plan [REP7-163]
- Areas of Safeguarded Water Depth - Consideration of Additional Installation Requirements [REP5-139]
- ES Part 4, Marine Chapter 9 Other Sea Users (OSU) [REP1-061]
- ES figures marine OSU [REP1-019]
- Register of Environmental Actions and Commitments (REAC) [REP7-359]
- Outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127]
- Sea Link Cable Burial Risk Assessment (CBRA) [PDA-039]

3.9.3. The applicant's approach and methodology is set out in section 7.4 of [REP7-105] which explains that the NRA [REP7-111] supports the assessment and provides further detail. Section 7.4 [REP7-105] sets out that the approach to determining significance uses the formal safety assessment (FSA) concept of the acceptability of risks to shipping and navigation associated with the identified hazards, which include collisions with passing vessels, disruption to multiple vessels using established routes, anchors or fishing gear dragging across or snagging on exposed cables, reduction in under-keel clearance, and electro-magnetic field interference with navigational equipment.

3.9.4. The FSA tolerability rankings are as follows: broadly acceptable (low risk), tolerable if as low as reasonably practicable (ALARP) (moderate risk), and unacceptable (high risk). Impacts that are identified as likely to be significant in Environmental Impact Assessment (EIA) terms are those that are unacceptable (high risk). For low risks that are broadly acceptable there is limited opportunity for further reduction of risk. For risks that are tolerable if ALARP, there is an expectation that risks are properly assessed, appropriate mitigation measures are in place, residual risks are ALARP, and that risks are periodically reviewed to monitor if further controls are appropriate.

3.9.5. Section 7.6 [REP7-105] sets out that the study area comprises a 10 nautical mile (nm) buffer around the order limits for the proposed offshore works. Section 7.7 of [REP7-105] sets out the baseline conditions which includes five ports and harbour authority areas which overlap with the shipping and navigation study area, these are:

- Sizewell C Harbour Authority area
- Harwich Haven Authority (HHA) area
- The Port of London Authority (PLA) area
- Port of Ramsgate
- Sandwich Port and Haven harbour area

Figure 17: Study area figure 6.4.4.7.A.2 ports and navigation [REP6-048]

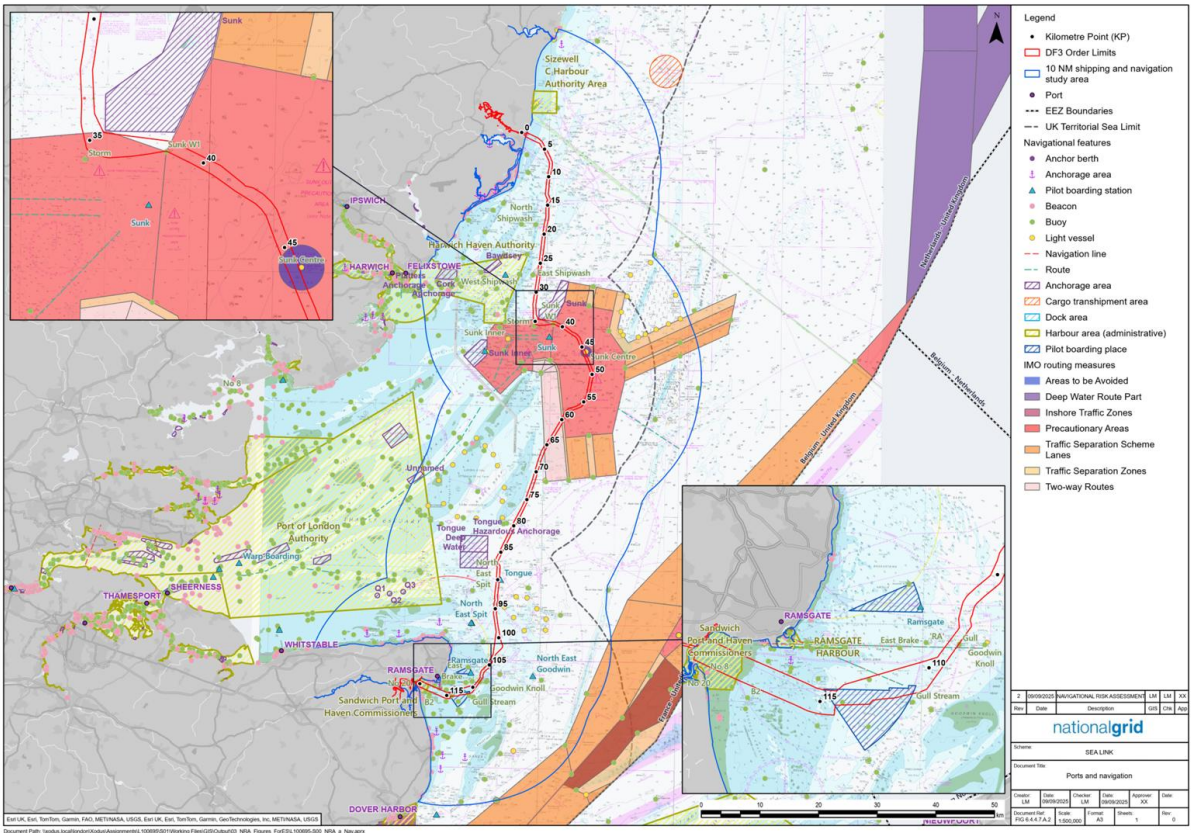
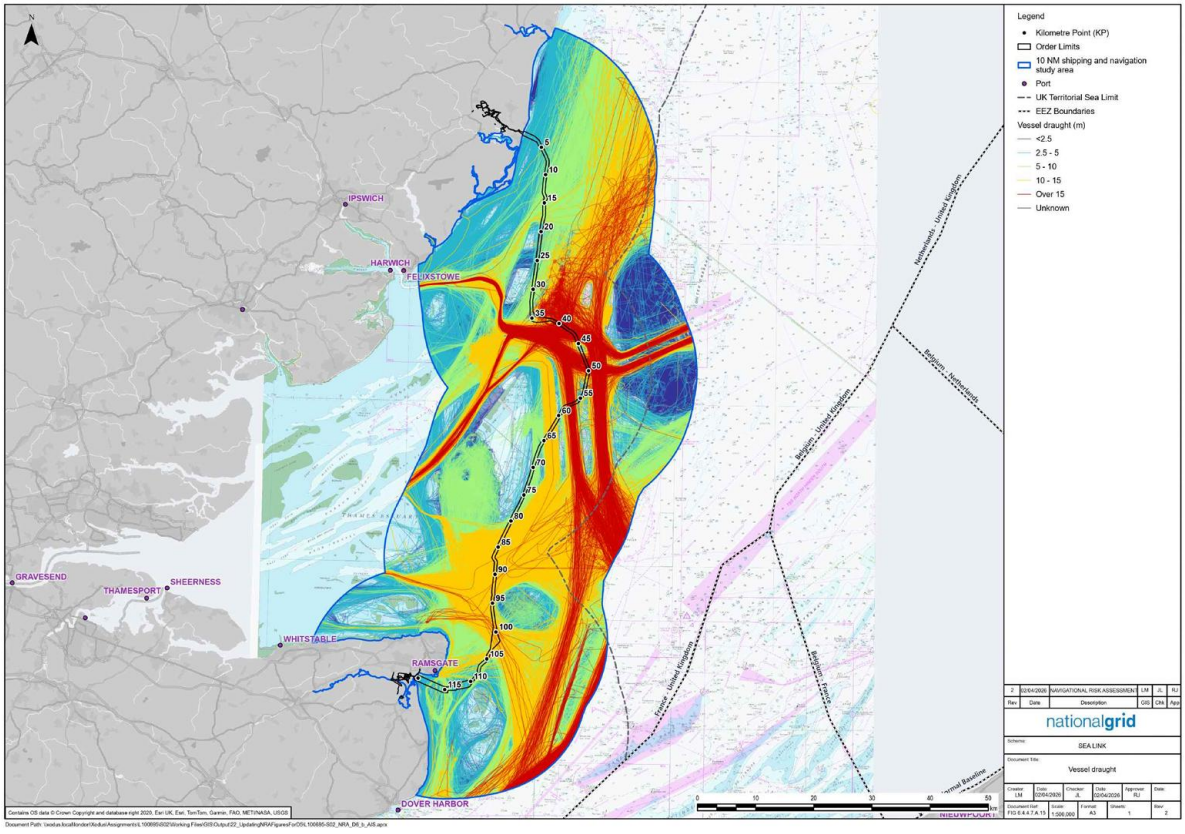


Figure 18: Vessel draught greater than 15m shown in red figure 6.4.4.7.A.15 [REP6-046]



3.9.6. Section 7.7 [REP7-105] sets out that the proposed development would pass close to ports at Harwich and Felixstowe, London Gateway Port, Port of Tilbury and Medway Port. The Kent landfall would be to the south of Ramsgate port and approximately 19 kilometres north of the Dover harbour area. Section 7.7 identifies that much of the regional shipping traffic is likely to pass through the study area routeing to and from these ports and their facilities. Furthermore, section 7.7 sets out that London Gateway Port has statutory dredging powers within the Thames Estuary through to the Sunk area. This does not overlap with the proposed order limits but falls within the study area. The density of vessel movements with a draught over 15 metres (m) is shown in red on the figure above.

3.9.7. Section 7.7 [REP7-105] and 7.5 of the NRA [REP7-111] set out the baseline in terms of marine traffic and show areas of high intensity associated with the ports and the Dover Straits. The data is visually represented in [REP6-048] and [REP6-046].

3.9.8. Section 7.7 sets out the navigational features included in the study area, which includes International Maritime Organisation (IMO) routeing including the Sunk, anchorage areas, pilot boarding stations, and navigational aids such as the Sunk W1 buoy approximately 20m from the proposed development. Section 7.7 identifies that there is also recreational traffic around the coastline and a number of offshore windfarms in proximity to the proposed development.

3.9.9. For the future baseline, section 7.7 [REP7-105] sets out that further development of the marine region in terms of offshore infrastructure including wind farms and oil and gas infrastructure may affect the navigational baseline. In addition, section 7.7 explains that there is potential for ports in the area to set out plans for expansion in the future in order to serve larger draught vessels and therefore undertake dredging campaigns in the region to open up such routes into the Thames Estuary. The section states that port and harbour authorities have identified a realistic maximum future vessel size would be 20m draught, and together with a 10% under-keel clearance, water depths of 22m below chart datum plus 0.5m over dredge would be needed to receive such vessels.

3.9.10. Embedded mitigation measures are set out in section 7.8 of [REP7-105]. They would be secured in the Deemed Marine Licence (DML), and final versions of the oCSIP [REP7-159], the oOCEMP [REP7-127] and the oNIP [REP7-144], which would be secured through conditions 4(1)(a), 4(1)(b) and 4(1)(g) of the DML. Control and management measures are summarised in the REAC [REP7-359]. The embedded measures include designing rock berms to reduce snagging risk, cable burial depth and protection and coordination with other cable installation projects. The measures in the oOCEMP [REP7-127] include the following (summarised):

- GM02 - as-built locations of cable and external protection would be supplied to UK Hydrographic Office, The Crown Estate and Kingfisher and Port Authorities
- LVS02 - all project vessels must comply with international regulations relating to prevention of collisions and pollution
- SN01 - risk-based approach to cable burial
- SN03 - appropriate marking, lighting and status broadcasts of project vessels
- SN04 - temporary aids to navigation
- SN05 - compass deviation report
- SN06 - guard vessels during cable installation works
- CF01 - fisheries liaison
- MPE03 - cable protection features

3.9.11. A summary of impact pathways and the maximum design scenario is set out at table 7.10 of [REP7-105].

3.9.12. Section 7.9 of [REP7-105] sets out the assessment for each impact pathway and the results are summarised in table 7.11. The ES concludes that all the impact pathways are assessed to be unlikely to give rise to significant effects as they would be either ALARP or broadly acceptable once additional mitigation and enhancement measures are applied.

3.9.13. The additional mitigation and enhancement measures are set out in section 7.10 of [REP7-105]. They would be secured in the Development Consent Order (DCO) including in final versions of the oNIP [REP7-144], the oOCEMP [REP7-129] and the oCSIP [REP7-159] through the schedule 16 (the DML) conditions 4(1)(a), 4(1)(b) and 4(1)(g) of the dDCO. The following measures would be included (summarised):

- Notification of regular runners and ferry operators of construction activities.
- The NIP to include clear protocols to ensure effective communication and coordination with all relevant shipping and navigation stakeholders.
- Areas of high potential magnetic compass deviations would be communicated to stakeholders.
- The NIP would pay particular focus on operations in Pegwell Bay due to challenging navigation and high presence of recreational boaters.
- Outside concurrent restricted in ability to manoeuvre (RAM) activity areas simultaneous operations would be avoided where possible.
- Coordination of planned activities with other planned operations to avoid concurrent RAM activities.
- Defined approach to RAM activities when visibility is below 2nm.
- Cable protection measures to take due consideration of key areas of fishing activity to minimise risk of gear snagging.
- Minimise amount of time cable would be unprotected or exposed.
- Minimise time spent in anchorage areas and pilot boarding areas and minimal reduction in under keel clearance.
- No planned cable joints in areas of safeguarded water depth (ASWD).
- Anticipated reductions in water depths greater than 5% will be discussed with the Maritime and Coastguard Agency (MCA) and harbour authorities outside of ASWDs.

3.9.14. The applicant's assessment of cumulative effects is set out in ES Part 4, Marine Chapter 11: Inter-project Cumulative Effects [REP1A-011]. Table 11.32 concludes that, with the implementation of the recommended additional mitigation measures, any cumulative effects would not be significant.

EXAMINATION ISSUES

3.9.15. 12 relevant representations raised concerns about issues relating to shipping and navigation. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- navigational safety
- approaches to ports and established routes

3.9.16. While some of the topics in the two main issues overlap, the second main issue focuses on the implications for shipping of the measures proposed to ensure navigational safety in terms of access to ports and established routes.

NAVIGATIONAL SAFETY

Cable route

3.9.17. Prior to submission of the application, engagement with HHA had resulted in the proposed cable route being refined to pass north of the Sunk W1 buoy and Storm buoy. The necessity was reiterated by HHA [RR-1942] which explained that moving the cable route closer to the buoys would not be considered safely achievable and would result in an unacceptable level of navigational risk. The applicant included a commitment that it would be no closer than 151m to Sunk W1 buoy in REAC SN31 [REP7-359] and 200m (SN36) in relation to other aids to navigation. Trinity House was satisfied with this commitment [REP7-029]. Furthermore, Schedule 16 (DML) condition 4(iii) would require the detailed location and route of offshore cables including micro-siting to be submitted prior to commencement and approved by the Marine Management Organisation (MMO) in consultation with Trinity House. No further representations were received from HHA that would indicate that such measures would not be acceptable.

Anchor strike and fishing gear snagging on cable or cable protection

3.9.18. Several IPs including the UK Chamber of Shipping [RR-5510] and [RR-1222] raised concern at the risk of anchors dragging across exposed cables or fishing gear snagging on cables or on cable protection and the resulting risks to shipping and navigation. In the Sunk area, HHA [RR-1942] advised that cable depths would need to take into consideration that the world's largest vessels may anchor and dredge anchors in an emergency scenario. The applicant provided a CBRA [PDA-039] which indicated a high risk of anchor strike in several locations, notably at the Sunk deepwater anchorage which is the holding point for large bulk carriers and container vessels accessing ports.

3.9.19. In response to concerns raised by the MCA [REP1-162] regarding cable protection, the applicant explained in [REP2-016] that the primary method for cable protection in high-risk areas would be by lowering below the seabed and backfilling with rock to 20% below the original seabed level. The applicant stated [REP6-111] that it did not consider it appropriate to commit to a greater depth of lowering but stated that the CBRA would be updated post-consent and the final depth of lowering would be secured through the CSIP for which the MCA is a named consultee. The wording included in condition 4(1)(a)(v) of Schedule 16 of the dDCO at deadline (DL) 7 [REP7-002] reflected the wording requested by the MCA and the Port of London

Authority (PLA) for the provision of a detailed cable laying and burial plan, to include cable protection.

3.9.20. To reduce the length of time that the cable may be exposed during the operation phase, condition 3(12) of Schedule 16 of the dDCO was amended [REP7-002] following the MCA's [REP1-162] suggested wording to notification by the undertaker to mariners and other stakeholders of cable exposures to made as soon as practicable within the higher risk areas. At DL7 the PLA [REP7-279] considered that 'as soon as practicable' should be replaced by 'two days' to be consistent with the timescale for the PLA to notify the undertaker of potential cable exposure, as agreed in their protective provisions. The applicant did not make the change requested by PLA to condition 3(12) at DL7 [REP7-002].

3.9.21. The MMO [AS-080] requested a post-installation cable condition survey. In response the applicant advised in [REP1-076] that maintenance would only be required if the cable becomes exposed or there is a cable fault and that there would not be regular post installation surveys. The applicant [REP7-137] explained that the subsea cable system would be designed so that routine maintenance would not be required, unlike offshore windfarms where routine maintenance is essential. The MMO [REP7-203] stated that a specific mechanism is required to monitor the frequency of operation and maintenance activities and quantities of materials used for rock armouring for example. The approach to post-installation monitoring of the cable is set out in section 1.10 of the oOCEMP and in the final statement of common ground (SoCG) with the MMO [REP7-015] the matter is shown as being agreed. The MCA indicated in [REP4-165] that it was satisfied that the post lay cable survey including details of the achieved burial depths which would be adequately secured by condition 14 of the DML [REP7-002].

Aids to navigation

3.9.22. Trinity House [REP4-205] requested pre-agreed time limits be applied to DML condition 7(3) to bring it in line with standard navigation conditions. The applicant stated [REP5-132] that the requested amendments would be incorporated into the deadline 5 version of the dDCO [REP5-005] but instead of committing to five days' notice of the completion of the construction activities in condition 7(3)(c) the applicant committed to seven days' notice and this was carried forward into the applicant's final dDCO [REP7-002]. The applicant did not provide an explanation for this and in the deadline 7 SoCG Trinity House stated that subject to the requested amendments being enacted it was satisfied with Schedule 16 of the dDCO.

ExA's findings

3.9.23. The ExA is satisfied that the cable route has been selected to avoid or minimise disruption or economic loss to shipping and navigation, subject to mitigation, and would therefore accord with paragraph 2.8.328 of National Policy Statement (NPS) EN-3, insofar as it requires that site selection should be made to avoid or minimise disruption or economic loss to the shipping and navigation industries, with particular regard to the approaches to ports.

3.9.24. In relation to the time scale for notification of cable exposure to mariners and other stakeholders the ExA considers that an upper limit of five days is reasonable and aligns with the MCA's request [REP1-162]. The PLA has two days within its protective provisions [REP7-002] to notify the undertaker of any potential cable exposure and it is not unreasonable that the undertaker may require up to five days to issue a notice to mariners. The ExA is also satisfied that the OCEMP and Schedule 16 condition 14 would provide adequate controls over cable surveys.

3.9.25. The ExA considers that the time frame in condition 7(3)(c) in relation to aids to navigation should be amended to five days to align with the request from Trinity House [REP4-205] and the stated intention of the applicant [REP5-132]. Subject to the amendment in the recommended DCO, the ExA considers that Schedule 16 of the dDCO would require the applicant to publish any provisions to bring them, as soon as reasonably practicable, to the attention of persons likely to be affected by them, in accordance with paragraph 2.8.339 of NPS EN-3.

3.9.26. The ExA concludes that the applicant has carried out a detailed NRA and has engaged with IPs in the navigation sector in accordance with paragraphs 2.8.184, 2.8.188 and 2.8.190 of NPS EN-3, taking into account cumulative risks associated with the proposed development and other developments in the same area of sea. The ExA is satisfied that there would be adequate controls in the DCO/DML and control documents to ensure that risks to navigational safety would be reduced to ALARP which would accord with paragraphs 2.8.179 and 2.8.331 of NPS EN-3 in this regard. In EIA terms this means that any adverse effects are unlikely to be significant.

APPROACHES TO PORTS AND ESTABLISHED ROUTES

Under keel clearance

3.9.27. PLA [RR-4318], London Gateway Port Limited (LGPL) [RR-3236], HHA [RR-1942], MCA [RR-5382] raised concerns that the proposed development could adversely affect the existing and future capacity and operation of ports through restrictions to their access and IMO designated areas. PLA and LGPL were also concerned that the

applicant had not engaged with LGPL or the Port of Tilbury prior to the submission of the application. The IPs emphasised the national importance of the ports and the risk that the proposed development would cause vessel displacement, delays and a constraint to the size of vessel that would be able to achieve access to the ports.

3.9.28. LGPL [RR-3236], [REP1-142] MCA, PLA [RR-4318], [REP1-156] and UK Chamber of Shipping [RR-5510] were concerned that the applicant had not adequately assessed the socio-economic and reputational impacts of vessels being prevented from using routes into the Thames Estuary ports as a result of inadequate dredge depths. The applicant updated the NRA at deadline 4 [REP4-047] to recognise the ports and their concerns and provided an updated shipping and navigation chapter at deadline 4 [REP4-035] with an assessment of ports and navigational features as a receptor for operation and maintenance phases. It assessed adverse effects as major (high) magnitude and added an engineering review to the additional mitigation measures. It also added the expansion of ports to the future baseline in section 7.7 and recognition of the statutory dredging powers of LGPL including within the study area. At deadline 6 [REP6-036] the applicant provided an additional update with a more extensive assessment of the socio-economic impacts of a reduction in under keel clearance such that future deep draught vessels may not be able to access Thames Estuary ports.

3.9.29. PLA [RR-4318] set out the importance of safeguarding the route and depths to access channels used to enter and exit the Port of London, including pilot boarding stations and anchorages. As originally submitted the application included a commitment in SN22 of the REAC [APP-342] that any anticipated reduction in water depth greater than 5% would be discussed with the MCA and other relevant stakeholders such as harbour authorities and Schedule 16 of the dDCO included condition 12 which provided that in undertaking maintenance activities the undertaker must not reduce water depth by more than 5% unless agreed with the MMO.

3.9.30. MCA [RR-5382] explained that while a 5% reduction in navigable depths referenced to chart datum is the formal trigger for further discussion, in areas where deep draught vessels operate on established routes and approaches to ports, any depth reduction must be reviewed. This applies to established routes through the Sunk, North-East Spit and Long Sand Head, as well as approaches to Pegwell Bay. PLA explained [REP1-155] that water depths need to be safeguarded to take account of future dredging requirements to allow the largest vessels to access key ports. The ExA examined the issue of the reduction of water depths through the installation of cables, cable protection and crossings with cables to be installed by other developments through issue specific hearing 1 [EV3-001], [EV3-002], action points

10, 31 [EV3-007], ExQ1SN2 [PD-017], action points 92 and 93 [EV6-033], ExQ3SN9 and ExQ3SN15 [PD-023].

3.9.31. Following the submission of the CBRA [PDA-039] the applicant submitted the Shipping and Navigation Under-Keel Clearance Marine Engineering Note [REP7-154] and Water Depth Baseline Study - Shipping and Navigation Technical Note [REP7-161], ASWD Plan [REP7-163] and updated ES chapter shipping and navigation and updated NRA. [REP7-154] included details of existing and planned cable crossings in tables 4.2 and 4.3 with analysis of bathymetric data at each crossing point. Plate 3.2 of [REP7-161] included a cable route cross-sectional profile showing water depths, cable crossings, vessel density and areas of stakeholder concern.

3.9.32. There were various iterations of the dDCO [REP5-005], [REP6-004] and [REP7-002] with the inclusion of requirement 17 to safeguard water depths in the areas defined on the ASWD plan [REP7-163] as a document to be certified. The wording of Schedule 16 conditions 4(1)(a)(v), 4(5), 4(6) and 12(3) was also revised, and the ExA suggested further revisions [PD-024].

3.9.33. At deadline 7 LGPL [REP7-043], [REP7-180], MCA [REP7-025], [REP7-186] and PLA [REP7-027], [REP7-181], [REP7-279] were broadly satisfied with the provisions, subject to some minor changes to the wording. In relation to condition 4(1)(a)(v), the MCA [REP7-186] suggested revised wording to require that the undertaker demonstrates compliance with requirement 17. LGPL [REP7-180] raised concerns that the ExA's suggested wording could allow the MMO to agree to a depth that was less than the limits set out in requirement 17. The PLA [REP7-279] suggested a similar variation requiring compliance with requirement 17 and Schedule 16 condition 4(5).

3.9.34. A remaining area of disagreement relates to the suggestion by the MCA, LGPL and PLA that the agreement of Trinity House, PLA and LGPL should be required in relation to condition 12(3). LGPL [REP7-180] was concerned that the wording should not allow a depth less than the agreed ASWDs to be agreed. Protective provisions for PLA and LGPL in [REP7-002] set out agreements in relation to consultation and notice of activities, programmes and control documents.

Restricted in ability to manoeuvre (RAM) activities

3.9.35. HHA [RR-1942] and the PLA [REP1-156] raised concern with the potential for concurrent RAM activities to take place in the Sunk with other developments, in particular those planned by Five Estuaries and North Falls offshore wind farms, as they could result in an unacceptable level of navigational risk. The ExA examined the suitability of REAC SN12 [REP3-078] to adequately preclude concurrent RAM

activities in the Sunk at ISH1 [EV3-001] [EV3-002] and requested a detailed explanation of the MCA's requirements in ExQ3SN1 [PD-023].

3.9.36. The MCA explained [REP4-164] [REP4-165] its request for areas of interest (AOI) where concurrent RAM activities would not be able to take place to be defined in the oNIP. The MCA explained that it was seeking a larger area than was secured for Five Estuaries and North Falls projects as those developments would occupy the southern part of the area of concern, which still left a small section of navigable sea room to the north. The MCA stated that the proposed development would occupy the northern part of the area and would significantly reduce the remaining safe sea room and further limit the ability to conduct marine operations or transits to and from London estuary ports and Harwich, particularly for deep draught vessels in designated deepwater routes. The MCA stated its request was based on a credible worst case scenario, namely multiple RAM operations taking place within an already constrained sea room in proximity to some of the largest vessels operating worldwide, with significant safety, reputational and commercial implications. The MCA confirmed [REP6-275] that the AOI it was seeking was necessary for the consultee to conclude that the risks would be ALARP in this regard.

3.9.37. An updated oNIP was provided [REP6-100] with the requested AOI. MCA [REP7-025] confirmed that it met its requirements but HHA [REP7-023] stated that the measures relating to concurrent RAM in the Sunk should be secured through a condition of schedule 16 (the DML) in the dDCO. The applicant responded that the NIP would be secured through the DML condition 4(1)(g) which required the submission and approval of the NIP, which was the same approach as taken with Five Estuaries and North Falls. Five Estuaries Offshore Wind Farm Ltd [REP6-143] raised concern that the enlarged AOI may place unacceptable restrictions on its own operations and additional complexity and coordination. Paragraphs 3.3.5 and 3.3.13 of [REP7-144] state that the proposed development can only control its own vessels.

Cable joints and cable repairs

3.9.38. LGPL [RR-3236], PLA [REP1-156] and HHA [RR-1942] raised concerns that cable joints and cable repairs in high risk areas such as the Sunk could cause disruption, increased travel time and fuel costs and potentially collision risks in heavily trafficked routes or affect pilot boarding stations. Schedule 16. condition 12 of the dDCO would permit maintenance works, including cable repairs and replacement. The ExA examined whether the risks would be reduced to ALARP with ExQ1SN11 [PD-017] and ExQ3SN16 [PD-023].

3.9.39. The applicant committed to avoiding planned cable joints in the Sunk and other high-risk areas defined as ASWD. This was secured through condition 1(3)(c) at

deadline 5 [REP5-005], with revisions in [REP6-004] and [REP7-002], which would prevent cable joints during construction and maintenance unless necessitated by emergency maintenance works.

3.9.40. The applicant included REAC commitment SN33 [REP7-359] which set out that if a cable repair joint is required the potential collision risk would be considered and the time spent in the Sunk would be minimised. The final form of the oCSIP at the close of examination [REP7-159] set out in section 6.0 provisions for repair, including the provision of a repair preparedness plan and would be subject to approval by the MMO with consultation with the PLA and MCA as secured by condition 4(1) of the DML.

Safety zones

3.9.41. The HHA [RR-1942] and LGPL [RR-3236] raised concern that the use of safety zones must not impede vessel traffic movements within the Sunk area or normal operations such as pilot boarding. REAC SN29 set out that rolling 500m radius recommended restricted zones (RRZ) would be in place around construction vessels in RAM to protect both the vessel and passing vessels from collision. The ExA examined whether the controls relating to RRZs would be sufficient and asked ExQ1SN13 [PD-017]. In response LGPL [REP3-093] considered that the commitment would be insufficient and better communication would be required in AOIs in particular. The applicant made several updates to the oNIP [REP4-075], [REP6-099], [REP7-144] and included provision in dDML condition 4(1) [REP7-002] for PLA and MCA to be consulted in the MMO's post-consent consideration of the NIP. Furthermore, protective provisions in [REP7-002] between the applicant and LGPL and PLA would provide enhanced consultation for the NIP and CSIP.

ExA's findings

3.9.42. The ExA is satisfied that the existing and future under keel clearance requirements would be adequately safeguarded, and that the provisions of the rDCO and protective provisions would provide the MMO and stakeholders sufficient controls. The ExA does not therefore agree that the agreement of Trinity House, PLA and LGPL should be required in relation to condition 12(3). The ExA is satisfied that requirement 17 and condition 4(5) are precise and enforceable, such that there is no justification for specifying in condition 4(1)(a)(v) that compliance with them must be demonstrated. The proposed development would also accord with Policy PS1 of the East Inshore and East Offshore Marine Plan, which sets out that proposals that significantly reduce under keel clearance should not be authorised in IMO designated routes.

3.9.43. The ExA is satisfied that the rDCO and control documents would secure controls and mitigation to ensure that present and future requirements for access to ports would not be significantly adversely affected by the proposed development. It would therefore accord with paragraph 2.8.328 of NPS EN-3 insofar as it seeks to avoid or minimise disruption or economic loss, with particular regard to approaches to ports and to strategic routes essential to regional, national and international trade and recreational users of the sea.

CONCLUSIONS

3.9.44. On the above matters the ExA is satisfied that any significant effects on shipping and navigation would be appropriately addressed and reduced to ALARP. The ExA is satisfied that the proposed development would accord with NPS EN-1, EN-3 and EN-5 2024 as well as local and national policies and strategies, the relevant Marine Plans and the UK Marine Policy Statement, together with all other relevant legislation, and there are no other important or relevant considerations. There would be no significant residual effects and the ExA therefore considers that there are no matters relating to the consideration of shipping and navigation which would weigh for or against the order being made.

3.10. MARINE ARCHAEOLOGY

APPLICATION SUMMARY

3.10.1. The applicant's assessment of marine archaeology is presented in the Environmental Statement (ES) as Part 4, Chapter 6 [REP6-034]. That assesses the effects of the proposed development during construction, operation and maintenance, and decommissioning phases.

3.10.2. The marine archaeology study area comprises the extent of the offshore scheme as defined by the order limits up to the mean high water spring mark as shown in Figure 6.4.4.6.A.1 included in the ES Figures Marine Archaeology [REP4-053].

3.10.3. The assessment also includes marine archaeological sites identified in geophysical survey data that lie outside the study area but have features or mitigation measures that intersect with it. Additionally, sites located close to the study area boundary (typically within 10 metres) are included.

3.10.4. ES appendix 4.6.A Marine Archaeological Technical Report [REP6-040] (with related figures provided in ES Figures Marine Archaeological Technical Report [REP4-055]) provides an assessment which aims to evaluate the nature, extent, and importance

of known and potential marine archaeological resources within a defined study area (a 100 m buffer around the offshore scheme). It also seeks to identify possible impacts on these resources from the proposed development activities. The purpose of the Marine Archaeological Technical Report assessment is to inform Part 4, Chapter 6 [REP6-034] of the ES.

3.10.5. The mitigation measures include embedded measures (sensitive routing and siting of infrastructure/ temporary works and commitments) as summarised in Register of Environmental Actions and Commitments (REAC) [REP7-359].

3.10.6. Table 6.17 [REP6-034] provides a summary of residual effects of the proposed development on marine archaeology on receptors during each phase of the development. It identifies items including the sensitivity of the receptor, the specific impact and resultant effect, additional mitigation measures and the residual effect. The potential effects include:

- direct damage and/ or loss to known and potential heritage receptors on and below the seabed
- changes to hydrodynamic and sedimentary regimes causing adverse or beneficial indirect effects on seabed heritage receptors
- project works that temporarily or permanently change the setting of a known heritage receptor
- project works that temporarily or permanently change the character of the historic seascape

3.10.7. Commitments to manage and mitigate construction impacts for the offshore scheme are outlined in table 1.16 of the Outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127] which is secured by schedule 16 (the Deemed Marine Licence) condition 4(1)(b) of the draft Development Consent Order (dDCO) [REP7-002]. These include commitments to implement a written scheme of investigation (WSI), manage unexpected finds with exclusion zones, conduct paleo-environmental assessments, and ensure compliance with legislation. An Outline Offshore Overarching Written Scheme of Investigation [REP4-063] was submitted as part of the application and is secured by requirement 14 in the dDCO.

3.10.8. The applicant has confirmed that archaeological exclusion zones would protect known sites, and newly discovered assets would be reported and safeguarded. Lower-value features would be avoided through micro-siting, and archaeological input would guide further surveys and monitoring.

3.10.9. With particular respect to undiscovered marine archaeology, as set out in Part 4, Chapter 6 [REP6-034] of the ES, the oOCEMP [REP7-127], commitment MA01 describes the processes which would be followed. This includes measures such as:

- a WSI including a protocol for archaeological discoveries would be agreed with the archaeological curator via the regulator and implemented prior to works commencing
- a project-specific protocol for archaeological discoveries would be put in place to ensure any unexpected archaeological finds are reported and managed effectively during the lifetime of the project
- if an archaeologically important site is discovered during construction, a temporary exclusion zone (TEZ) would be established to allow for further investigation to take place

3.10.10. Following the implementation of the mitigation measures, the ES concludes that the residual effects of all potential impacts should be reduced to between negligible adverse and minor beneficial, which are not considered to be significant in environmental impact assessment (EIA) terms.

EXAMINATION ISSUES

3.10.11. Based on the comments raised by Interested Parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- undiscovered, underwater cultural heritage assets
- scope of marine archaeology assessment

3.10.12. Historic England confirmed its agreement to all aspects related to marine archaeology in table 3.3 of the statement of common ground (SoCG) [REP7-350]. These included matters relating to the study area, baseline, impact assessment and marine archaeology mitigations.

UNDISCOVERED, UNDERWATER CULTURAL HERITAGE ASSETS

3.10.13. Goodwin Sands Conservation Trust [RR-1860] raised particular concerns with respect to how marine archaeology would be safeguarded including that which is undiscovered. It also considered that there are remains of the ancient Sandwich Bay harbour and Roman camps and harbours in the vicinity of the order limits. Its view was that all such archaeology remains should be preserved and protected.

3.10.14. In response, the applicant confirmed in the Thematic Response to Relevant Representations [REP2-024], table 7.19 that it had undertaken geotechnical surveys and committed to completing further pre-construction geophysical surveys within

Pegwell Bay to address discrepancies between the survey data coverage and the extents of the offshore scheme order limits. The surveys are included in the oOCEMP [REP7-127] as commitment MA09.

3.10.15. The applicant also confirmed it had prepared an Outline Offshore Overarching Written Scheme of Investigation [REP4-063], which sets out how unavoidable archaeological impacts across the offshore proposed development would be managed. The applicant considered that the Outline Offshore Overarching Written Scheme of Investigation would address unavoidable impacts that may occur anywhere in the offshore proposed development. It confirmed that the processes that would be followed are included in the oOCEMP [REP7-127] as commitment MA01.

ExA's findings

3.10.16. The ExA agrees with the applicant's position that appropriate procedures are in place for the identification and treatment of marine archaeology including that which is undiscovered. We deem this to be in accordance with the requirements of section 5.9.21 in NPS EN-1 (2024) which states that "the Secretary of State will consider requirements to ensure appropriate procedures are in place for the identification and treatment of such assets discovered during construction". We also consider that those procedures are appropriately secured in the oOCEMP [REP7-127], commitment MA01.

SCOPE OF MARINE ARCHAEOLOGY ASSESSMENT

3.10.17. In ExQ11MA1 [PD-017], the ExA asked the applicant to explain when additional geophysical surveys would be completed for the widened offshore scheme and what the implications were for the conclusions of the ES in the absence of those surveys. The applicant responded [REP3-069] that the geophysical surveys covering the data gap at the Kent landfall at Pegwell Bay would be undertaken in quarter 2 or quarter 3 2026.

3.10.18. With respect to the implication of the data gap on the findings of the ES, the applicant's position was that had been included in the assessment of impacts and likely significant effects within chapter 6 [REP6-034]. It considered that there is a potential increased risk of impact on currently unknown sub-seabed archaeological receptors.

3.10.19. A commitment to undertake the geophysical survey assessment to cover this gap was incorporated into the oOCEMP [REP7-127] as MA09.

3.10.20. In response to ExQ1MA2 [PD-017] the applicant confirmed [REP3-069] that the study area for the Marine Archaeological Technical Report [REP6-040] uses a standard 100m buffer of the order limits to form the study area for the assessment. It clarified that the study area as shown in the marine archaeological study area [REP4-053] is equivalent to the order limits.

3.10.21. The applicant considered that the findings of the ES would not change if the wider study area were included in the Environmental Impact Assessment (EIA) and that using the wider study area could result in additional recorded sites and geophysical anomalies that would not be affected being included in the EIA. It suggested that this would have the potential to be disproportionate to the overall aim of assessing potential impact.

3.10.22. In response to ExQ1MA3, Historic England [REP3-089], confirmed that the updated Supplementary Stage 1 and 2 Marine Geoarchaeological Assessment [REP1-029] and Supplementary Stage 1 and 2 Marine Geoarchaeological Assessment - Technical Note (updated) [REP1-031] reports submitted at deadline 1 had addressed their previous comments. This included increasing the number of samples proposed.

ExA's findings

3.10.23. The ExA is satisfied that the geophysical surveys to address the data gap have been identified, appropriately secured and the implication of this has been included in the ES.

3.10.24. We consider that the applicant's marine archaeology assessment approach is appropriate. This is based upon the responses of the applicant along with the agreement from Historic England regarding the marine archaeology study area, baseline, impact assessment and mitigations as set out in table 3.3 of the SoCG [REP7-350].

3.10.25. The ExA deem that the applicant's marine archaeology assessment complies with the requirements of NPS EN-1 (2024) sections 5.9.9, 5.9.12 and 5.9.21 which together require that the applicant assesses likely significant heritage impacts and provides procedures for identifying and managing assets discovered during construction.

CONCLUSIONS

3.10.26. The ExA is satisfied that the ES is in accordance with the requirements of NPS EN-1 (2024) section 5.9 (including paragraphs 5.9.9 to 5.9.15) by providing an appropriate assessment of the potential effects on marine archaeology. Furthermore, we

consider that appropriate procedures are in place for the identification and treatment of marine archaeology including that which is undiscovered.

3.10.27. The ExA agrees with the assessment in the ES which found that the residual effects of all potential impacts would not be significant. Therefore, we conclude that there are no matters relating to marine archaeology which would weigh for or against the order being made.

3.11. AGRICULTURE AND SOILS

APPLICATION SUMMARY

3.11.1. The applicant's assessment of effects on agriculture and soils is set out in the Environmental Statement (ES) Part 2 Suffolk Chapter 6: Agriculture and Soils [PDA-019] and ES part 3 Kent Chapter 6 [PDA-023]. The effects on farming businesses related to compulsory acquisition are dealt with in section 6 of this report.

3.11.2. The assessment is supported by the following figures, appendices and other documents:

- ES figures Suffolk Agriculture and Soils [APP-233]
- ES figures Kent Agriculture and Soils [APP-265]
- Agricultural Land Classification (ALC) Survey Results - Suffolk [REP7-150]
- ALC Survey Results - Kent [REP7-152]
- ES appendix Predictive ALC Report – Suffolk [APP-121]
- ES appendix Predictive ALC Report – Kent [APP-174]

3.11.3. The applicant's study area comprises the area directly affected by the proposed development as defined by the order limits.

3.11.4. Section 6.7 of [PDA-019] and [PDA-023] sets out baseline conditions including details of existing land uses. Within the onshore order limits the land uses are principally arable, with small areas of pasture in Kent and a Christmas tree plantation in Suffolk. Some areas are within countryside stewardship agreements and woodland grant schemes. There are also golf courses within the order limits in both counties.

3.11.5. The ALC surveys [REP7-150] and [REP7-152] set out the primary soil types for Suffolk and Kent in section 4.1, with details of site limitations in section 4.3 and soil limitations in section 4.4. Details of baseline conditions are set out in section 6.7 of [PDA-019] and [PDA-023].

3.11.6. Based on the updated information in table 5 [REP7-150] and [REP7-152], the applicant's assessment identifies that the onshore order limits would cover an area of approximately 467 hectares (ha), of which around 297ha would be in Suffolk, and 170ha would be in Kent. Of this, 270ha would be land that is defined as best and most versatile (BMV) agricultural land, which is land that is in grades 1, 2 and 3a. Within Kent, 45% (around 77ha) of the order limits would be BMV land, and in Suffolk 65% (around 194ha) of the order limits would be BMV land.

3.11.7. Table 6.11 of [PDA-019] and table 6.12 of [PDA-023] set out the quantum and percentages of the ALC grades of land across the counties of Suffolk and Kent, the relevant districts and England as a whole.

3.11.8. The ES identifies in section 6.9 [PDA-019] [PDA-023] that there would be potential disturbance to soils throughout the order limits from the construction works. There would be temporary effects on BMV land from construction compounds, temporary access, haul roads, soil stripping for underground cabling and for the permanent infrastructure. There would be potential permanent effects from the use of land for the permanent infrastructure.

3.11.9. The applicant's embedded mitigation measures are set out in section 6.8 of [PDA-019] and [PDA-023] and include the following:

- sensitive routeing and siting of infrastructure and temporary works
- rationalisation of the design to minimise land-take
- the temporary nature of many of the construction activities and the subsequent restoration of the land to its preconstruction use
- commitments made in the Register of Environmental Actions and Commitments (REAC)

3.11.10. Embedded mitigation measures, commitments and controls are included in:

- outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129]
- Register of Environmental Actions and Commitments (REAC) [REP7-360]
- outline Soil Management Plan (oSMP) – Suffolk [REP6-066]
- oSMP – Kent [REP6-068]

3.11.11. The REAC [REP7-360] includes the provision of a soil management plan (SMP) in commitment AS01. The oSMP has been provided [REP6-066] and [REP6-068] and includes outlines of the measures that would be undertaken to manage soil such as a soil protection strategy in section 5, soil management measures in section 8 which

includes soil reinstatement and aftercare. Section 9 outlines the proposed monitoring, which includes provision for reporting and corrective actions. Other commitments in the REAC [REP7-360] and the oCEMP [REP7-129] identify measures to mitigate against the following adverse effects:

- AS02 - impact on soil conditions following construction
- AS03 - disruption to access during construction works
- AS04 - risk to livestock water supplies during construction works
- AS05 - impacts to agricultural drainage
- AS08 - changes to drainage pathways due to trench excavations
- AS12 - impact on vegetation reinstatement
- AS13 - impact on graziers
- GG06 - risk that reinstatement does not meet the necessary standard
- GG07 - temporary change in land use, habitat loss and vegetation clearance
- GG19 - impacts on receptors from unprotected earthworks or stockpiled soil

3.11.12. The assessment of likely significant effects is set out in section 6.9 of [PDA-019] and [PDA-023]. The detailed ALC surveys [REP7-150] and [REP7-152] in section 6 of those reports sets out that the area of BMV land identified through the surveys is largely consistent with the predicted area and distribution. Section 7 sets out that the detailed ALC results confirm that there is no change in the significance of likely effects on BMV land, therefore the conclusions of the ES in [PDA-019] and [PDA-023] remain unchanged and valid. The comparison of the effects is set out in table E.2 of [REP7-150] and [REP7-152].

3.11.13. The summary of effects on agriculture and soils is set out in in tables 6.14, 6.15 and 6.16 [PDA-019] and 6.15, 6.16 and 6.17 [PDA-023] covering construction, operation and maintenance and decommissioning.

3.11.14. During construction tables the ES identifies moderate adverse (significant) effects on soils for a temporary period. This would be from construction access and haul roads, construction compounds, soil stripping for underground cabling and for permanent infrastructure. The temporary effects could be across the land within the order limits and could include soil compaction due to the movement of plant or poor restoration of disturbed soils resulting in mixing of soil horizons and compaction.

3.11.15. Tables E.1 of [REP7-150] and [REP7-152] indicate the area of BMV land that would be affected permanently and temporarily by the proposed development based on the ALC survey information. In Suffolk, the total area of BMV land affected permanently would be 10.91ha, of which 8.22ha would be grade 2 and 2.69ha would be grade 3a. In Kent, the area of BMV land required permanently would be

12.21ha, of which 0.45ha would be grade 1, 0.04ha would be grade 2 and 11.71ha would be grade 3a. The applicant concludes that the effects of the permanent loss of BMV land during construction would be major to moderate adverse (significant). The applicant concludes that there would be no additional mitigation available to address the significant effects.

3.11.16. During decommissioning, the ES identifies moderate to minor (significant) adverse effects on soils, and moderate to major beneficial (significant) effects on BMV land through permanent reinstatement. The applicant identifies that all other effects on soils and BMV land would be minor adverse and not significant. The applicant does not identify any additional mitigation measures to reduce the likely significant effects on agriculture and soils.

3.11.17. The applicant's assessment of inter-project cumulative effects is in [APP-060] for Suffolk and [APP-073] for Kent. Table 13.40 for Suffolk and table 13.42 for Kent identify that there would be significant adverse effects on BMV land due to the combined loss of, or temporary disturbance to, soils and temporary and permanent loss of BMV land. The applicant concludes that there would be no further mitigation available to address the cumulative effect.

EXAMINATION ISSUES

3.11.18. Over 890 relevant representations (RR)s raised concerns about the effects of the proposed development on agriculture and soils. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- the assessment and mitigation of effects on agriculture and soils
- the cumulative effects on agriculture and soils

THE ASSESSMENT AND MITIGATION OF EFFECTS ON AGRICULTURE AND SOILS

Best and most versatile agricultural land

3.11.19. Many of the IPs raised concerns at the effects on agricultural land and the use of BMV land and its use for food production, including the Kent branch of the Campaign to Protect Rural England (CPRE) [RR-1070], Thanet District Council (TDC) [RR-5372], Save Minster Marshes (SMM) [RR-4892], Friston Parish Council [RR-1693], Natural England (NE) [RR-3920], Saxmundham Town Council [RR-4895], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210], National Farmers Union (NFU) [RR-6035], Dyas Farms Ltd [RR-1410], Tenant Farmers Association (TeFA) [RR-5343], and Marshes Farmers within DCO limits [RR-3529].

3.11.20. The applicant responded to the relevant representations in its thematic response in [REP2-024] and [REP2-014]. The applicant explained that BMV land was a consideration in the route selection process, and that as most of the farmland in the area is BMV, the opportunities for complete avoidance, whilst balancing many other factors, are very limited.

3.11.21. During the examination detailed ALC survey work was undertaken by the applicant and reports for Suffolk and Kent were submitted at deadline (DL) 5 in [REP5-090] and [REP5-091] and updated by [REP7-150] and [REP7-152]. Due to overlap with third party construction activities, the applicant stated that it was unable to complete ALC survey work in 59 survey locations, and as a result the predictive assessment in [APP-121] is relied upon in those areas. NE [REP7-269] welcomed the commitment to undertake further surveys in Suffolk to fill in any gaps in the ALC information and to inform the finalised SMP post-consent.

3.11.22. The ExA asked (ExQ3AS5 and ExQ3AS13 [PD-023]) whether the updated ALC information required an updated assessment of how the applicant had tried to minimise the effects on BMV land and avoid the highest grades. The applicant explained [REP6-111] that the overall extent of the land required had been minimised through the design of the project and the presence of provisionally graded BMV land formed part of the initial siting and routeing assessments in ES part 1 chapter 3 Main Alternatives Considered [APP-044]. In terms of minimising effects on BMV land, the applicant went on to explain that the presence of BMV had to be weighed against other environmental and engineering considerations.

3.11.23. In response to ExQ3AS14 [PD-023] the applicant [REP6-111] stated that the presence of BMV land, along with all other aspects of the land which might give rise to economic and other benefits as referenced by paragraph 5.11.34 of National Policy Statement (NPS) EN-1 had been assessed through the consideration of alternatives. Furthermore, the economic aspects of agricultural land had been scoped out of the environmental impact assessment (EIA) on the basis that all land required temporarily would be reinstated, the footprint of the permanent infrastructure would be limited, and the impacts on agricultural operations would be dealt with through compensation agreements outside the EIA process.

3.11.24. TDC [REP1-132] [REP7-303] maintained its concerns at the large-scale loss of BMV land but acknowledged that there would be no further mitigation available. CPRE Kent [REP7-193] [REP7-214] remained concerned at the permanent loss of BMV and considered it should be given great weight in the planning balance, especially now that the BMV land within the order limits in Kent is confirmed to include 10.4ha of grade 1 agricultural land. CPRE Kent also maintained its view that the applicant had

not demonstrated that the harm to BMV land is not avoidable, or that less harmful alternatives had been genuinely considered.

3.11.25. TDC [AS-079] questioned the applicant's assessment that following decommissioning there would be moderate to major beneficial effect that would be significant. The applicant [REP5-135] responded to ExQ2AS2 [PD-021] highlighting that at the time of decommissioning the baseline would take into account the footprint of the permanent infrastructure, which was the basis for the applicant's conclusion that there would be a major beneficial effect. TDC [REP5-186] and [REP7-303] maintained its view that the moderate to major beneficial effect for BMV land at decommissioning should be reassessed. TDC considered that the effect would be the same with or without the proposed development, as the land would be restored to its pre-development condition, therefore the effect should be recorded as negligible. Furthermore, the access road would be left in situ, resulting in a net loss of BMV land.

3.11.26. The ExA questioned (ExQ3AS3 [PD-023]) whether all of the above ground development, including landscape and ecological mitigation would be removed at decommissioning, and therefore whether the benefits identified by the applicant's assessment would be achieved, and whether there would be harm in relation to other topics such as ecology. In terms of decommissioning and the extent of reinstatement of agricultural land, the applicant explained [REP6-111] that various mitigation works, including attenuation ponds and planting may be affected by decommissioning and that requirement 13 of the DCO would require a written scheme of decommissioning which would assess and mitigate environmental impacts.

Effects on farming

3.11.27. SEAS [RR-5210], Marshes Farmers [RR-3529] and Dyas Farms Ltd [RR-1410] raised various concerns at the lack of detailed information about the effects on soils, land drainage systems and watercourses, irrigation and reservoirs, the safety risks in relation to unexploded ordnance (UXO) and the use of farm drones, and the risk of contamination from imported materials. The effects on watercourses and contamination are dealt with in water environment section 3.16 of this report which concludes that all associated concerns were adequately addressed to the satisfaction of the Environment Agency [REP7-362].

3.11.28. In relation to field drains, the applicant [REP2-014] referred to REAC commitments regarding land drainage and irrigation in W10, AS04 and AS05. However, SEAS maintained its concern [REP2-119] at the lack of survey information regarding field drainage systems and therefore questioned whether reinstatement could be

effective. The applicant responded in [REP3-064] that investigations into field drainage systems had commenced and would be considered as part of the detailed design process. The ExA asked for an update (ExQ3AS1 [PD-017]) and the applicant explained [REP6-111] that standard procedures would be followed in relation to field drainage. If no or limited information was available then the applicant would use safe digging practice to ensure any services would be identified in a safe way during construction and a qualified consultant would be employed.

3.11.29. TDC [REP6-274] asked whether it would be possible to commit to improving drainage rather than simply return to the land to its previous poor drainage condition. The applicant responded in [REP7-259] that commitment W10 in the oCEMP [REP7-129] was updated to state that drainage systems would be reinstated, providing opportunities to improve poor drainage, or rerouted ensuring their existing function is maintained or improved within the order limits. In [REP6-260] Dover District Council confirmed it was satisfied with the approach to agricultural land drainage.

3.11.30. In [REP2-024] the applicant provided a detailed response to the concerns raised in [RR-3529] and [RR-1410] and signposted to relevant documents within the ES and supporting documents. In terms of UXO and farm safety, the applicant explained [REP2-024] that its agents would work with landowners to ensure safe use of farm drones. The applicant outlined measures for dealing with UXO risks.

3.11.31. Several IPs including SEAS [RR-5210] raised concerns regarding the effect on whole farm viability and access to individual fields. The applicant explained in [REP2-014] that landowners would be compensated for private financial losses where impacts cannot be avoided through discussions and negotiations with landowners.

3.11.32. TeFA [RR-5343] emphasised the need to consider the personal circumstances of farmers in planning decision making. The applicant confirmed [REP2-024] that it was working with all landowners and tenants to limit disruption, the cable route would be reinstated to its previous condition and therefore farming operations would be able to continue post-construction. Compensation claims for disturbance would be considered based on evidence.

3.11.33. Saxmundham Town Council [RR-4895] and SEAS [RR-5210] raised concerns regarding the potential heating effects of buried cables on agricultural uses. The applicant explained [REP2-014] that the cables would be surrounded by cement bound sand or other thermally suitable material to reduce the alteration of local environmental temperatures around the cables. The applicant [REP2-014] stated that if heating effects on crops and productivity were identified it would be a matter for a compensation agreement. In [REP3-064] the applicant provided further

explanation that the assessment of the thermal performance of cables could only be carried out post consent when the detailed design of the cable system had been completed.

3.11.34. Several IPs, including [RR-4315], [RR-1410] and [RR-4892] questioned whether farmland under environmental schemes had been taken into consideration in the applicant's assessment. The applicant responded [REP2-018] that environmental schemes were not considered to be a receptor of an environmental impact and therefore had not been specifically assessed, although impacts on habitats maintained, improved or created under such schemes would be assessed under the relevant Ecology and Biodiversity or Landscape and Visual chapters. Losses associated with derogation or termination of stewardship agreements would be dealt with through the applicant's land agents in terms of compensation negotiation.

3.11.35. Several IPs including [RR-2426] and [RR-0641] raised concerns at the minimum depth of burial of the cable set out in REAC AS02 of 0.9 metres and whether it would limit reinstatement of soils and achievement of the pre-development agricultural land classification. Additional burial depth was requested. The applicant responded that it might be able to make voluntary agreements with individual landowners to increase burial depth, depending on individual farming practices [REP2-018]. The ExA asked (ExQ3AS4 [PD-023]) to establish whether cable burial depths would affect the ability to achieve BMV conditions at reinstatement and whether cables would affect the reinstatement of field drains. The applicant explained [REP6-111] that more detailed survey information and the detailed design process would allow the identification of areas where a cable burial depth greater than 0.9 metres would be needed to achieve reinstatement objectives.

Soil management

3.11.36. IPs including [RR-1410] [RR-4315] [RR-1568] and [RR-3529] raised concerns that soils in Kent were not properly understood. [RR-3529] referred to particular concerns about the characteristics of grade 1 and grade 2 agricultural land on alluvial clay soil with unique characteristics. The IPs emphasised the need for the characteristics of the soil to be understood as it has a high shrink swell capacity and a buried salt layer with an unstable, plastic nature. [RR-1410] and [RR-3529] raised concerns at the damage already caused by archaeological works carried out in Kent. The applicant responded in [REP2-018] that it was engaging with the individual parties directly.

3.11.37. Several IPs including [RR-6035] RR-5210] raised concern with regard to soil handling, storage and reinstatement. SEAS [RR-5210] emphasised the need for a robust soil

management plan to ensure that the quality of soils was safeguarded so that land would be returned to its pre-development condition. SEAS questioned whether the oSMP had enforceable standards, monitoring provisions or mitigation measures capable of ensuring soils would be returned to pre-development condition. SEAS considered that the oSMP needed binding commitments and criteria against which to assess the success of reinstatement.

3.11.38. In [RR-4315], [REP1-237] and [REP2-101] the IP stated that the information provided in the oSMP was insufficient for the unique soil type in the Wantsum sea channel. The IP considered that the applicant would need to have specific understanding of clay marsh soil to prevent compaction and flooding and would need a specific methodology for soil handling and reinstatement. Furthermore, the IP noted that Nemo Link works demonstrated that reinstatement takes more than five years to return the soil to its original condition. The IP described a range of issues caused by the particular soil types present in the Kent order limits.

3.11.39. The applicant responded in [REP2-018] that the information gained from the soil surveys and ALC surveys would be used to update the oSMP where necessary and soil handling measures would be updated based on confirmation of the soils identified on site. The applicant provided a further response to [REP2-101] in [REP3-064] explaining that, amongst other things, that oCEMP [REP7-129] commitments GH02, GH08, GH09 and GG15 set out a range of commitments to protect water and groundwater quality. GG06 requires pre and post work record of conditions, to allow comparison following completion of reinstatement works.

3.11.40. With regard to soil reinstatement, the applicant [REP3-069] made a commitment to update the oSMP at DL4 to include provision for an aftercare management plan for soils which would be adaptive and set out monitoring frequency and interventions which may be required. In response to ExQ3AS6 [PD-023] the updated oSMP was provided at DL6, with additional detail on soil protection measures.

3.11.41. The IP [REP6-257] maintained the view that the applicant had considered the marsh soils of the former Wantsum sea channel in a generic manner. SMM [REP6-148] considered that the applicant's reinstatement assumptions were optimistic and unproven in view of the unique sensitivities of Minster Marshes. SMM requested that a physical soil survey should be undertaken. The applicant responded in [REP7-257] that the ALC survey information had been accounted for in the oSMP, and noted that the document was in outline, and committed to further survey work prior to any soil stripping works.

3.11.42. TDC [REP6-274] confirmed that it was broadly content with the oSMP but questioned how long soils would be stockpiled. The applicant responded in [REP7-

259] that the duration of stockpiles would be included in the SMP post construction when contractors had been appointed and the construction methodologies and programme were confirmed.

3.11.43. In response to ExQ3AS8 [PD-023] which sought comments from stakeholders as to whether the measures in the oSMP would make adequate provision for the reinstatement of land, soil management and handling, TDC commented [REP6-274] that opportunities should be taken to improve the soil condition where possible. The applicant responded [REP7-259] that the oSMP would aim to ensure that the quality and function of soils was retained, and if that was not possible the aftercare measures outlined in the oSMP would be followed. TDC [REP6-274] responded to the ExA's question ExQ3AS9 [PD-023] in relation to the adequacy of monitoring of soil reinstatement that the measures set out in table 9.1 of [REP7-152] would be applicable to all soil types and therefore should be appropriate for the range of soil types in the study area as a whole. The applicant responded [REP7-259] that the oSMP had been updated to take into account the detailed soil information in the ALC [REP7-152].

3.11.44. SCC confirmed in [REP7-355] that all matters were agreed in relation to agriculture and soils. NE [REP7-269] and [REP7-270] noted the provision of detailed ALC survey data and its incorporation into the updated oSMP but stated that it had not been able to review it with their specialists to provide specific advice, due to the submission at a late stage of the examination period.

ExA's findings

3.11.45. The ExA is satisfied that sufficient information has been provided to determine the effects on BMV land. The applicant has sought to minimise impacts on BMV land, bearing in mind that route selection and micro-siting have taken into account a range of environmental impacts. The ExA agrees with the applicant that the effects on BMV land during construction would be significant. Taking into account the ExA's conclusions in section 3.3 Alternatives, the ExA is satisfied with the applicant's justification for siting the development on BMV land. Although grade 1 land has been identified in Kent, this would mainly be affected by the temporary works and only 0.45ha of grade 1 and 0.04ha of grade 2 land would be required permanently. The majority of the permanent land take would be grade 3a.

3.11.46. In Suffolk, the permanent works would affect grade 2 and 3a BMV land. The ExA considers that the applicant has sited the proposed development on poorer quality land where possible, although the opportunities to do this are limited in view of the extent of BMV land. The applicant has taken into consideration the economic and other benefits of the land. Although NE did not review the detailed ALC survey data,

the ExA considers that there is sufficient information for it to conclude on this matter. Accordingly, the ExA considers that the proposed development would accord with paragraphs 5.11.12 and 5.11.34 of NPS EN-1.

3.11.47. The effects of the development should be assessed against the baseline established in section 6.7 of the ES. The ExA does not agree with the applicant's approach that in the event that the permanent infrastructure was decommissioned in the future, the effects should instead be assessed against the baseline defined at that time. The removal of permanent elements of the infrastructure and the reinstatement of land to its pre-development condition would result in BMV land being restored to a condition similar to baseline and would therefore be neutral rather than beneficial. The ExA also notes that there is no certainty that decommissioning would take place.

3.11.48. The ExA is satisfied that there would be adequate mitigation in terms of commitments to reinstating and improving field drainage. DCO requirement 6(1)l) and 6(1)(m) require the submission of the final version of the SMP in accordance with the oSMP. Requirement 9 of the DCO relating to the reinstatement of the land to a condition suitable for its former use would be sufficient to ensure that appropriate measures would be taken to ensure land would be returned to its pre-development condition.

3.11.49. The ExA is satisfied that there would be a process for the applicant to engage with individual farmers to ascertain and take account of the specific circumstances of the land that would be affected, for example in relation to field drains at the detailed post-consent design stage. While the personal circumstances of individuals are capable of being a matter to be taken into consideration in planning decisions, the financial effects on individual farms and farmers would be dealt with through the compensation process.

3.11.50. In terms of cable burial depths, the ExA is satisfied that the applicant would seek voluntary agreements where appropriate to achieve a greater burial depth than 0.9m where appropriate to achieve reinstatement objectives.

3.11.51. The ExA considers that the applicant has carried out sufficient investigation into soils to support their assessment and provision of oSMPs. The ExA is satisfied that the oSMPs and the provisions of requirement 9 of the DCO would ensure that the effects on soils would be adequately mitigated. The proposed development would therefore accord with paragraphs 5.11.13 and 5.11.14 of NPS EN-1.

THE CUMULATIVE EFFECTS ON AGRICULTURE AND SOILS

3.11.52. A large number of IPs including [RR-5210], [5622], [RR-1693], [RR-4887], [REP1-128], [REP2-040] raised concerns regarding the cumulative effects of the loss of BMV land with other developments in both Kent and Suffolk. These concerns related to the cumulative effects particularly with other housing developments and energy developments, and the effects on the rural economy. In Suffolk in particular IPs requested greater coordination of the laying of cable ducts between the converter stations at Saxmundham and the substations at Friston to reduce overall impacts on farmland.

3.11.53. In response to action point 50 of [EV6-033] the applicant provided a version of the landscape planting masterplan for the proposed Friston substation indicating how the LionLink Interconnector cables could potentially be accommodated in appendix D of [REP4-086].

3.11.54. The ExA asked (ExQ3AS11 [PD-023]) for an updated inter project cumulative assessment taking into account other planned projects such as LionLink Interconnector and the Suffolk Water Recycling, Transfer and Storage Project. The applicant provided appendix C of [REP5-127] which included a review of the cumulative assessments with an update for LionLink Interconnector. The revised assessment concluded that there would be a cumulative effect with LionLink Interconnector and the likelihood that the land affected would be classified as BMV. The applicant explained in [REP6-111] that the Suffolk Water Recycling, Transfer and Storage Project would have minimal effects on BMV land as the land would be returned to its pre-development condition following the construction of the project.

3.11.55. The ExA asked (ExQ3AS10 [PD-023]) for an explanation of the opportunities to minimise the temporary and permanent use of BMV land through coordination with other projects, such as LionLink Interconnector. The applicant explained [REP6-111] that coordination was ongoing as set out in the Coordination Document [APP-363]. In terms of coordinating with LionLink Interconnector, the applicant explained that the permanent access would be used by LionLink Interconnector and that there may be potential for other construction phase temporary works to be shared wholly or partially between projects during overlapping construction periods.

ExA's findings

3.11.56. The ExA agrees with the applicant that there would be significant adverse cumulative effects on BMV land. The effects could be minimised to some extent through coordination with other developments in Suffolk. The ExA considers that in this regard the proposed development would accord with paragraph 5.11.12 of NPS EN-1, which requires that the effects on BMV land would be minimised.

CONCLUSIONS

3.11.57. The ExA is satisfied that the proposed development would comply with paragraphs 5.11.12 and 5.11.34 of NPS EN-1, insofar as it would not site development on BMV land without justification and would minimise the effects on BMV land. The ExA is satisfied that the mitigation measures would be secured through requirements 6(1)(l), 6(1)(m) and 9 of the DCO. The ExA concludes that the proposed development would comply with NPS EN-5 paragraph 2.9.25, insofar as it requires that potential detrimental effects on agricultural land from underground cables would be mitigated and a soil management plan would be finalised and implemented.

3.11.58. The ExA considers that there would be significant adverse effects on soils and BMV land during construction. The loss of BMV land would endure throughout the operation of the proposed development in the locations of the substations and converter stations. As such, the ExA considers that this matter attracts moderate weight against the making of the order.

3.12. LANDSCAPE AND VISUAL

APPLICATION SUMMARY

3.12.1. The applicant's assessment of the potential landscape and visual effects is set out in Environmental Statement (ES) Part 2 Suffolk Chapter 1 Landscape and Visual [REP4-023] and Part 3 Kent Chapter 1 Landscape and Visual [APP-061]. The chapters consider the landscape and visual effects on receptors according to the methodologies summarised in section 1.3 of [REP4-023] and section 1.4 of [APP-061].

The assessment is supported by the following appendices:

- ES Appendix Landscape and Visual Impact Assessment and Photomontage Methodology - Suffolk [APP-095]
- ES Appendix Landscape and Visual Impact Assessment and Photomontage Methodology - Kent [APP-143]
- ES Appendix Landscape Baseline - Suffolk [APP-096]
- ES Appendix Landscape Baseline - Kent [APP-144]
- ES Appendix Landscape Designation and Landscape Character Assessment - Suffolk [APP-097]
- ES Appendix Landscape Designation and Landscape Character Assessment - Kent [APP-145]
- ES Appendix Visual Amenity Baseline and Assessment - Suffolk [APP-098]

- ES Appendix Visual Amenity Baseline and Assessment - Kent [APP-146]

3.12.2. The assessment is supported by the following figures:

- ES Figures Suffolk Landscape and Visual Parts 1-7 [REP7-113], [APP-209], [APP-210], [APP-211], [APP-212], [APP-213], [REP7-115]
- ES Figures Kent Landscape and Visual Parts 1-4 [APP-240], [APP-241], [APP-242], [APP-243]
- Additional visualisation request from the Area of Outstanding Natural Beauty (AONB) [AS-153]
- Additional visualisation request from along the River Stour [AS-155]
- Suffolk and Kent illustrative visualisations (parts 1 and 2) [REP1-296] and [REP1-297]
- River Fromus visualisations (part 1, 2 and 3) [REP1-298] [REP1-299] and [REP1-300]
- change request appendix E updated visualisations for change 2 [CR1-060]
- appendix A Lionlink cumulative visualisation Applicant's Response to Action Points arising from issue specific hearing 2 [REP4-086]
- appendix figure D-1 rev A Landscape Masterplan produced by SPR accommodating Sea Link and Lionlink [REP4-086]
- appendix A indicative cumulative visualisations of the National Grid and Scottish Power Renewables (SPR) substations near Friston [AS-062]
- appendix B consented SPR outline landscape mitigation overlain with the Sea Link outline landscape mitigation for substation [AS-063]
- appendix C visualisations showing the indicative location of the Lionlink converter station alongside the Sea Link converter station [AS-064]
- additional LionLink cumulative visualisations appendix A [REP5-127]
- Friston scenario 2 visualisations appendix B [REP5-127]

The applicant's assessment should be read in conjunction with the following documents:

- Design Approach Document – Suffolk [REP1A-029]
- Design Approach Document - Kent [REP1A-031]
- Outline Landscape and Ecological Management Plan (oLEMP) – Suffolk [REP7-140]
- oLEMP – Kent [REP7-141]
- outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129]
- Register of Environmental Actions and Commitments (REAC) [REP7-359]
- Arboricultural Impact Assessment part 1 and part 2 [APP-294] [APP-295]

- Landscape and Visual Nighttime Assessment [REP5-137]
- Planning Statement Addendum [REP4-092]
- outline Operational Lighting Management Plan (oOLMP) [REP6-122]
- Unilateral Undertaking in relation to section (s)85 National Landscapes from National Grid to Suffolk County Council [REP7-354]
- National Landscape s85 Duty Technical Note [REP1-120]

3.12.3. The ExA identified that the Kent oLEMP [REP7-141] omitted figures. The ExA is therefore relying on deadline (DL) 6 figures in [REP6-080]. The Secretary of State may wish to obtain a complete copy of the oLEMP (with figures) for certification.

STUDY AREA

3.12.4. The study area for Suffolk (shown on the landscape and visual impact assessment (LVIA) study area for Suffolk figure below) comprises an area of 3 kilometres (km) from the order limits surrounding the proposed Saxmundham converter station and Friston substation, and 1 km from the order limits around the proposed landfall and cable corridors.

3.12.5. The study area for Kent (shown on the LVIA Study area for Kent figure below) comprises an area of 3km from the order limits, including the Minster converter station, Minster substation, high voltage alternating current (HVAC) overhead line (OHL) and from the proposed landfall, denoted as the high water mark. The applicant selected the 3km extent of the study area from the landfall due to the bay in which views are typically focused into it and across it from the surrounding landscape. The study area extends 1km from the high voltage direct current (HVDC) cable route.

3.12.6. The applicant agreed the study areas at the scoping stage with local planning authorities and Natural England (NE).

Figure 19: LVIA Study area for Suffolk (extract from ES Figures Landscape and Visual part 1 of 7) [REP7-113]

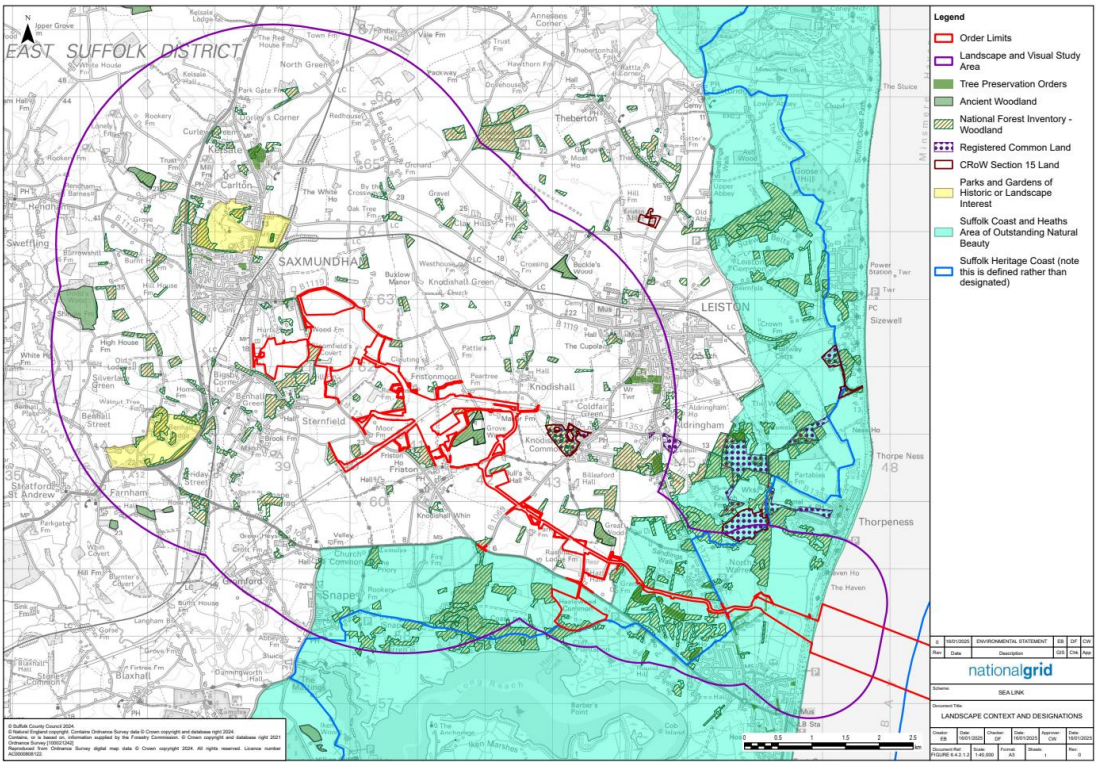
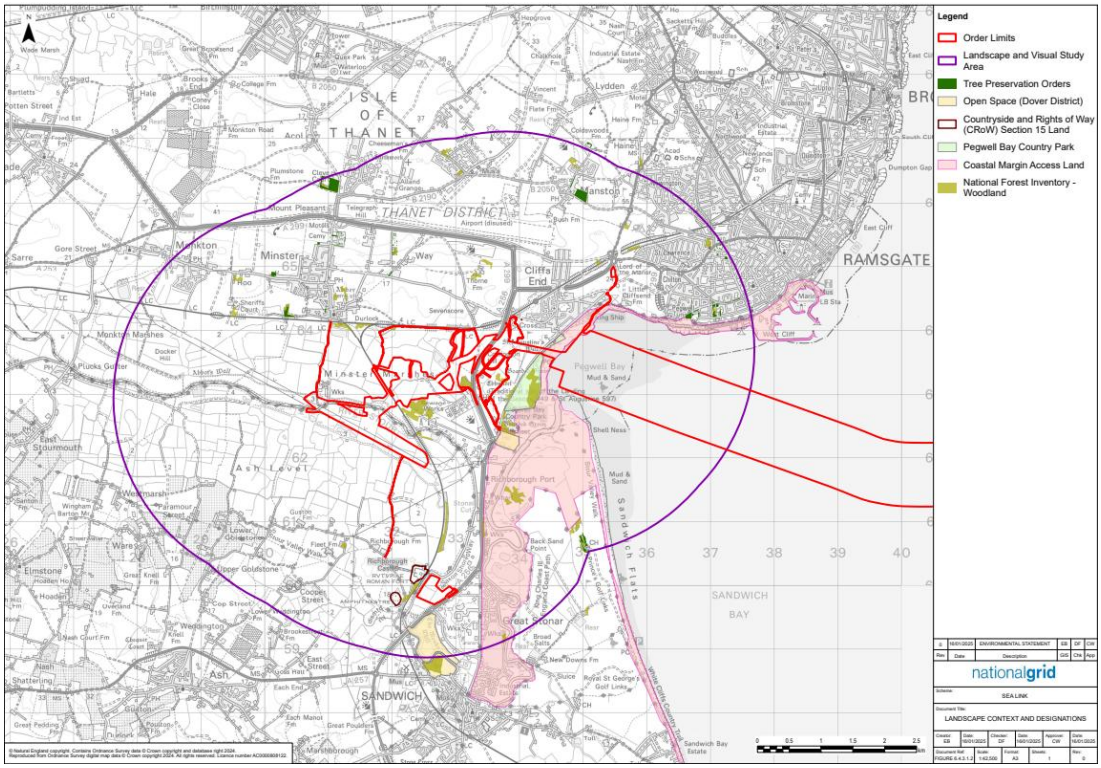


Figure 20: LVIA Study area for Kent (extract from ES Figures Landscape and Visual part 1 of 4) [APP-240]



3.12.7. Part of the onshore order limits is within the boundary of the Suffolk and Essex Coast and Heaths National Landscape (NL) (formerly referred to as Area of Outstanding Natural Beauty) (AONB). The statutory purposes of the designation are conserving and enhancing the natural beauty of the NL. The natural beauty indicators and special quality indicators of the NL have been summarised by the applicant in tables 1.1 and 1.2 of ES appendix Landscape Baseline [APP-096] and are as follows:

- natural beauty indicators:
    - landscape quality
    - scenic quality
    - relative wildness
    - relative tranquillity
    - natural heritage features
    - cultural heritage
- special quality indicators:
    - health and well-being
    - community
    - economy
    - ecosystem goods and services

3.12.8. The offshore element of the proposed development is not within the boundary of an area subject to any landscape designations. The order limits include the Suffolk Heritage Coast (SHC), which has onshore and offshore elements as shown on Figure 6.4.2.1.2 [APP-208]. Heritage Coasts are defined rather than designated. The SHC is largely contained within the NL but extends 3km out to sea, parallel with the NL boundary.

3.12.9. The applicant identified national, county and district landscape character areas (LCA). Due to the scale of the national and county level LCAs the assessed applicant the proposed development on the basis of the district LCAs as set out in [APP-096] and [APP-144] and shown on [REP7-113] and [APP-240]. Section 2.0 sets out that the study area includes the following LCAs:

Suffolk:

- B4 Fromus valley
- B5 Alde valley
- D4 Thorpeness to Aldeburgh

- J4 Alde estuary
- K3 Aldringham and Friston sandlands
- L1 Heveningham and Knodishall estate claylands
- O1 Benhall estate sandlands

Kent:

- A1 Manston chalk plateau
- B1 Wantsum north slopes
- E1 Stour marshes
- F1 Pegwell Bay
- G1 Ramsgate and Broadstairs cliffs
- A2 Ash levels
- B1 Great Stour Sandwich corridor
- C1 Sandwich Bay
- D1 Preston horticultural belt
- H1 Richborough bluff

3.12.10. The applicant identified [REP4-023] [APP-061] 23 representative viewpoints (RVP)s in Suffolk and 14 RVPs in Kent to represent the range of receptors within the study areas. The visual receptor groups comprise residential receptors in settlements and scattered properties, users of the public right of way network (PRoW), and road and railway networks. In addition, cultural heritage viewpoints were identified in Kent and Suffolk.

3.12.11. In Friston scenario 1 the substation would be built pursuant to the SPR consent. Under scenario 2 the substation would be constructed without the SPR project proceeding, as described in section 4.2 of ES Chapter 4 Part 1 Description of the Proposed Project [REP7-089]. In scenario 2, the applicant explains that there may be differences in how the site is developed, for example there may be less won material and the final LEMP may be different to account for there being no adjacent development.

3.12.12. The applicant's future baseline for Suffolk set out in section 1.6 [REP4-023] takes into consideration that the Friston substation under scenario 1 would be built by SPR. It also takes into account that some of the plantation woodland to the west of the River Fromus would be felled prior to construction of the onshore elements of the proposed development and that the remainder of the woodland would be felled by operation year 1.

3.12.13. The applicant's future baseline in section 1.7 [APP-061] for Kent considers it likely that there would be additional energy related infrastructure at Richborough due to

the broadly supportive Thanet Local Plan policy CC07 for such infrastructure. The applicant considers that there could be continued expansion along the western settlement edge of Ramsgate and around Thanet Parkway station area.

3.12.14. The applicant sets out in [APP-095] and [APP-143] that potential landscape and visual effects may arise from construction activities including temporary compounds, temporary accommodation and access tracks, construction plant and vehicle movements, topsoil stripping and earthworks, storage of materials and lighting. The applicant explains that the effects at decommissioning would be similar to construction. The applicant identifies that at operation year 1 there would be potential medium to long term effects from the operational development including the converter stations, substations, overhead lines and cable corridors.

3.12.15. Embedded mitigation measures are set out in section 1.7 of [REP4-023] for Suffolk and section 1.8 of [APP-061] for Kent and include the following:

- sensitive routeing and siting of infrastructure and temporary works
- relevant embedded measures set out in the REAC [REP7-359] such as trenchless techniques and undergrounding of cabling
- the sensitive design of Saxmundham converter station, Minster converter station, Friston substation, Minster substation and River Fromus bridge
- landscape design principles set out in the oLEMP for Suffolk and Kent [REP7-140] and [REP7-141]
- landscape design opportunities within the NL such as reinstatement of temporary works associated with landfall and underground cabling (oLEMP) [REP7-140]
- measures set out in the oCEMP [REP7-129] including those relating to tree protection, minimising the width of the cable corridor, reinstatement of land used temporarily, protection of retained features, minimising construction lighting
- acid grassland enhancement as set out in the oLEMP - Suffolk [REP7-140]

3.12.16. The applicant summarises the assessment of residual effects for landscape and visual receptors at tables 1.10, 1.11 and 1.12 [REP4-023] and tables 1.11, 1.12 and 1.13 [APP-061].

3.12.17. The ES concludes that there would not be any significant adverse effects on designated landscapes or on any seascape character areas. Minor adverse effects on the natural beauty indicators and special qualities indicators are identified on the NL and the SHC during construction and operation in [REP4-023] and [REP1-120]. The ES explains that these would be through effects from construction associated with cable laying, vegetation removal, displacement of agricultural land and acid

grassland, temporary infiltration ponds, temporary drilling rig at the landfall, construction compound and construction access.

3.12.18. The ES concludes that the Saxmundham converter station would give rise to moderate (significant) adverse effects on the Heveningham and Knodishall Estate Claylands LCA L1 during construction and operation year 1 which would still be moderate adverse (significant) at year 15. The River Fromus bridge is reported to have a moderate (significant) adverse effect on the Fromus Valley LCA B4 during construction and operation year 1 and year 15.

3.12.19. The applicant concludes that the Minster converter station, substation and the HVAC OHL works would have significant adverse effects on two landscape receptors, Stour Marshes LCA E1 and Ash Levels LCA A2 during construction and operation year 1. The ES concludes that in Kent at year 15, none of the landscape receptors would experience significant adverse effects.

3.12.20. In terms of visual effects, the applicant summarises in table 1.10 [REP4-023] that during construction there would be major or moderate (significant) adverse visual effects in relation to RVPs 1, 2, 3, 4, 5, 15, 19, 20 and 21 which are located around Saxmundham converter station in all directions and including two viewpoints to the west of the River Fromus bridge crossing as shown on [REP7-113]. Under Friston scenario 2 there would also be significant adverse effects in relation to RVPs 6, 7 and 22. The applicant concludes that at year 15 (table 1.12) the effects would still be significant adverse, although in some cases reduced from major adverse to moderate adverse due to the effects of landscape planting.

3.12.21. In Kent, the applicant identifies that there would be significant adverse visual effects as a result of Minster converter station, Minster substation and the HVAC OHL works from RVPs 4, 5, 6 and 11 whose locations are shown on [APP-240]. There would also be views of the construction activity and plant associated with the onshore elements of the proposed development. Although these would be reduced by landscape mitigation planting, the long-term effects would still be significant adverse.

3.12.22. The applicant proposes no additional mitigation or enhancement beyond that proposed in the oLEMPs to mitigate the residual adverse effects.

CUMULATIVE EFFECTS

3.12.23. The applicant considered cumulative effects in ES Part 2 Suffolk Chapter 13 Onshore Scheme Inter-Project Cumulative Effects [APP-060] and ES Part 3 Chapter 13 Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073]. Cumulative

developments falling within the respective study areas are on shown figures in [REP7-115] for Suffolk and [APP-243] for Kent.

3.12.24. The applicant's assessment of cumulative effects in Kent [APP-073] concludes that there would be no significant cumulative effects on landscape character or visual amenity.

3.12.25. In Suffolk, the applicant's assessment [APP-060] concludes that there would be potentially significant cumulative effects when considered with other major developments in the area.

3.12.26. The applicant identifies that there would be potential for significant cumulative effects on the NL and the SHC from East Anglia One North (EA1N) and East Anglia 2 (EA2), LionLink Interconnector and the main development at Sizewell C during construction and decommissioning. [REP6-102] identifies that these would be on the natural beauty indicators of landscape quality, scenic quality, relative wildness and relative tranquillity.

3.12.27. The applicant assesses that there would be potential for significant cumulative effects at all projects stages on LCA L1 with EA1N and EA2, South Saxmundham Garden Neighbourhood and LionLink Interconnector, with Sizewell C main development and link road rail bridge, Town Farm Solar Farm contributing in a minor way.

3.12.28. The applicant identifies that there would be potential for significant cumulative effects during construction and decommissioning on LCA K3 with EA1N and EA2, with Sizewell C main development contributing in a minor way.

3.12.29. The applicant assesses that there would be potential for significant cumulative effects during construction and decommissioning on seascape character type (SCT) 03 with EA1N, EA2, LionLink Interconnector and Sizewell C main development site.

3.12.30. The applicant identifies that there would be potential significant cumulative effects on shared RVPs 6, 7, 8 and 22 with EA1N and EA2, and on RVPs 1-7, 15, 16, 17 and 19, 20 and 21 with LionLink Interconnector. The applicant identifies potential significant cumulative effects on RVP 15 with Town Farm Solar Farm and on RVPs 2 and 20 with South Saxmundham Garden Neighbourhood.

3.12.31. In terms of effects on sequential routes, the applicant concludes that there would be potential significant cumulative effects for users of the B1119, the B1121, and PRoWs in the study area.

3.12.32. The applicant has not identified any additional mitigation for these potentially significant cumulative effects beyond those proposed for the proposed development alone.

EXAMINATION ISSUES

3.12.33. Approximately 2860 relevant representations (RR) raised landscape and visual concerns. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- The assessment and mitigation of the effects of Minster converter station, substation and OHL on landscape character and visual amenity.
- The assessment and mitigation of the effects of Saxmundham converter station, the River Fromus bridge, Friston substation and cabling on landscape character and visual amenity including cumulative effects.
- The assessment of the effects of the proposed development and mitigation in Suffolk on the NL and the SHC, including cumulative effects, and the duty to further the purposes of the NL.

THE ASSESSMENT AND MITIGATION OF THE EFFECTS OF MINSTER CONVERTER STATION, SUBSTATION AND OHL ON LANDSCAPE CHARACTER AND VISUAL AMENITY

3.12.34. Thanet District Council (TDC) [RR-5372], [AS-079], considered that the sensitivity of RVPs looking across Minster Marshes had been undervalued in [APP-146] and the visual effects would therefore be major adverse rather than moderate adverse. Campaign to Protect Rural England Kent Branch (CPRE) [RR-1070] and [REP1-148] disagreed with the applicant's assessment that the visual effects from RVP 8 would be unlikely to be significant [RR-1070].

3.12.35. The applicant responded in [REP2-022] and [REP2-029] that the RVPs represent views that are not across designated landscapes but are valued by the local community. It explained that even if it were deemed that the value should be higher as suggested by TDC, the overall sensitivity of the receptors would be reported as being higher than 'medium' for all five viewpoints due to the higher reported susceptibility of receptors. The applicant stated that a higher value rating for the viewpoints would not alter the overall conclusions relating to the significance of the effect as the sensitivity of the receptors would likely to remain the same. In response to CPRE's point in relation to RVP 8, the applicant explained in [REP2-022] and [REP2-024] that its conclusion of minor adverse effects was as set out in [APP-146], taking into account the distance from Richborough Fort and the filtered views.

3.12.36. In terms of the assessment of landscape effects, TDC [RR-5372] disagreed with the applicant's assessment and considered that the effects on LCA E1 would be significant adverse for the full duration of the proposed development, rather than reducing to minor adverse (not significant) at year 15. This was given TDC's concern [REP1-132] that the proposed development would introduce significantly tall infrastructure into the marsh landscape, where there are wide uninterrupted views and an open character.

3.12.37. The ExA explored matters relating to the significance of effects on visual amenity and landscape character and the scope for additional mitigation at issue specific hearing (ISH) 2 (action point 41 [EV6-033]). TDC explained its position initially set out in [RR-5372] and [AS-079], that the effects on visual amenity for year 15 operations at RVPs 3, 5, 6 and 11 should be reported as major adverse rather than moderate adverse. The applicant responded in [REP4-086] with an explanation for RVPs 3, 5, 6 and 11 being assessed moderate adverse but RVP 4 being major adverse. The applicant set out that the views experienced by recreational users of the PRoW TE37 at RVP 4 would be in closer proximity to the converter station and substation and no additional mitigation would reduce the major adverse effect due to the open and flat nature of the landscape and proximity of the footpath user. The applicant considered that this effect could be differentiated from RVPs 3, 5, 6 and 11. It explained that these RVPs were at an increased distance with a greater depth of field combined with a greater degree of integration of the converter station and substation through their massing, colour and materials combined with woodland planting as shown on the illustrative visualisations in [REP1-296] and [REP1-297]. The applicant also highlighted that the proposed development would be viewed within the context of existing energy infrastructure in the vicinity of Richborough Energy Park as well as the existing towers and overhead lines. The applicant explained that the landscape proposals were designed to create a robust edge and containment to the converter station and substation, and further differentiation from the wider marshland landscape to the west, thereby retaining its overall sense of identity and distinctiveness.

3.12.38. The ExA asked the applicant in ExQ2LVIA9 [PD-021] to explain the extent to which mature planting would reduce the significance of effects on LCA E1, which has a key characteristic of long uninterrupted views across the marshes to the coast. In [REP5-135] the applicant explained that there were no long uninterrupted views in LCA E1 due to the low-lying landscape whereas TDC [REP5-186] identified that there are wide views and vistas both looking into and out of the character area. TDC's position in [REP5-186] was that the proposed development would introduce significantly tall infrastructure that would be seen in the surrounding area and would have a greater impact than the existing energy infrastructure that is generally

lower in height. TDC [REP5-207] explained that the presence of Weatherless Hill Wastewater Treatment Plant (WWTP) does not mean that the visual impact in views from the north would be lessened as the WWTP is an established feature that does not provide context for the development. At DL6 [REP6-109] the applicant maintained its position that there would be no significant adverse effects on LCA E1 at year 15. Both TDC [REP5-207] and the applicant [REP6-109] considered that additional landscape planting and mitigation would not reduce the significance of the effects, due to the open and less vegetated characteristics of the wider marshland area. The ExA observed the openness of the landscape at unaccompanied site inspections (USIs) and while existing energy infrastructure was evident, the proposed development would introduce substantial built form into an open part of Minster marshes.

3.12.39. A number of RRs raised concerns at the introduction of artificial lighting in an area with relatively dark skies, for example [RR-1568], [RR-1070] and [RR-1891]. The cumulative effect with other light sources from recent developments such as Thanet Earth was also raised [RR-3358]. The lack of a lighting assessment was identified by TDC in [REP1-132] and CPRE in [REP1-147], in view of the rural and unlit context of Minster marshes. The applicant responded in [REP2-022] and [REP2-029] explaining its proposed measures to minimise the effects of lighting. In response to ExQ1LVIA4 [PD-017] the applicant responded in [REP3-069] with lighting details including lux levels and confirmation that the height of the lighting columns would be a maximum 8 metres [REP7-017]. The applicant also set out that existing developments such as Thanet Earth and Richborough Energy Park, including the consented but not constructed Richborough Grid Stability Facility, form part of the baseline against which the effects of the proposed development can be assessed. In response to action point 51 in [EV6-033] the applicant provided a more detailed nighttime visual assessment in [REP5-137], including nighttime photography.

3.12.40. TDC [REP1-132] and CPRE [REP1-147] both requested controls on operational lighting through the draft Development Consent Order (dDCO) in response to ExQ1LVIA4 in [REP3-103]. The applicant included provision in requirement (R) 3(1)(b) of the dDCO [REP4-217] for the relevant planning authorities to confirm that operational lighting details were in accordance with the relevant Key Design Principles. In response to ExQ2LVIA8 [PD-021] TDC set out its suggested wording for controls over lighting to be included in a new requirement of the dDCO [REP5-207]. The applicant provided an oOLMP [REP6-122], applicable to both Kent and Suffolk, to address the concerns raised. The applicant also amended R3 of the dDCO [REP6-004] by adding 3(4) and 3(5) to require an OLMP to be submitted and approved prior to operation of the substations and converter stations and provided a further

revision to the wording in [REP7-002]. The statement of common ground (SoCG) [REP7-017] indicated that TDC considered that the matter was agreed.

ExA's findings

3.12.41. On the basis of the information before it and its observations during USIs, the ExA considers that the magnitude of visual effects from RVP 3 during operation and maintenance would be medium rather than small. The OHLs and towers would consolidate the wire scape and the horizontal extent of the converter station and substation would extend the influence of the existing energy infrastructure into a more open part of the view. The landscape planting would only partially screen the converter station and substation at year 15 and therefore the ExA considers that the effects would be moderate adverse at year 15 rather than minor adverse for visual receptors from RVP 3 and would be significant.

3.12.42. The ExA considers that the large magnitude of effect identified by the applicant for RVP 5 and the high sensitivity of the viewpoint location indicates that the significance of the effect should be concluded to be major adverse during construction rather than moderate, as suggested by TDC. There is little existing infrastructure visible in this view, with limited visibility of Richborough Energy Park, and the maximum parameters of the above ground development would occupy a large horizontal extent of the view. Due to the scale of the proposed converter station and substation, the elevated position of RVP 5 and the limited amount of mitigation planting, the upper extent of the converter station and substation would still be visible. The ExA therefore considers that the effect would still be major adverse at year 15.

3.12.43. Due to the distance between the proposed development and the viewpoint, and the intervening vegetation, the ExA agrees with the applicant's assessment in relation to RVP 6. However, despite the distance between the development and RVP 11, the view is open, giving extensive long-distance views across the marshland. Existing development at Richborough Energy Park, the solar farm on Jutes Lane and other development are largely screened by the layered vegetation. The converter station and substation would be within fields that are currently predominantly open, with little intervening vegetation. The proposed planting would have little effect at year 15. The ExA considers that for RVP 11 the magnitude of the effects at construction and operation and maintenance (years 1 and 15) would be large rather than medium, with the overall effect being major adverse rather than moderate adverse.

3.12.44. While the ExA agrees with the applicant [APP-145] that long distance views across Pegwell Bay and the marshes from LCA E1 are already interrupted, principally by

vegetation and Weatherlees Hill, the proposed development would nonetheless adversely affect the characteristic views and openness of the landscape. The above ground works would be tall and would interrupt views across the marshes.

3.12.45. It is also clear from RVP 11 that the higher ground to the north provides extensive and uninterrupted views across the Wantsum Channel and River Stour, taking in Pegwell Bay and the wider marshes in LCA E1. The converter station, substation and OHLs would be large scale additions in an area that is currently largely free from detractors. Existing infrastructure such as Richborough Energy Park, the WWTP and the railway lines are integrated into the existing layered vegetation, such that the proposed development would appear as an intrusion into a hitherto relatively open and undeveloped part of LCA E1. This would be apparent in views across LCA E1 from elevated land to the north, as well as from low-lying land to the west, as illustrated by RVP 6. The consented Richborough Grid Stability Facility would already extend development into the marsh area, an incursion which would be consolidated by the proposed development with a cumulative effect on landscape character. The ExA therefore finds that the magnitude of effect would be large rather than medium and concludes that the effects on LCA E1 would be major (significant) adverse at year 15 in view of the high sensitivity of the landscape.

3.12.46. As identified by the applicant and TDC, due to the open character of the landscape, there is little scope for additional landscape planting and the ExA is satisfied that further mitigation planting would not be effective in reducing the significance of the adverse effects. There would be residual significant adverse effects in relation to visual receptors and landscape character, some of which would endure beyond year 15. Due to the harm to LCA E1, the proposed development would conflict with Thanet Local Plan 2020 Policy SP26, which seeks, amongst other things, to direct development away from LCA E1 due to its largely undeveloped character and role in retaining the island character of Thanet.

3.12.47. The Holford Rules are summarised in National Policy Statement (NPS) EN-5 paragraph 2.9.17. The ExA is satisfied that undergrounding is not feasible (see section 3.3 of this report regarding alternatives) and the cumulative effects of the OHL with existing OHL have been considered.

3.12.48. Subject to the controls in the R3 of the rDCO, the ExA is satisfied that, insofar as it relates to the above ground works in Kent, the proposed development has been designed carefully, as required by paragraph 5.10.37 of NPS EN-1, and opportunities have been taken to minimise harm to the landscape, including by appropriate mitigation.

THE ASSESSMENT AND MITIGATION OF THE EFFECTS OF SAXMUNDHAM CONVERTER STATION, THE RIVER FROMUS BRIDGE, FRISTON SUBSTATION AND CABLING ON LANDSCAPE CHARACTER AND VISUAL AMENITY INCLUDING CUMULATIVE EFFECTS

Methodology and assessment

3.12.49. A number of IPs raised concerns about the methodology of the assessment in the ES in relation to Suffolk, including Saxmundham Town Council [RR-4896], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210] and [RR-3944].

3.12.50. SEAS [RR-5210] considered that year 15 winter photography was necessary to show the worst case scenario. The applicant [REP3-074] explained that the worst case scenario was shown at year 1 winter, while the role of year 15 summer photography was to show the best-case scenario with mitigation planting established and trees in leaf. SEAS also questioned the type of image used in the photomontages and the type of visualisation. The applicant responded [REP2-014], [REP3-069] and [REP3-074] in response to ExQ1LVIA12 [PD-017], that the methodology was in accordance with the relevant guidance.

3.12.51. Suffolk County Council (SCC) stated that it had identified a need for additional viewpoints at the pre-application stage [REP1-130] to which the applicant responded by providing additional viewpoints A, B and C [REP1-298], [REP1-299] and [REP1-300] showing views across the Fromus valley from an area of recreational land at The Layers and the B1121. Instead of providing a visualisation from the PRoW (E-491/005/0) that would be diverted as suggested by SCC, the applicant provided a cross-section showing how it would sit within the proposed woodland planting (figure 2) [REP7-140]. SCC maintained its position that two additional viewpoints were required, including one from the B1121 showing the bellmouth for the proposed access road [REP7-355] which could have revealed the need for and opportunities to implement further mitigation. The ExA observed the landscape character and views from PRoWs and the B1121.

3.12.52. SEAS [RR-5210] considered that the applicant had undervalued the landscape of LCA L1 in table 3.4 of [APP-097] partly due to an overemphasis on detractors, and the magnitude of effect, with the result that the significance of effect should be major adverse rather than moderate adverse at all stages. The applicant responded in [REP3-074] that it was appropriate to identify detracting features as well as positive features. Regardless of the degree of significance, both the applicant and SEAS agreed that the effects would be significant adverse on LCA L1.

3.12.53. In relation to LCA B4, SEAS [RR-5210] considered that the applicant underestimated the likely effects of the River Fromus bridge and access road in table 3.1 of [APP-

097]. SEAS considered that the effects would be of large magnitude at all stages with the overall significance of effect being major adverse at all stages, including the effects of the bridge on important views on the approach to Saxmundham. The applicant [REP3-074] explained that due to the proposed additional native woodland planting around the River Fromus as well as hedgerow and tree planting along the access road, these elements of the proposed development would be largely screened and integrated into the valley landscape at year 15.

3.12.54. SEAS [RR-5210] considered that the applicant's categorisation of the degree of significance of effects underestimated their significance, resulting in RVP 4 being assessed as moderate adverse at 15 years despite a large magnitude of change. The applicant explained in [REP3-074] that this was because of the effect of planting as set out in [APP-095] rather than a flaw in its assessment.

3.12.55. SCC [REP2-062] considered that the urbanising effects on landscape and visual receptors of the new bellmouth and access road from the B1121 across the River Fromus had not been fully assessed. The applicant responded to ExQ1LVIA14 [PD-017] in [REP3-069] that the works had been fully assessed in [APP-097] and [APP-098] and explained why the hedgerow shown to be removed on the B1121 was not shown on visualisations from RVP 2 and RVP 20. Due to the proximity of the two access points the applicant stated that it was seeking to provide access to a dog walking field consented under planning permission as a spur from the converter station access road, allowing the replanting of the hedgerow. Figure 1 of the oLEMP [REP7-140] indicates that this would occur either side of the new bellmouth. SCC maintained its view [REP7-355] that the effects of the bellmouth had not been properly assessed and that a more thorough assessment might have revealed the need for and opportunities to implement further mitigation.

Mitigation

3.12.56. SCC [REP1-130] and East Suffolk Council (ESC) [REP1-128] [REP1-133] [REP3-080] [REP4-117] were concerned that no additional planting was proposed to mitigate the identified significant residual effects of the proposed converter station at Saxmundham, and that no allowance had been made for off-site planting. ESC suggested that additional planting in three specific areas (A, B and C) identified in [REP1-128] could reduce the significance of the effects from RVPs 1, 2, 4, 5, 20 and 21. The applicant responded in [REP2-026] and [REP2-027]. The ExA asked ExQ1LVIA2 [PD-017] for more detailed consideration of whether additional landscape planting could further mitigate landscape and visual effects. The applicant responded [REP3-069] that it would not mitigate the effects further due to the scale of the proposed infrastructure. ESC [REP3-080] and SCC [REP3-122], [REP3-081] reiterated their concerns that opportunities on and off-site had been missed.

At ISH2 the applicant committed to increasing the planting alongside the B1119 and enhancing planting to further mitigate views from RVP 21 but did not agree with ESC's suggested planting in its areas A or B.

3.12.57. In action points 39 and 40 from ISH2 [EV6-033] the ExA asked for further consideration by the applicant of the scope for additional mitigation as well as further consideration of SCC's point made at ISH2 that additional planting could filter views rather than channel views of the converter station. The applicant provided a detailed response [REP4-086] setting out why the additional planting would not be appropriate, either because it would not achieve better mitigation, or due to other constraints. Furthermore, the applicant explained that compulsory acquisition powers for additional visual or landscape screening could not be justified, given these factors.

3.12.58. In response to action point 48 from ISH3 (EV9-018] SCC set out suggested additional measures to mitigate the landscape and visual harms [REP6-184], illustrated at appendix C. This suggested planting to the north of the converter station, a wider tree belt along the B1119, planting within the order limits alongside PRoW (E-460/023/0) by RVP 1 from the road to the converter station site and where three PRoWs (E-460/023/0, E-491/005/0 and E491/006/0) meet to the north-west of the converter station site. It also suggested off-site planting that would add further layers, which in its opinion would mitigate the effects from RVPs 4, 5 and 21. The applicant referred back to its response [REP4-086] to ESC's suggested planting in [REP6-111] [REP6-112] and [REP7-257] and its responses to ExQ3GEN1 and ExQ3LVIA4 [PD-023]. The applicant reiterated that additional planting would not have any additional mitigatory effect and in relation to the PRoW (E-460/023/0) and RVP 1, the applicant noted the need to avoid conflict with a utility supply corridor.

3.12.59. Despite the additional planting proposed along the B1119, ESC and SCC remained concerned that the tree belt along B1119 would be too narrow to be fully effective and maintained its view with regard to the need for additional mitigation planting [REP7-301], [REP7-302].

3.12.60. The SoCG [REP7-355] indicates that SCC suggested that although it was too late to extend the order limits to achieve additional off-site planting, the applicant could make a commitment to seek landowner permission to undertake further planting. Alternatively, SCC considered that offsetting for landscape impacts could take the form of improvements to PRoWs. The applicant maintained its position that additional landscape planting either within the order limits or the wider landscape would not have any additional mitigatory effect [REP7-335].

3.12.61. Several IPs including SCC [REP1-130], ESC [REP-128], Friston Parish Council and Substation Action Save East Suffolk (SASES) [RR-1693] [AS-073] emphasised the importance of ensuring that the proposed development would secure the same level of landscape mitigation for Friston substation as the SPR consents. ESC [REP1-128] suggested that additional landscape planting could be added from RVP 6a alongside the PRoW (E260/017/0) in a south-western direction. At ISH2 the ExA asked the applicant to explain why there were differences between proposed development and the SPR consent, as illustrated by [AS-063]. In response to action point 50 [REP4-086] the applicant provided an updated figure 5 of the oLEMP [REP4-065] indicating a closer correlation with the SPR landscape planting proposals.

3.12.62. SCC [REP5-185] remained concerned that the order limits around the proposed Friston substation would not match those consented by SPR as land for landscape mitigation has not been included. The applicant explained [REP6-111] that the difference related to a linear woodland belt which extends to the east of Little Moor Farm to the north of the PRoW (E-354/008/0). The applicant considered that it would not compromise the mitigation as a hedgerow to the south of the PRoW would provide the same degree of screening. SCC was satisfied that this could be resolved post consent through the approval of the LEMP [REP7-302].

3.12.63. ESC raised the need for compensation for the effects of the proposed development on local communities, including from landscape harm, to address the impacts identified in its principal areas of disagreement summary statement (PADSS) [REP7-301]. In [REP7-197] ESC set out a detailed request for a landscape mitigation fund to mitigate impacts through additional planting and a landscape legacy fund to mitigate any residual landscape impacts. As the request was received at DL7 the applicant did not respond.

Cumulative effects and mitigation

3.12.64. Several RRs including ESC [RR-1420], [AS-076], SASES [RR-4887], SEAS [RR-5210] and Friston Parish Council [RR-1693] raised concerns about the cumulative effects with the proposal for a second converter station at Saxmundham for LionLink Interconnector. ESC [REP1-128] outlined the need for a collaborative master planning process with LionLink Interconnector, engaging local stakeholders. The applicant responded [REP2-027] that it had been working with LionLink Interconnector to develop a masterplan, and appendix A of [APP-363] demonstrated how up to three converter stations at Saxmundham could be developed. However, it noted that the other projects would have their own order limits and would be developed separately. CO.1 is a Key Design Principle requiring a coordinated landscape masterplan for the site [REP7-346]. The ExA asked ExQ3LVIA5 [PD-023]

and action points 47 and 48 [EV9-018], seeking further exploration of the potential to mitigate significant cumulative landscape and visual effects. Disagreement remained at the close of examination with SCC [REP7-355] concerned despite commitments made in the oLEMP [REP7-140] to pursue a coordinated approach.

3.12.65. A number of IPs including ESC [AS-076], [REP1-128], SCC [REP1-130] and SEAS [AS-038] raised concerns that LionLink Interconnector cables would undermine the proposed landscape mitigation whereas coordination of cable laying would minimise the cumulative effects on landscape character and visual amenity. The SoCG with LionLink Interconnector [REP7-083] indicates that LionLink Interconnector and the applicant are developing proposals for a shared HVAC cable corridor to minimise environmental impacts. However, these are not agreed. SCC proposed an additional requirement in item 17 of [REP6-237] to secure the coordinated laying of LionLink Interconnector's cable ducts, should LionLink Interconnector be consented before the proposed development cable laying works commence. The applicant considered that a requirement would be wholly inappropriate and unfeasible to tie the deliverability of the proposed development to the progress of another project [REP7-355].

3.12.66. The ExA questioned [PD-025] whether the proposed landscape planting shown at appendix D of [REP4-086] accommodating SPR and LionLink Interconnector cable alignments alongside the proposed development meant that the visualisation from RVP 6a was no longer accurate. The applicant responded [REP7-173] highlighting that the masterplan for Friston substation in the oLEMP [REP7-140] reflected the consented detailed landscape design approved for EA2. The applicant explained that this showed a native hedgerow with tree planting along the field boundary to the south of High House Farm as well as a narrow belt of woodland and evergreen planting to the immediate south of the High House Farm property boundary. The applicant confirmed that this planting arrangement was shown in the additional LionLink Interconnector cumulative visualisation for RVP 6a appendix A [REP5-127]. The applicant explained [REP7-140] that the LionLink Interconnector cable indicative alignment would avoid the planting immediately south of High House Farm. An IP [REP7-231] occupying a local property raised concern that the landscape planting agreed pursuant to the SPR consents might be changed.

3.12.67. ESC [AS-076], [REP1-128], SCC [REP2-062], SASES [RR-4887] and Friston Parish Council [RR-1693] raised concerns at the cumulative effect with the SPR substations. Concerns were raised that under Friston scenario 2, proposed cabling could undermine landscape mitigation planting for EA1N and EA2 if open cut trenching methods of installation were used. SCC [REP1-130] considered that open cut trenching could set an unfortunate precedent for LionLink Interconnector to cause

further damage to landscape planting in the vicinity of the substation if it came forward in the future and that horizontal directional drilling (HDD) should be used instead. The applicant responded [REP2-014], [REP2-026] and [REP2-027] that it had been working closely with SPR to resolve the interfaces between the projects and that it would work with LionLink Interconnector to develop design in compatible ways to retain the functionality of the original planting. The applicant explained that HDD techniques would require large working areas to be set up at the launch and received pits and greater cable separation would be needed and would be likely to require greater removal of landscaping than open cut trenching. Furthermore, the applicant stated that hedgerows and shrubs could be planted or reinstated over cables.

3.12.68. In response to ExQ1LVIA15 [PD-017] the applicant provided a more detailed response in [REP3-069] and a technical note [REP3-070] on the interface with EA1N and EA2 landscape mitigation. The applicant explained that the presence of trees over cables would be problematic regardless of the method of installation. The applicant stated that installation of cables at a lower depth to ensure cables would not be affected by tree roots would create further technical challenges, and a trenchless method of installation such as HDD would not provide a better solution. In response, SCC [REP4-201] suggested that the applicant should investigate alternative depths of cable laying to enable woodland planting to take place over the top of cables. SCC [REP5-185] and [REP7-302] suggested that if HDD was not feasible and interaction with the SPR mitigation was inevitable, the applicant should consider planting elsewhere to minimise the adverse effects of the interaction. ESC [REP7-301] maintained its strong preference for the use of HDD to minimise adverse impacts on landscape mitigation but noted the positive engagement between the applicant, LionLink Interconnector and SPR in relation to Friston substation.

3.12.69. SCC [REP1-130] noted that as it is proposed to replant trees close to but not within the cable corridor, there would be a permanent loss of trees within the cable corridor which would remain legible in the landscape beyond year 15. Furthermore, SCC considered that when taken cumulatively with the vegetation loss associated with other projects, notably Sizewell C, EA1N and EA2 and proposed housing at South Saxmundham Neighbourhood, there would be significant residual effects for which mitigation should be fully explored. SCC stated that where the effects could not be fully mitigated, opportunities for compensation should be explored. The applicant responded in [REP2-026] that tree loss had been minimised and that further opportunities for avoidance would be explored and had been reported as a reasonable worst case.

ExA's findings

Methodology and assessment

3.12.70. The ExA is satisfied that the applicant has carried out a landscape and visual assessment based on a methodology that accords with the relevant guidance, as required by NPS EN-1 paragraphs 5.10.16, 5.10.17, 5.10.21 and 5.10.22. Sufficient and appropriate RVPs were assessed to allow the ExA to evaluate the effects of the proposed development, supplemented by its own accompanied site visits (ASI)s and USIs.

3.12.71. The ExA observed the positive features of LCA L1 and considers that existing large agricultural buildings have only a minimal negative effect on the landscape character. However, even if the applicant had assessed the landscape value as higher, which could have increased the resulting significance of effect to be major rather than moderate, both moderate and major effects are considered to be significant so the outcome would not be materially affected.

3.12.72. In terms of the effects on LCA B4, the ExA considers that the scale of construction works and the level of construction activity caused by the formation and use of the permanent access route would result in a large magnitude of effect rather than medium. The significance of the effect would likely be major adverse during construction, rather than moderate adverse. During year 1 of operation, the ExA considers that the effect on the landscape would also be of a large magnitude, due to the effects of the construction and changes to the landform, which would not yet be screened by planting. The significance of the adverse effects would be major rather than minor. At year 15, the ExA agrees that the landscape planting would have matured sufficiently to reduce the magnitude of the effects to small with a resulting not significant effect overall.

3.12.73. The ExA acknowledges that the baseline information and assessments in [APP-096], [APP-097] and [REP4-023] in some instances identify effects of large magnitude on receptors of very high sensitivity as being moderate adverse rather than major adverse. This appears to be at odds with the basis of assigning significance set out in plate 5.2 in [APP-046]. For example, although RVP 4 is assessed by the applicant as having very high sensitivity with a large magnitude of effect at year 15 the significance of the effect is reported as moderate rather than major. However, the inclusion of the 'very large' magnitude effects as set out in [REP4-023] adds an additional level of magnitude and the ExA is satisfied that the methodology used in the applicant's assessment of visual effects has been applied consistently. The ExA is satisfied that the applicant has considered the worst case scenario with regard to rates of vegetation growth and suitable provision could be made for adaptive

landscape management in the oLEMP [REP7-140] so that the year 15 assessments are robust and reliable.

3.12.74. In relation to the proposed permanent access from the B1121, taking into account the visualisations provided from viewpoint C [REP1-300], the new hedgerow planting shown on [REP7-140], the indicative information regarding the design and visibility splays for the access in [APP-037], and the ExA's observations on site, the ExA is satisfied that it has sufficient information to understand and assess its potential landscape and visual effects. The ExA is satisfied that it has been properly assessed and contributes to the applicant's finding of likely significant effects on LCA B4.

Mitigation

3.12.75. The ExA considers that opportunities for off-site planting to mitigate the identified residual significant effects at year 15 as set out in table 1.12 [REP4-023] have not been properly explored, despite its questions at ExQ1, ExQ2, ISH2 and ExQ3. The additional planting alongside the B1119 is welcomed but having visited the site and surrounding area on several occasions, the ExA is of the view that additional well-designed planting could further filter views of the proposed converter station from identified receptors. While it would not be appropriate or necessary to screen every view, the ExA considers that the applicant has not fully explored whether the significant residual effects identified in the ES, including on residential receptors and users of PRoWs, could be further mitigated through additional landscape planting. However, the ExA considers that there is potential for additional on-site mitigation planting beyond that shown in the oLEMP, and that this could be secured post-consent through the LEMP approval process.

3.12.76. The ExA acknowledges that the inability to replant trees over the cable route would mean that the visual effects of the proposed development would endure beyond the construction period.

3.12.77. The ExA considers that the applicant has not fully explored the potential for additional planting to mitigate the significant landscape and visual effects, noting that NPS EN-1 paragraph 5.10.28 indicates that it may be appropriate to undertake landscaping off-site. While the ExA accepts that additional off-site planting may not be justifiable in terms of compulsory acquisition, the ExA considers that there may be opportunities in the final version of the LEMP to include additional planting. Nonetheless, this is unlikely to materially reduce the significance of the adverse effects on landscape quality and visual receptors. NPS EN-1 paragraph 5.10.6 states that the aim should be to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. Paragraph 5.10.35 acknowledges that

the scale of energy projects means it will often be visible across a very wide area and that there may be adverse impacts.

3.12.78. With regard to ESC's suggestion of funds to compensate for the landscape harm, the applicant did not have opportunity to respond to its specific request at deadline 7. The ExA notes that the request was not detailed or costed. The ExA considers that appropriate and reasonable compensation could take the form of mitigation for intra-project cumulative effects, as suggested by SCC [REP7-335] and the provision for this is included in R21 of the rDCO.

Cumulative effects and mitigation

3.12.79. The ExA agrees with the applicant's assessment that there would be significant landscape and visual cumulative effects. The applicant has made commitments to explore opportunities for coordination with other projects, including LionLink Interconnector, in order to reduce overall impacts. The ExA is satisfied that coordination of landscape planting could be secured through the approval of the LEMP by the relevant planning authority. The ExA does not consider it would be appropriate to include a requirement in the rDCO to require coordination, as it would impose an unreasonably onerous commitment on the proposed development. NPS EN-5 paragraph 2.7.2 encourages a consolidated approach to electricity network infrastructure development, though it also recognises that it may not always be possible or the most efficient strategy.

3.12.80. The ExA is satisfied that discrepancies between the SPR final landscape mitigation plan and the planting shown in the oLEMP could be resolved post-consent through the approval process, so that the mitigatory effects of the planting would not be weakened. The ExA is also satisfied that under the terms of the oLEMP and the rDCO if any recent planting pursuant to the SPR consent was subsequently removed for the proposed cable laying, it would need to be replaced.

THE ASSESSMENT OF THE EFFECTS OF THE DEVELOPMENT AND MITIGATION IN SUFFOLK ON THE NL AND THE SHC, INCLUDING CUMULATIVE EFFECTS, AND THE DUTY TO FURTHER THE PURPOSES OF THE NL

Methodology and assessment

3.12.81. RRs and other submissions including from the Alde and Ore Association [RR-0091], SEAS [REP4-240] and [RR-3944] [AS-063], [REP3-132], raised concerns that the study area was too small and excluded areas on the Alde and Ore estuary within the NL which are shown on the Zones of Theoretical Visibility (ZTV)s as having views of the proposed development [REP7-115]. The applicant responded in [REP4-094] and [REP5-141] that the area had been screened out due to the limited potential for a

significant adverse effect which had been agreed with ESC and SCC [REP4-023]. The applicant highlighted that RVP 18 [APP-212] is sited near to the northern edge of the Alde estuary landscape and the effects are reported to be negligible adverse at all project stages. SEAS and the Alde and Ore Association maintained their concerns in [REP6-256D] and [REP7-361] respectively.

3.12.82. Several IPs, including SCC [REP1-130], [REP3-122], NE [RR-3920] and the Suffolk and Essex Coast and Heaths National Landscape Partnership (SECHNLP) [RR-5205] raised concerns with the applicant's assessment of effects on the NL and its setting. The concerns centre on the inadequate consideration of the effects on the natural beauty and special qualities indicators and their sub factors in [REP4-023], [APP-097], [AS-057] and set out in the Planning Statement [REP6-054]. SCC set out in [REP1-130] that the assessment should acknowledge that harm to parts of the NL need to be considered as harm to the NL as a whole and to its statutory purposes. SCC disagreed that the effects of construction activities, including the construction compound, in the open coastal landscape would not be significant, even though they would be temporary, referring to the loss of vegetation in the cable corridor and the inability to replant trees over cables. These issues led the ExA to ask a series of questions at ExQ1 [PD-017].

3.12.83. In response the applicant provided [REP3-069] and [REP3-070] an assessment of natural beauty indicators and their sub-factors, noting that as no likely significant effects were identified by the proposed development alone there was no need for mitigation. The applicant responded to NE's further comments set out in [REP3-120] with an addendum to the Planning Statement [REP6-054] added at DL4 setting out an assessment of the impacts on the special qualities of the NL.

3.12.84. In terms of the effects on the setting of the NL, in response to ExQ2LVIA2 [PD-021] and NE's comment in [REP3-120] the applicant provided additional information [REP4-241], [REP5-135], concluding that effects on the setting would be limited at construction and not significant, with no long-term effects.

3.12.85. At the close of examination SCC [REP7-355] considered that its concerns raised in [REP1-130] paragraphs 5.46 to 5.58 had not been addressed. NE [REP6-248] and [REP7-276] remained concerned that although the sub-factors have been acknowledged, each sub factor remains within an overall assessment which lacks clarity on how it may be impacted. NE was concerned that the assessment relies on the temporary and small-scale nature of the proposed development and does not clearly acknowledge the impact on the special qualities nor that the effects on the landscape would extend into the operational phase as vegetation takes time to mature. SECHNLP confirmed [REP7-052] that all matters were resolved.

3.12.86. NE raised concerns [REP3-120] that the applicant gave insufficient consideration to the avoidance of impacts on acid grassland through the use of trenchless methods of cable laying. In response to ExQ2LVIA7 the applicant [REP5-135] set out how it considered it had complied with the mitigation hierarchy in relation to acid grassland, through avoiding the permanent loss of acid grassland, reducing the areas required temporarily for construction, restoring all areas temporarily affected and compensating through the additional acid grassland enhancement measures. NE maintained its position that trenchless techniques should have been considered as the first stage in the mitigation hierarchy [REP6-248].

3.12.87. Concerns were raised by IPs including NE [RR-3920] and SEAS [REP3-132] [REP4-240] that the applicant's assessment of effects on the SHC was unclear and inadequate. The ExA noted the limited information provided by the applicant and asked for additional detail of its assessment, evidence base and methodology (ExQ1LVIA11) [PD-017]. The applicant responded in [REP3-069] that the agreed approach was to present the effects as those associated with the NL. In response to action point 46 [EV6-033] ESC [REP4-117] [REP4-119] and SCC [REP4-150] stated that they did not dispute the applicant's approach to the assessment. In response to action points 47 and AP48 [EV6-033] ESC [REP4-119] set out that the proposed development would be temporarily incompatible with the SHC. SCC [REP4-150] considered that the harm to the SHC during construction could be mitigated by offsetting measures such as explanatory information boards. The applicant [REP6-109] considered that the temporary effects during construction from construction vessels in nearshore waters would not be significant and would not require compensation.

Cumulative effects

3.12.88. The applicant identified likely significant cumulative effects on the NL with EA1N, EA2 and LionLink Interconnector [APP-060]. In response to concerns expressed by for example NE [RR-3920] SECHNLP [RR-5205] and SEAS [RR5210] the applicant provided in table 4.1 [REP1-120] a more detailed assessment of inter-project cumulative effects on natural beauty indicators and special qualities indicators during construction.

3.12.89. The ExA requested (EXQ1LVIA13) [PD-017] an explanation of how the opportunities for coordination with the projects identified in the Coordination Report [APP-363] could be secured. The applicant responded that coordination was either embedded in the design of the proposed development or it would be secured through ongoing collaboration and it would not be feasible to seek to secure outcomes. ESC [REP1-128] and SEAS [REP5-205] emphasised the need for coordination with other major infrastructure projects in the area to reduce cumulative effects.

3.12.90. NE and SCC raised concerns with the applicant's assessment of effects on special qualities and the sub factors in [REP4-196] and [REP4-201] respectively. In response to ExQ2LVIA10 [PD-021] the applicant provided in appendix A of [REP6-102] a more detailed cumulative assessment in relation to the sub-factors for natural beauty indicators and special qualities indicators with a greater level of detail as to the factors that have led to the conclusions and the magnitude of the effect. The applicant stated that it should be read in conjunction with its assessment in [REP1-120].

3.12.91. The applicant's assessment [REP6-102] confirmed that there would be residual cumulative effects on landscape quality and scenic quality which would be significant. Significant effects were identified in relation to nine of the natural beauty sub-factors.

Mitigation and the duty to further the purposes of the NL

3.12.92. Several IPs, including NE [RR-3920], SCC [REP1-130] and SECHNLP [RR-5205], raised concerns regarding the mitigation of effects on the NL and discharging s85 duty in the Countryside and Rights of Way Act 2000 (CRoW Act) to further the purposes of the NL. SCC [REP1-130] questioned whether the proposed acid grassland enhancement would be sufficient to mitigate the range of likely effects on the NL, from the proposed development alone and cumulatively with other developments, including from construction activities, vegetation removal, noise and visual disturbance.

3.12.93. In response to the submission by the applicant of [REP1-120] regarding the acid grassland proposals, NE [REP2-058] raised a series of concerns about the suitability of the site, its location and adjacent land use, the timeframe for enhancement and its management. The ExA asked ExQ2LVIA3 [PD-023] due to the lack of baseline information and proposed management measures for the parcel of land identified for acid grassland enhancement. The applicant [REP5-135] provided additional information in the oLEMP but maintained that the pH does not require testing as the site currently supports degraded acid grassland and has not recently been cultivated. The applicant highlighted that the adjacent land was already used as part of the pig farm operations as part of a standard farming rotation, alternating with high value crops and that the farming practices were not expected to change. The applicant continued to state that the degraded state of the acid grassland is due to lack of management rather than the effects of adjacent farming practices [REP5-135].

3.12.94. NE [REP6-248], [REP7-276] and SCC [REP5-204] remained concerned at the lack of baseline data, the lack of control over neighbouring land uses and therefore the

feasibility of restoring the acid grassland to the intended condition during the ten-year period. NE recommended that a clear management plan, including baseline status and objectives, should be provided and detailed in the oLEMP with contingency measures should acid grassland enhancement not proceed as expected. This should take into account the biodiversity value of other habitats present on the land, such as deciduous woodland. The applicant provided additional information in the oLEMP [REP7-140] regarding the baseline condition of the enhancement area and acknowledged that the adjacent land use might have contributed to its deterioration. It confirmed that pH testing would be undertaken.

3.12.95. In response to ExQ2LVIA4 [PD-021] the applicant set out that the ten-year management period would be appropriate for the enhancement of degraded acid grassland and has been agreed with the landowner. NE [REP6-248] remained concerned that the ten-year period may be insufficient to provide the stated gains and would be a clear risk to the efficacy of the compensation. SCC [REP5-204] [REP7-367] considered that enhanced management of the acid grassland for a period of 30 years would be a more realistic timeframe to achieve meaningful mitigation for and enhancement of the natural beauty and special qualities of the NL, to satisfy the s85 duty.

3.12.96. In [REP1-120] the applicant provided a more detailed explanation of the proposed function of the acid grassland enhancement in terms of compensation for the acid grassland affected by the proposed development and assessed the relevance of the acid grassland enhancement in relation to the natural beauty and special qualities indicators. In response to ExQ1LVIA7 [PD-017] SCC [REP3-101] stated that the acid grassland enhancement would be to offset an individual direct adverse effect on acid grassland and would not be sufficient to discharge the s85 duty nor would it provide appropriate mitigation for cumulative effects, which did not directly relate to harm to acid grassland. This view was echoed by SECHNLP [REP3-100] which suggested that the area of the NL affected by the proposed development could be further conserved and enhanced through a contribution to its sustainable development fund. The applicant maintained its position that the acid grassland enhancement would compensate for the short term and temporary cumulative effects and would provide further enhancement for the NL to comply with the s85 duty [REP4-083].

3.12.97. SCC reiterated its concerns in [REP4-150], [REP4-201] and [REP5-204] that the proposed development would not meet the section (s) 85 duty and that the applicant had not sought to identify enhancement measures beyond enhancing acid grassland. SCC requested the applicant to engage with stakeholders to discuss how this could be achieved, for example through contributions to project activities,

promoted routes and contribution to the SECHNL sustainable development fund. In response to EXQ2LVIA6 [PD-021] the applicant [REP5-135] reiterated that the acid grassland measures were proposed to compensate for the short term and temporary significant adverse cumulative effects. The applicant also stated [REP5-135] that it was discussing with the SECHNLP whether a financial contribution to support projects within the NL would be appropriate.

3.12.98. 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. SCC suggested compensation would be appropriate in the form of offsite commitments to explore projects to enhance natural beauty outside the order limits for example through SECHNLP's Sustainable Development Fund. ESC [REP5-189] stated that it considered that effects on landscape quality would be addressed by the acid grassland enhancement and deferred to SECHNLP and SCC in relation to the temporary effects on relative wildness and tranquillity. NE [REP5-299] stated that it was not clear where compensation for significant cumulative effects had been addressed and raised concerns regarding the lack of clarity on the multifunctional use of the acid grassland restoration land. SEAS [REP5-205] set out its preference for avoidance and mitigation of effects, including through coordination with other developments. Nonetheless, where significant residual cumulative effects would remain, SEAS suggested that compensation measures could include landscape enhancements, programmes to reduce the wider visual impact of the electricity transmission infrastructure, improvements to PRoWs and long-term stewardship funding.

3.12.99. 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 Furthering the Purposes (FTP) compensation fund, in consultation with SCC and SECHNLP.

3.12.100. NE [REP6-248] maintained its view that there had been insufficient explanation as to whether the acid grassland enhancement would be to compensate for harm to acid grassland or comply with the s85 duty. In its position statement [REP7-276] NE stated that the impacts on the NL need to be clearly quantified and audited to demonstrate how the proposed development would provide compensation and enhancement for the natural beauty of the NL.

3.12.101. SCC [REP7-367] also referred to discussions with the applicant to undertake enhancement measures through financial contributions to the National Landscape Partnership to the FTP compensation fund. The applicant provided a sealed unilateral undertaking (UU) in relation to s85 National Landscape from National Grid to Suffolk County Council [REP7-717] and a completed version as a late DL7 submission [REP7-354].

3.12.102. The UU indicated that the following payments would be made to SCC:

- £55,000 to the FTP compensation fund
- £20,000 to contribute to the FTP compensation fund officer costs
- £577 monitoring fee
- £2000 to cover SCC's legal costs

3.12.103. SCC [REP7-367] explained that through its discussions with the applicant it understood that most of its concerns with the UU had been resolved but that it considered that the UU should be bilateral with SCC as it would create obligations for SCC. SCC set out detailed comments with suggested drafting and justification for the use of a UU as a legal mechanism to secure a financial contribution in a manner that is enforceable. In particular, SCC was concerned that the document should be made pursuant to the Localism Act 2011 rather than section 106 of the Town and Country Planning Act 1990, additional definitions should be included, provision should be made for the event of the transfer of the benefit of the DCO, and for the enforcement and modification of the deed of obligation. Furthermore, SCC requested that a monitoring fee should be included to pay towards SCC's costs of monitoring the performance of the obligation. NE [REP7-276] welcomed that the applicant was meeting with the SECHNLP and SCC regarding additional compensation measures required to satisfy the s85 duty. In the SoCG with SECHNLP [REP7-052] the applicant stated that it had drafted a UU following a call with the SECHNLP and the matter of meeting the section 85 was indicated as being agreed. The SoCG makes reference to SECHNLP agreeing that the proposed development was going above and beyond.

ExA's findings

Methodology and assessment

3.12.104. The ExA is satisfied that the study area is appropriate. Although the ZTV indicates locations to the south of the Alde and Ore estuary with theoretical visibility, due to the distance involved the ExA considers that this part of the NL is unlikely to experience adverse effects, albeit that the ExA has considered effects on the NL as a whole.

3.12.105. The ExA is satisfied that the applicant's assessment included the effects of the proposed development on the natural beauty and special qualities of the NL, as well as its setting, as required by paragraphs 5.10.8 and 5.10.20 of NPS EN-1. The ExA considers that the applicant's assessment could have been clearer in terms of the components of each sub factor but has no reason to disagree with the applicant's conclusions that the proposed development would not result in significant effects on the NL, and notes that SECHNLP was satisfied with the assessment [REP7-053]. The applicant's assessment acknowledges that the effects on the landscape quality would persist beyond the construction period due to the time lag in reinstatement of acid grassland and replanting of trees, scrub and hedgerows over the cable route. The ExA considers that the onshore elements would also be harmful to the SHC and agrees that the offshore works would have limited and temporary effects.

Cumulative effects

3.12.106. The ExA is satisfied that the applicant carried out an assessment of the inter project cumulative effects of the proposed development on the NL, which allowed an understanding of the likely effects on the natural beauty and special qualities indicators and sub factors. The ExA considers that the assessment complies with paragraph 5.10.16 of NPS EN-1 insofar as it requires that the applicant should carry out a landscape and visual impact assessment including cumulative effects.

Mitigation and the duty to further the purposes of the NL

3.12.107. NPS EN-1 paragraphs 5.10.7 and 5.10.32 set out that for developments in NLs the Secretary of State should be satisfied that measures which seek to further the purposes of the designation are sufficient, appropriate and proportionate to the type and scale of the development. The purposes of the designation are to conserve and enhance the natural beauty of the area. The s85 duty requires a proactive consideration of how the purposes may be furthered. The purpose of conserving and enhancing is disjunctive rather than conjunctive, therefore the decision maker needs to show that they have sought to advance one or other of those aims.

3.12.108. While recognising that NPS EN-1 paragraph 5.4.44 sets out that habitat creation or enhancement should normally be maintained for a minimum of ten years, the ExA considers that the acid grassland enhancement for a ten-year period would provide appropriate mitigation for the temporary direct effects on acid grassland during the construction phase. The ExA is satisfied that the acid grassland enhancement has a reasonable prospect of success, subject to compliance with the measures to be agreed in the final version of the LEMP.

3.12.109. The ExA acknowledges that the applicant has sought to minimise the effects on a range of natural beauty indicators and the special qualities of the NL, for example

through noise and lighting controls during construction. Nonetheless, as acknowledged by the applicant in [REP6-102], the proposed development would cause a level of harm to the NL when considered cumulatively with other projects. The residual cumulative effects identified in [REP6-102] include those that relate to the influence of incongruous features such as construction activity and construction compounds, the effects on the senses from noise and visual intrusion of construction movement and lighting, the visual aspects of construction activity on land and at sea, the sense of remoteness, the increased human influence in relatively isolated areas and the effects on tranquillity. [REP6-102] and the applicant's mitigation measures for each of the sub factors indicates that for some of the sub factors the acid grassland enhancement is not a suggested mitigation, and there is little direct mitigation available for effects from construction activity and compounds on the sub factors.

3.12.110. The ExA considers that it cannot therefore be said that the proposed development would conserve and enhance the natural beauty of the NL and therefore the making of the DCO would not further the purposes of the designation.

3.12.111. However, the ExA has given consideration to whether the payment of a financial contribution to the FTP compensation fund as offered by the applicant in the UU could represent compliance with the s85 duty. The applicant has discussed the principle of this form of compensation with SCC [REP7-355], [REP7-367] and SECHNLP [REP7-052] which has been welcomed by NE [REP7-276]. The contribution could provide for measures to offset the effects that the applicant has identified [REP6-102] on the natural beauty sub factors. The ExA considers that it could thereby further the purposes of the designation by conserving and enhancing the natural beauty of the NL.

3.12.112. Paragraph 4.1.18 of NPS EN-1 makes it clear that the Secretary of State may consider any development consent obligations that an applicant agrees with local authorities, provided the tests set out in the paragraph are met. The ExA considers 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 has no substantive reasons to take a view that the contributions that would be secured by the UU would not be fairly and reasonably related in scale and kind to the proposed development. The Secretary of State should be aware that as the UU was submitted at the final deadline, SCC has not had an opportunity to provide detailed comments on it.

CONCLUSIONS

3.12.113. NPS EN-1 paragraph 5.10.5 recognises that virtually all nationally significant energy infrastructure projects will have adverse effects on the landscape. The ExA is satisfied that the proposed development would comply with paragraph 2.9.17 insofar as the applicant has shown that undergrounding OHL would not be feasible except where already proposed and the cumulative effects with other OHL have been considered. The ExA broadly 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. The ExA recognises 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.

3.12.114. Although significant adverse effects on the NL or SHC have not been identified from the proposed development in the long term alone, the ExA considers that even minor or negligible effects constitute 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 considers that the acid grassland enhancement would provide mitigation for the temporary direct effects of the proposed development on the acid grassland. However, the ExA does not consider that it would provide mitigation on its own for the residual cumulative harm to the natural beauty and special qualities of the NL.

3.12.115. The ExA considers that the contribution to the FTP compensation fund would enable the proposed development to assist with off-setting 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 NPS EN-1 and s85 of the CRoW Act.

3.12.116. In accordance with paragraph 5.10.35 of NPS EN-1, the adverse impacts on the landscape will need to be weighed against the benefits (including need) of the project. This is carried out in section 5 of this report. There would 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. In addition, there would be residual adverse significant cumulative effects on the NL and the SHC. Taken together, these adverse effects attract great weight against the making of the order.

3.13. DESIGN

INTRODUCTION

3.13.1. This section considers the applicant's approach to design as it relates to the proposed development as a whole and to specific elements of the proposed development which would have an impact on their surrounding environment.

3.13.2. The effects of the proposed development on landscape and visual amenity and the effectiveness of mitigation proposals are considered in section 3.12 of this report.

APPLICATION SUMMARY

3.13.3. The applicant's Design Principles Statements for Suffolk [REP7-346] and Kent [REP7-348] set out the design vision and key principles to identify the objectives of the design process. This includes the project level design principles which the applicant considers provide broad guidelines for development, and converter station design principles and substation design principles, which cover the Friston and Minster substations. The applicant's Design Approach Documents for Suffolk [REP1A-029] and Kent [REP1A-031] describe the applicant's overall design approach. The Planning Statement [REP6-054] establishes the applicant's case for the proposed development's compliance with the principles of good design in accordance with National Policy Statements (NPS)s EN-1, EN-3 and EN-5.

3.13.4. The assessment is supported by the following documents:

- Strategic Options Report (October 2023) [APP-369]
- Design Development Report [APP-321]
- Design and layout plans [APP-037]
- Indicative General Arrangements Plans - Suffolk [REP4-008]
- Indicative General Arrangements Plans - Kent [CR1-025]
- Indicative General Arrangements Plans - Offshore [CR1-026]
- Appendix E Details of Similar designs of converter stations and substations [AS-066]

3.13.5. The applicant's Design Principles Statements for Suffolk [REP7-346] and Kent [REP7-348] identify critical design constraints in table 1.1 that the proposed development is required to meet, whether regulatory or commitments established in other parts of the Development Consent Order (DCO).

3.13.6. For Suffolk, table 3.1 [REP7-346] sets out the key design principles in column 3 that would be secured in draft DCO (dDCO) requirement 3 [REP7-002]. The converter station design principles in table 3.1 apply to the Suffolk converter station and

column 4 of table 3.1 suggests potential activities associated with each key design principle. The ExA notes that the table numbers within the document do not correspond with those set out on the contents page of [REP7-346].

3.13.7. For Kent, the converter station and substation design principles cover the Kent converter station and substation and their relationship to the site access and landscape mitigation proposals around them. Table 3.1 [REP7-348] sets out the key design principles in column 3 that would be secured in dDCO requirement 3 [REP7-002]. The converter station and substation design principles in table 3.1 apply to the Kent converter station and substation and column 4 of table 3.1 suggests potential activities associated with each key design principle.

3.13.8. Table 4.1 [REP7-346] contains the applicant's design principles applicable to the proposed substation at Friston. The applicant states that the design principles are derived from those approved in Scottish Power Renewables UK Limited (SPR) DCOs EN010077 and EN010078 but does not replicate them in full. The applicant considers that the design principles set out in table 4.1 would be applied in the event that National Grid were to build the substation at Friston under the proposed development rather than being developed under the consents for the SPR DCOs.

3.13.9. The applicant is clear that only the key design principles in tables 3.1 for Suffolk [REP7-346] and Kent [REP7-348] and 4.1 for Suffolk [REP7-346] are formally secured in requirement 3 of the dDCO, and the rest of the documents are provided for guidance only. Section 2.2 [REP7-346] and [REP7-348] describes the role of the design champion that has been assigned to the proposed development to provide oversight of the ongoing design process and delivery.

3.13.10. The applicant's Design Approach Documents for Suffolk [REP1A-029] and Kent [REP1A-031] includes the four design approach themes identified following the statutory consultation and design review panel:

- conventional industrial / agricultural
- enhanced cladding
- enhanced roof form
- fragmented form

3.13.11. The documents then go on to show illustrations of how the applicant considers the different design approaches could work with the design principles from tables 3.1 and 4.1. The River Fromus crossing section [REP1A-029] includes illustrative views to show how the worst-case height option would appear in the landscape setting.

3.13.12. Friston substation is addressed [REP1A-029] within appendix A - Architectural Design Assessment East Anglia TWO (EA2) Limited and East Anglia ONE North (EA1N) Limited Friston. The document covers the National Grid substation which is co-located and which the applicant states informs and responds to the key design principles in table 4.1 [REP7-346].

EXAMINATION ISSUES

3.13.13. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- the design of the converter stations, substations, overhead lines (OHL) and River Fromus bridge

THE DESIGN OF THE CONVERTER STATIONS, SUBSTATIONS, OHL AND RIVER FROMUS BRIDGE

3.13.14. East Suffolk Council (ESC) Local Impact Report (LIR) [REP1-128] stated that design input should continue throughout the consenting and post consent phases and welcomed the early engagement with the Suffolk design review panel and the Design Approach Document - Suffolk [REP1A-029]. Nonetheless, ESC [REP1-128] raised significant concerns about the cumulative impacts of multiple projects and sought a masterplanned and collaborative approach to both the converter station sites and the proposed Fromus crossing, with detailed design input and genuine engagement with local authorities, statutory consultees and local communities.

3.13.15. Suffolk County Council (SCC) LIR [REP1-130], Suffolk Energy Action Solutions Ltd (SEAS) [RR-3955] and Saxmundham Town Council [RR-4896] recognised that work on the design of the Suffolk converter station and River Fromus bridge would continue post-decision but were concerned about how little detail had been provided. Whilst SCC welcomed the production of overarching principles and project level design principles and that a design champion has been assigned, it noted that only the key design principles from this document would be secured as part of requirement (R)3. SCC questioned how compliance with the principles would be secured, whether as written or approved with limited variation post-consent. SCC suggested [REP1-130], (section 15.38) that the Design Principles - Suffolk [REP7-346] and Kent [REP7-348] should be included in the schedule of certified documents in the DCO.

3.13.16. Similarly, Thanet District Council (TDC) LIR [REP1-132] considered that the design principles would allow too much flexibility. It sought the design principles documents to be certified documents and sought a requirement to provide

assurance that the substation and pylons would be constructed in accordance with the design parameters, or a site-wide detailed design approval that requires details of all elements in accordance with the design principles for the avoidance of doubt. The applicant's response [REP2-029] confirmed that the applicant would add the design principles documents to the list of certified documents in schedule 19.

3.13.17. The drafting of dDCO R3 was discussed throughout the examination, including during issue specific hearing (ISH) 2 [EV6-002] and the applicant provided numerous amendments to R3 throughout the course of the examination as set out the Applicant's Schedule of Changes to the Draft Development Consent Order [REP7-085].

3.13.18. The ExA's Schedule of Changes to the dDCO [PD-024] for R3(1) changed "no construction of buildings" to "no above ground works." Furthermore, it added wording to allow scale, layout and external appearance to be controlled and added wording to require post-consent design review. With regards to R3(2) the ExA amended the applicant's wording to require that the details of the design and external appearance would be the same as those approved under the EA1N and EA2 DCOs in so far as those details relate to the design and external appearance of work 1B. The ExA acknowledged that its proposed wording would not require the scale and layout to be the same, as these may need to differ for technical reasons. The ExA amended R3(3) to introduce controls over the layout, scale and external appearance of the bridge in view of the sensitivity of the location in landscape, visual and heritage terms.

3.13.19. With regards to R3(1), SCC [REP7-313] maintained its position set out in its DL6 submission [REP6-237]. However, SCC went on to state that it understood that updates to the key design principles for the converter station were being made based on the Design Engagement Strategy provided by SCC at DL6 (Appendix B of [REP6-184]). Should these changes be satisfactory, then SCC considered that a design engagement strategy may not need to be referenced in the requirement wording.

3.13.20. SCC considered [REP7-313] the ExA's proposed drafting [PD-024] was an improvement of that included in the draft DCO [REP6-005]. SCC noted the inclusion of new sub-paragraph (d) and the requirement for the design details of Work Nos. 3B, 9B and 11 to be reviewed by an independent design review panel. SCC queried whether the ExA considered it would be helpful if (i) the statement to be submitted under sub-paragraph (d) should include an explanation when a recommendation by the panel has not been followed and (ii) a definition of "design review panel" was included.

3.13.21. SCC [REP7-313] also requested that it was included as a named consultee in the requirement wording. SCC stated that it had an interest in being involved and providing value to applications made under this requirement for the Suffolk converter station and considered being a named consultee would ensure that SCC was procedurally secure in its involvement in design matters post consent.

3.13.22. Dover District Council [REP7-307] considered that the ExA's proposed drafting would help ensure a high-quality finish to the structures which would be appropriate to the location, surroundings and functional requirements. Friston Parish Council (FPC) [REP7-309] stated that for requirement 3(2) the entirety of the current Friston substation design (EA1N and EA2) had been signed off by National Grid and that the local authorities and FPC should not have to review the design again. It requested that the requirement was drafted so that the entirety of the design already submitted is the discharged design, except for any changes to the layout required for the two extra bays required to connect to work no.2. FPC went on to note that R3(5) did not have a specific reference to the need to include measures to minimise light pollution and the hours of lighting in line with the EA2 requirement. It stated that Friston had dark skies and light pollution was a key concern for local residents and wildlife.

3.13.23. The applicant's response to the ExA's schedule of changes is set out in table 3.8 [REP7-085]. The applicant set out that in its final dDCO [REP7-002] it had not adopted the ExA's amendment to refer to "above ground works". It stated that there would be no scope for the local planning authorities to influence the design, scale, layout and external appearance of any external equipment that forms the converter station outside of the buildings. It considered that "above ground works" would include works such as the platform in Kent which would be required at an early stage of the works and would have an impact on the construction programme. The applicant considered that there would be no scope for the local planning authority to input into the scale or the appearance of such a platform so there would be no purpose or necessity to include this provision. The applicant went on to state that if the ExA was of the view that the local authorities having approval of all above ground works is necessary and reasonable, the adverse impact on the programme could be reduced be using the wording "above ground works except the converter station platform in Kent". However, the applicant considered that its current drafting referring to buildings would be the more precise and appropriate control.

3.13.24. The applicant confirmed [REP7-085] that it had made other amendments suggested by the ExA such as including the design, scale and external appearance of the buildings, that it had also amended the requirement to remove the superfluous

wording at R3(1)(b) and had also adopted the wording proposed at R3(1)(d) to provide for review by an independent design review panel.

3.13.25. With regards to R3(2), the applicant stated [REP7-085] that it had not adopted the suggested wording with respect to R3(2)(a). The applicant confirmed that it understood the rationale for tying the details of the design and external appearance to those approved for the EA1N and EA2 projects. However, it considered that the effect of such amendments would require the applicant to comply with third party submission documents from another separately consented project, which would not be an acceptable position. It considered that the requirement as drafted would provide for the submission of details which would accord with those documents, so that the documents would reflect those agreed for EA1N and EA2.

3.13.26. SEAS [REP7-211] maintained its concern at the lack of fixed or credible design for the converter station buildings, resulting in an unacceptable level of uncertainty. Similarly, SEAS considered that the lack of design detail for the River Fromus bridge prevented a proper understanding of the scale of change that would occur.

ExA's findings

3.13.27. The applicant has produced design principles for both Suffolk [REP7-346] and Kent [REP7-348] that would apply post-consent, assigned a design champion and secured review by an independent design review panel through requirement 3 in line with NPS EN-1 paragraph 4.7.5. To this extent the applicant has demonstrated good design.

3.13.28. In terms of the design process, the applicant demonstrated how the early stages of design evolved but did not narrow down the four design options to a favoured choice for the converter stations. For the River Fromus Bridge, there was a lack of clarity as to the favoured design option. As a result, there was limited information for the IPs and the ExA to consider the extent to which the adverse impacts of the proposed development would be mitigated by design, and it has not been possible for the ExA to conclude that the proposed development would be sustainable and as attractive, durable and adaptable as it can be. The ExA therefore concludes that the application has failed to show compliance with paragraphs 4.7.7, 4.7.11 and 4.7.12 of NPS EN-1, which require that the applicant considers both functionality and aesthetics as far as possible and demonstrates the evolution of the design.

3.13.29. As the applicant had not proceeded to favoured design options for the converter stations, substations and River Fromus bridge, the ExA explored throughout the examination the most appropriate means of ensuring that there would be adequate post-consent control over design matters.

3.13.30. In the final version of the dDCO, the applicant had broadly agreed to the ExA's recommended wording for R3 in relation to the converter stations, Kent substation and River Fromus bridge, allowing the relevant planning authority to control the design, scale and external appearance of the converter stations and Kent substation. While the ExA had suggested that the control should cover all above ground works, the ExA accepts that the buildings would be the key elements of the proposed development where there would be design flexibility to provide scope to minimise and mitigate the adverse impacts, particularly in relation to landscape and visual matters and is satisfied with the wording. The ExA considers that whilst an element of uncertainty about the final design of the converter buildings remains at this stage, the provisions of R3 ensure that a sufficiently robust process is in place for the subsequent approval of the design details.

3.13.31. In terms of the River Fromus bridge, the details submitted during the examination allow an adequate understanding of the scale of the proposed change and safeguards in terms of the design are in place through R3(2) of the recommended (rDCO).

3.13.32. With regard to the Friston substation the ExA is not satisfied that the applicant's preferred version of the dDCO [REP7-002] would secure an appropriate design for the Friston substation. The reason for this is that in the scenario where the Friston substation is constructed under the Sea Link DCO rather than the SPR DCOs, there would be no controls over the substation design, other than the colour of the cladding, fencing and doors and parameters set out in article 5(3). This would be inconsistent with the controls over the design, scale and external appearance of the Kent substation, and inconsistent with the controls in the SPR consents. It would fail to provide any assurance that the substation would be as sustainable, attractive, durable and adaptable as it can be. For these reasons, the ExA has added the Suffolk substation to R3(1) in the rDCO in order to give the relevant planning authority greater control whilst allowing the applicant some flexibility to vary from the details approved pursuant to the SPR consents if required. The ExA has therefore deleted the separate Suffolk substation provision from the rDCO that was previously R3(2).

CONCLUSIONS

3.13.33. The ExA concludes that the applicant has gone some way to meeting the requirements of NPS 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, the ExA is 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 NPS EN-1, or taken sufficient account of the need to consider good design as set out in paragraphs 2.4.1-4 of NPS EN-5 and

paragraph 2.5.1 of NPS EN-3. Furthermore, the applicant has not demonstrated that impacts would be minimised by design, as required by paragraphs 2.5.2 of NPS EN-3. The applicant has not demonstrated compliance with the Horlocks Rules as set out in paragraphs 2.9.18 and 2.9.19 of NPS EN-5, insofar as it requires that the proposed development takes advantage of existing site features to minimise effects and makes the design of ancillary development an integral part of the site layout and design to fit in with the surroundings.

3.13.34. The ExA has secured adequate controls over design through its amendment to R3, but this does not remedy the identified policy failure. As such, the ExA considers that this matter attracts a little negative weight against the making of the order.

3.14. ECOLOGY, BIODIVERSITY AND ORNITHOLOGY

INTRODUCTION

3.14.1. This section of the report considers the effects of the proposed development on ecology, biodiversity, and ornithology. It also addresses matters relating to ancient and veteran trees and biodiversity net gain (BNG). Habitats regulations assessment (HRA) matters (including effects on red-throated diver (RTD)) are considered in section 4 and appendix B of this report. Related topics in other sections of this report include benthic ecology (section 3.4), marine mammals (section 3.5) and fish and shellfish (section 3.7).

APPLICATION SUMMARY

3.14.2. The applicant's assessment of the potential effects on ecology, biodiversity and ornithology, are set out in the Environmental Statement (ES):

- Part 2, Suffolk Chapter 2 Ecology and Biodiversity [REP7-093]
- Part 3, Kent Chapter 2 Ecology and Biodiversity [REP7-095]
- Part 4, Marine Chapter 5 Marine Ornithology [REP7-103]

3.14.3. The ecology and biodiversity chapters consider the following topics in accordance with relevant ecological assessment methods as set out in sections 2.3 and 2.4 ([REP7-093] and [REP7-095]):

- Temporary and permanent effects on terrestrial and freshwater aquatic biodiversity, including designated sites (statutory and non-statutory), protected species including breeding and wintering birds, riparian mammals, bats, hazel dormice, reptiles, terrestrial invertebrates, and other rare and notable species

and habitats. In Kent the assessment includes consideration of collision mortality from overhead lines (OHL).

3.14.4. Section 2.3 ([REP7-093] and [REP7-095]) explains that further temporary habitat loss due to operation of the onshore schemes is scoped out, as are effects on great crested newts, which are subject to district level licensing as agreed with Natural England (NE). This was supported by the Environmental Scoping Opinion 2022 [APP-300].

3.14.5. The marine ornithology chapter considers the following topics in accordance with relevant assessment methods as set out in section 5.3 [REP7-103]:

- direct disturbance and displacement of birds
- direct loss and disturbance of seabed habitat (including associated prey) used by foraging seabirds and waterbirds
- alteration of water quality due to increased suspended sediment concentrations (SSC) and disturbance of contaminated sediment
- decommissioning effects the same or less than those during construction and operation

3.14.6. Section 5.3 of the marine ornithology chapter [REP7-103] explains that alteration of water quality due to leaks and spills from vessels has been scoped out from further consideration due to its low predicted risk.

3.14.7. The Suffolk ecology and biodiversity assessment [REP7-093] is supported by the following appendices and accompanying figures:

- Extended Phase 1 Habitat Survey Report [AS-004]
- Suffolk Wintering Bird Report [REP7-107] and [REP7-109]
- Riparian Mammals Survey Report [APP-102]
- Reptile Survey Report [APP-103]
- Aquatic Ecology Survey Report [APP-104]
- Terrestrial Invertebrate Survey Report [APP-105]
- Bat Tree Survey Report [APP-106]
- Nighttime Bat Walkover and Static Detector Survey Report [REP5-027]
- Hazel Dormouse Survey Report [APP-108]
- ES ecology and biodiversity figures Suffolk [APP-217] to [APP-228] and [REP7-117] and Phase 1 Habitat Survey Report Figures [REP1-065]
- Appendix F Change 3 Phase 1 Habitat Survey Results [CR1-061]
- Appendix J Change 4 Phase 1 Habitat Survey Results [CR1-065]

3.14.8. The Kent ecology and biodiversity assessment [REP7-095] is supported by the following appendices and accompanying figures:

- Extended Phase 1 Habitat Survey Report [AS-005]
- Wintering Bird Survey Report 2022-2023 [REP1A-015]
- Wintering Bird Survey Report 2023-2024 [REP1A-017]
- Breeding Bird Survey Report 2023 [REP1A-019]
- Breeding Bird Survey Report 2024 [REP1A-021]
- Vantage Point Survey Report [REP1A-023]
- Overhead Line Mortality Monitoring Survey Report [APP-153]
- Riparian Mammal Survey Report [APP-154]
- Reptile Survey Report [APP-155]
- Terrestrial Invertebrate Survey Report [APP-156]
- Bat Tree Survey Report [APP-157]
- Nighttime Bat Walkover and Static Detector Report [APP-158]
- Hazel Dormouse Survey Report [APP-159]
- Aquatic Ecology Survey Report [APP-160]
- ES ecology and biodiversity figures Kent [APP-244] to [APP-260] and Phase 1 Habitat Survey Report Figures [REP1-065]

3.14.9. The marine ornithology assessment [REP7-103] is supported by the following appendices and accompanying figures:

- Suffolk Wintering Birds 2022-24 [REP7-107]
- Suffolk Breeding Bird Report [REP7-109]
- Kent Wintering Birds 2022-2023 [REP1A-015]
- Kent Wintering Birds 2023-24 [REP1A-017]
- Kent Breeding Birds 2023 [REP1A-019]
- Kent Breeding Birds 2024 [REP1A-021]
- ES Figures Marine Ornithology [REP5-032]

3.14.10. The assessments should be read in conjunction with:

- Habitats Regulations Assessment Report [REP7-119]
- Arboricultural Impact Assessment [APP-294] and [APP-295]
- Biodiversity Net Gain Feasibility Report [REP1A-025]
- Biodiversity metric (v1.0.4)(3 parts) [REP1A-040] to [REP1A-042]
- Pegwell Bay Construction Method Technical Note [REP7-146]
- Pegwell Bay Saltmarsh Limits Topographic Survey March 2026 [REP6-119]
- Unilateral Undertaking in Relation to BNG from National Grid to (1) Thanet District Council (2) Dover District Council and (3) East Suffolk Council [REP7-352]

- Unilateral Undertaking in Relation to the River Fromus Contingency Fund from National Grid to East Suffolk Council [REP7-353]
- other application documents set out in section 5.1 of [REP7-103]

3.14.11. Cumulative ecology, biodiversity and ornithology effects are considered in the following documents, associated appendices and figures:

- Onshore Scheme Intra-Project Cumulative Effects (Suffolk [APP-059] and Kent [APP-072]) and Significance - Technical Note [REP6-117]
- Onshore Scheme Inter-Project Cumulative Effects (Suffolk [APP-060] and Kent [APP-073]) and Update - Technical Note [REP6-098]
- Appendix C LionLink Updates – Review of Cumulative Assessments [REP5-127]
- ES part 4, Marine Chapter 10 Intra-Project Cumulative Effects [APP-083]
- ES part 4, Marine Chapter 11 Inter-Project Cumulative Effects [REP1A-011]

3.14.12. Sections 2.4 and 2.6 ([REP7-093] and [REP7-095]) and sections 5.4 and 5.6 [REP7-103] identify assessment methodologies and specific study areas around the order limits to establish baseline conditions and identify potential impacts on ecology, biodiversity and ornithology receptors.

3.14.13. The ecological survey types, extents and survey periods are set out in table 2.6 [REP7-093] and table 2.7 [REP7-095].

3.14.14. Section 2.4 ([REP7-093] and [REP7-095]) and section 5.4 [REP7-103] allocates value (sensitivity), magnitude of impact and significance of effect to the receptors in the study area based on Chartered Institute of Ecology and Environmental Management 2018 guidelines. The applicant provided justification for not applying the September 2024 guidelines [REP3-069]. It explains that a precautionary approach based on the worst case has been adopted and allows for the application of professional judgement when determining significance.

3.14.15. Assumptions and limitations to surveys are identified in the relevant survey report appendices. Section 2.4 ([REP7-093] and [REP7-095]) and section 1.3 [REP7-103] note that surveys are a 'snapshot' in time and valid for a period of two years, after which updated surveys may be required. Assumptions relating to flexibility, such as defining the Rochdale Envelope for the assessment, are set out in table 2.9 ([REP7-093] and [REP7-095]) and in section 1.3, table 5.7 and section 5.4 of [REP7-103].

3.14.16. Section 2.5 ([REP7-093] and [REP7-095]) explains that the assessments include a sensitivity test, which assumes build out in any of the 5 years following consent (assumed to be 2026 onwards). The marine ornithology assessment considers a range of scenarios and a sensitivity test (section 5.5 and table 5.16 [REP7-103]).

3.14.17. Section 2.7 ([REP7-093] and [REP7-095]) and section 5.7 [REP7-103] describe the baseline conditions and the evolution of the baseline. The baseline includes multiple designated sites of local to international value at the landfall locations which are shown in ES figures [CR1-012], [CR1-013] and [CR1-014].

3.14.18. In the Suffolk area, the proposed trenchless crossing would pass through the Southern North Sea Special Area of Conservation (SAC) and the Outer Thames Estuary (OTE) Special Protection Area (SPA), crossing underneath the Suffolk & Essex Coast and Heaths National Landscape, Royal Society for the Protection of Birds (RSPB) North Warren Reserve, Leiston-Aldeburgh SSSI (LA SSSI), the Haven Local Nature Reserve (LNR), Disused Railway Line (Aldringham to Aldeburgh) County Wildlife Site (Disused Railway Line CWS) and would be close to Suffolk Shingle Beaches CWS. A works compound would be situated adjacent to the Sandlings Special Protection Area (SPA).

3.14.19. In the Kent area, the proposed trenchless landfall would pass through Thanet Coast SAC, the Thanet Coast & Sandwich Bay (TCSB) SPA and Ramsar site, Sandwich Bay SAC, Sandwich Bay to Hacklinge Marshes (SBHM) SSSI, Sandwich and Pegwell Bay National Nature Reserve (NNR). OHL works are proposed in Ash Level and South Richborough Pasture (ALSRP) Local Wildlife Site (LWS) and Woods and Grasslands Minster Marshes LWS.

3.14.20. The offshore scheme would pass through six sites designated for birds - OTE SPA, TCSB SPA and Ramsar site, Sandwich and Pegwell Bay NNR, SBHM SSSI and LA SSSI. A further six sites intersect with the study area - Minsmere-Walberswick SPA, Ramsar and SSSI, and Alde-Ore Estuary SPA, Ramsar and Minsmere-Walberswick Heaths and Marshes SSSI, although table 5.9 [REP7-103] suggests limited interaction between the proposed development and qualifying features of these sites.

3.14.21. Section 2.9 ([REP7-093] and [REP7-095]) and section 5.9 [REP7-103] discuss the potential impacts during construction, operation and decommissioning on species and habitats in Suffolk, Kent and the offshore.

3.14.22. Section 2.8 and section 2.10 ([REP7-093] and [REP7-095]) and section 5.8 [REP7-103] describe the proposed design, mitigation and enhancement measures. Key measures include use of trenchless crossing techniques to avoid impacts on coastal habitats and designated sites, as well as seasonal restrictions and noise and lighting controls on construction works to avoid or minimise impacts on certain species and habitats.

3.14.23. Ecology and biodiversity mitigation measures would be secured by the recommended Development Consent Order (rDCO), in control documents including

an Outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129], the Register of Environmental Actions and Commitments (REAC) [REP7-359], the Arboricultural Impact Assessment [APP-294], [APP-295] and the outline Landscape and Ecological Management Plans (oLEMP) for Suffolk [REP7-140] and Kent [REP7-141].

3.14.24. In Suffolk [REP7-140] the applicant proposes to create 21 hectares (ha) of woodland, 6.9ha species rich neutral grassland, 1.5ha of native hedgerow and 0.8ha of balancing pond habitat around the Saxmundham Converter Station and Friston Substation. 6ha of acid grassland enhancement is also identified to mitigate the effect of temporary acid grassland loss during construction and 12ha of arable land enhancement for ground nesting birds.

3.14.25. In Kent [REP7-141] the applicant proposes to create 6.5ha of woodland, 5ha of species rich neutral grassland, 1 kilometre (km) of native hedgerow, 2ha of balancing pond, and swales along the permanent access road. 10ha of offsite arable land enhancement is proposed to address habitat loss for farmland birds.

3.14.26. Marine ornithology mitigation measures would be secured by the rDCO in the oCEMP, REAC, Outline Offshore Construction Environmental Management Plan (oOCEMP) [REP7-127], Outline Cable Specification and Installation Plan (oCSIP) [REP7-159] and outline RTD Protocol [REP7-142]. Section 5.10 of the marine ornithology chapter [REP7-103] concludes that no additional mitigation measures would be required.

3.14.27. Section 2.11 [REP7-093] concludes that residual significant effects for ecology and biodiversity in Suffolk during construction would be:

- Medium-term, moderate adverse effect from ornithological habitat loss.
- Long-term, moderate beneficial effects due to habitat creation at Saxmundham converter station and Friston substation, and due to ornithological habitat creation and riparian mammal habitat creation.

3.14.28. Residual significant effects during operation and maintenance (O&M) in Suffolk would be:

- Short-term, moderate adverse effect from habitat loss.
- Short/ medium-term, moderate adverse effect from ornithological habitat loss (for ground nesting arable birds particularly skylark/ wintering birds).
- Long-term, moderate beneficial effects due to habitat creation, ornithological habitat creation and badger, bat, reptile, riparian mammal and terrestrial invertebrate habitat creation.

3.14.29. Section 2.11 [REP7-095] and [REP6-098] conclude that residual significant effects on ecology and biodiversity in Kent during construction would be:

- Medium-term, moderate adverse effects due to habitat loss and on non-breeding birds due to ornithological habitat loss.
- Long-term, moderate beneficial effects on non-breeding birds and terrestrial invertebrates due to habitat creation and on riparian mammals and aquatic macrophytes due to wetland creation.
- Low potential for significant cumulative effects from reconductoring works.

3.14.30. Residual significant effects during O&M in Kent would be:

- Medium-term, moderate adverse effect due to habitat loss.
- Short/ medium-term, moderate adverse effect on breeding birds due to nesting habitat loss.
- Long-term, moderate beneficial effects due to habitat creation, ornithological habitat creation, on badgers, bats, reptiles, and terrestrial invertebrates due to habitat creation and on riparian mammals due to wetland habitat creation.

3.14.31. Section 2.11 ([REP7-093] and [REP7-095]) also concludes that decommissioning effects would be similar to or better than during construction in Suffolk and Kent.

3.14.32. Section 5.9 and table 5.20 [REP7-103] conclude that there would be no residual significant effects on marine ornithology due the proposed development during construction, operation or decommissioning.

3.14.33. BNG is not currently a legal requirement for nationally significant infrastructure projects (NSIPs) but national policy statement (NPS) EN-1 supports seeking opportunities to provide net gains for biodiversity where possible. The applicant's biodiversity metric calculator [REP1A-040] to [REP1A-042] and BNG feasibility report predict a net loss of area habitat units in both Suffolk and Kent, a net gain in hedgerow and watercourse units in Suffolk and a net loss in hedgerow and watercourse units in Kent. Overall, losses are 328.85 area habitat units, 4.33 hedgerow units and 6.21 watercourse units. The oLEMPs ([REP7-140] and [REP7-141]) suggest that the final LEMPs would include detailed requirements for reporting to the local authorities on steps taken to monitor the condition of habitats created as a result of BNG enhancements.

3.14.34. The applicant [REP1A-025], [REP7-352] proposes to deliver 10% BNG secured by a signed unilateral undertaking (UU).

EXAMINATION ISSUES

3.14.35. Based on the comments raised by interested parties (IPs) and the Examining Authorities (ExA's) review of the application documents, the main ecology, biodiversity and ornithology issues considered during the examination were:

- effects on SSSIs, regional and local sites
- unexploded ordnance (UXO)
- Pegwell Bay access via former hoverport
- implications for the tentative East Atlantic Flyway UNESCO Natural World Heritage Site (NWHS)
- effects on ancient woodland, ancient and veteran trees
- protection and enhancement of habitats and species
- biodiversity net gain

3.14.36. Due to the number of representations received in relation to designated habitats and protected species, the discussion below refers to key or typical representations rather than being a comprehensive list of all representations.

EFFECTS ON SITES OF SPECIAL SCIENTIFIC INTEREST, REGIONAL AND LOCAL SITES

3.14.37. The ExA's consideration of effects on designated sites is structured as follows:

- effects on LA SSSI, RSPB North Warren, the Haven LNR and Disused Railway Line CWS
- effects on SBHM SSSI, Minster Marshes and ALSRP LWS

Effects on Leiston-Aldeburgh SSSI, RSPB North Warren, the Haven LNR and Disused Railway Line CWS

3.14.38. Over 130 relevant representations (RR) as well as written representations (WR) referenced effects on RSPB North Warren, LA SSSI, the Haven LNR and CWSs including Aldeburgh Town Council [RR-0094], the RSPB [RR-4651], the Aldeburgh Society [RR-5376], East Suffolk Council (ESC) [RR-1420], [REP1-128], Suffolk County Council (SCC) [REP1-130], NE [RR-3920], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210], [REP1-273] and others [RR-1391], [RR-0238], [RR-0600], [RR-5421], [RR-0899], [RR-5890]. IPs highlighted the potential for damage or disturbance of habitats and species due to construction activities at the landfall (including light, noise and air emissions associated with the proposed horizontal directional drilling (HDD) compound, drilling fluid release and clean-up operations). Many suggested that the draft Development Consent Order (dDCO) did not exclude the possibility of open cut trenching across the designated sites.

Trenchless Crossing – reversion to open cut trenching

3.14.39. ESC [REP1-128], [REP5-189], [REP7-301] considered open cut cable laying would be unacceptable, putting designated sites at the Suffolk landfall at greater risk of harm. It considered the applicant's ES unreliable in the event of trenchless crossing failure (requiring a reversion to open cut trenching) and that adaptive mitigation would be required to avoid impacts from remedial works. NE [RR-3920] considered that there was a high risk of adverse effects in the event that a trenchless technique was not possible. NE's principal areas of disagreement summary statement (PADSS) [REP7-364] and [REP4-190] emphasised the need for contingency plans in the event of failure.

3.14.40. RSPB [REP1-158], [REP7-209] considered that significant effects on bird assemblages at LA SSSI could not be ruled out from landfall works and maintained that the proposed development should avoid the proposed landfall location. It highlighted the impact of the works on species including lapwing and marsh harrier and questioned the applicant's valuation of the bird assemblages. However, RSPB [REP7-209] also acknowledged that use of open cut trenching fell outside the scope of the current application.

3.14.41. The applicant [REP2-034], [REP7-089], [REP7-257] suggested that direct effects on the designated sites would largely be avoided due to the commitment to make landfall using a trenchless crossing technique. It ruled out the potential for cumulative effects due to lack of spatial and temporal overlap. The applicant [REP2-034] highlighted that it had assessed the impact of the proposed works on the designated sites, including the SSSIs bird assemblages and acknowledged their value.

3.14.42. The ExA [PD-017] asked the applicant to provide a mitigation plan to account for the possibility that its trenchless approach failed, consistent with the requirements of NPS EN-3 paragraph 2.8.229. The ExA also questioned how mitigation controls would be secured in the event that an alternative method was used to achieve landfall.

3.14.43. The applicant [REP3-069] considered that HDD was its preferred technique given its flexibility to adapt to ground conditions and was confident that HDD would work but suggested that in the unlikely event of repeated failures its mitigation plan was to install with alternative trenchless options (such as direct pipe or microtunnelling). The applicant [REP3-069] considered that the programme for the alternative methods was shorter and would therefore not result in greater impacts than HDD. The dDCO [REP7-002] was updated to secure use of a trenchless crossing by requirement 16, as well as a Deemed Marine Licence condition in schedule 16. The

applicant [REP2-034] also highlighted commitments B21 in the REAC [REP7-359], LV08 in the oLEMP [REP7-140] and W12 in the oCEMP [REP7-129] to cables being brought onshore using a trenchless technique.

3.14.44. The applicant [REP3-069] suggested that whilst HDD was specifically referenced, the measures would apply to other techniques. It committed to making this clear in the REAC. However, the applicant's final REAC [REP7-359], oCEMP [REP7-129] and oOCEMP [REP7-127] refer to both HDD and trenchless crossings.

3.14.45. The ExA examined impacts and mitigation for HDD and associated activities on the designated sites in issue specific hearings (ISH) [EV3-002], [EV3-006], [EV6-014], [EV6-033], [EV9-016], [EV9-018] and written questions [PD-017], [PD-021], [PD-023], [PD-025].

ExA's findings - Trenchless Crossing – reversion to open cut trenching

3.14.46. The ExA is satisfied that use of trenchless crossing techniques would avoid or minimise impacts on the designated sites in Suffolk. Requirement 16 and schedule 16, condition 10 of the dDCO [REP7-002] as well as the mitigation commitments summarised in the REAC ensure that the applicant would not be able to revert to open cut trenching.

3.14.47. The ExA considers that uncertainty remains regarding the committed mitigation measures, should the applicant opt for a trenchless crossing method other than HDD. For example, commitment B59 in the oCEMP [REP7-129] and oOCEMP [REP7-127] makes provision for trenchless landfall works but then refers to provision of an HDD landfall method statement (LMS). The ExA considers that to avoid uncertainty regarding the controls for trenchless crossings where an alternative crossing solution is used, the Secretary of State may wish to obtain an updated REAC, oCEMP and oOCEMP that replace references to 'HDD' with 'trenchless crossings'.

Trenchless crossing – drilling mud frac out

3.14.48. ESC [REP1-128], RSPB [REP1-158] and others highlighted the risk of drilling mud frac out impacts during HDD works, referencing the example of effects of frac out at Martlesham Creek from East Anglia 1 North (EA1N) and noting that bentonite released at North Warren/ LA SSSI would be into a ditch system that would not be capable of natural dispersion. NE [REP6-249] considered that ditches that were sensitive for water vole should be identified in HDD management measures and the oLEMP. NE [RR-3920] and RSPB [REP1-158] suggested that the absence of botanical surveys in the HDD corridor, meant that the impacts of frac out could not be reliably understood.

3.14.49. The applicant [REP2-034], [REP4-241], [REP7-095], [REP7-119] considered that it had assessed impacts due to frac out in the ES and HRA. The applicant agreed that frac out could arise [APP-321] but considered this to be a very low risk in the area due to the local bedrock and very unlikely within LA SSSI. However, [APP-117] acknowledged an increased risk of frac out near the HDD launch and reception pits and the applicant included commitments B09, B59, B60 and GH10 in the oCEMP [REP7-129], which provide for hydrofracture modelling, preparation of a HDD LMS and drilling fluid management/ break out plan. The oCEMP also included commitments B63, B73 and B74, comprising measures to minimise impacts from accessing frac out locations.

3.14.50. The applicant amended the ES [REP7-093] to reference water vole risks from frac out, cross referring to commitment B09, although this does not reference water vole. The applicant [REP7-054] acknowledged the limitations of its vegetation surveys at LA SSSI, suggesting that impacts would be avoided by trenchless crossing but committed to phase 2 botanical surveys within the proposed HDD corridor in oCEMP commitment B62 [REP7-129].

3.14.51. RSPB [REP5-203] raised concerns regarding access within the SSSI for surveying and works to mitigate frac out but by close of examination these issues had largely been resolved [REP7-209].

3.14.52. ESC's final PADSS [REP7-301] considered that the REAC [REP7-359] adequately addressed the risk of frac out.

ExA's findings - Trenchless crossing – drilling mud frac out

3.14.53. The ExA is satisfied with the applicant's proposed mitigation measures for frac out set out in the REAC and control documents secured by requirements 5 and 6 of the dDCO [REP7-002]. However, the ExA has considered NE's comments regarding water vole at LA SSSI and recommends that in order to avoid potential effects on water vole, commitment B62 [REP7-129] should be updated as follows "Prior to HDD works commencing, the undertaker will carry out phase 2 botanical surveys **and water vole surveys** within the area of the proposed HDD route…".

3.14.54. The ExA notes that commitment B60 [REP7-129] includes the wording "as appropriate" when referring to the need to consult with statutory bodies. The ExA considers that the commitment should be updated as follows: "National Grid will notify and consult ESC, Natural England (NE) and / or RSPB, ~~as appropriate~~, of methods, locations, and routes for spotters".

Trenchless crossing – stuck drilling equipment

3.14.55. NE [RR-3920], [REP7-364] and RSPB [REP1-157] noted that the presence of London Clay at an unknown depth as well as gravel/ cobbles could cause drilling problems. They highlighted potential for impacts from works to remove stuck drill equipment. NE [REP6-250] suggested that revised REAC [REP7-359] wording had reduced protections around stuck drill equipment.

3.14.56. The applicant [REP7-093] explained that stuck equipment would be freed by additional tooling or works at the entry and exit and that drill depth within the SSSI would be too deep for excavation. In a worst case, it suggested HDD could be drilled on a new alignment. REAC commitment B22 [REP7-359] ensures that there would be no excavation to remove stuck drilling equipment within the SSSI, a commitment welcomed in the statement of common ground (SoCG) with RSPB [REP7-054].

ExA's findings - Trenchless crossing – stuck drilling equipment

3.14.57. The ExA notes NE's position regarding stuck drill equipment but is satisfied that REAC commitment B22 [REP7-359] secured by dDCO [REP7-002] requirement 5(2)(b) would avoid impacts on LA SSSI.

Trenchless crossing – aquatic pollution, vegetated shingle and groundwater impacts

3.14.58. RSPB [REP7-209] and SEAS [REP2-115] and [RR-3589] highlighted potential for aquatic pollution and risks to reedbed water levels due to HDD, and the potential for seawater incursion due to coastal erosion. NE [RR-3920], [REP7-364] and SCC [REP1-130] identified risk of impacts on vegetated shingle as a priority habitat due to decommissioning, dewatering, ground investigation (GI) and vehicle movements. However, NE [REP5-199] was satisfied that GI would be subject to separate licensing and assessment and [REP5-215] accepted commitment B60 [REP7-129] to avoid vehicle access to shingle habitats.

3.14.59. The applicant [REP7-093] explained that no dewatering was required for trenchless installation, which meant there was no risk of affecting water levels in the SSSI wetlands. It considered that because the bore would be 15 metres (m) below mean sea level, there was no risk of draining to the sea. Use of a trenchless crossing technique would also avoid the potential for coastal erosion and seawater ingress.

3.14.60. The oCEMP [REP7-129] commitment B63 secured by requirement 6(1)(a) of the dDCO [REP7-002] ensures that NE and ESC would be informed regarding GI on or adjacent to shingle habitats.

ExA's findings - Trenchless crossing – aquatic pollution, vegetated shingle and groundwater impacts

3.14.61. The ExA is satisfied with the applicant's responses regarding aquatic pollution and considers that the depth of bore would avoid coastal erosion and risk of seawater incursion.

Disturbance from trenchless compound adjacent to Leiston-Aldeburgh SSSI

3.14.62. The RSPB [REP1-158], ESC [REP1-128], SCC [REP1-130] and others [REP4-154] identified the potential for significant disturbance effects to arise for protected species (including breeding marsh harrier and non-breeding white-fronted geese). RSPB [REP1-158] suggested that the importance of the area for species such as water pipit, lapwing and Cetti's warbler had not been recognised.

3.14.63. The applicant [REP2-022], [REP2-027], [REP2-034] considered that it had fully assessed effects on protected species and that NE had not raised any issues with the other bird species referenced. It considered that the national value assigned to the area was reflective of the species present.

3.14.64. NE [REP1-154], RSPB [REP1-158], ESC [REP1-128], SCC [REP1-130] and SEAS [RR-5210], [REP2-115], [REP4-154] were concerned about the effect of noise and lighting from 24 hour works at the proposed HDD compound. SCC [REP4-150] suggested that works causing noise or visual disturbance should not be undertaken in the winter months. RSPB [REP1-158] suggested that birds might be more sensitive to noise while roosting or during hours of low light. RSPB [REP6-252] and NE [REP7-269] considered that lighting could be visible above the construction compound fencing, although RSPB [REP4-142] acknowledged that the minimum 3m high fence proposed at the HDD compound would have a beneficial effect in reducing light spill. NE [REP1-154], [REP5-215] requested assessment of light spill into surrounding habitats. NE [REP7-269] suggested that commitment B23 to mitigate HDD compound noise should be amended to reference lighting as well.

3.14.65. The applicant [REP2-014], [REP2-026], [REP2-027], [REP2-034], [REP7-257] explained that the ES assessed lighting and noise effects and concluded that these would not be significant taking account of control measures [REP7-359]. Proposed measures to avoid or minimise impacts, include use of best practicable means to reduce noise and seasonal restrictions on works. The applicant updated the REAC measure B23 to commit to a minimum 3m high noise barrier to avoid significant noise emissions. It also provides for bird and noise monitoring within the SSSI to assess barrier effectiveness and inform the need for any further mitigation. The applicant [REP2-034] suggested that the size of the SSSI area affected by noise was very small compared with the size of the RSPB reserve.

3.14.66. The applicant [REP2-014], [REP7-257] argued that activities at the HDD compound that could rise above the 3m fenceline, such as use of cranes, would be limited to a few days during mobilisation and repositioning of drill rigs. The applicant [REP7-258] explained that the lighting plans for the HDD compound [REP6-112], predicted that the 1 lux contour would largely be confined within or close to the compound boundary. In addition, oCEMP [REP7-129] commitment B38 provides that compound lighting would comply with published guidelines for bats, minimising direct illumination of boundary features.

ExA's findings - Disturbance from trenchless compound adjacent to Leiston-Aldeburgh SSSI

3.14.67. The ExA considers that the applicant's responses and its ES assessments have addressed relevant bird species and notes that NE was satisfied with the scope of surveys undertaken.

3.14.68. The ExA is satisfied that the applicant's proposed mitigation measures would avoid or minimise noise and lighting effects on LA SSSI. Whilst lighting may be more prominent during crane operations, the ExA accepts that these would be for a limited duration and therefore unlikely to be significant. The ExA notes NE's comments regarding lighting controls but considers that the reference to visual disturbance in REAC [REP7-359] commitment B23 combined with oCEMP [REP7-129] commitment B38 for lighting pollution addresses these concerns. The ExA notes that the HRA at appendix B of this report recommends that amendments are made to B23.

Cumulative effects

3.14.69. IPs including SEAS [AS-038], [PDA-055], [REP1-273], [REP2-125], [REP5-146], [REP5-148], [REP6-250], [REP6-256g], [REP7-211], [REP7-295], RSPB [REP1-158], [REP7-209] raised concerns with the applicant's approach to cumulative assessment. SEAS, RSPB, ESC [REP1-128], [REP7-198], [REP7-301] and SCC [REP1-130] also expressed concern regarding lack of co-ordination of with other NSIPs in Suffolk including EA1N, EA2, Sizewell C, and LionLink Interconnector. NE [REP6-242] considered that further information was required to rule out cumulative effects with LionLink Interconnector.

3.14.70. RSPB [REP1-158], [REP7-209] highlighted the risk of consecutive sequencing of works resulting in multi-season effects, resulting in longer term changes to breeding or wintering bird populations. RSPB considered that habitat restoration strategies lacked specificity.

3.14.71. The applicant [REP2-014], [REP2-022], [REP7-257], [REP2-016], [REP2-020], [REP2-026], [REP2-027] responded on cumulative effects, signposting to its application documents as providing assessment of the highlighted effects including for multiple NSIPs in Suffolk. These include the oLEMP [REP7-140] which secures its specific landscape proposals.

3.14.72. The applicant refuted any suggestion that assessments were flawed and argued that the cumulative assessment followed the approach set out in Planning Inspectorate's 'advice on cumulative effects assessment'. The applicant also set out how it would co-ordinate with other developments [APP-363] and [REP5-127] provided updated information on cumulative effects with LionLink Interconnector. This explained that the proposed landfall for LionLink Interconnector is not close to the proposed Suffolk landfall. The applicant [REP2-014] highlighted that cumulative effects in Suffolk would be limited by the fact that there would not be continuous overlapping activity of all projects and limited spatial overlap.

ExA's findings - Cumulative effects

3.14.73. NPS paragraph 4.1.5 requires consideration of cumulative adverse impacts. The ExA is satisfied that the applicant has assessed cumulative effects on ecology, biodiversity and ornithology in its ES consistent with the requirements of Planning Inspectorate advice. This includes reasoned justification for its shortlist of projects, conclusions and mitigation (including its mitigation hierarchy approach).

3.14.74. The ExA notes RSPB concerns regarding consecutive projects extending the duration of effects but considers that the lack of spatial or temporal overlap with other schemes makes such effects unlikely.

ExA's overall findings - Leiston-Aldeburgh SSSI, RSPB North Warren, the Haven LNR and disused railway line CWS

3.14.75. NPS EN-1 paragraph 5.4.7 requires that SSSI features not covered by international designation should be given a high degree of protection. The section of LA SSSI proposed to be avoided by trenchless crossing is not subject to international designation and should therefore be afforded a high degree of protection.

3.14.76. NPS EN-1 paragraph 5.4.8 suggests that development on land within or outside a SSSI with potential to have an adverse effect (either individually or in combination with other development should not normally be permitted, except where benefits (including need) of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs. NPS EN-1 paragraphs

5.4.12 to 5.4.13 highlight that regional and local wildlife sites should be protected from harm or loss.

3.14.77. The ExA has considered the applicant's proposed landfall location as part of its consideration of alternatives in section 3.3 of this report and is satisfied with the applicant's reasoning for its proposed route and landfall location. The ExA notes that NPS EN-3 paragraph 2.8.304 suggests designation of a site as a SSSI does not necessarily restrict the construction or operation of transmission infrastructure in, near or through that area. The ExA is satisfied that the applicant's ES has assessed effects on the relevant national, regional and local sites and features and has identified relevant mitigation measures.

3.14.78. NPS EN-1 paragraph 5.4.50 requires the Secretary of State to use requirements and/or planning obligations to mitigate harmful aspects of development and to ensure conservation and enhancement of the site biodiversity interest where possible. The ExA is satisfied that, with mitigation measures such as trenchless crossing secured by the dDCO [REP7-002] and supplemented by REAC [REP7-359], oCEMP [REP7-129] and oLEMP [REP7-140] mitigation, residual significant adverse effects on the LA SSSI, RSPB North Warren, the Haven LNR, Disused Railway Line CWS and Suffolk Shingle Beaches CWS would be avoided. The ExA considers that these measures would conserve the SSSI.

Effects on Sandwich Bay to Hacklinge Marshes SSSI, Minster Marshes and Ash Level and South Richborough Pasture LWS

3.14.79. Over 900 RRs as well as representations including Thanet District Council (TDC) [REP1-132], Kent Wildlife Trust (KWT) [RR-2980], [REP1-152], Kent Ornithological Society [RR-2979], Save Minster Marshes (SMM) [RR-4892] and [REP1-246], [REP1-213], Bird Wise East Kent (BWEK) [RR-0584], NE [RR-3920], RSPB [RR-4651], [REP1-158], [REP1-165], RSPB Thanet Group [RR-4652] and [REP1A-061], Sandwich Bay Bird Observatory Trust (SBBOT) [RR-4789], [REP1-243], Sandwich Town Council [RR-4790], Monkton Parish Council [RR-3796], TDC Green Group [RR-1891], [RR-1777], [REP1-166], [RR-4653] and [RR-2835] referred to impacts on Minster Marshes with many identifying effects on SBHM SSSI. IPs highlighted a diversity and abundance of rare bird species and the waterbird assemblage present in the SSSI. SMM [REP1-246] highlighted the functional connection of the SSSI to designated sites in Pegwell Bay and its role as part of an ecological 'super highway' connecting with the rest of the south-east.

3.14.80. SBHM SSSI covers the intertidal and coastal areas at the proposed landfall in Pegwell Bay in Kent [CR1-013] and stretches inland to just south and west of the proposed Minster converter and substation site. The discussion of impacts on the SSSI

addresses marine elements of the SSSI in Pegwell Bay, then terrestrial elements in Minster Marshes. The discussion of terrestrial effects addresses wider effects on Minster Marshes and ALSRP LWS.

Trenchless crossing – Nemo Link implications

3.14.81. TDC PADSS [REP7-303], [REP7-017] maintained that the landfall location should be reassessed to avoid Minster Marshes and remained opposed to use of the mudflats in Pegwell Bay. It considered mitigation to be inadequate, but agreed with using a trenchless crossing to avoid effects at landfall. KWT [REP1-152] also supported use of trenchless techniques to avoid effects on SSSI saltmarsh habitats at the proposed landfall but considered that the trenchless crossing should be extended to avoid the intertidal mudflats as well. As in Suffolk, IPs including RSPB [REP1-165] and [REP7-209], KWT [REP1-152] were concerned about the potential for the applicant to revert from trenchless working to use of an open cut cable laying method. They cited a previous project, Nemo Link interconnector (Nemo Link), as an example of this. KWT [REP1-152], [REP1-213], SMM [REP1-246] and over 200 RRs highlighted that Nemo Link had made landfall in Pegwell Bay and caused damage to SSSI saltmarsh habitats. TDC [REP1-132] stated that a trenchless solution was proposed for Nemo Link but ruled out at detailed design stage.

3.14.82. The ExA considered Nemo Link in ISH [EV3-002], [EV3-006], [EV3-007], [EV6-012], [EV6-033] and in written questions [PD-017]. The ExA wished to understand the status of the Nemo Link application and whether its decision to use open-cut at landfall, rather than HDD, had implications for the proposed development. The ExA also questioned whether there was potential for the proposed development to contribute to mitigating residual effects from Nemo Link as part of its wider BNG commitments.

3.14.83. The applicant [EV3-006], [REP1A-035], [REP1A-037], [REP4-085] clarified that Nemo Link was a National Grid Ventures (NGV) project and that NGV was a distinct legal entity from NGV with no direct links to the applicant. The applicant [REP1A-037] explained that Nemo Link's application did not confirm its final cable installation method but assessed open cut trenching as a worst case. Nemo Link Ltd [REP4-127] – [REP4-137] provided copies of its original ES confirming this. The applicant [REP1A-035] suggested that early stage ground investigation/ geophysical survey had allowed a good understanding of ground conditions to be confident that HDD would be successful. Commitment GG35 of the oCEMP [REP7-129] specifically references use of a trenchless technique for the Kent landfall.

3.14.84. The applicant [REP1A-037] provided information on previous cable installations in chalk and provided evidence of very low HDD failure rates by its trenchless

consultants. The applicant [REP2-034], [REP4-241], [REP7-095], [REP7-119] considered that a trenchless crossing of the entire intertidal area was impractical as it would require a 2.5km landfall, substantially exceeding the longest UK crossing at 1.6km in length.

3.14.85. Nemo Link Ltd [REP4-130], [REP4-132], [REP4-137] provided information regarding ongoing monitoring of saltmarsh habitats. KWT [REP7-205] provided NE's consultation response to the Marine Management Organisation (MMO) on monitoring of Nemo Link. The response outlined that the saltmarsh was still recovering and required further monitoring. TDC [EV6-012] confirmed that all conditions for the Nemo Link application had been discharged.

3.14.86. The applicant [REP4-085] did not consider it necessary or appropriate to mitigate effects from Nemo Link. It had not identified any residual impacts from its works or from Nemo Link that resulted in any changes to the conclusions of its assessment. The applicant [REP4-241] highlighted that there was no evidence of residual Nemo Link impacts on any other feature except saltmarsh and that HDD would be 15-18m beneath this.

ExA's findings - Trenchless crossing – Nemo Link implications

3.14.87. The ExA is satisfied that use of trenchless crossing techniques would avoid or minimise impacts on SBHM SSSI in Kent. The ExA notes that alternative trenchless techniques could theoretically be at shallower depths but considers that these would also avoid direct impacts of open cut working.

3.14.88. The dDCO [REP7-002] requirements and conditions and the mitigation commitments in the oCEMP [REP7-129] ensure that the applicant would not be able to revert to open cut trenching, without the requirement for a change application. Whilst the works would not avoid impacts on the intertidal area, the ExA considers that works would be of short duration, outside the sensitive wintering period and away from the sensitive breeding bird areas around the mouth of the River Stour, and therefore not significant. The ExA accepts the applicant's reasoning as to why full trenchless crossing of the intertidal area would not be possible. The ExA is also satisfied, given ongoing monitoring and discussion between SNCBs and Nemo Link regarding saltmarsh recovery, that it would not be appropriate for a third party scheme such as Sea Link to mitigate residual effects from Nemo Link.

3.14.89. Consistent with the requirements of NPS EN-1 paragraph 5.4.43 the ExA considers that the indicative programme of works in Pegwell Bay avoids the key wintering bird season. The HRA in appendix B of this report recommends that oCEMP commitment B59 [REP7-129] is updated to explicitly exclude works in the winter period. The ExA

also considers that the precise timing is a matter that could be addressed through the approval of the LMS required by schedule 16, condition 4 of the dDCO [REP7-002].

Trenchless crossing – frac out

3.14.90. NE [REP3A-028] highlighted the risk of frac out and smothering of saltmarsh vegetation in SBHM SSSI, referring to frac out issues at Martlesham Creek. KWT [REP3A-023] considered that lack of surveys within the saltmarsh was an omission. It considered that the applicant had not followed the mitigation hierarchy.

3.14.91. The applicant [REP4-241] explained that mud flat habitats were relatively insensitive to smothering and that disturbed sediment would only remain in suspension for a limited period of time before the tide receded. It considered that tidal dynamics at Martlesham Creek were not comparable to the more accessible Pegwell Bay, where any frac out could easily be removed. In relation to saltmarsh, the applicant [CR1-056] provided a saltmarsh technical note providing information on habitats and committed to a saltmarsh survey in REAC [REP7-359] commitment B67 secured by requirement 5(2)(b) of the dDCO [REP7-002]. These documents focus primarily on access and egress via the former hoverport, rather than the trenchless crossing alignment.

3.14.92. The applicant [REP2-014], [REP2-034] considered that these effects had been considered in the ES [REP7-095], which also demonstrated its mitigation hierarchy approach. The applicant [REP2-034] considered that it had applied the mitigation hierarchy correctly and signposted to its assessment of alternatives [APP-044], routing studies [APP-368], the design development report [APP-321].

ExA's findings - Trenchless crossing – frac out

3.14.93. The ExA is satisfied with the applicant's proposed REAC [REP7-359] frac out mitigation measures. However, the ExA considers that measure B67 should be clarified to ensure that the scope of the saltmarsh survey covers the proposed HDD route as well as the access and egress and recommends that B67 is amended as follows "…pre-construction saltmarsh habitat survey. **The survey will also cover the final trenchless crossing alignment**. All…". The ExA notes that the commitment includes the wording "as appropriate" when referring to the need to consult with statutory bodies. The ExA considers that the commitment should be updated as follows: "The locations and widths of access routes across the mudflats will be defined post consent in consultation with Natural England, Kent Wildlife Trust and the National Trust ~~as appropriate~~,".

Potential effects on intertidal and saltmarsh habitats in Pegwell Bay

3.14.94. KWT [REP1-152] highlighted nationally important assemblages of sanderling, dunlin and oystercatcher in the foreshore and intertidal zone and suggested that the applicant had not applied the mitigation hierarchy correctly as it had failed to avoid or mitigate significant effects and did not avoid impacts due to open cut trenching in the intertidal area. RSPB [REP1-158] highlighted internationally important wintering and migrating bird populations feeding and roosting in Pegwell Bay, as well as important roosting areas for birds listed in Schedule 1 of the Wildlife and Countryside Act. RSPB noted that the SSSI had invertebrate and botanical interest.

3.14.95. NE [REP3A-028], [REP7-364] advised that additional assessment of impacts on the intertidal area and irreplaceable habitats from vehicles transiting the intertidal area and measures to ensure cable remained buried were required (both during construction and operation). This included justification for cable protection options, type of trackway and use of cable rollers and ballast. NE [REP3A-028], [REP4-195] requested clarification of the intertidal access route, vehicles, speeds and numbers of trips in Pegwell Bay during construction and the lifetime of the proposed development, suggesting that an intertidal management plan should be agreed with relevant stakeholders.

3.14.96. The applicant [REP2-014], [REP2-034] considered that its assessments had identified relevant species and considered these in the ES [REP7-095]. The applicant provided a Pegwell Bay Construction Method Technical Note [REP7-146] and [REP7-259], which explained the types and numbers of vehicles and working methods proposed to be used in the intertidal area. The applicant [REP2-014], [REP2-034], [REP4-241] suggested that relevant effects on intertidal and saltmarsh areas had been assessed, including effects on roosting and foraging birds and appropriate mitigation identified in the REAC [REP7-359] and oCEMP [REP7-129]. These include agreement of intertidal access routes and use of low-pressure bearing vehicles (B67), frac out measures (B09) and securing a LMS (B68) to be prepared in consultation with NE. The applicant [REP4-241] explained that it was not possible to commit to a specific type of trackway at that time. Schedule 16, condition 4 of the dDCO [REP7-002] also requires the provision of an intertidal works methodology and mitigation plan for Pegwell Bay in consultation with NE.

3.14.97. NE [REP3A-028], [REP4-195] questioned whether 50m offset from saltmarsh for vehicles and works areas was sufficient and questioned whether saltmarsh accretion could have implications for the exit pits in operation. NE [REP7-272] suggested that the saltmarsh topographic survey [REP6-119] should inform the buffer distance for vehicles accessing the intertidal area and that it might indicate overlap with the HDD exit pits and undermine the commitment to maintain a 105m

offset. NE [REP6-250] suggested that revised wording of oCEMP [REP7-129] commitment B43 undermined the applicant's position by allowing excavations closer to the saltmarsh than previously indicated. KWT [REP3-092] also considered that 50m offset was insufficient, highlighting flight initiation distances (FID) of 100m to 300m reported by BWEK and SMM [REP1-246].

3.14.98. The applicant [REP4-241] considered it unlikely that saltmarsh could accrete sufficiently to enclose the exit pits and reiterated that works would only last for approximately 120 days. The applicant [REP2-034] explained that the determination of FID was set out in the marine ornithology chapter [REP7-103] and was based on more precautionary distances than those presented in the BWEK study. The applicant [REP7-257] proposed amended wording for oCEMP [REP7-129] commitment B43, restricting works to within 40m of the entry or exit point and <5m deep.

ExA's findings - Potential effects on intertidal and saltmarsh habitats in Pegwell Bay

3.14.99. NPS EN-1 paragraph 5.4.32 requires applicants to include measures to mitigate effects on irreplaceable habitats. The ExA considers that the proposed trenchless crossing would avoid direct effects on irreplaceable saltmarsh habitat and indirect effects would be avoided by the offset of works and construction access from the saltmarsh edge. The ExA notes NE's comments regarding use of the saltmarsh survey to inform the buffer distance for works but considers that this matter is now satisfied by the requirement for an intertidal works methodology and mitigation plan for Pegwell Bay as part of schedule 16, condition 4(1)(a)(v) of the dDCO [REP7-002]. The ExA is also satisfied that the applicant's final assessment of noise in Pegwell Bay demonstrates that significant effects on breeding birds would be avoided.

3.14.100. The ExA is satisfied that effects on intertidal elements of SBHM SSSI in Pegwell Bay would be temporary in nature and capable of reversal within a relatively short period of time. Taking into account the applicant's assessment, proposed mitigation measures and the temporary nature of the works, the ExA is satisfied that, the trenchless crossing would avoid direct significant effects on the coastal and intertidal component of the SSSI.

3.14.101. The ExA considers that NE's input to the intertidal works methodology and mitigation plan for Pegwell Bay secured by schedule 16, condition 4 of the dDCO [REP7-002], provides an appropriate mechanism to ensure that appropriate measures would be agreed to minimise effects on the intertidal area.

3.14.102. The ExA notes that the wording of schedule 16, condition 4(1)(a) [REP7-002] was for "(a) a Cable Specification and Installation Plan document in respect of those licensed activities, which is in substantial accordance with the principles set out in the outline Cable Specification and Installation Plan and which has been informed by a cable burial risk assessment which shall include details of…" and then lists a series of plans. The ExA considers that it is necessary to secure approval of the plans rather than details of plans and has therefore proposed the following wording in the rDCO "including a cable burial risk assessment. The Cable Specification and Installation Plan shall include" to ensure that the specific detail is provided.

Use of cofferdam lighting in Pegwell Bay

3.14.103. NE [REP7-277], KWT [REP6-169], [REP7-265], and [REP7-227] remained concerned about the impact of construction lighting in Pegwell Bay. KWT [REP6-169] disagreed with the applicant's conclusion of negligible disturbance, suggesting it was not evidenced given the scale, duration and nature of cumulative works. NE [REP3A-028], [REP5-199] also suggested that further assessment of disturbance to Annex 1 birds and foraging bat species was required in relation to the 21,600m^2 of temporary habitats loss and lighting and installation impacts. It advised that Daubenton's bat forages in the intertidal areas off Kent. NE [REP7-277] acknowledged that the sensitive period for foraging bats (March to October) and breeding birds (March to September) could not be avoided. It suggested that the REAC could include a lighting management plan to reduce light disturbance in the intertidal area between April and October.

3.14.104. The applicant [REP5-135] responded that its assessment for birds in Pegwell Bay was set against the context of 24-hour working where necessary but did not consider that there was a particular cumulative effect from working 24-hours.

The applicant [REP6-108], [REP7-095] updated the ES explaining that lighting would be arranged to minimise effects on bats and that lighting would be directed inwards towards the working area affecting less than 0.5% of Pegwell Bay. It included oCEMP [REP7-129] commitment B76 to avoid incidental or direct lighting of vegetated areas and B53 and GG21 to reduce intrusion of lighting. The applicant explained that Daubenton's bats had extensive foraging ranges but intertidal mudflat was not identified as a key foraging habitat for this species. On this basis it considered that effects would not be significant. Commitment B53 of the oCEMP [REP7-129] requires that lighting design would comply with Bat Conservation Trust (BCT) and Institute of Lighting Professionals (ILP) guidance. Schedule 16, condition 4 of the dDCO [REP7-002] secures a LMS in accordance with the construction methods assessed in the ES for approval by the MMO in consultation with NE.

ExA's findings - Use of cofferdam lighting in Pegwell Bay

3.14.105. The ExA accepts the applicant's arguments regarding the small overall scale of lighting impact in the intertidal area and is satisfied that significant adverse effects would be avoided. However, given that works would be in the footprint of the SBHM SSSI, the ExA considers that all relevant steps should be taken to ensure that impacts of lighting are minimised. However, the ExA considers that a separate lighting plan is unnecessary, as this is a matter that would be capable of being addressed through the intertidal works methodology and mitigation plan for Pegwell Bay, secured by dDCO [REP7-002], schedule 16, condition 4(1)(a)(iv).

Use of hovercraft in Pegwell Bay

3.14.106. IPs including NE [REP3A-028], [REP7-275] and SMM [REP3A-171] queried the proposed use of hovercraft in Pegwell Bay, highlighting that they are noisy and specifically restricted or controlled at other designated sites. NE's risk and issue log [REP7-364] identified use of hovercraft as a red risk issue, suggesting that hovercraft could cause visual disturbance as well as noise.

3.14.107. The ExA asked how hovercraft would be used and whether hovercraft noise had been assessed in ISH [EV6-033] and written questions [PD-017].

3.14.108. The applicant's Pegwell Bay Construction Method Technical Note, table 5.1 [REP7-146] and response to first written questions [REP3-069] explained that up to three hovercraft would be in use for safety purposes only and did not require separate consideration as part of the noise assessment. Commitment GG45 of the oCEMP [REP7-129] and oOCEMP [REP7-127] limits use of hovercraft for emergencies only.

ExA's findings - Use of hovercraft in Pegwell Bay

3.14.109. The ExA agrees that in the absence of an assessment of noise from hovercraft use in Pegwell Bay, it is necessary to limit the use of hovercraft, as set out in oCEMP commitment GG45 [REP7-359]. The ExA considers that significant effects from emergency hovercraft use on SBHM SSSI during construction may be ruled out. However, the ExA considers that routine use of hovercraft would be an unassessed effect, inconsistent with the conclusions of the ES and would require approval under schedule 16, part 1, section 11 by the MMO. The ExA also advises that although it is unlikely, in light of the potential for remedial operation and maintenance works in Pegwell, GG45 should apply to all project phases, not just construction.

3.14.110. The ExA recommends that the Secretary of State requests the applicant to update GG45 in the REAC [REP7-359], oCEMP [REP7-129] and oOCEMP [REP7-127] to strengthen this commitment as follows "Hovercraft at Pegwell Bay will be on

standby and used for emergencies only. It will not be used at any other time during any stage of the project**'s construction, operation or decommissioning. The applicant will report all instances of emergency hovercraft use to Natural England and Thanet District Council TDC within 24 hours**". For the avoidance of doubt, the ExA recommends that the applicant should also define emergency use.

Use of jack up vessels in Pegwell Bay

3.14.111. NE [REP7-277] suggested that jack up vessels (JUVs) had potential to be more damaging than previously assessed and wanted the applicant to commit to not using JUVs during all project phases. If used, NE recommended further monitoring to understand their impacts. NE [REP3A-028], [REP6-245] expressed its preference for the use of bottom out barges rather than JUVs to avoid intertidal impacts due to leg depressions.

3.14.112. The applicant [REP7-257] explained that the scale of JUV used in Pegwell Bay would be substantially smaller than for North Sea offshore windfarms. Given the shorter period of use and the ability to backfill any depressions, it considered that impacts would be small scale and temporary.

ExA's findings - Use of jack up vessels in Pegwell Bay

3.14.113. Based on the small scale JUVs proposed by the applicant [REP7-257], the ExA considers that there is no need to restrict use of JUVs. Should larger vessels be required this matter would be subject to approval under the LMS pursuant to schedule 16, condition 4(1)(a)(x) of the dDCO [REP7-002].

Trial trenching in Pegwell Bay

3.14.114. NE [REP6-241] and the MMO [REP6-268] highlighted that the definition of 'commence' in schedule 16 of the dDCO [REP7-002] explicitly excludes trial trenching. NE and MMO considered that this could allow impactful works in Pegwell Bay without the need to submit required mitigation plans or the need for approvals. The dDCO included a definition of trial trenching but did not address the underlying concern regarding mitigation plans and approvals.

ExA's findings - Trial trenching in Pegwell Bay

3.14.115. The ExA has considered NE and MMO's comments on the definition of commence in schedule 16 part 1 (1) of the dDCO and agrees that the current wording has potential to allow works that could give rise to significant effects in Pegwell Bay prior to working methods and mitigation being agreed with relevant bodies. The ExA has recommended that an additional clause be inserted into schedule 16, condition 4 of the rDCO to make it clear that works would be subject to necessary

controls for the protection of species and habitats "4(8) Trial trenching must not be carried out until a method statement and mitigation plan for the proposed trial trenching has been submitted to and approved in writing by the MMO in consultation with the statutory nature conservation body. Trial trenching must be carried out in accordance with the approved method statement and mitigation plan." The ExA is satisfied that the proposed condition wording would avoid potential significant effects. The existing clause 4(8), which is overarching would be renumbered as clause 4(9).

SBHM SSSI - breeding bird disturbance

3.14.116. NE [RR-3920], [REP3-117], [REP4-196], [REP5-216], [REP7-364] was concerned that tree height reductions at SBHM SSSI and pylon installation works either side of the SSSI could affect breeding bird assemblages. It considered that the breeding season should be updated from March to June to March to September inclusive, or that relevant commitments in the REAC (B65) and oCEMP (B45) should include supervision by an ecological clerk of works (ECoW). NE [REP5-216] suggested this would avoid impacts on breeding birds. CPRE [REP3-082], [REP4-108] supported NE's position. TDC PADSS [REP7-303] considered that seasonal works bans should be enforced for birds.

3.14.117. KWT [REP1-152], [REP3-092], [REP4-124] objected to works in the breeding season suggesting that it could lead to displacement, nest failure, territory loss and disruption to site fidelity. SMM [REP1-246] suggested that to account for all affected bird species including Schedule 1 birds, the works should be restricted to October to November. RSPB [REP1-158] suggested that works during the wintering period should also be restricted. SMM [REP6-214], [REP7-210] expressed confusion regarding the wording of mitigation measures for the SSSI reported in the REAC.

3.14.118. The applicant confirmed that tree height reduction would be a future measure and was not currently necessary [EV6-014]. REAC [REP7-359] commitment B65 avoids operational tree height reductions in the SSSI during March to September. Commitment B51 of the oCEMP requires that pylon base installation would avoid the core wintering period (November to February). The applicant [REP2-034] considered SMM's suggested seasonal restriction to be impractical and unnecessary because NE had agreed that the affected section of the SSSI (Weather Lees Hill) was designated for breeding bird interest rather than wintering birds. The applicant [EV6-014] suggested that March to June was the core nesting season and that any cutting would need an ecological investigation to ensure that there were no active nests.

3.14.119. The applicant did not fully address NE's [REP6-249], [REP7-364] concerns regarding the wording of measures in the REAC [REP7-359]. The ES [REP7-095] suggests that works are scheduled for early March to early May 2028. Commitment B45 of the oCEMP [REP7-129] requires pylon works outside the breeding season (stated as both March to August and March to September), or only in two months of the breeding season. Works in September exceeding 60dB L_{Amax} are proposed to be supervised by a qualified ornithologist rather than NE's suggestion that any works during the breeding season should be supervised.

ExA's findings - SBHM SSSI - breeding bird disturbance

3.14.120. Based on current wording of mitigation measures, the ExA is not satisfied that temporary significant adverse effects on SBHM SSSI breeding bird assemblages from disturbance during construction can be avoided. The ExA considers that this matter would be resolved by updating the REAC [REP7-359] and oCEMP [REP7-129] to provide clarity regarding the seasonal constraints. The ExA recommends that the Secretary of State obtains an updated oCEMP and REAC which amends commitment B45 references to the breeding season from 'March to August' to 'March to September' and to require supervision by an ecological clerk of works and/ or qualified ornithologist during all months. Without these changes, we consider that a significant effect on the SSSI could occur, which would require the Secretary of State to consider the tests in NPS EN-1 paragraph 5.4.8. The ExA is satisfied that mitigation measures summarised in the REAC and oLEMP [REP1-141] would ensure longer term conservation and potentially enhancement of the SSSI.

Minster Marshes – loss of ornithological habitat

3.14.121. IPs including Kent County Council (KCC) [REP1-129], TDC [REP1-132], SMM [REP2-103] and [RR-3805] raised the loss of undisturbed functionally linked land (FLL) at Minster Marshes and impacts on a wide range of farmland birds including 32 redlist and 46 amber list species. Skylark, golden plover and turtle dove were subject to specific discussion at ISH2 [REP4-085]. KWT [REP1-152] suggested that the applicant's assessment did not take account of territory loss. SBBOT [RR-4789] highlighted that Minster Marshes is a key roosting and feeding area particularly for many species of wading birds and some species of geese at high tide and at night.

3.14.122. TDC [REP7-303] deferred to KCC/ NE on ecology matters but considered that Minster Marshes should be avoided altogether. RSPB [REP7-209] considered the converter station site to be unsuitable due to loss of habitat units and did not agree that a significant impact on the adjacent SBHM SSSI could be ruled out alone or cumulatively.

3.14.123. The applicant [REP2-034] emphasised that the proposed converter station and substation site itself is arable land, not functional coastal or flood plain grazing marsh (FPGM) and therefore not undisturbed. The applicant highlighted REAC [REP7-359] mitigation measures to reduce noise, minimise core wintering and breeding period impacts, avoid disturbance of Cetti's warbler, provide lighting controls and manage dewatering.

3.14.124. The applicant [REP2-014], [REP2-034] considered that there was no shortage of ditches and open arable fields for birds to displace into. The applicant highlighted its approach to management of noise disturbance and considered that it had assessed impacts due to habitat loss and that it was not necessary to undertake a detailed census of individual species.

3.14.125. The applicant [REP2-014], [REP2-022], [REP2-024], [REP2-034], [REP2-028], [REP2-029], [REP2-030] acknowledged that there would be impacts on the designated site and adjacent areas of arable land but emphasised that the REAC commitment B41 secured through the oLEMP [REP7-141] and requirement 6(1) of the dDCO [REP7-002] would result in a permanent net increase of approximately 6.5ha woodland, 1km of hedgerow, 2ha of wetland and 5ha of species rich grassland habitats around the converter station and swales on the permanent access road, which would make a positive contribution to green infrastructure. It considered that the proposed area of mitigation land at Great Stonor, provided mitigation for golden plover and skylark. The applicant considered that it had provided an assessment of effects on relevant species including during the night period.

3.14.126. KWT [RR-2980], [REP1-152] and BWEK [RR-0584] suggested that the applicant's claim that displaced birds could relocate to abundant habitat to be unsubstantiated in light of the exceptional ornithological value demonstrated by the applicant's surveys.

3.14.127. [REP6-205] suggested that nocturnal data for skylark, woodcock and jack snipe at the proposed converter station site should have been taken into account. NE [REP6-241], [REP6-250], [REP7-364] acknowledged the potential for disturbance but did not identify outstanding issues with these species. SMM [REP1-246] suggested that light levels exceeding 1 lux could displace light sensitive species and that prolonged noise and vibration could disrupt feeding patterns and roost use. It argued that noise and light mitigation was required for migratory birds. SMM considered that there was no dark corridor strategy and that this conflicted with Thanet Local Plan policy SP27. RSPB Thanet Group [RR-4652] suggested that birds would be particularly affected by low frequency noise. CPRE [REP1-148] highlighted a

permanent loss of dark sky quality across Minster Marshes and insufficient lighting detail.

3.14.128. ExQ1MO1 [PD-017] and ExQ2ECOL4 [PD-021] questioned the night time sensitivity of bird species. The applicant [REP2-014], [REP7-257] explained that nocturnal surveys for the referenced species in Kent were included in its wintering bird survey report [REP1A-017]. The applicant [REP2-034] emphasised the limited requirement for lighting at night during operation. The applicant [REP3-070] provided illustrative lighting plots and an outline lighting management plan [REP6-122] to demonstrate the rapid drop off in lux levels away from the proposed converter and substation buildings. The applicant [REP2-034] considered that it met the requirements of Thanet policy SP27 through its habitat creation measures. In addition, requirement 3 of the dDCO [REP7-002] secures approval of lighting details by the relevant planning authority.

3.14.129. IPs including [RR-3178], [REP1-213] and SMM [REP1A-175], [REP6-214] highlighted that the construction of the proposed substation and converter station would result in the loss of a 300m long double hedgerow that divides the site and supports rare birds and mammals. SMM [REP1-246] identified the hedgerow as a key ornithological ringing and monitoring location. KWT [REP1-152] highlighted that the applicant assessed hedgerow loss as a temporary effect despite it being permanently removed during construction.

3.14.130. The ExA asked whether the applicant could retain the 300m hedgerow. The applicant [REP6-110] responded that there was insufficient space to retain the hedgerow without impacting on Minster Stream or requiring significant additional length of OHL and oversailing of the SSSI.

3.14.131. CPRE [RR-1070] suggested that the converter station height would increase raptor predation. The applicant [REP2-022] considered that this was unlikely in light of the existing tall structures in the area.

3.14.132. The oCEMP [REP7-129] includes specific measures for Cetti's warbler in Kent. IPs including CPRE [RR-1070] questioned the focus on Cetti's warbler in preference to other Schedule 1 birds and whether the measures would be effective, noting strong territory attachment. The applicant [REP2-014], [REP2-022], [REP2-024], [REP2-034] explained that other bird species identified were not Schedule 1, or the protections related to specific nest locations. It considered that disturbing works would commence prior to the Cetti's warbler nesting season and that there was abundant habitat for displaced birds. The applicant suggested that the Wildlife and Countryside Act 1981 protections related to an active nesting pair rather than a territorial male. The applicant suggested that if Cetti's warbler returned to the same

territory, it would be reasonable to assume habituation or acceptance of construction disturbance.

3.14.133. SMM [REP1-246], RSPB [REP1-158] and RSPB Thanet Group [RR-4652] suggested that SBHM SSSI was already being impacted by development in the area leading to a reduction in nesting herons, little egret and nightingale. The applicant [REP2-034] considered that SBHM SSSI was being treated as a special feature for breeding birds and had identified mitigation to minimise noise effects on the SSSI in its REAC [REP7-359].

ExA's findings - Minster Marshes – loss of ornithological habitat

3.14.134. The ExA has reviewed the applicant's ES [REP7-095] and associated survey reports and considers that it follows industry standard methodologies and is sufficient for the purposes of decision making. The ExA has considered the applicant's lighting proposals and is satisfied that taking into account mitigation summarised in the REAC [REP7-359] they would be unlikely to give rise to significant nighttime effects. The ExA is satisfied with the control on lighting provided by requirement 3 of the dDCO [REP7-002] and that TDC [REP1-132] did not consider there to be a conflict with local plan policy SP27.

3.14.135. NPS EN-1 paragraph 5.11.24 requires consideration of connectivity of green infrastructure. The ExA considers that loss of the double hedgerow connecting SBHM SSSI with the ditch network in Minster Marshes would result in an initial loss of connectivity within the wider ecological network. However, in the longer term the ExA considers that proposed habitat creation measures would offset this effect.

Minster Marshes – skylark mitigation

3.14.136. SMM [REP4-144], KCC [AS-069], [REP1-129] disputed the applicant's assessment of skylark impacts and its replacement land provision. TDC [REP1-132] was concerned as to whether skylarks would colonise new habitat if currently absent and that there was no contingency plan for this. TDC noted that the success of mitigation relied on consistent delivery of habitat management. KCC suggested that 22ha of land (2 skylark plots per territory) for the 22 territories recorded in surveys was required, rather than the 10 provided. SMM suggested that the applicant's findings regarding number of territories contradicted field counts. CPRE [REP4-108] considered that the assumption of one breeding pair of skylarks was unduly narrow and left little wiggle room should additional pairs be identified. CPRE [REP3-082] considered that it was far from certain whether birds would use the small site. Although RSPB [REP1-158] referenced skylark, its [REP7-209] closing submission only referred to monitoring and maintenance for golden plover.

3.14.137. TDC [REP1-132] and KCC [REP1-129] suggested that the replacement land had not been subject to breeding or wintering bird surveys. Consequently, the applicant had not demonstrated whether the land was also functionally linked to the designated sites, had the carrying capacity for displaced breeding and non-breeding birds or whether it could accommodate the layered mitigation requirements (for skylark and golden plover). KCC's unsigned SoCG [REP7-021] suggested that skylark matters were resolved.

3.14.138. The applicant [REP2-029], [REP4-078] provided a single year of wintering bird survey information (December 2024 to February 2025) for the proposed area of FLL at Great Stonor. It considered that this demonstrated the land was not currently functionally linked and was not significantly used by skylark. It did not consider that breeding bird survey was necessary, since the proposed change in land management would change carrying capacity. It suggested that only one skylark territory was recorded in the field to be permanently lost and that there would be controls on management, including pesticide use, for the replacement land. The applicant considered that this was a benefit since skylark territories could be rendered unsuitable by farming in any given year. The applicant [REP2-029] suggested that 10ha of land was more than sufficient for 1 skylark territory and would benefit a range of farmland birds. It [REP2-028] explained that the 7 other skylark territories referenced in its assessments were temporary losses, which had been acknowledged as significant short-term effects. The applicant [EV6-014], [REP4-085] explained that there was no industry standard method for calculating replacement land area for skylark but suggested two replacement plots for each plot lost as a rule of thumb suggesting that the replacement land could provide 4 plots, exceeding the indicative ratio.

3.14.139. The ExA had initial reservations regarding the applicant's proposed use of herbicides and pesticides on the site. NE (B35, [RR-3920]) stated that it was satisfied was the applicant's approach, however, it [REP6-246], [REP7-277] considered that the applicant should make provision for the preparation and agreement of a detailed management plan and any remedial action for the mitigation land.

ExA's findings - Minster Marshes – skylark mitigation

3.14.140. The ExA has considered KCC's comments on skylark. Whilst the final SoCG with KCC suggests that all matters relating to skylark are agreed, the unsigned nature of the document creates some uncertainty regarding KCC's final position. The ExA is of the view that the applicant has provided sufficient habitat within a reasonable distance of the site to accommodate the skylark territory to be permanently lost. The applicant has also acknowledged a significant effect in terms of ornithological habitat loss for temporary loss of other territories during construction. On the basis

that crop rotation changes in any one year can render habitat unsuitable for use, the ExA considers that the applicant's proposed land management practices provide increased certainty that the site would be suitable for skylark and other farmland birds in future.

3.14.141. The ExA is satisfied that the oLEMP [REP7-141] addresses NE's [REP7-277] concerns regarding the need for an outline management plan for the mitigation land. This is subject to approval by the relevant planning authority in consultation with the SNCB, allowing opportunity for amendment.

3.14.142. The Kent oLEMP [REP7-141] is noted to be missing its figures. The ExA has assumed that the missing figures are the same as those provided at deadline (DL) 6 [REP6-080]. As the Kent oLEMP is subject to final approval by TDC, the ExA does not consider that this is a material issue. However, for reasons of certainty and completeness, the Secretary of State may wish to obtain a complete version of the oLEMP for certification.

Minster Marshes – turtle dove

3.14.143. IPs including SMM [REP1-246], RSPB [REP1-158], [REP7-209], KWT [REP1-152] [REP4-124] and others [REP1-213] highlighted that breeding turtle dove, which have experienced a 99% decline since the 1960s, were present in Minster Marshes earlier in the year and would be impacted by loss of hedgerows. RSPB [REP1-158] and KWT [REP4-214] explained that farmers in the area were working with Operation Turtle Dove (OTD), an organisation working with farmers and land managers to create suitable habitat for turtle dove. The proposed site sits within Ash Turtle Dove Friendly Zone (TDFZ), one of 29 TDFZs in the UK. RSPB explained that turtle dove is threatened with global and national extinction and suggested that planting enhancements should provide nesting, foraging and watering habitat for farmland birds including measures on the OTD website. It suggested that effects on scrub and mature hedgerows, including habitat connectivity should be avoided and planted hedgerows should be maintained at a height of 3m by 4m wide to benefit turtle dove and nightingale. RSPB also considered that it would take at least 25 years for the replacement habitat to be of similar value to the current 300m long hedgerow at the Minster site and that known breeding habitat should be retained.

3.14.144. The applicant [REP2-034] noted that impacts on scrub and mature hedgerow suitable for turtle doves had been minimised as much as possible and that there would be a considerable net increase in woody planting suitable for species such as turtle dove. It acknowledged that woody habitats would take at least 10 years to mature and explained that its assessment had identified a moderate adverse

significant effect due to ornithological habitat loss. The oLEMP [REP7-141] included RSPB's recommended 3m x 4m hedge sizing.

3.14.145. The ExA asked the applicant whether it had taken account of OTD in its mitigation proposals at ISH2 [EV6-014]. The applicant [REP4-085] explained that it had not explicitly accounted for OTD but habitat created around the Minster converter and substation sites would be beneficial for turtle doves.

ExA's findings - Minster Marshes – turtle dove

3.14.146. Given the endangered nature of turtle dove breeding at the Kent site and the presence of the TDFZ, the ExA considers it is disappointing that the applicant did not recognise this in the ES or identify it as a particular opportunity for local BNG. However, the ExA is satisfied that a significant effect on habitat loss for ornithology has been identified and would be mitigated through new habitat creation, which takes account of RSPB recommendations for hedgerow sizing suitable for turtle dove.

Drainage at Minster Marshes

3.14.147. KWT [REP1-152] disagreed with the applicant's conclusions regarding pollution and the effectiveness of its attenuation ponds. It considered that there was potential for contaminants (including hydrocarbons, heavy metals, nutrients and suspended solids) to cause acute toxicity to aquatic invertebrates and fish. In addition to heavy metals, [REP6-257] suggested that salt mobilisation from a buried salt layer could impact irrigation reservoirs and water quality in the marshes. SMM [REP1-246] suggested that raising a construction platform for a recent battery energy storage system had already caused polluted runoff in the area. It also highlighted the risk of pollution from fires. NE [REP7-270], [REP7-277] suggested that additional REAC commitments were required in respect of chemical and biological monitoring of operational drainage from the site.

3.14.148. The applicant [REP2-034] considered that its suite of sustainable drainage measures would capture and treat associated contaminants. The applicant [REP6-127] submitted details of surface and groundwater control measures for the Minster Converter and substation. The applicant [REP7-257] explained that the Kent drainage strategy [REP5-085] had been prepared to demonstrate compliance with sustainable drainage systems technical standards and that the discharge would only be surface water runoff. The applicant highlighted that automatic penstock valves would be installed to isolate drainage outfalls and prevent pollution in the event of a fire. The applicant suggested that its preliminary GI had not identified the presence of a buried salt layer but further GI would be undertaken in accordance with oCEMP [REP7-129] commitment GH01.

ExA's findings - Drainage at Minster Marshes

3.14.149. The ExA is satisfied with the applicant's proposed GI and drainage mitigation measures as set out in the oCEMP and drainage strategy. The ExA notes NE's comments regarding the need for operational surface water monitoring but considers that since the runoff would comprise surface water runoff only, there is no need for specific water quality monitoring. Section 3.16 of this report provides further consideration of drainage and water quality measures.

Ash Levels and South Richborough Pastures LWS - collision risk

3.14.150. IPs in Kent including KWT [RR-2980], [REP4-124], [REP7-205], SBBOT [REP1-243], SMM [RR-4892], [REP4-144], [REP1-252], [REP2-103], [REP4-144], [REP5-167], CPRE [RR-1070], [REP1-148], RSPB [REP1-158] and others [RR-3507], [RR-3492], [RR-4880], [RR-4914], [RR-5755], [RR-5805], suggested that bird collisions with pylons and OHL would be increased due to the increased wirescape and funnelling of birds. Representations such as [RR-1070], [RR-1777], [RR-5675], [RR-6005] and TDC's LIR [REP1-132] highlighted the impact of increased OHL crossings of the River Stour. TDC [REP7-017] agreed with the applicant's assessment of collision risk but deferred to NE on ecological matters. It [REP7-303] remained concerned about bird strike and considered that real time monitoring was required.

3.14.151. IPs including BWEK [RR-0584], [RR-1777], [RR-1898], RSPB Thanet [RR-4652], [RR-5843], CPRE [REP1-148] cited an incident where a group of swans was killed in a collision with OHL (numbers stated to range from 130 to over 200 swans). [REP1-213] referenced 3 recent swan strikes.

3.14.152. RSPB [REP7-054], [REP7-209] considered that 1 year's vantage point survey was insufficient. RSPB and CPRE [REP3-082] considered that diverters should be fitted on new and existing wires. SMM [REP6-214] were 'delighted' with bird diverter proposals but considered that more detail on a suitable diverter type was required. KWT [REP3-092], [REP4-124] considered diverter effectiveness would be greatest when applied across the whole OHL corridor, otherwise displacement and collisions could arise. It suggested habituation to existing OHL was insufficient to avoid collisions and raised issues with diverter low light functionality.

3.14.153. NE (B36, [RR-3920]) considered that sufficient information had been provided to conclude that there would be no adverse effect on integrity of relevant designated sites due to bird collision risk. In response to ExQ1ECOL10 [REP4-196] NE stated that it did not consider there to be any need for additional diverters to be fitted to other lines in the area from an HRA perspective, however NE [REP5-199], [REP5-221] was supportive of further consideration being made to install bird diverters on existing lines to avoid impacts on wider bird species and sought explicit statements in the

REAC regarding the effectiveness of diverters at night and in low light conditions. It suggested that detailed and locally specific avoidance behaviour data should be provided by the applicant.

3.14.154. The ExA examined bird collisions in ISH2 [EV6-014], [EV6-033] and in written questions [PD-017], [PD-021], [PD-023]. The ExA questioned how bird collisions occur, whether limits of deviation (LoD) had been factored into the assessment of collision risk, whether the applicant would install bird diverters on existing OHL and the functionality of diverters at night.

3.14.155. The applicant [REP2-014] acknowledged that collisions occur for a limited number of species (including mute swan) but considered that its collision risk and mortality assessments were robust in assessing less than one individual annually for the majority of species. The applicant [REP2-022] reported avoidance of OHL by species such as Cormorant. [REP2-022] also explained that the swan collision incident was 22 years ago, in a different location (Monkton) and could not be taken to represent a trend or common occurrence. [REP2-034] highlighted the lack of significant bird strike from OHL in Ash Levels and [REP2-024] noted that it had been agreed with NE that the proposed new section of OHL was unlikely to materially affect collision risk for interest features of either TCSB SPA or Stodmarsh SPA. The applicant's alternatives assessment [APP-044] and [REP2-034] explained the constraints for an underground solution to crossing River Stour. The applicant [REP6-109] explained that NE did not require the applicant to erect diverters on an existing line to mitigate for a significant effect but was generally supportive of use of diverters.

3.14.156. In response to ExQ1ECOL09 [REP3-069] the applicant explained that the proposed LoD would not change the collision risk assessment as the original assessment was precautionary. [REP4-086] explained that earth wires are responsible for higher rates of electrocutions than the thicker, often bundled conductor wires. The applicant [REP5-135] suggested that wire sag meant that lines would generally be within the adopted height bands. It stated that birds would visually detect and avoid pylons. The applicant [REP4-085], [REP5-132] noted that collision risk was species dependent and that birds commuting along the River Stour already navigate the existing wires taking corrective action to avoid collisions. It therefore considered that diverters were not required on existing lines but proposed use of fluorescent panels on the new lines. The applicant [REP5-132] stated that these had been used by United Kingdom Power Networks in other locations. The applicant explained that birds are capable of night-time navigation therefore the diverters are generally a supplementary aid in poor weather rather than darkness. The applicant explained that diverters are available that function for the whole of the night period. The

REAC [REP7-359], [REP6-111] was updated to include reference to operation of bird diverters at night in commitment B55.

ExA's findings - Ash Levels and South Richborough Pastures LWS - collision risk

3.14.157. NPS EN-5 paragraph 2.9.20 suggests that OHL "*should be the strong starting presumption for electricity networks developments in general*". NPS EN-5 paragraph 2.9.3 highlights the risk of OHL collisions and NPS EN-5 2.9.6 suggests that particular consideration should be given to migration corridors. NPS EN-5 paragraphs 2.9.4, 2.10.3 suggests that bird flappers or diverters should be considered. NPS EN-5 paragraph 2.10.2 suggests careful siting of lines away from or parallel to known flight paths to reduce collision risk. NPS EN-5 paragraph 2.11.1 requires that the Secretary of State should be satisfied with all feasible options for mitigation.

3.14.158. The ExA considers 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 considers that the applicant has provided reasons for its site location and for ruling out undergrounding in this location (see also section 3.3 of this report). The line would cross a flight path which is not consistent with NPS EN-5 paragraph 2.10.2. Whilst the applicant suggests birds are habituated to avoid the wirescape, the ExA considers that the OHLs could increase funnelling of birds travelling inland from the intertidal areas in Pegwell Bay. The applicant's assessment identifies that collision risk would increase, although it has not identified significant harm due to the small number of predicted collisions. The REAC commitment B55 [REP7-359] secured by requirement 5 of the dDCO [REP7-002] provides for use of bird diverters on new lines to reduce collision risk and NE has agreed that collision risk is unlikely to be materially affected.

3.14.159. Although IPs supported use of diverters on existing lines, the ExA did not receive robust justification as to why this was necessary in the proposed location. However, the ExA recognises that there is some uncertainty in the real world behaviour of bird movements and considers that inclusion of a monitoring commitment would ensure that if effects were worse than predicted, there would be the ability to fit diverters at a later stage.

3.14.160. The ExA recommends that appendix B of the oLEMP [REP7-141] is updated to secure two years of collision monitoring of the new OHL arrangement from commencement of operation. The ExA recommends that REAC commitment B55 is also 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 is satisfied with the assessment of collision risk and considers that significant adverse effects may be avoided.

Ash Levels and South Richborough Pasture LWS - mitigation

3.14.161. The value of proposed mitigation measures such as scrapes in ALSRP LWS was questioned in RRs such as [RR 2978], [RR-2860], [RR-4151] and KWT [RR-2980], although Dover District Council (DDC) [REP7-019] was satisfied with the proposals. KWT [REP1-152] highlighted that there would be loss of FPGM in the ALSRP LWS, which is a nationally scarce habitat.

3.14.162. The applicant [REP2-022] explained that there would be no loss of existing pools and scrapes in ALSRP LWS, although there would be a permanent 300m^2 loss of habitat for pylon base construction and a temporary 30ha loss during construction for the works area and haul road. The applicant suggested that this left more than 95% of the LWS unaffected. The applicant considered the habitat to be recoverable within 1-2 years but considered that without additional mitigation there would be a moderate significant adverse effect. The oLEMP [REP7-141] identified opportunities to create scrapes and ponds with alder and willow planting adjacent to the River Stour and to control invasive water fern, by introducing azolla weevil. The applicant [REP7-095] suggests that these measures would give rise to a minor beneficial effect in the long term. The applicant noted that the same areas of FPGM in ALSRP were affected by the Richborough to Canterbury OHL (which was completed in 2021) but had been restored in a relatively short period of time. It noted that DDC had confirmed that ALSRP was primarily designated for its ditch invertebrates and plants rather than FPGM.

ExA's findings - Ash Levels and South Richborough Pasture LWS - mitigation

3.14.163. NPS paragraph 5.4.12 highlights the importance of LWS. NPS paragraph 5.4.13 expects protection of LWS from harm or loss but also to enhance them and their connection to wider ecological networks. The ExA considers that the proposed habitat measures and invasive non-native species (INNS) control, which have been accepted by DDC [REP7-019], provide suitable mitigation to avoid significant harm from effects on ALSRP LWS [REP6-080], [REP7-141]. The proposed works may also help to enhance the LWS connection with wider ecological networks by providing

additional locations for wintering bird species, since the ES [REP7-095] highlights extensive use of existing scrapes under OHL.

Cumulative effects

3.14.164. IPs including RSPB [REP1-158], [REP7-209], KWT [REP1-152], [REP6-169], TDC [REP7-303], [REP7-214] and CPRE [REP1-148] raised concerns with the applicant's cumulative assessment and the potential need for further expansion or similar development in future. The unsigned KCC SoCG [REP7-021] did not identify any issues with the cumulative assessment.

3.14.165. KWT [REP1-152] considered that the ES failed to robustly assess cumulative noise at SBHM SSSI. SMM [REP1-246] highlighted the cumulative impact of noise and light pollution from surrounding development on the SSSI including a heronry.

3.14.166. The applicant [REP2-014], [REP2-022], [REP2-034], [REP7-257], [REP2-016], [REP2-020], [REP2-026], [REP2-027] responded on cumulative effects, signposting to its ES assessments. The applicant [REP2-034] considered that its approach to restricting works exceeding 60dB L_{Amax} in the SSSI in the breeding season would avoid effects on the SSSI bird interests including the heronry. The applicant [REP2-014], [REP2-022] emphasised the importance of its mitigation measures to avoid significant impacts, suggesting that its FLL provision addressed its contribution to the cumulative FLL loss.

3.14.167. KWT [REP1-152] considered that the cumulative assessment did not take account of nearby solar farms. CPRE [REP7-193] and KWT [REP1-152], [REP2-054] highlighted the loss of 160ha of FLL in the surrounding area due to other development, including the 84ha Goshall Valley Solar Farm. KWT suggested the applicant failed to take into account landscape fragmentation, increased disturbance and reduced suitability for golden plover.

3.14.168. RSPB [REP7-054] objected to the Kent landfall suggesting that it could set a damaging precedent. RSPB [REP1-158], [REP7-209] highlighted the risk of consecutive sequencing of works resulting in multi-season effects, resulting in longer term changes to breeding or wintering bird populations. KWT [REP1-152], [REP2-054], [REP3-092], [REP6-266] considered that repeated large scale disturbance to the same designated sites was unacceptable and a threat to their future. KWT highlighted a risk of prolonged cumulative impact, due to successive projects in habitats supporting non-breeding/ overwintering birds, leading to displacement, reduced foraging efficiency and energetic stress.

3.14.169. CPRE [REP4-108], [REP6-238], KWT [REP1-152], [REP4-124], and others [REP6-279], [REP7-228] considered that other interconnectors landfalling in Pegwell Bay should

have been assessed cumulatively, including the Aberdeenshire to Richborough and Kulizumboo interconnectors. KWT [REP4-124], [REP6-169] considered it inconsistent to justify the proposed development on the basis of it being part of the holistic network design (HND) whilst excluding other HND projects from consideration. It considered that other HND projects were more than speculative. KWT [REP6-169], [REP6-266], [REP7-265] argued that because of this, the application of the mitigation hierarchy had not been demonstrated and the full impact on intertidal and saltmarsh habitats in Pegwell Bay had not been assessed.

3.14.170. CPRE [REP1-148] considered that National Energy Systems Operator's emerging spatial principles and strategic plan could achieve the same network outcome with less harm. CPRE was concerned about the cumulative impact of development on the Stour Valley corridor, suggesting that the proposed infrastructure was inconsistent with National Grid's statutory obligations. CPRE [REP4-108] suggested a saltmarsh recovery and monitoring group as a legacy measure.

3.14.171. The applicant [REP2-034], [REP7-257] explained that there was insufficient information regarding the Aberdeenshire to Richborough and Kulizumboo projects to make a meaningful cumulative assessment and that the effects of solar farms were addressed in HRA. The applicant [REP2-014] considered that it had assessed cumulative effects with solar schemes in Kent such as Goshall Valley Solar Farm where there was meaningful information for assessment.

3.14.172. The applicant [REP7-257], [REP7-259] suggested that there was unlikely to be further mitigation available in respect of cumulative schemes and that it had mitigated effects of the proposed development following the mitigation hierarchy. It refuted any suggestion that assessments were flawed and argued that the cumulative assessment followed the approach set out in Planning Inspectorate advice. The applicant [REP2-034] highlighted that in NPS EN-5 paragraph 2.9.7 development of new OHL was not incompatible with applicant's statutory duties under Schedule 9 of the Electricity Act. The applicant [REP6-106] considered that a saltmarsh recovery and monitoring group was unnecessary as its working methods avoided saltmarsh impacts.

ExA's findings - Cumulative effects

3.14.173. NPS EN-1 paragraph 4.1.5 requires consideration of cumulative adverse impacts. The ExA is satisfied that the applicant has assessed cumulative effects on ecology, biodiversity and ornithology in its ES consistent with the requirements of Planning Inspectorate advice. This includes reasoned justification for its shortlist of projects, conclusions and mitigation (including its mitigation hierarchy approach). The ExA considers that the location of the proposed development would increase the

enclosure of the SSSI by energy development but in the longer term the proposed habitat creation measures would have potential to enhance ecological networks.

3.14.174. The ExA acknowledges KWT and RSPB views regarding sequential effects and considers that the applicant's assessment in respect of ALSRP provides some evidence of this, since it notes the rapid recovery of FPGM areas previously used for the construction of the Canterbury OHL project. However, the ExA is satisfied with the applicant's reasons for screening out cumulative assessment of the Aberdeenshire to Richborough and Kulizumboo projects due to lack of detail. Whilst there may be potential for the proposed development to act as an attractor for future energy development, the ExA considers that the applicant has factored known projects, for which there is available assessment into its cumulative assessments. Any other subsequent applications would need to be considered on their own merits with consideration of their cumulative effects at the relevant time.

ExA's overall findings - effects on Sandwich Bay to Hacklinge Marshes SSSI, Minster Marshes, Ash Level And South Richborough Pasture

3.14.175. NPS EN-1 paragraph 5.4.8 suggests that development on land within or outside a SSSI with potential to have an adverse effect (either individually or in combination with other development) should not normally be permitted, except where benefits (including need) of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of SSSIs. NPS EN-1 paragraph 5.4.54 requires that species and habitats are protected from the adverse effects of development. NPS EN-3 paragraph 2.8.226 recognises that effects on coastal habitat cannot be entirely avoided.

3.14.176. The ExA has considered the applicant's proposed landfall in SBHM SSSI in Pegwell Bay as part of its consideration of alternatives in section 3.3 of this report and is satisfied with the applicant's reasoning for its proposed route. NPS EN-3 paragraph 2.8.304 states that designation of a site as a SSSI does not necessarily restrict the construction or operation of transmission infrastructure in, near or through that area. Whilst impacts would arise in the intertidal component of SBHM SSSI, the ExA considers that significant effects on the designated site would be avoided by the applicant's proposed mitigation measures.

3.14.177. The ExA has recommended amended oCEMP [REP7-129] wording, to ensure that temporary significant adverse effects on SBHM SSSI breeding bird assemblages from disturbance during construction would be avoided. As highlighted above, if this change were not to be adopted, the Secretary of State would need to apply the tests in NPS EN-1 paragraph 5.4.8. The ExA is satisfied that the REAC [REP7-359] and

oLEMP [REP7-141] proposals ensure longer term conservation and potentially enhancement of the SSSI.

3.14.178. NPS EN-1 paragraphs 5.4.12 to 5.4.13 highlight that regional and local wildlife sites should be protected from harm or loss. The ExA is satisfied that the applicant's ES has assessed effects on ALSRP LWS and Woods & Grassland Minster Marshes LWS and identified relevant mitigation measures to avoid and minimise harm or offset loss.

3.14.179. NPS EN-1 paragraph 5.4.50 requires the Secretary of State to use requirements and/or planning obligations to mitigate harmful aspects of development and to ensure conservation and enhancement of the site biodiversity interest where possible. The ExA is satisfied that the applicant has proposed suitable mitigation such as trenchless crossing secured by the dDCO [REP7-002] and supplemented by REAC [REP7-359], oCEMP [REP7-129], oOCEMP [REP7-127] mitigation measures and habitat creation measures set out in the oLEMP [REP7-141].

UNEXPLODED ORDNANCE

3.14.180. Around 76 RR identified UXO as an issue, including TDC [RR-5372], Broadstairs & St Peters Town Council [RR-0637], JNCC [RR-2635], National Farmers Union [RR-6035], Harwich Haven Authority [RR-1942], Port of London Authority [RR-4318] and others [RR-5820], [RR-1410] and [RR-5734]. Suffolk IPs highlighted effects on designated sites and seals, Kent IPs raised effects on Pegwell Bay, whilst ports authorities referenced UXO clearance for cable laying.

3.14.181. The applicant considered that UXO in the marine realm would be subject to a separate marine licence, a position agreed with the MMO [REP7-015]. The examination therefore focused on UXO risk at terrestrial landfall sites.

3.14.182. 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 LA SSSI), although it acknowledged that UXO surveys would require SSSI assent and RSPB agreement [REP7-260]. However, SCC [REP5-204], [REP6-141] was content with the approach, subject to implementation of measures in the updated UXO risk assessments [REP7-129].

3.14.183. 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. NE [REP5-199] noted Ministry of Defence policy is to detonate in-situ and wanted to avoid or minimise such effects.

3.14.184. 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.

3.14.185. At DL7 NE [REP7-364], [REP7-269], [REP7-270] suggested that the REAC [REP7-359] be updated such that UXO surveys at LA SSSI and SBHM SSSI would be undertaken outside the core wintering and breeding bird seasons in to avoid a red risk in relation to UXO. NE [REP7-277] also suggested that a UXO investigation and mitigation plan should be prepared in relation to UXO in or near TCSBay SPA/ Ramsar, which overlaps with the coastal component of SBHM SSSI. NE [REP7-364] maintained that a high level assessment of marine UXO effects should be provided.

3.14.186. 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.

3.14.187. 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 RSPB. However, the applicant noted that in the event a controlled explosion was required, it might not have influence over the bomb disposal approach. The applicant's response to first written questions [REP3-069] set out its timetable for undertaking additional UXO surveying and clearance.

3.14.188. The ExA examined UXO risks in hearings [EV6-012], [EV6-033], [EV9-016], [EV9-018] and in written questions [PD-017] and [PD-021].

ExA's findings

3.14.189. NPS EN-1 and NPS EN-3 require consideration of UXO risks. NPS EN-1 paragraph 5.4.50 requires the Secretary of State to use requirements and/ or planning

obligations to mitigate harmful aspects of development and to ensure conservation and enhancement of the site biodiversity interest where possible.

3.14.190. The ExA notes 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 LA SSSI is low. In Kent, the ExA considers that avoiding the breeding season would avoid impacts on breeding bird populations at SBHM SSSI. The ExA is 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 ExA notes that NE [REP7-364] identified UXO as a red risk but did not have an opportunity to comment on the UXO measures referenced in the REAC. The ExA recommends that the Secretary of State obtains an updated position from NE on the final mitigation proposals.

3.14.191. Consistent with section 4.12.10 of NPS EN-1, the ExA is content to rely on the marine licensing process to address effects of UXO from marine works, including any additional environmental impact assessment or HRA considerations.

PEGWELL BAY ACCESS VIA FORMER HOVERPORT

3.14.192. Over 100 RR and other representations raised concerns regarding the impact of the proposed development on the former hoverport including Cliffsend Green Community Group [RR-1023], BWEK and [RR-0584], [RR-5417], [RR-1035]. IPs highlighted that the site had rewilded and should not be disturbed. Representations including KCC [REP5-195], TDC [REP1-132], [REP7-303], KWT [REP2-054], [REP3A-002], [REP7-179], NE [RR-3920], [REP4-196], [REP5-199], [REP7-364], CPRE [RR-1070], [REP3A-012], SMM [REP1-246], [REP3A-171], [REP6-148], [REP6-214], [REP7-210], SEAS [REP4-154], [REP7-370], SBBOT [REP1-243] and others [REP1-213], [REP3A-112], [REP3A-065], [REP4-208], [REP4-209] highlighted;

- orchids and other rare plants
- reptiles
- invertebrates listed in Schedule 5 of the Wildlife and Countryside Act 1981 (fiery clearwing and Sussex emerald moths) and their food plants
- contamination due to hoverport concrete apron degradation and release of former colliery spoil fill leading to water acidity and toxic metal release

3.14.193. IPs considered there was insufficient justification for the use of the former hoverport as an access route to the intertidal area in Pegwell Bay and raised concerns regarding the lack of baseline surveys for invertebrates and reptiles. IPs

considered that there was no unvegetated route and that vehicle movements could damage scheduled invertebrates, their food plants and reptiles using cracks in the hoverport concrete apron as hibernacula. Lighting for wheel wash facilities was also highlighted as a potential impact on invertebrates. IPs provided evidence that the hoverport was constructed over colliery spoil and that the surface was breaking up. They suggested that vehicle movements could contribute to further damage and release of contaminants into Pegwell Bay.

3.14.194. KCC [REP4-123] suggested that reptile presence could not be ruled out in areas of mixed hard standing and vegetation at the former hoverport but that they would be absent from fully hardstanding areas. It [REP5-195] supported use of 2 stage vegetation clearance at the hoverport. KCC [REP6-265] considered that the need for further reptile surveys would need to be decided when the oCEMP was updated and suggested that the REAC should include a requirement for a preliminary ecological appraisal. TDC [REP7-303] was opposed to use of the hoverport due to contamination and reptile impacts.

3.14.195. The applicant [REP2-034], [REP4-089] explained that it had sought voluntary hoverport access for surveys but this had not been granted until after the survey season was over. The applicant [REP3-070], [REP4-085], [REP4-086] (which includes route photos), [REP5-132], [REP6-109], and largely summarised by [REP7-017] assumed that reptiles would be present in suitable vegetated habitats. The applicant [EV9-016], [REP6-108] considered further reptile survey was unnecessary because it had assumed presence of reptiles in suitable vegetated habitats. It suggested that reptiles would stay close to vegetation for cover and that areas of hard standing closer to the shoreline would be too exposed to be suitable. The applicant [REP4-085] identified the northern part of the concrete outside the order limits, to be more suitable for reptiles.

3.14.196. The applicant updated the oLEMP [REP7-141] to take account of KCC's requirements but did not include a requirement for a preliminary ecological appraisal in appendix B 'schedule of ecological surveys', instead referring to the proposed botanical survey.

3.14.197. The applicant considered there was a clear route to the intertidal area through the hoverport with little or no requirement to clear vegetation minimising impacts on invertebrates and reptiles. It considered that concrete would be traversed by low ground pressure vehicles, using trackway and that vehicles driving over the surface would not disturb reptiles in cracks. The applicant [REP5-131] commented that because the route would be restricted to unvegetated hardstanding a reptile survey would not affect the approach to using the site access even if it confirmed reptile

presence. It [REP6-109] considered the risk of killing and injury of reptiles to be negligible. The applicant [REP6-110] suggested that invertebrates were day or dusk and dawn flying in summer, when there would be reduced need for lighting.

3.14.198. The applicant considered it had assessed contamination risk [APP-169] but ruled out impacts on the basis of available mitigation measures. The applicant updated the dDCO [REP7-002] to include requirement 22 'access to Pegwell Bay' based on wording proposed by the ExA [PD-025], which identified mitigation (such as structural surveys to maintain the condition of the concrete surface) in dDCO requirement 22 [REP7-002].The REAC [REP7-359] also referred to mitigation in the oLEMP [REP7-141] commitment B05, REAC commitments B66 and B70 and oCEMP [REP7-129] commitment W37, which secure two stage habitat manipulation for habitats suitable for reptiles, botanical surveys, use of an ecologist to mark the access route and hoverport condition monitoring. Commitment B76 of the oCEMP provides for consultation on the route with relevant stakeholders including KWT, NE, TDC and the National Trust. Commitment GG10 of the oCEMP [REP7-129] provides for mitigation of nuisance from lighting.

3.14.199. The Environment Agency [REP2-051] found the applicant's approach acceptable, noting that it had previously agreed to the possibility of the project team using the site. TDC [REP7-017], [REP7-214], [REP7-303] remained opposed to use of the former hoverport due to impacts on protected species and the risk of contamination but accepted the ExA's proposed wording that informed requirement 22 [REP7-185]. TDC and KCC [REP5-195] supported two stage vegetation clearance. NE [RR-3920] emphasised the need for site access to avoid designated sites, with any access through designated sites being on foot.

3.14.200. KWT [REP2-054], [REP5-196] remained sceptical regarding the applicant's claims about habitat loss and sought further confirmation regarding the effects on habitat for invertebrates and full survey information to inform the access route. KWT suggested that lighting at the hoverport would increase invertebrate predation risk by birds. The applicant [REP7-257] considered that invertebrates would be in areas with vegetation cover rather than exposed areas where risk of predation is high.

3.14.201. The ExA examined the hoverport access in hearings [EV3-002], [EV3-006], [EV6-012], [EV6-033], [EV9-016], [EV9-018] and in written questions [PD-017], [PD-021], [PD-023], [PD-025].

ExA's findings

3.14.202. NPS EN-1 paragraph 5.4.17 requires an ES to clearly set out effects on designated sites, habitats and species. NPS EN-3 paragraph 2.8.226 recognises that effects on

coastal habitat cannot be entirely avoided. The applicant's ES provides an assessment of effects on habitats and species at the former hoverport.

3.14.203. NPS EN-1 paragraph 4.2.11 emphasises the need to apply the mitigation hierarchy. The ExA considers that use of the hoverport minimises the potential impact of accessing the intertidal area in line with NPS EN-5 paragraph 2.13.23, which would otherwise involve crossing of irreplaceable saltmarsh habitat and coastal designated ecological sites. The applicant has identified the potential for adverse effects on habitats and species from use of the hoverport but includes relevant mitigation in the REAC, oLEMP and oCEMP. The ExA therefore considers use of the hoverport to access the intertidal area is consistent with the requirements of the mitigation hierarchy.

3.14.204. The ExA observes that provision of detailed plant, reptile and invertebrate surveys at the hoverport would have avoided uncertainty and unnecessary discussion during examination. However, the ExA notes that survey access was restricted, the applicant assumed presence of reptiles and that phase 2 botanical surveys are proposed in advance of works to support any monitoring and mitigation requirements.

3.14.205. Paragraph 5.4.35 of NPS EN-1 requires appropriate avoidance, mitigation, compensation and enhancement and minimisation of works areas. NPS EN-1 paragraph 5.4.55 requires that consent is refused where harm to a protected species and relevant habitat would result and that substantial weight should be given to such harm. The ExA considers that with information obtained during the pre-construction botanical surveys a suitable route can be identified that minimises impacts on protected species and avoids significant harm. The ExA is of the view that if vegetation removal became unavoidable, two stage habitat manipulation required by oCEMP commitment B04 [REP7-129] would serve to avoid impacts on reptiles. In any case, the ExA notes that KCC has suggested that reptile survey requirements would be agreed as part of any oLEMP and oCEMP approvals.

3.14.206. The ExA considers that release of contaminated spoil could give rise to adverse impacts in Pegwell Bay but would be avoided by the applicant's proposed mitigation measures including requirement 22 and the intertidal works methodology and mitigation plan secured by schedule 16, condition 4(1)(a)(v) of the dDCO [REP7-002]. In light of the sensitivity of Pegwell Bay, the ExA recommends that requirement 22 is amended to require cessation of any contaminating activities and agreement of any remedial action as follows:

"*22(3) Where the trigger levels referred to in 22(2)(c) demonstrate that action is necessary to contain contaminated materials, the applicant shall cease*

activities that are causing release of contaminating materials and submit proposals for remediation to the Environment Agency, in consultation with the SNCB and the relevant planning authority, for approval. The remediation proposals shall be implemented as approved."

3.14.207. In terms of lighting, the ExA agrees that due to the temporary nature of the works during the summer time, the effects on bats and invertebrates are likely to be reduced compared with other times of the year. The ExA is satisfied that oCEMP [REP7-129] commitment GG10 provides for lighting mitigation. The ExA considers that schedule 16, condition 4 of the dDCO [REP7-002] secures provision of a LMS and an intertidal works methodology and mitigation plan for Pegwell Bay that could be used to secure additional mitigation with SNCBs if needed.

IMPLICATIONS FOR THE TENTATIVE EAST ATLANTIC FLYWAY UNESCO NATURAL WORLD HERITAGE SITE

3.14.208. Over 30 representations suggested that the impacts of the proposed development on designated sites, habitats and migratory birds in Suffolk and Kent could impact on the UK's tentative East Atlantic Flyway (EAF) UNESCO NWHS designation and the flyway's viability. These included the International Union for the Conservation of Nature (IUCN) [RR-2128], [RR-2426] and KWT [RR-2980]. The flyway is variously referred to as the North Sea Flyway [RR-0439], Global Flyway [RR-1037], East Coast Flyway [RR-1306], and East Anglian Flyway [RR-1409].

3.14.209. In Suffolk, IPs suggested that full weight must be given to the EAF nomination as a NWHS. They highlighted its importance for migratory birds, suggesting that impacts on RSPB North Warren would remove a key site of refuge and could impact migratory patterns and bird survival.

3.14.210. The IUCN [RR-2128] highlighted that Thanet and east Kent are important for the UK's protected area coverage and suggested that without adaptive measures and a rethink of plans, there would likely be major and lasting biodiversity impacts and reduced viability for the EAF as a crucial avian migratory route. It emphasised the need for a mitigation hierarchy assessment and identified three areas of concern:

- Site level impacts on an IUCN Category V protected landscape (Sandwich and Pegwell Bay NNR).
- Disruption to connectivity between the coastal Sandwich and Pegwell Bay NNR and the inland Stodmarsh NNR due to loss of ecological function for Minster Marshes as a connectivity buffer and spill over zone.
- Overall reduction in resilience and effectiveness of the local and regional system of protection.

3.14.211. KWT [RR-2980], [REP7-205] considered that the applicant had not given sufficient consideration to the cumulative loss of habitat and transboundary impacts for the EAF.

3.14.212. The applicant [REP2-014], [REP2-034] explained that the EAF designation had been considered in the HRA and that effects on individual designated sites had addressed potential impact pathways. The applicant [REP2-022] responded to IPs comments by signposting to its assessments and mitigation hierarchy approach. It also highlighted its mitigation hierarchy approach [APP-321], [REP6-054] and [REP4-092] and mitigation measures summarised in the REAC [REP7-359], which it used to conclude no likely significant residual effects in the long term. The applicant considered that the location of Minster converter and substation site would not interfere with habitat connectivity along the River Stour, and that landscape mitigation measures would result in a net increase in species rich grasslands and wetlands.

3.14.213. ExQ1ECOL2 [PD-017] and action points [EV6-033] sought to explore EAF issues with the IUCN, who did not respond. The ExA also invited the IUCN to ISH2 where collision risk was discussed [EV6-014] but they did not attend.

ExA's findings

3.14.214. It is unfortunate that the IUCN did not respond to the ExA's written questions or invitation to ISH2. Nonetheless, the ExA has carefully considered representations relating to the EAF and the tentative NWHS designation. Subject to resolution of the timing of breeding bird works at SBHM SSSI and exclusion of works in the core wintering period in Pegwell Bay, the ExA is satisfied that significant effects on designated sites in both Suffolk and Kent can be ruled out. Whilst there would be temporary loss of FLL and other habitat that is part of the mosaic of habitats within the migratory corridor, substantial areas of habitat remain available to migratory species. Permanent loss of FLL would also arise, however substitute land has been identified. NE was satisfied with the applicant's proposals in this respect (see appendix B for further discussion of FLL impacts) and with its assessment of collision risk as highlighted in the previous section.

3.14.215. The ExA therefore concludes that the proposed development would not give rise to overall effects on the resilience and connectivity of the EAF. Whilst the NWHS designation is tentative, on a precautionary basis, the ExA has applied the NWHS tests as set out in NPS EN-1. Consistent with NPS EN-1 paragraph 5.9.30 the ExA's conclusions regarding the EAF indicate that substantial harm or loss of significance to the tentative NWHS designation would be avoided. However, works would result in impacts on designated sites. The ExA considers that, taking into account mitigation, these impacts would constitute less than substantial harm and at the

lower end of the scale to the prospective NWHS designation. In accordance with NPS EN-1 paragraph 5.9.32, this harm would need to be weighed against the public benefits of the proposal and is considered further in section 5 of this report.

EFFECTS ON ANCIENT WOODLAND, ANCIENT AND VETERAN TREES

3.14.216. RRs including from the Forestry Commission [RR-1660] and others [RR-2464], [RR-3592] highlighted the presence of ancient woodland and ancient and veteran trees within or in proximity to the order limits. IPs including [RR-1968], [RR-5201], [RR-0159] also expressed concern about felling of trees in Suffolk to facilitate other schemes (such as Sizewell C).

3.14.217. SCC [REP1-130], [REP3-122] remained concerned about the proximity of some trees to the works, the potential for root protection area (RPA) incursion and pruning. SCC also considered that use of particular protective barriers should be justified for each location. SCC [REP5-204] considered that the applicant's REAC [REP7-359] commitment A05 regarding retention of ancient and veteran trees should be written into the dDCO.

3.14.218. ESC [REP5-189] was satisfied that requirement 8 provided adequate controls regarding ancient and veteran trees during construction but was concerned that it could allow felling during pre-commencement. ESC [REP4-117], [REP7-301] remained concerned regarding the powers to remove trees for safety reasons but TDC [REP7-303] was supportive of the ExA's proposed amendment to article 51 regarding felling and lopping of trees. SCC [REP6-141] provided commentary on the REAC and [REP6-237] on article 51, 52 and requirement 8. SCC [REP5-180], [REP6-237] considered that article 52 should be amended to prevent works to trees subject to a preservation order made after 19 September 2024 from being carried out without prior consent. Apart from minor dDCO changes proposed by SCC [REP7-313], trees were not an outstanding matter identified by ESC [REP7-198] or SCC [REP7-367].

3.14.219. The applicant [REP7-093], [REP7-095], [REP4-085], [REP4-086] assumed that there would be no loss of ancient or veteran trees or ancient woodland. It suggested that minor pruning of ancient and veteran trees might be required for access but ruled out significant impacts based on mitigation measures summarised in the REAC, which it suggested constrained the broader powers in article 51. The applicant [REP4-085] highlighted that tree surveys had not identified a need for felling of dangerous trees. The applicant provided information relating to generators at the substation site to demonstrate that air quality effects on ancient woodland would not be significant [REP6-102].

3.14.220. The REAC [REP7-359] summarises commitments made in the oLEMP, requirement 8 and the REAC including A05, A09, A10, A12, A13, A14, A16, A18 and LV02 in relation to ancient and veteran trees, A04 in relation to ancient woodland. Commitment GG08 of the oCEMP requires use of appropriate protective fencing in accordance with the relevant British Standard. REAC commitment A02 allows for the removal of dangerous trees that pose a safety hazard to infrastructure in construction and operation. The applicant amended the dDCO [REP7-002] to limit the power of removal in article 51, section 11, such that prior agreement was required from the relevant planning authority where such removal was deemed to be necessary for safety reasons.

3.14.221. The ExA examined effects on ancient and veteran trees and the wording of article 51 in ISH [EV6-003], [EV6-030], [EV9-016], written questions [PD-017], [PD-021], [PD-023], [PD-025] and in the ExA's schedule of changes to the dDCO [PD-024]. The ExA directed ExQ3ECOL5 [PD-023] to the Forestry Commission regarding impacts on RPA but did not receive a response.

ExA's findings

3.14.222. NPS EN-1 paragraph 5.4.53 explains that the Secretary of State should not grant development consent for any development that would result in the loss or deterioration of any ancient woodland, ancient and veteran trees unless there are wholly exceptional reasons and a suitable compensation strategy exists. The ExA is satisfied that the design of the proposed development avoids loss of such features. In addition, measures summarised in REAC [REP7-359] and dDCO article 51 include a pragmatic mechanism to prevent unnecessary removal but allow for removal if unavoidable for safety reasons.

3.14.223. The ExA has incorporated SCC [REP7-313] minor article 51 wording amendments in the rDCO. The ExA has considered ESC and SCC's concerns regarding the application of requirement 8 [REP6-237]. The ExA has recommended wording in requirement 5(3) of the rDCO to clarify that pre-commencement operations involving vegetation clearance must be carried out in accordance with the arboricultural method statement.

PROTECTION AND ENHANCEMENT OF HABITATS AND SPECIES

Phase 1 surveys

3.14.224. SEAS [RR-5210], [REP2-115] suggested extended phase 1 habitat surveys were out of date as initial surveys were undertaken in 2022-2023.

3.14.225. The ES [REP7-093] and [REP7-095] explains that ecological surveys have a 2 year lifespan. The applicant [REP2-014] explained that whilst initial surveys were from 2022-2023, more recent surveys were from 2023-2024 and are therefore up to date.

3.14.226. SCC [RR-5209], [REP1-130] was generally content with the suite of surveys and considered ecological survey reports to be of a good standard.

ExA's findings - Phase 1 surveys

3.14.227. The ExA is satisfied that, the applicant has provided representative and up to date survey data to inform the ES representing a continuum of activity over a period of years.

Breeding and wintering birds

3.14.228. IPs in Suffolk and Kent raised more representations on wintering and breeding birds than any other species. Representations including NE [RR-3920], the RSPB [RR-4651], [REP1-158], ESC [RR-1420], [REP1-128], KCC [AS-069] ,[REP1-129], TDC [REP1-132], SEAS [RR-5210], KWT [RR-2980], [AS-077], RSPB Thanet Group [RR-4652], SBBOT [RR-4789], [REP1-242], BWEK [RR-0584], SMM [RR-4892], [REP1-246], [REP4-144], CPRE [REP1-148], [RR-2835], [REP6-238], [RR-3589], [RR-5841] raised issues with errata in the surveys, the scope and methodology of surveys and whether certain species specific surveys should have been undertaken for particular species such as turtle dove, hen harrier and nightingale, curlew, little tern, golden plover and turnstone.

3.14.229. KWT [RR-2980], [AS-077], [REP1-152], KCC [AS-079], RSPB [REP1-157], [REP5-203], SMM [RR-4892], [REP1-246], SBBOT [RR-4789], ESC [RR-1420], [REP1-128] and others suggested that breeding and/ or wintering bird surveys were based on incomplete survey and data coverage, which could affect the understanding of significant effects. SEAS [REP1-273], [REP2-115] suggested Suffolk surveys were limited to pathways and therefore incomplete. SBBOT [REP1-242] suggested that the applicant had not used all of SBBOT's available data. However, ESC [REP7-301] considered that further survey would not change the assessment of significance. NE [REP5-199] was satisfied with the applicant's updates to the Suffolk Wintering Bird Survey Report [REP4-037].

3.14.230. The applicant [REP2-014], [REP2-027], [REP2-028], [REP2-029], [REP2-034] considered that it had provided extensive ornithology surveys (including two seasons of wintering bird survey, two seasons of breeding bird survey) and that coverage was appropriate to characterise the baseline (rather than being a census of bird interest in every field). The applicant also considered that it had taken account of relevant SBBOT data. [REP2-014] explained that surveys from footpaths

enabled good coverage. The applicant's thematic response to representations [REP2-024] provided responses to comments on individual bird species. It provided updated wintering and breeding bird surveys for Suffolk at DL7 [REP7-054].

3.14.231. SEAS [REP1-273], [REP5-146], [REP6-256F] considered that detailed surveys for nightjar and marsh harrier were required in Suffolk. ESC [REP1-128] considered that impacts on marsh harrier should be fully assessed. NE [REP6-251] acknowledged the potential for marsh harrier to be susceptible to noise but did not consider that marsh harrier would be adversely affected.

3.14.232. The applicant [REP1A-043], [REP2-014] explained that marsh harrier were only recorded feeding in the RSPB reserve wetlands, which would be crossed by trenchless methods and that there is a very large amount of alternative suitable land for feeding within the immediate area, even when accounting for other schemes. It considered that birds of prey would be at low risk of significant disturbance compared with nesting or roosting birds. The applicant [REP2-014], [REP2-024] and [REP7-257] noted that NE had not suggested a requirement for marsh harrier surveys and no other organisation (including NE or RSPB) had requested specific nightjar surveys. NE [REP5-199] agreed with the applicant's approach to assessment of bird interests at RSPB North Warren.

3.14.233. The ExA requested clarification about bird surveys [PD-006], [PD-008] and asked written questions about surveys [PD-017], [PD-021] and in hearings [EV3-002], [EV6-003], [EV6-033]. We [PD-021] asked SBBOT what additional bird survey data it considered the applicant should take into account but received no response.

ExA's findings - Breeding and wintering birds

3.14.234. NPS EN-1 requires consideration of migratory species such as birds and paragraph 5.4.17 requires that an ES clearly sets out effects on protected species and habitats and species identified as being of principal importance for the conservation of biodiversity. The ExA considers that two years wintering and breeding bird survey is normal practice and sufficient to characterise the baseline, noting that in both Suffolk and Kent there is considerable preexisting data on bird species to inform the assessments. The ExA accepts the applicant's reasoning and does not consider that other species-specific surveys are necessary to inform the assessment of effects.

Bats

IPs in Suffolk and Kent including NE [RR-3920], ESC [RR-1420], SEAS [RR-5210], KCC [REP1-129], Substation Action Save East Suffolk [RR-4887], Saxmundham Against Needless Destruction (SAND) [RR-4895], KWT [REP1-152], SMM [REP1-250], [RR-

2835] and [RR-5841] highlighted the potential for impacts on bats. IPs challenged the survey effort for bats and the proposed mitigation.

3.14.235. NE [REP5-215], [REP6-249], [REP7-364] remained concerned about impacts of lighting and disruption of key commuting routes for barbastelle bats and suggested the applicant contact its licensing team. NE [RR-3920] encouraged the applicant to contact NE about potential impacts on bat roosts, habitats and commuting, foraging and dispersal, suggesting that removal of hedgerows could disrupt key commuting routes.

3.14.236. ESC [REP1-128], [REP4-117], [REP5-189], [REP6-160], [REP7-049], [REP7-198], [REP7-260], argued that the applicant had not met the required bat survey effort level across the Suffolk order limits because it averaged survey effort values from different locations. It argued that survey deficiencies due to failed bat detectors should have been made up by additional months of survey and that during preconstruction, all survey locations should be revisited to give an accurate picture of bat activity. ESC welcomed inclusion of preconstruction roost surveys in the oLEMP but considered that it should apply to all locations not just where survey activity didn't average 5 nights.

3.14.237. SEAS [RR-5210], [REP1-273], [REP4-154], [REP5-146], [REP6-256F], [REP7-211], [REP7-370] considered that bat surveys were outdated, limited or inconclusive. SEAS highlighted presence of abundant barbastelle and Nathusius' pipistrelle, suggesting that their roosts should have been located and their vulnerability assessed. SEAS [REP6-256F] suggested that there was likely to be a barbastelle bat roost near Friston substation but the importance of hedgerows for dispersal had not been properly assessed. It considered measures such as alternative cable routes had not been properly assessed. SEAS considered that light, noise and loss of hedgerow continuity could affect foraging routes for multiple species. SEAS [REP1-273] noted that no light modelling had been provided. SEAS [REP6-256F], [REP7-211] and NE [REP6-249] that downgrading the bat assemblage from national to regional based on population size was not justified.

3.14.238. SEAS [REP4-154], [REP5-146], [REP6-256F], [REP7-370] suggested that radio tracking and tagging was required for barbastelle bat due to the presence of nursery roosts found during Sizewell C surveys, suggesting that temporary loss of hedgerows could significantly impact the conservation status of this Annex II bat species and result in national or international level significant effects. SEAS [REP6-256F] argued that BCT guidance supports this approach for NSIPs and that it had been done for other projects. ESC [REP6-160] suggested that without tracking and tagging it was not possible to tell which hedges were important for barbastelle bat. ESC [REP6-161]

supplied details of hedgerows that it considered provided potentially important connectivity for commuting bats.

3.14.239. SEAS [REP7-211] argued that the applicant had moved too quickly to mitigation rather than prioritising avoidance and reduction. ESC [REP7-049] argued for HDD of hedgerow crossing and considered that the applicant's proposed use of open cut rather than HDD for hedgerow crossings was programme rather than ecological driven. It was concerned with the feasibility of the applicant's proposal to mitigate every hedgerow crossing as though the hedgerow was important for bats [REP4-117]. SCC [REP6-182] also preferred HDD. SCC [REP1-130] welcomed the applicant's innovative bat mitigation but considered that it required monitoring. SEAS [REP6-256F] suggested that mitigation by 10m hedge gap closure was not evidence based. SCC suggested that winter lighting should be installed under supervision of an ECoW to avoid impacts on bats.

3.14.240. The applicant [REP2-014], [REP2-027] noted that 339.5 nights of static detector data had been collected in Suffolk. It referred to the Bat Survey Guidelines 2023 requirement for a 'representative sample' and did not consider that additional characterisation (by tracking or tagging) was required because it had detected at least 9 species (including barbastelle bat) and graded the habitat value accordingly. The applicant [REP2-027] used additional survey effort and extended survey periods where localised equipment failure had occurred. It noted that failures of detectors generally resulted in shorter monitoring periods rather than no monitoring.

3.14.241. The applicant [REP2-014], [REP2-027] emphasised that all hedgerows were being treated as important and therefore no further bat mitigation would be identified or needed. It stated that all measures were deemed technically achievable and were deployed on other projects. The applicant [REP2-014] suggested that recent evidence supported 10m crossing gaps, although that evidence was not submitted into the examination. The applicant [REP7-049] argued that using trenchless crossings for hedgerows would require additional land take and compounds, additional vehicle movements, additional lighting, a larger permanent easement and a longer programme with increased likelihood of night working. It stated that the contractor would identify additional measures to further reduce hedgerow crossing removal widths during detailed design. The applicant [REP2-014] noted that its proposed mitigation method had been suggested by local authorities and used on other projects. The applicant also noted that even if the value of the assemblage were national, this would not alter the assessment of effects, conclusions or mitigation. It included a commitment to monitor bats using hedgerow crossings in the Suffolk oLEMP [REP7-140]. The applicant (tab A - Suffolk onshore [REP7-258]) provided information and summarised mitigation measures in

the REAC [REP7-359] and oCEMP [REP7-129] to rule out impacts from lighting. The applicant [REP2-014] and [REP7-258] responded to NE's concerns and explained that a licence was not required for hedgerow crossings.

3.14.242. The ES [REP7-093] addresses the potential impact on barbastelle bats in Bloomfield Covert to the south of the proposed Saxmundham converter station, explaining that flight paths are more likely to be to the south and west and that impacts would be minimised by offsetting construction compounds from the hedge used by barbastelle and minimising the hedgerow gap for the site access (also using an existing gap). The applicant [REP7-258] noted the strengthening of habitat for barbastelle bat during operation.

3.14.243. KWT [REP1-152] and CPRE [REP1A-044] challenged the survey effort for bats. SMM [REP1-250] highlighted a diverse and active bat population at Minster Marshes and effects including habitat fragmentation, incursion into RPA, lighting and noise disturbance and loss of primary production. SMM suggested that this would affect habitat continuity for bats and the broader marshland ecosystem. SMM [REP1-246] suggested that mitigation for noise and lighting was required. CPRE [RR-1070] suggested that OHL posed a significant collision risk for bats using the Minster converter station site. It highlighted the impact of light pollution and the possibility of using motion sensitive lighting if needed. IPs including [REP1-213] also highlighted night time lighting issues. KCC [REP1-129] considered that no further information on bats was required. KWT [REP6-169] highlighted that barbastelle bat had never been recorded in the survey area before and this might indicate an unknown population. It considered that advanced survey techniques such as tagging and radio tracking should have been used to identify roost locations and to avoid impacts on key commuting/ foraging routes.

3.14.244. The applicant [REP7-257] noted that barbastelle bat could not be positively confirmed and suggested that barbastelle bat surveys were not essential. It highlighted that neither the local planning authorities nor NE had requested additional surveys. The applicant [REP2-014], [REP2-022], [REP2-024] suggested that there was no evidence that OHL pose a significant collision risk and this issue had not been raised by NE or the local planning authorities. It considered that there would be little need for operational lighting except for security and task lighting and that this would be designed in accordance with BCT and ILP guidelines. In the long term the applicant identified a considerable net increase in hedgerows.

ExA's findings - Bats

3.14.245. The ExA is satisfied that bat surveys in Suffolk provide sufficient information to characterise the bat interest within the order limits. Whilst some equipment failures

have arisen, this has not prevented detection of 9 species (including barbastelle) and has led to the adoption of precautionary working methods summarised in the REAC and the Suffolk oLEMP secured by requirements 5 and 6 of the dDCO [REP7-002]. The oLEMP [REP7-140] also provides for additional preconstruction surveys to account for perceived survey deficiencies as well as annual monitoring surveys. NPS EN-1 paragraph 4.3.10 emphasises that assessments should be proportionate. The ExA considers that ESC's suggestion of a complete resurvey at all locations would not be proportionate in light of the information already obtained and does not consider this to be necessary. The ExA considers that radio tagging or tracking of bats would have assisted understanding of barbastelle bat movements but is satisfied that the applicant has not identified any roosts to be felled. The ExA accepts that effects on commuting would be temporary and that all hedgerows have been treated as important for commuting and therefore effects have been mitigated accordingly.

3.14.246. The ExA is persuaded that HDD for hedgerow crossings has potential to be more disruptive in terms of noise and lighting than temporary removal of hedgerows. The ExA considers that the applicant has identified suitable mitigation measures to avoid significant effects on bats.

3.14.247. The ExA is satisfied that bat surveys in Kent provide sufficient information to characterise the bat interest within the order limits and that mitigation in respect of noise and lighting is included in the oLEMP [REP7-141]. No substantive evidence was provided to suggest that bat collision with OHL was a likely risk.

3.14.248. In operation, the ExA notes that requirement 3 of the dDCO [REP7-002] secures approval of lighting details by the relevant planning authority, which ensures that lighting effects would be minimised.

3.14.249. The ExA does not agree that population size should be used to reduce the valuation of the bat assemblages in Suffolk and Kent as the value relates to the species present but accepts that the valuation would not ultimately affect the assessment of significant effects or the approach to mitigation.

Dormouse

3.14.250. IPs in Suffolk and Kent including NE [RR-3920], ESC [RR-1420], [REP1-128], CPRE [RR-1070], [REP3-082] SEAS [RR-5210], SAND [RR-4895], and [RR-2835] highlighted the potential for effects on dormice and identified issues with the applicant's approach to surveys and assessment of effects.

3.14.251. NE [RR-3920] highlighted that hedge removal could impact on dormice in Suffolk. SEAS [RR-5210], [REP1-273], [REP2-115] considered that dormouse surveys were

inconclusive, required further work and disagreed with the applicant's assumption of absence. It considered that the applicant's proposed solution of adopting precautionary working methods during construction could lead to unintentional killing and injury of dormice. ESC [REP1-128], [REP4-117], [REP7-049] suggested that survey effort for hazel dormouse in Zone D did not meet the level of effort set out in best practice guidance. It also disagreed with the applicant's conclusion that there would be a significant beneficial effect on dormice due to habitat creation if they were absent from the order limits. ESC [REP7-049] considered that hazel dormouse surveys should inform preparation of the LEMP. ESC [REP1-128] highlighted that the potential presence of a hazel dormouse nest would be significant having not previously been reported in this location. SCC [REP1-130] suggested that dormouse in this location would be noteworthy. NE [REP4-196] supported the need for preconstruction surveys in zone D.

3.14.252. The applicant [REP2-024], [REP2-027] highlighted that no previous dormice records had been found in this part of Suffolk, despite extensive survey work on other infrastructure projects. Given the one ambiguous record in its 600 tubes, it considered a precautionary working method to be appropriate. The oCEMP [REP7-129] commitments B14 and B78 set out the precautionary working method. It explained that in most cases the minimum survey effort was exceeded and that scores were reduced in Zone D due to the landowner/ occupier flailing tubes, reducing the count. It considered that the slight increase in survey effort would have been unlikely to clarify the ambiguity regarding the nest. It considered that its conclusion of a significant beneficial effect was justified based on the extent of proposed habitat creation for dormice. If dormice were identified in surveys, it considered that hedge gap closing methods and animex bridges set out in the oLEMP [REP7-140] would provide effective mitigation, consistent with guidance in the Dormouse Mitigation Handbook.

3.14.253. CPRE [RR-1070], [REP1A-044], [REP3-082] questioned the dormouse survey approach and setting out of survey tubes in Kent, arguing that dormice should be present on a large site with good connectivity. It suggested that a competent surveyor should have been able to determine whether a nest was used by dormice in the majority of encounters. KWT [AS-077] suggested that additional dormice surveys were required.

3.14.254. The applicant [REP2-022], [REP2-024], [REP2-034] explained that there were no existing records of dormice for the site in Kent and it had exceeded the required survey effort. Damaged tubes were replaced or taken into account in the survey effort scoring. As in Suffolk, due to the ambiguous survey result and anecdotal landowner records, it had adopted precautionary working methods (oCEMP

commitment B75). The applicant considered that there would be a significant increase in habitat suitable for dormice. KCC [REP3-091] was satisfied with the proposed precautionary working method.

3.14.255. The ExA sought clarification regarding dormice surveys in pre-examination [PD-006], in ISH [EV6-014] and in written questions [PD-017], [PD-021], [PD-023], [PD-025].

ExA's findings - Dormouse

3.14.256. The ExA is satisfied that, given the single, ambiguous record of dormice in the Suffolk surveys and the acknowledged absence of dormice in this area, the baseline surveys are sufficient for the purposes of the assessment and decision making. In the unlikely event that dormice were present, the ExA considers that the proposed preconstruction surveys and precautionary working methods included in the oLEMP, oCEMP and any licencing requirements would be sufficient to avoid significant effects. Based on the responses provided by the applicant, the ExA is also satisfied with the assessments provided in Kent.

3.14.257. The ExA acknowledges that habitat would be improved for dormice but due to their presumed absence from the study area agrees with ESC that the actual benefit would be negligible rather than significant beneficial. The ExA considers that this applies to conclusions for Kent as well.

Riparian mammals

3.14.258. IPs in Suffolk and Kent including SMM [RR-4892], TDC [REP1-132], KCC [AS-069], [REP1-129], KWT [RR-2980], [REP1-152], [RR-2835], [RR-4316] and [RR-4892], highlighted the potential for impacts on riparian mammals including breeding populations of otter, beaver and water vole due to construction works, culverting and loss of habitat.

3.14.259. SMM [REP1-246], [REP2-103], [REP6-214], [REP7-210] highlighted the potential for impacts on otter and beaver using the River Stour and the ditch network in 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.

3.14.260. The applicant [REP6-108], [REP7-257] explained that the presence of beaver on the Stour had been established in its riparian mammal surveys. It acknowledged that the proposed bridge could interact with the lodge identified by SMM if it was still present at the proposed time of installation in 2028 but suggested that the bridge alignment would be moved within the order limits or a licence obtained from NE to

dismantle a lodge if necessary. The ES [REP7-095] conclusions were not amended to account for potential impacts on the beaver lodge as a worst case.

3.14.261. KWT [RR-2980], [REP1-152] suggested that the risk of otter and beaver at crossing points and impact of habitat fragmentation by culverts had been underplayed. The applicant [REP2-014], [REP2-002] explained that culvert designs would make provision for riparian mammals.

3.14.262. KWT [RR-2980], KWT [REP1-152] considered that the assumption that attenuation ponds and scrapes would replace functional riparian corridor was unsupported and would not compensate for functional loss of linear riparian corridors. It considered mitigation to be inadequate.

3.14.263. KWT [RR-2980] suggested that the loss of 365m of ditch for breeding and foraging water vole, could lead to local population collapse. KCC [REP1-129] and TDC [REP1-132] considered that water vole mitigation should account for American mink, including control plans. KCC suggested that water depths in attenuation ponds needed to be optimised for water vole.

3.14.264. The applicant [REP2-014] suggested that avoidance of the ditch through HDD had been considered but was considered impractical due to a high water table, and the extended duration of works including due to the size of compounds needed. It considered that displacement was a standard measure for short stretches of ditch. The applicant [REP2-014] suggested that the ponds would provide considerable additional habitat for water vole burrowing. The applicant [REP2-028], [REP2-029] suggested that there was no record of mink in the location of the attenuation ponds and that habitat was likely to be suboptimal for mink since they already co-existed with water voles and there was only one record in surveys. It considered that it was primarily the responsibility of landowners to control invasive species on their land. Commitment B47 of the oCEMP [REP7-359] sets out seasonal timings in relation to vegetation clearance for water vole.

3.14.265. The applicant [REP2-028] considered that water depths could be managed to a height to support water vole populations and that specific depths could be agreed through the detailed LEMP preparation. It noted that there would be connection between the local ditch network and the attenuation ponds. [REP2-014] highlighted that the proposed attenuation ponds would create considerable additional habitat for water vole burrowing.

3.14.266. Riparian mammal issues were agreed in the unsigned KCC SoCG [REP7-021] 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] and ESC [REP7-301] PADSS.

3.14.267. The ExA examined impacts on riparian mammals in hearings [EV9-016], [EV9-018] and in written questions [PD-017], [PD-023].

ExA's findings - Riparian mammals

3.14.268. The ExA notes the concerns raised by SMM, KWT and others but considers that the applicant has provided sufficient survey information to support the assessment of effects on riparian mammals and identify relevant mitigation measures. The ExA is generally satisfied with the applicant's assessment of effects on riparian mammals. It was not an outstanding issue identified by relevant local authorities.

3.14.269. The ExA considers in the worst case, removal of a beaver lodge could be required in future. On a precautionary basis, the ExA considers that this could be a licensable activity and could constitute a significant adverse effect on beaver habitat.

Fish including eels

3.14.270. IPs including KCC [REP1-129], Dover and Deal Liberal Democrats [RR-1381], Westgate and Garlinge Against Housing Development on Farmland [RR-5622], SMM [RR-4892], [REP5-167], [REP6-148], CPRE [REP1A-044] and others [RR-1777], [RR-1978], [REP1-213] raised the potential for works affecting watercourses to impact European eels in Minster Marshes, with many highlighting the significant decline in UK eel populations. CPRE [RR-1070] suggested that design for 4 permanent culverts in Minster Marshes failed to allow for eel passage and highlighted mitigation required for eel migrations. SMM [REP5-167] considered that there was a failure to assess effects on eels.

3.14.271. The ES [REP7-095] notes that under the Eel Regulations 2009 it is an offence to impede eel. It suggests that the short duration of culvert installation would be unlikely to impact migratory species. The applicant [REP2-014], [REP2-016] highlighted that it had undertaken fish surveys. The applicant [REP2-022] justified its selected culvert design and explained why open bottom and three sided culverts were not feasible. [REP2-024] explained the measures included in the oCEMP [REP7-129] to avoid impacts on eels.

3.14.272. The EA [RR-1586] raised issues with the applicant's approach to assessing effects on species including eels, sea trout and lamprey in both Suffolk and Kent but subsequently had no outstanding issues [REP7-199]. KCC [REP5-195] declined to comment on eels.

3.14.273. No outstanding matters relating to freshwater fish were identified in the KCC unsigned SoCG [REP7-021], TDC [REP7-214], EA [REP7-362], SMM [REP7-210] or ESC [REP7-198] summary statements or the TDC [REP7-303], SCC [REP7-302] and ESC [REP7-301] PADSS.

ExA's findings - Fish including eels

3.14.274. The ExA is satisfied that the assessment of effects on fish is sufficient for the purposes of decision making and that the application includes appropriate mitigation measures in respect of fish (including eel), which would ultimately be controlled through requirement 6 of the dDCO [REP7-002]. Effects on marine fish and shellfish are addressed in section 3.7 of this report.

Reptiles (excluding issues relating to former hoverport access)

3.14.275. IPs including EA1N [RR-1415], SMM [RR-4892], ESC [REP1-128], KCC [RR-4892], [REP1-129], and [RR-0273], [RR-2566], [RR-4038], [RR-5530], [RR-5843], [RR-0625] identified the potential for impacts on reptiles with some representations suggesting that reptile surveys were deficient.

3.14.276. SEAS [RR-5210], [REP1-273] and [REP2-115] suggested refugia were undersized for surveys reducing detection rate and suggested that the applicant's explanation regarding commercial availability was weak. It suggested that the applicant had failed to assess areas of habitat likely to support reptiles and that hibernacula should have been surveyed. SEAS considered that mitigation by displacement was unproven. SEAS [REP2-115] suggested that reptiles would be displaced to acid grassland, which is already likely to have reptiles present and could lead to over-population, stress and death. It argued for a full translocation to suitable habitat.

3.14.277. The applicant [REP2-024] explained its approach to reptile surveys and assessments in Suffolk and Kent. The applicant [REP2-014] provided justification for its survey tile size and noted that as reptiles were identified, the tiles were effective. It explained that the proposed displacement technique is frequently used and referenced in guidance. It noted that hibernacula are never normally specifically surveyed.

3.14.278. The SoCG with ESC [REP7-049] and SCC [REP7-354] did not identify any outstanding issues regarding reptiles and ESC [REP1-128] did not disagree with the assessment, subject to mitigation being included in the oLEMP [REP7-140].

3.14.279. KCC [AS-069], [REP1-129] identified potential issues with the approach to reptile impact assessments and approaches to mitigation in the surveyed areas, including the supervision of works. It was concerned whether adjacent receptor habitat would be suitable or have capacity for displaced reptiles. KCC noted that there was

an exceptional population of slow worm between the River Stour and the railway. KCC [REP3-091] noted that survey area C, located between River Stour and the railway line in land parcel 244 in Kent supported 3 native reptile species, qualifying it for inclusion in the key reptile site register and of local conservation importance. In response to ExQ1ECOL16, KCC [REP3-091] identified additional measures and information to be included in the oLEMP and oCEMP relating to reptile mitigation for survey areas C and D. SMM [RR-4892] considered that surveys failed to address the importance of protected species like reptiles.

3.14.280. The applicant [REP2-028], [REP7-141] explained that habitat creation areas not required for construction would be suitable for advance planting and habitat enhancement. The applicant suggested that as new habitat it would have capacity and suitability. It signposted to the role of the ECoW for supervision, post construction monitoring and adaptive management of newly created or restored habitats in the oLEMP [REP7-141]. The oLEMP reports that KCC requested that final details of reptile measures to be added to the LEMP post determination. The oLEMP also makes provision for reptile survey of displacement habitats. The unsigned KCC SoCG [REP7-021] suggested that additional information had been supplied in the updated ES chapter [REP7-095] and Kent oLEMP [REP7-141] that addressed KCC's concerns.

ExA's findings - Reptiles (excluding issues relating to former hoverport access)

3.14.281. Based on the information set out above, the ExA is satisfied with the applicant's assessment and surveys for reptiles. The ExA considers that if the additional measures required by KCC [REP3-091] have not been fully addressed in the oCEMP and oLEMP, the approval mechanism for these documents provides an appropriate means to ensure that relevant controls are included. However, in light of KCC comments regarding supervision by an ECoW, see discussion below regarding the definition of the ECoW role.

Ecological clerk of works

3.14.282. 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 EnvCoW is defined in the oOCEMP [REP7-127] as being supported *"*as necessary by appropriate specialists*"*. The oLEMPs included an EnvCoW responsible for environmental mitigation measures but also referred to *"*an Ecological Clerk of Works (ECoW) or equivalent term, will be appointed*"*. The ECoW is 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].

3.14.283. No explanation was provided for the change and the ExA was concerned that an EnvCoW might not have the requisite skillset relating to ecological matters. The ExA [PD-023] requested comment on the implications of the change.

3.14.284. ESC [REP6-261] considered that an EnvCoW might not be suitably qualified to oversee actions summarised in the REAC [REP7-359] and that ecology measures should be overseen by an ECoW. KCC [REP6-265] suggested that the REAC include a description of the ECoW/ EnvCoW to ensure no confusion of roles. National Trust [REP6-269] requested clarity on how the roles would interact. SCC [REP6-276] was satisfied that anyone appointed as EnvCoW would be suitably qualified and experienced in ecology and environmental matters. It [REP1-130] considered that an ECoW was critical for delivery of BNG.

3.14.285. The applicant [REP6-111] acknowledged that the skillsets of an ECoW and an EnvCoW would be different suggesting that an EnvCoW would have a broader understanding and knowledge of impacts. It noted that provision GM06 of the oOCEMP included reference to supervision of works in Pegwell Bay by both an experienced Environmental Manager and an ECoW. However, the final oOCEMP [REP7-127] only referenced an EnvCoW. The oCEMP [REP7-129] replaced references to ECoW with EnvCoW (except in measure GG44 relating to National Trust land).

ExA's findings - Ecological clerk of works

3.14.286. The ExA considers that the late replacement of the term ECoW with EnvCoW creates uncertainty regarding the management of ecological works. The ExA is 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 does 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 NPS EN-1 paragraph 5.4.35, the ExA recommends 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.

Acid grassland

3.14.287. NE [REP1-154], [REP2-058], [REP3-116], [REP3-120], [REP4-193], [REP6-242], [REP6-248], [REP7-276], [REP7-277] considered that impacts on acid grassland in Suffolk were not clearly assessed and requested more detail on the proposed 6ha acid grassland enhancement area and temporary acid grassland loss, including works at Aldeburgh golf club. It considered that use of HDD to avoid acid grassland should

have been considered in line with the mitigation hierarchy. NE [RR-3920], [REP1-154] was concerned about the applicant's ability to reinstate acid grassland and sought more information on habitat recoverability. NE [REP2-058], [REP3-116], [REP4-196], [REP6-241], [REP7-277] suggested that information on soil fertility and pH for the proposed acid grassland enhancement site near Aldeburgh was required pre-consent to provide certainty that the required mitigation/ compensation was feasible in the assessed timeframe. NE also sought a contingency plan in the event that acid grassland reinstatement failed or was not restored in the assessed time frames. It suggested that this could be included in the REAC [REP7-359]. NE [REP6-242] disagreed with the applicant's assumed area of acid grassland priority habitat, advising that undermanaged or inappropriately managed acid grassland was still a priority habitat. It [REP6-250], [REP7-277] considered that the quantum of acid grassland affected was 7.5ha. This was identified as an area of disagreement in the risk and issue log [REP7-364]. NE [REP7-364] requested a clear management plan for the 6ha area of acid grassland enhancement, noting that existing habitat of biodiversity value should not be deleteriously impacted. This remained a red risk in the risk and issue log at DL7. NE [REP6-248] questioned the 10 year commitment to enhancement (rather than a longer period).

3.14.288. SEAS [REP1-273], [REP2-115], [REP4-154], [REP7-370] expressed concern regarding acid grassland loss and habitat fragmentation, suggesting that restoration proposals were vague. SEAS [REP4-154] questioned the reduction in area of proposed acid grassland from 12 ha to 6ha (due to the removal of 6ha of acid grassland creation during examination). SEAS [REP4-154], [REP5-205], [REP7-370] questioned the suitability of the habitat enhancement area due to the proximity of pig farming and queried the applicant's confidence in its proposed measure. It also queried the applicant's assumption that 0.3 ha of the acid grassland was priority habitat.

3.14.289. RSPB [REP1-158] considered that some fields identified by the applicant as improved grassland should be considered to be acid grassland. It welcomed the proposals to mitigate for temporary loss of acid grassland and was supportive of the approaches set out in the oLEMP [REP7-140].

3.14.290. SCC [REP1-130] considered that the acid grassland enhancement area should be maintained in perpetuity, suggesting full establishment would take 5 years. ESC [REP3-085], [REP5-189] was satisfied with the applicant's approach to dealing with acid grassland.

3.14.291. The applicant's updated Suffolk ES [REP7-093] and HRA [REP7-119] acknowledged that the extent of acid grassland was larger than initially stated but maintained that most of the grassland is degraded, with only 0.3ha qualifying as priority habitat. The

applicant [REP7-257] highlighted that there was approximately 443ha of acid grassland within the National Landscape therefore the temporary loss equated to less than 2% of the total area.

3.14.292. The applicant [REP2-026], [REP3-064] explained that the proposed 10 years' acid grassland enhancement would be mitigation for temporary effects and could start in advance of works. It considered that a closed sward would be present after 1-2 growing seasons in areas of open cut trenching and the HDD compound area would be restored in advance of 10 years. It [REP7-257] considered that trenchless methods were not appropriate for this location, would require more land take, a wider easement, and would prolong works adjacent to Sandlings SPA and LA SSSI with their nesting and wintering bird interests. It considered that this was not desirable in light of the degraded or semi-improved nature of the vast majority of the acid grassland and the short duration of works (several months).

3.14.293. The REAC [REP7-359] includes commitment B28 and the oLEMP [REP7-129] includes measures B24, B28, AS12 relating to acid grassland. The applicant [REP7-257] explained that the oLEMP [REP7-140], makes provision for pH testing, acid grassland enhancement and reinstatement and enhancement of opportunities for pre-existing wildlife. It suggested that the presence of relict acid grassland species in the enhancement area means that it would be possible to improve the sward. The applicant [REP7-257] highlighted that the pig farm is at least 200m to the north but that it periodically rotates pig farming with high value crops in the field to the north of the grassland enhancement area. It suggested that parts of the grassland are at higher elevation and have a low likelihood of significant runoff. The applicant considered that there is opportunity to remove invasive bracken and gorse to enhance the site. The applicant suggested that pH testing and soil analysis was unnecessary, since acid grassland species are present and the area is therefore able to support such species. The oLEMP [REP7-140] also sets out monitoring and adaptive management proposals.

ExA's findings - Acid grassland

3.14.294. NPS EN-1 paragraph 5.4.44 states that any habitat enhancement delivered should generally be maintained for a minimum period of 30 years. However, the ExA accepts that in this case, for temporary losses, a 10 year enhancement of acid grassland is reasonable. The ExA notes a discrepancy between the ES [REP7-093] and the HRA [REP7-119] which refer to 7.6ha and 7.5ha of acid grassland loss respectively. The ExA does not consider that this is a material issue for the conclusions of the assessment.

3.14.295. The ExA has considered whether trenchless techniques, such as HDD, should be used to avoid impacts on acid grassland but is of the view that the longer duration of trenchless works and the need to have additional HDD compounds has potential to result in additional impacts on protected species and habitats and an extended duration of construction compared with the proposed open cut trenching approach. On this basis the ExA considers that temporary open cut trenching is preferable to minimise effects.

3.14.296. The ExA had initial concerns regarding the proposed acid grassland enhancement area given its proximity to pig farming but is satisfied that the applicant has identified measures that would serve to enhance the existing degraded habitat. The ExA notes that relict grassland has persisted at the site in spite of adjacent land uses and accepts that the risk of significant runoff is low due to topography. The ExA is satisfied that the proposed mitigation measures in the REAC, oCEMP and oLEMP address NE's concerns relating to the management of acid grassland.

Ecological compensation

3.14.297. ESC [REP7-301], [REP7-197] considered that the applicant had not engaged with it regarding the subject of community mitigation funds. It considered an ecological mitigation fund was necessary to mitigate ecological impacts of the project, including support to farmland birds, establishment of habitats to support species including bats, hedgehogs and reptiles and enhancement of existing landscapes for biodiversity. ESC referenced NPS EN-1 paragraph 5.4.36 to support its case. ESC also considered that paragraph 5.4.36 of NPS EN-1 supported the need for ecological mitigation and legacy funds to mitigate residual ecological impacts of the project.

3.14.298. Due to the submission being at the final examination DL, the applicant was unable to respond to these comments. However, the applicant's DL7 submissions included [REP7-353], a UU in relation to the River Fromus Bridge. This comprised a conditional payment to the EA at the direction of ESC of up to £100,000, in respect of macro-invertebrate mitigation. The criteria to be met would be set out in the Fromus Macro Invertebrate Monitoring and Contingency plan secured by dDCO [REP7-002] requirement 3(3)(d) and (e) and subject to approval by ESC.

3.14.299. The applicant [REP7-192] argued that the mitigation hierarchy did not require compensation for every unmitigated or partially mitigated effect and that its compensation included measures such as provision of arable land for farmland birds in Suffolk and Kent, acid grassland enhancement and habitat creation.

ExA's findings - Ecological compensation

3.14.300. NPS EN-1 paragraph 5.4.35 requires provision of appropriate avoidance, mitigation, compensation and enhancement measures. The ExA considers that the applicant has demonstrated avoidance through measures such as trenchless crossings, provided extensive ecological mitigation and compensation in the form of habitat creation and proposes enhancement through BNG. The ExA therefore does not consider that ESC's DL7 request for additional ecological mitigation and legacy funds is justified.

3.14.301. The ExA notes that the timing of the submission means that ESC has not had a full opportunity to comment on the terms of the UU. ESC [REP7-198] expressed a preference for a mutually agreed s106.

3.14.302. The ExA considers that the River Fromus UU has potential to contribute to mitigation of effects on macro-invertebrates, should they arise. The ExA considers that the UU generally meets the requirements of paragraph 4.1.18 of NPS EN-1 for obligations. However, the ExA has no evidence before it regarding the whether the sums are fairly and reasonably related in scale and kind. The ExA assumes that the applicant has based the proposed sums on works it considers could be required and is therefore proportionate. The ExA recommends that the Secretary of State accepts the UU.

ExA's overall findings - protection and enhancement of habitats and species

3.14.303. NPS EN-1 paragraph 5.4.17 requires an ES to clearly set out effects on protected species and habitats or other species identified as being of principal importance for conservation of biodiversity including irreplaceable habitats.

3.14.304. The ExA is satisfied that the applicant's responses to representations demonstrate that it has provided sufficient assessment including baseline survey information, for relevant species and habitats for the purpose of decision making. In addition, the ExA considers that the proposed update surveys included in the oCEMP and the oLEMPs provide additional comfort that the applicant's construction approach would be based on up to date information regarding species presence or absence.

BIODIVERSITY NET GAIN

3.14.305. Over 30 RR and other representations referred to BNG including Offshore4sure [RR-6036], Kelsale & Yoxford Ward [RR-2962], NE [RR-3920], DDC [REP1-127], ESC [REP1-128], KCC [REP1-129], SCC [REP1-130], TDC [REP1-132], RSPB [REP1-158], RSPB Thanet Group [RR-4652], Saxmundham Town Council [RR-4896], KWT [RR-2980], SEAS [RR-5210], [REP1-273], [REP2-115], CPRE [REP4-108], [REP7-193], SMM

[REP3A-171], and [REP1-226] and [REP1-213]. IPs welcomed the applicant's stated commitment to 10% net gain outlined in the biodiversity net gain feasibility report [APP-297] but wanted binding BNG targets to be written into the DCO, with local delivery via trusted partners to ensure meaningful implementation and enforcement. SEAS [REP2-115] emphasised the scale of habitat loss and BNG required. Kent IPs suggested that BNG was inadequate to replace lost habitats and wetland complexity in Minster Marshes.

3.14.306. Representations including SEAS [RR-5210], [REP2-115] and KWT [RR-2980] identified errata and discrepancies in calculations. KCC [REP1-129] queried the absence of BNG calculations in the application but did not make further comment on the biodiversity metric calculations submitted at DL1A. The applicant provided an updated BNG feasibility study [REP1A-025], and biodiversity metric calculations ([REP1A-040] to [REP1A-042]) during examination, which addressed errata raised during examination.

3.14.307. KWT [REP1-152] and RSPB [REP1-158] suggested that the parameter line underestimated the extent of habitats that should be subject to BNG. They disagreed with the applicant's position that the parameter line and BNG metric should exclude temporary habitat loss based on the linear nature of the project and its assumption that habitats would rapidly recover. KWT [REP1-152] considered that there was no mechanism to rerun the assessment in the event of further damage occurring.

3.14.308. EA [RR-1586], SCC [REP2-062] and KWT [RR-2980] considered that intertidal habitats should have been included in the calculations. SCC considered that watercourse habitat should have been assessed using mandatory river condition assessment. However, NE [RR-3920] was satisfied with the parameter line approach.

3.14.309. NE [RR-3920] noted that the applicant had not used interim guidance for BNG or the emerging Local Nature Recovery Strategy (LNRS). It considered that separate accounting lines were required to differentiate between BNG and habitat creation/ enhancement to count towards no net loss. TDC [REP1-132] sought alignment with the LNRS. KCC [REP1-129] queried the implications of BNG trading rules.

3.14.310. The applicant [REP2-014], [REP2-034], [REP3-064] considered the exclusion of certain habitats from the parameter line and metric to be consistent with guidance. For example, it suggested that there would be no impact on intertidal habitats greater than 2 years duration and therefore intertidal habitats did not need to be included in the BNG parameter line. [REP3-064] explained that river condition had been assessed.

3.14.311. The applicant [REP2-034], [REP5-135], [REP6-106] did not consider that it was necessary to update the BNG calculations to take account of the LNRS or changes to the order limits arising from the change application until the detailed design stage. [REP3-069] explained the implications of the LNRS for strategic significance and the calculation of biodiversity unit values and reiterated that the LNRS would be factored into detailed design stage reporting. In respect of accounting lines, the applicant [REP2-014] explained that it had followed the statutory biodiversity metric guidance and this did not override any existing protections, legal or policy requirements. The applicant [REP6-106] explained that accounting for trading rules would not increase the units required to be delivered for the proposed development.

3.14.312. KWT [REP1-152] considered that the lack of a stand-alone biodiversity management strategy (BMS) fell short of policy requirements. The applicant [REP7-093], [REP7-095] explained that although it had not produced a standalone BMS, this was provided in various control documents including the oLEMP, oCEMP and REAC.

3.14.313. SCC [REP6-182], [REP7-367] wished to understand how offsite credits would be delivered and emphasised that these should be in Suffolk, close to the order limits. KCC [REP1-129] also queried where BNG would be provided. ESC [REP1-128], SCC [REP1-130] and NE [REP7-364] highlighted the need to enter into a legal agreement or requirement to secure BNG commitments. TDC [REP7-185] suggested requirement wording but otherwise had no further BNG comments [REP6-186]. DDC [REP1-127], [REP7-300] was concerned about the BNG responsibilities and that there was no monitoring fee in respect of BNG. RSPB [REP1-158] argued for separate Kent and Suffolk BNG commitments.

3.14.314. The applicant [REP1A-025], REP4-085], [REP4-086], [REP7-259] clarified that BNG would be secured and delivered either offsite or onsite. It suggested that 10% would be delivered in Suffolk and Kent [REP2-034]. However, [REP6-107] explained that detailed proposals were subject to commercial negotiations and the applicant was therefore unable to share further details at this stage. The applicant provided 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]. Submission of the UU at DL7 did not allow time for IPs to comment on the UU during the examination period. However, the applicant [REP7 352] suggested it had shared the draft heads of terms and made minor changes in response to local authority comments. The UU references an overall 10% net gain across the order land. It refers to payment of monitoring fees to each local authority responsible for monitoring of the delivery of the BNG offsetting scheme.

3.14.315. ESC's closing statement [REP7-198], final PADSS [REP7-301] and [REP7-308] objected to the use of a UU rather than a bilateral s106, since this tied the local authority to the structure and legal consequences of the UU without specific agreement of performance standards, methodologies, controls or enforcement. ESC [REP7-176] suggested the approach was inconsistent with previous NSIPs.

3.14.316. The ExA sought additional information from the applicant during ISH [EV3-002], [EV6-012] and in written questions [PD-017], [PD-021]. The ExA explored whether there were potential opportunities to achieve BNG locally, such as works on the River Fromus at Saxmundham, clearing INNS at the former hoverport or addressing impacts from Nemo Link works in Pegwell Bay [EV3-006], [EV6-012], [EV9-017], [PD-017], [PD-021].

3.14.317. TDC [REP1A-060] suggested additional local BNG measures. KWT supported the idea of INNS clearance in Pegwell Bay as a BNG measure. RSPB [REP1-158] sought early implementation of ambitious landscape scale BNG with measures to support farmland birds like turtle dove. CPRE [REP4-108] supported measures relating to Nemo Link.

3.14.318. The applicant [REP2-034], [REP5-135] and the EA [REP5-192] did not support the suggested measures and neither NE [REP4-196] nor KWT [REP3-092] considered that impacts arising from Nemo Link were an appropriate BNG option as remediation for that project was still under review. The applicant [REP3-069] confirmed that INNS would be managed but only in the works area under commitment B04 (oCEMP [REP7-129]), a measure that NE [REP3-117] was satisfied with.

ExA's findings

3.14.319. NPS EN-1, NPS EN-3 and NPS EN-5 encourage applicants to consider and contribute to BNG where possible. Consistent with NPS EN-1 paragraphs 4.6.6 and 4.6.15, the applicant has committed to 10% BNG. As set out in paragraph 4.6.7 of NPS EN-1, the applicant has provided BNG calculations based on the statutory biodiversity metric (v1.0.4). The BNG feasibility report explains how it took account of the mitigation hierarchy prior to applying net gain consistent with NPS EN-1 paragraph 4.6.10 and NPS EN-5 paragraph 2.14.2. The ExA is satisfied that the applicant's proposed parameter line approach is consistent with guidance. The ExA accepts NE, KWT and the applicant's position that it would not be appropriate to use BNG measures to resolve effects arising from Nemo Link, an unrelated project, which is subject to ongoing discussion with MMO.

3.14.320. NPS EN-3 paragraph 2.8.119 requires consideration of risks from INNS. The ExA considered INNS risk as part of BNG discussions and considers that the applicant includes appropriate control measures in the oCEMP [REP7-129].

3.14.321. NPS EN-1 paragraphs 5.4.44 and 5.4.47 require the Secretary of State to consider appropriate requirements or obligations to secure BNG. The applicant's signed UU secures 10% net gain. It partially meets requirements in NPS EN-1 paragraphs 4.6.3, 4.6.11, 4.6.12, 5.4.44 and NPS EN-5 paragraphs 2.5.1i, 2.6.6 and 2.10.8 by:

- Committing to BNG for 30 years rather than the development lifetime, although [REP6-109] suggested the oLEMPs are a lifetime commitment.
- Proposing to update calculations using the v4.0 calculation tool rather than the latest version of the statutory biodiversity metric calculation tool and not applying trading rules (rather using them as a guide).
- Providing no detail of specific onsite or offsite BNG measures such as the location or proportion of BNG proposed in Suffolk or Kent.
- Not reflecting the published LNRS or updating the BNG reporting to reflect changes to the order limits, until detailed design.

3.14.322. The UU commits to reporting and monitoring but does not specify the report content or frequency/ duration of monitoring, although the ExA considers that monitoring could be agreed through the final LEMP.

3.14.323. NPS EN-1 paragraph 4.6.3 requires the Secretary of State to give BNG appropriate weight. The ExA notes the local authorities' preference for a s106 agreement in respect of net gain and considers that the issues highlighted above provide some basis for this. However, the ExA considers that the UU generally meets the requirements of paragraph 4.1.18 of NPS EN-1 for obligations. The ExA notes that there was no opportunity for the local authorities to comment on the capped sum of £23,000 to be paid to the authorities in respect of BNG monitoring but considers that the sum appears reasonable for the task envisioned. Although the UU lacks detail and 10% net gain is not a legal requirement for NSIPs, there is a clear policy driver to encourage net gain contributions. The ExA therefore considers that the UU is necessary in policy terms and a benefit of the proposed development. The ExA recommends that the Secretary of State accepts the UU.

3.14.324. The ExA notes that the Suffolk oLEMP [REP7-140] includes track changes in paragraph 1.2.7 relating to BNG reporting that make the final BNG provisions somewhat ambiguous. The ExA has assumed that the final wording is the same as for Kent [REP7-141]. As the LEMP is subject to final approval by ESC this is not considered to be a material issue, however the ExA recommends that for precision,

the applicant should be asked to provide an updated oLEMP with all track changes resolved.

CONCLUSIONS

3.14.325. The ExA is satisfied that the proposals on this matter accord with the biodiversity, ecology, ornithology and BNG requirements in NPS EN-1, NPS EN-3 and NPS EN-5, as well as national policies, strategies and relevant legislation. The ExA notes that TDC [REP1-132] highlights conflicts with Thanet District Local Plan (2020) policies for the protection of biodiversity and designated sites. The ExA is clear that the NPSs are the primary policy for NSIPs while local planning policy is capable of being an important and relevant consideration. On the matter in question, compliance with the relevant NPSs outweighs the conflict with the specific policies of the Thanet District Local Plan.

3.14.326. In its consideration of offshore ornithology, the ExA has also had regard to the relevant policies of the UK Marine Policy Statement 2011, the South East Inshore Marine Plan 2021 and the East Inshore and Offshore Marine Plan 2014. The ExA has not identified any other important or relevant considerations.

3.14.327. The ExA's conclusion is subject to clarification of mitigation measures and amendments to the dDCO [REP7-002].

3.14.328. The ExA notes that NPS EN-1 paragraph 5.4.55 requires the Secretary of State to refuse consent where significant harm to a protected species and habitat would result unless there is an overriding public interest and other relevant legal tests are met. The applicant's assessments for Suffolk and Kent largely identify positive significant effects in the long term. However, in the short to medium term, significant adverse effects due to ornithological habitat loss and other habitat loss neighbourare identified in Suffolk and significant short to medium term habitat loss and ornithological habitat loss is identified in Kent. At a late stage in the examination, the prospect of dismantling a beaver lodge in Kent was raised. On a precautionary basis the ExA considers that this could result in a significant adverse effect on beaver habitat in the absence of mitigation.

3.14.329. In light of the identified significant adverse effects, the ExA recommends that the Secretary of State must consider whether there is an overriding public interest in this project. NPS EN-1 paragraph 5.4.55 goes on to state that substantial weight should be given to such harm. This is considered further in the planning balance discussion in section 5 of this report.

3.14.330. The ExA has concluded that the proposed development would not give rise to overall effects on the resilience and connectivity of the tentative East Atlantic Flyway NWHS designation. In accordance with NPS EN-1 paragraph 5.9.32, residual harm would need to be weighed against the public benefits. This is considered further in section 5 of this report.

3.14.331. The ExA considers that the River Fromus UU provides neutral benefit, since it addresses mitigation for adverse effects on macroinvertebrate populations. However, the BNG UU is a positive benefit of the proposed development, since it would ultimately provide a netgain over the baseline. 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 delivery of this measure, secured by a bilateral s106 agreement negotiated with relevant stakeholders.

3.14.332. NPS EN-1 paragraph 5.4.46 suggests that appropriate weight should be given to biodiversity features built into the design. In drawing a final conclusion, the ExA has considered the short to medium term significant adverse effects due to temporary and permanent habitat loss during construction. These harms attract substantial weight against 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 has assessed as being of moderate beneficial significance.

3.14.333. Overall, the ExA considers that ecology, biodiversity and ornithology matters attract moderate weight against the making of the order.

3.15. CULTURAL HERITAGE

INTRODUCTION

3.15.1. In this section the potential effects from the proposed development on heritage assets are considered, both for the Suffolk and Kent onshore proposals. This includes both designated and non-designated heritage assets, together with archaeological resources. Designated heritage assets include listed buildings, conservation areas and scheduled ancient monuments (SAM)s.

3.15.2. This section considers whether the onshore proposed development would harm the value and significance of heritage assets (including their setting) and archaeology.

3.15.3. For matters relating to marine archaeology see section 3.10 of this report.

APPLICATION SUMMARY

3.15.4. The applicant's assessment of the potential effects of the proposed development on cultural heritage is set out in the Environmental Statement (ES):

- Part 2, Suffolk Chapter 3 Cultural Heritage [REP6-020]
- Part 3, Kent Chapter 3 Cultural Heritage [APP-063]

3.15.5. The assessment in these chapters is supported by the following accompanying figures:

- ES figures Suffolk Cultural Heritage Part 1 of 2 [APP-229]
- ES figures Suffolk Cultural Heritage Part 2 of 2 [APP-230]
- ES figures Kent Cultural Heritage Part 1 of 2 [APP-261]
- ES figures Kent Cultural Heritage Part 2 of 2 [APP-262]

3.15.6. Other associated cultural heritage documents include:

- ES Appendix 2.3.A Cultural Heritage Baseline Report (Suffolk) [APP-109]
- ES Appendix 2.3.B Cultural Heritage Gazetteers (Suffolk) [APP-110]
- ES Appendix 2.3.C Site Photos (Suffolk) [APP-111]
- ES Appendix 2.3.D Geophysical Survey Report (Suffolk) [APP-112]
- ES Appendix 2.3.E Aerial Photography and LiDAR Report (Suffolk) [APP-113]
- ES Appendix 2.3.F Phase 1 Archaeological Trial Trenching Report (Draft) (Suffolk) [APP-114]
- ES Appendix 3.3.A Cultural Heritage Baseline Report (Kent) [APP-161]
- ES Appendix 3.3.B Cultural Heritage Gazetteers (Kent) [APP-162]
- ES Appendix 3.3.C Site Photos (Kent) [APP-163]
- ES Appendix 3.3.D Geophysical Survey Report (Kent) [APP-164]
- ES Appendix 3.3.E Aerial Photography and LiDAR Report (Kent) [APP-165]
- ES Appendix 3.3.F Archaeological Evaluation Trial Trenching Report (Draft) (Kent) [APP-166]
- Geo-archaeological Desk Based Assessment (Kent) [APP-167]

3.15.7. Further documents were received prior to the start of the examination period, including the Suffolk Section Phase 2A Archaeological Evaluation Report [AS-135] and Suffolk Section Phase 2B Archaeological Evaluation Report [AS-136].

3.15.8. During examination the following were submitted:

- Interim Phase 3 Archaeological Report Suffolk [REP4-103]

- Updated Archaeological Assessment Suffolk [REP5-087]
- Suffolk Phase 3 Archaeological Evaluation Final Report [REP5-140]
- Outline Onshore Overarching Written Scheme of Investigation (OWSI) - Suffolk [REP7-131]
- Outline Onshore Overarching Written Scheme of Investigation (OWSI) - Kent [REP7-133]

3.15.9. Cumulative effects are considered under the following submissions:

- Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059]
- Suffolk Onshore Scheme Inter-Project Cumulative Effects [APP-060]
- Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072]
- Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073]
- Assessment of Cumulative Effects on the Wider Historic Landscapes [REP5-138]

3.15.10. The study area for designated and non-designated heritage assets is 500 metres (m) from the order limits, while a second wider study area of 2 kilometres (km) from the main permanent above ground infrastructure (such as the proposed converter stations, substations, and over-head lines) has been adopted for impacts on the setting of heritage assets. In section 3.6 of both [REP6-020] and [APP-063] the applicant explains that the study area as used allowed for cultural heritage assets to be set within their wider context and allowed for the assessment of the setting of heritage assets within the surrounding landscape. The applicant also points out that the study area was agreed with the county councils and Historic England (HE).

3.15.11. The cultural heritage baseline is set out in the submitted Cultural Heritage Baseline Reports for Suffolk [APP-109] and Kent [APP-161]. This includes consideration of geology, topography, land-use, and the historic landscape character. From previous archaeological work there is a detailed summary of the study areas through the different historic periods. This is all then included in the Cultural Heritage Gazetteers [APP-110] and [APP-162] for Suffolk and Kent respectively.

3.15.12. The Cultural Heritage Baseline Reports for Suffolk [APP-109] and Kent [APP-161] sets out some of the methods for collecting data towards setting the baseline for cultural heritage. This includes site visits and walkover surveys, use of aerial photographic and Light Detection and Ranging (LiDAR) data. Data sources, such as the National Heritage List for England dataset and the Historic Environment Records for both counties, were also used in forming the baseline for the assessment.

3.15.13. Within section 3.7 of the ES of both Suffolk [REP6-020] and Kent [APP-063] the applicant sets out that a programme of archaeological evaluation trenching was undertaken for the study areas, and included targeted trenching designed to

investigate features recorded by the geophysical survey and aerial photography. The trenching was used, according to the applicant, to confirm the data from the geophysical surveys [APP-112] [APP-164] and confirm the value (significance) of heritage assets.

3.15.14. Following a scoping exercise the following were scoped into the ES for further assessment for both Suffolk [REP6-020] and Kent [APP-063] in section 3.9:

- Suffolk Listed Buildings - 13 in total
- Saxmundham Conservation Area
- multiple non-designated heritage assets and archaeological resources in Suffolk
- the bronze age enclosure uncovered by the applicant's archaeological investigative works in the Suffolk order limits
- Kent Listed Building and Scheduled Ancient Monument (SAM) - Richborough Saxon Shore Fort Scheduled Monument (Grade I listed)
- multiple non-designated heritage assets and archaeological resources in Kent, including the multi-period complex on the Ebbsfleet Peninsula straddling the A256

3.15.15. As also set out within the ES for both Suffolk and Kent [REP6-020] and [APP-063] in section 3.9, impacts on the setting of heritage assets during the construction phase of the proposed development have been scoped out due to the limited potential for significant effects, and the temporary nature of the potential impacts. Furthermore, the applicant explains that only a limited number of designated assets within the 2 km Study Area were identified as having a potential to experience change, as the majority of assets fall outside of the zone of theoretical visibility (ZTV) and/ or the land within the order limits does not contribute to their setting.

3.15.16. The methodology for the assessment in the ES is set out in section 3.4 of both [REP6-020] and [APP-063]. Following the guidance within the National Planning Policy Framework (NPPF) the determination of heritage significance is derived primarily from an asset's archaeological, architectural, artistic and/ or historic interest along with elements of its setting, where applicable. The applicant explains that the method and criteria used to ascribe a value score to a heritage asset is based upon the degree to which the heritage significance of the asset is protected through legislation and planning policy, in addition to a professional judgement being made regarding the merits of the assets.

3.15.17. Within ES paragraph 3.4.13 of both [REP6-020] and [APP-063] the applicant describes this process of assessment of heritage assets. It states that the principles of impact assessment methodology rest upon using professional judgement and best practice to independently evaluate the value of heritage assets and the

magnitude of impact upon that value. By combining the value of the heritage asset with the predicted magnitude of impact, the classification and significance of the effect arising from the Suffolk/ Kent proposed development can be determined. The effect can be beneficial or adverse.

3.15.18. The ES (section 3.4) of both [REP6-020] and [APP-063] uses a range from negligible to high for determining the value of a heritage asset. For example, scheduled monuments and Grade I and II* listed buildings have a high asset value. Magnitude of impact ranges from negligible to large in the ES, with large magnitude impact including changes such that the value of the asset is totally altered or destroyed, for example.

3.15.19. Limitations of the ES assessment of cultural heritage, as set out in section 3.4 of both [REP6-020] and [APP-063], include for example that to some extent the assessment depends on the accuracy of data provided by third parties (such as Historical Environment Records); and that some areas within the order limits had not yet been subject to archaeological evaluation trenching, with further trenching proposed by the applicant for post-consent.

3.15.20. In terms of flexibility assumptions, explained in the ES section 3.5 of both [REP6-020] and [APP-063], this has taken into account flexibility allowed in the proposed development, consideration has been given to the potential for effects to be of greater or different significance should any of the permanent or temporary infrastructure elements be moved within the limits of deviation (LoD) or order limits. For example, this includes the possible lateral and vertical LoD for the proposed converter and substations. Furthermore, as a sensitivity test, the applicant has given consideration to whether the effects reported would be any different if the works were to commence in any year up to year five after any Development Consent Order (DCO) consent, which is assumed to be 2026.

3.15.21. For the Suffolk area, as set out in section 3.5 [REP6-020], the following scenarios relating to the proposed Friston substation have been considered by the applicant:

- scenario 1 - Friston substation is installed by Scottish Power Renewables (SPR) under the 2022 made Order(s), or
- scenario 2 - Friston substation is built as part of the proposed development

3.15.22. The applicant explains that archaeological mitigation for the SPR East Anglia One North (EA1N) and East Anglia Two (EA2) schemes commenced in autumn 2024. As a result, the applicant states that any physical impacts resulting from the construction of the Friston substation and associated works, where they overlap with the Suffolk onshore proposed development, would already have been mitigated.

3.15.23. As set out in the Indicative General Arrangement Plans – Suffolk [REP4-008] there is optionality regarding the converter station construction compound locations, with one of three locations proposed. However, in the ES assessment the applicant has assumed that construction works could happen anywhere within the order limits, although it is acknowledged that only one of the temporary construction compounds at Saxmundham converter station would be required.

3.15.24. Regarding the proposed bridge over the River Fromus the assessment has considered the following scenarios:

- option 1 - A bridge height of up to 6 m (from the ground level at the abutment to the top of the parapet) with 62 m long approach ramps, or
- option 2 - A bridge height of up to 4 m (from the ground level at the abutment to the top of the parapet) with 42 m long approach ramps

3.15.25. In sections 3.8 of both [APP-063] and [REP6-020] the applicant sets out the embedded mitigation measures. These include, for example:

- sensitive routing and siting of infrastructure and temporary works
- avoidance of heritage assets where practical
- a programme of archaeological evaluation surveys, to investigate extant archaeological resource

3.15.26. Measures relevant to the control and management of the proposed development are detailed in the Outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129]. Committed measures include, for example, that:

- construction of the proposed development would employ the use of track matting for construction plant, where practicable, as opposed to topsoil stripping for the creation of haul roads
- to minimise change to the setting of heritage assets, land used temporarily would be reinstated to its pre-construction condition and use, where practicable
- to minimise light intrusion into the setting of heritage assets, construction lighting would be of the lowest levels necessary to safely perform each task

3.15.27. Section 3.9 of both [APP-063] and [REP6-020] detail the assessment of impacts and likely significant effects for Kent and Suffolk. This section sets out the heritage assets and non-designated heritage assets scoped in for assessment within the ES. For Suffolk [REP6-020] this has been updated through the examination period to include more heritage assets, which were initially scoped out.

3.15.28. The applicant in both ES chapters [APP-063] and [REP6-020] states that permanent and irreversible long-term impacts, for the lifespan of the Kent and Suffolk proposed

onshore development, lasting beyond the construction phase may arise as a result of the activities such as the following:

- below ground activities, including but not limited to groundworks
- construction activities such as site clearance, resulting in the partial or total loss of important elements of the historical landscape
- impacts through change to the setting of heritage assets as a result of the introduction of the physical form and appearance of above ground infrastructure

3.15.29. For the operational phase, the ES for both Kent [APP-063] and Suffolk [REP6-020] identified potential impacts on the setting of heritage assets resulting from the addition of new above ground infrastructure associated with the proposed development, such as the converter stations and the substations. For both counties, the heritage assets scoped in for assessment of effects for the operational phase concluded effects ranging from neutral to moderate adverse effects during the construction phase.

3.15.30. For the decommissioning phase, the applicant stated in the ES for both Kent [APP-063] and Suffolk [REP6-020] that it is considered that elements of infrastructure would be removed in accordance with the relevant statutory process at that time, with the details currently unknown. Also, the applicant states that depending upon the proposed restoration state this could result in the restoration of the rural landscape, and a decommissioning scheme would not have any impact beyond the already-disturbed onshore footprint from the previous phases. The applicant assumes that there would be no additional permanent effects on below ground archaeological remains during decommissioning activities. The ES goes on to state that there would be temporary effects to the setting of designated assets during decommissioning, resulting from the use of machinery to dismantle the infrastructure, though this would be temporary and the removal of the above ground infrastructure would remove some of the harm caused in the operational phase.

3.15.31. Under 3.10 in the ES for both Kent [APP-063] and Suffolk [REP6-020] it sets out additional mitigation measures. These are also secured within the Register of Environmental Actions and Commitments (REAC) [REP7-359], the Kent OWSI [REP7-133] and the Suffolk OWSI [REP7-131]. These include, for example:

- known archaeological interest/ value to be preserved in situ, or areas where archaeological work is planned, would be signposted/fenced off to avoid unintentional damage

- archaeological excavation, recording, and publication to be undertaken where archaeological features cannot be avoided
- archaeological watching brief to be undertaken in pre-agreed areas of archaeological potential/features
- in relation to the effects on the setting of heritage assets, planting in the form of soft landscaping and screening is proposed

3.15.32. Taking into account the additional mitigation, in 3.11 of the ES for both Kent [APP-063] and Suffolk [REP6-020] the residual effects from the different phases of the proposed development are listed and include no impact assessed above minor adverse effect (not significant in ES terms) for any heritage asset, except for the Church of St Mary, Friston, which is Grade II* listed. For this church, the applicant identifies moderate adverse effects (less than substantial harm), even after the additional mitigation. However, the applicant states that this impact would only occur if the Friston substation was built as part of the Sea link proposed development and not built as part of the consented SPR EA1N and EA2 schemes. This is because if the substation were to be built under these other DCO schemes then the impact would have already taken place and would not be as a result of the Sea Link proposed development.

3.15.33. Whilst there are no listed buildings within the order limits, there are 13 non-designated heritage assets, or groupings of assets, in Kent [APP-063] and 97 non-designated heritage assets, or groupings of assets in Suffolk [REP6-020]. The impacts to these non-designated heritage assets, as assessed by the applicant, range from no impact to a moderate adverse effect for all in Kent and Suffolk, with the exception of the ring ditch (SNF034) at the site of the proposed Saxmundham converter station and the Ebbsfleet Peninsula Multi-Period Complex Straddling the A256, which could both experience major adverse effects. However, with additional mitigation the residual effect on the ring ditch is assessed as minor and not significant in the ES [REP6-020], with the same also for the Ebbsfleet Peninsular Complex [APP-063].

3.15.34. For cumulative impacts with other projects, the applicant concluded in [APP-073] for Kent and [APP-060] for Suffolk that there would be no significant cumulative effects on cultural heritage expected as a result of the proposed development. The applicant concluded that no significant effects are expected when considering the impacts of the cumulative schemes in aggregation and in combination with the proposed development.

3.15.35. Later in the examination, the applicant submitted the Inter-Project Cumulative Effects Assessment Update - Technical Note [REP6-098]. This updated the cumulative effects assessment with additional other projects that had become

apparent since the start of the Examination. This included the proposed solar farm at Land to the South of River Stour, Ramsgate Road, Sandwich (ref: 25/00023). If this other project was approved and developed then the applicant concluded that there would be a significant residual cumulative effect on the Richborough Saxon Shore Fort, but that there was no effective mitigation that the applicant could apply.

3.15.36. See section 3.24 of this report for details of the intra-cumulative impact of the proposed development.

EXAMINATION ISSUES

3.15.37. Based on the comments raised by interested persons and the Examining Authority's (ExA) review of the application documents, the main issues considered during the examination were:

- the heritage assets which were scoped out of the ES
- impact to the settings and significance of listed buildings and conservation areas
- impacts on non-designated heritage assets
- impact to the significance of the scheduled ancient monument and grade 1 listed building - A Saxon Shore fort, Roman port and associated remains at Richborough
- impact to the multi period complex on the Ebbsfleet Peninsula
- wording of DCO requirement 14 (Archaeology)
- wider historic landscapes

THE HERITAGE ASSETS WHICH WERE SCOPED OUT OF THE ES

3.15.38. A number of listed buildings were scoped out of the ES assessment for both Kent [APP-063] and Suffolk [REP6-020]. In response to the ExA's first written questions [PD-017] the applicant produced Appendix Tables F1 through to and including F4, listing all designated and non-designated heritage assets which were within the study areas but scoped out from the ES assessment [REP3-070]. No local council nor HE have raised concern with the assets scoped out. However, where there were assets scoped out initially, but still stated in this appendix to have some level of harm to their significance, these have now been incorporated into the ES Suffolk Cultural Heritage chapter [REP6-020].

3.15.39. Nicholas Bridges [REP3-132] identified potential visual and heritage impacts on the Grade II listed St Botulph's Church in the village of Iken, and the scheduled monument and Grade II* listed Martello Tower near Aldeburgh which had not been assessed. Mr Bridges stated that the Saxmundham converter station and Friston

substation would theoretically be visible within the settings of St. Botulph's church and the Grade II* Martello Tower CC near the River Alde estuary.

3.15.40. The applicant responded [REP5-141] to confirm that the Martello Tower is outside of the 2km study area, which was agreed by HE and the local authority at the scoping stage. The applicant set out that the permanent above ground infrastructure forming part of the Suffolk onshore proposed development would be located inland to the north-west of the asset at a distance of 8 km at its closest extent from the proposed Friston Substation, while the Saxmundham converter station would be approximately 9.5 km away. The applicant went on to explain that the proposed above ground Suffolk infrastructure would not be in the functional historic setting of the Martello Tower. Furthermore, even if there were views between the proposed development and this asset the applicant considered that it would not impede the understanding of the Martello Tower's heritage value and purpose in protecting the coast and estuary. Therefore, the applicant concluded there was no impact identified to this asset, resulting in a neutral effect that is not significant.

3.15.41. Similarly for the Church of St Botolph the applicant confirmed that this is outside of the ES study area. The applicant [REP5-141] stated that permanent above ground infrastructure forming part of the Suffolk proposed development would be located inland across the river Alde to the north of the asset at a distance of approximately 4.5 km at its closest extent to the proposed Friston substation, while the Saxmundham Converter Station would be approximately 5.5 km away. The land at these above ground infrastructure proposals does not, in the applicant's view, form part of the functional or visual setting of the asset, being inland from the estuary and beyond areas of intervening woodland. Even if there was visibility between the church and the Suffolk above ground infrastructure the applicant stated that this would not impede understanding of the asset's heritage value and setting within the estuary area and therefore no impact is identified.

3.15.42. Suffolk Energy Action Solutions Ltd (SEAS) [REP6-256D] responded that the Martello Tower's position was because it faced potential threats from both sea and river. As such, Mr Bridges stated that the setting on the River Alde also has historical and architectural special interest for the Martello Tower.

3.15.43. HE [REP4-122] confirmed that it had not requested that these designated heritage assets were included in the heritage assessment. HE considered that in these two cases any potential change to the setting of heritage assets would not result in harm to their significance.

3.15.44. On the matter of scoping, more generally, East Suffolk Council (ESC) stated that it was satisfied with the scope of the applicant's built heritage impact assessment for the Suffolk proposed development. HE also commented that the list of heritage assets provided by the applicant [REP3-070] is considered a proportionate approach that is in line with the policy requirements, such as those within National Policy Statement (NPS) NPS EN-1 (2024).

ExA findings

3.15.45. The Overarching National Policy Statement for Energy (EN-1) (2024) paragraph 1.1.29 states that the Secretary of State should seek to identify and assess the particular significance of any heritage asset that may be affected by the proposed development, including by development affecting the setting of a heritage asset. In this case, the applicant has set out all the heritage assets which were within the study areas and why any were not included for further assessment. Other heritage assets that were raised during examination which were outside of the study areas, such as the Martello Tower near Aldeburgh, were addressed by the applicant who explained why they were not scoped in and why there would be no harm to their setting. It is noted that both ESC and HE expressly confirmed that they had no concerns with the heritage assets scoped out, with no objections raised on this matter from any other council.

3.15.46. Considering the responses of all parties, and with regard to the ExA's site inspection observations [EV1-022] (including specific visits to some of the heritage assets scoped out such as St Botolph's Church), the ExA is satisfied that there was no necessity to scope in any additional heritage asset from the study areas and beyond these defined areas. The ExA welcomes the inclusion of heritage assets initially scoped out of the ES which were then included within the revision to the ES [REP6-020]. The ExA considers the applicant's reasoning for the scoping out of heritage assets [REP3-070] to be reasonable and appropriate, such as distance from the proposed above ground infrastructure and screening through intervening existing buildings.

3.15.47. On this basis, the ExA is satisfied with the decisions made by the applicant in terms of the study area and which heritage assets were scoped in or out, along with the reasons given. The ExA finds that the applicant's submission on heritage assets accords with NPS EN-1 on this matter.

IMPACT TO THE SETTINGS AND SIGNIFICANCE OF LISTED BUILDINGS AND CONSERVATION AREAS

3.15.48. There are no listed buildings or conservation areas within the order limits of the proposed development. However, there are both listed buildings and conservation

areas within close enough proximity to the proposed development where there could be the potential to impact upon their settings.

3.15.49. This section covers the listed buildings and conservation areas where the level of effect on the heritage asset was disputed, in terms of the extent of harm to the setting of listed buildings and to the conservation areas' character and appearance, from that assessed in the ES.

Hurts Hall - Grade II

3.15.50. Hurts Hall is a Grade II listed building south of Saxmundham approximately 185m north of the order limits. As set out by the applicant [REP6-020] this is a large hall built in the late 19th century with alterations through the 20th century and recent renovations. It was used as a headquarters during the Second World War. The hall is set within extensive formal gardens though the parklands once associated with the hall has been separated and much changed with the removal of hedgerows for example.

3.15.51. Hurts Hall is a prominent building on the approach to Saxmundham from the south along the B1121. The applicant [REP6-020] explains that the significance of Hurts Hall partially derives from its architectural and historic importance, with the hall playing a role in the development of Saxmundham.

3.15.52. In the vicinity of Hurts Hall would be the proposed haul road and bridge over the River Fromus to connect the permanent access off the B1121 to the proposed Saxmundham converter station. The applicant [REP6-020] has included landscape mitigation to introduce native hedgerow and tree planting around the converter station and plantation along the route of the River Fromus. The applicant stated this would partially screen views of the converter station and the new permanent bridge over the River Fromus. The applicant concludes that this would constitute a medium impact on an asset of medium value, resulting in a moderate adverse effect, which is significant in environmental impact assessment (EIA) terms. However, with additional planting to limit views of the converter station, bridge and haul road the applicant stated that the residual effect at year 15 of operation is assessed to be minor adverse, which is not significant.

3.15.53. ESC's Local Impact Report [REP1-128] stated that the setting of Hurts Hall contributes to its significance by providing visual connections between the Hall and its historic parkland from within its grounds and in views toward the Hall from the east/ south-east, and by allowing its architectural interest and its prominence in the landscape to be appreciated. ESC also stated that it is the south and west facades which are the principal facades, even though the entrance is to the north. However,

ESC agrees that the overall impact of the development would have a moderate adverse effect on Hurts Hall.

3.15.54. ESC disagreed with the applicant's conclusion that additional mitigation planting would reduce the residual harm to the setting of Hurts Hall from moderate to minor. ESC [REP1-128] was of the opinion that the incongruous scale of the converter station as proposed would not be mitigated by additional landscaping, especially in winter months where trees would not be in leaf. ESC considered that the magnitude of the impact would remain at a medium level for Hurts Hall as a residual effect. ESC also confirmed that while the final design of the proposed bridge over the Fromus was not known at this stage, this part of the proposed development would detract from the setting of Hurts Hall.

3.15.55. The applicant [REP7-049] stated that, in its view, the proposed screening planting for the bridge, access and Saxmundham converter station would not obscure the views of the asset. Furthermore, the applicant explained that the reduction in the residual significance of effect reported in relation to Hurts Hall as a result of the maturation of screening vegetation at year 15 of operation was mainly related to the success of mitigation screening of the Fromus crossing and permanent access. This would, according to the applicant, soften the visual impact of these features within the asset's setting. The continued visibility of the converter station, albeit improved by screening planting, is acknowledged in the residual minor adverse significance of effect assessed at Hurts Hall, according to the applicant. However, SEAS considered [REP2-116] Hurts Hall would suffer enduring harm to its setting and that the applicant's claim of reduced impact at Year 15 was speculative and misleading.

ExA's findings - Hurts Hall

3.15.56. Hurts Hall is a prominent building from the approach towards Saxmundham from the south. The area to the south and west of the hall is currently very rural and largely open countryside. The ExA agrees with ESC that this part of the setting of Hurts Hall, with the visual connection with its former parkland, contributes to its significance. The proposals would result in the introduction of a haul road, bridge and also the proposed large converter station, which would alter the landscape character within the setting of Hurts Hall by introducing buildings and structures of an industrial character. This would jar with the historic setting of Hurts Hall, with the proposed haul road and bridge crossing its former parkland. Furthermore, the proposed buildings, structures and planting would diminish to a small extent the ability to appreciate the listed building by reducing some of the currently open views from the south and east. However, much of the setting of Hurts Hall would remain as it currently is, not being affected by the proposed development. On this

basis the ExA agrees that the proposed development would have a moderate adverse effect on the setting and therefore the significance of Hurts Hall.

3.15.57. Following site inspections (for example [EV1-009] and [EV1-015]) and based on the submitted information including the various landscape viewpoints (such as [REP1-298] and [REP1-300]), the ExA considers that that it is unlikely to be the case that with additional landscaping as mitigation the residual harm would be minor. Instead, the ExA agrees with ESC [REP7-301] that landscape planting proposed to mitigate the harm to Hurts Hall would not be sufficient to reduce the magnitude of the adverse impact, and so the residual effect would remain at moderate adverse (which would be significant). The landscaping as proposed would change in its effectiveness dependant on the seasons and whether the trees were in leaf. The ExA also notes that given the potential size and location of the proposed converter station near Hurts Hall the landscaping proposed would soften but not sufficiently mitigate the harm to the setting of Hurts Hall.

3.15.58. Overall, the ExA considers that the harm to Hurts Hall setting would be moderate, even when the vegetation planting is matured, with there being no additional mitigation apparent which could further reduce this level of impact.

*St John the Baptist Church, Saxmundham - Grade II**

3.15.59. The heritage asset St John the Baptist Church is a Grade II* listed building on the eastern side of Saxmundham. The applicant [REP6-020] explains that this church had its origins in the 14th century, though it was extended and renovated in the centuries since. The applicant says that it has architectural and historic interests as an example of a medieval rural parish church and archaeological interest in its phases of development. Furthermore, the applicant stated that elements of the setting that contribute to the heritage value of the asset comprise its place within the wider settlement and parish of Saxmundham, its churchyard with its memorials, and the functional and visual setting relationship between it and Hurts Hall.

3.15.60. SEAS [REP3-137] stated that the church would suffer moderate adverse impact due to visual intrusion and fragmentation of historic townscape views, particularly from The Layers (rural land to the south of Saxmundham) and the southern approach to Saxmundham. SEAS also raised the issue of cumulative impacts to St John the Baptist Church with the converter station proposed with LionLink Interconnector.

3.15.61. In response, the applicant [REP1-118] stated that the proposed development would feature in some wider views on the approach to Saxmundham from the south on the B1121 which feature the church tower against a dense bank of mature trees, although these are limited due to topography as well as the high mature hedges

that flank much of the B1121. The applicant acknowledged that from this direction there would be some change with the proposed River Fromus bridge and the converter station. However, the applicant argued that although these elements might be perceptible, they would not interrupt views towards the church, nor would the Saxmundham converter station compete with the tower or distract from the tower in views as it would not break the prevailing tree line in the area. The applicant summarised that the proposed development at year 1 of operation was assessed as having a negligible magnitude of impact on the Church of St John the Baptist. On an asset of high value, this would constitute a minor adverse effect, which is not significant. However, the applicant stated that at year 15, when the proposed planting had matured, the residual impact would be neutral.

3.15.62. The applicant [REP6-102] also stated there would be no cumulative effects for this heritage asset as assessed within the inter-cumulative assessment for Suffolk [APP-060]. The applicant further explained that the retention of the green space east of the railway line was considered sufficient to remove any potential for cumulative effects arising from change to the views from the B1121 on approach towards the church [REP4-086].

3.15.63. The ExA notes that ESC agreed with the ES that the residual effect would be minor adverse effects and therefore not significant [REP1-128].

ExA's findings - St John the Baptist Church, Saxmundham

3.15.64. The ExA acknowledges that St John the Baptist Church is visible to some extent from the B1121 and the area to the south of Saxmundham. However, this is mainly the tower of the church, with there being intervening trees which screen views. With the introduction of additional infrastructure, with the proposed bridge and converter station, there would be some harm to the wider setting of this asset, though the proposed planting would help soften this effect. The ExA therefore agrees with the ES that the residual harm at Year 1 of the proposed planting mitigation would be minor adverse to the setting and significance of St John the Baptist Church. Whilst maturing landscaping would benefit the setting of this church, the ExA considers that the impact to the setting would remain minor adverse.

3.15.65. The ExA also acknowledges the other proposed developments, such as LionLink Interconnector. From the limited LionLink Interconnector information before the ExA at this time, which suggests a clustered layout for the Sealink and LionLink Interconnector converter stations, the ExA does not consider that there would be a significant cumulative impact to this heritage asset. In reaching this view, the ExA is mindful that should the LionLink Interconnector project proceed to application, it

would be subject to a cumulative assessment that takes account of the full details of the proposed project.

Hill Farmhouse - Grade II

3.15.66. Hill Farmhouse is located south of the proposed converter station near Sternfield. The applicant [REP6-020] stated that the farmhouse has origins in the 17th century. The farmhouse is described by the applicant as being surrounded by a small woodland which results in an intimate setting, though channelled views to the south and east are possible towards arable land, which contributes to its historical relevance and functional setting.

3.15.67. In the applicant's assessment [REP6-020], the woodland which surrounds the farmhouse precludes views towards the proposed Saxmundham converter station. As such, the applicant concludes that the converter station would not introduce change to the experience and setting of the farmhouse, and no change to its heritage value. It was assessed by the applicant that there would be no impact to Hill Farmhouse and no effect in EIA terms.

3.15.68. ESC [REP7-301] disagreed that there would be no impact and instead considered that there would be a moderate adverse (significant) effect on Hill Farmhouse. ESC [REP1-128] described its immediate setting as not particularly open, as it is largely surrounded by a small woodland, but noted that this woodland was not very deep, nor was it consistently dense. ESC stated that during winter, the woodland area around Hill Farmhouse was much less dense, and the largest parts of the proposed converter station were likely to be visible from within the grounds of the house. Therefore, ESC disagreed that there would be no impact and instead considered that there would be a moderate adverse effect on Hill Farmhouse.

3.15.69. The applicant responsed that through visualisations (such as viewpoint 5 Heritage of [REP4-086]) the converter station could integrate into views of Hill Farmhouse and appear as an agricultural building like others in the area. Furthermore, the applicant stated that the farmhouse was entirely screened by vegetation in the summer.

ExA's findings - Hill Farmhouse

3.15.70. The ExA notes the visualisations of Hill Farmhouse in both summer and winter provided by the applicant [REP4-086]. It is noted that in the summer Hill Farmhouse is well screened from view by the surrounding trees, so is not easily perceptible in the landscape when viewed from the south and the B1121. However, as shown on viewpoint 5, the farmhouse is visible in winter months when the trees are bare. Furthermore, as seen by the ExA on its site inspections in March 2026 [EV1-023]

there are some filtered views which would provide some intervisibility between the farmhouse and the proposed converter station.

3.15.71. On this basis the ExA does not agree with the ES assessment that there would be no effect on the setting of Hill Farmhouse. This heritage asset, as a farmhouse, partially derives its significance from its predominantly agricultural setting. The ExA is not convinced that the proposed large converter station would appear as an agricultural building due to its large size. Instead, the ExA agrees with ESC that there would be moderate adverse effect to the setting of the farmhouse, due to the introduction of a large industrial type building in relatively close proximity to the north, which would be incongruous with the current agricultural landscape and therefore detract from the setting of Hill Farmhouse. Given the size and close proximity of the proposed converter station there is no additional mitigation apparent that could reduce the impact further for this heritage asset.

Little Moor Farm and High House Farm - both Grade II

3.15.72. These are Grade II listed farmhouses which would be to the north of Friston substation. For both Little Moor Farm and High House Farm the applicant [REP6-020] sets out that the heritage value of the farmhouses stem from their architectural and historic interest as an example of 17th century vernacular buildings associated with farming.

3.15.73. ESC's Local Impact Report (LIR) [REP1-128] suggests that both Little Moor Farm and High House Farm would have a moderate residual adverse effect as a result of the proposed substation. ESC argues that both assets have functional and historic links with the surrounding agricultural land, which contribute to their significance and would fundamentally change with the industrial type of development proposed on this land.

3.15.74. For Little Moor Farm, the applicant [REP6-020] stated that the principal elevation of this farmhouse faces away from the proposed substation and there is existing screening around the farmhouse and to the south, which would be reinforced with further native woodland and tree planting immediately south of the property boundary. The applicant suggests that this landscaping would largely screen views of the substation from within the house and garden, with the substation also behind the existing overhead line, adding to existing modern infrastructure when viewed from Little Moor Farm. The applicant concludes that the change would result in a negligible impact Little Moor House’s heritage interests, which on an asset of medium value results in a negligible adverse effect, which is not significant.

3.15.75. Similarly, for High House Farm [REP6-020] the applicant states that Friston substation and associated pylons would be approximately 530m south of the heritage asset. There is existing screening around the farmhouse and to the south, which would be reinforced with further tree planting. The applicant does acknowledge that the substation would occupy part of the farmhouse's historically associated farmland, but also that the substation would sit behind the existing overhead line in the asset's wider environs, adding to existing modern infrastructure. The applicant concludes that the change would result in a small impact on High House Farm's heritage interests, which on an asset of medium value results in a minor adverse effect, which is not significant.

ExA's findings - Little Moor Farm and High House Farm

3.15.76. From the submitted information and evidence, together with that observed on the ExA site inspections [EV1-023], the ExA acknowledges that the proposed substation would substantially alter the landscape in this area. It would change from agricultural, which contributes positively to the setting of these heritage assets, to a more industrial character. However, it is also noted that there is existing vegetation screening between these assets and the site of the proposed substation, which would be enhanced with proposed planting.

3.15.77. As such, the ExA agrees with the applicant that there would be minor adverse impact to the setting and significance of High House Farm. However, the ExA considers that there would be a greater than negligible impact to Little Moor Farm's historic setting, being more of a likely small impact. This would result in a minor adverse effect to Little Moor Farm, the same as with High House Farm. This conclusion would be unchanged regardless of whether considering this proposed development's substation in isolation or combined with the EA1N and EA2 approved development, as these building would be clustered in the same area, therefore affecting the same part of the setting of these assets only.

Church of St Mary, Friston - Grade I listed

3.15.78. As set out by the applicant in the ES [REP6-020] the Church of St Mary dates from the 11th Century was further developed and restored over the centuries. The applicant stated that the church's value largely stems from its architectural and historic interest derived from the information it contains associated with medieval and post-medieval development of Friston, as well as the part the church played in the community. The applicant goes on to explain that churches with medieval origins also have important archaeological interest as well, as they hold evidence of previous phases of construction and alteration, and demonstrate aspects of

medieval and later building techniques. The church is considered by the applicant to be an asset of high value.

3.15.79. ESC's LIR [REP1-128] considered that the residual effect of the proposed substation on the church was major adverse, greater than the moderate adverse effect assessed by the applicant [REP6-020].

3.15.80. From the information submitted by the applicant [REP6-020] the proposed Friston substation would be constructed approximately 675m to the north of the church within its historically associated parish. The applicant also explains that mitigation planting is proposed to the south of the site in the form of wide blocks of native woodland planting about 380m to the north of the church, though the planting itself would change the character of the setting itself from fields to woodland. The applicant concludes its assessment that the proposals would result in a small impact on the church's heritage interests, which on an asset of high value results in a moderate adverse effect, which is significant.

ExA's findings - Church of St Mary, Friston

3.15.81. The ExA considers that the agricultural land on which the proposed substation would be sited contributes positively to the wider setting of the Church of St Mary, as part of its rural parish. The proposed substation would be visible from the church, though the proposed planting would mitigate and soften the impact. Furthermore, the ExA considers that the setting would change from agricultural land to woodland. This would be preferable to having clear views of the proposed substation from the church, especially when considered cumulatively with the EA1N and EA2 approved developments adjacent to this. With the planting the ExA agrees with the applicant that there would be moderate adverse impact to the setting and significance of this high value heritage asset. There is no apparent further mitigation that would likely be able to reduce the impact further, based on the siting and parameters proposed. The mitigation planting would be secured through DCO [REP7-002] Schedule 3, Requirement 6 Landscape and Ecological Management Plan (LEMP) – Suffolk.

Woodside Farm - Grade II listed

3.15.82. The applicant [REP6-020] describes Woodside Farm as a Grade II listed farmstead dating from at least the late 17th century and still in existence as a house. As a Grade II listed building, the farmstead is considered by the applicant to be of medium value, and this value largely stems from its architectural and historic interest derived from the information it contains associated with post-medieval agriculture and the structures that supported it.

3.15.83. ESC [REP1-128] considered that there would be a moderate adverse effect on the setting and significance of Woodside Farm. ESC explained that any scheme which includes EA1N or EA2, individually or together, would interrupt the open agricultural setting of the listed building, and importantly, the proposed Friston substation would also still be built. The applicant [REP6-020] sets out that the Friston substation site does not have a known historical association with the farm, but the substation would be constructed approximately 500m to the north-east of the asset and would be present in views of the asset in its wider rural agricultural surroundings that reflect its heritage value. Similar to the situation with the Church of St Mary in Friston, mitigation planting is proposed to provide a screen between the asset and the proposed infrastructure. As explained by the applicant this planting would change the character of the landscape from fields to woodland, closing off longer range views. This, according to the applicant would result in a small impact on the farmhouse's heritage interests, which on an asset of medium value results in a minor adverse effect, which is not significant.

ExA's findings - Woodside Farm

3.15.84. Similar to the effects on the Church of St Mary, the ExA recognises that the proposed mitigation planting would have benefits in screening the proposed substation. Nonetheless, it would close off longer views to and from Woodside Farm and alter the setting from agricultural fields to woodland. As Woodside Farm is an asset of medium value, the ExA considers that the residual harm would result in a minor adverse effect to the setting and significance of this asset.

Friston House - Grade II listed

3.15.85. Friston House, to the northern side of Friston, is described by the applicant [REP6-020] as being from the 19th century and having architectural and historic interest derived from the information it contains associated with post-medieval agriculture. ESC [REP1-128] assesses the effect on this asset to be minor.

3.15.86. The applicant [REP6-020] has come to a different conclusion due mainly to the extensive woodland landscaping within the grounds of this house, blocking views of the proposed Friston substation. The applicant concludes that as the site of the proposed development does not make a contribution to the setting of and heritage value of the asset, the development does not have the capacity to impact upon its value. Therefore, the applicant assesses that no impact is identified, resulting in a neutral effect.

ExA's findings - Friston House

3.15.87. The ExA, through visiting the area around Friston House acknowledges the woodland planting around this heritage asset. However, there were glimpses of the house from outside of the site and there could be some limited views from the house towards the proposed substation, especially in winter. As such, the ExA considers that the proposed development would have a small magnitude of impact to this asset of medium value, which would result in a minor adverse effect on the significance of Friston House.

Friston War Memorial - Grade II listed

3.15.88. The applicant [REP6-020] explains that the Friston War Memorial was erected in 1920 by the inhabitants of Friston and is located in the churchyard of the Church of St Mary in the village. It takes the form of a Portland stone cross bearing the sword of sacrifice and the names of those from the parish killed in the World Wars. The applicant states that the memorial has communal historic interest and architectural interest as a local example of a form of memorialisation of national tragedies.

3.15.89. ESC [REP1-128] considered the war memorial to have a minor adverse effect due to the proposed development. However, the applicant [REP6-020] considered that there is sufficient open space around the settlement and between the asset and substation site, such that the asset's setting would not be affected by the presence of the substation and its associated infrastructure. The applicant concluded that there would be no impact, resulting in a neutral effect.

ExA's findings - Friston War Memorial

3.15.90. The Friston War Memorial, set within the Church of St Mary graveyard, would be a substantial distance from the proposed substation. The rural nature of the church and village setting of the memorial is acknowledged by the ExA as a positive aspect of its setting. Although much of it would be screened, the proposed substation would introduce a large building into this setting which the ExA considers would result in a negligible impact and a minor adverse effect on the setting and significance of this asset.

*Friston Post Mill - Grade II**

3.15.91. The applicant [REP6-020] sets out that the Friston Post Mill is within the village of Friston and was built in 1812 and modified in the 1870s and is noted by HE to be one of the finest remaining post mills in the world. The applicant stated that the agricultural landscape surrounding the settlement also provides the functional context for the mill.

3.15.92. ESC [REP1-128] considered that the Post Mill would experience a minor adverse harm due to the proposed development.

3.15.93. The applicant [REP6-020] concludes that whilst Friston Substation would be located within the wider agricultural landscape around the settlement of Friston, it considers that there would be sufficient open space around the settlement and between the asset and substation site. As such, the applicant concludes that the asset's setting would not be affected by the presence of the substation and its associated infrastructure and there would be no impact upon the Post Mill, resulting in a neutral effect.

ExA's findings - Friston Post Mill

3.15.94. The Friston Post Mill on Mill Road in Friston is to the western edge of the village and would be a substantial distance from the proposed substation and pylons. However, the ExA considers that the Post Mill derives some of its significance from its wider rural setting, which would alter with the proposed development, albeit at a distance. Rather than the proposed development having no harmful impact on the setting of the Post Mill, the ExA considers that there would be an adverse impact of a negligible magnitude, which for this high value heritage asset would result in an effect of minor adverse significance.

Sternfield House (Grade II) and Church of St Mary Magdalene (Grade II)*

3.15.95. The applicant [REP6-020] sets out that the Church of St Mary Magdalene is the parish church for Sternfield Parish which historically included the land within the proposed Saxmundham converter station site, with its origins in the 14th century. The church has architectural, historic and archaeological interest and is an asset of high value. The applicant explained that the church has a close relationship with the adjacent Sternfield House which dates from the late-18th century featuring substantial subsequent alterations and additions. The applicant assesses that the house has architectural and historic interests and is an asset of medium value. The applicant stated that they are assessed as having group value and a shared setting.

3.15.96. In its assessment of heritage impacts, SEAS [REP1-274] stated that although located in secluded positions there are views towards the woodland to the north and north-east from the churchyard and from Sternfield House, resulting in the potential for the proposed converter station to be visible in views from and in conjunction with these listed buildings, particularly during the winter months. SEAS concludes that there would be low to moderate adverse impact on the setting to both these heritage assets.

3.15.97. The applicant [REP6-020] agrees with SEAS that there would be some impact to the settings of these buildings, but to a lesser degree. For the Church of St Mary Magdalene the applicant states that there is no physical or visual connection between the churchyard and the land within the converter station site, however, since that land forms part of the asset's historically associated parish, the site is considered to fall within the asset's wider functional setting. As such, the applicant [REP6-020] states that the proposed out of character development would result in negligible impact to the asset's historic interest and heritage value, which for an asset of high value results in a minor adverse effect.

3.15.98. For Sternfield House, given the group value with the adjacent church, the applicant makes the same conclusion of negligible impact to the asset's historic interest and heritage value, but for an asset of medium value this results in a negligible adverse effect.

ExA's findings - Sternfield House (Grade II) and Church of St Mary Magdalene (Grade II)*

3.15.99. In considering the submitted evidence and also following site inspections to Sternfield, including [EV1-023], the ExA is satisfied that the intervisibility between these two heritage assets would be minimal, if any at all. The adverse impact would mainly derive from the proposed converter station being on historically linked parish land. On this basis, the ExA agrees with the conclusions of the applicant that the proposals would have a minor adverse effect on the Church of St Mary Magdalene and a negligible adverse effect on Sternfield House.

*Buxlow Manor - Grade II**

3.15.100. Buxlow Manor is located approximately 1.35 km to the north-east of the Saxmundham converter station, set in a rural location. The applicant [REP6-020] explains that it is a late 17th century manor house with architectural and historic interest. As a Grade II* listed building, it is an asset of high value.

3.15.101. SEAS stated [REP1-274] that for Buxlow Manor there are views where the proposed development would be visible in conjunction with the Manor. SEAS also considered that with the exception of the farm buildings which are located to the north-west of the Manor, there are very few other buildings or structures visible within the surrounding landscape. SEAS explains that the flat, open landscape setting has remained undeveloped over time and positively contributes to the significance of Buxlow Manor. SEAS concluded that the proposed converter station had the potential to have a negative impact, which it considered to be low to moderate adverse.

3.15.102. The applicant assessed that for Buxlow Manor there is existing screening planting around the asset, as well as existing woodland at Meadow Link Farm between the asset and the proposed converter station. Together with the changes in topography the applicant sets out that the intervisibility between the converter station and Buxlow Manor would be minimal. The applicant does, though, state that there would be incidental views of the converter station within the asset's wider environs and potentially from its upper floor windows which would constitute a negligible impact on an asset of high value, resulting in a minor adverse effect.

3.15.103. Furthermore, the applicant [REP3-064] explains that rather than adding a cumulative significant effect, the presence of the potential LionLink Interconnector converter station, once constructed, would serve to further screen views of Saxmundham converter station from the wider environs of Buxlow Manor. No significant cumulative effect was therefore identified.

ExA's findings - Buxlow Manor

3.15.104. There would be a substantial distance between Buxlow Manor and the site of the proposed converter station. Intervisibility, as seen on ExA site inspections [EV1-014], would be limited, with much of the setting of the manor remaining unchanged. As such, the ExA agrees with the ES assessment of minor adverse effect on this heritage asset. The ExA has no substantive evidence before it to indicate that there would be a significant cumulative effect as a result of the proposed development when considered together with the proposed LionLink Interconnector scheme.

Cumulative impact on listed buildings

3.15.105. SEAS [REP7- 211] stated that there was a continuing failure of the applicant to properly assess cumulative effects. SEAS considered that the approach taken risked treating each new piece of infrastructure as part of a new baseline, rather than recognising the combined effect of multiple large-scale projects on the same landscape and historic setting. SEAS suggested that as result the true extent of change, both visual and experiential was not being captured. SEAS also highlighted the preferred location of the LionLink Interconnector converter station, which it stated would materially intensify visual harm, landscape industrialisation, and cumulative setting degradation [REP2-116].

The applicant [REP3-064] responded stating that the submitted Part 2 Suffolk Chapter 13 Suffolk Onshore Scheme Inter-Project Cumulative Effects [APP-060] included an assessment considering cultural heritage and includes an assessment of LionLink Interconnector. This included the co-location of converter stations. The applicant went on to state that there is no historic environment statute, policy or guidance that requires assessment to be made of what is termed collective impact/

harm to cultural heritage. Impact/ harm to assets is assessed on an individual basis and collective impact/harm does not add to this impact/harm, according to the applicant. Nonetheless, the applicant provided a detailed response on individual heritage assets with regard to cumulative impact [REP4-086]

ExA's findings on cumulative listed building impacts

3.15.106. The ExA is satisfied that the applicant has undertaken a sufficiently detailed cumulative impact assessment of heritage assets. The ExA considers that the cumulative impact to any listed building would not result in an adverse impact discernibly greater than the effects of the proposed development alone.

Conservation Areas

3.15.107. As described by SEAS [REP1-274], Saxmundham Conservation Area covers the historic heart of the town and includes most of the land between the River Fromus and the railway and extends north of the railway bridge. The buildings in the centre of town are mainly 16th, 17th and 18th century. The applicant stated [REP6-020] that the setting of the settlement is key to its understanding and significance, highlighting elements such as the former parkland associated with Hurts Hall to the south. The applicant sets out that the settlement and its associated assets are considered to be of high value, with that value largely derived from the architectural and historic interest.

3.15.108. SEAS stated [REP1-274] that this conservation area would suffer moderate adverse impact due to visual intrusion and fragmentation of historic townscape views, particularly from The Layers and the southern approach. Also, SEAS [REP2-116] noted that the proposed converter station and River Fromus bridge would be experienced in numerous views when travelling along the B1121 or within The Layers. SEAS concluded that the conservation area would face low to moderate adverse impacts to its significance as a result of the proposed development.

3.15.109. The applicant [REP6-020] considers that the majority of assets within the conservation area are screened from the Saxmundham converter station by the topography as well as the intervening built environment. However, the applicant stated that the approach to the conservation area to the south would experience change, as the operational above ground components, including the Saxmundham converter station and the Fromus bridge, would be perceptible in approach views, which would constitute change to a viewpoint of historical importance that contributes to the sense of arrival to the conservation area. The applicant concludes the changes to the south of the conservation area would be to the experience of views and not to the heritage value of the conservation area, therefore the impact is assessed to be small, which would constitute a moderate adverse effect, which is

significant. However, the ES concludes [REP6-020] that the residual effect would be minor when considering the additional mitigation of the planting/ screening to limit views of the converter station, permanent access and River Fromus crossing, though this would only be after the planting had matured.

3.15.110. In terms of cumulative impact [REP4-086], the applicant stated that the retention of the green space east of the railway line was considered sufficient to remove any potential for cumulative effects arising from change to the views from the B1121 on approach to the conservation area. The applicant also stated that there was substantial built form between the boundary of the conservation area and the proposed built elements of the garden neighbourhood framework masterplan proposal for a housing development. The applicant therefore concluded that there would be no cumulative effect.

ExA's findings - Conservation Areas

3.15.111. Section 72 of the Planning (Listed Building and Conservation Area) Act 1990 establishes that special attention be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

3.15.112. In this case, the ExA fully acknowledges that the setting, particularly to the south of the Saxmundham Conservation Area would change with the introduction of a new bridge and other infrastructure. This would detract from the setting of the conservation area, together with views in and out of the conservation area. However, mitigation planting as proposed would soften this impact, which would be secured by dDCO [REP7-002] schedule 3, requirement 6 LEMP – Suffolk. On this basis, the ExA agrees with the applicant's assessment that the proposed development would likely result in a residual moderate adverse effect on the character and appearance of the Saxmundham Conservation Area, though that would improve as the proposed planting matures with the additional mitigation.

3.15.113. The ExA also broadly agrees with the cumulative impact assessment provided by the applicant regarding Saxmundham Conservation Area. For example, it is acknowledged that there is the potential for LionLink Interconnector infrastructure near the proposed development converter station but it is anticipated that due to reasons such as the potential clustering of buildings the adverse effects on the setting and significance of this conservation area would not be any greater than for Sea Link alone.

3.15.114. The only other conservation area near the proposed development is Minster Conservation Area in Kent, which the applicant scoped out of the ES [REP6-020]. This was, according to the applicant, due to a lack of potential for significant

impacts due to separation distance and because the conservation area is the historic core of the settlement and it is surrounded on all sides by later 20th century development which screens views south towards the proposed development. The ExA visited Minster during its site inspections [EV1-002]. Taking into account the substantial separation distance and the fact that the conservation area is located on the northern side of the village, and therefore screened from the proposed converter station to the south, the ExA considers there would not be an impact to the significance of the Minster Conservation Area.

ExA's overall findings on Listed Buildings and Conservation Areas

3.15.115. The Planning (Listing Buildings and Conservations Areas) Act 1990, section 66, requires when deciding an application which affects a listed building or its setting, regard must be had to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which it possesses. Furthermore, the Act states at section 72 that, when considering conservation areas, regard must be had to the desirability of preserving or enhancing the character or appearance of the heritage asset.

3.15.116. NPS EN-1 (2024) states that the Secretary of State should give considerable importance and weight to the desirability of preserving all heritage assets. Any harm or loss of significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification (paragraph 5.9.28). Furthermore, paragraph 5.9.36 states that when considering applications for development affecting the setting of a designated heritage asset, the Secretary of State should give appropriate weight to the desirability of preserving the setting of such assets.

3.15.117. Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 states that when deciding an application which affects a listed building or its setting, the decision-maker must have regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Also, it states that when deciding an application relating to a conservation area, the decision-maker must have regard to the desirability of preserving or enhancing the character or appearance of that area.

3.15.118. NPPF 2024 sets out in paragraph 213 that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm or loss should be wholly exceptional. Furthermore, at paragraph 212 the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the

asset's conservation (and the more important the asset, the greater the weight should be).

3.15.119. Paragraph 215 of the NPPF states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

3.15.120. The ExA acknowledges that there are potential impacts to listed buildings which would be as a result of the proposed Friston substation, though this is based on the scenario where the Friston substation is built as part of this proposed development and not under the EA1N or EA2 made DCOs.

3.15.121. The ExA finds that the ES and the subsequent information submitted by the applicant through the course of the examination provides a sufficiently robust assessment of the potential impacts to listed buildings and conservation areas. The ExA agrees with the study areas set and also the heritage assets which have been scoped out due to there being assessed to be no impact directly to these assets or to their settings. The ExA agrees that these scoped out listed buildings and conservation areas would not be impacted by the proposed development.

3.15.122. The ExA is content that the applicant has 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 NPS EN-1 paragraph 5.9.22 to 5.9.36.

3.15.123. For the listed buildings and Saxmundham Conservation Area scoped in for full ES assessment, the ExA agrees with the applicant's conclusions on all, except where stated otherwise in this section. Following additional mitigation measures, the ExA considers that there would be no listed building where the residual effect on its significance would be greater than a moderate adverse effect. For Saxmundham Conservation Area, the residual impact on its character and appearance would be minor adverse following additional mitigation. The ExA considers that there are no further mitigation measures which would materially reduce the effect on these heritage assets further. Where the ExA has concluded that there would be residual adverse effects on the significance of a heritage assets, the ExA considers this to be less than substantial harm.

3.15.124. The ExA has had due regard to the desirability of preserving heritage assets, however there would be varying levels of harm or loss of significance of designated heritage assets as a result of the proposal. This harm must then be considered against the justification for the proposals, which in this case is the public need for the proposed development and is covered in the final conclusion for this section. The need for the proposed development, as justification for the proposals, is

discussed in detail in section 3.2 of this recommendation. As such, the ES and supporting documentation meets the requirements of the NPS EN-1 and the NPPS.

3.15.125. In terms of the NPPF, even where the ExA has concluded there would be residual adverse effects on the significance of a heritage asset, the ExA considers this to be less than substantial harm. Paragraph 215 of the NPPF states that this harm should be weighed against the public benefits of the proposal including. This balance is undertaken in the planning balance section 5 of this report.

3.15.126. The Richborough Fort is a Grade I listed building and is also a scheduled ancient monument and is considered separately below.

NON-DESIGNATED HERITAGE ASSETS (NDHA) EFFECTS

3.15.127. The applicant has identified many NDHAs within the study areas in both Suffolk [REP6-020] and Kent [APP-063]. Many were scoped in for ES assessment, such as the Abbot's Walls in Kent. The NDHA of the Ebbsfleet Peninsula Complex is considered separately in this section.

3.15.128. All the NDHAs which were scoped in were due to potential impact during the construction phase, due to the physical impacts from the construction work. They were all considered to have a residual effect magnitude of minor adverse at worst following additional mitigation measures, such as following best practice in accordance with the submitted OWSI for Kent [REP7-133] and the OWSI for Suffolk [REP7-131].

3.15.129. The NDHAs scoped out and the reasons why, have been provided as a list by the applicant in [REP3-070], appendix F.

3.15.130. For many of the NDHA's there have been no substantive comments with regard to contesting the ES in terms of which NDHAs were scoped in or how they were assessed.

ExA's findings

3.15.131. NPS EN-1 (paragraph 5.9.7) states that the Secretary of State should consider the impacts on non-designated heritage assets. This is on the basis of clear evidence that such heritage assets have a significance that merits consideration in that process, even though those assets are of lesser significance than designated heritage assets.

3.15.132. Following site inspections and after consideration of all the submitted evidence, the ExA concludes that the impact to NDHAs has been robustly assessed by the applicant. Furthermore, the ExA agrees with the conclusions of the assessments. On

this matter, the ExA finds that the applicant's submission on non-designated heritage assets accords with NPS EN-1.

IMPACT TO THE SIGNIFICANCE OF THE SCHEDULED ANCIENT MONUMENT AND GRADE 1 LISTED BUILDING - RICHBOROUGH SAXON SHORE FORT (RICHBOROUGH FORT) SCHEDULED MONUMENT

3.15.133. After assessing the potential impact of the proposed development on the Richborough Fort, the applicant [APP-063] concluded that the magnitude of impact is considered to be negligible, which on an asset of high value would result in a minor adverse not significant effect.

3.15.134. HE in its relevant representation [RR-2032] stated that this heritage asset is one of the most important Roman period sites in England and is a place with an exceptional historic significance. HE explains that it is the assumed landing point of the Claudian invasion in AD43, and it was extensively occupied throughout the Roman period. Furthermore, it is considered to be the gateway to Britain, particularly during the early Roman period. HE stated that it is pivotal to our understanding of the Roman occupation and has a much wider historic significance.

3.15.135. HE [RR-2032] initially considered that there would be a higher level of harm to Richborough Roman Fort than has been described by the applicant in the ES. This is because HE considered that the setting of the fort contributes more to the significance and towards our understanding of the monument than is set out in the application, as the Minster converter station would intrude into views from the amphitheatre towards the fort, and in and around the fort itself. However, HE acknowledged that the siting of the proposed Minster converter station would be in an area of topography which would help to shield it naturally from view, as well as ensuring that the roofline would not break the horizon when viewed from the fort.

3.15.136. The applicant's response to this [REP2-016] was that the magnitude of impact would be negligible. This was based on the distance between the asset and the proposed Minster converter station and substation, as well as the presence of other modern development that is closer to the asset. Furthermore, the applicant stated that the former Wantsum Channel, which forms a component of the asset's setting, has altered substantively as a result of silting starting in the Roman period, with more formal land reclamation since the early medieval period which has considerably altered the setting of the monument.

3.15.137. HE [REP2-052] stated that on the assumption that appropriate design mitigation would be implemented, utilising the least intrusive design [REP7-348], the magnitude of harm would be small. Whilst HE considered that this could result in a

moderate or minor significance of effect, HE concluded that a minor significance of effect was appropriate, which would not be significant in EIA terms. As such, the resultant significance of the effect broadly aligned with the applicant's assessment of a residual minor significant effect [APP-063].

3.15.138. In terms of securing the appropriate design mitigation, HE [REP3-089] considered that further, post consent, consultation with HE regarding detailed design of the Minster converter station would be necessary to ensure that visual impact on Richborough Roman Fort would be minimised. The draft DCO under requirement 3(1)(a) [REP7-002] sets out that the design of the Minster converter station can only be approved following consultation with HE.

3.15.139. The matter of the effect on the Richborough Roman Fort is agreed within the statement of common ground between the applicant and HE [REP7-350].

3.15.140. In terms of cumulative impact on the fort complex, the applicant [REP6-098] assessed that a proposed solar farm at Land to the South of River Stour, Ramsgate Road (25/00023) (Dover District Council), would result in a significant residual effect on Richborough Fort and associated remains. It stated that both the proposed development and the solar farm would be visible from this heritage asset. As such, when the proposed development is considered together with this proposed solar farm significant residual effects on Richborough Fort would arise. However, there is no effective mitigation that could be applied by the applicant. The applicant explains that this is because the solar farm causes the greater part of the effect and would result in a significant effect in isolation.

3.15.141. HE stated that the information submitted by the applicant did not change HE's overall assessment of the impact to the significance of the Richborough assets. HE considered that in this particular situation the applicant could not apply any effective mitigation in relation to impact to the significance of the designated heritage asset as a result of the proposed solar farm.

ExA's findings

3.15.142. NPS EN-1 (2024) paragraph 5.9.30 states that substantial harm to or loss of significance of assets of the highest significance (including Scheduled Monuments and grade I Listed Buildings) should be wholly exceptional. Furthermore, where the proposed development will lead to less than substantial harm to the significance of the designated heritage asset, this harm should be weighed against the public benefits of the proposal (paragraph 5.9.32).

3.15.143. The ExA acknowledges that the Richborough Fort and associated heritage assets are of extremely high historic value and visited the site as part of a site inspection [EV1-

001], where views across to the proposed site of the Minster converter station and substation could be seen.

3.15.144. Whilst this proposed development would be visible from the environs of the fort, it would be at a substantial distance and would not break the horizon, with there being hills in the background when viewed from the fort. The design of the converter station is an important aspect as this would help minimise the visual impact of the large proposed buildings within the wider setting of the fort. It is therefore welcomed by the ExA that HE would have an input into agreeing the final design of the converter station which would be secured within the DCO [REP7-002]. Requirement 3(1)(a) [REP7-002] also stipulates that the final design details must be substantially in accordance with the Key Design Principles for Kent.

3.15.145. The ExA is inclined to agree with HE that the magnitude of harm to be small rather than negligible but agrees with both parties that with a suitable design the overall effect would be a minor adverse effect on the significance of this heritage asset. The harm would not be significant and with a suitable final design for the converter station would lead to less than substantial harm in the sense of paragraph 5.9.32 of NPS EN-1 (2024).

3.15.146. In relation to the cumulative impact with the solar farm at land to the south of River Stour, Ramsgate Road, the ExA notes that there is still uncertainty about whether consent for the proposed solar farm will be granted. Furthermore, the great majority of any potential harm to the Richborough Fort assets would come from the solar farm, which would be subject to its own assessment through the decision-making process and it is possible that additional mitigation may be identified to address the potential effects of that project. The ExA considers that whilst the cumulative impact may be significant, it is not possible for the applicant to mitigate for this as most of the potential adverse impact would be as a result of the project alone effects of the solar farm. Therefore, in the ExA's view, the proposed development has minimised the impact on this important heritage asset where it can and so is in accordance with the policies of NPS EN-1 including paragraphs 5.9.30 and 5.9.32.

IMPACT TO THE EBBSFLEET PENINSULA MULTI-PERIOD COMPLEX

3.15.147. The ES [APP-063] describes this as a complex multi-period site has been recorded as covering a large area of the Ebbsfleet Peninsula which includes a large Late Iron Age/ Romano-British enclosure at the southern end of the peninsula. The applicant assessed the impact of the proposed development on the Complex as having a magnitude of impact considered to be negligible, on an asset of high value, which would result in a minor adverse effect which is not considered significant. Appendix

B of [REP4-086] has a plan submitted by the applicant for the estimated extent of the complex.

3.15.148. HE [RR-2032] described this heritage asset as an undesignated site of potential national significance which includes, amongst other things, a notable concentration of Bronze Age round barrows and a large Late Iron Age/ Roman enclosure which has been considered as a potential location for Caesar's landing in 55 or 54 BC. HE also stated that it was pleased that the applicant had undertaken extensive archaeological evaluations during the pre-application period and that the results of this work have been well accounted for in the design. HE also stated that the risk of large impacts on the most sensitive areas of the Ebbsfleet Peninsula Complex would be largely avoided.

3.15.149. HE [RR-2032] disagreed with the applicant [APP-063] that the ability to mitigate the effect on the complex through a programme of archaeological works would reduce the significance of the effect to minor, as the harm would be only offset and not truly lessened by the ability to record remains prior to their removal. HE therefore recommended options to further reduce the heritage harm, such as removing site compounds and through utilising no-dig options.

3.15.150. In response, the applicant [REP2-016] stated that it had looked to relocate compounds away from areas highlighted as of increased value where possible, however, the applicant was unable to remove the compounds completely and still complete the works. Furthermore, the applicant stated that the no dig option of installing compounds above top-soil without undertaking a top-soil strip had been considered, but the remedial works to the top-soil would be just as impactful and so a no-dig approach would not provide a better solution.

3.15.151. The applicant stated that it has aimed to avoid areas considered to be of greatest sensitivity. This includes two areas of Bronze Age barrows and enclosures where a preservation in situ strategy was being developed as part of the ongoing mitigation plan. This was detailed in the updated Kent OWSI [REP7-133].

3.15.152. Later in the examination, HE [REP6-263] stated that it agreed with the conclusions of the ES that the development was still likely to result in some harm to the Ebbsfleet Peninsula complex. However, HE agreed that appropriate steps had been taken to substantially limit the risk of harm to the heritage asset. HE explained that this was through design informed by archaeological evaluations to avoid what they considered are the most significant areas of archaeology. As such, areas of the Ebbsfleet complex within the order limits where archaeology needs to be preserved have been identified and would be protected through the works. Therefore, HE stated [REP6-263] that in this case, because steps would be taken to retain rather

than remove archaeological remains, the residual effect for construction may be considered minor adverse and not significant.

3.15.153. Kent County Council (KCC) [REP6-263] archaeological advisor advised that the change to the setting of the Ebbsfleet complex from the nearby proposed converter station and substation would result in a moderate adverse effect, as the magnitude of impact is greater than the negligible level assigned by the applicant. HE [REP6-263] agreed with this but confirmed that it considered that this would result in an overall small impact to the setting of the complex. HE further explained that the effect on the setting of the complex would be moderate, but if appropriate design is implemented then HE considered that it would not reach the threshold of being considered a significant effect or substantial harm. The applicant's submitted final draft DCO included that the Kent converter station may only be approved following consultation with HE and Dover District Council, under Requirement 3(1)a [REP7-002].

3.15.154. The matter of the impact to the Ebbsfleet Complex was agreed in the statement of common ground [REP7-350] between the applicant and HE, with it agreed that the residual effects on the Ebbsfleet Peninsula Complex and its setting would be not significant.

ExA's findings

3.15.155. NPS EN-1 states that non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments should be considered subject to the policies for designated heritage assets. The ExA is satisfied that the Ebbsfleet Peninsula is potentially of schedulable importance and therefore has been considered as equivalent to a designated heritage asset.

3.15.156. The ExA is satisfied that whilst the proposed development would have some impact to this asset, the applicant has secured mitigation through the Kent OWSI [REP7-133] with long term preservation methods such as for the Bronze Age barrows. This is secured through requirement 14 of the recommended DCO, which includes a requirement for site-specific written schemes of investigation. Through requirement 3(1)a [REP7-002], HE would also be consulted on the final design of the converter station, which would have an important role in controlling the degree of harm to the setting of the Ebbsfleet Complex.

3.15.157. With these controls the ExA is satisfied that there would not be a significant adverse impact to the Ebbsfleet Peninsular Multi-Period Complex or its setting, therefore being in accordance with NPS EN-1 and the NPPF.

3.15.158. There has been a substantial amount of assessment and evidence submitted regarding potential archaeological effects. Other than the multi-period complex on the Ebbsfleet Peninsula the ExA is satisfied that there were no substantive disagreements on other matters of archaeology at the close of examination between the applicant and the councils or HE. Considering all representations received, the ExA accepts the ES conclusions on these other matters of archaeology.

WORDING OF DCO REQUIREMENT 14 (ARCHAEOLOGY)

3.15.159. In the statement of common ground between Suffolk County Council (SCC) and the applicant [REP7-355] the council stated it was generally satisfied with the wording of requirement 14 in the draft Development Consent Order (dDCO) [REP7-002] but required that all archaeological works must be carried out in accordance with the approved site-specific written scheme of investigation for that stage, prior to the commencement of any pre-commencement or construction works in that stage. This was needed, according to SCC, to ensure that archaeological mitigation works would take place prior to any pre-commencement works as well as construction works. SCC considered this necessary as there would be high potential for these pre-commencement activities to cause below ground impacts which may damage or destroy archaeological remains before they are appropriately mitigated.

3.15.160. The applicant responded [REP7-355] that it had updated the wording for requirement 14 to take into account pre-commencement works. However, the wording was different to that advised by SCC. The wording in the dDCO [REP7-002] stated that all mitigation must be agreed and undertaken before any works commence "including any pre-commencement operations that involve intrusive groundworks which for the avoidance of doubt, includes any vegetation removal, where this removal includes intrusive groundworks".

3.15.161. SCC [REP7-355] responded that it did not agree with this wording from the applicant because activities associated with non-intrusive pre-commencement works still have the potential to impact upon below ground archaeological remains or contravene requirements for defined archaeological preservation in situ areas.

ExA's findings

3.15.162. In NPS EN-1 (2024) it states that where appropriate, the Secretary of State will impose requirements on the DCO to ensure that the work is undertaken in a timely manner, in accordance with a written scheme of investigation that complies with the policy in this NPS and which has been agreed in writing with the relevant local authority, and to ensure that the completion of the exercise is properly secured.

3.15.163. The ExA agrees that that all mitigation work must be agreed and undertaken before any pre-construction works which could have an adverse impact to below ground archaeological remains. The wording as set out by the applicant in the dDCO [REP7-002] achieves this, making clear that this includes any intrusive groundworks and vegetation removal. It is not sufficiently clear from the SCC responses why works that do not include any ground intrusion would likely be detrimental to below ground archaeology. The ExA also notes that the list of operations that could consist of pre-commencement operations are already limited in the interpretation set out in Part 1 (2) of the dDCO.

3.15.164. As such, the ExA considers that excluding intrusive ground works from the definition of pre-commencement works is sufficient to safeguard archaeological resource, in accordance with NPS EN-1.

WIDER HISTORIC LANDSCAPES

3.15.165. The applicant submitted the Assessment of Cumulative Effects on the Wider Historic Landscape [REP5-138]. The assessment for Suffolk concludes that the cumulative effect from the proposed development in combination with the other developments would represent a medium impact and a minor adverse effect to the historic landscape. This would be no greater than the effect assessed for the proposed development on its own, and as such, the applicant stated there would be no significant cumulative effect.

3.15.166. For Kent, the assessment stated that the cumulative impact represented a small level of change, which would constitute a negligible effect on the historic landscape which would be no greater than the effect assessed for the proposed development in isolation.

3.15.167. SCC responded [REP6-276] that it agreed with the conclusions made in this document, although opportunities to retain surviving historic landscape elements should be taken where possible. SCC did, however, highlight the key element of the Fromus valley and the approach from the south to Saxmundham, together with the adverse impacts to historic public rights of way as part of the historic landscape fabric. SCC also suggested that the applicant overstated the current element of degradation of the local landscape character and underplayed the impact and scale of change that would result from the proposed development.

3.15.168. HE [REP6-263] also responded to [REP5-138] stating that it agreed with the conclusions of the document in the context of the designated heritage assets.

ExA's findings

3.15.169. NPS EN-1 requires in paragraph 5.9.9 that the assessment of cultural heritage should include reference to any historic landscape or seascape character assessment and associated studies as a means of assessing impacts relevant to the proposed project. The applicant has done this in detail with its submission [REP5-138].

3.15.170. The ExA notes the criticism of the applicant's submission [REP5-138] by SCC, but that overall it agrees with the conclusions of this assessment. The ExA also notes that HE agrees with the conclusions [REP6-263] with regard to designated heritage assets.

3.15.171. The ExA acknowledges the importance of the Fromus valley approach to Saxmundham Conservation Area being an important aspect of the historic landscape, especially as this is the location of Hurts Hall. The impacts to public rights of way are also a part of the historic fabric of the landscape, though most would not be affected in the post construction phase by the proposed development and the other projects considered. The ExA is also satisfied that adequate controls would be secured by the DCO to minimise potential adverse effects to an acceptable level.

3.15.172. Cumulative impacts to the landscape are particularly notable for Suffolk due to the other large scale developments in this area. The landscape would change to some extent, from rural to a more developed and industrial landscape. However, this would mainly affect localised areas of the wider landscape, which would remain predominantly rural, as it has been historically. Kent would be less affected as it already has more of a developed landscape and there would be less cumulative development than for Suffolk.

3.15.173. Overall, the ExA agrees with the conclusions of the applicant's assessment, where the impact to the historic landscape when taken cumulatively with other developments would be minor adverse effects for Suffolk and have negligible effects for Kent.

CONCLUSIONS

3.15.174. The ExA is content that the applicant has 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 NPS EN-1, including paragraph 5.9.9.

3.15.175. The ExA is satisfied that the applicant has 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 WSI as required by NPS EN-1 including paragraph 5.9.17.

3.15.176. The ExA is satisfied that there are appropriate controls on design of the proposed development and the applicant has considered known heritage assets and their status in this regard, in accordance with NPS EN-3, paragraph 2.5.2.

3.15.177. The ExA is satisfied that there would be no likely residual significant impacts on the Richborough Fort scheduled ancient monument and listed building, nor the potentially schedulable Ebbsfleet Peninsula complex.

3.15.178. For the majority of the listed buildings scoped in for assessment, the ExA agrees that there would be at most a minor level of residual adverse effect to their significance, which is not significant in ES terms. However, for Hurts Hall, Hill Farmhouse and the Church of St Mary in Friston moderate residual effects to the significance of their setting have been identified by the ExA, which would be significant in EIA terms. The same would be true for the setting of the Saxmundham Conservation Area.

3.15.179. The ExA recognises the cumulative impact with other developments on heritage assets and the historic landscapes. However, the ExA is satisfied that based on the information before it, 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. The exception to this is the proposed solar farm adjacent to Richborough Fort, which could result in a significant adverse effect when combined with the proposed converter station. However, the ExA recognises that the proposed solar farm is yet to be decided and also a substantial majority of any cumulative impact to Richborough Fort would come from the solar farm. As such, there is no further mitigation which could be provided by the applicant as most of the harm would come from a development outside of its control.

3.15.180. Of the heritage assets identified by the applicant that would experience a potentially significant adverse effect following mitigation, the ExA is satisfied that the applicant's proposed design controls, together with the mitigation measures proposed, would moderate the overall effects as far as practicable.

3.15.181. In accordance with the NPPF, paragraph 212, and NPS EN-1 paragraph 5.9.27, great weight must be attached to the conservation of these assets. The ExA is satisfied that the applicant has attached great weight to the conservation of heritage assets where possible, as is evident from the efforts proposed for mitigation, such as landscape screening.

3.15.182. Overall, the ExA is clear 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 NPS 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 this report, in the planning balance.

3.15.183. The ExA has not identified any instances in which the proposed development is likely to result in substantial harm to or loss of any heritage asset.

3.15.184. Subject to carrying out the required heritage balance, the ExA is satisfied that the proposed development is in accordance with the NPPF and, where important and relevant, local policies and strategies and all other relevant legislation.

3.15.185. Given that the proposed development would 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 ExA considers that this matter attracts moderate weight against the making of the order.

3.16. WATER ENVIRONMENT

APPLICATION SUMMARY

3.16.1. The applicant's assessment of the potential impact of the proposed development on the water environment (including flood risk and water quality) was presented in:

- Part 2, Suffolk Chapter 4 Water Environment [APP-051], with corresponding figures provided as Environmental Statement (ES) figures Suffolk Water Environment [APP-231]
- Part 3, Kent Chapter 4 Water Environment [APP-064], with corresponding figures provided as ES figures Kent Water Environment [APP-263]
- Water Framework Directive Assessment [APP-293]

3.16.2. The documents above also drew from information presented in the following ES appendices:

- 2.4.A Water Environment Baseline Data [APP-115]
- 2.5.B Qualitative Groundwater Risk Assessment [APP-117]
- 3.4.A Water Environment Baseline Data [APP-168]

- 3.5.B Qualitative Groundwater Risk Assessment [APP-170]
- Flood Risk Assessment (FRA) [REP6-052]

3.16.3. The applicant's assessment of baseline conditions is set out in section 4.7 of [APP-051] and [APP-064] for Suffolk and Kent respectively. These sections describe the watercourses, water interests and existing flood risk amongst other matters. They also confirm that future baseline conditions have considered the likely impacts of climate change on rainfall intensities, river flows and tides/ sea levels to factor in climate change resilience into the design of the proposed development.

3.16.4. Section 4.6 confirms that the study areas in Suffolk and Kent include all land within the order limits with an additional 500m buffer beyond the order limit boundary. It goes on to state that the FRA study area covers a larger study area, having assessed potential for changes to baseline flood risk at the local catchment scale and within floodplain cells.

3.16.5. Section 4.6 also explains that the assessment area used in the Water Framework Directive (WFD) Assessment [APP-293] includes a Zone of Influence that is set at the water body scale and includes all those WFD waterbodies with the potential to be affected.

3.16.6. Embedded design and control and management measures to mitigate the effects of the proposed development on the water environment are set out in Section 4.8 of [APP-051] and [APP-064] for Suffolk and Kent respectively. These include:

- sensitive routing and siting of infrastructure and works
- using trenchless crossing techniques beneath watercourses
- the implementation of sustainable drainage systems at Saxmundham converter station, Minster converter and substation site, Friston substation and construction compounds and access roads

3.16.7. The proposed development includes commitments to manage water and soil through detailed management plans in the Outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129], pollution controls for construction activities, and emergency response procedures. The oCEMP also outlines measures to reduce impacts on watercourses, manage flood risk and drainage, secure environmental permits, protect private water supplies, and monitor flood defences, ensuring minimal environmental disruption during construction. The oCEMP is secured by requirement 6 of the dDCO.

3.16.8. Additional commitments are set out in the Register of Environmental Actions and Commitments (REAC) [REP7-359] and include control and management measures to

mitigate impacts to the water environment during construction. The REAC is secured by requirement 5 of the dDCO.

3.16.9. Section 4.9 of Part 2 Suffolk Chapter 4 Water Environment [APP-051] and 3.4.11. Part 3 Kent Chapter 4 Water Environment [APP-064] describe the impacts and residual effects on the water environment during construction, operation and maintenance and decommissioning phases of the proposed development.

3.16.10. These are set out relating to water quality, surface water and land drainage, hydromorphology and flood risk. The ES chapters conclude that all effects would be minor adverse to negligible which are not considered to be significant in environmental impact assessment terms. On this basis the ES finds that no additional mitigation is required over and above the embedded and control and management measures.

3.16.11. Chapter 3 of the FRA [REP6-052] summarises the applicant's position with respect to the sequential and exception tests. It sets out that the proposed development is essential infrastructure with respect to flooding vulnerability in the National Planning Policy Framework. The applicant explains that it considers that vulnerable components of the proposed development including the proposed convertor stations and Friston substation in Suffolk are situated in low risk areas in Flood Zone (FZ) 1.

3.16.12. The FRA confirms that there would be certain elements of the proposed development located in FZ3 in both Suffolk and Kent during construction and operation. The temporary construction components in FZ3 are set out in table 4.5 [REP6-052] and in Kent include a temporary attenuation (basin ID: TC-18-ATPN), haul road access and temporary bridge across the River Stour. In Suffolk it includes drainage outfalls, a temporary attenuation (basin ID: TC-40-ATPN) and a haul road access. The applicant notes that the proposed pylons and overhead line would remain in Kent during operation and these would be located partially within FZ3. However, it considers that the nature of the structures (open lattice and raised cables) means that they are resilient to flooding and floodwater could pass through the structures unimpeded.

3.16.13. The applicant carried out a WFD assessment, as detailed in [APP-293], for the onshore components of the proposed development. The assessment concludes that the development aligns with the objectives of the WFD, including the prevention of any deterioration in waterbody status and consideration of potential cumulative effects. Based on these findings, the applicant deems that no further assessment is necessary.

EXAMINATION ISSUES

3.16.14. Based on the comments raised by Interested Parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- the adequacy of the FRA
- compliance with the sequential and exception tests
- water quality and the objectives of the WFD
- general concerns raised about matters including flood risk, drainage and high ground water levels

THE ADEQUACY OF THE FLOOD RISK ASSESSMENT

3.16.15. The ExA posed questions to the Environment Agency (EA), Suffolk County Council (SCC) and Kent County Council (KCC) with respect to the adequacy of the FRA [REP6-052] including ExA's written question (ExQ) ExQ2WE1 [PD-021] and at issue specific hearing (ISH)2 [EV6-024] and ISH3 [EV9-004].

3.16.16. The ExA asked SCC EXQ3WE3 [PD-023] to confirm if they were content the applicant's Surface Water Flood Risk and Climate Change - Technical Note [REP5-134] addressed all outstanding concerns with respect to the applicant's FRA. SCC confirmed [REP6-276] that it was generally happy with the submission, subject to mapping contained therein (pages 4-8) being updated for clarity.

3.16.17. The applicant commented [REP7-259] that the maps were intended to provide detail at a high spatial resolution and that they are extracts from appended plates (A.1 and A.2), which present the data for the wider extent of the proposed development. The applicant therefore did not update and resubmit the mapping.

3.16.18. At ISH3 [EV9-004], KCC indicated that it was generally satisfied with the contents of the FRA and its conclusions and did not have any significant concerns. Table 3.8 in the unsigned KCC statement of common ground (SoCG) [REP7-021] sets out agreed matters with respect to water environment and flood risk. Items 3.8.2 and 3.8.4 indicate that KCC agrees with the scope of the FRA and the applicant's position on flood risk and surface water drainage matters.

3.16.19. Table 3.7 in the Dover District Council SoCG [REP7-019] set out 5 agreed matters regarding water environment and flood risk. Item 3.7.2 confirmed that it agreed with the proposed scope and approach to the FRA and deferred to KCC as lead local flood authority (LLFA) and the EA.

3.16.20. All of the EA concerns that were raised during the examination were set out in [REP7-362]. These included matters relating to geomorphology, water resources, water quality, water, groundwater, hydrology and contaminated land, flood risk and flood modelling. It showed that all associated concerns had been addressed including all those relating to flood modelling with the exception of EA068, EA070 and EA079 (all relating to flood risk matters) whereby it had identified changes to the REAC or DCO in order to adequately address these.

3.16.21. The EA also identified concerns over the limits of deviation in the DCO (Part 2 Principal Powers). It requested that the DCO was updated to specify that finished levels should be no lower than stipulated in the FRA. Since the EA submission [REP7-362] came in at the last deadline, there was no comment on it by the applicant. However, the applicant did submit an update on EA outstanding issues [REP7-174] at the same deadline.

ExA's findings

3.16.22. The applicant has undertaken a FRA that has broadly been accepted by parties including the LLFAs and EA.

3.16.23. Both LLFAs have confirmed that they were satisfied with the adequacy of the FRA with no significant concerns outstanding at the end of examination.

3.16.24. The ExA notes that the KCC SoCG [REP7-021] is unsigned and therefore attaches no weight to its content. However, having regard to the position of KCC at ISH3 and that of the EA at the end of examination with respect to flood risk and flood modelling this does not alter our findings with respect to the adequacy of the FRA.

3.16.25. All matters raised by the EA with respect to flood risk and flood modelling have been resolved with the exception of 3 flood risk items which the EA has proposed can be addressed with changes to the DCO/ REAC.

3.16.26. With respect to issue EA068, the EA requested that all materials would be removed from the 1% annual exceedance probability flood extent in response to a predicted flood. It considered this necessary to avoid storage of material in high risk flood areas. However, the ExA notes the applicant's position [REP7-174] that its amendments to commitments W06 and W07 of the oCEMP [REP7-129] would adequately address this matter. We consider that commitments W06 and W07 include appropriate provisions, such as the implementation of a suitable flood emergency plan (FEP) to ensure that materials are not stored in a manner which unacceptably affects flood risk. The FEP as part of the oCEMP [REP7-129] would be secured by requirement 6 of the dDCO.

3.16.27. Concerning EA079, the EA required remediation of cables that were exposed or at risk of exposure so that they would not contribute to any increase in flood risk. Section 1.13 of the oOCEMP [REP7-127] summarises maintenance measures associated with the cable system which includes monitoring surveys to identify lengths of the cable that may require maintenance. It also confirms that maintenance could be in the form of installation of remedial rock berms or other measures. The oOCEMP is secured by condition 4 of the schedule 16 (the Deemed Marine Licence) [REP7-002]. REAC commitment W12 included in the oCEMP [REP7-129] (as secured by requirement 6 in the dDCO) also requires monitoring of existing flood defences to be undertaken at the Suffolk and Kent landfalls ensuring no detriment to the integrity of those defences in agreement with EA protocols.

3.16.28. Furthermore, oOCEMP [REP7-127] commitment MPE06 requires that monitoring of the beach profile and erosion rates over the operational lifetime of the proposed development is undertaken. It is also included in the outline In-Principle Monitoring Plan [REP7-167] and therefore secured under condition 4(1) of the Deemed Marine Licence.

3.16.29. We also note that further control would be provided as the EA is a named consultee for the oCEMP under requirement 6 of the dDCO and under condition 4(1) of schedule 16 [REP7-002] for the oOCEMP.

3.16.30. Based on these factors, the ExA is satisfied that the applicant would address any exposure as part of routine maintenance. Any cable remediation works that would give rise to materially new or different environmental effects (including flood risk effects) to those identified in the ES would need to be subject to further assessment.

3.16.31. In response to EA070 the EA requested that a requirement was added to the dDCO requiring agreement with the LLFA and EA as to a replacement drainage feature to temporary drainage basin (ref: TC-45-ATPN) located in Suffolk. The EA comments appear to relate to a superseded version of the Suffolk Drainage Strategy. The current version at the end of examination is the Suffolk Drainage Strategy, version D [REP7-148]. However, appendix C in the EA submission [REP7-362] refers to version 'C' of the drainage strategy not 'D'. Version C was not submitted to the examination to enable comparisons to be made, however the document control sheet in version D states, 'Following discussions with LFA and EA'.

3.16.32. As set out later in this section, the applicant has advised that SCC as the LLFA has accepted the revised (linear drainage) proposal. Requirement 6 in the dDCO requires a drainage management plan for Suffolk to be prepared 'substantially in accordance with the Suffolk Drainage Plan' which must be submitted and approved

by the relevant council and the EA in any event. The ExA is content that this provides an adequate mechanism through which temporary drainage considerations can be addressed.

3.16.33. Therefore, based upon the information provided by the EA, the ExA is not persuaded that the proposed additional DCO requirement is demonstrably necessary or appropriate. There is no evidence as to the level of any increased flood risk in the absence of the requested changes. It is also noted that the applicant has not had the opportunity to comment on the requested dDCO requirement.

3.16.34. Additionally, the EA repeated a request [REP7-362] that the references to limits of deviation as included in the dDCO [REP7-002] at article 5 (2) Part 2 Principal Powers are amended from "downwards to such an extent the undertaker considers necessary or convenient" to no lower than levels stipulated in the FRA. The ExA does not consider it appropriate for the FRA to dictate the downward extent of limits of deviation which could affect the interests of others. As such, the proposed amendment does not meet the test of reasonableness and is not accepted in the rDCO

3.16.35. The ExA is satisfied that the applicant's Flood Risk Assessment (FRA) accords with the requirements of NPS EN-1 section 5.8, including paragraphs 5.8.13 to 5.8.15.

COMPLIANCE WITH THE SEQUENTIAL AND EXCEPTION TESTS

3.16.36. The ExA explored the applicant's approach to the sequential and exception test with parties including the EA, SCC and KCC throughout the examination including at ISH2 [EV6-024] and ISH3 [EV9-004]. The ExA also posed questions in EXQ1 [PD-017], EXQ2 [PD-021] and EXQ3 [PD-023].

3.16.37. The main issues with respect to the sequential test following ISH3 were SCC and EA concerns with respect to:

- the proposed temporary drainage feature in FZ 3 (Suffolk). SCC and the EA considered that it had not been demonstrated that it could not be located in a lower risk area of flooding
- the siting of construction materials in FZ 3
- the siting of temporary accesses in FZ 3

3.16.38. SCC and EA positions in this regard were set out in their ISH3 post hearing submission [REP6-182] and [REP6-162] respectively.

3.16.39. Prior to DL7, the ExA asked the applicant to work with SCC to resolve all remaining issues regarding the sequential and exception test (Rule 17 [PD-025] 21 April 2026).

3.16.40. The applicant provided a response to the Rule 17 request at table 6.1 [REP7-173] it confirmed that the temporary drainage basin (ref: TC-45-ATPN) that was previously located in FZ 3a had been replaced by a linear drainage feature which the applicant considered avoided works in FZ 3 and had been agreed with SCC. The current linear drainage feature is as set out in the Suffolk Drainage Strategy [REP7-148]. However, it is noted by the ExA that the SCC's summary statement [REP7-367] still refers to the previous drainage solution as of DL6 which SCC considered to be unacceptable.

3.16.41. Concerning the storage of construction materials the applicant stated [REP7-173] that commitment W06 in the oCEMP had been revised to ensure that they would be stored in FZ 1 and areas at low risk of surface water flooding. With respect to temporary access roads, the applicant explained that where they cross FZ 3, no land raising is required and therefore there would be no associated flood risk impacts.

3.16.42. The EA confirmed [REP7-362] that its concerns with respect to the sequential approach to avoid FZ 3b had been resolved (EA065).

3.16.43. With regards to the exception test, SCC considered that there was a conflict with NPS EN-1 5.8.11 in the absence of measures being secured which could deliver wider sustainability benefits to the community that outweigh flood risk. Its position in this regard at the end of examination was set out in [REP7-367], however it confirmed that it was based upon the "…drainage solution, as of Deadline 6…". SCC requested that a requirement was included as per item 6 of its response to the Rule 17 letter [REP7-368]. It considered that the requirement could secure community benefits to address increased risk of flooding due to temporary storage of materials in areas at medium or high risk of surface water flooding.

3.16.44. The applicant explained why it did not consider this requirement necessary at table 6.1 [REP7-173] as there would be no increase in flood risk.

ExA's findings

3.16.45. The ExA is satisfied with the applicant's position that the temporary drainage basin that was previously located in FZ 3a had been replaced by a linear drainage feature would avoids works in FZ 3. The applicant has stated that SCC is also in agreement with the amended proposal. However, the Secretary of State should be aware that SCC appears to have not directly confirmed this agreement.

3.16.46. The ExA considers that the applicant's approach to the sequential test is appropriate and that the exception test is necessary given that the proposed development would include essential infrastructure in FZ 3.

3.16.47. Having regards to the exception test as set out at section 5.8.11 in NPS EN-1, the ExA agrees with the applicant that the new requirement suggested by SCC to provide wider sustainability benefits to the community that outweigh flood risk is not necessary.

3.16.48. This position is supported by the conclusions of the FRA [REP6-052] which finds that with a range of control measures in place, the residual risk of flooding would be low and flood risk to neighbouring land would not be increased. In reaching this position the ExA attaches weight to the positions of the LLFAs and the EA with respect to the adequacy of the FRA as set out above in this report.

3.16.49. The ExA considers that there are appropriate controls secured so that the storage of construction materials is outside of FZ 3 and in areas at low risk of flooding as per commitment W06 in the oCEMP [REP7-129]. We also accept the applicant's position regarding temporary accesses that as no land raising is required, there would be no associated flood risk impacts.

3.16.50. Therefore, the ExA finds that the applicant has met the requirements of NPS EN-1 with respect to the sequential and exception tests as included in section 5.8. Furthermore, we find the applicant's approach with respect to the exception test and the requirements of 5.8.11 to be acceptable.

WATER QUALITY AND THE OBJECTIVES OF THE WATER FRAMEWORK DIRECTIVE

3.16.51. The ExA explored the applicant's approach to water quality and how the proposed development aligns with the requirements of the WFD with the EA throughout the examination including at ISH2 [EV6-024] and ISH3 [EV9-004]. The ExA also posed questions in ExQ1 [PD-017], ExQ2 [PD-021] and ExQ3 [PD-023].

3.16.52. The EA [RR-1586] identified concerns that a soffit height of 4m on the proposed River Fromus bridge could have an impact on weak dispersing polarotactic invertebrates, leading to a deterioration in WFD ecological status. EXQ1WE6 [PD-017] asked the applicant and EA to set out its positions with respect to WFD compliance.

3.16.53. The applicant explained [REP3-069] that the Water Framework Directive Assessment [APP-293] sets out the risks to the WFD status of the River Fromus through the crossing of the river. It concluded that that the effects of the proposed bridge crossing of the River Fromus on common and widespread dispersing invertebrate species would be negligible and such invertebrates are currently not the cause of poor status for the River Fromus. Therefore, the applicant summarised that, such negligible effects would have no impact on the WFD status of the River

Fromus waterbody or the ability of this waterbody to achieve its WFD objectives in the future.

3.16.54. The EA response to EXQ1WE6 [REP3-104] confirmed that it was willing to accept a 4m soffit height subject to the inclusion of a monitoring and contingency plan. It identified wording to secure the plan in the DCO as a requirement.

3.16.55. EXQ2WE4 [PD-021], asked SCC and applicant to confirm if they agreed with the requirement proposed by the EA. The applicant confirmed that [REP5-135] it had reached agreement with the EA of alternative wording which that had been included in the dDCO [REP7-002] (requirement 3(3)). SCC answered [REP5-204] that it was happy to defer to the guidance of the EA on the matter.

3.16.56. The ExA asked the applicant in ExQ3WE2 [PD-023] to set out how the requirements of regulation 19 (which allows for derogations from the WFD environmental objectives) of The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017 had been satisfied should the Secretary of State determine that these objectives are not met.

3.16.57. The applicant's response to ExQ3WE2 [REP6-111] explained that temporary impacts with no long-term adverse consequences are not classified as deterioration for the purposes of the WFD legislation and the Regulation 19 tests would not be required. It concluded that any construction, operational or decommissioning phase impacts would not result in a WFD non-compliance with respect to the proposed development.

3.16.58. General water pollution concerns in Kent were also identified in approximately 150 relevant representations (RR) (including [RR-3473], [RR-3204] and [RR-6035]). Concerns were raised about the pollution of the River Stour in Kent by IPs in approximately 100 RRs (including [RR-3752]. [RR-0308] and [RR-3274]).

3.16.59. Save Minster Marshes (SMM) [REP6-148] set out concerns with respect to WFD matters. The applicant responded to the points raised in [REP7-257] including identifying where the relevant information is contained in application documentation.

3.16.60. The applicant provided a thematic response [REP2-024] to RRs that set out (reference 7.16.7 and 7.16.7) embedded and good practice measures which were in place to mitigate the risks of pollution to watercourses (including the River Stour in Kent and River Fromus in Suffolk). It confirmed that the measures are summarised in the REAC [REP7-359], which is secured through the oCEMP [REP7-129] as per requirement 6.

ExA's findings

3.16.61. The applicant has provided an assessment of the implications by the proposed development in accordance with NPS EN-1 paragraphs 5.16.3 to 5.16.7 which taken together require that a suitable assessment of the impacts of the proposed development is carried out.

3.16.62. The concerns raised by parties are noted by the ExA in relation to water quality and the WFD. However, the ExA is satisfied that all water quality and WFD concerns raised by the EA were resolved by the end of examination. This includes the provision of a unilateral undertaking with respect to the River Fromus as set out in section 3.14 of this report. Furthermore, the ExA considers that there are appropriate measures in place which are secured in the oCEMP [REP7-129] to mitigate the risk of pollution to watercourses.

3.16.63. The ExA is satisfied that the proposed development would not have an adverse effect on water quality and would meet the requirements of the WFD in accordance with section 5.16 of NPS EN-1.

GENERAL CONCERNS RAISED ABOUT MATTERS INCLUDING FLOOD RISK, DRAINAGE, HIGH WATER LEVELS

3.16.64. The SCC local impact report (LIR) [REP1-130] set out concerns regarding surface water flooding during construction and operation in the vicinity of the proposed Friston substation given previous flooding within the village. It also noted that it did not consider that the surface water drainage aligns with the consented Scottish Power renewable proposals. Similar concerns regarding flooding in Friston were also identified in several relevant representations including [RR-0755] and [RR-5249].

3.16.65. The applicant provided comments on the SCC LIR [REP2-026] in which it acknowledged the potential for surface water run off to cause flooding during the construction stage. It confirmed that the proposed development includes embedded sustainable drainage system measures to mitigate and avoid impacts on surface water flood risk through measures to capture and attenuate rainfall runoff. With respect to operational impacts, the applicant stated that the operation of the proposed substation would not increase surface water flood risk to downstream areas including Friston.

3.16.66. With particular reference to the Friston substation site, the ExA asked parties including SCC and the applicant questions at ISH2 [EV6-024] about the assessment of existing flood risk to downstream receptors. SCC set out its remaining concerns with respect to flooding, the drainage strategy and the adequacy of the flood risk assessment in response to ISH2 agenda item 18.1 and action point 81 [REP4-150].

This included its position regarding the adequacy of the DCO and outline management plans in relation to minimising the residual risk for surface water flooding.

3.16.67. Item 5.1 in the SCC Principal Areas of Disagreement Summary Statement (PADSS) [REP7-302] relates to surface water risk. It indicates that the council's concerns regarding surface water flood risk and the provision of an effective drainage solution for the substation site had been resolved.

3.16.68. The East Suffolk Council (ESC) PADSS [REP7-301] (item D7.6.01) requested that the applicant assess the possibility of a legacy project to improve flooding issues in the village of Friston. It explained that the existing watercourse in proximity to the proposed Friston Substation and the village experiences well known and regular flooding problems due to silting and lack of maintenance.

3.16.69. Concerns with respect to increased flood risk due to the proposed Suffolk convertor station were raised by around 50 IPs (including [RR-0484] and [RR-1487]). Approximately 10 IPs (including RR-2042] suggested that the proposed bridge over the River Fromus could result in increased flooding including in Saxmundham.

3.16.70. In Kent, general concerns about flood risk, drainage and high ground water levels were raised by around 400 IPs (including in [RR-3981] and [RR-3212]). Similar concerns were also raised during the examination including in [REP6-257], to which the applicant provided a response as part of its response to DL6 submissions in [REP7-257]. Parties including SMM also maintained concerns [REP6-148] with respect to ground water flooding throughout the examination. The applicant responded to the matters raised in these DL6 submissions in [REP7-257]. SMM maintained issues with regards to ground water flooding [REP7-210] at end of the examination.

3.16.71. Approximately 300 IPs (including [RR-2062], [RR-0608] and [RR-1777]) raised concerns with respect to the role of Minster Marshes as a sensitive flood plain and 120 IPs set out issues associated with River Stour flooding implications (including [RR-0258] and [RR-4977]).

3.16.72. The applicant provided a thematic response [REP2-024] to the broad topics in all relevant representations.

3.16.73. At the end of the examination several further IPs including [REP7-241] and [REP7-249] identified concerns that flood risk had not been adequately addressed and flooding implications associated with building on Minster Marshes.

ExA's findings

3.16.74. The ExA notes both LLFAs position insofar as being generally satisfied with the applicant's FRA and its findings. The ExA also recognises that further to the applicant's changes to the REAC and dDCO as set out above, the EA has no outstanding concerns.

3.16.75. The ExA notes that ESC requested that the applicant assesses the possibility of a legacy project to improve flooding issues in the village of Friston. However, it did not provide a specific policy justification for the request and given the findings of the FRA that residual risk of flooding would be low and flood risk to neighbouring land would not be increased, the ExA does not consider this to be necessary or appropriate.

3.16.76. We also acknowledge that there were outstanding IP concerns with respect to flood risk at the end of the examination. However, having regard to the positions of the LLFA and EA the ExA is satisfied with the applicant's approach and mitigation strategy.

CONCLUSIONS

3.16.77. The ExA is satisfied that the flood risk assessment for the proposed development complies with the requirements of NPS EN-1 and EN-5 with respect to water environment matters. The proposed development also accords with NPS EN-1 having particular regards to sections 5.8 and 5.16 which relate to flood risk and water quality matters respectively.

3.16.78. There would be no significant residual effects and the ExA concludes that there are no matters relating to the consideration of alternatives which would weigh for or against the order being made.

3.17. GEOLOGY AND HYDROGEOLOGY

APPLICATION SUMMARY

3.17.1. The applicant's assessment of the potential effects of the proposed development on geology and hydrogeology was presented in:

- Environmental Statement (ES) Part 2 Suffolk Chapter 5 Geology and Hydrogeology [APP-052], with corresponding figures provided in ES Figures Suffolk Geology and Hydrogeology [APP-232]

- ES Part 3 Kent Chapter 5 Geology and Hydrogeology [APP-065], with corresponding figures provided in ES Figures Kent Geology and Hydrogeology [APP-264]

3.17.2. The documents above also drew from information presented in the following ES appendices and reports:

- Preliminary Contamination Risk Assessment (Suffolk) [APP-116]
- Preliminary Contamination Risk Assessment (Kent) [APP-169]
- Qualitative Groundwater Risk Assessment [APP-117]
- Preliminary Minerals Resource Assessment [APP-118]
- Ground Investigation Report – Suffolk [APP-119]
- Generic Quantitative Risk Assessment – Suffolk [APP-120]
- Generic Quantitative Risk Assessment - Kent Part 1 of 2 [AS-051]
- Generic Quantitative Risk Assessment - Kent Part 2 of 2 [AS-052]
- Qualitative Groundwater Risk Assessment (Suffolk) [APP-117]
- Qualitative Groundwater Risk Assessment (Kent) [APP-170]
- Landfall Sediment Modelling Report Aldeburgh [PDA-037]
- Landfall Sediment Modelling Report Pegwell Bay [PDA-038]
- Sea Link Cable Burial Risk Assessment [PDA-039]

3.17.3. The applicant's assessment of baseline conditions is set out in section 5.7 of [APP-052] and [APP-065] respectively. The sections describe matters including the geological conditions within the order limits, including:

- superficial deposits
- bedrock geology
- site specific ground conditions (as presented in the qualitative groundwater risk assessments [APP-117] and [APP-170] for Suffolk and Kent respectively)
- geo-conservation
- minerals

3.17.4. The sections also present relevant hydrogeological conditions, which include aquifer designations and groundwater considerations.

3.17.5. Additionally, the sections explain that there is a very low risk of potential sources of contamination. However, there is potential for discrete areas within the order limits where either the historical land use or the current land use is identified as potentially contaminative. These areas are identified in the Preliminary Contamination Risk Assessments [APP-116] and [APP-169] for Suffolk and Kent

respectively. Identified receptors are also set out and comprise construction and maintenance workers and groundwater and groundwater receptors.

3.17.6. Sections 5.8 of [APP-052] and [APP-065] set out embedded design and control and management measures to avoid or reduce geology and hydrogeology impacts which could result from the proposed development. This includes the applicant's embedded mitigation measures to reduce or avoid potential geology and hydrogeology impacts include routeing and siting of infrastructure to avoid sensitive areas like Source Protection Zone (SPZ) 1, commitments outlined in the Register of Environmental Actions and Commitments (REAC) [REP7-359], and engineering designs that account for site-specific ground conditions.

3.17.7. Control and management measures for geology and hydrogeology during construction of the proposed development are detailed in the Outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129]. These include conducting intrusive ground investigations to inform geotechnical design and undertaking foundation works risk assessments to minimise contamination risks from piling and trenchless crossings. Furthermore, the applicant states a hydrogeological risk assessment would be undertaken during the detailed design phase to evaluate site-specific risks to groundwater and its receptors, and to determine any necessary additional mitigation or remediation measures. Compliance with the contents of the oCEMP is secured through requirement 6 of the dDCO.

3.17.8. Sections 5.9 of [APP-052] and [APP-065] describe the potential impacts and resultant likely significant effects relating to geology and hydrogeology during construction, operation and maintenance and decommissioning phases of the proposed development.

3.17.9. The potential impacts relate to:

- Construction phase
    - damage to/ destruction of designated geological sites
    - sterilisation of mineral resources (Suffolk only)
    - exposure to existing potential contamination through ground disturbance
    - the mobilisation of existing contamination
    - ingress and accumulation of ground gases
    - mixing of aquifer bodies due to the connection of aquifer units at trenchless crossings
    - changes to groundwater levels, quality and groundwater flow direction caused by dewatering during construction

- construction compound within the groundwater SPZ1 (Kent only)

- Operation and maintenance phase
  - sterilisation of mineral resources (Suffolk only)
  - ingress and accumulation of ground gases
  - changes to groundwater levels and/ or recharge rates from the introduction of impermeable surfaces

3.17.10. The applicant provides an assessment of the potential effects of the proposed development on safeguarded extents of minerals in Suffolk in a preliminary minerals resource assessment [APP-118]. The assessment indicates that approximately 70% of the order limits in Suffolk are within a Mineral Consultation Area (MinCA) which equates to approximately 0.1% of the MinCA. It goes on to confirm that this does not represent the actual maximum area where minerals may be sterilized as that would be expected to equate to the physical footprint of the proposed development which would be less than 0.1% of the MinCA.

3.17.11. The ES chapters conclude that all effects on geology and hydrogeology receptors during construction and operations would be minor adverse to negligible and thus not significant in environmental impact assessment terms. Effects during any decommissioning are considered to be similar (or less) to those in the construction phase. On this basis the ES finds that no additional mitigation is required over-and-above the embedded control and management measures.

EXAMINATION ISSUES

3.17.12. Suffolk County Council (SCC) was the only local authority to identify any matters with respect to geology and hydrogeology in its local impact report (LIR) [REP1-130]. Section 9 of SCC's LIR [REP1-130] sets out potential positive impacts during construction and decommissioning phases arising from the demand for sand and gravel and waste disposal. Section 9 also identified negative impacts during construction and operational phases associated with cessation of sand and gravel extraction in areas that would be occupied by underground cables. However, the final version of the SCC statement of common ground [REP7-355] confirmed that matters relating to geology and soils, including excavation of, and access to mineral resources, were agreed.

3.17.13. At the end of examination, the Environment Agency (EA) position regarding ground water and contaminated land was resolved [REP7-362]. This included all 14 identified matters (EA050-EA063) which were set out in its relevant representation (RR) [RR-1586].

3.17.14. The applicant provided a thematic response [REP2-024] to matters raised in relevant representations (RRs) in relation to a need to understand the geology of the order limits (including [RR-3529], [RR-1410]), concerns over water pollution (including [RR-1846]), location of landfall cables which could impact sedimentary processes (including [RR-3529], [RR-1410]) and concerns over impacts to the coast (including [RR-0144]). These matters have been addressed elsewhere in this report as appropriate.

3.17.15. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- the suitability of the proposed site for the Minster convertor station
- the applicant's general approach to geology and hydrogeology
- access to mineral resources post decommissioning

THE SUITABILITY OF THE PROPOSED SITE FOR THE MINSTER CONVERTOR STATION

3.17.16. Approximately 30 RRs including [RR-1241], [RR-3733] and [RR-4853] raised concerns that there would be a need for extensive filling due to poor ground conditions at Minster Marshes which could result in displacement of groundwater and lead to issues including flooding and pollution. Similar concerns were raised orally by several IPs at open floor hearing (OFH) 2.

3.17.17. The applicant provided a written response (page 20 [REP2-032]) to OFH2 with respect to ground conditions and the challenges and impacts of building on soft ground at Minster. It confirmed that the foundation design would likely comprise a raised development platform with piled foundations through the Thanet Formation into the white chalk bedrock beneath.

3.17.18. With respect to flooding the applicant set out that the Minster convertor station and substation, all construction compounds and cable transition joints would be located in Flood Zone 1, where such development is acceptable in flood risk terms. Its response also highlighted that there would be no interactions with higher risk Flood Zones 3a and 3b.

ExA's findings

3.17.19. The applicant has set out an assessment of impacts and likely effects including those relating to potential contamination and risks to groundwater including contamination in [APP-065]. All resultant effects were deemed to be negligible or minor effects and not significant.

3.17.20. With respect to groundwater and contaminated land, the ExA notes that at the end of examination, all EA issues regarding these matters were resolved [REP7-362] with no concerns outstanding.

3.17.21. The ExA has no reason to disagree with the position of the EA and therefore considers the applicant's assessment of effects as robust. Regarding the suitability of the site for the Minster converter station, it would be a matter for the applicant to have a suitable engineering solution for the ground conditions which the ExA considers is achievable. Whilst we understand the concerns of IPs, we find the requirements of NPS EN-1 including paragraphs 5.4.19 and 5.4.42 relating to the suitability of the site for the Minster convertor station have been met.

THE APPLICANT'S APPROACH TO GEOLOGY AND HYDROGEOLOGY

3.17.22. Suffolk Energy Action Solutions Ltd (SEAS) raised issues with respect to the applicant's approach in [RR-5210] including:

- adequately of the protection of geological and hydrogeological resources
- acceptability of horizontal directional drilling (HDD) and deep trenching
- adequacy of addressing overlapping geological disturbance risks with the consented East Anglia One North, East Anglia One 2 offshore wind farms and Sizewell C nuclear power station
- adequacy of mitigation.

3.17.23. Environmental impacts associated with these matters on other topics including marine physical environment, ecology and biodiversity and water quality are covered as appropriate in those sections of this report.

3.17.24. The applicant provided a detailed response to SEAS in table 2.55 [REP2-014] which set out how it considered all of the identified matters were addressed within the ES and supporting documentation.

3.17.25. SEAS provided a rebuttal to the applicant's response [REP2-118] which maintained concerns with respect to the applicant's approach regarding matters it raised in [RR-5210] related to investigations, assessments and risks.

3.17.26. With respect to cumulative effects, SEAS provided a separate rebuttal [REP2-125] which maintained concerns regarding cumulative risks from other nationally significant infrastructure projects. The applicant responded to the matters raised [REP3-064] in table 32.1 setting out why the potential cumulative effects associated with geology and hydrogeology identified by SEAS were anticipated.

ExA's findings

3.17.27. The ExA notes that there were no unresolved issues raised by any of the relevant local authorities or EA with respect to the applicant's approach to assessing effects on geology and hydrogeology, including those raised by IPs. The ExA notes that additional discussion on trenchless crossing effects is provided in section 3.6 and section 3.14 of this report.

3.17.28. The ExA is satisfied with the applicant's approach to geology and hydrogeology and that the applicant has identified appropriate mitigation measures in line with NPS EN-1 paragraphs 5.4.19 which require the applicant to demonstrate how geological interests have been conserved and enhanced and 5.4.42 which states that as a general principle, development should aim to avoid significant harm to geological interests.

3.17.29. The ExA is satisfied that there would not be any significant adverse effects in relation to geology and hydrogeology from the proposed development

ACCESS TO MINERALS

3.17.30. Neutral impacts were identified by SCC in the LIR [REP1-130] during decommissioning and it requested that access to mineral resources should be required following the removal of development.

3.17.31. The applicant provided a response to the SCC LIR [REP2-026]. It noted (reference 9.29 and 9.30) that assets would be likely to be maintained to extend life span of the proposed development beyond the initial design life of the project (e.g. longer than 40 years).

3.17.32. Item 3.13.2 in the SCC SoCG [REP7-355] sets out its position with respect to access to minerals. It considers that if the applicant has no plans to decommission the proposed development, the infrastructure and its effects should not be identified as temporary.

ExA's findings

3.17.33. In respect of mineral resources, paragraph 5.11.19 of NPS EN-1 sets out that applicants should safeguard any mineral resources on the proposed site as far as possible.

3.17.34. [APP-052] paragraph 5.9.20 confirms the applicant's position insofar as it states " potential mineral sterilisation can be considered to be temporary...upon decommissioning of the Proposed Project the permanent infrastructure could be removed and access to the underlying mineral restored."

3.17.35. The applicant confirmed that the proposed development's lifespan would likely extend beyond the initial design life. Consequently, the ExA agrees with SCC that the loss of access to some mineral resources should not be considered to be temporary. However, the ExA accepts that the area of land in question is a small proportion (0.1%) of the overall MinCA within Suffolk. We find that this does result in some conflict when considered against NPS EN-1, paragraph 5.11.19 as there is potential for there to be long-term reduced access to some mineral resources.

CONCLUSIONS

3.17.36. The ExA is satisfied that the proposed development complies with the relevant requirements of NPS EN-1 and NPS EN-5 regarding geology and hydrogeology.

3.17.37. Whilst there may be long-term reduced access to a small amount of mineral resources in Suffolk, this area represents a very small proportion of the overall MinCA in Suffolk. As such, the ExA considers that this matter attracts a little weight against the making of the order.

3.18. TRAFFIC AND TRANSPORT

INTRODUCTION

3.18.1. This section considers the traffic and transport effects of the proposed development, both for the Suffolk and Kent onshore proposals.

3.18.2. Effects on public rights of way (PRoW) as a form of access or link between different locations, are considered in this section. However, PRoW matters are also considered in other sections of this report, such as in terms of their recreational and tourism industry value in section 3.22 of this report.

APPLICATION SUMMARY

3.18.3. The applicant's assessment of the potential transport and traffic effects of the proposed development is set out in the Environmental Statement (ES):

- Part 2 Suffolk Chapter 7 Traffic and Transport [APP-054]
- Part 3 Kent Chapter 7 Traffic and Transport [APP-067]

3.18.4. The assessment in [APP-054] is supported by the following appendices and accompanying figures for the Suffolk onshore area:

- ES Figures Suffolk Traffic and Transport [APP-234]

- Transport Assessment Note [APP-122]
- Traffic and Transport Thematic Meeting Minutes [APP-123]
- Receptor Sensitivity Levels [APP-124]
- Baseline Traffic Movements [APP-125]
- Construction Worker Trip Distribution [APP-126]
- Saturday Trip Generation Tables [APP-127]
- Traffic Flow Diagrams [APP-128]
- Preliminary Highway Impact Assessment [APP-129]
- Magnitude of Change [APP-130]
- Traffic and Transport Assessments [APP-131]
- Preliminary Cumulative Highway Impact Assessment [APP-142]

3.18.5. The assessment in [APP-067] is supported by the following appendices and accompanying figures for the Kent onshore area:

- ES Figures Kent Traffic and Transport [APP-266]
- Transport Assessment Note [APP-175]
- Traffic and Transport Thematic Meeting Minutes [APP-176]
- Receptor Sensitivity Levels [APP-177]
- Baseline Traffic Movements [APP-178]
- Construction Worker Trip Distribution [APP-179]
- Saturday Trip Generation Tables [APP-180]
- Traffic Flow Diagrams [APP-181]
- Preliminary Highway Impact Assessment [APP-182]
- Magnitude of Change [APP-183]
- Traffic and Transport Assessments [APP-184]
- Preliminary Cumulative Highway Impact Assessment [APP-194]

3.18.6. Relevant plans include the Traffic Regulation Order Plans [CR1-010], Design and Layout Plans [APP-037] and the Access, Rights of Way and Public Rights of Navigation Plans [AS-011].

3.18.7. Also submitted were the outline Construction Traffic Management and Travel Plan (oCTMTP) for Suffolk [REP7-121] and Kent [REP7-123], the outline Rights of Way and Management Plan (oRWMP) for Suffolk [REP6-086] and Kent [REP6-088], the Approach to Assessment of Public Rights of Way [REP1-119] and a Traffic and Transport Cumulative Assessment (Suffolk) [REP1-110].

3.18.8. Cumulative effects are also considered under the following ES chapters:

- Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059]

- Suffolk Onshore Scheme Inter-Project Cumulative Effects [APP-060]
- Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072]
- Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073]

3.18.9. The following traffic and transport matters were considered as part of the assessment:

- severance of communities
- pedestrian delay (incorporating delay to all non-motorised users)
- non-motorised user amenity
- fear and intimidation on and by road users
- road vehicle driver and passenger delay
- road user and pedestrian safety
- hazardous/ large loads
- PRoW diversions and closures (both temporary and permanent effects)

3.18.10. A number of matters were scoped out of the assessment, including operational traffic and transport due to the anticipated low number and frequency of vehicles during this stage.

3.18.11. Section 7.6 of both [APP-054] and [APP-067] sets out the study area for the traffic and transport assessment. It has been defined based on the area where there is likely to be a transport impact resulting from the construction of the proposed development. This includes routes along which heavy goods vehicles (HGV) would travel during the construction phase, as well as the most likely routes that would be used by construction workers.

3.18.12. Road link and road junction receptors have been identified for Suffolk and Kent in both [APP-054] and [APP-067]. PRoW receptors have been identified and are listed under paragraph 7.6.6, together with effected national/ regional walking and cycling routes, such as the King Charles III England Coast Path which runs through both the Kent and Suffolk areas.

3.18.13. Baseline traffic data has been obtained for the surrounding highway network within the study area based on automatic traffic counts and manual classified count surveys carried out in January and February 2024. Traffic growth has been calculated, using the National Road Traffic Forecast for example. Personal injury accident data has been collected and collision rates calculated using Department for Transport data. For construction staff distribution the 2021 census data was used, based on the number of existing residents who live within a 60-minute catchment of the order limits and work within the construction industry.

3.18.14. For cumulative assessments, documents for Nationally Significant Infrastructure Projects (NSIPs) and also planning applications and decisions from the relevant local planning authorities were obtained as part of the baseline data gathering.

3.18.15. The traffic and transport assessment was undertaken in accordance with the Institute of Environmental Management and Assessment Guidelines for the Environmental Assessment of Traffic and Movement (2023).

3.18.16. In terms of assumptions and limitations, the forecast trip distribution of construction staff vehicles has been based on a simple gravity model which has been developed based on 2021 census data for construction workers living within a 60-minute catchment area of the site. The applicant explains that whilst this census was undertaken during the Covid-19 pandemic both Kent County Council (KCC) and Suffolk County Council (SCC) are satisfied with the assessment.

3.18.17. The applicant states that construction could commence in any year up to five years from any granting of the Development Consent Order (DCO) which is assumed to be 2026. Therefore, consideration has been given to whether the effects reported would be any different if works were to commence in any year up to year five.

3.18.18. Flexibility assumptions include accounting for limits of deviation for the proposed onshore cable location and the limits of deviation for the converter station and substation.

3.18.19. In Suffolk, two Friston substation scenarios and the proposed Fromus bridge are included in the assessment. In regard to the proposed Friston substation, this includes the following scenarios:

- scenario 1 - Friston substation is installed under a current consent granted by Scottish Power Renewables (SPR), or
- scenario 2 - Friston substation is built as part of the proposed development

3.18.20. Embedded mitigation includes, for example, sensitive routing and siting of infrastructure and temporary works to minimise the requirement to close/ divert PRoW; utilising trenchless methods at landfall (under some highway and walking/ cycle routes); and potential carriageway widening works to accommodate construction vehicles. Mitigation commitments are listed within the Register of Environmental Actions and Commitments (REAC) [REP7-359].

3.18.21. Measures relevant to the control and management of the proposed development are set out in the oCTMTP, and for the contractor(s) to implement a monitoring and reporting system to check compliance with the measures set out within the oCTMTP.

3.18.22. The assessment concludes that, with embedded mitigation, there would be no significant traffic and transport effects either alone or cumulatively with other projects. As such, the ES concludes that no further mitigation measures are considered to be necessary.

3.18.23. The applicant also summarises that no significant cumulative effects on traffic and transport receptors are expected as a result of construction traffic associated with the Suffolk or Kent onshore proposals when combined with construction/ operational traffic associated with other developments in isolation [APP-054] and [APP-067]. Furthermore, the applicant concludes that no significant cumulative effects are expected when considering construction/ operational traffic associated with all committed developments combined, for reasons such as that peak construction phases for each scheme are not anticipated to overlap, as set out in [APP-054] and [APP-067].

EXAMINATION ISSUES

3.18.24. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- effect on traffic delays as a result of the construction phase of the proposed development and cumulatively with other projects
- use of Benhall railway bridge for abnormal indivisible load (AIL) traffic and the other proposed AIL routes
- highway safety for vulnerable users
- PRoW disruption

3.18.25. Whilst Suffolk County Council (SCC) suggested alternative construction traffic routing, this matter has been dealt with in section 3.3 of this report relating to alternatives.

EFFECT ON TRAFFIC DELAYS AS A RESULT OF THE CONSTRUCTION PHASE OF THE PROPOSED DEVELOPMENT AND CUMULATIVELY WITH OTHER PROJECTS

Initial driver delay issues raised

3.18.26. There were many submissions by IPs at relevant representation (RR) stage and during the examination with concern about traffic congestion and longer drive times as a result of the proposed development. This was especially an issue in Suffolk where there were concerns with the cumulative impact to traffic delays and congestion when considering the traffic associated with the proposed development and other projects in the area.

3.18.27. Thanet District Council (TDC) [RR-5372] considered that given the number and type of vehicle movements and hours of use, traffic associated with construction is likely to have a significant impact on the local highway network. TDC also had significant concern about any construction access via Minster, even as a secondary means of access.

3.18.28. TDC [REP7-214] commented that it had significant concerns regarding the list of cumulative sites which omits a number of sites that TDC consider should be included, particularly in regard to the traffic and transport impacts on the A229. TDC argue that due to the proximity of these other developments to the site in Kent, there could be likely significant cumulative effects arising from traffic and transport.

3.18.29. SCC [RR-5209] also raised the issue of cumulative impact. SCC stated that the proposed peak construction traffic date for Suffolk in 2027 for the proposed development was close to Sizewell C's peak construction in 2028, and there would be a strong likelihood that SPR East Anglia One North (EA1N) and East Anglia 2 (EA2) offshore wind farms would still be within their construction phase. Furthermore, according to SCC, LionLink Interconnector may also have commenced within this period.

3.18.30. SCC [RR-5209] set out that the reliance of energy projects including the proposed development to use shift patterns to avoid worker trips during network peaks might, in combination with other projects, result in new traffic peaks at the time workers arrive and depart. For context, the applicant has proposed limiting HGV arrivals or departures on a weekday between 8am-9am and 5pm-6pm, whilst staff are expected to arrive and depart outside of the network peak with core working hours being Monday to Friday (7am-7pm) during weekdays.

3.18.31. According to SCC [RR-5209] routes such as the A12 and A1094 are subject to seasonal fluctuations due to events, tourism and agricultural activities which had not been acknowledged in the applicant's assessment.

3.18.32. Benhall and Sternfield Parish Council [RR-0550] stated that travel on the very limited road infrastructure that exists in Suffolk is already being disrupted by Sizewell C roadworks and there are genuine concerns about the cumulative effects on traffic and transport from all the other concurrent developments taking place locally.

3.18.33. Saxmundham Town Council [RR-4896] expressed concern that the nearest Accident and Emergency department is at Ipswich Hospital, more than 21 miles away. It stated that any obstruction or congestion on the route between Saxmundham and Ipswich (the A12) could hinder timely access to urgent medical care, increasing the

likelihood of avoidable harm or even mortality. Furthermore, Saxmundham Town Council anticipated that traffic congestion and construction delays on the A12 would encourage 'rat-running' via unsuitable rural roads. Saxmundham Town Council objected to the proposal that construction traffic would be routed through the centre of the town as, in its view, the town's existing infrastructure was wholly unsuited to accommodate this level of disruption.

3.18.34. Saxmundham Town Council [RR-4896] also had concerns regarding the robustness and validity of the applicant's traffic assessments, particularly in relation to baseline monitoring data. This was because the applicant's assumptions were derived from highway monitoring conducted during January and February 2024, which Saxmundham Town Council stated are months that are typically among the quietest for traffic movements in this area.

3.18.35. There were many other comments from IPs about traffic levels as a result of the proposed development, but the above comments are considered to encompass the main themes of concern.

3.18.36. The applicant [REP2-014] noted that whilst it acknowledged that there would be a Suffolk daily peak of 346 two way HGV movements (173 HGV deliveries) regarding construction of the proposed development, this represented the forecast level of activity for the single busiest day of the programme and the assessment is therefore based on a very much worst-case short-term impact. However, the applicant explained that there was expected to be an average of 106 daily two-way HGV movements (53 HGV deliveries) across the entire construction programme, which represents approximately 30% of peak assessed levels.

3.18.37. The applicant [REP2-014] acknowledged that some overlap between the proposed development and other projects would be inevitable due to the length of the construction phase for each of these major projects in Suffolk. Therefore, the applicant stated that coordination would be carried out to review construction programmes, the likelihood/ duration of peak construction phases overlapping, and to consider additional mitigation where necessary.

3.18.38. In response to SCC's concerns that the shift patterns with the other large development projects could create new traffic peaks, the applicant [REP2-014] stated that the proposed working hours had been designed to minimise additional construction worker vehicle trips on the surrounding highway network during the network peak hours. This would be secured as part of the oCTMTP (secured under requirement 6 of the draft Development Consent Order (dDCO) [REP7-002]) to minimise impacts during the busiest (and most traffic congested) times of the day, particularly in terms of driver delay. Furthermore, the applicant set out that whilst

there would be the potential for construction workers associated with multiple schemes to create new peaks, this would be less impactful on road congestion and junction performance than the alternative scenario where construction workers travel during the network peaks.

3.18.39. In response to Saxmundham Town Council's comments the applicant [REP2-014] explained that routing through the town centre would be avoided after the initial mobilisation phase. The applicant committed through the oCTMTP [REP7-121] to a daily cap of ten HGV movements to be imposed at the B1121 Main Road/ B1119 Church Street signalised junction within Saxmundham, to minimise potential impacts of construction traffic at this location.

3.18.40. TDC raised concerns with traffic through the village of Minster, though the applicant [REP2-022] stated that the only construction vehicles to pass through Minster would be those travelling via Marsh Farm Road (access K-BM04) to undertake temporary diversion works to the overhead lines. The applicant also stated that construction traffic is only forecast to use Marsh Farm Road for a period of six weeks, with a daily cap of ten HGV movements, to minimise potential impacts of construction traffic through access point K-AP-8, secured through the oCTMTP [REP7-123].

3.18.41. In response to concerns about drivers using less suitable alternative routes due to traffic congestion (rat-runs) the applicant [REP6-110] acknowledged that the potential for this would be a more likely scenario when including cumulative traffic associated with other schemes. However, the applicant explained that as it did not identify the potential for any significant cumulative effects on the highway network with respect to driver delay as a result of the proposed development, and therefore the applicant concluded that the situation would not encourage drivers to utilise alternative minor roads.

3.18.42. In terms of emergency access, such as ambulances, the applicant [REP2-024] stated that whilst the assessment does not explicitly consider emergency services as a separate user type, this particular receptor had inherently been considered as part of the assessments of highway safety and driver delay for all road users. As such, the applicant concluded that there would be no likely significant effects on emergency services as a result of the proposed development.

3.18.43. In response to the comments regarding the baseline surveys, the applicant [REP2-014] acknowledged that there are variable traffic flows influenced by tourism and local events for example. However, assessment of driver delay was informed by queue length surveys, and the proposed working hours were designed to minimise additional construction worker vehicle trips on the surrounding highway network during the network peak hours. In addition, the applicant explained that the

majority of seasonal traffic is likely to be less peaked, but instead expected to be spread across the day and to be less impactful during the typical network and shoulder peak hours. Nonetheless, the applicant undertook a sensitivity test by reviewing the potential outcome of increasing the sensitivity level of each junction to driver delay by a single category (such as from medium to high) to reflect higher vehicle flows and queuing at the busiest times of the year. The applicant set out that this sensitivity test saw the same conclusions reached, being that the likely impact of the proposed development on driver delay for all junctions within the study area is considered to be negligible or minor adverse (not significant).

3.18.44. In terms of consideration of more projects in Kent as part of the cumulative assessment, in the statement of common ground between the applicant and TDC [REP7-017], the applicant highlights the Inter-Project Cumulative Effects Assessment Update - Technical Note [REP6-098], submitted at deadline (DL) 6, which updated a consideration of other projects in the area of the proposed development. Regarding the projects cited by TDC the applicant stated that it is not considered likely that any significant cumulative effects could occur for various reasons, such as the other development being too remote from the site of the proposed development.

Junction Modelling

3.18.45. In response to the ExA's request through ExQ1TT11 [PD-017] the applicant provided junction modelling as part of a Transport Assessment Note for Suffolk [REP6-039] and Kent [REP5-029]. This was requested as it would show if there was likely to be traffic queuing due to the proposed development and other cumulative developments at certain junctions.

3.18.46. Three junctions in Suffolk (A12/ B1121 Main Road (south of Saxmundham) Junction (S-RJ2); A1094 Aldeburgh Road/ B1121 Aldeburgh Road Junction (S-RJ9); and A1094 Aldeburgh Road/ B1069 Snape Road Junction (S-RJ10)) were modelled. Three junctions in Kent were modelled (A299/B2190/Tothill Street (Minster) Roundabout (K-RJ2); A299/A256/Cottington Link Road (Sevenscore) Roundabout (K-RJ4); and A256/Ramsgate Road/Jutes Lane (Ebbsfleet) Roundabout (K-RJ5)).

3.18.47. KCC [REP6-265], in response to the modelling, stated that the modelled junctions were agreed between KCC and the applicant, as they represented the junctions where the level of cumulative impact was to be the greatest and most indicative. KCC explained that the modelling showed that the junctions are already expected to be over capacity in 2030 during peak hours, whether or not the proposed development goes ahead. KCC also explained that because the junctions are already congested, the additional construction traffic from the proposed development would not be expected to lead to noticeable additional queuing or make conditions

noticeably worse. KCC also concluded that the results did not warrant specific concerns for highway safety.

3.18.48. In SCC's [REP7-368] response to the modelling it stated that it had engaged specialist traffic modelling engineers to assist with detail review of the junction modelling, but this would be submitted to the Secretary of State post-examination. However, for the A1094 Aldeburgh Road/ B1069 Snape Road junction SCC stated that it was concerned that the junction was operating over capacity for all cumulative scenarios, which was a great concern considering the potential overlap of the major projects being developed in this part of East Suffolk.

3.18.49. The applicant [REP6-039] proposed to manage construction worker traffic movements through this A1094/ B1069 junction to reduce potential impacts. The applicant explained that this would involve managing construction workers associated with accesses S-BM03 and S-BM04 during the AM development peak hour (7am-8am) and the PM development peak hour (6pm-7pm) to reduce potential impacts along the A1094 and B1069 (via the junction) at these times. This is set out in the oCTMTP [REP7-121]. In response SCC [REP7-368] stated that reliance on avoiding specific journey times as mitigation would strengthen a case for robust controls and enforcement.

3.18.50. SCC [REP7-368] welcomed the junction modelling but stated that it had not resolved its concerns that the cumulative impact of multiple NSIPs would be significant.

Assessment of the traffic impacts for the A12 in Suffolk

3.18.51. SCC [RR-5209] considered that with the potential cumulative traffic impacts, the wider A12 route should have been included within the traffic and transport study area. SCC [REP2-062] stated that traffic associated with the proposed development would affect the A12 beyond that covered in the study area and would interact with traffic associated with cumulative schemes. Due to the applicant's study area, SCC argued that these effects had not been assessed which according to SCC means these parts of the A12 may experience significant effects without mitigation. SCC [REP6-276] considered that as a minimum a sensitivity test was required to assess the cumulative impact of all NSIP related construction vehicles on the A12 and elsewhere.

3.18.52. The applicant stated [REP2-014] that it had undertaken a comprehensive cumulative assessment of forecast traffic impacts of the proposed development and other major projects on the Suffolk highway network. The applicant also set out that the cumulative assessment included the A12 to the north and south of the study area and the additional traffic to be generated on this part of the network by the

proposed development and other cumulative schemes. The applicant explained that this was based on the Institute of Environmental Management and Assessment Guidelines for the Environmental Assessment of Traffic and Movement thresholds and assessment criteria including driver delay and safety at junctions.

3.18.53. Regarding the sensitivity testing for the A12, the applicant [REP7-173] responded by stating that a worst-case assessment (including sensitivity testing) had been carried out on the basis that it considered the peak construction phase and peak construction forecasts for the other major Suffolk projects. The applicant maintained that a worst-case assessment (including sensitivity testing) had already been carried out, including for the A12, which demonstrated that there would be no significant traffic and transport effects as a result of the proposed development.

Driver delay mitigation and control

3.18.54. SCC's Local Impact Report (LIR) [REP1-130] considered that the oCTMTP lacked appropriate controls for construction vehicles, specifically caps to ensure that the assumed numbers and hence impacts would not be exceeded.

3.18.55. The applicant responded to ExA question 2TT7 [REP5-135] highlighting that the proposed development would not generate substantial HGV traffic and therefore this requirement is not supported by National Policy Statement (NPS) policy. The applicant considered that it was not necessary or appropriate to secure all assumptions made in an ES and the applicant did not consider the case was made for the assumptions to be secured in this case. Given that it was not necessary to secure the estimated traffic numbers in the ES, the applicant argued that it would also not be necessary to enforce them.

3.18.56. The applicant [REP6-111] set out that the routing of HGVs would be monitored using global positioning system data, to check that HGV drivers comply with the routes as shown on the HGV routing plans. HGV arrivals and departures would also be monitored at each access point, to record the timing and number of HGVs associated with the proposed development each day. The applicant's transport co-ordinator would report and share the results with the highway authorities.

3.18.57. SCC [REP5-204] pointed out that without enforceable caps, if a development during its construction phase generated more HGV traffic, either in total or on particular routes than was anticipated in the ES, that would not give rise to any scope for enforcement. SCC therefore supported enforceable caps for HGVs on specific routes as was considered appropriate for Sizewell C and SPR EA1N/ EA2. SCC were of the opinion the implementation of HGV caps would fix a worst-case assessment, and it could not see why such a commitment would be a constraint on development as

the quantities would be determined by the applicant. SCC [REP7-368] supported use of the wording used in the SPR EA2 Construction Traffic Management Plan.

3.18.58. KCC [REP6-265] considered it prudent to make provision for the capping of HGVs and this would not present a particularly onerous impact to the project schedule, nor was it without precedent in the county.

3.18.59. At the final deadline the applicant updated the CTMTPs, [REP7-121] and [REP7-123] and explained that it included further wording on monitoring and the process which would be followed should any breaches occur. This included the process to be followed should there be any exceedances to the locally defined daily HGV caps identified within the management plans, which would be treated as a breach. The applicant confirmed that wording would be reviewed with the local highway authorities as part of the final CTMTPs and refined as necessary. The applicant [REP7-173] stated that it would take all reasonable steps to avoid any breach of the CTMTP through the implementation of the management measures.

3.18.60. Furthermore, the applicant [REP7-173] highlighted mitigation measure TT02, secured within the outline onshore Construction Environmental Management Plan (CEMP) [REP7-129] which requires that the contractor(s) would implement a monitoring and reporting system to check compliance with the measures set out within the oCTMTPs. Also, this mitigation measure commits to tracking of HGVs and ensuring they are using the routes proposed.

3.18.61. With continuing concerns regarding potential cumulative traffic levels for Suffolk, SCC [REP6-184] advised that mitigation for residual and/ or unforeseen transport impacts could be managed and secured in a similar way as Sizewell C, through a contingency effects fund. This would be a formal commitment from the applicant to contribute in proportion to any additional mitigation identified if the cumulative impacts exceed those assessed by the applicant.

3.18.62. In terms of specific areas where mitigation could be implemented, SCC [REP5-204] included suggested improvements to footways and provision of safe crossing points for pedestrians and cyclists on the B1121 at Benhall; a review of signal phases at the B1121/ B1119 at Saxmundham; further mitigation and/ or monitoring of cumulative impacts on the A1094/ B1069 corridor; and a proportional contribution to junction improvements with a mechanism of managing unforeseen impacts through a contingent fund/ agreement for the A12/ B1119 junction.

3.18.63. In response, the applicant [REP7-173] stated that it would not be committing any funds to a contingent effects fund as it did not believe the impacts would have significant effects. Furthermore, the applicant, in response to SCC, set out that it

had committed to some mitigation, such as the inclusion of daily HGV caps for localised parts of the highway network, including at the B1121/ B1119 junction within Saxmundham (a daily cap of 10 HGVs, as secured within the oCTMTP [REP7-121]) but it did not consider any further additional mitigation to be required from a traffic and transport perspective.

3.18.64. KCC [REP6-168] also set out some requests for mitigation and improvements from the applicant such as passing places on Ebbsfleet Lane North, and for there to be a limit on HGV movements using K-BM04 and K-BM05 to 10 HGVs per day, with no 2-way movements within the village and movements to be outside of school peaks. In response, the applicant [REP7-173] did not agree to the Ebbsfleet Lane North passing places due to the disruption it would cause but highlighted that there would be a cap of ten HGV movements daily on this road secured through the Kent oCTMTP [REP7-123]. The applicant also highlighted the localised caps on HGVs in Kent, such as a daily cap of 10 HGV movements on Marsh Farm Road, to minimise potential impacts of construction traffic through access point K-BM04, with construction traffic HGVs through Minster also to be controlled such that construction HGVs would not pass two-way (in both directions) at the same time. The applicant confirmed that these measures were secured through the Kent oCTMTP [REP7-123].

Position at end of examination on the matter of driver delay

3.18.65. KCC [REP6-265] summarised its position that the submitted junction capacity modelling demonstrates that the development impact would be relatively small, but that there would be a significant degree of cumulative impact, especially when factoring in the Manston Airport DCO site. However, KCC considered that with the relatively short period of potential overlap between the cumulative effects (approximately 4 weeks), these impacts could be addressed and minimised through respective mitigation measures.

3.18.66. SCC [REP7-367] at the end of examination stated that there would be significant negative effects on the A1094 corridor and potentially at locations on the A12 such as the junction with the B1119. Furthermore, SCC set out that it did not agree that small increases in traffic at sensitive locations such as the B1121/ B1119 Saxmundham crossroads or the A1094/ B1069 Snape junction are not significant as these are increasing pressure on junctions that are already at or over capacity. SCC went on to state that if it was considered appropriate to consent this project, then as a minimum, it would expect suitable caps, controls, monitoring, reporting and enforcement to be in place to provide comfort that traffic volumes would not be exceeded and hence the assessments remain valid.

3.18.67. In the applicant's closing submission [REP7-192] it confirmed its position that there would be no likely significant effects identified as a result of the proposed development on transport and access during any phase with the proposed mitigation in place, as all effects have either been categorised as minor adverse or negligible.

ExA's findings

3.18.68. The Overarching National Policy Statement for Energy (NPS EN-1) under paragraph 5.14.1 acknowledges that the transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure and potentially on connecting transport networks, for example through increased congestion.

3.18.69. Paragraph 5.14.11 NPS EN-1 sets out that where mitigation is needed, possible demand management measures must be considered. Examples are then given, such as to re-time travel outside of the known peak times. Furthermore, at paragraph 5.14.14 it states that the Secretary of State may attach requirements to a consent where there is likely to be substantial HGV traffic. For example, control numbers of HGV movements to and from the site in a specified period during its construction and possibly on the routing of such movements.

3.18.70. Paragraph 5.14.21 NPS EN-1 sets out the test to be applied, stating that the Secretary of State should only consider refusing development on highways grounds if there would be an unacceptable impact on highway safety, residual cumulative impacts on the road network would be severe, or it does not show how consideration has been given to the provision of adequate active public or shared transport access and provision.

3.18.71. The ExA is satisfied that the applicant has recognised seasonal fluctuations with its assessments. Furthermore, the ExA recognises that tourism related traffic does not usually fall within the typical daytime peaks for traffic and would often be more dispersed throughout the day. This should reduce the potential for lengthy peak delays at junctions which link with visitor/ tourist destinations. Furthermore, the ExA recommends (section 3.21, health and wellbeing) further restrictions on working hours on weekends, including no work on Sundays or bank holidays. Weekends and bank holidays are typically popular with tourists and visitors generally. The core hours secured within the rDCO would therefore help to reduce congestion delays as a result of construction related traffic adding to tourism traffic through both Kent and Suffolk areas.

3.18.72. The ExA considers that the A12 has been sufficiently considered in the assessment and study area. The parts of the A12 that have been included in the study area are considered by the ExA to be where potential traffic issues would most likely occur. The ExA considers that the assessment done by the applicant would reasonably represent the worst-case scenario for the A12.

3.18.73. For both Kent and Suffolk, the ExA recognises that there would be a discernible addition of worker and construction traffic associated with the proposed developments for the construction phases. However, the ExA considers that there are factors which would allow the highway network to cope with this traffic. Roads such as the A12 in Suffolk and the A256 in Kent are substantial highways which link the proposed onshore construction sites with other parts of the country. Furthermore, the ExA considers the routing proposed for HGV traffic is logical utilising main roads where possible. Localised capping of HGVs at certain routes and junctions, such as along Marsh Farm Road in Kent, reflects the varying character of the local highway networks and responds where certain routes/ junctions would struggle with higher levels of HGVs. The working hours would also result in staff generally avoiding travelling to and from the sites during existing network peak times.

3.18.74. The ExA considers that for all these reasons and the mitigation as secured in the oCTMTPs, the driver delay/ congestion potential impacts from the proposed development alone would not be significant.

3.18.75. The ExA acknowledges that many of the concerns raised were focussed on the cumulative impacts, particularly for Suffolk. The updates to the applicant's cumulative assessments submitted were welcomed by the ExA, acknowledging the continual changing circumstances. The ExA is satisfied that the list of other projects used in this assessment is sufficient. The ExA considers that the applicant has undertaken a robust cumulative assessment with regard to how cumulative developments might impact driver delay and congestion levels in the future.

3.18.76. There would be a cumulative impact for Kent, such as with the Manston Airport development. However, considering the evidence and the comments from KCC, the ExA is satisfied that this would not result in significant levels of congestion, over and above existing levels.

3.18.77. For Suffolk, there are the other major projects which are already adding to traffic levels on the A12 and other East Suffolk roads, particularly from the Sizewell C development. The ExA acknowledge that any future issues with cumulative traffic congestion impacts may be mainly as a result of the much larger scale Sizewell C, but nonetheless the proposed development would add to this and increase the

level of impact. Whilst coordination with the other projects is proposed by the applicant, it cannot be guaranteed as it is dependent on other parties not included with this application. However, the ExA is satisfied that the applicant has considered the worst-case scenario for cumulative traffic, with overlapping peak times considered.

3.18.78. The forecast data produced by the applicant does clearly show a marked increase in traffic for various routes and junctions. For example, the A1094 Aldeburgh Road/ B1069 Snape Road junction which the applicant modelled showed that it would be over-capacity. The ExA note that the junction would be over capacity without the addition of the proposed development traffic, but the situation would be worsened with it.

3.18.79. Whilst the ExA considers that the worst-case scenario has been appropriately assessed by the applicant, the ExA considers that the level of traffic would fluctuate substantially throughout this construction period. For example, as set out by the applicant [REP2-014], whilst there would be a daily peak for Suffolk of 346 two-way HGV movements for construction of the proposed development, this is just for the single busiest day. There is expected to be an average of 106 daily two-way HGV movements (53 HGV deliveries) across the entire construction programme, which would represent approximately 30% of peak assessed levels. The localised caps on HGVs and other traffic management commitments would also relieve pressure on more minor roads, such as Marsh Farm Road.

3.18.80. For much of the construction period the traffic levels would be notably lower than that assessed for the busiest day, which would mean much less pressure on the local highway networks, including in cumulation with other developments. There would be peaks, but for much of the time the construction traffic levels would be lower than those peaks. Driver delay and the frustrations for drivers are typically linked to the duration of time where traffic levels are high with congestion. If traffic levels are generally much lower than the peak levels, then the duration of congested roads would be less and so the impact on driver delay reduced.

3.18.81. The ExA recognises that the core hours would result in most of the staff traffic travelling to and from the construction sites being outside of the network peak hours. This is an important measure and reflects the suggestion of NPS EN-1 paragraph 5.14.11 to re-time travel outside of the known peak times. It could be that if other large projects use similar timings then a new traffic peak could emerge, but this would generally be for construction worker traffic, with less of a potential impact to local people and businesses. Also, there is no substantive evidence that such new peaks would result in significant levels of congestion.

3.18.82. The oCTMTP [REP7-121] and [REP7-123] includes sustainable transport methods, such as encouraging workers to share vehicles for example. These are welcomed initiatives which could further ease peak traffic congestion.

3.18.83. The ExA considers that based on the evidence, the construction and worker traffic would not result in a significant level of impact to driver delay or congestion as a result of the proposed development alone or cumulatively with other projects, in both Suffolk and Kent. Reflecting on the words of NPS EN1 paragraph 5.14.21, the residual cumulative impacts on the road network would not be severe. With no significant level of driver delay there should be no delays with health care access or the need for drivers to choose rat run routes. However, this is based on the evidence submitted and there is a level of uncertainty as this is based on forecasts for a construction programme in future years and using figures from other projects.

3.18.84. If traffic levels did transpire to be any higher than forecast this could result in a significant impact to driver delay and congestion. As set out in paragraph 5.14.14 of NPS EN-3 there are circumstances where control is necessary to limit numbers of HGV movements. The ExA considers that such controls are necessary for the proposed development.

3.18.85. Paragraph 5.14.14 of the NPS suggests that control of HGVs would be necessary where there is likely to be substantial HGV traffic. The ExA considers that cumulatively there could be times of substantial levels of HGV traffic in both Suffolk and Kent.

3.18.86. This control should be based on the HGV figures that have been presented by the applicant in its assessments of HGV numbers at different times of the day and the routes they would take. The ExA does not consider such controls and capping of numbers would be overly onerous as it would be based on the applicant's own figures. The control would be to ensure that the HGV figures do not exceed that forecast in the ES, but if that does happen there should be remedial action with the county council as highway authority having enforceable powers secured.

3.18.87. The submitted oCTMTP [REP7-121] and [REP7-123] already includes a compliance and enforcement section (section 8) which refers to ensuring HGVs keep to the agreed routes and also ensuring that where there was a localised HGV cap (such as the B1121 Main Road/ B1119 Church Street signalised junction within Saxmundham) this would not be breached. There would then be then a three step enforcement procedure if a breach occurred (paragraph 8.7.2). However, there would be no broader capping of HGVs across the local highway networks and minimal involvement of the highway authorities in the enforcement after any breaches.

3.18.88. The ExA therefore considers that the final CTMTP for Kent and Suffolk needs to include a provision for enforcement against a breach of any exceedance of assessed daily HGV numbers. If the applicant's monitoring shows an exceedance of HGV numbers then this should be reported to the relevant county council as highway authority. Any action to be taken should be agreed between the applicant and the relevant highway authority. As the impact of higher than expected HGV numbers would potentially impact the local highway network, then the highway authorities should be part of any agreed actions following any exceedance.

3.18.89. The wording of this section of the oCTMTPs is therefore considered by the ExA as inadequate. As such, the ExA recommends an amendment to requirement 6(1)(b) and (c), which sets out the need to submit a detailed CTMTP for each county which must be in substantial accordance with the outline version. The ExA recommends adding to the text of requirement 6(1)(b) and (c) to address the need for HGV caps and controls:

- Construction Traffic Management and Travel Plan – Suffolk/Kent (which must be substantially in accordance with the Outline Construction Traffic Management and Travel Plan – Suffolk/Kent and shall include maximum number of heavy goods vehicles and monitoring locations; and details of a process to implement corrective measures if maximum numbers are exceeded, to be agreed with the relevant highway authority).

3.18.90. The wording added to requirement 6(1)(b) and (c) was only drafted and added to the rDCO following the close of examination. As such, the applicant and councils have not seen this wording. However, the capping of HGV numbers was an issue discussed at length between the parties during examination.

3.18.91. Overall, the ExA is satisfied with the applicant's assessment of driver delay issues, both for the proposed development alone and cumulatively with other developments for both Suffolk and Kent. Whilst the ExA acknowledges that there would be a notable increase in traffic (both worker and construction vehicle traffic) on the local highway networks, with the avoidance of network peak hours, localised caps at certain routes and junctions, and other forms of mitigation as set out in the CTMTPs, the ExA agrees with the ES findings that the levels of driver would not be at a significant and does not necessitate further mitigation. However, the ExA considers the control over HGV numbers to the levels assessed to be important and necessary to avoid effects not assessed by the ES and so the amendments to requirement 6 within the rDCO are included. With this in place the ExA concludes that on this matter the proposed development would accord with NPS EN-1.

USE OF BENHALL RAILWAY BRIDGE FOR ABNORMAL INDIVISIBLE LOAD (AIL) TRAFFIC AND THE OTHER PROPOSED AIL ROUTES

Benhall railway bridge

3.18.92. SCC's LIR [REP1-130] set out its concerns, regarding the use of Benhall railway bridge on the B1121 as part of the route proposed by the applicant for access to the Suffolk Saxmundham converter station site. 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.

3.18.93. SCC [REP1-130] stated that although an overbridge could, in principle, be constructed, the impacts of this in terms of disruption to the highway network, users and local residents, including those affected by any diversion, had not been considered.

3.18.94. SCC [REP1-130] considered that with the current restrictions and potential for substantial adverse impacts, this route across Benhall Railway bridge would not be resilient for long term access to the proposed Saxmundham converter station site, and it considered there were serious concerns regarding deliverability.

3.18.95. The applicant's plan for addressing this issue is set out in the oCTMTP for Suffolk [REP7-121]. The applicant confirmed that there would be a requirement for AIL vehicles to travel to/ from the B1121 Main Road (access point S-BM09) via Benhall railway bridge which is located to the east of the A12/ B1121 Main Road junction. Whilst this weight limit would allow the majority of construction vehicles to access S-BM09 and the Saxmundham converter station site, the applicant explained that it would not allow the AIL vehicles associated with the transport of seven transformers and other selected heavy plant deliveries to cross the bridge.

3.18.96. The oCTMTP [REP7-121] includes three options for addressing this issue:

- Option 1 - minor works to fix the bridge
- Option 2 - installation of a mini-bridge within the highway boundary
- Option 3 - use the AIL route from the A12 at Yoxford via Leiston to access the project haul road at Snape Road, bypassing Benhall railway bridge

3.18.97. Option 1 is the preferred option for the applicant [REP7-121] and explained that this would enable the use of the B1121 for all AIL vehicles, which is the shortest route to the site minimising the use of the local road network for construction traffic. Furthermore, the applicant sets out that option 1 would deliver additional benefits

by permanently improving the highway and removing the need for further road closures to install overbridges both for the proposed development and any future projects using this route for AILs, such as LionLink Interconnector.

3.18.98. Option 1 is expected by the applicant [REP7-121] to result in a worst-case of a single road closure (except for local access such as Benhall residents and users of Whitearch Park Residential Park Homes) for a maximum duration of 28 days, early on in the construction programme. The applicant [REP7-121] confirmed that during any road closures of the B1121 for the proposed development, no HGV construction traffic associated with the proposed development would use diversion routes through Saxmundham.

3.18.99. Within the REAC [REP7-359] the applicant included commitment TT11 which states that during any closure of Benhall Railway bridge a shuttle/ taxi service would be made available as embedded mitigation, so that residents who do not have access to a vehicle can continue to travel between Whitearch Park Residential Park Homes and nearby areas.

3.18.100. In response to questions on the feasibility of using the Benhall railway bridge for AIL deliveries the applicant submitted the Benhall railway Bridge - Crossing Feasibility Study [REP4-101]. The applicant concluded that it is confident in its proposals for the construction access to the Saxmundham converter station site, with options retained as they provide surety of the validity of construction access for all necessary construction traffic for the project. However, the applicant added that a hybrid solution may also be considered that enables initial AIL movements to be completed using options 2 or 3 whilst option 1 works are completed mid programme, as option 1 is dependent on the availability of railway possessions.

3.18.101. A representative for Whitearch Residential Park [REP3A-183] had some concerns. For the mini-bridge option, they were concerned that this would present a serious safety concern for those living at the residential park when entering and exiting it, as any increase in height would further limit the ability for residents to safely judge approaching traffic. They also stated that the park entrance must remain accessible at all times to allow essential deliveries and emergency vehicles to reach Whitearch Residential Park without obstruction.

3.18.102. Suffolk Energy Action Solution Ltd (SEAS) [REP5-145] stated that submitted evidence, including the Feasibility Study [REP4-101], did not demonstrate that the bridge would be structurally suitable, that mitigation was deliverable, or that the associated disruption would be acceptable. SEAS also stated that the Feasibility Study could not credibly assert that the bridge can be strengthened to accommodate AILs or withstand years of heavy construction traffic.

3.18.103. At the close of examination SCC stated [REP7-302] that significant concerns remained, particularly with the over-bridging option 2, due to the geometry of the bridge and its proximity to the A12. SCC recognised that the applicant had produced a feasibility study [REP4-101] but did not consider it had demonstrated feasibility of any of the AIL delivery options. SCC did, however, confirm its preference for the bridge to be strengthened to provide long-term benefits and remove the need for future projects using the same access route to also implement a mini-bridge option.

3.18.104. SCC [REP7-302] also raised concerns about the potential adverse effects which would be experienced by residents of the Whitearch Residential Park such as how their access would be affected, including both routine day to day trips and also less frequent but important trips such as emergency access and/ or removals.

3.18.105. Finally, SCC [REP7-302] required a more detailed assessment in relation to the likely traffic and transport effects during closures of the Benhall railway bridge, with diversions for example.

3.18.106. The applicant's closing statement [REP7-192] concluded that it did not consider the weight limit of the bridge to be an issue for the proposed development and that the applicant moves AILs over structures with weight limits applied on a regular basis due to the need to transport transformers and other large loads around the country for maintenance and construction purposes. According to the applicant, navigating Benhall railway bridge would be therefore a business as usual activity for it.

Other AIL routes

3.18.107. Aldringham-Cum-Thorpe Parish Council [RR-0095] highlighted that the cable drum AIL construction traffic would use the narrow B1353 (Aldringham Lane) and through the Aldringham area. However, the parish council stated that the routes proposed may be unsuitable for AIL vehicles and that necessary widening would not be possible due to the position of residential properties.

3.18.108. SCC [REP1-130] stated that AIL special order routes from the strategic road network or port to the site must be surveyed to prove there is a viable route to the Suffolk converter station and substation, but that despite advice provided to the applicant by SCC no assessment has been undertaken on the capacity of structures to carry the special-order loads. SCC [REP6-182] did acknowledge that whilst it may be engineeringly feasible, the associated costs, delays and environmental issues may make the works unfeasible.

3.18.109. The applicant [REP6-108] explained that any structural assessments necessary prior to AIL movements are generally undertaken post consent. The applicant [REP2-026] stated that the condition of the existing highway network is continually evolving and

it is normal practice for an AIL contractor to need to navigate restrictions and constraints along a network between the point of departure and arrival.

3.18.110. The applicant [REP2-026] also confirmed that consent was required for AIL movements, with this consent being predicated on a survey of the route (prior to delivery) and proposals to overcome any constraints.

3.18.111. In relation to the cable drum AIL route the applicant [REP2-024] stated that construction vehicles through Aldringham would be limited to cable drum abnormal loads only, which would be managed through the measures set out in the oCTMTP for Suffolk [REP7-121]. The oCTMTP recognises the tight geometry being a constraint at the Aldringham Lane/ Aldeburgh Road junction, amongst other constraints for the AIL routes.

ExA's findings

3.18.112. Paragraph 5.14.3 of NPS EN-1 states that disturbance caused by traffic and abnormal loads generated during the construction phase will depend on the scale and type of the proposal. Then, at paragraph 5.14.13 it states that regard should always be given to the needs of freight at all stages in the construction and operation of the development including the need to provide appropriate facilities for HGV drivers as appropriate. The Secretary of State should ensure satisfactory arrangements for reasonably foreseeable abnormal disruption (paragraph 5.14.14).

3.18.113. The ExA finds that abnormal loads have been considered in sufficient detail at this stage, with proposed AIL routes, identification of some of the constraints on these routes, and estimated number of deliveries needed, with much of this set out in the oCTMTPs for Suffolk [REP7-121] and Kent [REP7-123]. The ExA considers the routes to be generally appropriate as they keep to larger main roads whilst attempting to keep the travel distances to a minimum.

3.18.114. In terms of Benhall railway bridge, the weight restriction would only affect AIL deliveries and not HGVs or other construction vehicles. 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]. The ExA considers that this would be the best option as it would mean just one closure of the road (albeit for up to 28 days) rather than repeated closures (necessary for the mini-bridge option) and would provide a legacy benefit.

3.18.115. 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 concludes that from the

information before it the use of Benhall railway bridge for AIL is feasible and so there is no need to discount this route for AILs. Furthermore, it is the ExA's understanding that a structural survey was underway but not completed at the end of examination. This may be available to the Secretary of State and could remove some of the doubt around use of this bridge, dependant on the results.

3.18.116. There would be some disruption for those who live near the bridge and along the B1121. However, the disruption would be short-term and temporary and the applicant has factored in access to Whitearch Residential Park by offering a taxi/ mini-bus service to nearby villages and Saxmundham. More details of this should be included with the final Suffolk CTMTP, including ensuring that any option taken is safe for all highway users.

3.18.117. There would need to be diversions if Benhall railway bridge and this part of the B1121 was closed to traffic as a result of the works needed for the AIL access. ExA considers that this would be temporary and also notes that SCC as highway authority would have control over the diversion routes. The ExA also welcomes the commitment that the applicant's HGVs would not use any proposed diversions through Saxmundham, as this could have resulted in high levels of congestion.

3.18.118. More generally, the ExA understands why the applicant has been reluctant to do more extensive highway surveys for its AIL routes. Some constraints have been identified, but as it may be some time until AIL traffic uses any of the routes, the surveys would be best timed for post-decision. This would allow for a more up to date and accurate survey with the AIL contractors. The ExA acknowledges that there could be engineering challenges with this, but there is no reason to conclude that these are insurmountable challenges. Furthermore, the applicant would have to agree to the final AIL routes and timings with the County Council as highway authority, giving some control to the authority.

3.18.119. The ExA acknowledge the issues with AIL vehicles travelling through Aldringham, which would present challenges, such as narrow roads. However, there is no substantive evidence to demonstrate that this route would not be feasible, with the applicant acknowledging the tight geometry at the Aldringham Lane/ Aldeburgh Road Junction [REP7-121]. Again, this route would have to be agreed with the highway authority prior to any AIL deliveries through this village. If it was not feasible for any reason, then there would likely be alternative routes considered.

3.18.120. Overall, the ExA concludes that the details of AIL deliveries necessary, including the proposed AIL routes, are satisfactory at this stage and are considered feasible albeit with engineering challenges. The proposals are in accordance with NPS EN-1 on this matter.

HIGHWAY SAFETY FOR VULNERABLE USERS

3.18.121. SEAS [RR-5210] raised concerns around elevated risks to vulnerable road users including cyclists, walkers and horse riders, particularly on narrow links where carriageway width is insufficient for safe passing. SCC [REP1-130] also stated that safety, fear, intimidation and severance as construction traffic impacts pedestrians and cyclist was a key issue. Furthermore, SCC stated that increased HGV movements along highways such as the A12 would reduce the attractiveness of the route for users of sustainable transport, particularly cycling.

3.18.122. In response to ExQ1TT8 the applicant [REP3-069] stated that the routing strategy was designed to minimise the number of construction vehicles using less suitable routes such as the B1122 Leiston Road and Grove Road in Suffolk. In Kent, for example, the A256 access would be used to accommodate the vast majority of construction vehicles. Therefore, the applicant stated that there is not expected to be a notable increase in HGV traffic on minor rural roads with narrow carriageways, though the potential impact of construction traffic on vulnerable road users (including cyclists) has been assessed in the ES in terms of severance, pedestrian delay, non-motorised user amenity, fear and intimidation, and road safety. The applicant set out that no significant effects have been identified for the assessments relating to vulnerable road users, based on construction traffic forecasts during the peak construction phase.

3.18.123. In terms PRoW users, the applicant stated that site fencing and gates would be installed along haul roads which cross PRoW which would allow priority to be given to PRoW users (which could include cyclists and pedestrians) at crossing points.

ExA's findings

3.18.124. NPS EN-1 (paragraph 5.14.21) states that the Secretary of State should consider refusing development on highways grounds if there would be an unacceptable impact on highway safety.

3.18.125. The ExA acknowledges that the proposals would result in some additional larger vehicles, including HGVs, on local roads with some of these being considered minor roads. However, the ExA notes that most of the construction traffic would avoid the minor narrower roads. Whilst there may still be some HGVs associated with the proposed development on more minor roads, this would be mainly at a low level. The ExA also recognises that even on minor rural roads there can be some larger vehicles, from farms for example, and this does not inherently make them unsafe.

3.18.126. For PRoW users, the fencing and gate systems proposed should be sufficient to keep all types of users safe, as included with the Public Rights of Way Management Plans [REP6-086] and [REP6-088].

3.18.127. Overall, for vulnerable highway users, the applicant has considered and assessed the potential impacts and the ExA agrees with the ES conclusions on these matters. The proposals therefore accord with NPS EN-1 on this matter.

PUBLIC RIGHT OF WAY DISRUPTION

3.18.128. SEAS [RR-5210] raised concerns regarding severe and prolonged disruption to PRoW, questioning the applicant's conclusions that permanent diversions which affect PRoW E-354/006/0 and E-491/005/0, which would both be re-routed by more than 400m, are not significant. SEAS also stated that other key footpaths (such as E-354/002/0 and E-260/013/A) would be subject to multiple temporary closures and haul road crossings and yet regarded as not resulting in significant effects by the applicant.

3.18.129. SCC [RR-5209] stated that there would be repeated temporary closures of PRoW in association with other projects, which could overlap with temporary closures on the same PRoW required for the proposed development. SCC also stated that if temporary closures were required, then the number and duration should be kept to a minimum, and effective mitigation is needed for the impacts on recreational users of the PRoW network, especially during the construction period.

3.18.130. The applicant [REP2-014] acknowledges the need to permanently divert PRoW E-354/006/0 and E-491/005/0, but stated that the submitted Outline Public Rights of Way Management Plan (PRoWMP) – Suffolk [REP6-086] includes mitigation designed to reduce the impact for users. The applicant explains that appropriate route diversions, closures and management measures are proposed as embedded mitigation. The applicant also stated that the diverted routes would enhance connectivity with the wider network.

3.18.131. Within the outline PRoWMPs for Suffolk [REP6-086] and Kent [REP6-088] for the various PRoWs it sets out that where a temporary haul road would cross the PRoW (both the existing alignment and where it is temporarily diverted) gates would be installed at each side of the temporary haul road with priority given to the PRoW. Also, commitment TT03 states that PRoW would be kept open as far as possible.

3.18.132. The applicant has also proposed a permissive path, reference GG43, in the REAC [REP7-359] along the proposed permanent access road into the Saxmundham converter station. The applicant explains that the path would run from the access

off the B1121, across the proposed Fromus Bridge, to where it intersects with the westernmost section of the permanently diverted E-491/005/0.

3.18.133. In relation to cumulative impacts with other projects, SCC [REP7-355] was concerned that the applicant had not demonstrated how it would coordinate closures with SPR and therefore suggested that it could not rely on coordination as the sole mitigation measure to ensure significant effects do not occur. If the closures were not fully overlapped with that of cumulative developments, repeated/ sequential impacts on PRoW would occur, according to SCC.

3.18.134. In response the applicant [REP7-355] stated it would coordinate PRoW closures and diversions with EA1N and EA2 to reduce the potential for significant cumulative effects. Commitment GG32 of the REAC [REP7-359] states that the applicant would consider whether any additional measures could be incorporated to reduce the potential for cumulative effects resulting from PRoW closures/ diversions through coordination with the developers such of SPR. However, although committed to coordinating with SPR, the applicant stated that this was no longer considered necessary to avoid significant cumulative effects on these PRoW. This was for various reasons, such as E260/006/0, already being permanently diverted by SPR.

ExA's findings

3.18.135. Paragraph 5.11.30 of NPS EN-1 states that the Secretary of State should expect applicants to take appropriate mitigation measures to address adverse effects on coastal access, National Trails, other rights of way and open access land and, where appropriate, to consider what opportunities there may be to improve or create new access. In considering revisions to an existing right of way, consideration should be given to the use, character, attractiveness, and convenience of the right of way.

3.18.136. The PRoW networks would be disrupted by the proposed development, including cumulatively with other developments. However, where changes would be needed, permanent or temporary diversions are proposed. The ExA is satisfied that these diversions are suitable and minimise additional distances needed to travel along these routes. There would be gates and temporary fences, though these are needed for safety purposes and would be removed at the end of the construction phase. The commitment for PRoW users to have priority where a PRoW crosses a proposed haul should help to minimise delay and disruption for users.

3.18.137. The ExA welcomes the applicant's approach to work with other developers to coordinate closures of PRoW, even if some routes have already been diverted. The ExA also acknowledges that the proposed permissive path, whilst not intended to be a PRoW, would provide additional links in the Saxmundham area.

3.18.138. Overall, the applicant has sought to minimise the disruption and delays that would be caused by those travelling along the PRoW networks and to ensure safety for these users. As such, the proposals are in accordance with NPS EN-1 on this matter.

CONCLUSIONS

3.18.139. The ExA is satisfied that there would be no likely significant traffic and transport effects. The ExA is satisfied that the proposed development would accord with NPS EN-1, EN-3 and EN-5 (2024) as well as local and national policies and strategies, together with all other relevant legislation, and there are no other important or relevant considerations.

3.18.140. The ExA recognises that for Suffolk, cumulatively with other projects, there could be much higher levels of traffic, including HGVs, than 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 concludes 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 considers 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. As such, the ExA considers that this matter attracts a little weight against the making of the order.

3.19. AIR QUALITY

INTRODUCTION

3.19.1. This section considers the effects on human receptors of changes in air quality from pollutants including nitrogen oxides (NO_x), nitrogen dioxide (NO_2) and particulate matter of 10 or 2.5 micrometre diameter or less (PM_{10} and $PM_{2.5}$).

3.19.2. Greenhouse gas emissions (except for sulphur hexafluoride (SF6)) are considered in section 3.23 (climate change) of this report. Mental health and wellbeing effects on communities, including vulnerable groups from construction effects such as dust are considered in section 3.21.

APPLICATION SUMMARY

3.19.3. The applicant's assessment of the potential effects of the proposed development on air quality is set out in Environmental Statement (ES):

- Part 2, Suffolk, Chapter 8 Air Quality [APP-055]
- Part 3, Kent, Chapter 8 Air Quality [APP-068]

3.19.4. The chapters consider the following topics in accordance with relevant air quality assessment guidance set out in section 8.4 ([APP-055], [APP-068]):

- Temporary air quality impacts during construction and decommissioning due to construction vehicle emissions, dust and non-road mobile machinery (NRMM) emissions.
- Operation and maintenance effects due to emissions from substation and converter station back-up generators.

3.19.5. Section 8.3 ([APP-055], [APP-068]) explains that the consideration of SF_6 impacts was scoped out on the basis that SF_6 is not a local air quality pollutant and that manufacturers now produce switchgear that has no, or minimal, leakage. However, during examination the applicant noted that some SF_6 containing equipment might be required. Sections 8.4 and 8.9 ([APP-055], [APP-068]) explain that operational phase vehicle emissions would not be significant, based on the low and infrequent number of visits anticipated, and have not been subject to further assessment.

3.19.6. The Suffolk assessment [APP-055] is supported by the following appendices and accompanying figures:

- Construction Dust Assessment and Methodology [APP-132]
- Air Quality Modelling Methodology [APP-133]
- Air Quality Monitoring Data [APP-134]
- ES Figures Air Quality [APP-235]

3.19.7. The Kent assessment [APP-068] is supported by the following appendices and accompanying figures:

- Construction Dust Assessment and Methodology [APP-185]
- Air Quality Modelling Methodology [APP-186]
- Air Quality Monitoring Data [APP-187]
- ES figures Air Quality [APP-267]

3.19.8. Cumulative air quality effects are considered in the following documents and their associated appendices and figures:

- Cumulative Vehicle Emissions Assessment [REP1-123]
- Onshore Scheme Intra-Project Cumulative Effects (Suffolk [APP-059] and Kent [APP-072]) and Significance - Technical Note [REP6-117]
- Onshore Scheme Inter-Project Cumulative Effects Suffolk ([APP 060] and Kent [APP-073]) and Update - Technical Note [REP6-098]
- Appendix C LionLink Updates – Review of Cumulative Assessments [REP5-127]

3.19.9. In response to [PD-005] the applicant also provided [AS-065] to account for an update to the Department for Environment Food and Rural Affairs (Defra) emissions factors toolkit released in March 2025.

3.19.10. Section 8.6 ([APP-055], [APP-068]) sets out the study areas, which are consistent with industry standard guidelines such as Institute for Air Quality Management (IAQM) and Environmental Protection (EPUK) guidance.

3.19.11. Section 8.2 and 8.7 ([APP-055], [APP-068]) set out the regulatory framework including discussion of The Environmental Targets (Fine Particulate Matter) England Regulations 2023 and conclusions relating to those targets.

3.19.12. Section 8.4 ([APP-055], [APP-068]) sets out the air quality sensitivity (value), magnitude of impact and significance criteria. Separate criteria are provided for construction dust, vehicle emissions and NRMM emissions. It explains that detailed air quality modelling was undertaken in Atmospheric Dispersion Modelling Software (ADMS-6) at worst case receptors within 200m of affected vehicle routes where IAQM-EPUK screening criteria were exceeded.

3.19.13. Assumptions and limitations are set out in section 8.4 and 8.5, with Rochdale Envelope assumptions set out in table 8.10 ([APP-055], [APP-068]).

3.19.14. The applicant considers a range of assessment scenarios for Suffolk in section 8.5 [APP-055]. Those relating to air quality include:

- Dust, vehicle, NRMM and operational back-up generator emissions from build out of Friston substation would be part of the proposed development (worst case) or lower if part of the Scottish Power Renewables (SPR) East Anglia 1N (EA1N) or East Anglia 2 (EA2) projects.
- Three alternative construction compound locations but all three included as a worst case.
- Build out in any of the 5 years following consent (assumed to be 2026 onwards) as a sensitivity test.

3.19.15. The applicant's baseline description (section 8.7 of [APP-055], [APP-068]) identifies areas sensitive to changes in air quality within the study area, this includes

designated ecological sites and residential receptors in Suffolk and Kent and the Great Oaks Small School in Kent. No project specific baseline air quality monitoring was provided on the basis that sufficient baseline data is available to inform the assessment. The evolution of the baseline is set out in section 8.7 ([APP-055], [APP-068]).

3.19.16. Section 8.8 ([APP-055], [APP-068]) describes the proposed mitigation and enhancement measures. Air quality mitigation would be secured by requirement 6 of the draft Development Consent Order (dDCO) [REP7-002] which requires provision of an outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129], Register of Environmental Actions and Commitments (REAC) [REP7-359] and outline Air Quality Management Plans (oAQMP) for Suffolk [REP7-135] and Kent [REP7-137]. The oAQMP include proposed air quality monitoring locations. Relevant measures, relating to sustainable travel, are also included in the outline Construction Traffic Management and Travel Plan (oCTMTP) for Suffolk [REP7-121] and Kent [REP7-123].

3.19.17. Section 8.9 ([APP-055], [APP-068]) discuss the potential air quality effects during construction, operation and decommissioning, taking account of embedded mitigation. The ES predicts negligible changes in vehicle emissions of NO_2, PM_{10} and $PM_{2.5}$ in future 'do-something' scenarios for the project alone and that there would be no exceedance of the annual mean air quality objectives (AQO) or short term objectives for NO_2, PM_{10} or $PM_{2.5}$. Slightly greater increases in emissions are predicted in the do-something scenario for all assessed pollutants when comparing the results in tables 2.4 to 2.6 and 3.3 to 3.5 [REP1-123] with the corresponding tables 8.16 to 8.18 in [APP-055] and [APP-068]. However, in all cases the predicted emissions remain well below the AQO. Section 8.10 ([APP-055], [APP-068]) concludes that based on the ES findings, no additional mitigation is required.

3.19.18. Section 8.11 ([APP-055], [APP-068]) concludes that there would be no residual significant effects on air quality during construction, operation or decommissioning. The applicant's cumulative effects assessments did not identify any significant cumulative air quality effects.

EXAMINATION ISSUES

3.19.19. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main air quality issues considered during the examination were:

- Air quality modelling and assessment approach.
- Impact of construction dust.

- Air quality mitigation measures.
- Use of SF_6 switchgear.

AIR QUALITY MODELLING AND ASSESSMENT APPROACH

3.19.20. Representations including from East Suffolk Council (ESC) [RR-1420], [REP1-128], Natural England (NE) [REP2-059], Saxmundham Town Council [RR-4896], [REP3A-030], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210], [REP2-121] and Save Minster Marshes (SMM) [REP1-246], [REP2-103] raised concerns regarding:

- The impact of construction traffic and plant emissions, alone and cumulatively on air quality, including the effect of constructing development platforms.
- The need for cumulative air quality assessment, including for the Stratford St Andrew air quality management area (AQMA).
- Modelling assumptions and the relationship between traffic and air quality data.

3.19.21. SEAS [REP2-121] and the Royal Society for the Protection of Birds (RSPB) [REP1-158] highlighted the lack of quantified emissions assessment for NRMM and back-up generators in construction and operation and highlighted the potential for impact on designated sites. Natural England (NE) [REP2-059] also flagged the need for assessment of in-combination air quality effects for designated sites in Kent.

3.19.22. ESC's local impact report (LIR) [REP1-128] confirmed that Stratford St Andrew AQMA had been revoked due to improved air quality. ESC [REP2-048], [REP3-085] confirmed it was satisfied with the applicant's updated air quality modelling and cumulative vehicle emissions assessment [REP1-123], subject to no further changes to vehicle numbers. However, it asked for confirmation that traffic numbers used reflected those agreed with Suffolk County Council (SCC) and suggested that areas of local concern to SCC should be assessed even if they fell outside IAQM-EPUK screening guidelines.

3.19.23. SMM [REP1-246] and [REP2-103] suggested that the air quality assessment did not take full account of seasonal traffic variations as it was based on winter traffic flows, a concern mirrored in other representations in Suffolk. It was also concerned about effects from aggregate deliveries from the Port of Ramsgate to the site.

3.19.24. SEAS [RR-5210] [REP2-121] questioned the accuracy of the air quality model, noting a 3.79 adjustment factor for NO_2. It highlighted a lack of quantitative assessment for operational vehicles, NRMM and generators.

3.19.25. The ExA explored these matters in written questions [PD-017], [PD-021], [PD-023] and at issue specific hearing (ISH) 3 [EV9-013]. In response to question ExQ1AQ2 [PD-017], NE [REP3-117] explained that it no longer provided bespoke air quality

advice but suggested that the applicant should address its standing advice for air quality.

3.19.26. The applicant [REP2-014] explained that its assessment of vehicle emissions was based on the requirements of the IAQM-EPUK guidance. Winter traffic flows were used because they represented a worst case percentage change over the baseline [REP2-034]. The applicant acknowledged the number of vehicle movements required to construct the proposed development and noted that the assessments took account of these traffic flows [REP2-014]. In relation to Stratford St Andrew, the applicant explained that only one location on the A12 (link SRL-1) met the screening criteria for assessment and that this had been subject to assessment. The applicant [EV9-013] and [REP6-110] explained that no further assessment of traffic from Ramsgate Port was necessary as traffic flows were well below the screening thresholds and that the trip distribution had been agreed with Kent County Council (KCC).

3.19.27. In [REP6-110] the applicant provided clarification regarding the base data used in the traffic and air quality assessments and confirmed that updated junction modelling did not affect the traffic flow assumptions for the air quality assessment.

3.19.28. The applicant [REP2-014] explained its model adjustment was consistent with the Defra 'Local Air Quality Management Technical Guidance' (LAQM.TG(22)) requirements.

3.19.29. With respect to NRMM emissions during construction, the applicant [REP2-014] quoted LAQM.TG(22) *"*experience of assessing the exhaust emissions from on-site plant (NRMM) and site traffic suggests that, with suitable controls and site management, they are unlikely to make a significant impact on local air quality*"*. The applicant's Air Quality Technical Note [REP4-241] and Back-Up Generator Emissions Assessment Update [REP6-102] further justified its qualitative assessment and conclusion that NRMM were unlikely to give rise to significant effects on local air quality.

3.19.30. In addition to NRMM, [REP4-241] provided a response to NE's air quality standing advice, covering construction dust, construction and operational vehicle emissions, and back-up generators. The assessment ruled out ecological effects beyond those identified in the ES, except in relation to operational generator emissions at Sandwich Bay to Hacklinge Marshes (SBHM) Site of Special Scientific Interest (SSSI) in Kent. The applicant's [REP6-102] updated assessment of operational back-up generator emissions also considered the potential for cumulative effects on ancient woodland in Suffolk (Grove Wood, a County Wildlife Site). [REP6-102] identified specific mitigation (including generator offset and separation distances) for the

proposed Minster converter station and substation and for Friston substation to ensure that the proposed development would not give rise to significant effects on these features. NE [REP6-249] was content that REAC measures were sufficient to avoid significant effects on SBHM SSSI. NE [REP7-364] and RSPB [REP6-271] had no further comments on air quality controls.

3.19.31. Noting the proximity of ditches to the proposed Minster converter station and substation and the predicted NO_x emissions [REP6-102], the ExA [EV9-013] asked the applicant whether there was potential for eutrophication due to nitrogen deposition. The applicant ruled this out in [REP6-108], [REP6-110].

ExA's findings

3.19.32. National Policy Statement (NPS) EN-1 paragraphs 5.2.9 to 5.2.11 require applicants to assess changes in air quality concentrations, including emissions from road traffic. These should be based on current Defra projections at the point of application. The ExA considers that the applicant has undertaken a proportionate assessment of vehicle and cumulative vehicle emissions, consistent with the requirements of IAQM-EPUK guidance and provided a construction, operation and decommissioning air quality assessment for Suffolk and Kent that satisfies the requirements of NPS EN-1 paragraphs 5.2.8 to 5.2.14. The assessment takes account of updates to Defra projections in 2025. The ExA accepts the applicant's argument that due to low operational traffic flows, an assessment of operational vehicle emissions is not necessary. The ExA notes IP concerns regarding use of winter data but accepts the approach on the basis that this provides a worst case percentage increase for vehicle movements over the baseline. The ExA considers that model adjustment is consistent with LAQM.TG(22) guidance.

3.19.33. The ExA concurs with section 8.11 [APP-055], [APP-068] and additional air quality assessment in [REP4-241], [REP6-102] that air quality effects from the proposed development in Suffolk and Kent would not be significant, with the application of the identified mitigation measures. The ExA is satisfied that with mitigation, likely significant effects on SBHM SSSI due to operational generator emissions would be avoided. Furthermore, that the proposed development is unlikely to lead to a breach of statutory air quality limits, objectives or targets, or affect the ability of a non-compliant area to achieve compliance. As required by NPS EN-1 paragraph 5.2.10, the assessment considers the Environmental Targets (Fine Particulate Matter) England Regulations 2022. The ExA is satisfied that no AQMA are predicted to be affected.

3.19.34. The ExA is satisfied that the scope of assessment addresses relevant receptors in Suffolk and Kent and that additional traffic information supplied during examination did not require additional air quality assessment.

IMPACT OF CONSTRUCTION DUST ON AIR QUALITY

3.19.35. Around 90 relevant representations (RR) referred to the potential for construction works to create dust, particularly in Friston and Saxmundham (for example, Manor Gardens) Suffolk including ESC [RR-1420], the Forestry Commission [RR-1660], EA1N [RR-1415] and others [RR-0837]. Suffolk IPs including [RR-5414], [RR-1037] and [RR-1391] highlighted that the light sandy soils in Suffolk would exacerbate air quality effects. IPs noted that existing SPR works had already caused dust issues in Friston and that these were contributing to health effects. ESC [RR-1420] also highlighted the issue of water scarcity in Suffolk and implications for dust suppression. Kent IPs such as Cliffsend Parish Council [RR-1024] and others [RR-5841], [RR-4960], [RR-5111] highlighted effects on local air quality around the proposed development and the potential for effects on Minster Marshes and in Pegwell Bay, for example SMM [RR-4892], Kent Wildlife Trust [RR-2980] and others [RR-2161], [RR-4608], [RR-2818], [RR-2580].

3.19.36. The applicant's response to representations including [REP2-014], [REP2-018], [REP2-025], [REP2-028] largely signposted to the construction dust assessments in its air quality chapters ([APP-055], [APP-068]) and relevant mitigation measures set out in the oCEMP [REP7-129], REAC [REP7-359] and oAQMP [REP7-135], [REP7-137].

3.19.37. Dover District Council (DDC) [REP1-127], ESC [REP1-128] and Thanet District Council (TDC) [REP1-132] LIRs were broadly satisfied with the assessment of air quality and dust effects. ESC [REP1-128] considered that local authority approval of the oAQMP gave reassurance that any matters arising could be incorporated into the control document. SCC's LIR [REP1-130] suggested that construction and decommissioning air quality effects would be negative, placing emphasis on cumulative effects and highlighting associated health effects but deferred to ESC as the monitoring authority. KCC's LIR [REP1-129] identified negative impacts from dust from unsealed haul routes and the need for dust suppression at all site exits and on Whitehouse Drove.

3.19.38. The ExA [PD-008] highlighted Environment Agency [RR-1586] concerns regarding the potential need for water abstraction licences to supply water for dust suppression. In response, the applicant [AS-084] suggested that all construction water would be delivered by tankers and that this had been factored into the heavy goods vehicle numbers used in the traffic impact assessment. The applicant [REP2-

014] was unable to confirm water sources for tankered supplies and suggested that water supply strategies could change depending on contractor approaches, methods for delivery and supply chains. It committed to not extracting groundwater for construction. Water supply for dust mitigation remained an area of disagreement.

3.19.39. The ExA sought further clarification about water supplies at ISH3 [EV9-013]. The applicant [REP6-108] indicated that it was in discussions with utility providers regarding an on-site supply. Prior to this it would reuse water from site drainage or tanker water to site for use in bowsers, as SPR had done. ESC [EV9-013] expressed concerned regarding the viability of the approach. The applicant [REP6-110] confirmed it had secured a supply from Essex and Suffolk Water for the Friston site.

ExA's findings

3.19.40. NPS EN-1 paragraphs 4.15.5, 5.7.5 and 5.7.6 require identification and assessment of possible sources of nuisance such as dust and how they may be mitigated. The ExA is satisfied that the applicant's construction dust assessment is consistent with IAQM guidance and contains the information required by NPS EN-1 paragraph 5.7.6. Consistent with paragraph 5.7.8 of NPS EN-1, measures to control dust have been included in the oAQMP [REP7-135], [REP7-137], which are subject to final approval under requirement 6 of the recommended Development Consent Order (rDCO).

CONSTRUCTION AIR QUALITY MITIGATION MEASURES

3.19.41. IPs including ESC [RR-1420], [REP1-128], SCC [REP3A-031], SEAS [REP2-121] and others [RR-4873], [RR-5841], raised a number of concerns relating to air quality mitigation measures. These included the enforceability of mitigation, lack of binding limits or trigger levels, deferring of controls to later agreements, infrastructure and vehicle idling controls, water supply (addressed above) and control of emissions in the former AQMA at Stratford St Andrew.

3.19.42. The applicant's responses to these concerns included [REP2-014], [REP2-022], [REP2-026], [REP2-027], [REP3-064], [REP3-069], [REP5-135]. The applicant highlighted that the oAQMP included a mechanism to agree trigger thresholds for monitoring and stated that site action levels for other pollutants would be agreed with ESC and SCC following review of preconstruction baseline monitoring. The applicant outlined remedial actions including abatement and the potential to stop work where safe to do so. In [REP2-014] the applicant noted that air quality monitoring would be undertaken within 200m of the former AQMA at Stratford St Andrew to ensure that mitigation measures were working effectively. The REAC [REP7-359] included measures to minimise emissions including GG12, AQ04 and AQ09.

3.19.43. The ExA examined the oAQMP and REAC air quality commitments in written questions [PD-017] and [PD-021] and ISH3 [EV9-013].

3.19.44. The applicant's oAQMP [REP7-135], [REP7-137], REAC [REP7-359] and oCEMP [REP7-129], take account of matters such as idling vehicles, NRMM emissions standards, visual dust assessments, mitigation for dry weather, as well as a review and update process for the AQMP during construction. The applicant [REP2-027] also signposted to sustainable transport measures to reduce emissions in the oCTMTP and travel plans [REP7-121], [REP7-123].

3.19.45. The ExA asked for any further comments on the oAQMP and REAC controls from the relevant planning authorities in [PD-021] and [PD-023]. There were no suggested amendments [REP5-187], [REP6-261], [REP6-274].

3.19.46. The LIRs [REP1-127], [REP1-128] and [REP1-132] were broadly satisfied with the air quality mitigation proposals in the oAQMP and the treatment of construction sites as high risk, although ESC [REP1-128] identified some points of detail that it considered required further explanation.

ExA's findings

3.19.47. NPS EN-1 paragraph 5.2.9 requires a description of any proposed mitigation measures taken that inform the assessment of residual effects for different project stages. NPS EN-1 paragraph 5.2.13 requires consideration of whether mitigation measures are needed over and above any that form part of the project application and these may be codified in a management plan.

3.19.48. The ExA considers that relevant measures are identified in the ES chapters [APP-055], [APP-068], with mitigation included in control documents including the oCEMP [REP7-129], oAQMP [REP7-135], [REP7-137] and REAC [REP7-359]. The ExA has not identified the need for additional measures. The control documents are secured by requirement 6 of the rDCO. The ExA notes that deferring agreement of some controls to later detailed management plans is not unusual and the oAQMP provide for this.

3.19.49. The ExA is satisfied that, consistent with NPS EN-1 paragraph 5.2.13 and section 5.7, the applicant has demonstrated that risks (such as dust) associated with the proposed development can be satisfactorily mitigated and managed.

USE OF SF6 SWITCHGEAR

3.19.50. ExQ1AQ1 [PD-017] asked the applicant to confirm that SF_6 switchgear would not be used by the applicant, or to provide an assessment of its use. The applicant [REP3-

069] acknowledged that, although it was still committed to use of SF_6 free switchgear, it now considered that due to equipment availability (SF_6-free circuit breakers) it might need to include some equipment containing SF_6. Consequently, the ExA [EV6-003], [PD-021], [PD-023] asked the applicant to provide additional information to demonstrate that the requirements of NPS EN-5 relating to SF_6 had been satisfied.

3.19.51. The applicant's responses [REP4-094], [REP5-135], [REP5-131], [REP6-111] suggested that its preferred contractor was encouraged to use SF_6-free switchgear and that a significant proportion of the GIS switchgear would be SF_6-free. It confirmed that Friston substation would be SF_6 free but that SF_6 equipment might be used at other locations. However, the applicant explained that in some cases alternatives are not yet technically proven, available or deliverable within programme constraints and that delivery within timeframes might be disproportionate in cost leading to significant uncertainty and delay [REP5-135]. The applicant [REP6-111] provided limited information to highlight that non-SF_6 alternatives were approximately 60% more expensive, providing an example of busbar cost increases. The applicant explained that it was unable to supply quotations and manufacturers pricing due to confidentiality agreements.

3.19.52. In response to ExQ2AQ1 [PD-021] the applicant [REP4-094] explained that fluorinated gas (F-gas) monitoring and control were part of its OFGEM licensing conditions, which include a commitment to reduce and eventually phase out switchgear containing SF_6, as well as management and monitoring of its use (including recording of information). The applicant also highlighted that specific measures to satisfy the requirements of NPS EN-5 were included in commitment CC03 of the REAC [REP7-359].

3.19.53. IPs highlighted the availability of SF_6 free alternatives to gas insulated lines and expressed concern regarding the impact of SF_6 on the environment and the possible use of non SF_6-free equipment ESC [REP4-184], [RR-0878], Friston Parish Council (FPC) [REP6-262]. FPC and Substation Action Save East Suffolk [REP4-186] suggested that the applicant should revert to air insulated switchgear, if it could not be demonstrated that a less environmentally unfriendly gas would be used and in [REP6-164] suggested a requirement to secure no use of SF_6 equipment at the substation.

ExA's findings

3.19.54. The ExA has examined the use of SF_6 as an insulating gas as required by NPS EN-5 sections 2.9, 2.10 and 2.11. The applicant has not ruled out use of SF_6 as required by NPS EN-5 paragraph 2.11.17(i) and has instead provided information to satisfy the

requirements of 2.11.17(ii). NPS EN-5 paragraphs 2.9.61 and 2.9.62 require careful consideration of whether use of SF_6-reliant assets can be avoided at the design stage or evidence of their reasoning on this point. The ExA considers that the applicant's responses are relatively high level but satisfy the policy requirements in EN-5 and that the design review in REAC [REP7-359] commitment CC03 provides for a subsequent detailed design stage evaluation of SF_6-free solutions.

3.19.55. Since NPS EN-5 does not preclude use of SF_6 in all circumstances, the ExA does not consider that it would be appropriate to secure no use of SF_6 equipment at the substation.

3.19.56. In accordance with NPS EN-5 paragraph 2.10.15, the applicant has provided an evaluation of the increased cost of procuring alternatives and the REAC [REP7-359] commitment CC03 provides that an F-gas Regulation compliant emissions monitoring and control plan would be in place. In light of the relatively high level nature of the responses, the Secretary of State may wish to satisfy themselves that the responses provided by the applicant are sufficient for the purposes of decision making.

CONCLUSIONS

3.19.57. The ExA is satisfied that matters relating to air quality accord with the relevant requirements in NPS 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.

3.19.58. The ExA notes that the NPS EN-1 paragraphs 5.2.16 and 5.2.17 require the Secretary of State to give substantial weight to air quality considerations where a project would lead to a substantial deterioration in air quality and where a project is proposed near a sensitive receptor site (such as an educational facility, residential use or sensitive/protected habitat). The construction and operation of the proposed development would occur close to sensitive receptors (Great Oaks Small School in Kent and designated ecological sites in both Suffolk and Kent). However, the ExA is satisfied that air quality effects would not be significant once mitigation measures, secured by the rDCO, were taken into account and that substantial changes in emissions would be unlikely at receptor sites.

3.19.59. Although it is unlikely that air quality effects would be significant, the ExA considers that air quality would be negatively affected by the presence of plant and vehicles during construction and by periodic use and testing of back-up generators in operation. Overall, the ExA considers this matter attracts a little weight against the making of the order.

3.20. NOISE AND VIBRATION

INTRODUCTION

3.20.1. This section considers the effects of noise and vibration on human receptors. The effects of noise on ecological noise sensitive receptors (NSR) are considered under section 3.14 (ecology, biodiversity and ornithology). Underwater noise on ecological NSR is considered in sections 3.7 (fish and shellfish) and 3.5 (marine mammals). Section 4 and appendix B (habitats regulations assessment (HRA)) also consider noise effects on European designated sites and features.

APPLICATION SUMMARY

3.20.2. The applicant's assessment of the potential noise and vibration effects from the proposed development is set out in Environmental Statement (ES):

- Part 2, Suffolk, Chapter 9 Noise and Vibration [AS-109]
- Part 3, Kent, Chapter 9 Noise and Vibration [AS-111]

3.20.3. The chapters consider the following topics in accordance with relevant, industry standard noise and vibration assessment guidance (including relevant British Standards) as set out in section 9.4 ([AS-109] and [AS-111]):

- Temporary impacts from noise and vibration during the construction stage, including construction traffic noise and vibration, and the decommissioning phase.
- Operational noise from the proposed Saxmundham converter station and Friston substation (Suffolk) and from the proposed Minster converter station and substation (Kent).

3.20.4. Section 9.3 [AS-109] explains that operational noise from the Friston substation in Suffolk was scoped out as there were no potential sources of noise during normal operation and the scoping report had scoped out noise from switch gear and auxiliary plant. However, an operational noise 'informative' has been provided in respect of the substation and overhead line (OHL) noise [AS-121], which considers switchgear and auxiliary plant noise. The assessment of subterranean and OHL noise and operational traffic noise and vibration was also scoped out [APP-300].

3.20.5. The assessment in [AS-109] Suffolk is supported by the following appendices and accompanying figures:

- Suffolk Noise Survey Data [APP-135]

- Suffolk Construction Noise and Vibration Data [REP4-041]
- Suffolk Construction Traffic Noise Assessment [AS-117]
- Suffolk Operational Noise Assessment [AS-119]
- Friston Substation and OHL Operational Noise Information (Informative) [AS-121]
- ES figures Suffolk Noise and Vibration [AS-125]
- Operational Noise Contour Plan for Saxmundham Converter Station [REP3-075]
- Appendix D Comparison of dBA and dBC Operational Sound Levels [REP5-127]

3.20.6. The assessment in [AS-111] Kent is supported by the following appendices and accompanying figures:

- Kent Noise Survey Data [APP-188]
- Kent Construction Noise and Vibration Data [REP4-043]
- Kent Construction Traffic Noise Assessment [APP-190]
- Kent Operational Noise Assessment [AS-123]
- ES Figures Kent Noise and Vibration [AS-141]
- Operational Noise Contour Plan for Minster Converter Station [REP5-124]

3.20.7. The Suffolk and Kent assessments are also supported by:

- ES Appendix 1.4.B Construction Plant Schedule [APP-090]
- Pegwell Bay Construction Method Technical Note [REP6-104]
- Hoverport Construction Access Noise Modelling - Technical Note [REP6-123]
- Hearing Actions Appendix J Piling Noise Dataset [REP4-088]
- Operational Noise Levels - Technical Note [REP6-128]

3.20.8. Cumulative noise and vibration effects are considered in the following documents and their associated appendices and figures:

- Cumulative Vehicle Emissions Assessment [REP1-123]
- Onshore Scheme Intra-Project Cumulative Effects (Suffolk [APP-059] and Kent [APP-072]) and Significance - Technical Note [REP6-117]
- Onshore Scheme Inter-Project Cumulative Effects Suffolk ([APP-060] and Kent [APP-073]) and Update - Technical Note [REP6-098]
- Appendix C LionLink Updates – Review of Cumulative Assessments [REP5-127]

3.20.9. Section 9.6 ([AS-109] and [AS-111]) sets out the relevant study areas.

3.20.10. The noise and vibration survey methodology, based on British Standards, is set out in section 9.4 ([AS-109] and [AS-111]).

3.20.11. Section 9.4 ([AS-109] and [AS-111]) sets out the sensitivity (value), magnitude of impact and significance criteria applied to the assessment of effects. Separate criteria are provided for construction noise, vibration and traffic noise and operational noise. Lowest observed adverse effect level (LOAEL) and significant observed adverse effect level (SOAEL) criteria are also set out. Separate approaches are taken to the assessment of effects on residential and non-residential NSR.

3.20.12. Assumptions and limitations are set out in section 9.4 and 9.5 ([AS-109] and [AS-111]) and in the relevant survey report appendices. Rochdale Envelope assumptions are set out in table 9.14 [AS-109] and table 9.15 [AS-111]. The ES suggests that vertical limits of deviation (LoD) do not materially affect the assessment of construction noise and vibration or operational noise. It is assumed that construction compounds, converter stations, substations and OHL could be laid anywhere in the lateral LoD.

3.20.13. Section 9.5 ([AS-109] and [AS-111]) both consider build-out in any of the 5 years following consent (assumed to be 2026 onwards) as a sensitivity test.

3.20.14. The applicant's baseline description (section 9.7 [AS-109]) identifies NSR in the study area. In Suffolk these include built up residential areas in Saxmundham, Benhall Green, Benhall, Sternfield, Friston, Coldfair Green, Aldeburgh, Sizewell and Leiston as well as a number of isolated receptors located 300 metres (m) or more from the proposed converter station site.

3.20.15. In Kent (section 9.7 [AS-111]), these include built up residential areas at Ebbsfleet, Cliffsend and Minster, as well as isolated residential receptors located 650m or more from the proposed converter station and substation site, and Great Oaks Small School for neurodiverse students.

3.20.16. Section 9.7 ([AS-109] and [AS-111]) identifies the main sources of noise within the study areas. Existing vibration levels are assumed to be negligible.

3.20.17. Noise survey data is presented in table 9.15 and table 9.16 [AS-109] and [AS-111]. In Suffolk, representative background noise levels are low away from local roads with night-time levels of 20-25 decibels (dB) $L_{A90,15min}$ reported and ranges including values as low as 16dB$L_{A90,15min}$. In Kent, away from the A256, a representative night-time level of 29dB$L_{A90,15min}$ is reported.

3.20.18. The evolution of the baseline is set out in section 9.7 ([AS-109] and [AS-111]). No changes are anticipated in Suffolk or Kent.

3.20.19. Section 9.9 ([AS-109] and [AS-111]) discusses the potential noise and vibration effects during construction and operation.

3.20.20. Section 9.8, 9.10 and table 9.22 [AS-109] and section 9.8, 9.10 and table 9.23 [AS-111] describe the proposed design, mitigation and enhancement measures. They set out how the environmental impacts would be avoided or reduced through the design of the proposed development (embedded or design mitigation) and describe the essential mitigation measures proposed. These measures include the commitments detailed in the outline onshore Construction Environmental Management Plan (oCEMP) [REP6-074], the Register of Environmental Actions and Commitments (REAC) [REP7-359], as well as specific measures in the outline Construction Noise and Vibration Management Plans (oCNVMP) for Suffolk [REP6-082] and Kent [REP6-084].

3.20.21. Section 9.11 ([AS-109] and [AS-111]) concludes that, taking into account mitigation measures including temporal restrictions on works, there would be no significant noise and vibration effects in Suffolk or Kent during construction, operation or decommissioning. The applicant's intra-project cumulative effects assessments [APP-059] and [APP-072] identify the potential for construction noise and vibration, visual, health and transport effects to give rise to significant effects when combined, for which no mitigation is confirmed. This is considered further in section 3.24 of this report (cumulative effects).

EXAMINATION ISSUES

3.20.22. Based on the comments raised by interested parties (IP)s and the Examining Authority's (ExA)'s review of the application documents, the main noise and vibration issues considered during the examination were:

- construction noise impacts
- assumption of a 10dB reduction in noise levels due to best practicable means (BPM)
- construction LOAEL and SOAEL and use of temporal restrictions
- operational noise limits and requirements
- low frequency noise and resonance (including switchgear noise)
- noise creep and the potential for cumulative effects
- requirement for detailed noise assessments

3.20.23. Construction working hours, heavy goods vehicle (HGV) delivery hours and the need for respite are considered in the section 3.21 (health and wellbeing).

CONSTRUCTION NOISE IMPACTS

3.20.24. Over 1100 relevant representations (RR)s referenced noise as an issue. A large proportion of RR and other representations including Saxmundham Town Council (STC) [RR-4896], East Suffolk Council (ESC) [RR-1420], [REP1-128], Suffolk County

Council (SCC) [REP7-367], St Mary the Virgin Church, Friston [RR-5071], Suffolk Energy Action Solutions Ltd (SEAS) [RR-5120], [REP1-277], Great Oaks Small School [RR-1890], Cliffsend Parish Council [RR-1024], Thanet District Council (TDC) [REP1-132] and Dover District Council (DDC) [REP1-127] highlighted the potential for construction noise and vibration impacts in particular locations in Suffolk and Kent. Representative responses are summarised below.

3.20.25. In Suffolk, STC [RR-4896] highlighted the proximity of the proposed converter station to residential properties in Manor Gardens (200-300m), Prior's Grange (500m), impacts on St John the Baptist Church and residents of Sternfield and Hurts Hall and vehicle noise on Church Hill when travelling into Saxmundham. STC also noted the proximity of proposed construction compound S02 (situated north-west of the proposed converter station) to residential properties, risk of vehicle noise from reversing alarms and low frequency idling noise, as well as vibration from plant movement. SCC [REP7-367] also noted potential for noise impacts on a new special educational needs (SEN) school in Saxmundham. SCC [REP3A-031], [REP7-302] highlighted impacts on Whitearch Park residential park homes due to their lower acoustic insulation, although it ultimately deferred to ESC regarding noise matters.

3.20.26. Friston Parish Council (FPC) and Substation Action Save East Suffolk (SASES) [RR-1693] highlighted construction noise impacts on Friston residents and the need for similar noise controls to the Scottish Power Renewables (SPR) East Anglia 1 North (EA1N) and East Anglia 2 (EA2) projects. IPs related their experience of vehicle reversing alarm noise during SPR works in Friston [RR-1218], [RR-2114], [RR-1063], [REP4-200].

3.20.27. ESC [RR-1420] and others noted the risk of noise impacts for residential receptors close to landfall activities in Suffolk. Marlesford Parish Council (PC) [RR-3527] and others [RR-1079], [RR-3644], [AS-147] expressed concern regarding increased traffic on the A12.

3.20.28. In Kent, TDC [REP1-132] highlighted the potential for adverse effects on NSR in Ebbsfleet, Cliffsend and Minster and on recreational users of public rights of way and the coast. [RR-1890] expressed concern regarding the impact of noise on Jutes Lane, the access road for Great Oaks Small School. High Quality Lifestyles Ltd (Priory Group) [RR-2021] expressed concern about impacts on residents of Ebbsfleet House and Martins, care facilities for people vulnerable to environmental and sensory stimuli. IPs including [RR-2574], Kent County Council Green Party Group [RR-2978] and Kent Wildlife Trust [RR-2980] highlighted the risk of disturbance in Pegwell Bay. DDC [REP1-127] sought information about effects on residential amenity from use

of Marsh Farm Road, Richborough Road and Whitehouse Drove to access construction areas south of the River Stour.

3.20.29. Many PCs in Suffolk and Kent highlighted the risk of construction noise and vibration for their communities for example [RR-0095], [RR-0550], [RR-0590], [RR-0666], [RR-1024], [RR-1123], [RR-1409], [RR-6034], [RR-5044], [REP1A-205], [REP2-128] and [RR-5317].

3.20.30. The applicant including [REP2-022], [REP2-024], [REP2-034], [REP3-069], [REP5-135], [REP6-111], [REP6-123], [REP7-359], [REP7-173] considered that the ES ([AS-109] and [AS-111]) had provided a robust worst case assessment of construction noise that addressed the highlighted receptors and identified suitable mitigation measures in the REAC [REP7-359] and oCEMP [REP7-129], such as commitment NV03, and in the oCNVMP ([REP6-082] and [REP6-084]). The oCNVMP also include an assessment of the contractor's detailed design to identify any requirement for Control of Pollution Act 1974, section 61 consents (s61) and mitigation by BPM (including considering less intrusive reversing alarms).

3.20.31. The ExA examined construction noise (including traffic) in issue specific hearings (ISH) [EV3-006], [EV3-007], [EV6-022], [EV6-033], [EV9-012], [EV9-018] and written questions [PD-017], [PD-021], [PD-023].

ExA's findings

3.20.32. National Policy Statement (NPS) EN-1 paragraphs 5.12.6, 5.12.7 and 5.12.8 require applicants to provide a proportionate assessment of noise and vibration impacts and identify the reasonable steps necessary to mitigate and minimise those effects. The ExA is satisfied that the applicant's assessment of construction noise and construction traffic noise addresses the requirements of the NPS, excepting those matters that the Secretary of State has previously agreed to scope out.

3.20.33. The ExA considers that the assessment refers to relevant British Standards and is based on a proportionate level of detail available at this time. The ES acknowledges that baseline noise levels are low and that both the Suffolk and Kent sites are relatively tranquil. The ES predicts how the noise environment would change during the construction period. The ExA notes that the applicant's use of BS5228-1 'ABC' thresholds, is primarily focused on the exceedance of absolute levels rather than the degree of change in noise levels over the baseline. The ExA considers that the assessment is consistent with the approach set out in BS5228-1.

3.20.34. The assessment is accompanied by mitigation plans in the form of the REAC [REP7-359], oCEMP [REP7-129] and the oCNVMP ([REP6-082] and [REP6-084]). We note that the oCNVMP include detailed noise assessments that would reflect the detailed

design by the applicant's contractors. They also provide the framework for contractors to follow the s61 process, which would enable ESC and TDC to specify how construction noise was regulated and monitored. The ExA notes that the restrictions on working hours proposed in section 3.21 (health and wellbeing) of this report would also serve to avoid and minimise effects. We are also satisfied that the oCNVMP require consideration of less intrusive forms of reversing alarms. The ExA considers that a blanket commitment to using white noise reversing alarms would be impractical.

3.20.35. The ExA is satisfied that the assessments have addressed construction noise and vibration effects on relevant receptors in the Suffolk and Kent study areas. We consider that the applicant's responses [REP6-111], [REP7-173] have ruled out significant effects on Whitearch Park residential park homes and on the SEN school based on distance and embedded mitigation within the REAC. We are satisfied that the applicant has ruled out significant construction noise effects in Cliffsend based on its supplementary noise modelling [REP6-123].

3.20.36. The ExA considers that the restriction of works to the summer holiday period and restriction of access to Jutes Lanes at other times limits construction and construction traffic noise effects on Great Oaks Small School, which could otherwise be disproportionately affected. Effects on Ebbsfleet House and Martins have been addressed in [REP3-069]. These effects are discussed further in section 3.21 of this report (health and wellbeing).

3.20.37. The ExA is satisfied that, due to the low predicted volume of traffic on Marsh Farm Road, Richborough Road and Whitehouse Drove, significant noise and vibration effects are unlikely.

ASSUMPTION OF A 10DB REDUCTION IN NOISE LEVELS DUE TO BPM

3.20.38. SEAS [RR-5210], [REP1-277], [REP2-122], [REP4-157], [REP6-256c], [REP7-211] challenged the applicant's 'blanket' assumption that construction noise levels could be reduced by 10dB through the application of BPM. It suggested that if the 10dB reduction proved impracticable then the applicant's assessment of likely significant effects would not be achieved and effects above SOAEL could arise at 4 properties. SEAS highlighted the generic nature of the mitigation measures identified and, in its view, the lack of assessment of mitigation measures. ESC [REP3-085], [REP3A-001], [REP3A-016] similarly highlighted concerns regarding the lack of mitigation detail. [REP5-184] emphasised that the detail was needed prior to consent.

3.20.39. The applicant's response to ExQ2NV4 [REP5-135] and [REP6-108] provided clarification regarding the 10dB assumption and the basis for its worst case

construction noise assessment. It highlighted that NSRs were divided into two categories – those where noise levels were below the relevant BS5228-1 'ABC' threshold without mitigation, and hotspots exceeding the threshold where mitigation was necessary. The applicant highlighted commitments NV01 and NV03 in the REAC [REP7-359] and oCEMP [REP7-129], which require contractors to apply BPM to reduce potential adverse effects for NSRs. Its oCNVMP ([REP6-082] and [REP6-084]) include example construction noise and vibration mitigation measures that could be employed with likely attenuation values stated. The applicant also explained that hotspot receptors were identified as requiring up to a maximum 10dB reduction and stated that there was a high degree of confidence that this reduction could be achieved because the assessment was relatively worst case due to:

- Assumption of worst case source noise and worst case task for each activity including simultaneous activity.
- Assumption that works would be at the LoD, at the nearest point and occur over the whole assessment period.
- Taking no account of factors such as site layout/ orientation, alternative working methods, screening or other BPM identified by the contractor.
- Significant effects would also require exceedance of the temporal criteria and could be subject to temporal criteria.
- Worst-case propagation (downwind in all directions [REP3-069]).

3.20.40. The applicant concluded that, in light of these assumptions, a specific level of attenuation was not necessary to be stated.

3.20.41. The ExA considered the 10dB reduction assumption in written questions (ExQ1NV16 [PD-017], ExQ2NV4 [PD-021]) and in hearings [EV9-012].

ExA's findings

3.20.42. NPS EN-1 paragraph 5.12.17 suggests that the Secretary of State should not grant development consent unless the applicant meets aims for the effective management and control of noise. In combination with commitments in the REAC [REP7-359], oCEMP [REP7-129] and oCNVMP ([REP6-082] and [REP6-084]) to undertake detailed noise assessments to inform the need for s61 consent, we consider that there would be sufficient local authority control over construction noise to ensure that significant effects would be avoided or mitigated. The ExA recognises that the worst case nature of the construction assessment makes it likely that noise levels would be lower than predicted.

SETTING OF LOAEL AND SOAEL AND TEMPORAL RESTRICTIONS

3.20.43. ESC's local impact report [REP1-128] and statement of common ground [REP7-049] accepted the applicant's proposed use of the ABC categories in BS5228-1 as SOAEL but considered that the construction noise LOAEL had been set too high and should be based on the background noise level of the area. It considered that the LOAEL suggested no, or low, impact below this level. ESC considered that the applicant's reliance on temporal restrictions to avoid effects above SOAEL was not acceptable, was not consistent with BS5228-1 and could dilute impacts and the need for mitigation. It considered that the ABC method should be the only assessment of significance, supported by BPM and the s61 process [REP5-184]. ESC [REP5-184] also noted a contradiction between the desire to have longer working hours and the need to apply temporal restrictions. ESC [REP7-049] signposted to EA1/ EA2 and LionLink interconnector, which had adopted >+5dB as LOAEL and >+10dB as SOAEL. ESC [REP7-049] did not consider BPM to be a substitute for setting a meaningful and realistic LOAEL.

3.20.44. SEAS [RR-5210], [REP1-277], [REP4-157] suggested that effects above SOAEL could be experienced at 4 receptors near the HDD compound in Suffolk during construction and would not be compliant with NPS EN-1. SEAS [REP2-122] suggested that if temporal restrictions were required this would extend the length of the programme for construction.

3.20.45. [RR-5841] suggested that the construction LOAEL for Kent was above the World Health Organisation (WHO) 'Night Noise Guidelines For Europe' 2008 recommendations for health protection, which reference 40dB $L_{night,outside}$ as being LOAEL for night noise.

3.20.46. The applicant [REP2-027], [REP7-049] explained that the construction noise LOAEL was set with respect to guideline values from BS8233:2014 'Guidance on sound insulation and noise reduction for buildings'. It went on to explain that the contractor would be required to employ BPM to reduce construction noise and vibration for all works irrespective of the LOAEL threshold. The applicant highlighted that exceedance of the ABC thresholds would not necessarily indicate a significant effect, which required consideration of other factors such as duration, character and number of receptors. It argued that even if the thresholds were exceeded, temporal restrictions would form part of BPM to mitigate and minimise effects and might benefit from a s61 application for prior consent. The applicant [REP2-027] clarified that lower thresholds would apply during weekend periods and that bank holidays would be treated like weekends as a worst case.

3.20.47. The ExA asked for further explanation of temporal restrictions in its s89(3) letter dated September 2025 [AS-106] in ExQ1NV10 [PD-017] and in its Rule 17 letter [PD-025] and considered the written submissions made by IPs.

ExA's findings

3.20.48. NPS EN-1 paragraph 5.12.16 requires due regard to be given to relevant sections of the Noise Policy Statement for England (NPSE), the National Planning Policy Framework (NPPF) and planning practice guidance on noise. The ExA has considered ESC and SEAS comments on the setting of LOAEL in Suffolk but is not persuaded that the LOAEL should be based on the background noise environment of the area or that it should necessarily reflect other projects in the area. Exceedance of a very low background noise level does not imply that a harmful adverse effect would arise, rather it is an indication that noise may be audible over the background level. Planning policy on noise does not stipulate how LOAEL should be set or specify a particular level to be achieved. The night time LOAEL is broadly consistent with the WHO Night Noise Guidelines advice on LOAEL and whilst the daytime LOAEL is set at a higher level than night time, it is still a low level, consistent with the guidance values from BS8233 and the guideline value for the onset of moderate annoyance in the WHO Community Noise Guidelines 1999. The ExA is therefore satisfied that the applicant presents a reasonable basis for LOAEL.

3.20.49. Turning to SOAEL and the suggested policy implications of predicted exceedances of SOAEL at 4 properties in Suffolk, the ExA notes the applicant's comments that the exceedance of SOAEL referenced is 'without mitigation'. The ExA acknowledges the applicant's argument that its assessment is very much a worst case and is unlikely to arise and that mitigation would also apply. We also consider that the REAC [REP7-359], oCEMP [REP7-129] and oCNVMP ([REP6-082], [REP6-084]) commitments to prepare detailed noise assessments based on final designs, apply BPM and to make s61 applications for prior consent, provide a mechanism to ensure that such effects exceeding SOAEL can be avoided and other effects mitigated and minimised in accordance with the policy requirements in NPS EN-1 paragraph 5.12.17. We also consider that with the proposed working hours restrictions set out in section 3.21 of this report (health and wellbeing), the construction/ operation of the proposed development would also be less likely to exceed the weekend SOAEL thresholds or require temporal restrictions.

OPERATIONAL NOISE LIMITS AND REQUIREMENTS

3.20.50. Noise from the operation of the proposed converter stations and substations was a significant concern for many of the IPs in Suffolk and Kent, for example [RR-5890], SASES [RR-4887], SEAS [RR-5210], KWT [RR-2980], Great Oaks Small School [RR-

1890] and Save Minster Marshes (SMM) [RR-4892]. Representations highlighted the very low background noise levels and relative tranquillity at the proposed converter and substation sites (FPC [REP1-301], SASES [REP4-148], SEAS [REP6-256C] and TDC [REP1-132]), the proximity to receptors (STC [REP1A-053]) and the impact that new industrial development would have on the existing noise character (ESC [REP1-128] and SEAS [REP2-122]).

3.20.51. Representations including from ESC [REP1-128], [REP7-260], [REP7-301], [REP7-308], SCC [REP5-181], TDC [REP5-207], [REP7-314], FPC and SASES [REP1-301], [REP4-148], [REP7-312] and SEAS [REP2-122], [REP6-256c], [REP7-211] argued for the imposition of enforceable noise requirements in the draft Development Consent Order (dDCO). ESC [REP5-189], [REP7-308], SEAS [REP6-256c], and TDC responses to ExQ2NV1 [REP5-207] also proposed requirement wording to control operational noise.

3.20.52. Suffolk IPs signposted to similar operational noise requirements secured in respect of the National Grid substation in the SPR EA1N and EA2 DCOs, whose noise assessments were stated by these parties to have been based on generic design information. FPC and SASES [AS-073], [REP1A-099], [REP3-088], [REP3-129], [REP4-121] [REP5-213] raised concerns that mitigation secured for the EA1N and EA2 schemes would also be weakened by the proposed development. They highlighted that the ExA's recommendation for EA1N and EA2 concluded that "*mitigation has in certain key respects been found to be only just sufficient on balance*".

3.20.53. ESC [REP4-117] suggested that operational noise limits should be expressed as the SOAEL and avoided in line with policy. ESC [REP4-117], [REP5-184] and TDC [REP5-207] maintained that a rating level 5dB below existing background levels should be achieved at nearest NSRs, with ESC suggesting that any noise above the level currently experienced be mitigated and minimised. The councils suggested that 5dB below background would equate to a 'low impact' in BS4142: 2014 + A1:2019 'Method for rating and assessing industrial and commercial sound' and was consistent with the principles of NPS EN-1. ESC's local impact report [REP1-128] noted that due to the size of these types of projects, 5dB below background was an aspirational target that it asked developers to consider as the appropriate limit. TDC [REP4-160] observed that a level less than or equal to 34dB as suggested by the applicant as a potential noise limit was exceptionally low.

3.20.54. The applicant [AS-119], [REP6-128], [REP7-049], [REP7-085] argued that where background levels are low, an absolute level may be more appropriate and that a rating level (L_{ArTr}) of 34dB was reasonable and below the requirements of variously, the BS8233 guidance for desirable conditions indoors, the Chartered Institution of

Building Services Engineers guidance, and the WHO (2008) recommended LOAEL value of 40dB $L_{night,outside}$ for health protection. It highlighted that to achieve 5dB below background would mean securing rating levels as low as 15dB L_{ArTr}, which it considered to be far below what is reasonable. The applicant therefore considered it was compliant with planning policy for noise. The applicant [REP2-027], [REP2-034] argued that operational noise levels 5dB below background would be below LOAEL and go above and beyond the requirements of national policy. It argued that REAC [REP7-359] commitment NV11 (which includes a rating level 34dB L_{ArTr} for the Saxmundham converter station and the Minster converter and substation) and a rating level 5dB below background at NSR for Friston substation in commitment NV12 provided the necessary operational noise controls. It also highlighted that commitments NV07 and NV09 included an aspirational commitment to reduce noise levels as low as reasonably practicable below this.

3.20.55. ESC [REP4-117] considered that BS8233 was out of scope, quoting that it "does not provide guidance on assessing the effects of changes in the external noise levels to occupants of an existing building".

3.20.56. The ExA explored the issue of operational noise at converter and substation sites at ISH2 [EV6-022], ISH3 [EV9-012], through written questions (ExQ1NV7 [PD-017], ExQ2NV1 [PD-021] and ExQ3NV3 [PD-023]) and in its schedule of changes to the dDCO [PD-024], which included a suggested new noise requirement, covering noise limits, assessment, monitoring and tonal issues, incorporating wording provided in local authority submissions. The ExA proposed noise limits for Suffolk and Kent based on the predicted worst case noise levels predicted in the applicant's operational noise assessments (32dB L_{ArTr} in Suffolk and 25dB L_{ArTr} in Kent). The noise requirement linked with Article 49 of the dDCO on statutory nuisance [PD-024] (see also ESC comments in [REP7-049]).

3.20.57. The applicant [REP7-085] did not accept that the proposed requirement was necessary or reasonable in the way drafted. It considered that it had committed to achieving 34dB in its REAC [REP7-359], which was below a level where a significant effect would occur, and to achieving levels as low as reasonably possible at NSR. It highlighted commitments NV07 and NV09 in the REAC [REP7-359] which make provision for submission of detailed designs, noise mitigation and compliance monitoring to the local authority.

3.20.58. At deadline 7 (DL7), 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. Due to the late nature of the submission, the applicant was unable to respond to this.

ExA's findings

3.20.59. NPS EN-1 paragraph 5.12.15 requires a project to demonstrate good design through selection of the quietest or most acceptable cost-effective plant available and other design measures to reduce noise. Given the outline nature of designs, this has not been fully demonstrated at present. However, we consider that the applicant's assessment has, as far as possible, demonstrated that it can avoid significant operational noise effects and that REAC [REP7-359] commitments NV07 and NV09 fulfil this requirement.

3.20.60. NPS EN-1 paragraph 5.12.18 provides that the Secretary of State should consider including measurable requirements in a DCO to ensure that noise levels do not exceed specified limits. The ExA considers that inclusion of an operational noise requirement in the rDCO provides a transparent means of setting noise limits and is consistent with the approach adopted by the Secretary of State for the SPR schemes in the absence of detailed designs.

3.20.61. We considered the local authorities' suggestion that noise rating levels should be set at 5dB below background at the nearest NSR, based on use of the worst case predicted operational noise levels, or whether the very low background noise levels would make the applicant's use of an absolute noise rating level of 34dB L_{ArTr}, as LOAEL, more appropriate. The ExA considers that neither the NPS nor planning practice guidance for noise specify that LOAEL or SOAEL should be set at a particular level. LOAEL is defined as a level of noise exposure above which adverse effects on health and quality of life can be detected. Whilst a noise rating level above background could be audible and 34dB L_{ArTr} constitutes a large increase relative to background levels (>10dB which is the SOAEL criteria in (table 1.1 [AS-119])), the ExA considers that the absolute level would be low, below WHO guideline values and at a level unlikely to give rise to a significant effect on health and quality of life of NSRs. Noting that the applicant's rating level takes account of tonal penalties (meaning that the specific sound level would be less than 34dB and less than 10dB greater) and paired with REAC [REP7-359] commitment NV07 to demonstrate that noise levels would be as low as reasonably practicable, the ExA considers that a rating level 34dB L_{ArTr} satisfies and even exceeds the requirements of policy but is reasonable in this instance in light of the very low existing background noise levels.

3.20.62. The ExA has therefore included a new requirement 18 'Control of operational noise' in the recommended DCO (rDCO), which secures the 34dB L_{ArTr} rating level for the Suffolk and Kent sites but also takes into account comments raised by the applicant in [REP7-085]. The ExA considers that this does not preclude the applicant from implementing the more onerous commitment to 5dB below background in [REP6-128] and [REP7-359] for Friston substation included in the REAC. This also

requires a minor amendment to article 49 to cross reference to requirement 18 as the operational noise control. With these controls the ExA considers that the proposed development would meet the aims of NPS EN-1 with respect to the management and control of noise. Due to timing, the ExA notes that the applicant and IPs have not had the opportunity to comment on the final wording of the proposed requirement, which differs from previous versions and IP suggested wording.

3.20.63. The ExA has considered ESC's proposed EHO support fund. On the basis that the rDCO makes provision for noise rating levels and monitoring by the applicant, the ExA considers that an EHO contribution is not necessary.

LOW FREQUENCY NOISE AND RESONANCE (INCLUDING SWITCHGEAR NOISE)

3.20.64. SEAS [REP2-122] suggested that octave band frequency content was omitted for converter station transformers, which would have emphasised the predominance of 100 hertz (Hz) and 200Hz low frequency tonal characteristics, leading to optimistically low noise predictions, with implications for real-world intrusiveness. SEAS [REP4-157], [REP6-256c] argued that a method to assess dBC as well as dBA was required, a suggestion that TDC [REP6-186] supported. TDC requested that the difference between the C-weighted and A-weighted equivalent continuous sound pressure levels ($L_{Ceq,T} - L_{Aeq,T}$) should not exceed 10dB at the nearest NSR. SEAS [REP7-211] maintained that there was uncertainty in the characterisation and assessment of low frequency noise and uncertainty regarding use of BS4142.

3.20.65. SEAS [REP2-122] also questioned the application of a 15dB reduction between outdoor and indoor noise levels, suggesting that this failed to account for potential room resonance from single frequency noise at 100Hz which could lead to <6dB increase in noise levels, for example if LionLink Interconnector were situated adjacent to the proposed development. Based on the issues raised, SEAS argued that Sea Link failed the policy tests in NPS EN-1. SEAS [REP6-256c], [EV9-012] acknowledged that it had no examples of constructive interference being an issue at other National Grid sites. ESC [REP4-117], [REP6-160] did not comment on low frequency noise.

3.20.66. SEAS [REP7-211] maintained that more specific requirement drafting on tonal noise should be included in the dDCO for robustness and enforceability.

3.20.67. SEAS [REP2-122] flagged concerns regarding the lack of mitigation for gas insulated switchgear (GIS) noise and the fact that the operational noise assessment was an

informative rather than a binding part of the ES. FPC and SASES [RR-4887], [REP1-301], [REP4-148] queried why the ExA for the SPR schemes had not addressed concerns about operational noise from switchgear in non-standard operation. ESC [REP1-128], [REP5-184] also questioned the applicant's statements regarding the operation of switchgear, suggesting that operation a 'limited numbers of times a year' needed clarification as to whether it would cumulatively be significant.

3.20.68. The ExA examined low frequency noise emissions at ISH2 [EV6-022] (including hearing action point 70 [EV6-033]) and ISH3 [EV9-012].

3.20.69. The applicant [REP6-128] considered that in operation, the sites (particularly the Friston substation) would operate relatively quietly and well below levels suggested to avoid harmful effects on users/ occupiers of internal living spaces. [REP2-034] suggested that low ambient and background noise levels were considered in the applicant's noise assessments and that areas with higher ambient noise might be more sensitive to changes in noise in terms of effects on health and quality of life. It also argued that in any case noise would be controlled through commitments in the REAC [REP7-359] (as discussed above).

3.20.70. The applicant [REP6-128] explained that its proposed noise limit for Friston substation was 10dB below the operational rating level for EA1N and EA2. [REP2-014] explained that REAC [REP7-359] commitment NV07, to avoid significant adverse effects at nearby NSR, would apply to switchgear noise. In [REP2-034] it explained that an assessment of noise from GIS had been scoped out based on infrequency of operation but that switchgear noise would not be expected to give rise to significant effects as:

- it would operate at a much lower noise level than air insulated switchgear, creating a dull thud similar to a van door being closed
- its location inside the GIS building, would mean lower noise levels externally – predicted to be 30dB $L_{Amax,F}$ at the nearest NSR
- the frequency of operation would be in the order of once per year
- a noise level exceeding 60 dB $L_{Amax,F}$ externally, occurring at least 10 to 15 times per night is necessary to be significant

3.20.71. The applicant [REP2-034] acknowledged that transformers are a potential source of 100Hz low frequency noise and that this had informed a worst case assessment of propagation effects. It suggested that the assumed external to internal 15dB reduction from BS 8233:2014 "Guidance on sound insulation and noise reduction for buildings" was reasonable as not all plant at the sites would be tonal, with some being broadband.

3.20.72. The applicant [REP2-034] did not agree that there was a genuine risk of additive noise impacts from single frequency noise, arguing that it was an unrealistic situation in light of actual plant noise spectra and would also be accompanied by absolute noise elimination for subtractive phase interactions. It considered that room resonance was a function of room dimensions rather than the source and not a direct indication that room modes were likely. The applicant also highlighted the large difference between the BS8233 guidance levels and the predicted external noise levels meaning that significant effects were unlikely.

3.20.73. Responding to SEAS comments, the applicant [REP5-127] provided a comparison of dBA and dBC operational sound levels. However, SEAS [REP6-256c] suggested that this did not achieve the objective of identifying the presence of low frequency noise. In [REP6-108] the applicant explained it had extensive knowledge of operational transformer noise and that comparison of dBA and dBC is a high level screening tool for low frequency noise but was not relied on in the noise assessment as detailed information regarding acoustic characteristics of transformers was available to understand the acoustic profile. It outlined the conservative nature of its assessment for noise enclosures and highlighted that because 34dB is a rating level it inherently accounted for tonal characteristics.

3.20.74. The ExA's [PD-024] proposed operational noise requirement included consideration of low frequency noise as part of the design approval process, the detailed noise assessment and therefore in the determination of the noise rating level. The requirement also included noise monitoring to determine the effectiveness of the acoustic controls.

3.20.75. The applicant [REP7-085] responded that BS4142 required consideration of tonal characteristics such as low frequency content and explained that attempting to secure a dBA-dBC difference of <10dB was not enforceable, since even without the proposed development, dBC levels were already greater than 10dB above the dBA level.

ExA's findings

3.20.76. NPS EN-1 paragraph 5.12.6 requires that noise assessments include consideration of tonal characteristics such as high or low frequency content. The ExA is satisfied that the assessment has taken account of low frequency noise as part of its assessment and that the commitments in the REAC [REP7-359] include a design process that accounts for low frequency noise.

3.20.77. NPS EN-1 paragraph 5.12.9 and NPS EN-3 section 2.9 suggest that operational noise should be assessed using the principles of relevant British Standards. Whilst noting

SEAS comments regarding the interpretation of BS4142 in low ambient noise conditions, the ExA considers that BS4142 is the relevant operational noise standard and that it takes into account tonal content. The ExAs proposed noise requirement 18 of the rDCO requires that the acoustic design be based on BS4142 assessment approved by the relevant planning authority. The ExA has reviewed its proposed noise requirement [PD-024] and the applicant's comments and considers that use of BS4142 would be sufficient to negate the need for a specific dBA-dBC provision and has not included this provision in the proposed rDCO wording.

3.20.78. The ExA has considered SEAS concerns regarding constructive interference from low frequency noise sources and the potential for room resonance. Whilst the ExA agrees that this is hypothetically possible, we do not consider it likely and SEAS were not able to provide examples of such an occurrence. Even if such a situation were to arise the ExA accepts the applicant's arguments around room modes, subtractive interference and the fact that noise emissions would comprise both broadband and low frequency noise, meaning that it is reasonable to assume a 15dB outdoor to indoor noise reduction. In any case, the ExA considers that the difference between the predicted external noise levels and the BS8233 internal guidance is such that a significant effect would be unlikely. The ExA notes ESC comments regarding the applicability of BS8233 but considers that the internal levels to be achieved in BS8233 remain a relevant consideration.

3.20.79. With regard to switchgear noise, the ExA is of the opinion that the low predicted frequency of switchgear operation in the order of once a year, even when taken cumulatively, would be unlikely to give rise to a level of awakening that could be deemed significant, when compared with a 60dB $L_{Amax,F}$ threshold level, 10 to 15 times per year.

CUMULATIVE NOISE AND 'CREEP'

3.20.80. FPC and SASES [AS-073], [REP1A-099], [REP3-088], [REP3-129], [REP4-121] [REP5-213] raised concerns regarding the cumulative impact of multiple nationally significant infrastructure projects being brought forward in the Friston area (for example, the LionLink Interconnector and SPR EA1N and EA2 proposals) STC [RR-4896] also expressed concern regarding cumulative impacts and disturbances from proposed converter stations. SEAS [REP7-211] shared this concern and considered that operational noise requirements did not explicitly secure assessment and control of cumulative operational noise from multiple developments operating together. It was highlighted that the SPR consents controlled noise from the National Grid substation as well as SPR infrastructure and that the new consent should also secure this level of control. ESC [REP1-128] expressed particular concern

regarding 'noise creep', especially where the noise rating level was expressed as a LOAEL.

3.20.81. FPC and SASES [REP6-179] provided suggested requirement wording to address cumulative noise impacts from Suffolk operational sites.

3.20.82. Regarding noise creep and cumulative impacts in Suffolk, the applicant [REP2-014] suggested that it had taken into account the background character of the area as part of its consideration of context. It committed to noise mitigation measures in the design, avoiding a significant adverse effect at nearby NSR and achieving noise levels in line with the aims of local authorities, or otherwise as low as reasonably possible. It suggested that this was a more stringent requirement than national planning policy and guidance. In respect of cumulative effects, it noted that the proposed development was ahead of other proposed projects in the Suffolk area such as LionLink Interconnector and that the minimal information available for those projects had informed its qualitative assessment [APP-060], [REP5-127]. Future projects would be required to undertake more detailed quantitative assessments. The applicant [REP6-108] also suggested that converter station noise was relatively localised and that if each project mitigated its own contribution to ensure that noise levels do not exceed agreed thresholds at receptors, there would be no unacceptable in-combination noise effects.

3.20.83. The applicant [REP2-027] suggested that a cumulative 34dB noise rating level should apply to the proposed development and future projects to avoid noise creep, effects above LOAEL or cumulative adverse effects. It considered that future projects might be required to assess their projects against the pre-development background sound levels determined by the proposed development to avoid assessment against higher background sound levels.

3.20.84. ESC [REP3-080] questioned the applicant's suggested cumulative noise rating level as it was not aware of a mechanism that could achieve this, given the applicant's emphasis that it was a legally separate entity from National Grid Ventures, the promoters of LionLink Interconnector.

ExA's findings

3.20.85. The ExA considers that the applicant's proposal to set noise limits at Friston substation 5dB below background, meets the first two aims of NPS EN-1 paragraph 5.12.17. Namely, avoiding significant adverse impacts on health and quality of life from noise, and mitigating and minimising adverse effects, although it would not contribute to the third aim of, where possible, contributing to improvements in health and quality of life. We consider that this is a noise level, which is unlikely to

give rise to significant effects alone, or to make a significant contribution to cumulative noise effects.

3.20.86. The ExA has considered whether it is necessary to secure cumulative mitigation measures (for example with LionLink Interconnector). The ExA agrees with ESC that a cumulative requirement with other projects such as LionLink Interconnector would not be appropriate, since LionLink Interconnector is being promoted by another corporate entity and is also at an earlier stage of planning. Similarly, the ExA does not consider that it would be appropriate to secure a cumulative control for the proposed development and the SPR developments because the ExA does not consider that such a requirement could reasonably be applied to third party schemes outside the control of the applicant.

3.20.87. With regard to noise creep, whilst there would be potential for noise levels to increase cumulatively as highlighted in [APP-060] and [REP5-127], the ExA considers it highly likely that LionLink Interconnector (and any other projects coming forward) would also be required to commit to mitigating noise and demonstrating good design in respect of noise and therefore achieve levels unlikely to give rise to significant adverse cumulative effects. The ExA considers that pre-development background sound levels could be applied in assessments to minimise noise creep. The ExA is therefore satisfied with the applicant's approach to consideration of cumulative noise effects.

REQUIREMENT FOR DETAILED NOISE ASSESSMENTS

3.20.88. SEAS [RR-5210], [REP2-122] argued that a full set of noise assessments was required, ahead of the ExA making its recommendation to the Secretary of State to satisfy the requirements of paragraph 5.12.12 of NPS EN-1.

ExA's findings

3.20.89. Paragraphs 4.3.11 and 4.3.12 of NPS EN-1 allow that aspects of the development may not have been settled in precise detail at the time of the application and that the ES should assess the likely worst case effects of the proposed development, where some details are to be finalised. The applicant has provided a worst case assessment of the proposed development based on the detail available at this time and the rDCO would secure further detailed assessment and justification of acoustic design through measures summarised in the REAC [REP7-359]. The ExA therefore considers that the applicant has provided sufficient information to inform decision making.

CONCLUSIONS

3.20.90. The ExA is satisfied that the proposed development accords with the noise and vibration requirements in NPS EN-1, NPS EN-3 and NPS EN-5, as well as national and local policies and strategies and relevant legislation and that there are no other important or relevant considerations.

3.20.91. The ExA concurs with section 9.11 ([AS-109] and [AS-111]) that the significance of 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 takes 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 oCNVMP [REP6-082], [REP6-084], oCEMP [REP7-129] and REAC [REP7-359]. The ExA considers that these measures provide for the effective management and control of noise as set out in NPS EN-1 paragraph 5.12.17. The ExA notes that the proposed working hours restrictions (as set out in section 3.21 of this report) would further reduce the potential for significant noise effects during construction.

3.20.92. Whilst the applicant's noise assessment concludes that effects would not be significant and the applicant has proposed measures to mitigate and minimise noise, the ExA considers that the proposed development would result in elevated construction noise over a period of approximately 4 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 considers that this matter attracts a little weight against the making of the order.

3.21. HEALTH AND WELLBEING

INTRODUCTION

This section considers the potential for significant health and wellbeing effects as a result of the proposed development. The health and wellbeing assessment draws on the other assessments in the Environmental Statement (ES) including traffic and transport, air quality and noise and vibration.

APPLICATION SUMMARY

3.21.1. The applicant's assessment of the potential effects of the proposed development on health and wellbeing is set out in the ES:

- ES Part 2, Suffolk chapter 11 Health and Wellbeing [APP-058]
- ES Part 3, Kent chapter 11 Health and Wellbeing [AS-003]

3.21.2. Paragraph 11.1.4 of [APP-058] and [AS-003] lists the other chapters of the ES and other documents which the health and wellbeing chapter should be read in conjunction with. The applicant has also submitted an Equalities Impact Assessment [APP-362] and The Equalities [sic] Act 2010 Supplemental Note' [REP4-097].

3.21.3. Cumulative effects are considered under the following ES chapters:

- Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059]
- Suffolk Onshore Scheme Inter-Project Cumulative Effects [APP-060]
- Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072]
- Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073]

3.21.4. The matters scoped in for assessment in the ES are set out in paragraphs 11.3.6 of both [APP-058] and [AS-003] and include the following:

- access to healthcare services and other social infrastructure
- access to open space, leisure and play
- air quality
- noise and vibration
- transport modes, access, connections, and physical activity
- employment and income
- social cohesion and community identity

3.21.5. The issue of electro-magnetic field health effects has been scoped out of the ES assessment, with the applicant stating at paragraph 11.3.11 of [APP-058] and [AS-003] that the design would be compliant with the International Commission on Non-Ionizing Radiation Protections guidelines (1998). The Inspectorate agreed this matter could be scoped out on the basis that the ES demonstrates the design is compliant with the International Commission on Non-Ionizing Radiation Protection guidelines (1998) in ensuring that the threshold for impacts to humans is not met/exceeded [APP-300].

3.21.6. The ES [APP-058] and [AS-003] at paragraphs 11.3.7 and 11.3.8 list the other chapters of the ES which have been drawn on to form the health and wellbeing chapters.

3.21.7. Sections 11.6 of [APP-058] and [AS-003] sets out the study areas on the basis that it includes the extent of human populations likely to be at risk from the possible direct and indirect health impacts that might arise from the onshore proposed development. The study areas vary, dependant on the potential impact. For

example, the study area for the potential adverse effects to healthcare access is set at 1 kilometre radius from the onshore order limits for either Kent or Suffolk. This information is set out in table 11.11 of [APP-058] and 11.12 of [AS-003].

3.21.8. Baseline conditions are included in section 11.7 in the ES for Suffolk and Kent [APP-058] and [APP-003]. The applicant explains that there has been a desk-based research exercise using various sources, such as the Census 2021. Furthermore, field surveys were conducted for other chapters of the ES, which also are relevant to health and wellbeing.

3.21.9. Considering the assessed magnitude of impact and the sensitivity of the receptor, table 11.9 of [APP-058] and 11.10 of [AS-003] provide a matrix for determining the significance of the impact. Any impact assessed to be moderate or major is classed as being significant using this matrix.

3.21.10. The assumptions and limitations of the ES assessment are explained in paragraphs 11.4.44 through to 11.4.47 of [APP-058] and 11.4.41 to 11.4.44 of [AS-003]. For example, the applicant points out that there can be a time lag with baseline data, with conditions subject to change over time. The flexibility assumptions are set out in table 11.10 of [APP-058] and table 11.11 of [AS-003].

3.21.11. In section 11.8 of [APP-058] and [AS-003] the applicant stated that the proposed development has been designed, as far as possible, following the mitigation hierarchy in order to, in the first instance, avoid or reduce adverse health and wellbeing effect through the process of design development and by embedding measures into the design. Embedded mitigation measures include sensitive routing and siting of infrastructure and also the commitments made in the Register of Environmental Actions and Commitments (REAC) [REP7-359]. Measures relevant to the control and management of the proposed development are set out in the outline onshore Construction Environmental Management Plan [REP7-129].

3.21.12. Potential issues related to health and wellbeing considered in the ES [APP-058] and [AS-003] include:

- potential adverse impacts on access to healthcare services and other social infrastructure
- potential adverse impacts related to accessibility of PRoW, recreational routes and open space
- potential adverse impacts on air quality
- potential adverse impacts arising from increased noise and vibration
- transport modes, access, connections and physical activity

- potential beneficial impacts on access to employment, training and income opportunities
- potential adverse impacts on social cohesion and community identity

3.21.13. The assessment of impacts and likely significant effects is set out in section 11.9 of [APP-058] and [AS-003]. The applicant's conclusions within sections 11.10 and 11.11 of [APP-058] and [AS-003] is that, after consideration of mitigation and also control and management measures, there would be no likely significant adverse effects during construction, operation or decommissioning phases, on health and wellbeing receptors.

3.21.14. Within the ES for Suffolk [APP-060] and for Kent [APP-073] the cumulative effects with other projects are considered and assessed. For both counties the ES explains that the health and wellbeing cumulative effects assessment draws upon the conclusions of other relevant environmental aspects of the ES, including landscape and visual, traffic and transport, noise and vibration, socio-economics, recreation, and tourism. No significant effects were identified within the respective cumulative assessments of these relevant environmental disciplines.

3.21.15. The applicant identified potential for cumulative intra-project effects (being the accumulation of, and interrelationship between, different effects arising from the proposed development) for health and wellbeing. These are considered in section 3.24 of this report.

3.21.16. With regard to the Equality Act 2010 and the Public Sector Equalities Duty (PSED) the submitted Equalities Impact Assessment [APP-362] states that after implementing the proposed mitigation measures, the potential negative equality impacts of the proposed development would be minimal.

EXAMINATION ISSUES

3.21.17. Based on the comments raised by interested parties (IP)s and the Examining Authorities' (ExA)'s review of the application documents, the main issues considered during the examination were:

- the robustness of the assessment of health and wellbeing matters and the certainty of conclusions
- issues relating to the proposed core working hours and exceptions
- potential impact on vulnerable people
- national security and safety concerns

3.21.18. Matters relating to noise and vibration, air quality, socio-economic effects and traffic and transport are addressed in their separate sections of this recommendation report.

THE ROBUSTNESS OF THE ASSESSMENT OF HEALTH AND WELLBEING MATTERS AND THE CERTAINTY OF CONCLUSIONS

3.21.19. Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210] stated that the applicant's assessment on health and wellbeing failed to assess the serious and ongoing psychological harm already being experienced by communities in East Suffolk. This could be due to the anticipated effects of the proposed development on day to day lives and of other consented projects in the area. This includes stress, anxiety, depression, insomnia, and social breakdown. SEAS also raised the concern that the applicant primarily treats health as physical and claims mental health impacts are not significant unless air, noise or traffic exceed thresholds. SEAS also expressed concern that the applicant's assessment on this matter relied on online sources, omitted community engagement and ignored core determinants like emotional security, stress, or sense of place, which SEAS stated were all key factors in psychological health [RR-5210].

3.21.20. Another Suffolk based action group, Substation Action Save East Suffolk (SASES) [RR-4887] stated that there was little in the way of an objective mental health assessment of the human impact of the projects upon the local population, a significant proportion of which is elderly and/ or retired. Furthermore, SASES stated that residents in Friston living close to the substation site had properties which have become unsaleable. Therefore, SASES say that people were trapped living in an area where they no longer wish to be.

3.21.21. Concerns were also raised that the proposed development would impact on access to the countryside and tranquil areas such as Pegwell Bay and Minster Marshes. For example, [RR-3898] stated that the permanent and temporary closure of footpaths, cycle paths, bridleways and byways would impact on local residents' wellbeing and mental health. Furthermore, Chilton Primary School [REP1-177] stated that it places wellbeing, outdoor experience and community engagement at the heart of learning. If the activity and access around Minster Marshes were lost to construction and industrialisation, the school argued that a generation of children would lose something that cannot be rebuilt or relocated.

3.21.22. East Suffolk Council (ESC) [RR-1420] raised concern relating to the cumulative impact of the various projects in its area causing an impact on health and wellbeing. ESC stated that it already had concerns for the mental health and wellbeing of communities subject to a number of Nationally Significant Infrastructure Projects

(NSIP), including those that were operational, under construction, consented, and proposed for the future, and the proposed development was likely to further exacerbate these existing issues.

3.21.23. There were also concerns raised by Suffolk County Council (SCC) [RR-5209] as it considered that the applicant had placed a greater emphasis on the physical health effects rather than mental health. SCC also emphasised the importance of cumulative impact on health and wellbeing, stating that it would be essential for project promoters to work collaboratively to minimise and mitigate these effects on community wellbeing.

3.21.24. The applicant responded [REP2-022] stating that it adhered to the latest best practice guidance from the Institute for Environmental Management and Assessment in its Guide to Effective Scoping of Human Health in EIA (2022) and also best practice methodology used on other major infrastructure schemes. The applicant also explained that the ES assessment on health and wellbeing takes a holistic approach to health. It defines health in line with the World Health Organisation guidance as a state of complete physical, mental and social wellbeing, not merely the absence of disease or infirmity. The applicant went on to state that mental health was considered in its assessment under the existing health determinants in the Institute for Environmental Management and Assessment guidance, such as access to healthcare services and social cohesion for example.

3.21.25. The applicant [REP2-022] highlighted embedded mitigation measures incorporated into the proposal as set out in the respective ES chapters to reduce construction, operational and decommissioning effects, such as noise and vibration, air quality, transport and access, and socio-economics, which would then in turn mitigate the effects on the local community and existing facilities from a human health and wellbeing perspective.

3.21.26. In terms of the importance of access to public spaces for mental health, the applicant [REP2-024] acknowledged that there would be some temporary disruption during construction. For the works in the Pegwell Bay area the applicant explained that this would be conducted using trenchless solutions and there would be no long term impacts on access for the public. The applicant also confirmed that two public rights of way would be permanently closed and both would have permanent diversions in place prior to their closure ensuring access would be retained.

3.21.27. With regard to the cumulative impact, the applicant [REP2-022] referred to the submitted Inter Project Cumulative Effects chapters [APP-060] and [APP-073]. The applicant explained that no significant effects were identified within the respective

cumulative effects assessments of these relevant environmental disciplines. Therefore, the applicant's health and wellbeing cumulative assessment anticipated no significant adverse effects on mental health due to community severance, reduced visual amenity, noise disturbance, or physical health outcomes, such as levels of physical activity or respiratory health.

3.21.28. SEAS [REP1-279] continued to raise concerns, stating that local evidence showed high levels of anxiety, chronic stress, sleep disturbance and a pronounced loss of security and control among residents. Furthermore, SEAS stated that local residents were already experiencing significant cumulative strain from Sizewell C, the Friston substation complex, cable corridors and other NSIPs.

3.21.29. SEAS in its submission [REP2-124] stated that the ES failed to meet national policy requirements and did not provide a safe or reliable assessment of mental health or community wellbeing. It stated that the authors of the health and wellbeing chapters in the ES did not hold psychological or clinical qualifications and that there were no measures of stress, anxiety, depression, fear, trauma, or psychosocial harm, and contained no monitoring plan or triggers. Furthermore, SEAS stated that there was no gathering of lived experience mental health data from residents [REP2-124].

3.21.30. The applicant [REP4-100] continued to maintain that the assessment of health and wellbeing impacts adhered to the latest best practice guidance, whilst also highlighting that engagement has been undertaken by the applicant at multiple stages of the Development Consent Order (DCO) process, consistent with the requirements of the Planning Act 2008. The applicant stated that its assessment used an evidence-led approach consistent with EIA practice and appropriate to the scale, nature and likely significance of effects identified.

3.21.31. In terms of engagement relating to health impacts on local communities, the applicant [REP4-100] explained that there was a series of health and wellbeing thematic meetings held with relevant stakeholders (including local authorities) which represent the local community prior to the submission of the application. The applicant explained that the assessment also considered vulnerable groups, such as children, the elderly, and individuals with pre-existing health conditions.

3.21.32. According to SCC [REP5-178], development of nationally significant infrastructure should not come at a disproportionate cost to community mental health and quality of life, particularly where impacts would be experienced over extended durations. SCC [REP5-178] stated that the applicant should develop and implement a proportionate but robust Mental Health and Wellbeing Monitoring Plan for the duration of the proposed development (construction and early operation), with clear reporting routes and defined review points.

3.21.33. SCC [REP7-324] acknowledged that there were methodological challenges associated with monitoring mental health and wellbeing impacts, including attribution and identification of mitigation, but considered the monitoring achievable, through drawing on a combination of health data and engagement with local stakeholders and identifying emerging patterns and determining whether effects are greater than anticipated. SCC [REP7-324] also stated that the presence of cumulative schemes such as Sizewell C did not negate the value of monitoring, but rather it reinforced the need for it.

3.21.34. In response to the ExA's question ExQ3HW3 [PD-024], the applicant [REP6-111] stated that it did not agree with committing to a mental health and wellbeing monitoring plan. The applicant explained that it would be impossible to monitor the health and wellbeing effects of the proposed development in isolation without capturing the impact of the substantially larger Sizewell C project, or indeed other cumulative schemes. The applicant anticipated that the majority of any recorded effects would primarily be as a result of the Sizewell C development.

3.21.35. The applicant did commit to further measures to mitigate health and wellbeing impacts, such as the provision of a Community Liaison Officer trained in mental health awareness. Also, the applicant would provide a community contact phone line and email address where people could go with any queries which the applicant would aim to respond to personally rather than generically [REP6-111]. This would be secured through the REAC with commitment HW02 [REP7-359].

3.21.36. At the close of examination SCC [REP7-355] considered that mental health had not been meaningfully assessed as a distinct or substantive outcome. SCC also stated that a further limitation of the applicant's assessment was the absence of targeted mitigation for vulnerable groups. SCC maintained its view at the end of examination that monitoring of mental health and wellbeing is fundamental to mitigating impacts and that reliance solely on predefined embedded and management measures was not sufficient.

3.21.37. The applicant [REP7-355] stated that vulnerable groups had been appropriately identified and assessed in line with good practice. Also, the applicant argued that the level of assessment was proportionate to the scale and nature of the proposed development and that no additional measures were required beyond those embedded measures and additional REAC commitments [REP7-359] already secured through the draft Development Consent Order (dDCO) [REP7-002].

ExA's findings

3.21.38. The ExA acknowledges that the effect and perceived effect, particularly on the mental health of local people, was an area of considerable concern in submissions from IPs, both in writing and at hearings. The ExA heard about the real strain on local communities and individuals arising from the prospect of the construction of the proposed development, and of its operation alongside other consented or proposed major projects in the local area. IPs were keen to ensure that this strength of feeling and real world experience was properly accounted for in the applicant's assessment of health effects.

3.21.39. National Policy Statement (NPS) EN-1 (Overarching Policy Statement for Energy) 2024 covers the issue of health in section 4.4. It states that energy infrastructure has the potential to impact on the health and well-being of the population. Access to energy is clearly beneficial to society and to our health as a whole. However, the construction of energy infrastructure and the production, distribution and use of energy may have negative impacts on some people's health (paragraph 4.4.1).

3.21.40. Paragraph 4.4.4 of NPS EN-1 states that the ES should assess the effects for each element of the project, identifying any potential adverse health impacts, and identifying measures to avoid, reduce or compensate for these impacts as appropriate. The ExA acknowledges that the applicant included an assessment of health and wellbeing in its ES for both Suffolk [APP-058] and Kent [AS-003] both for the project alone and cumulatively with other projects. Potential adverse health impacts, both physical and mental, have been identified. The applicant has also identified measures to avoid and reduce impacts through the embedded mitigation proposed and the commitments included in the REAC [REP7-359], such as commitment HW02 which includes the provision of a Community Liaison Officer trained in mental health awareness, among other things.

3.21.41. Paragraph 4.4.6 also sets out that opportunities should be taken to mitigate indirect impacts, by promoting local improvements to encourage health and wellbeing. The ExA is satisfied that indirect impacts have been considered in the ES, such as when setting the study area and consideration of issues such as noise and air quality. Furthermore, the ExA notes the potential local improvements from employment and training opportunities (covered in the Socio-economic section of this recommendation report - 3.22), which could have health and wellbeing benefits. GG43 of the REAC [REP7-359] also commits to be a new permissive path in the vicinity of Saxmundham converter station, which would enhance the path network in this location with an additional connection to the PRoW network.

3.21.42. From the submitted information and evidence, whilst the ExA does not consider that the ES submissions regarding health and wellbeing are insufficient, it is clear that more extensive and meaningful community engagement on this issue could have been undertaken to improve the overall assessment of effects on mental health for local residents in particular. However, in considering the scale of the proposal, the ExA is satisfied that an adequate level of assessment has been undertaken for health and wellbeing, including for mental health including accounting for more vulnerable groups in the communities.

3.21.43. The use of trenchless crossings and diversion routes to keep public rights of way open are considered by the ExA to be good examples of commitments to help minimise disruption of access to open spaces for people, such as at Pegwell Bay and Minster Marshes. The ExA acknowledges that open spaces such as these are important for people's health and wellbeing, and whilst some level of disruption is unavoidable for a major development such as this, the commitments by the applicant would minimise the adverse impacts.

3.21.44. SCC have called for a Mental Health and Wellbeing Monitoring Plan through use of a DCO requirement. The ExA should only include new requirements where they are necessary, relevant to the development proposed, relevant to planning, enforceable, precise and reasonable, according to paragraph 4.1.16 of NPS EN-1.

3.21.45. In the case of a Mental Health and Wellbeing Monitoring Plan, it is not clear what would be achievable with such a monitoring plan. For example, for any remediation action, the mental health impacts recorded through monitoring would have to be evidenced in such a way that these impacts would be definitely attributable to this proposed development, and not to one of the other developments in the area, such as the Sizewell C development. This is especially the case in Suffolk where several large-scale projects are anticipated to take place in close proximity to each other within similar timescales.

3.21.46. As such, it is the ExA's view that a requirement for a Mental Health and Wellbeing Plan would not be sufficiently enforceable due to a lack of precise and quantifiable results. With doubts over the preciseness of monitoring results, it is not clear how this would be used to form proportionate and reasonable mitigation for the applicant to action. For these reasons the ExA does not recommend inclusion of a Health and Wellbeing Monitoring Plan, as it would not meet the tests for its inclusion as a requirement within the recommended Development Consent Order (rDCO), as set out in NPS EN-1.

3.21.47. The ExA notes that the ES Health and Wellbeing chapters did not conclude that there would be significant adverse effects. The ExA notes that the applicant has

committed to a process of recording and responding to potential welfare concerns raised, with HW03 of 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. As such, the ExA considers that such details should be included in the REAC. The ExA recommends that the Secretary of State directs the applicant to amend the REAC wording as follows:

HW03 - "The undertaker has an established process of recording and responding to potential welfare concerns raised with the Applicant. This information shall be shared with the relevant district and county councils when concerns are recorded. Where consent is given by the individual, and the potential concern is also relevant to ScottishPower Renewables (SPR), the undertaker will share the minimum level of detail necessary with SPR, to allow both developers to respond accordingly. This process also applies in reverse."

3.21.48. This is an amendment drafted after the close of examination. As such, the Secretary of State may want to consult with the applicant and the relevant councils on its inclusion and wording.

3.21.49. The ExA considers that with the included commitments and the amended HW03 the proposed development would accord with NPS EN-1 on this matter, by identifying measures to avoid, reduce or compensate for any potential adverse impacts as appropriate.

ISSUES RELATING TO THE PROPOSED CORE WORKING HOURS AND EXCEPTIONS

3.21.50. Working hours issues relating to topics other than directly to health and wellbeing are addressed in the other corresponding sections of this report, such as construction traffic or noise (sections 3.18 and 3.20 respectively).

3.21.51. ECC [RR-1420] stated that managing appropriate working hours was an important element of safeguarding residents' mental health and wellbeing. ESC explained that Saturdays (particularly Saturday afternoons), Sundays, and bank holidays were expected to be reprieves from construction working. ESC argued that residents require respite from these works, especially given the number of projects in the district.

3.21.52. There were other objections on the grounds of the proposed core hours, such as from Saxmundham Town Council [RR-4895], which stated that it objected to the applicant's proposal for extended working hours as it would result in near-constant disruption for residents near the site.

3.21.53. Saxmundham Against Needless Destruction [RR-4895] stated that the proposed seven-day working hours would exacerbate community disruption in relation to transport for example, whilst also raising concern that extended working hours, with plant noise, reversing alarms, and dust would harm residential amenity and public health.

3.21.54. SCC required that the applicant align their working hours with SPR's East Anglia One North (EA1N) and East Anglia Two (EA2) consented schemes, which would remove Saturday afternoons, Sundays and public holidays from the core working hours [REP7-302].

3.21.55. TDC [REP7-017] set out the importance of both the weekend and bank holidays for the Thanet area, being a seaside/ coastal area which relies heavily on tourism and recreation with the summer months providing much of the trade for these businesses in addition to weekend and Bank Holiday trade.

3.21.56. In response [REP2-014] the applicant acknowledged the concerns regarding working hours but emphasised that the proposed hours were intended to provide flexibility to carry out works when and where needed. The applicant also further set out that it needed to accommodate unforeseen construction phase issues without elements of the project being pushed onto the critical path. The applicant also argued that it was important that construction activities that were less likely to affect communities, for example works within the superstructure of a converter station building, were not onerously restricted.

3.21.57. The applicant [REP2-014] also stated that it was important to complete the proposed development on schedule. The applicant highlighted that the proposed development had been identified in the National Electricity System Operator in its Clean Power 2030 report as being critical for the achievement of the Clean Power 2030 target. The applicant explained that this report considers that important projects, including this proposed development, must be accelerated to delivery by 2030 if the clean power goal is to be achieved. The applicant highlighted that without the proposed development consumers could face an extra £1.4 billion in constraints costs in 2030.

3.21.58. The applicant [REP7-192] argued that the request for respite suggests that stakeholders have envisaged work on the cable routes being constant from 7am to 7pm for a period of four years, however the applicant stated that this would not be the case. The applicant explained that constructing a cable route requires a series of sequential activities, rather than constant activity, as various teams move down the route, which means that there would be natural lulls in activity that would provide regular periods of respite for people and communities.

3.21.59. The applicant made changes to the draft DCO [REP7-002] and requirement 7 (Construction Hours). It stated that after a review the applicant agreed to the exclusion of bank holidays from the core working hours for certain works (except by agreement with the local planning authorities). The applicant also agreed that for the bank holiday Mondays that form part of a bank holiday weekend the associated (preceding) Saturday and Sunday would also not be part of the core hours for working [REP5-131].

3.21.60. Requirement 7 [REP7-002] also committed to limiting percussive piling works to 0700 to 1900 Monday to Friday and 0700 to 1700 on Saturdays and stating that these may not occur on Sundays or Bank Holidays, unless otherwise approved by the relevant planning authority. Furthermore, subject to exceptions, heavy goods vehicle deliveries would be limited to 0700 to 1900 Monday to Friday, 0700 to 1700 on Saturdays, and not to occur on Sundays or Bank Holidays, unless otherwise approved by the relevant highway authority.

3.21.61. The ExA remained concerned with the core hours being proposed. As such, in the ExA's Schedule of changes to the dDCO [PD-024], the ExA amended requirement 7, so that the core hours would be 0700 and 1900 Monday to Friday and between 0700 and 1300 on Saturdays, with no activity on Sundays or bank holidays.

3.21.62. The applicant [REP7-192] did not adopt the ExA recommended amendments but concluded that the working hours included in the final dDCO [REP7-002] would be necessary to facilitate the working patterns of teams working on transmission projects and had been included in other recent made DCOs such as the Bramford to Twinstead DCO. The applicant argued that the urgency of the proposal meant that working hours should not be reduced without clear necessity and this necessity had not been demonstrated in this case. However, the applicant agreed to adopt the working hours proposed by SPR (EA1N and EA2 offshore wind farms) for construction of Friston substation and incorporated this concession into requirement 7. The applicant did not agree to a further change of the core hours.

ExA's findings

3.21.63. NPS EN-1 (Overarching Policy Statement for Energy) 2024 covers the issue of health in section 4.4. NPS EN-1 paragraph 4.4.6 states that the Secretary of State may want to take account of health concerns when setting requirements relating to a range of impacts such as noise.

3.21.64. A restriction of construction works over bank holidays as proposed by the applicant would be positive, including for the tourism sector of the local economies. However, bank holidays are infrequent and so the respite this would provide for the local

communities would be limited. The dDCO version of requirement 7 would still include seven day working core hours which the ExA considers would place an unreasonable burden on local communities hosting this development.

3.21.65. The proposed development would result in a long construction period both in Suffolk and Kent, with other developments also likely to be under construction at the same time leading to potential cumulative impacts. As such, seven days a week construction works would have the potential for mental health impacts, due to a combination of traffic delays, noise impacts and disturbance, and the general depletion of tranquillity for local residents, amongst other matters. The loss of tranquillity would be particularly notable for those residents who live in quiet and tranquil areas of Kent and Suffolk as a result of the proposed development construction works.

3.21.66. It is acknowledged by the ExA that the level of construction disturbance would not likely remain at the same level for all residents all of the time but would rather change with the different phases and locations of development. However, seven-day working would mean that there could be construction in certain areas affecting local communities and individual households for lengths of time sufficient enough to have a significant impact in EIA terms to people's mental health. Without any regular days of no construction works the local residents would be without respite from these impacts.

3.21.67. Whilst major construction works would be expected to have some level of mental health impacts, the proposed seven-day working would mean that the balance would be tilted too much in favour of the applicant's working schedule with too little regard to the local community health impacts. As such, the ExA agrees with SCC and ESC that more restricted core hours of work would be appropriate and necessary to safeguard health and wellbeing, being limited to between 0700 and 1900 Monday to Friday and between 0700 and 1300 on Saturdays, with no core hours work on Sundays or bank holidays.

3.21.68. It is important to note that this does not preclude all works outside of core hours. There is the list of exemptions and circumstances under requirement 7(4) of the rDCO where works could be undertaken, such as railway works on Sundays for example. It is also clear from the wording of requirement 7 of the rDCO that works (other than the exceptions included in subsection (4)) could be undertaken outside of the defined core hours if there was prior approval from the relevant local planning authority. There is no reason to think that the councils would unreasonably withhold consent for works outside of core hours if a good reason was given as to why it could not be done within the core hours.

3.21.69. The ExA is satisfied with the exceptions for work outside of core hours, particularly with the definition of severe weather disruptions to work, as set out by the applicant in the dDCO [REP7-002]. Each listed circumstance is considered by the ExA as reasonable and logical, with these activities being short term of typically limited in terms of noise.

3.21.70. It should also be noted that with the rDCO requirement 7 there is not the need for subsections 7, 8 and 9 (relating to the proposed Suffolk substation and overhead line works) as what was proposed in terms of core hours by the applicant for these works would be the same as for the overall proposed development. As such this has been merged into the overall requirement 7 in the rDCO.

3.21.71. Overall, the ExA is convinced that the omission of core working hours after 1300 on Saturdays and all day Sundays and bank holidays is necessary as a form of respite for local communities from the proposed construction works, both alone and in combination with other projects. The ExA recognises that this would likely have the effect of increasing the overall construction programme but considers the balance between this and the adverse effects on the health and wellbeing of local communities and residents to be at a more appropriate level with the working hours as set in the rDCO.

3.21.72. On this basis, with the revised requirement 7 in the rDCO, the proposal is considered by the ExA to accord with the NPS EN-1 with regards to taking into account and minimising potential health impacts.

POTENTIAL IMPACT ON VULNERABLE PEOPLE

3.21.73. Great Oaks Small School, located off Jutes Lane, just to the west of the A256 in Kent, is a school for neurodiverse students aged 11 to 19. The school stated [RR-1890] that it was its unique, quiet, calm, low sensory environment that enabled students to attend school. The school's concerns included increased traffic, noise and vibration effects on pupils.

3.21.74. High Quality Lifestyles Limited (Priory Group) [RR-2021] runs Ebbsfleet House and Martins, which are described as care facilities. Both properties are located near the junction between Sandwich Road and Ebbsfleet Lane in Kent. Priory Group objected stating that it believed that the proposed development posed a significant risk to the well-being, safety, and quality of life of its residents, with some who were particularly vulnerable to environmental and sensory stimuli. Priory Group explained that sensory triggers for residents include noise, light, vibration, and changes in air quality, and the proximity of the site entrance to the residential

facilities would likely expose these individuals to such sensory triggers, potentially leading to significant distress and harm.

3.21.75. In response to the comments from Great Oaks Small School, the applicant [REP2-022] stated that with standard embedded mitigation measures, the impact of operational noise from the proposed Kent converter station on all nearby noise sensitive receptors (including the school), had been assessed as having a negligible magnitude impact during both daytime and night-time periods. The applicant concluded that this would result in a negligible effect at all nearby noise sensitive receptors, which was considered to be not significant. See also the section on Noise and Vibration within this recommendation report.

3.21.76. With regard to traffic impacts on the school the applicant [REP2-022] stated that there would be only a very low proportion of construction vehicles expected across the access points comprising K-BM03 (Jutes Lane), K-BM04 (Marsh Farm Road) and K-BM05 (Whitehouse Drove) combined. Furthermore, the applicant stated that Jutes Lane would be limited to utility diversion and connection works associated with utilities in this location and therefore could not be avoided.

3.21.77. The applicant [REP2-022] explained that the proposed development would incorporate measures to minimise, control and mitigate effects that might be perceived as being detrimental to the school. REAC [REP7-359] commitment SE03 secures that utility trenching works within 150m of Great Oaks Small School would be programmed to occur in school holidays or as otherwise agreed with Great Oaks Small School to avoid impacts on users of the community facility receptor.

3.21.78. With regard to the High Quality Lifestyles Limited (Priory Group) facilities, the applicant explained that no significant adverse effects and no specific measures had been identified in relation to construction noise or vibration effects at this location. The applicant also set out that in the submitted Equalities Impact Assessment [APP-362] it did not identify a material equalities impact on this receptor. According to the applicant, the nearest works relate to access off Ebbsfleet Road would be approximately 50m to the north of these properties and other than this access there would be no construction activities in the vicinity of these properties with the nearest works being approximately 900m away.

3.21.79. The applicant also confirmed that, in relation to these residential facilities, in light of the topic-specific conclusions identified and mitigation, no significant adverse effects on human health and wellbeing were identified. This included no significant effects arising from construction in relation to community severance, air quality, landscape & visual or noise that would materially affect health and wellbeing outcomes [REP3-069].

3.21.80. There was no further comment from High Quality Lifestyles Limited (Priory Group) or Great Oaks Small School during the examination.

ExA findings

3.21.81. NPS EN-1 paragraph 4.4.6 states that opportunities should be taken to mitigate indirect impacts, by promoting local improvements to encourage health and wellbeing, and this includes potential impacts on vulnerable groups within society and impacts on those with protected characteristics under the Equality Act 2010.

3.21.82. With regard to Great Oak Small School, the ExA recognises its close location to the order limits in Kent. However, it is also acknowledged that there would be limited construction traffic using Jutes Lane and the other nearby access points. Furthermore, the applicant's commitment that utility trenching works within 150m of Great Oaks Small School would be programmed to occur in school holidays is a positive assurance, as it would avoid the times when the pupils were present. This is secured through commitment SE03 of the REAC [REP7-359]. The ExA considers that the potential impacts to the health and wellbeing of pupils and staff at the school have been appropriately considered by the applicant and suitable mitigation would be in place to safeguard their health and wellbeing from significant adverse impacts.

3.21.83. For the Ebbsfleet House and Martins, the ExA considers that there would likely be some increased traffic in the area of these facilities during the construction and decommissioning periods. However, as set out by the applicant and summarised above, the impacts would be minimal from the increased traffic and from any other form of impact, to the extent that the health and wellbeing of occupants would be safeguarded appropriately.

3.21.84. The ExA is also aware of the Life Skills Manor for Autism near the Ebbsfleet roundabout, which would see some increase in local traffic. However, there is no substantive evidence before the ExA to indicate that the overall potential impacts to the health and wellbeing of pupils and staff would be significant.

3.21.85. For the reasons given, the ExA considers that the applicant has taken sufficient opportunities to mitigate impacts including to vulnerable people and those associated with these and all other such facilities. As such, the proposal on this matter accords with NPS EN-1.

3.21.86. The ExA is satisfied that the applicant has had due regard to the duties under s149 of the Equality Act 2010. In exercising our functions as the ExA, we have had due regard to the PSED contained in s149 Equality Act 2010. We conclude that there is no evidence that implementation of the proposed development would disproportionately affect persons who share a protected characteristic, nor would

there be any adverse effect on the relationship between such persons and persons who do not share a protected characteristic.

SECURITY AND SAFETY CONCERNS

3.21.87. A number of relevant representations raised concerns relating to security threats, such as [RR-4117], who stated that the proposed converter station would house high-voltage electrical equipment, meaning the risk of fire incidents or technical malfunctions must be thoroughly assessed. [RR-5237] raised concern that the total projects in the Suffolk area would provide one-third of England's power and so, in the event of war, one bomb on this relatively small area could eradicate one-third of England's power. Aldringham-Cum-Thorpe Parish Council [RR-0095] stated that the proposed concentration of so much of UK energy infrastructure within a small radius of approximately 5 miles would present a significant risk of attack from a hostile power or terrorists.

3.21.88. The applicant responded to these concerns in [REP2-024], which stated that the applicant commits significant resources and investment into maintaining the security of their sites and assets and it liaises with government departments and agencies, and law enforcement, on security matters including the threat from hostile nation states, terrorism, and other security threats. Furthermore, the applicant stated that appropriate protective security controls are identified and put in place to mitigate threats across its network. The applicant, however, stated that it would be unable to comment further on security measures.

3.21.89. With regard to fire risk, the applicant [REP2-024] stated that it would follow all relevant health and safety policies to reduce the risk of fire and explosion and that a fire risk assessment would be carried out and the proposed buildings would be constructed in line with this risk assessment. All buildings would also be equipped with relevant fire suppression equipment and systems. The applicant also added that there would be no oil-containing equipment at Friston substation and so there would be less risk of toxic fumes.

3.21.90. The ExA noted that the UK Health Security Agency [RR-5511] did not offer any further comment but referred to the Scoping Opinion 2022 report [APP-300]. This response to the scoping report from the UK Health Security Agency did not raise concerns about fire risk or terrorism attack.

3.21.91. Concerns persisted about the potential national security risk that the proposed development would draw to the areas, for example [REP6-192]. The applicant did not add anything substantive on this matter.

ExA's findings

3.21.92. NPS EN-1 (section 4.16) states that national security considerations apply across all national infrastructure sectors. Furthermore, it states that if DESNZ is satisfied that security issues have been adequately addressed in the project when the application is submitted to the Secretary of State, it would provide confirmation of this to the Secretary of State. The Secretary of State should not need to give any further consideration to the details of the security measures in its examination.

3.21.93. It is ExA's view that the applicant has taken into consideration security and safety threats to the proposed development, its staff, and the local communities. It is understood that a cumulation of energy infrastructure in one location, such as in East Suffolk taking into account the Sizewell facility and possibly LionLink Interconnector in the future, would make the area important for energy supply. However, there is no substantive evidence before the ExA that the cumulation of energy infrastructure in these locations would constitute a threat to security or safety.

3.21.94. As the application is to be submitted to the Secretary of State for DESNZ then, as set out in NPS EN-1, it would be possible at that stage to establish if this government department is satisfied that the proposal would not result in security issues. The applicant has committed to working with the government and agencies to ensure security of the proposed development, which satisfies the ExA that this is not an issue which would lead to health and wellbeing issues for local residents and communities.

3.21.95. The ExA is also satisfied that the applicant has given due regard to safety matters, such as fire risk, through a fire risk assessment and adherence to building regulations.

3.21.96. Overall, on the matter of security and safety the ExA is satisfied that the applicant has reasonably accounted for these matters. The ExA has no reason to conclude that the proposals would result in a security or safety threat, and that the proposals accord with the NPS EN-1 on these matters.

CONCLUSIONS

3.21.97. On the above matters the ExA is 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 there being more restrictive core working hours to provide some respite for local communities and individual residents, through the construction period. Without the more restrictive core working hours, as included and set out in the

rDCO, the ExA considers that the overall impact to health and wellbeing would be more harmful and to a significant level. This is especially the case when considered cumulatively with other developments, particularly for East Suffolk where there are other major developments being constructed.

3.21.98. As such, 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 is satisfied that the proposals on this matter accords with NPS EN-1, EN-3 and EN-5 (2024) as well as local and national policies and strategies, together with all other relevant legislation, and there are no other important or relevant considerations.

3.21.99. 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. As such, health and wellbeing matters would attract a little weight against the making of the order.

3.22. SOCIO ECONOMICS, RECREATION AND TOURISM

INTRODUCTION

3.22.1. This section considers the potential effects from the proposed development on socio-economics, tourism and recreation. See sections 3.7 and 3.9 in relation to economic matters for commercial fisheries and shipping and navigation respectively.

APPLICATION SUMMARY

3.22.2. The applicant's assessment of the potential effects of the proposed development on socio-economics, recreation and tourism is set out in the Environmental Statement (ES):

- Part 2, Suffolk Chapter 10 Socio-Economics, Recreation and Tourism [REP7-091]
- Part 3, Kent Chapter 10 Socio-Economics Recreation and Tourism [REP1A-007]

3.22.3. The assessment is supported by the following accompanying figures:

- ES Figures Suffolk Socio-Economics, Recreation and Tourism [APP-237]
- ES Figures Kent Socio-Economics, Recreation and Tourism [APP-269]

3.22.4. Cumulative effects are considered under the following ES chapters:

- Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059]

- Suffolk Onshore Scheme Inter-Project Cumulative Effects [APP-060]
- Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072]
- Kent Onshore Scheme Inter-Project Cumulative Effects [APP-073]

3.22.5. Also of particular relevance are the following:

- Visitor and Tourism Assessment Technical Note - Suffolk [REP3-065]
- Visitor and Tourism Assessment Technical Note - Kent [REP3-066]

3.22.6. After a scoping exercise the following were scoped into the ES for assessment for both Suffolk and Kent [REP7-091] and [REP1A-007]:

- employment generation during the construction phase, including multiplier effects, potential training benefits and apprenticeship opportunities
- impact of a changing influx of workers on local accommodation facilities
- gross value added (GVA) including multiplier effects during the construction phase
- impacts to public rights of way (PRoW) resulting in changes in quality of the route, user experience, journey lengths and times, local travel patterns and severance to local facilities
- severance of access to recreational routes and PRoW, residential properties, local businesses, visitor attractions community facilities and open space
- other private and community assets, in terms of any temporary or permanent land take impacts

3.22.7. The economic impacts of the operational phase of the proposed development have been scoped out by the applicant for both Kent and Suffolk, as it stated that the GVA effects at this phase would be small, [REP7-091] [REP1A-007]. This was agreed in the Scoping Opinion 2022 [APP-300].

3.22.8. The study areas for socio-economic effects are considered at varying spatial levels according to the likely spatial extent of the effect under consideration [REP7-091] [REP1A-007]. For example, the study area for the potential economic impacts arising from the onshore proposed development is based on a 60-minute drive time from the construction compounds, which the applicant terms as the economic study area. Table 10.13 of [REP7-091] and table 10.14 of [REP1A-007] set out the study areas in full.

3.22.9. Baseline conditions are set out in section 10.7 of both [REP7-091] and [REP1A-007], benchmarked against regional and national standards where the applicant considers appropriate. The baseline includes the following:

- population and deprivation

- employment
- the local economy and labour market
- the existing site and surroundings
- existing site and surroundings include public right of way (PRoW) and recreational routes, and visitor attractions.

3.22.10. The future baseline includes an estimate of population changes to 2031 (when the proposed development could be operational) and anticipated land for future development [REP7-091] and [REP1A-007].

3.22.11. Section 10.4 of [REP7-091] and [REP1A-007] sets out the applicant's approach and methodology. The applicant has used, where available, national standards such as those produced by National Highways or the Homes and Communities Agency. Due to the type of effects being assessed, some have been evaluated by the applicant on a qualitative basis and defined as having a beneficial, adverse or no effect classification of significance.

3.22.12. The applicant [REP7-091] [REP1A-007] has acknowledged limitations with the ES assessment, such as there being no current statutory guidance on the methodology for undertaking assessments of socio-economic, recreation and tourism effects. There are also some limitations with the datasets used, as acknowledged by the applicant, such as the time lag between data collection and publication.

3.22.13. The development is assumed to have a construction period from 2026 through to 2031, which the applicant states is a worst-case assumption, as it represents the expected minimum build time and therefore the most intense activity onsite [REP7-091] [REP1A-007].

3.22.14. In terms of a sensitivity test, for both Kent and Suffolk, the applicant assumes that construction could commence in any year up to five years from the granting of the DCO which is assumed to be 2026 in [REP7-091] and [REP1A-007]. Therefore, the applicant has stated that consideration has been given to whether the effects reported would be any different if the works were to commence in any year up to year five, which is then reported in the relevant chapters.

3.22.15. The applicant's embedded mitigation measures [REP7-091] [REP1A-007] include:

- sensitive routing and siting of infrastructure and temporary works to avoid or reduce impacts on socio-economic, recreation and tourism receptors
- utility trenching works to be programmed to occur in school holidays or as agreed with Great Oaks Small School to avoid impacts on users of the community facility

- other mitigation commitments listed within the Register of Environmental Actions and Commitments (REAC) [REP7-359] under the headings for Socio-Economic, Recreation and Tourism.

3.22.16. Measures relevant to the control and management of the proposed development are detailed in the outline onshore Construction Environmental Management Plan (oCEMP) [REP7-129]. A final CEMP is then required under rDCO requirement number 6(1)(a). Committed measures include, for example, that:

- the applicant would liaise with East Suffolk Council (ESC), Suffolk County Council (SCC), the Local Destination Management Organisation and the Local Visitor Economy Partnership during construction to discuss how potential impacts on tourism within Suffolk could be minimised and benefits be maximised
- for works in Suffolk, the applicant would establish a process to monitor where workers are staying by type of accommodation and location on a quarterly basis and agree how this information would be provided to ESC
- the applicant (including the contractors) would develop and implement a social value strategy. As the proposed development progresses, the detail of the approach will be shared with the relevant local authorities when available

3.22.17. The assessment of impacts and likely significant effects during the construction phase for Kent and Suffolk [REP7-091] [REP1A-007] includes:

- construction employment (including local accommodation facilities, for example)
- recreation routes and public rights of way
- effects on private, community, recreation and tourism assets

3.22.18. For the operation phase, only effects on recreation routes and public rights of way are assessed.

3.22.19. For the decommissioning phase, the applicant states that it is assumed that the impacts of the decommissioning phase would be the same as, or not greater than, the construction phase for both Kent and Suffolk [REP7-091] [REP1A-007].

3.22.20. The applicant concludes that there would be no impact with a likely significant effect, and no more than of minor significance. There are also concluded to be minor beneficial effects for both construction employment and for gross value added effects for both Kent and Suffolk [REP7-091] [REP1A-007].

3.22.21. Furthermore, the applicant concludes that no additional mitigation measures are necessary for socio-economic, recreation and tourism receptors in addition to the embedded measures and control and management measures. This is because, in

the applicant's view, no additional mitigation measures are required to prevent or avoid likely significant effects on socio-economic, recreation and tourism receptors [REP7-091] [REP1A-007].

3.22.22. For cumulative impacts with other projects, the applicant concludes in [APP-060] and [APP-073] that there would be no significant cumulative effects on socio-economics, recreation and tourism expected as a result of the proposed development in combination with each of the other developments in isolation. Furthermore, the applicant concludes that no significant effects are expected when considering the impacts of the cumulative schemes in aggregation and in combination with the proposed development.

3.22.23. For any matters relating to intra-project cumulative effects for socio-economics, tourism and recreation see section 3.24 of this report.

EXAMINATION ISSUES

3.22.24. Based on the comments raised by interested persons and groups, and the ExA's review of the application documents, the main issues considered during the examination were:

- the effects on the tourism-based economy
- the impact on tourism accommodation availability
- the effects on the wider local economies, including the local workforce

THE EFFECTS ON THE TOURISM-BASED ECONOMY

3.22.25. ESC's Local Impact Report (LIR) [REP1-128] set out that tourism is a significant contributor to East Suffolk's economy and identity, comprising around 1,300 businesses and employing more than 11,000 people, or 12% of the total district workforce. Tourism is, according to ESC, a cornerstone of East Suffolk's economy. Similarly, Thanet District Council (TDC) [REP1-132] set out that the most recent tourism research commissioned by Visit Kent shows tourism in Thanet generated £349 million in 2023 with 4.6 million visitors resulting in over 8,257 jobs, meaning that at least 1 in 5 jobs in Thanet is in tourism. TDC also stated that tourism supports the wider economy through indirect and induced employment.

3.22.26. TDC [REP1-132] set out that the district's strength in the visitor economy stems from the attractive sandy beaches in close proximity to London, and wealth of heritage assets, among other things. TDC [REP1-132] highlighted that Pegwell Bay is a well used green space in Thanet for multiple recreational reasons, particularly the country park with activities such as the Pegwell Bay Park Run. TDC further stated that there are numerous public rights of way (PRoW) within Pegwell Bay, Minster

Marshes and surrounding area. The hoverport is used together with Pegwell Bay Country Park for dog-walking also, according to TDC.

3.22.27. TDC [REP1-132] was concerned that during the construction period, there would be significant impacts on the visitor economy, due to impacts on the highway network and recreational infrastructure in the area affecting the long-term perception of Thanet as an attractive place to visit.

3.22.28. ESC [REP1-128] considered that the East Suffolk visitor economy is a complex system of interdependent factors which include the natural environment, high quality destinations such as historic towns and villages, local attractions, restaurants, cafes, and accommodation providers.

3.22.29. ESC was especially concerned about the impact of the proposed working hours on the intrinsic tranquillity of the visitor experience with the impact of construction traffic restricting access, impacts to the public right of way (PRoW) network, and the impacts on the visual and amenity value of the landscape.

3.22.30. SCC's LIR [REP1-130] raised the concern of indirect impacts of construction on tourists' perception of these areas with this issue exacerbated by core working hours for construction, which the applicant proposed to include 7am to 5pm on Sundays and Bank Holidays. SCC was also concerned about the impacts on the PRoW network and roads used for recreational purposes.

3.22.31. Suffolk Energy Action Solutions Ltd (SEAS) [REP4-158] stated that construction workers would not offset the loss of tourists, as a domestic leisure tourist in England spends an average of £111 per night whereas the daily spend of a construction worker is a fraction of that. SEAS considered that the proposed development could result in a permanent 60-70% drain on the Suffolk local economic value. SEAS also criticised the applicant for not conducting a quantitative attitudinal survey, which SEAS considered to be a prerequisite for understanding the likely impact of the proposals on tourism and the local economy, alone and cumulatively. Furthermore, SEAS argued that the applicant had not established a baseline for monitoring and adaptive management.

3.22.32. Regarding the study area used by the applicant in the ES, ESC [REP1-128] stated that measuring combined effects within 500m of the boundary did not reflect the true extent of the socio-economic influence, especially in rural areas where businesses and accommodation providers often service wider catchment areas.

3.22.33. In response, the applicant [REP2-027] stated that the defined study areas had been determined in line with comparable DCO applications and relevant guidance such as

the Design Manual for Roads and Bridges. The applicant also stated that relevant receptors lying outside of the study area had also been identified and assessed [REP7-091].

3.22.34. In terms of visitor perception being adversely affected, the applicant [REP2-027] considered that reviews of published monitoring reports of actual impacts observed from Sizewell B and Hinkley Point C found that initial concerns observed in surveys had not translated into measurable reductions in visitor numbers or tourism-related employment. The applicant stated that instead the local tourism sectors remained confident and continued to grow during the construction period of these other projects.

3.22.35. The applicant [REP6-110] did not consider that undertaking an attitudinal survey would be necessary or proportionate, nor that it would materially alter the conclusions of the socio-economic assessment. The applicant explained that such surveys have inherent methodological limitations when used to predict tourism impacts and could introduce bias through leading questions, for example. The applicant also stated that these types of surveys rely on respondents indicating how they might behave in a hypothetical future scenario and are unreliable in determining actual visitor behaviour once construction is underway.

3.22.36. For PRoW impacts the applicant [REP1-128] stated that diversion routes had been identified where any temporary PRoW closures would be required. It was proposed to temporarily divert several PRoWs during the construction phase. The proposed diversion routes, according to the applicant, would be designed to be of equivalent nature and connectivity to the existing sections of the routes to be closed, whilst minimising the additional journey length as far as practical. Furthermore, appropriate route diversions, closures and management measures were proposed as embedded mitigation. The applicant also stated that recreational activities within Pegwell Bay Country Park would remain unaffected.

3.22.37. SEAS [REP3-139] highlighted the attraction of Snape Maltings, a large concert hall and venue attraction, which according to SEAS attracts over 600,000 visitors annually and contributes £37 million to the local economy. The applicant [REP2-034] noted that Snape Maltings was outside of the 500m study area from the order limits and that given the distance between Snape Maltings Concert Hall and the proposed development there were unlikely to be any significant adverse amenity effects on users with regards to noise, air quality or landscape and visual which would deter visitors from the venue and attraction. The applicant stated that visitors would not be impacted on their journey to Snape Maltings, and visitors would not be impacted whilst at the venue in terms of reduced amenity. For this reason, the applicant

disagreed that there would potentially be a material impact on visitors and income for the venue.

3.22.38. In terms of traffic, the applicant [REP4-100] pointed to the conclusion presented in the Traffic and Transport ES chapters for Suffolk [APP-054] and Kent [APP-067], and stated that as there would be no significant driver delay effects on the surrounding highway network, including along routes used by visitors, there was no reasonable basis to assume a material change in visitor behaviour as a result of construction traffic. Furthermore, the applicant stated that any changes to traffic conditions would be short-term, temporary and managed through the mitigation measures secured via the Outline Construction Traffic Management and Travel Plan, [REP7-121] and [REP7-123].

3.22.39. Both ESC [REP7-301] and TDC [REP7-303] still had concerns remaining at the close of examination that there would be adverse impacts to tourism in their areas. Furthermore, SCC [REP7-302] set out that the applicant should commit to monitor effects on tourism in coordination with cumulative developments, particularly Sizewell C, as well as wider tourism impacts. SCC also stated that a proportionate contribution to foster tourism, similar to the fund created by Sizewell C, might be an appropriate approach if further embedded mitigation was not feasible. SCC provided requirement wording in items 10 and 16 of [REP6-237].

3.22.40. The applicant [REP5-135] stated that there was no evidence suggesting that the proposed development would have a significant adverse impact on tourism generally or in terms of specific potential impacts considered and it would not commit to broad tourism monitoring which it believed was not appropriate. The applicant continued that additional monitoring of wider tourism metrics, which are subject to several external economic factors beyond the applicant's control, would not be easy to assess or establish causation and in the context of the Sizewell C project (which is far more likely to have effects, according to the applicant) was not considered proportionate or necessary for this proposed development.

3.22.41. The applicant also explained that a standalone tourism fund would not be justified, with focus instead placed by the applicant on accommodation management and wider tourism engagement in [REP3-065] and [REP3-066].

3.22.42. The applicant's closing statement [REP7-192] confirmed that the amended ES assessment [REP7-091] [REP1A-007] considered the proposed development would have no significant effects on local tourism, with the concerns raised being linked to landscape and visual effects together with traffic and noise. However, the applicant stated that in reality the effects of construction work are naturally temporary, often sporadic, and would not plausibly deter tourists from either Kent or Suffolk.

3.22.43. The applicant considered that operationally, the landscape and visual impact of the above-ground infrastructure would be highly localised with design subject to controls by local planning authorities in [REP3-065] and [REP3-066].

3.22.44. The applicant submitted Visitor and Tourism Assessment Technical Notes for both Suffolk [REP3-065] and Kent [REP3-066]. Within these notes the applicant stated that when inter-project cumulative effects were considered, although these schemes shared a number of receptors, due to the size, nature and temporal scope of the relevant developments, they would not be likely to give rise to significant cumulative effects.

3.22.45. The applicant has also included commitment SE04 in the REAC [REP7-359] which commits the applicant to liaising with councils, local destination management organisations, and other stakeholders. SE04 also considers the use of vouchers for workers to spend locally, amongst other initiatives. This is also secured with the oCEMP pursuant to Requirement 6.

3.22.46. With regard to the core hours, the applicant [REP7-192] agreed to exclude bank holidays (including entire bank holiday weekends) from the core working hours at the Suffolk Saxmundham converter station site and the Kent Minster converter and substation site, as set out in requirement 7 of the dDCO [REP7-002]. TDC [REP7-017] set out the importance of both the weekend and bank holidays for the Thanet area, being a seaside/ coastal area which relies heavily on tourism and recreation with the summer months providing much of the trade for these businesses in addition to weekend and Bank Holiday trade. The Health and Wellbeing section of this report has more information and assessment regarding core hours of construction.

ExA's findings

3.22.47. National Policy Statement (NPS) EN-1 (Overarching National Policy Statement for Energy) at paragraph 5.13.4 states that the applicant's assessment should consider all relevant socio-economic impacts, which may include effects (positive and negative) on tourism and other users of the area impacted. The ExA is satisfied that the applicant's assessment has considered all relevant potential impacts, such as to the tourism industry in Kent and Suffolk, in line with NPS EN-1 paragraph 5.13.4

3.22.48. Paragraph 5.13.8 states that the Secretary of State should consider whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development. Furthermore, the Secretary of State should consider any relevant positive provisions the applicant has made or is proposing to make to mitigate impacts (paragraph 5.13.11).

3.22.49. The ExA, from the evidence provided and also that observed on site inspections, acknowledges that both the areas of Kent and Suffolk near the proposed onshore proposed development are tourist coastal destinations. The ExA also acknowledges that tourism contributes greatly to the local economies in both parts of Kent and Suffolk.

3.22.50. In terms of the study area, the ExA is satisfied that the 500m from the order limits used by the applicant for local businesses, visitor attractions relevant for tourism, open space, and receptors that could be impacted is sufficient. Given the extent of the order limits in both Kent and Suffolk it is considered that this would encompass those attractions and businesses most potentially impacted. The ExA acknowledges that there could be tourism related businesses or attractions which could be impacted by the proposal over 500m from the order limits, but the study area is sufficient for the purposes of assessing the potential level of impacts to the receptors most susceptible. The ExA is also satisfied that the applicant has considered both the intra and inter cumulative potential impacts to the local tourism industry.

3.22.51. There are potential impacts from the construction phase which the ExA considers could cause adverse impacts to tourism for the areas within Kent and Suffolk. This is particularly the case for Suffolk, where there are other major projects including Sizewell C which would result in a cumulative construction impact. The ExA considers that all this has the potential to reduce the attractiveness of these areas for tourists to visit, which could therefore damage the local economies of which tourism is such a key part.

3.22.52. The ExA notes that the construction impacts from the proposed development would be temporary and once completed there would not be the traffic, noise or disturbance from construction activities. There would still be the visual impacts within the landscape of the above ground infrastructure, such as the Fromus bridge and the converter stations proposed. This would have an adverse effect on the tourist experience for some visitors, but the impacts would be mainly localised, with proposed landscaping to mitigate the harm.

3.22.53. For Snape Maltings, there could be some issues with traffic congestion during construction putting off potential visitors, but this would be a temporary impact and the traffic delay levels are not assessed by the applicant as being significant. The ExA considers that, from the evidence submitted, the impacts to the business at Snape Maltings would be limited.

3.22.54. The ExA notes also that Pegwell Bay and the Country Park is an attraction for visitors to Kent, though the applicant has committed to trenchless techniques for cable

installation to minimise disruption at this location, as secured by requirement 16 and schedule 16, condition 10 of the rDCO. Furthermore, the ExA notes that the applicant [REP7-359] has committed to trenchless methods underneath the Suffolk Coast Path, King Charles III England Coast Path, PRoW number E-103/006/0 and Thorpe Road, at the landfall areas (commitment SE02 of the outline onshore CEMP). The use of trenchless techniques at the landfall areas are welcomed by the ExA as this would minimise disruption in areas which attract tourists and visitors. More generally, the plans proposed for diversion routes on the PRoW network would still allow some enjoyment of these routes and attractiveness for tourists, albeit the experience would be diminished to some degree by construction works and the visual impacts of the proposed new buildings, for example.

3.22.55. The ExA welcomes the applicant's commitment to excluding bank holidays from core construction hours. However, the ExA considers that this is not sufficient. In the Health and Wellbeing section the ExA has set out that the core hours should be more restricted. The ExA has included in the rDCO (requirement 7) that the core hours restricted to 1300 on a Saturday and no work on a Sunday, unless otherwise agreed to for specific reasons by the local authority. This would help the tourism industry by reducing the construction traffic, noise and disturbance over much of the weekend in the tourism season.

3.22.56. It is the view of ExA that there would be no substantive benefit for further monitoring of the tourism sectors during and after the construction phases. It is understood that larger infrastructure developments may have committed to and undertaken such monitoring, but for this proposed development the scale of potential impact would not necessitate tourism monitoring. Furthermore, it would be very difficult to establish at what level each of the projects under development would be the cause of any harm to the tourism industries in these parts of Kent and Suffolk. As such, it would be very difficult to apportion the need for further mitigation and/ or adaptive management to the proposed development, rather than other projects locally. Such a requirement would therefore fail the tests for new requirements as set out in NPS EN-1 paragraph 4.1.16 as it would not be sufficiently precise or enforceable. Likewise, there is also a lack of substantive evidence to explain what level of contribution would be necessary and warranted from the applicant, or how such an amount could be reasonably derived.

3.22.57. The applicant's commitment, under SE04 of the REAC [REP7-359] and the oCEMP [REP7-129] is a positive addition, for the applicant to liaise with the councils and other stakeholders to discuss how potential impacts on tourism within Suffolk and Kent could be minimised and benefits be maximised. However, as currently worded the commitment is vague and it is not clear how this would work in practice. The

final CEMP would need to be agreed by the relevant planning authority, as set out in requirement 6(1)(a) of the rDCO, giving the planning authorities control in what detail is in the final CEMP. Regarding SE04, the ExA considers the final CEMP should include a more detailed explanation of how it would be implemented and the role of the relevant councils and other parties.

3.22.58. Whilst the applicant's commitments are positive and the reduction in core working hours beneficial for tourism, the ExA does appreciate that the proposed development may result in some tourists being put off return visits. Visitors may choose to visit elsewhere, which would be an economic loss for the local tourism industries. As such, there would be some harm likely to the local economies, particularly as a result of construction activities. This would likely be greater in Suffolk when considering the cumulative impacts. However, with the more restrictive core hours and the commitment to liaising with stakeholders to minimise tourism impacts and enhance benefits, the overall adverse effects to the tourism sectors of these local economies would be reduced to a less than significant level. Mitigation outlined in other sections of this recommendation report, such as caps on heavy goods vehicles and design controls would also help mitigate any impact to the tourism industries.

3.22.59. With the commitments included in the rDCO, the oCEMP and the REAC, the proposed development would sufficiently seek to mitigate any impact to the tourism sector of the local economies, in accordance with NPS EN-1.

IMPACT TO TOURISM ACCOMMODATION AVAILABILITY

3.22.60. ESC [REP1-128] set out that it is especially concerned about the impact on the availability of tourist/ visitor accommodation. ESC stated that the Sizewell C development was expected to have a peak workforce of 7,900 workers, with 2,900 of the non-home based workers expected to live off site. Cumulatively with the proposed development and other projects ESC considered that the availability of accommodation could adversely affect an overstretched private sector rental and visitor accommodation sector. ESC also stated that workers gravitate towards accommodation that is closer to their place of work in the first instance and then radiate outwards. This would mean more workers seeking to live close to the proposed development. According to ESC this would result in the private sector rental and visitor accommodation within east Suffolk being utilised by workers first, potentially distorting the market, displacing residents, and reducing the availability of accommodation for visitors [REP1-128].

3.22.61. SCC were concerned that there could be the displacement of tourists from accommodation as a result of demand from workforces [REP1-130]. SCC [REP7-302]

believed that the peak construction phase would have an impact on tourism accommodation, especially when a cross-over with other large-scale developments occurs. SCC was also concerned that the applicant's assessment of accommodation had not included the cost of accommodation across different types as a measure, or indeed the knock-on costs in terms of private rented sector accommodation which would be drawn on.

3.22.62. The applicant [REP2-027] set out that for Suffolk the assessment of visitor and tourism accommodations showed that the construction workforce could be accommodated within the visitor and tourist accommodation sector, with a worst-case scenario where the total peak construction workforce (327 full-time equivalent workers) required accommodation, there would still be spare capacity. This figure was 21% for Kent [REP3-066]. In terms of affordability, the applicant [REP5-135] in its assessment considered only hotels that have the lowest cost classification of economy hotels to be included as potential accommodation which could be used by construction workers. For private rental accommodation, the applicant [REP4-237] set out that for Suffolk and Kent, the applicant concluded that there would be still sufficient stock of private rental accommodation to meet the demand from the cumulative schemes.

3.22.63. SCC [REP4-150] was not persuaded that there would be sufficient surplus accommodation for workers, meaning there would be accommodation pressures. SCC stated that it was important that the accommodation sector was not completely overwhelmed, to the extent that the tourism sector would be adversely affected.

3.22.64. ESC was also concerned by the differences between ESC's analysis of total accommodations stock [REP5-136] and that presented by the applicant. ESC stated that total accommodation stock does not translate into availability as this would be dictated by occupancy throughout the year. ESC provided the example that occupancy rates were set to be about 100% over the two-week Easter holidays in 2026. ESC considered that a commitment to a workforce accommodation strategy was required. ESC, however, did recognise the economic benefits that non-home based workers could provide for East Suffolk, including through filling any spare capacity in visitor accommodation during the tourism off-season.

3.22.65. The applicant [REP4-237], considered it unlikely that construction workers would routinely utilise the coastal boutique and higher-end hotels within coastal areas. For the purposes of the applicant's accommodation analysis only hotels that had the lowest cost classification 'economy' were included as potential accommodation that could be used by construction workers.

3.22.66. To try to further address the issue of cumulative pressure on tourism accommodation in Suffolk coastal areas the applicant introduced commitment SE05 into the REAC [REP7-359] and the outline onshore CEMP [REP7-129]. With this commitment the applicant would monitor where workers in Suffolk were staying by type of accommodation and location on a quarterly basis and agree how this information would be provided to ESC. Should these results indicate that during a monitoring period there would be on average greater than 18 workers utilising accommodation that would otherwise be utilised by tourists in the Suffolk coastal area, then the applicant would discuss potential actions with ESC and other stakeholders. These discussions would be to agree what steps would be taken to encourage more workers to stay in accommodation less commonly used by tourists at the coast.

3.22.67. Whilst SE05 was generally welcomed by ESC [REP7-301], the council still maintained that there was a need for a more detailed workforce accommodation strategy. SEAS [REP6-256E] argued that SE05 would not prevent tourism displacement as it relied on monitoring and only required the applicant to consider measures if a threshold was exceeded. SEAS also stated that there was no binding requirement for the applicant to act and no defined mitigation measures secured. SEAS described SE05 as a limited monitoring response.

3.22.68. At the close of examination, on the matter of tourism accommodation, ESC [REP7-301] remained seriously concerned that the available visitor accommodation within a 60-minute drive of the proposed development would not be sufficient to accommodate the non-home-based workforce without causing potential harm to the visitor economy, as workers could compete with visitors for accommodation. Likewise, SCC [REP7-302] believed that peak construction phase would have an impact on tourism accommodation, especially when cross-over with other large-scale NSIPs occurs.

3.22.69. At the close of examination, the applicant was of the view that significant compromises had been made on this matter (such as through commitment SE04 and SE05 of the oCEMP), though the applicant did not predict there to be significant adverse effects on tourism via accommodation or otherwise.

ExA's findings

3.22.70. The ExA has considered the potential impact to tourism as a result of proposed development workers staying in tourist accommodation. This was a particular issue for Suffolk where there are other large scale developments taking place. However, the ExA agrees with the applicant that it is considered unlikely that construction workers would routinely utilise the coastal boutique and higher-end hotels within

coastal areas. It may then be that workers are more likely to stay in larger conurbations like Ipswich where there are more hotels at differing cost levels. This is reflected in the applicant's accommodation calculations where only the lower cost forms of accommodation were included.

3.22.71. The ExA also welcomes the commitment SE05, which could minimise the number of proposed development workers staying in tourist accommodation at or near the proposed development site at the Suffolk coast. However, the ExA considers that this commitment would need to include more detail to explain matters such as how often and when monitoring would take place, and what would happen if the parties that the applicant would engage with did not agree on the next steps if the 18 person threshold was exceeded. SE05 is considered by the ExA to be a positive commitment by the applicant to help address concerns raised with Suffolk coastal accommodation. The final CEMP would need to be agreed by the relevant planning authority, as set out in requirement 6(1)(a) of the rDCO, giving the planning authorities control in what detail is in the final CEMP. Regarding SE05, the ExA considers the final CEMP should include a more detailed explanation of how it would be implemented and the role of the relevant councils and other parties.

3.22.72. The applicant has produced figures to show that there would be sufficient accommodation for workers, when considered cumulatively with other projects, although the ExA acknowledges that this has been disputed by SCC and SEAS. The ExA considers that this is an issue for the applicant, as it would need to source sufficient accommodation for its workers or this could slow the progress of the proposed development. However, with commitment SE05 the hotels at the Suffolk coastal tourist destinations should not be overwhelmed with workers, leaving capacity for tourists.

3.22.73. With regard to private rental accommodation, it is likely that many of the workers for the proposed development and other projects in the area would use this sector. However, the applicant has included calculations where, considered cumulatively, there would still be some capacity remaining for non-workers of infrastructure projects. It is likely that rental accommodation availability would vary over time, but if there was a need, workers may have to travel slightly further from larger nearby towns such as Ipswich or Dover for example, where there might be more availability at suitable costs.

3.22.74. The ExA also considers that the workers for the proposed development could provide benefits for tourism accommodation, such as providing customers for rooms at times of the year where there would usually be spare capacity, being outside of the main tourist seasons. As such, there are benefits from construction

workers using local accommodation which also need to be factored into the assessment.

3.22.75. The ExA accepts that the influx of workers to the area, for the proposed development and other projects combined, could have an impact on accommodation prices, whether hotels or private rental accommodation. However, the proposed development would have only a temporary impact during its construction period, which would limit such impacts. Furthermore, the applicant's figures show some spare capacity, especially when considering average workforce numbers rather than peak, which should minimise any impact to accommodation and rental prices locally.

3.22.76. The ExA considers that through commitments SE04 and SE05 the applicant has sought to minimise the impact to the tourism industry through use of tourist accommodation. For the reasons given above, the ExA considers that there would be no need for a Workforce Accommodation strategy. The ExA also acknowledges that construction workers staying in local accommodation outside of tourism peak seasons should have beneficial impacts. As such, the proposal accords with NPS EN-1 on this matter.

THE EFFECTS ON THE WIDER LOCAL ECONOMIES, INCLUDING THE LOCAL WORKFORCE

Economic assessment and monitoring

3.22.77. ESC [REP1-128] stated that whilst the applicant's ES assessment met existing requirements and guidance, the assessment needed to go further. ESC argued that without ongoing monitoring and evaluation of changes in baseline conditions the effects on socio-economic, leisure and tourism receptors could not be determined. Also, ESC considered that the impacts resulting from the cumulative developments in East Suffolk meant that it was difficult to predict future baseline conditions out to 2031 with any degree of accuracy. However, ESC stated that it would be difficult to disaggregate certain impacts of the proposed development from other significant infrastructure projects locally.

3.22.78. On this basis, ESC [REP1-128] requested that the applicant commit to review and update their assessment of baseline conditions immediately prior to commencement of construction, and to agree the scope and frequency of ongoing monitoring and reporting of socio-economic conditions during the construction phase of the project.

3.22.79. In response to ESC's LIR, the applicant stated [REP2-027] that the ES [REP7-091] defined a future baseline, incorporating projected demographic trends and planned

development land, which had the level of detail, structure and content applied which was consistent with the approach used for other comparable NSIPs. The applicant also stated that the baseline and future baseline together allowed the assessment to take account of foreseeable change without requiring ongoing monitoring. The applicant also considered that ongoing monitoring was not typically a requirement for baseline characterisation in NSIPs.

3.22.80. In the final statement of common ground between ESC and the applicant [REP7-049], ESC maintained that the monitoring and evaluation of prevailing socio-economic conditions throughout the construction period was essential if appropriate interventions that minimise the risks and maximise the benefits of the proposed project are to be developed and delivered. However, the applicant stated that it had undertaken a comprehensive assessment and was not intending to review or update its assessment prior to the commencement of development.

Skills and Employment

3.22.81. SCC, in its Local Impact Report [REP1-130] stated that without targeted interventions, the actual employment benefit to Suffolk residents is likely to be minor due to workforce competition, high leakage, and a limited skills pipeline for specialised trades. SCC further considered that there would be a significant number of NSIPs in East Suffolk that would be requiring similar skilled workers at the same time, which would be likely to put pressure on the available workforce, potentially reducing opportunities to secure any skills and employment legacy from the construction workforces as the projects could be occurring in parallel. SCC stated that this would also likely lead to high levels of workforce displacement and churn, impacting local businesses and the local supply chain. SCC [REP1-130] explained that skilled staff could be drawn away to NSIP contractors offering higher wages.

3.22.82. SCC [REP1-130] advised that it expected the applicant to work with the council to develop strategies to control the rate of workforce displacement, and to quantify and mitigate the negative impacts of this displacement. SCC also expected the applicant to model these risks and embed clear measures, such as supply chain engagement strategies and contractual social value requirements, within a skills and employment plan secured through a control document.

3.22.83. In response, the applicant [REP2-014] considered that the local workforce had low sensitivity to employment changes, due to lower unemployment levels in the area compared to the East of England and national average. Additionally, the applicant stated that within the 60 minute drive time there was a higher proportion of residents in skilled trade occupations compared to the regional and national averages. These characteristics, according to the applicant, suggest that the area

has capacity to absorb the employment impacts of the proposed development without significant disruption or strain on the local economy. Furthermore, the applicant [REP2-014] considered that under a worst-case scenario whereby all relevant major infrastructure schemes required their peak construction workforce at the same time and sought employees residing within the 60 minute drive time, there would still be expected availability within the local construction labour force. This matter is covered also in the Suffolk Onshore Scheme Inter Project Cumulative Effects [APP-060].

3.22.84. The REAC [REP7-359] and the oCEMP [REP7-129] included commitment SE06, which stated that the applicant (including the contractors) would develop and implement a social value strategy. The detail of the approach would be shared with the relevant local authorities when available.

3.22.85. The applicant also submitted a Skills, Supply Chain and Employment Plan (SSCEP) [REP6-101], which covered such issues as engagement with external stakeholders and key actions and activities. Such actions include referring contractors to established employability and job-matching services in Kent and Suffolk.

3.22.86. SCC [REP7-368], at the close of examination, did not consider that the submitted SSCEP adequately reflects the council's comments. In particular, SCC considered that the plan focused predominantly on describing existing internal and corporate commitments, rather than setting out a locally responsive and mitigation-focused approach to cumulative skills, employment and supply-chain impacts arising from the concentration of NSIPs in Suffolk.

3.22.87. In response, the applicant [REP7-173] stated that it did not consider a mitigation-focused SSCEP to be necessary or justified as it is designed to maximise positive outcomes, including local employment, skills development and supply chain opportunities. The applicant maintained that the submitted SSCEP was sufficient and policy-compliant, and that SCC's concerns stem from a disagreement on impact significance rather than shortcomings in the SSCEP itself.

ExA's findings

3.22.88. NPS EN-1 states at paragraph 5.13.4 that the applicant's assessment should consider all relevant socio-economic impacts, which may include the creation of jobs and training opportunities.

3.22.89. Paragraph 5.13.8 states that the Secretary of State should consider whether mitigation measures are necessary to mitigate any adverse socio-economic impacts of the development. Also, paragraph 5.13.12 sets out that the Secretary of State may wish to include a requirement that specifies the approval by the local authority

of an employment and skills plan detailing arrangements to promote local employment and skills development opportunities. The applicant has provided an SSCEP and considered matters such as job creation in its assessment.

Economic assessment and monitoring

3.22.90. For the economy baseline used, the ExA is satisfied that the applicant has used a range of appropriate sources. The ExA notes that ESC stated that the applicant's assessment met existing requirements and guidance, though the council wanted the applicant to go further. However, the applicant has factored in a future baseline into its ES assessment [REP7-091] which the ExA considers as satisfactory for this assessment.

3.22.91. The ExA has considered the request for socio-economic monitoring. The ExA should only impose new requirements where they are necessary, relevant to the development proposed, enforceable, precise and reasonable, as set out in NPS EN-1 paragraph 4.1.16. In this case, the ExA has concluded that a socio-economic monitoring plan is not necessary for this proposed development and it is not clear what would be achievable with the monitoring results. The ExA accepts that an areas' socio-economic baseline is likely to constantly change over time, but an assessment has been made by the applicant which included a consideration of a future baseline, which is regarded as a suitable and proportionate approach.

3.22.92. Furthermore, if there was socio-economic monitoring any identified impacts would be very difficult to be definitely attributable to this proposed development, and not to one of the other developments in the area, such as the Sizewell C development in Suffolk. It could often be that impacts to the local economies would be caused by a combination of things like traffic delays and disruption from the various projects at the same time. If that was the case, it would not be clear what level of effect could be apportioned to this proposed development, especially when Sizewell C is a much bigger scale project, for example. It is not clear what benefits could be derived from the monitoring results in these circumstances

3.22.93. As such, it is ExA's view that, in this case, a requirement for a socio-economic monitoring plan would not be sufficiently precise nor necessary. For these reasons the ExA does not recommend inclusion of a socio-economic monitoring plan, as it would not meet the tests for its inclusion as a requirement within the rDCO.

Skills and Employment

3.22.94. The ExA noted and considered the submission of the SSCEP [REP6-101] but finds that it falls short of what was expected. NPS EN-1 states that such a plan should include detailing arrangements to promote local employment and skills

development opportunities. However, the submitted SSCEP is very high-level and lacks detail, especially when it comes to 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 a lot of 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.

3.22.95. As an example, there is a forecast of jobs created locally for the proposed development, but there are no substantive details or strategy to try and enhance skills and employment development where the maximum number of local people could benefit from the proposed development.

3.22.96. The ExA recognises that the proposed development would likely provide some local employment, particularly through the construction phase, but also that this phase would also have an adverse impact on the tourism aspect of the local economies. As such, a skills and employment plan could help mitigate some of this adverse impact to the tourism sector by providing skills and employment to people as an alternative to tourism based jobs. The provision of a skills and employment plan is therefore considered to be of significant importance by the ExA and would have a role in mitigating adverse socio-economic impacts.

3.22.97. The applicant has included the SSCEP in the dDCO requirement 5 [REP7-002], however, the ExA considers that as this document is currently lacking in substantive detail it should be treated as an outline document and included in requirement 6, which would require the document to be submitted to and approved by the relevant planning authority. This would provide a level of control and is regarded by the ExA as a more appropriate approach.

3.22.98. Social value commitment SE06 in the REAC [REP7-359] and the outline onshore CEMP [REP7-129] is considered by the ExA to be a positive inclusion by the applicant, though there is little detail of this currently. This is a strategy which could work successfully with the SSCEP for local socio-economic benefits. The final CEMP would need to be agreed by the relevant planning authority, as set out in requirement 6(1)(a) of the rDCO, giving the planning authorities control in what detail is acceptable in the final CEMP. Regarding SE06, the ExA considers the final CEMP should include a more detailed explanation of how the social value would be delivered in practice and the role of the relevant councils and other parties.

Overall ExA findings on this issue

3.22.99. With the necessity for a SSCEP to be submitted under requirement 6 of the rDCO the ExA is satisfied that there would be an enhanced benefit to the local economies in terms of jobs and skills, which would also help to mitigate any adverse impacts to the tourism sectors of the local economies. The ExA considers that with a SSCEP required under requirement 6 then the proposal is in accordance with NPS EN-1 on this matter.

CONCLUSIONS

3.22.100. On the above matters the ExA is satisfied that there would be no likely significant impacts on socio-economic, tourism and recreation receptors. The ExA is satisfied that the proposals on this matter accords with NPS EN-1, EN-3 and EN-5 (2024) as well as local policies and strategies and all other relevant legislation, and there are no other important or relevant considerations.

3.22.101. The ExA acknowledges that there would be economic benefits through some local job creation and occupancy of accommodation, for example, enhanced with the SSCEP as required in the rDCO 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.

3.22.102. 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, the ExA considers that overall this matter attracts a little weight against the making of the order. This is because the tourism impacts are considered likely to outweigh the positive economic effects from the proposed development, but only to a small degree.

3.23. CLIMATE CHANGE

APPLICATION SUMMARY

3.23.1. Within the framework of the Environmental Impact Assessment (EIA), the applicant considers climate change in two parts:

- The effect of Greenhouse Gas (GHG) Emissions including the potential for these emissions to contribute to climate change.

- The potential effects of climatic change on the proposed development which could affect it directly or alter other environmental impacts.

3.23.2. The applicant's assessment of climate change is included in the Environmental Statement (ES) as Part 5 Combined Chapter 1 Climate Change [APP-085]. It confirms that it comprises a lifecycle greenhouse gas (GHG) impact evaluation and a climate change resilience analysis was conducted in accordance with Institute of Environmental Management and Assessment guidelines (Environmental Impact Assessment Guide to: Climate Change Resilience and Adaptation (2020) and Environmental Impact Assessment Guide to: Assessing Greenhouse Gas Emissions and Evaluating their Significance (2022)).

3.23.3. ES part 5 [APP-085] provides an assessment of impacts and likely significant effects for the construction, operational and decommissioning phases of the proposed development. The climate change assessment assumes a construction phase between 2026 to 2031 and an operational phase beginning in 2031. A reference operational period of 40 years is assumed, in accordance with asset lifespans.

3.23.4. Section 1.3 of [APP-085] includes the applicant's position regarding the consideration of potential upstream and downstream direct and indirect effects as per the judgment of the Supreme Court in R (on the application of Finch on behalf of the Weald Action Group) v Surrey County Council. It considers that on the basis that the applicant does not control which generators are generating electricity at any one time or which demand is connected to the system, that no meaningful assessment of downstream or upstream impacts can be undertaken in relation to these matters.

Greenhouse Gas Assessment

3.23.5. Supporting information was provided in a Greenhouse Gas Reduction Strategy [APP-358] which sets out how GHG emissions associated with the proposed development would be managed and reduced in accordance with National Policy Statement (NPS) EN1 requirements.

3.23.6. Table 1.18 of [APP-085] provides a summary of estimated construction phase GHG emissions of the proposed development against the UK carbon budgets. It shows that the highest percentage contribution would amount to 0.009% during the 5th UK Carbon Budget Period (2028-2032).

3.23.7. Table 1.21 of [APP-085] provides overall estimated GHG emissions of the proposed development against the UK carbon budgets. The ES concludes that the potential GHG emissions of the proposed development are estimated to contribute less than 0.01% of any respective UK carbon budget (with the highest percentage

contribution amounting to 0.009% during the 5th UK Carbon Budget Period (2028-2032)).

3.23.8. On this basis, the applicant considers that the effect of GHG emissions associated with the proposed development would not be significant.

Climate Change Resilience Assessment

3.23.9. With respect to the climate change resilience assessment, table 1.22 in ES part 5 [APP-085] provides a summary of the climate change risks relevant to the proposed development along with an assessment of their significance.

3.23.10. The assessment concludes that there are no significant climate change risks to the proposed development, assuming the embedded mitigation measures are successfully implemented into the design (which are set out at table 1.22 [APP-085]).

3.23.11. The assessment analysed UK Climate Projections (UKCP18) probabilistic climate change projections over pre-defined 20-year periods, focusing on changes in average climate variables. These include annual summer and winter temperatures, annual summer and winter precipitation, and sea level rise.

3.23.12. The applicant's assessment does not identify the risk of any significant effects of climate change on the proposed development. Therefore, no additional topic or site-specific mitigation measures are included in the Register of Environmental Actions and Commitments (REAC) [REP7-359] to mitigate or offset any likely significant effects.

EXAMINATION ISSUES

3.23.13. Based on the comments raised by Interested Parties (IP)s and the Examining Authority's (ExA)’s review of the application documents, the main issues considered during the examination were:

- approach regarding rising sea levels in the flood risk assessments
- approach regarding construction materials and embedded carbon in the climate change assessment
- the role of carbon sinks in capturing and storing carbon
- R (On the Application of Finch on behalf of the Weald Action Group) v Surrey County Council judgement

APPROACH REGARDING RISING SEA LEVELS IN THE FLOOD RISK ASSESSMENTS

3.23.14. In ExQ11CC2 [PD-017] asked the applicant if the flood risk assessments for Suffolk and Kent were cognisant of rising sea levels associated with climate change and if the assessment areas were particularly vulnerable to associated sea level increases. The ExA requested that the applicant address the relevant points in this regard made in [REP1-168].

3.23.15. The applicant responded [REP3-069] that the flood risk assessment fully accounted for predicted sea level rise due to climate change and the assessment used the latest UKCP18 under a high-emissions scenario, alongside Environment Agency guidance on future wind and wave conditions.

3.23.16. The applicant went on to state that the flood risk assessment also addressed land within the order limits which is vulnerable to flooding from the sea at the Suffolk and Kent landfalls and in the vicinity of the River Stour, which is tidally influenced. The applicant considered that final horizontal directional drilling designs at the landfalls would ensure buried cables and infrastructure remain protected and would not adversely affect existing flood risk.

3.23.17. The applicant also stated [REP3-069] that there are no parts of the Suffolk onshore scheme which are vulnerable to sea level rise. Regarding the Kent onshore scheme, it considers that land within the order limits in proximity to the River Stour was more vulnerable to flooding due to sea level rise. However, the applicant went on to state that overhead line towers and overhead cables proposed in this area would not impede floodwaters or increase flood risk.

3.23.18. With respect to the Minster converter and substation site, the applicant indicated that future flood risk remains low, with predicted flood depths of up to 0.2 m in low-probability flood events.

ExA's findings

3.23.19. On the basis of the submitted evidence, the ExA is satisfied that the flood risk assessment for the proposed development fully accounts for predicted sea level rise due to climate change using the latest UKCP18 in accordance with the requirements of NPS EN-1 paragraph 4.10.13.

3.23.20. Further ExA findings with respect to flood risk are presented in the Water Environment, section 3.16 of this report.

APPROACH REGARDING CONSTRUCTION MATERIALS AND EMBEDDED CARBON IN THE CLIMATE CHANGE ASSESSMENT

3.23.21. Approximately 70 IPs based in Kent raised issues (including [RR-3001], [RR-3077] and [RR-3855]) regarding the carbon footprint associated with the construction of the proposed development including the Kent convertor station.

3.23.22. Thanet District Council (TDC) local impact report (LIR) [REP1-132] raised concerns with respect to the levels of embodied carbon associated with the construction of the proposed development and its ability to meet its net-zero target. The applicant responded in [REP2-029] setting out its position that the emissions associated with this project would not be attributable to the Council and would have no impact on the Council meeting their net zero target as they would be aggregated at a national level.

3.23.23. The applicant also responded [REP2-029] that the majority of emissions (73%) associated with the construction of the proposed development would be associated with the embodied carbon in the construction materials. The applicant considered that the manufacturing of these materials would generally occur outside of the boundary of TDC.

3.23.24. TDC maintained its concerns at the end of examination as set out in its summary statement [REP7-214] and in the principal areas of disagreement summary statement (PADSS) [REP7-303]. The PADSS set out that TDC considered that the proposed development would have a negative effect on its ability to meet net zero targets as a point of principle. However, it did recognise that the applicant had committed to reducing GHG emissions where possible.

3.23.25. In ExQ11CC3 [PD-017] the ExA asked the applicant to confirm if with respect to embodied carbon, the assessment provided a reasonable worse-case regarding construction materials (including both convertor stations).

3.23.26. The applicant responded [REP3-069] that the embodied carbon assessment, prepared in line with EIA requirements, took a reasonable worst-case approach based on a bill of material quantities appropriate for the design stage of the project. This included the convertor and substations in Suffolk and Kent. Carbon emissions were calculated using a detailed bill of quantities covering all project components, including converter and substation works, overhead lines and pylons, marine and terrestrial cabling, enabling works and earthworks.

3.23.27. The applicant explained that its worst-case assumption related primarily to the carbon intensity of materials not the quantities used, as the assessment assumes all materials (such as steel and concrete) are standard rather than low-carbon.

However, in practice, the applicant intends to reduce embodied carbon by using low-carbon materials in line with National Grid's commitment to carbon-neutral construction by 2026 and Net Zero by 2050.

ExA's findings

3.23.28. The applicant's assessment shows that the construction phase carbon emissions would be low equating to less than 0.01% of the UK carbon budget. We conclude that this would not be so significant that, in isolation, it would have a material impact on the ability of Government to meet its carbon reduction targets. The ExA considers that the applicant's assessment complies with the requirements of NPS EN-1 paragraph 4.10.13.

3.23.29. The ExA note the TDC concerns regarding embodied carbon associated with the construction of the proposed development and its ability to meet its net-zero target. However, we consider the applicant's position to be reasonable insofar as logically the majority of construction materials would be likely to be manufactured outside of the boundaries of TDC. This means that even if the construction of the proposed development were to be considered a contribution to the council's net zero target, there is no evidence that this would be significant.

3.23.30. The ExA is satisfied that the applicant's assessment of embodied carbon takes a reasonable worst-case approach, including for the convertor and substations in Suffolk and Kent in accordance with the requirements of NPS EN-1 paragraphs 4.10.9 to 4.10.10.

3.23.31. We agree that a bill of quantities methodology using all project components which assumes that all materials are standard and not low-carbon is reasonable. It follows that use of low-carbon materials would result in lower levels of embodied carbon.

THE ROLE OF CARBON SINKS IN CAPTURING AND STORING CARBON

3.23.32. The TDC LIR [REP1-132] identified that saltmarshes are key habitats and carbon sinks for capturing and storing carbon. TDC was unclear if the impact of the proposed development on saltmarsh and carbon storage was fully considered in the applicant's climate change and greenhouse gas submission.

3.23.33. The role of Minster Marshes in storing carbon was also raised by approximately 140 IPs based in Kent including Monkton Parish Council [RR-3796], [RR-2781] and [RR-1793].

3.23.34. In ExQ11CC4 [PD-017] the ExA asked how the applicant's assessment had addressed the function of Minster Marshes and other local carbon sinks regarding their role in capturing and storing carbon.

3.23.35. The applicant's response [REP3-069] set out reasons why it did not consider Minster Marshes to be a functional coastal or floodplain grazing marsh, as recognised in UK habitat classifications. The applicant stated that most of the site comprised disturbed and cultivated arable land and did not have any greater role in capturing and storing carbon than other areas of arable land. It deemed that there were various other habitat types within and around the converter station and substation site, including drains with marsh habitat, and the arable land retained standing water at times of heavy rainfall.

3.23.36. The applicant explained [REP3-069] that the climate change assessment [APP-085] calculates carbon emissions and sinks associated with land use in accordance with the EU Commission's Guidelines for Land Carbon Stocks (EU Commission, 2010). The assessment considered the current land use within the boundary of the proposed development consisting of predominantly arable land, managed hedgerows and trees.

3.23.37. Section 1.9.22 [APP-085] identified that over the 40-year carbon assessment period the remaining land within the boundary of the project would sequester approximately 5,595 tonnes of carbon dioxide equivalent (tCO_2e) with landscape planting around the site adding to that.

3.23.38. TDC did not identify this matter as an outstanding concern at the close of examination in its summary statement [REP7-214] or PADSS [REP7-303].

ExA's findings

3.23.39. Based upon ExA observations during unaccompanied site inspections (including [EV1-002] and [EV1-013]), we accept the applicant's description of the function of Minster Marshes.

3.23.40. Having regards to the applicant's response above, the ExA is satisfied with the justification provided including that the climate change assessment includes carbon emissions and sinks associated with land use which have been calculated in accordance with the EU Commission's Guidelines for Land Carbon Stocks (EU Commission, 2010). We consider that the applicant's climate change assessment is in accordance with the requirements of NPS EN-1 paragraphs 4.10.9 to 4.10.10.

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3.23.41. In ExQ11CC1 [PD-017] the ExA asked the applicant to justify its position whereby it stated in the Climate Change Assessment [APP-085] that it was not possible to calculate the likely upstream and downstream direct or indirect effects and any resultant increases or decreases in greenhouse gas emissions.

3.23.42. ExQ11CC1 [PD-017] also asked Suffolk County Council (SCC), Kent County Council (KCC), East Suffolk Council (ESC) and TDC to respond to the question and confirm if they agreed with the applicant's approach.

3.23.43. The applicant responded [REP3-069] that the approach taken was consistent with EIA regulations, the Finch judgment, and comparable NSIP assessments.

3.23.44. The applicant considered that its greenhouse gas assessment aligned with the Supreme Court's Finch ruling by including all likely and inevitable upstream and downstream impacts. Its position was that unlike fossil-fuel extraction schemes considered in Finch, the proposed development would be electricity transmission infrastructure, where downstream emissions from electricity generation or use are not inevitable, controllable, or quantifiable.

3.23.45. Accordingly, the applicant's assessment includes emissions from construction, products, and operational energy use, but scopes out end-of-life impacts due to uncertainty and excludes indirect downstream emissions linked to future electricity generation or consumption. The applicant explains that this is because the applicant does not control how electricity is generated or used, and such impacts depend on external factors like market forces, policy, and consumer behaviour.

3.23.46. In responding to ExQ11CC1, ESC [REP3-085] and TDC [REP3-103] both confirmed that they agreed with the applicant's approach. SCC [REP3-101] indicated that whilst it was a complex matter, it might not preclude the identification of direct and indirect upstream and downstream effects. KCC [REP3-091] did not provide a response to the question.

3.23.47. The ExA sought to explore SCC's position at ISH2 [EV6-024] as set out in its written post hearing submissions [REP4-150]. SCC accepted the applicant's position and considered if the Finch ruling was applied in the context of the proposed development, it would not be possible to do an assessment or further assess the downstream implications.

3.23.48. KCC did not provide any comment at ISH2, therefore the ExA posed an ISH2 Action Point (80) inviting it again to provide a response to ExQ11CC1 [PD-017] regarding

climate change and the Finch judgement. KCC's response [REP4-123] stated that it had no comment on this issue.

ExA's findings

3.23.49. The ExA agrees with the councils and accepts that in the context of the proposed development, the applicant cannot control how electricity is generated and used and it is therefore not possible at this stage to identify direct and indirect upstream and downstream effects.

3.23.50. The ExA considers that the applicant's greenhouse gas assessment meets the requirements of NPS EN-1 paragraph 5.3.4. We are satisfied that the Supreme Court's Finch ruling does not have any implications for the greenhouse gas assessment undertaken for the proposed development.

CONCLUSIONS

3.23.51. The ExA is satisfied that the proposed development complies with the relevant requirements of NPS EN-1, NPS EN-3, NPS EN-5 (2024) regarding climate change.

3.23.52. The applicant has undertaken a GHG emission assessment that addresses the requirements of NPS EN-1 paragraphs 5.3.4 and 5.3.5 and has prepared a GHG Emissions Reduction Strategy that accords with the mitigation provisions set out in paragraphs 5.3.6 and 5.3.7. On this basis, the ExA considers that the applicant has assessed GHG emissions associated with the proposed development and identified measures to reduce emissions across the construction, operation, maintenance and decommissioning phases.

3.23.53. With respect to climate change adaptation and resilience, the ExA considers that the applicant's assessment is acceptable and in accordance with the requirements of NPS EN-1 Section 4.10, NPS EN-3 paragraph 2.4.8, and NPS EN-5 Section 2.3. The ExA is satisfied that the embedded mitigation measures proposed are appropriate to protect the proposed development from climate related weather phenomena.

3.23.54. Accordingly, the ExA concludes that there are no matters relating to climate change which would weigh for or against the order being made.

3.24. INTRA-PROJECT CUMULATIVE EFFECTS

APPLICATION SUMMARY

3.24.1. This section principally addresses intra-project cumulative effects. The applicant assessed inter-project cumulative effects individually for each topic and presented the findings accordingly in the Environmental Statement (ES). Where inter-project cumulative effects have been identified during the assessment they have been addressed within the relevant topic-specific sections of this report and are not repeated here to avoid double counting.

INTRA-PROJECT CUMULATIVE EFFECTS

3.24.2. A three-stage approach was used to assess intra-project cumulative effects:

1) Pre-screening: Identified receptors exposed to multiple types of effects.
2) Screening: Assessed the significance of each effect on those receptors; only receptors experiencing more than negligible effects were progressed.
3) Main Assessment: Evaluated whether the combination of effects could result in a greater overall impact.

3.24.3. The pre-screening assessments were set out in Part 2 Suffolk Chapter 12 Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059] and Part 3 Kent Chapter 12 Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072].

3.24.4. The assessments were also tabulated in ES Appendix 2.12.A Suffolk Onshore Scheme Intra-Project Cumulative Effects Screening Tables [APP-140] and ES Appendix 3.12.A Kent Onshore Intra-Project Cumulative Effects Screening Tables [APP-192] which also included the screening assessments.

3.24.5. The main assessment of intra-project cumulative effects was provided as Part 2 Suffolk Chapter 12 Suffolk Onshore Scheme Intra Project Cumulative Effects [APP-059] and Part 3 Kent Chapter 12 Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072].

3.24.6. For the offshore environment the ES includes Part 4 Marine Chapter 10 Intra-Project Cumulative Effects [APP-083]. This assessment at stage 1 considered the residual effects identified in the offshore topic chapters of the ES. Where stage 1 identified that there was only one type of effect for a particular receptor, or only one topic had identified effects on that receptor, the applicant considered that there is no potential for an intra-project effect to occur and the receptor was not taken forward to screening stage 2.

3.24.7. [APP-083] set out that following its assessment there were no shared receptors present across the offshore proposed development topic chapters.

Therefore, the applicant explained that all marine receptors have been wholly assessed with in topic chapter and no intra-project cumulative effects are anticipated for marine receptors during the proposed development.

SIGNIFICANT EFFECTS

3.24.8. Part 2 Suffolk Chapter 12 Suffolk Onshore Scheme Intra-Project Cumulative Effects [APP-059] identifies significant adverse effects due to the combination of the following:

- visual amenity and noise effects during construction, operation, maintenance and decommissioning for the Friston 2 scenario (which assumes that Friston substation is built as part of the proposed development)
- transport, visual amenity and noise effects during construction, operation and maintenance and decommissioning for users of cycle paths roads and rail and both temporary and permanent public right of way (PRoW) closures
- user experience, visual amenity and transport effects during construction and decommissioning on PRoW users (footpaths 260/017/0, 491/005/0, 491/006/0 and bridleway 491/010/0)
- visual amenity, user experience and transport during construction and decommissioning on PRoW users (bridleway 354/002/0)

3.24.9. Part 3 Kent Chapter 12 Kent Onshore Scheme Intra-Project Cumulative Effects [APP-072] identified significant adverse effects for the following:

- some residential receptors due to a combination of visual and noise effects during construction and decommissioning
- users of PRoW TE37 and the Saxon Shore Way due to a combination of visual, socio-economic, traffic and transport and health and well-being effects during construction and decommissioning

3.24.10. The applicant considers [APP-072] that there is no further mitigation to address the cumulative effect available.

EXAMINATION ISSUES

3.24.11. Based on the comments raised by interested parties (IP)s and the examining authority's (ExA)'s review of the application documents, the main issues considered during the examination were:

- estimation of significance of intra-project cumulative effects

- mitigation of significant intra-project cumulative effects (including the application of the mitigation hierarchy)

ESTIMATION OF SIGNIFICANCE OF INTRA-PROJECT CUMULATIVE EFFECTS

3.24.12. Through written questions and hearings, the ExA explored the applicant's approach to quantifying significance of intra-project cumulative effects.

3.24.13. At issue specific hearing (ISH) 1, the ExA sought to understand if significant adverse intra-project cumulative impacts should be considered as moderate or major. The applicant [REP1-124] set out that it considered that The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations) require the identification of significant effects, but do not require these to be given a level of significance.

3.24.14. At ISH1, the ExA also asked the applicant to explain all mitigations that were being considered to address those which have been described as "No mitigation has been confirmed at this stage" in ES Chapter 3 Summary of Likely Significant Effects [APP-087]. If the applicant considered that no additional mitigation was necessary or possible, the ExA invited the applicant to explain the reasons for this. The applicant set out its response to action point 9 [REP1A-037], including that it judged that individual effects had typically been mitigated as far as reasonably practicable before they had been combined.

3.24.15. Suffolk County Council (SCC), Kent County Council (KCC), East Suffolk Council (ESC) and Thanet District Council (TDC) were invited to comment on the applicant's responses to ISH1 action points 8 and 9 in the ExA's first written questions (ExQ1) ExQ1CEIntra2.

3.24.16. SCC [REP3-101] considered that a cautious approach should be taken in relation to the classification of these effects to avoid any being interpreted as less severe than they are. As such, the council's position was that effects should be treated as 'major,' rather than 'moderate and that it would not be acceptable for significant effects to go unmitigated without further measures proposed. Its view was that the mitigation hierarchy must be followed for significant effects as described in National Policy Statement (NPS) EN-1 paragraph 4.3.4.

3.24.17. ESC [REP3-085] said that the EIA Regulations do not require differentiation between moderate and major intra project cumulative effects but would welcome any further quantification of significant effects to assist all parties understanding. With respect to intra-project mitigations, it requested that the applicant committed to a

more proactive approach, including addressing the identified intra-project cumulative effects for which “no mitigation has been confirmed at this stage” once a greater level of detail could be obtained from the main works contractor.

3.24.18. TDC [REP3-103] said that effects should be considered to be negligible, minor, moderate or major adverse or beneficial using a similar method to that taken for other topics in the ES. In the absence of this, it considered that all significant adverse cumulative effects would result in a major adverse effect.

3.24.19. At ISH2 [EV6-028], the ExA invited parties including SCC, TDC and ESC to explain its concerns with regards to the applicant’s approach to quantifying significance as detailed in the responses to ExQ1CEintra2 [REP3-101], [REP3-103] and [REP3-085] respectively.

3.24.20. In response [EV6-028], the applicant set out its position that The EIA Regulations do not require these to be given a level of significance. Furthermore, it explained its concerns with identifying gradations of significance because of the uncertainty associated with bringing together of professional judgments on specific topics.

3.24.21. However, in responding to ISH2, action point AP111 [REP4-086], the applicant sought to quantify possible adverse significant effects on residential receptors and concluded that they would be likely to be moderate not major. It considered that no individual property was considered likely to experience a significant intra-project cumulative effect on their amenity because typically one or more of the contributing effects would either not occur or would be negligible, and therefore highly unlikely to contribute to a cumulative major effect.

3.24.22. The ExA's second written questions (ExQ2) ExQ2CEIntra3 [PD-021] asked if all councils agreed with the applicant’s response to action point 111 [REP4-086] in that significant effects on residential receptors would likely to be moderate not major. It also asked the council’s if they had any other concerns with respect to possible significant effects on non-residential receptors and, if so, how any specific significant cumulative effects could be mitigated.

3.24.23. In answering, SCC [REP5-204] stated that the applicant had not provided evidence which shows how it had come to its conclusions. Regarding, non-residential receptors it maintained the position that a precautionary approach should be taken which considers the degree of effect to be major rather than moderate.

3.24.24. TDC [REP5-207] agreed with the applicant that significant effects on residential receptors would likely be moderate adverse (significant) effects. Dover District

Council (DDC) [REP5-187] responded with no comments on the basis of the distance between the proposed development and residential dwellings in the district.

3.24.25. ESC [REP5-189] considered that the applicant did not provide sufficient detail to reassure it that the identified intra-project cumulative effects would be moderate rather than major. It remained of the view that a precautionary approach should be applied and the impacts should be considered as major. KCC [REP5-195] provided no response to the question.

3.24.26. At ISH3 [EV9-011] and [EV9-012], the ExA further explored with the applicant its position that possible adverse significant intra-project cumulative effects on residential receptors would be likely to be moderate not major. We also asked the applicant to set out its position with respect to possible significant effects on non-residential receptors (including road users, public right of way users and recreational users).

3.24.27. The applicant subsequently provided a written summary [REP6-108] which explained that it considered that effects on PRoW, bridleways and other road users would most likely be moderate not major. Its reasoning for this included the temporary nature of such effects and it considered that a major effect on road users would result from permanent increases in traffic or the introduction of major new infrastructure resulting in permanent harm to previously high-quality views, without mitigation.

3.24.28. SCC also raised concerns as set out at item 6.2 [REP6-182] at ISH3 [EV9-011] with respect to mental health impacts associated with intra project cumulative effects. With respect to intra-project cumulative effects, it raised concerns that the agglomeration of impacts including noise, vibration, traffic, lighting, and landscape change could intensify disruption and give rise to longer term psychosocial effects, including fatigue, frustration, and a diminished sense of control. On this basis it considered that significant intra-project cumulative effects would be worse than the applicant has presented in [APP-059].

ExA's findings

3.24.29. The ExA is not persuaded by the applicant's position that intra-project significant adverse effects would be moderate not major adverse effects. We consider that the concerns expressed by SCC and TDC in that insufficient evidence has been provided to fully support the applicant's findings that effects would be moderate are reasonable.

3.24.30. The ExA also considers that this could result in significant intra-project cumulative effects which would be worse than the applicant has presented including those with respect to mental health considerations.

MITIGATION OF SIGNIFICANT INTRA-PROJECT CUMULATIVE EFFECTS

3.24.31. At ISH2 [EV6-028], the ExA explored with parties the request from ESC for an additional commitment in the register of environmental actions and commitments (REAC) to review possible mitigations for "no mitigation confirmed at this stage" items secured via relevant management plans/ requirement 6 of the dDCO. The ExA asked the applicant to provide draft text for this which also addressed SCC concerns [REP3-101]. The applicant provided wording for a proposed REAC commitment in response to ISH2 AP112 [REP4-086] to review intra-project cumulative effects and establish what additional mitigation measures could be applied to reduce their significance.

3.24.32. ExQ2CEIntra1 [PD-021] asked the councils to consider whether further mitigation was required over-and-above what the applicant had identified to assist with reducing significant intra-project cumulative effects. SCC [REP5-204] said that further mitigation was required to address intra-project cumulative effects on community health and wellbeing arising from construction activity (including restricted working hours). It also identified PRoW and bridleway improvements that it considered necessary.

3.24.33. TDC [REP5-207] considered it unlikely that further mitigation measures would be available to mitigate significant intra-project cumulative effects over and above what has already been proposed for the relative topics. It also stated that the applicant had advised the exact intra-project impacts were not fully known at this stage and are subject to detailed design and construction programme matters.

3.24.34. ESC [REP5-189] noted that GG40 (included in the dDCO as requirement 21) would commit the applicant to undertaking a review of the intra-project cumulative effects assessment at detailed design stage to consider additional mitigation measures. It did not request any further mitigation for intra-project cumulative effects. DDC [REP5-187] did not comment on ExQ2CEIntra1 [PD-021] and KCC provided no response.

3.24.35. ExQ2CEIntra2 [PD-021] sought the opinion of all councils on the wording suggested by the applicant. In response, SCC offered alternative wording for GG40 [REP5-204] which would require the applicant to consider offsetting measures if no additional mitigation measures were found to be appropriate. TDC [REP5-207] welcomed a review of intra-project cumulative effects but raised concerns as to how this would

be secured. DDC [REP5-187] agreed with the suggested commitment wording for the REAC and subsequent approval mechanism. ESC [REP5-189] welcomed this additional commitment and considered that it satisfied its previous request.

3.24.36. The ExA's third written questions (ExQ3) ExQ3CEIntra2 [PD-023] asked if the councils were content with the wording offered by SCC [REP5-204]. ESC accepted the wording offered by SCC [REP6-261]. TDC [REP6-274] also agreed to the wording noting in its response that it could provide additional mitigation where necessary following the mitigation hierarchy. DDC [REP6-260] also agreed and stated that the commitment should secure the implementation of the mitigation (following the mitigation hierarchy) that might be identified and in including reference for this to be agreed with the relevant local authorities, this would give appropriate oversight. KCC [REP6-265] provided no response.

3.24.37. The ExA proposed to include the commitment to review intra-project cumulative effects and establish what additional mitigation measures could be applied to reduce their significance in the dDCO as requirement 21. The applicant proposed some changes to the wording included therein [REP7-002].

3.24.38. At ISH3 [EV9-011] and [EV9-012], the ExA explored further the applicant's approach to the mitigation hierarchy how the requirements were met in the absence of identifying specific mitigations to address the unmitigated significant adverse intra-project effects as set out in [APP-059] and [APP-072] for Suffolk and Kent respectively.

3.24.39. The applicant explained [REP6-108] that it did not consider that policy required compensation for every residual significant effect. It pointed to the content of paragraphs 4.10 and 4.11 of NPS EN-1 which it interpreted as requiring decision makers to consider the mitigation hierarchy, including the potential for compensation or offsetting where appropriate, but did not require compensation to be provided in every case. The applicant also noted that where residual significant effects remain, an evidenced judgement should be reached as to if further compensation or offsetting would be proportionate and appropriate.

3.24.40. At ISH3 [EV9-011] and [EV9-012] Suffolk Energy Action Solutions Ltd (SEAS) raised concerns [REP6-150] with respect to the applicant's approach to the mitigation hierarchy and considered that mitigation hierarchy required a clear understanding of likely significant effects. In the absence of this, SEAS suggested that the cumulative assessment was incomplete and fragmented and due to this the applicant had not demonstrated that impacts had been properly avoided, reduced or mitigated. SEAS provided further detail in [REP6-256G] stating that intra-project cumulative effects considered in individual topics do not provide a single, integrated

cumulative assessment which presents a coherent assessment of how effects combine across topics. These concerns remained at the end of the examination [REP7-295], contributing to SEAS concluding that there was no secured mitigation capable of addressing cumulative effects. A summary of SEAS unresolved issues including those relating to intra-project cumulative effects was set out in [REP7-211].

ExA's findings

3.24.41. The ExA agrees that requirement 21 is necessary as it has the potential to provide mitigation (including off setting/ compensating) for significant adverse intra-project cumulative effects. We consider that there is a tension with the requirements of the mitigation hierarchy in its absence.

3.24.42. However, given that it does not identify specific mitigation at this stage, there is the possibility that even after undertaking a review of significant effects and mitigation, that may not fully or in part address the resultant harm.

3.24.43. With respect to the wording offered by the applicant [REP7-002] for requirement 21, the ExA considers it necessary to be amended as set out below:

(1) Prior to commencement of development, once detailed design is complete and detailed construction and programme information is available, the undertaker commits to undertaking a review of the intra-project cumulative effects assessment submitted with the application (as amended during the Examination) to be submitted to and agreed with the relevant planning authorities, to consider:

(a) if the significant intra-project cumulative effects are still considered likely to occur;

(b) if they are still considered likely to occur, what additional appropriate mitigation measures may be applied to reduce their significance;

(c) if no such mitigation measures are available, what additional appropriate offsetting measures may be applied following the mitigation hierarchy; and

(d) any such mitigation or offsetting measures must be agreed with the relevant local authorities, including a timetable for their implementation, and once agreed shall be implemented in accordance with the terms of such timetable.

(2) Measures considered in 21(1) would be those that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects.

3.24.44. These changes would commit the applicant to undertaking a review of intra-project cumulative effects prior to commencement of development and for that to be agreed with the relevant planning authorities. Any resultant mitigation or off-setting measures and a timetable for its implementation must also be agreed with the relevant planning authorities. Subsections 3 and 4 offered by the applicant would no longer be necessary as a result of these changes.

3.24.45. The ExA considers that there is a possible tension with NPS EN-1 paragraph 4.3.19 because there remains the possibility that no mitigation or off-setting is delivered which would fully or in part address the resultant harm.

CONCLUSIONS

3.24.46. Significant adverse intra-project cumulative effects have been identified by the applicant and may not either fully or in part be addressed by any mitigation or off-setting resultant from requirement 21 of the rDCO. There is the possibility that any such effects could be major adverse. For these reasons and having regard to paragraph 4.3.19 of NPS EN-1, the ExA considers that this matter attracts moderate weight against the making of the order.

4. HABITATS REGULATIONS ASSESSMENT SUMMARY

4.1. INTRODUCTION

4.1.1. This chapter sets out the Examining Authority's (ExA)'s summary conclusions relevant to Habitats Regulations Assessment (HRA). This will assist the Secretary of State, as the competent authority, in performing their duties under the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species (the Habitats Regulations). Records of examination procedure, evidence and reasoning to support the conclusions reported upon here are set out in appendix B of this report. The applicant's HRA report is provided in its 'Report to Inform Habitats Regulations Assessment' [REP7-119].

4.1.2. The proposed development is described in section 1 of this report. The spatial relationship between the order limits of the proposed development and European sites is shown in figure 1 in appendix E of the applicant's HRA Report [REP7-119], figure 6.4.4.5.2 'Relevant Designated Sites for the Protection of Ornithology' [REP5-032] and figure 6.4.4.4.1 'Marine Mammal Study Area' [REP1-011]. The proposed development was identified as having likely significant effects (LSE) on European sites. It is not directly connected with, or necessary to, the management of a European site. Therefore, the Secretary of State must make an 'appropriate assessment' (AA).

4.1.3. The ExA produced a Report on the Implications for European Sites (RIES) [PD-022] which compiled, documented, and signposted HRA-relevant information provided in the application and examination representations up to deadline (DL) 5 (10 March 2026). The RIES was issued to set out the ExA's understanding on HRA-relevant information and the position of interested parties (IP)s in relation to the effects of the proposed development on European sites at that point in time. Consultation on the RIES took place between 18 March 2026 and 13 April 2026. Comments were received from the applicant [REP6-115] and the appropriate nature conservation bodies (Natural England (NE) [REP6-251] and the Joint Nature Conservation Committee [REP6-239] at DL6 (13 April 2026). These responses and other examination considerations helped to inform the ExA's consideration of HRA matters.

4.1.4. The HRA report assessed potential impacts on the relevant qualifying features of the identified European sites. It identified relevant mitigation measures (which are summarised in appendix B of this report) and concluded no adverse effects on integrity (AEoI).

4.1.5. The main HRA matters raised by the ExA, NE and other IPs and discussed during the examination include:

- Horizontal directional drilling at the Kent and Suffolk landfalls (including lighting and noise disturbance, contamination, frac out, risk of unexploded ordnance (UXO), failure of trenchless techniques and use of hovercraft in Pegwell Bay).
- Effects on acid grassland functionally linked land (FLL) in Suffolk.
- Effects on red-throated diver of the Outer Thames Estuary Special Protection Area due to cable laying activities during the winter period.
- Indirect effects on prey species during construction and operation including remedial works during cable exposure in Pegwell Bay.
- The quality of proposed replacement FLL for golden plover in Kent.
- The potential for temporary increase in suspended sediment concentration (reefs only) and sediment deposition leading to increased turbidity and smothering effects.
- The effects on marine mammals from emergency use of hovercraft in Pegwell Bay and cable laying.

4.2. SUMMARY OF FINDINGS IN RELATION TO LSE

4.2.1. The ExA is satisfied that the correct European sites and qualifying features were identified, and that the assessment of alone or in-combination LSE considered all the relevant potential impact pathways.

4.2.2. The ExA has concluded that LSEs exist for 18 European sites from the proposed development alone or in combination with other plans or projects; these are identified in appendix B of this report.

4.3. SUMMARY OF FINDINGS IN RELATION TO AEoL

4.3.1. The HRA report concluded that AEoI could be excluded for all of the assessed European sites from the proposed development alone, or in combination with other plans and projects. Some of the conclusions in the HRA report were subject to examination through written questions, hearings and submissions from NE. Following numerous submissions during the examination, NE's risk and issue log [REP7-364] identified residual red risks in relation to acid grassland FLL, risks of UXO, impacts of site drainage on designated sites, contamination in Pegwell Bay and use of hovercraft in Pegwell Bay.

4.3.2. Based on the findings of the examination, and subject to securing mitigation in the recommended Development Consent Order (rDCO) and updates to relevant management plans the ExA is satisfied that AEoI on all qualifying features of

European sites can be excluded from the proposed development alone or in-combination.

4.4. HRA CONCLUSIONS

4.4.1. On the basis of the information set out in appendix B, the ExA is satisfied that the correct European sites and qualifying features have been identified for the purposes of assessment, and that all potential impacts which could give rise to significant effects have been identified. The ExA is also satisfied that all relevant projects for the in-combination assessment that could give rise to likely significant effects were identified and assessed.

4.4.2. The ExA's findings are that, subject to the mitigation measures to be secured in the rDCO, AEoI on the assessed European sites from the proposed development when considered alone or in-combination with other plans or projects can be excluded.

4.4.3. The ExA considers that there is sufficient information before the Secretary of State to enable them to undertake an AA in order to fulfil their duty under the requirements of the Habitats Regulations.

5. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

5.1. SUMMARY OF THE MAIN PLANNING ISSUES

5.1.1. This section sets out the Examining Authority's (ExA) overall assessment of the planning merits of the proposed development.

5.1.2. The ExA's findings in relation to the effects of the proposed development and its compliance against the relevant policy and legislation can be found in the relevant topics within section 3 and are summarised in the table below. In reaching its findings, the ExA has given full consideration to the local impact reports (LIR)s submitted by Dover District Council [REP1-127], East Suffolk Council [REP1-128], Kent County Council [REP1-129], Suffolk County Council [REP1-130], [REP1-131] and Thanet District Council [REP1-132]. The planning matters and potential effects raised are considered in the relevant sections of this report.

5.1.3. A Habitats Regulations Assessment (HRA) report has been provided for the proposed development and the ExA is satisfied, subject to the mitigation measures being secured as set out in the recommended Development Consent Order, that an adverse effect on integrity from the proposed development alone or in combination with other plans and projects can be excluded for all European sites within the UK National Sites Network.

5.1.4. The Secretary of State is the Competent Authority under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 and will make the definitive assessment. The ExA considers that there is sufficient information before the Secretary of State to understand the potential for adverse effects on European sites from the proposed development alone or in combination.

Table 2: Summary of findings on main planning issues

Issue	Finding	Weighting	Section
Need	Positive	Very great/ Substantial	Section 3.2
N/A	Positive	Great	N/A
N/A	Positive	Moderate	N/A
N/A	Positive	A little	N/A

Alternatives	Neutral	Does not affect the balance	Section 3.2
Climate change	Neutral	Does not affect the balance	Section 3.23
Marine archaeology	Neutral	Does not affect the balance	Section 3.10
Shipping and navigation	Neutral	Does not affect the balance	Section 3.9
Water environment	Neutral	Does not affect the balance	Section 3.16
Air quality	Negative	A little	Section 3.19
Benthic ecology	Negative	A little	Section 3.4
Commercial fisheries and fishing	Negative	A little	Section 3.8
Design	Negative	A little	Section 3.13
Fish and shellfish	Negative	A little	Section 3.7
Geology and hydrogeology	Neutral	A little	Section 3.17
Health and Wellbeing	Negative	A little	Section 3.21
Marine mammals	Negative	A little	Section 3.5
Marine physical environment	Negative	A little	Section 3.6
Noise and vibration	Negative	A little	Section 3.20
Socio economics, recreation and tourism	Negative	A little	Section 3.22
Traffic and transport	Negative	A little	Section 3.18
Agriculture and soils	Negative	Moderate	Section 3.11
Intra-project cumulative effects	Negative	Moderate	Section 3.24

Cultural heritage	Negative	Moderate	Section 3.15
Ecology, biodiversity and ornithology	Negative	Moderate	Section 3.14
Landscape and visual	Negative	Great	Section 3.12
N/A	Negative	Very Great	N/A

5.2. THE OVERALL PLANNING BALANCE

5.2.1. This section weighs the benefits and disbenefits of the proposed development to reach a recommendation as to whether or not the case is made for granting development consent.

5.2.2. The application was subject to a direction pursuant to section(s) 35 of the Planning Act 2008 (PA2008) to be treated as development for which development consent is required as a project of national significance. The ExA has been mindful of the legal framework within which the Secretary of State must decide this application and has sought to explore and seek representations on the operation of s104 of the PA2008 and the planning balance.

5.2.3. S104(2) and s104(3) of the PA2008 require the Secretary of State to have regard to and decide the application in accordance with the relevant National Policy Statements (NPS)s, unless a relevant consideration arising from s104(4) to (8) applies.

5.2.4. In accordance with its duties under the PA2008, the ExA has had regard to the submitted LIRs, the appropriate marine policy documents, to prescribed matters and to all other important and relevant matters identified in this report. The ExA has also considered whether the determination of this application in accordance with the relevant National Policy Statements (NPS)s would lead to the UK being in breach of any of its international obligations or statutory duties, would be unlawful, or would be contrary to regulations about how decisions are to be taken. The ExA is satisfied that, in all respects, this would not be the case. The ExA therefore finds no evidence to indicate that s104(4) to (8) of the PA2008 apply and, as required by s104(3), the ExA concludes that the application must be decided in accordance with the relevant NPSs.

5.2.5. The ExA is also obliged to consider whether the adverse impacts of the proposed development would outweigh its benefits. Overarching NPS for Energy (2024) (EN-1) paragraph 4.1.6 sets out that when weighing the adverse impacts against the

benefits, the Secretary of State should consider environmental, social and economic benefits and adverse impacts at national, regional and local levels. NPS EN-1 paragraph 4.1.7 goes on to say that where the NPSs require an applicant to mitigate a particular impact as far as possible, but there would still be residual adverse effects after the implementation of such mitigation, those residual effects should be weighed against the benefits of the proposed development.

5.2.6. The proposed development would provide significant reinforcement of the electricity transmission network in and between East Anglia and the south-east of England, which would support the decarbonisation of electricity supply, upgrade the network and help to meet growing electricity demand. In accordance with section 3.2.6 to 3.2.8 of NPS EN-1 and the substantial weight that should be given to the overarching need case for the proposed development, the ExA has attributed very great positive weight to need in the planning balance. That is the starting point for the assessment of the proposed development.

5.2.7. The ExA is satisfied that the applicant's assessment has followed the mitigation hierarchy. However, following the application of the mitigation hierarchy, the ExA has identified that the proposed development would result in adverse residual impacts and has attributed great negative weight to landscape and visual effects in the planning balance, moderate negative weight to agriculture and soils, cultural heritage, intra-project cumulative effects and ecology, biodiversity and ornithology effects and a little negative weight to air quality, benthic ecology, commercial fisheries and fishing, design, fish and shellfish, geology and hydrogeology, marine mammals, marine physical environment and noise and vibration and traffic and transport effects in the planning balance. The ExA considers that matters relating to alternatives, climate change, marine archaeology, shipping and navigation and water environment are neutral considerations and do not affect the planning balance.

5.2.8. Overall, the ExA concludes that the adverse effects that would arise, even taken cumulatively, would not be capable of outweighing the benefits arising from the need for the proposed development.

5.2.9. In reaching this conclusion the ExA has not identified any substantial harm to, or loss of, any designated heritage or tentative natural heritage assets. The ExA considers that the less than substantial harm to the significance of designated heritage assets identified in section 3.15 of this report would be outweighed in each case by the great need for the proposal, which represents a weighty public benefit. The ExA also considers that the less than substantial harm (at the lower end of the scale) to the significance of the tentative natural world heritage site (the East

Atlantic Flyway) identified in section 3.14 of this report would also be outweighed by the great need for the proposal.

5.2.10. In section 3.14 of this report, the ExA has identified the potential for harm to a protected species and relevant habitat (namely ornithological habitat and other habitat loss in Suffolk and Kent during construction and operation and on a precautionary basis, impacts on beaver in Kent). Under the provisions of NPS EN-1 paragraph 5.4.55 this harm attracts substantial weight against the making of the Order. Notwithstanding this, the ExA considers that the proposed development's contribution to energy security and decarbonising the power sector constitutes an overriding public interest and other relevant legal tests are met.

5.2.11. The ExA is mindful that the proposed development constitutes nationally significant electricity network infrastructure, for which the government has identified that there is a Critical National Priority (CNP). For projects which qualify as CNP Infrastructure, NPS EN-1 paragraph 4.1.7 sets out that it is likely that the need case will outweigh the residual effects in all but the most exceptional cases.

5.2.12. The ExA is satisfied that the applicant has demonstrated that the mitigation hierarchy and requirements of NPSs EN-1 (2024), EN-3 for Renewable Energy Infrastructure (2024) and EN-5 for Electricity Networks Infrastructure (2024) have been applied, as well as other relevant legal and regulatory requirements. The ExA does not consider that the residual effects it has identified would present an unacceptable risk to, or unacceptable interference with, human health and public safety, defence, irreplaceable habitats or unacceptable risk to the achievement of net zero. Neither would they present an unacceptable risk to, or unacceptable interference offshore to navigation, or onshore to flood and coastal erosion risk. The proposed development would therefore benefit from the CNP presumptions as set out in NPS EN-1 paragraph 4.2.15.

5.2.13. In addition, the ExA has not identified any residual adverse impacts on the integrity of sites forming part of the UK national site network, either alone or in combination with other plans or projects. Nor would it have residual impacts which would significantly risk hindering the achievement of the stated conservation objectives of any marine conservation zone.

5.2.14. Consequently, the adverse effects that would arise as a result of the proposed development (including the less than substantial harm identified to the significance of designated heritage or tentative natural heritage assets), even taken cumulatively, would be outweighed by the urgent need for CNP infrastructure.

5.3. CONCLUSIONS

5.3.1. On the basis of all of the above considerations, the ExA concludes that there is a convincing case for development consent to be granted. The ExA goes on to consider land rights matters in section 6 of this report and matters relating to the drafting of the Development Consent Order in section 7 of this report.

6. LAND RIGHTS AND RELATED MATTERS

6.1. INTRODUCTION

6.1.1. The application includes proposals for the compulsory acquisition (CA) of the freehold of land, the CA of rights over land, the creation of new rights in land and the temporary possession (TP) of land.

6.2. LEGISLATIVE REQUIREMENTS

THE PLANNING ACT 2008

6.2.1. Section (s) 122(2) of the Planning Act 2008 (PA2008) provides that a Development Consent Order (DCO) may include provision authorising CA only if the Secretary of State is satisfied that certain conditions are met. These include that the land subject to CA is required for the development to which development consent relates or is required to facilitate or is incidental to it.

6.2.2. In addition, s122(3) requires that there must be a compelling case in the public interest for the land to be acquired compulsorily. For this to be met the Department for Community and Local Government's 'Guidance related to procedures for the compulsory acquisition of land' published September 2013 (CA Guidance) indicates the Secretary of State will need to be persuaded that there is compelling evidence that the public benefits that would be derived from the CA would outweigh the private loss that would be suffered by those whose land is to be acquired.

6.2.3. S123 requires the Secretary of State to be satisfied that one of the three procedural conditions set out in subsections (2) to (4) are met, namely:

- that the application for the order included a request for CA of (rights over) the land to be authorised – s123(2); or
- that all persons with an interest in the land consent to the inclusion of the provision – s123(3); or
- that the prescribed procedure has been followed in relation to the land – s123(4)

6.2.4. S127 of the PA2008 applies to Statutory Undertakers' (SU) land. S127(2) and (3) state that an order granting development consent may include provisions authorising the CA of SU land only to the extent that the Secretary of State is satisfied that; it can be purchased and not replaced without serious detriment to the carrying on of the undertaking, or if purchased and it can be replaced by other land belonging to, or available for acquisition by, the undertakers without serious detriment to the undertaking. Similarly, s127(5) and (6) of the PA2008 provide that

an order granting development consent may only include provision authorising the CA of rights belonging to SUs to the extent that the Secretary of State is satisfied that the right can be taken without serious detriment to the carrying out of the undertaking, or that any detriment can be made good by the undertakers by the use of other land belonging to or available for acquisition by them. Several SUs have land interests within the order limits. These are set out in the Book of Reference (BoR) [REP7-009].

6.2.5. S130 of the PA2008 relates to National Trust (NT) land. S131 applies to the CA of common land, open space or fuel or field garden allotments and s132 applies to the CA of rights over such land. Such land and NT land is defined as 'special category land' under Regulation 2 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations). S130 of the PA2008 states that an order granting development consent would be subject to special parliamentary procedure (SPP) if the Secretary of State is satisfied that one of the relevant subsections apply. In the case of s131 and s132 of the PA2008 it states that an order granting development consent would be subject to SPP unless the Secretary of State is satisfied that one of the relevant subsections applies and that fact is recorded in the order.

6.2.6. S135 of the PA2008 provides that, an order granting development consent may include provision authorising the CA of an interest in Crown land only: i) if the interest is for the time being held otherwise than by or on behalf of the Crown; and ii) if the appropriate Crown authority consents to the acquisition.

6.2.7. S138 of the PA2008 relates to the extinguishment of rights on SU land. It states that an order may include a provision for the extinguishment of the relevant rights, or the removal of the relevant apparatus only if the Secretary of State is satisfied that the extinguishment or removal is necessary for the purposes of carrying out the development to which it relates. For the proposed development, this section of the PA2008 is relevant to SUs with land and equipment interests within the order limits.

6.2.8. TP powers are also capable of being within the scope of a DCO by virtue of paragraph 2, part 1 of schedule 5 to the PA2008. This allows for, amongst other things, the suspension of interests in or rights over land compulsorily or by agreement. The PA2008 and the associated CA Guidance do not contain the same level of specification and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole and only capable of proceeding if the primary development is justified.

NEIGHBOURHOOD PLANNING ACT 2017

6.2.9. The Secretary of State will be aware that provisions contained within the Planning and Infrastructure Act 2025 now disapply the TP powers contained within the Neighbourhood Planning Act 2017 for Development Consent Orders (DCO)s. Notwithstanding, the applicant has retained schedule 17(3) of the final draft DCO [REP7-002] in relation to the disapplication. Should the Secretary of State now deem schedule 17(3) to be unnecessary, the ExA recommends this be deleted in the recommended DCO.

THE CA GUIDANCE

6.2.10. In addition to the legislative requirements set out above, the CA Guidance sets out a number of general considerations which also need to be addressed. Namely that:

- all reasonable alternatives to CA must have been explored
- the applicant must have a clear idea of how it intends to use the land subject to CA powers and demonstrate that there are funds available
- the decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected

6.2.11. The Examining Authority (ExA) has taken all relevant legislation and guidance into account when considering this matter and relevant conclusions are drawn at the end of this section.

6.3. THE REQUEST FOR CA AND TP POWERS

6.3.1. Articles in the application dDCO [APP-007] and all subsequent versions include both permanent and temporary powers to construct and maintain the proposed development.

6.3.2. The order limits of the dDCO establish the extent of the land that would be affected by the CA and TP powers sought.

6.3.3. The application was accompanied by:

- a Statement of Reasons (SoR) [APP-012]
- a Funding Statement [APP-011]
- a BoR [APP-016]
- Land Plans [APP-019]
- Special Category and Crown Land Plans [APP-020]
- Works Plans [APP-021] (Suffolk), [APP-022] (Kent) and [APP-023] (offshore)

6.3.4. Taken together, these documents set out the land and rights sought by the applicant at the time of submission together with the reasons for its requirement and the basis under which compensation would be funded. Where the examination and due diligence processes required changes to this documentation, new versions have been submitted. By the close of the examination the most up to-date versions of these documents are as follows:

- SoR [REP7-007]
- Funding Statement [REP4-011]
- BoR [REP7-009]
- Land Plans [REP6-002] (Suffolk) and [REP5-003] (Kent)
- Special Category and Crown Land Plans [REP4-004] (Suffolk) and [REP4-005] (Kent)
- Works Plans [REP4-006] (Suffolk), [REP4-007] (Kent) and [APP-023] (offshore)

6.3.5. The ExA has been updated by the applicant throughout the examination on the progress of negotiations with affected persons (AP) by means of a land rights tracker (LRT) and SoR appendix B schedule of negotiations with land interests (SoNLI), the final versions of which were submitted at deadline (DL) 7 [REP7-037] and [REP7-011].

6.3.6. These documents taken together form the basis for the analysis for this section. Reference to the documents and plans in this section from this point should be read as reference to the latest versions above.

6.4. THE PURPOSES FOR WHICH LAND IS REQUIRED

6.4.1. The application is for development consent for the construction, operation and maintenance of a 400 kilovolt (kV) network reinforcement transmission network between East Anglia and Kent. The BoR [REP7-009] identifies all the plots of land required and these are shown on the Land Plans [REP6-002] (Suffolk) and [REP5-003] (Kent) and Special category and Crown land plans [REP4-004] (Suffolk) and [REP4-005] (Kent).

6.4.2. The applicant provides justification for the CA and TP of land in chapter 6 of the SoR [REP7-007] on the basis of the CA Guidance which requires interference with the rights of those with an interest in land to be for a legitimate purpose, and that it is necessary and proportionate.

6.4.3. In appendix A of the SoR [REP6-010] the applicant sets out which compulsory powers are necessary in relation to each individual parcel of land, with reference to

the relevant DCO works numbers, and the nature of the works as set out in schedule 1 of the dDCO [REP7-002]. The applicant considers that steps have been taken to ensure that the land and interests acquired are proportionate, including the following:

- Alternative options have been assessed to deliver the necessary connection with more limited land take, but the acquisition of third-party interests cannot be avoided to deliver the project.
- The order limits have been drawn tightly to avoid any unnecessary interference with or extinguishments of third-party rights but have regard to the need for flexibility to ensure project deliverability.
- The applicant has, where it considered it was appropriate, sought to take powers to temporarily use land, rather than permanent acquisition of land or rights.
- Wherever possible, the applicant is seeking rights in land rather than outright acquisition.

6.4.4. The applicant confirms that the order limits include limits of deviation, which represent the maximum locational flexibility for permanent infrastructure, such as the overhead line (OHL), pylons and underground cables. The applicant states that this would allow for adjustment to the final positioning of proposed development features to avoid localised constraints or unknown or unforeseeable issues that may arise. The applicant confirms that it will only acquire land or rights permanently, based on the end position of the permanent infrastructure. Subsequently if less land proves to be required in a particular area following the detailed design stage, it would only seek to acquire that part of the land that is required and, in all events, would seek to minimise effects on land interests [REP7-007].

6.4.5. The applicant states that it would first use TP powers to construct the proposed development. The applicant explained that once each stage is complete and if the proposed development has been unable to secure the permanent land or rights acquisition required via a voluntary agreement, it would rely on exercising powers of CA to secure such land or rights on a permanent basis. The applicant is accordingly satisfied that the land to be taken is reasonable and proportionate [REP7-007].

6.5. THE CA AND TP POWERS SOUGHT

6.5.1. The powers sought in the dDCO [REP7-002] relate to the acquisition of land, rights and temporary possession of land. The BoR [REP7-009] sets out the various categories of rights which are being sought, as described in the table below.

Table 3: Land use power being sought by the applicant

Land use power sought	Wording used in BoR plot description	Colour of plot on Land Plans	Principal relevant DCO article
CA of land	Class 1. Compulsory acquisition of land	Brown	Article 24
CA of new rights	Class 2. Compulsory acquisition of rights Overhead line	Green	Article 25
CA of new rights	Class 3. Compulsory acquisition of rights Underground cable system	Orange	Article 25
CA of new rights	Class 4. Compulsory acquisition of rights Construction compound	Grey	Article 25
CA of new rights	Class 5. Compulsory acquisition of rights Access	Dark blue	Article 25
CA of new rights	Class 6. Compulsory acquisition of rights Drainage	Purple	Article 25

Land use power sought	Wording used in BoR plot description	Colour of plot on Land Plans	Principal relevant DCO article
CA of new rights	Class 7. Compulsory acquisition of rights Mitigation	Light blue	Article 25
TP of land only	Class 8. Temporary use for construction, mitigation, and dismantling of redundant infrastructure	Pink	Article 27
TP of land only	Class 9. Temporary use for access	Yellow	Article 27

6.5.2. The powers being sought by the applicant are set out in the SoR [REP7-007] and on the land plans [REP6-002] (Suffolk) and [REP5-003] (Kent) and Special Category and Crown Land Plans [REP4-004] (Suffolk) and [REP4-005] (Kent).

6.5.3. In addition, the land plans include areas of land coloured white which the applicant designated as Class 10 stating that it was not subject to the powers of acquisition nor temporary use.

6.5.4. Appendix A of the SoR [REP6-010] includes tables which set out on a plot-by-plot basis the nature and purpose of the proposed acquisition of interests in the land or the need for TP.

6.5.5. The DCO, if made, would authorise the CA of rights in land owned by SUs as described in the BoR [REP7-009] and section 7.3 of the SoR [REP7-007]. S127 of the PA2008 provides that a DCO may authorise the compulsory acquisition of rights over SUs' land. S138 of the PA2008 is engaged by article 40 which would permit the applicant to extinguish or relocate the rights or apparatus of SU.

6.5.6. The route of the proposed development would also require the CA of rights and TP of land which falls into 'special category land' (defined as land forming part of NT land, a common, open space, or fuel or field garden allotment). Part 5 of the BoR [REP7-009] and the Special Category Land Plans [REP4-004] (Suffolk) and [REP4-005]

(Kent) identify the plots that fall within this category. Article 43 refers to 'special category land'.

6.5.7. S130 of the PA2008 makes provision for special parliamentary procedure to apply where a DCO authorises the compulsory acquisition of land held by the NT inalienably. This means that the land is inalienable under section 21 of the National Trust Act 1907. The BoR [REP7-009] identifies that the Kent plots 3/109, 5/27 and 5/34 are held inalienably by the NT.

6.5.8. S131 and s132 of the PA2008 make provision for special parliamentary procedure to apply where a DCO authorises the CA of land (s131), or rights over land (s132), forming part of a common, open space, or fuel or field garden allotment. Of these categories, only open space is affected by the powers of CA sought for the proposed development. Some of the identified open space land is also NT land. S131 of the PA2008 is not engaged as only CA of rights is proposed. The BoR identifies that Suffolk plots 6/3, 6/5, 6/6, 6/7 and Kent plots 2/57, 2/58, 2/105, 2/106, 3/101, 3/102, 3/104, 3/111, 3/112, 5/33, 5/45, 5/47 are open space.

6.5.9. In Crown land, the CA of interests which are for the time being held otherwise than by or on behalf of the Crown is sought (subject to s135 of the PA2008). Part 4 of the BoR [REP7-009] identifies the plots within which the Crown has an interest, and these are shown on the Special Category and Crown Land Plans [REP4-004] (Suffolk) and [REP4-005] (Kent). The BoR identifies that interests in such land are held by The King's Most Excellent Majesty in Right of His Crown (The Crown Estate (TCE)) (Suffolk plot 6/7 and Kent plots 2/58, 2/62, 2/85, 2/91, 2/98, 2/105, 5/11, 5/12, 5/14, 5/15 and 5/16). Article 41 includes a provision for the CA of Crown interests.

6.6. EXAMINATION OF THE CA AND TP CASE

THE EXAMINATION PROCESS

6.6.1. The ExA's approach to the question of whether CA powers should be granted and if so, what we should recommend to the Secretary of State to grant, has been to seek to apply the relevant sections of the PA2008; notably s122 and s123, the CA Guidance and the Human Rights Act 1998. In addition, in light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss.

6.6.2. In examining the application, the ExA considered all written material in respect of CA and TP and asked written questions regarding justification of the need for the CA

and TP in the ExA's first written questions (ExQ1) [PD-017], the ExA's second written questions (ExQ2) [PD-021] and the rule 17 request dated 21 April 2026 [PD-025].

6.6.3. In addition, the issues were explored in further detail at compulsory acquisition hearings 1 (CAH)1 [EV6-001] and 2 (CAH)2 [EV8-001].

6.6.4. The ExA received objections to the CA and TP of land and rights via relevant representations (RR) and written representations (WR). The applicant responded to CA and TP objections throughout the course of the examination. It actively pursued discussions with objectors to seek to address, where possible, specific issues and concerns. At various points throughout the examination the applicant provided the ExA with an update on progress on negotiations by submitting the LRT ([REP1-126a], [CR1-049], [REP3-059], [REP4-077], [REP5-081], [REP6-124] and [REP7-037]) and the SoNLI ([APP-014], [PDA-011], [REP1-044], [CR1-036], [REP3-016], [REP4-017], [REP5-013], [REP6-012] and [REP7-011]).

THE APPLICANT'S CASE

6.6.5. The applicant's general case for CA and TP is set out in chapter 6 of the SoR [REP7-007].

6.6.6. The applicant concludes that:

- The conditions in s122 of the PA2008 are met and the tests in the CA Guidance are satisfied.
- All of the land subject to CA and TP powers is necessary to construct, operate, maintain and mitigate the proposed development and necessary to achieve the objectives of the proposed development. The extent of the land sought is reasonable and proportionate.
- There is a compelling case in the public interest to include the CA powers sought by the applicant in the dDCO.
- The CA powers sought are necessary and proportionate to the extent that interference with private land and rights is required.
- In the absence of compulsory powers, the applicant considers that it would not be possible to proceed with the proposed development, therefore the public benefits of the proposed development would not be realised.

6.6.7. Overall, the ExA agrees with the applicant's conclusions on the generality of the case.

ALTERNATIVES

6.6.8. The CA Guidance indicates that the applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to CA (including modifications to the proposed development) have been explored.

6.6.9. The applicant sets out the various alternatives considered, and the flexibility requested, in the SoR section 6.4 [REP7-007]. In ES Part 1 Chapter 3 [APP-044] the applicant details the assessment of alternatives undertaken during the development of the proposed development design.

6.6.10. The ExA has reported on its findings with regards to alternatives in section 3.3 of this report. The ExA does not intend to repeat it here, only to report that the ExA is satisfied that at a strategic level the applicant has adequately considered alternatives to the proposed development and that there are no matters relating to alternatives that would weigh for or against the order being made.

6.6.11. In light of the above, the ExA considers that the applicant has satisfactorily demonstrated that all reasonable alternatives to CA have been explored.

DILIGENT INQUIRY AND CLARITY ON THE USE OF THE LAND

6.6.12. The applicant stated that it had carried out diligent inquiry to identify all persons with an interest in the land and persons with a potential claim for compensation as a result of the proposed development by consulting persons pursuant to s42 of the PA2008. The applicant confirmed that it would continue its diligent inquiry, updating and notifying any known changes in persons with an interest in land who are required to be consulted in respect of the proposed development [REP7-007].

6.6.13. The applicant confirmed that identification of Category 1, 2 and 3 interests was undertaken during the initial stages of the proposed development, and throughout the pre-application process and the preparation of the DCO application. The applicant explained that interests were identified through a land referencing methodology incorporating publicly available desktop sources (including Land Registry updates, checks of Companies House, checks of local authority information and other online data) and contact with land interests. The applicant stated that this included correspondence using land interest questionnaires to request information on land holdings and other legal interests in land, followed up with further enquiries and site visits. The applicant confirmed that where land was unregistered or interests were unknown, further investigations were done on site and notices placed on the land requesting information [REP7-007].

6.6.14. The ExA examined the issue of unknown land in ExQ1GEN71 [PD-017] and CAH1 [EV6-001] and [EV6-034]. The applicant stated that the total amount of unknown unregistered freehold area across the entire project was less than 2% (equivalent to 13.15 hectares or 32.49 acres), but the exact number of plots was not known. The applicant subsequently updated the LRT to provide this information and clarity on the actual unknown land plots rather than plots where an element was unknown. The applicant also confirmed that there were discrepancies in relation to unknown land in the BoR [REP3-018] and that these would be corrected [REP4-084].

6.6.15. In relation to potential category 3 persons the applicant explained that those who may have a claim pursuant to s10 of the compulsory purchase act 1965 or s52(3) the PA2008, were identified using an initial 150m buffer to the proposed land requirements to ensure adjacent landowners, frontage interests and potential relevant claims under s10 of the Compulsory Purchase Act 1965 and s152(3) of the PA2008 were included. The applicant confirmed that potential claims under part 1 of the Land Compensation Act 1973 were also identified using the outcomes of environmental assessment to identify those properties that may have a claim as a result of physical factors which are noise, vibration, smell, fumes, smoke, artificial lighting and discharge or solid or liquid substances on the land [REP7-007].

6.6.16. The ExA is satisfied that the applicant has undertaken and continues to undertake its land enquiries in a diligent fashion and that the requirements under s44 and s57 regarding categories of APs have been satisfactorily applied.

THE EXTENT OF LAND AND RIGHTS SOUGHT FOR CA AND TP

6.6.17. The ExA is satisfied that the TP powers sought are needed both to facilitate implementation of the proposed development and to maintain it, and that adequate compensation provisions are in place in the rDCO. We consider the human rights implications of both the temporary and permanent interests and rights sought later in this section.

6.6.18. The ExA is satisfied that the applicant has demonstrated how it intends to use the land rights which it proposes to acquire and the land for which it seeks CA and TP. We find the SoR [REP7-007] comprehensive. We are content that the Secretary of State can be satisfied that there is no doubt as to the particular purposes for which any land which would be compulsorily acquired. Likewise, there is clarity over use of land for TP.

6.6.19. Subject to the ExA's further consideration of individual objections and issues below, the ExA considers the tests set out in s122(2) and s122(3) of the PA2008 to be met.

FUNDING

6.6.20. The capital cost of delivering the project was anticipated to be approximately £1.1 billion (2018/2019 price). The applicant's Funding Statement [REP4-011] explains how the proposed development would be funded and how the acquisition of land necessary to build it would be financed. The Funding Statement states that the cost of acquiring all the necessary land and rights is estimated at £22.2 million. The Funding Statement confirms that the land acquisition costs, and potential compensation claims for blight would be fully met as and when they are required under the provisions of the DCO, and this would include any "early payments" under the blight provisions of the Town and Country Planning Act 1990. The Funding Statement states that the overall costs of the proposed development include securing the necessary resources for land related activities in connection with the construction of the proposed development and states that these would be procured through a tender process that would commence in advance of a decision being made on the DCO by the Secretary of State [REP4-011].

6.6.21. The Funding Statement, paragraph 3.2.15 [CR1-031] stated that the Project Assessment (in relation to the Accelerated Strategic Transmission Investment framework) for the proposed development had been submitted to the Office of Gas and Electricity Markets (Ofgem) with a decision expected autumn 2026. ExQ1GEN73 [PD-017] asked the applicant to explain the consequences, on the funding for this scheme, in respect of the outcome Ofgem's decision.

6.6.22. In response to ExQ1GEN73 the applicant confirmed that the outcome of the Project Assessment did not directly impact the funding of the proposed development. The applicant explained that Ofgem's Project Assessment Decision determined the efficient allowance to deliver the proposed development, which could then be recovered by the applicant through allowed revenue over 45 years. The applicant confirmed that it was funding the proposed development, as it did with all investments in network assets, as part of the ordinary course of business, and funding for the proposed development would be available. The applicant explained that it has a Licence Obligation to deliver a "New Offshore HVDC link between Suffolk and Kent", and that the Project Assessment outcome would not change the Licence Obligation that the applicant must fund, construct and operate the proposed development. The applicant confirmed that it was satisfied that the funding required to meet the estimated implementation costs would be made available for the proposed development within the relevant time period to meet its Licence Obligations [REP3-069].

6.6.23. In CAH1 the ExA sought clarification in relation to the submission date of the Project Assessment to Ofgem [EV6-001]. The applicant stated that the update to the

Funding Statement submitted at the end of 2025 [CR1-031] was made in error based upon the incorrect assumption the Project Assessment had been submitted, which was not the case. The applicant confirmed that the Funding Statement [REP3-010], submitted at DL3, corrected this error. The applicant explained that the Project Assessment had been submitted to Ofgem prior to CAH1 in January 2026. The applicant confirmed that it directly funds capital investments in the national electricity transmission system in England and Wales through a combination of debt, equity and revenue. The applicant stated that the proposed development had funds available, and that contracts with the main contractors were committed for key long lead equipment. The applicant noted that the Project Assessment directly impacts the amount of revenue that the company can recover over the long term. The applicant confirmed that Ofgem had approved this early investment via the early construction funding mechanism [REP4-084].

6.6.24. In response to CAH1 action point (AP30) [EV6-034] the applicant provided the following simplified explanation in relation to the principles of regulation and funding for the proposed development:

- National Grid Electricity Transmission (NGET) directly funds capital investments in the national electricity transmission system in England and Wales through a combination of debt, equity and revenue.
- The Project Assessment is NGET's application to set an efficient allowance to deliver the proposed development, which can then be recovered by the applicant through allowed revenue typically over 45 years.
- Consumers and/ or Ofgem do not directly fund capital projects.
- NGET has a licence obligation to construct the proposed development.
- Funding is available for the proposed development. NGET has a licence obligation to fund the business and maintain credit worthiness to ensure sufficient funding can be raised to fund investments.
- NGET last signed the main contracts for cable and converter to allow design, procurement and manufacturing of long lead equipment. Ofgem has approved this early investment via the early construction funding mechanism [REP4-086].

6.6.25. The ExA considers that the way the applicant has assessed the funding required for CA and TP, and the likely cost of implementing the project, is satisfactory and reliable. The ExA notes the contingencies and enhanced payments on which the calculations are based. The ExA has no reason to doubt that the applicant is of sound financial standing, that it has the necessary funding applications in hand, and that the necessary funds would become available to finance the project, including

CA and TP. The ExA therefore considers that the Secretary of State can be satisfied that all funding would become available if the order is made.

6.7. CONSIDERATION OF INDIVIDUAL OBJECTIONS AND ISSUES

6.7.1. The ExA has considered all objections received. Some of the issues raised by objectors have been considered in section 3 of this report when considering the planning issues. As a result, the objections considered here are only considered in the context of the application for the grant of CA and TP powers. Therefore, unless an AP who is listed in the BoR has specifically objected to the CA or TP of land or rights they are assumed to have no objection to the CA or TP of land in which they have an interest and will not be reported below.

6.7.2. Although this section considers objections and representations raised, the ExA appreciates that these represent only a proportion of the plots that would be affected. Even though a specific objection or representation may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to the powers of CA or TP in reaching its overall conclusions.

6.7.3. The LRT and SoNLI submitted at DL7 [REP7-037] and [REP7-011] identified the following APs, who had objected to the CA or TP of land and had not signed an agreement with the applicant by the close of the examination (in alphabetical order):

- Aldeburgh Golf Club
- Blackheath Farms Limited
- East Suffolk Council
- Ebbsfleet Minster
- Edward Spanton
- Erik and Karen Collins
- Gordon Young
- Ian David Mather
- Ian Rix
- James Henry Rogers
- James Bedford Pace and Alexandra Ruth Pace
- Jean Veronica Spanton
- Kent Wildlife Trust
- Lindsay Peter Tomlinson
- Nicholas Jon Stuchfield and Jill Stuchfield
- Struan Gordon Robertson

- William Notcutt Estates Limited

6.7.4. The ExA also considered whether the plots of land, designated as class 10 land (land that is not subject to powers of acquisition nor temporary use), should be included within the BoR.

Aldeburgh Golf Club

6.7.5. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Suffolk plots 5/5 and 5/17.
- The CA of rights for access (class 5) at Suffolk plots 5/8, 5/12 and 5/19.
- The CA of rights for drainage (class 6) at Suffolk plots 5/4, 5/9 and 5/11.
- The TP at Suffolk plots 5/6, 5/7 and 5/10 for construction, mitigation, maintenance, and dismantling of redundant infrastructure (class 8).

6.7.6. Aldeburgh Golf Club (AGC) is a landowner located at the western edge of Aldeburgh with golf courses on either side of Saxmundham Road (A1094). AGC set out its concerns that the proposed route in the vicinity of the golf club did not take account of the full environmental and commercial impact on the golf club. AGC stated that the proposed route impacts an area of the golf club land where the course is being extended. ACG explained that the club had implemented extremely costly improvements to their championship course through the creation of new golf holes which had been granted planning permission by East Suffolk Council (ESC) in March 2023 [RR-0093].

6.7.7. AGC concluded [RR-0093] that the proposed development would negatively impact on:

- The appearance and attractiveness of the course.
- Noise and disturbance impacting on enjoyment of the course by fee paying members, visitors, neighbours of the course and those utilising the public footpath network.
- Landscape and ecological enhancements which are being delivered upfront by the club as part of the course extension works to comply with a pre-commencement planning condition of the planning permission for the new holes.
- The enjoyment of playing the new holes.
- Greenkeeping staff's ability to maintain those parts of the club's land impacted by the construction works.

- Disturbance to the turf nursery which the club intends to bring forward alongside the delivery of the new holes in part of the site impacted by the proposed development's construction works.
- Restrict land available within the club's ownership for the construction of a reservoir.

6.7.8. The applicant responded to the concerns raised by AGC [REP2-018]. The applicant confirmed that concerns about the potential effects in relation to the appearance of the course were acknowledged but stated that following construction, the cable route crossing AGC land, would be fully reinstated subject to the powers in the dDCO. The applicant also stated that it recognised that there was potential for noise, air quality, visual and traffic effects arising from construction of the proposed development to impact on the amenity of residents, businesses, development sites, and users of open spaces and community facilities within 500 m of the order limits. However, it confirmed that amenity impacts on these receptors had been assessed (chapter 11 [APP-058]) and no significant adverse effects were identified with regards to human health and wellbeing [REP2-018]. The applicant stated it had undertaken a comprehensive and robust environment impact assessment, through which no residual significant effects had been identified for socio-economics, recreation and tourism following the application of appropriate mitigation (section 10.9 [APP-057]). The applicant stated that it acknowledged the investment that AGC had made, and plans to make, in its facilities and would continue to engage with AGC on an ongoing basis to discuss matters relating to works required on their land [REP2-018].

6.7.9. AGC did not request to be heard, nor did it attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1, in response to the ExA's request for an update on negotiation progress, the applicant confirmed that it had changed the route of the cable around the golf course. The applicant also confirmed that it had worked very closely with AGC over the last three or four years and that discussions were continuing in relation to heads of terms. The applicant stated that it was likely that agreement in principle would be reached [REP4-084]. In response to action point (AP) 3 from CAH2 the applicant produced a statement of common ground (SoCG) with AGC to detail the outstanding issues between the parties [REP7-045].

6.7.10. The SoNLI [REP7-037] confirmed that the applicant had been in regular communication with AGC. At DL7 the applicant stated that it would continue to engage with AGC to mitigate any potential disruption. The applicant stated that the SoCG had been signed by both parties (however the ExA notes that the latest version submitted at DL7 [REP7-045] was not signed by AGC). The applicant stated that the SoCG sets out the matters that would continue to be discussed and agreed.

The applicant concluded that once the discussion points had been progressed further it was expected that heads of terms would be agreed.

6.7.11. The ExA understands the concerns of AGC that the proposed development could negatively impact the golf course. However, we are satisfied that the applicant has been actively seeking to achieve voluntary agreements with AGC. Whilst the SoCG [REP7-045] is not signed we note that many of issues raised by AGC have been shown to be resolved. The material issues that remain relate to potential disruption during construction to those using and working at the golf course. The ExA is satisfied that the applicant has committed to optimising the programme in the area of the golf club to minimise any impact. In relation to AGC's concern that the proposed development would restrict land available within the club's ownership for the construction of a reservoir the ExA is satisfied with the applicant's position. The applicant has confirmed that once AGC has applied for planning permission or shared the plans with the applicant it will review and use all reasonable endeavours to provide a solution so that the two projects can be satisfactorily co-ordinated from a design perspective. The applicant also confirmed that, if required, a crossing agreement would be put in place should a pipe associated with the reservoir cross the applicant's cable [REP7-045].

6.7.12. The ExA is satisfied that the applicant has designed the proposed cable route by balancing the need to be economic and efficient, whilst also having regard to preserving amenity. We are therefore satisfied that the proposed underground cable system would need to be positioned within plots 5/5 and 5/17. The ExA is also satisfied that, based on the proposed underground cable position, rights for access and drainage would need to be positioned within plots 5/4, 5/8, 5/9, 5/11, 5/12 and 5/19. Furthermore, the ExA considers TP powers would be required over plots 5/6, 5/7 and 5/10 for construction, mitigation, maintenance and dismantling of the underground cable system.

6.7.13. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which AGC has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Blackheath Farms Limited

6.7.14. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Suffolk plots 2/109, 2/110, 2/111, 2/112, 3/35, 3/40, 3/44, 3/46, 3/48, 3/49, 3/50, 3/51, 3/52, 3/53, 3/55, 3/61, 3/62, 3/63, 4/5, 4/20, 4/25 and 5/1.
- The CA of rights for access (class 5) at Suffolk plots 2/84, 2/101, 3/37, 3/56, 3/57, 3/58, 3/59, 3/60, 3/64, 4/8, 4/12, 4/13, 4/15, 4/16, 4/18, 4/19, 4/21, 4/23, 4/24 and 4/26.
- The CA of rights for drainage (class 6) at Suffolk plots 2/106, 3/45, 4/6, 4/9, 4/17 and 5/2.
- The CA of rights for mitigation (class 7) at Suffolk plots 2/85 and 4/7.
- The TP at Suffolk plots 2/23, 2/23a, 2/24, 2/25, 2/27, 2/66, 2/105, 2/107, 2/108, 3/23, 3/38, 3/39, 3/43,3/47, 4/1, 4/2, 4/3, 4/4, 4/10, 4/11, 4/14 and 4/22 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).
- The TP at Suffolk plots 2/21, 2/22, 2/22a, 2/22b and 2/30 for access (class 9).
- Class 10 land – Suffolk plots 4/27 and 4/28.

6.7.15. Blackheath Farms Limited (BFL) is the landowner of land and property known as the Blackheath Estate in Suffolk. BFL submitted the following concerns [RR-0641]:

- The effect the proposed development may have on irrigation, on which the entire estate is reliant.
- Soil management for the proposed development including the effect of the proposed development on soil structure and concern over any archaeological work which results in soil movement.
- Drainage for the proposed development.
- The impact of the proposed development on private water supplies.
- That the minimum depth of proposed cable burial should be 1.2m.
- The effect of the proposed development on cropping.
- The effect of the proposed development on farm management.
- The potential number of link boxes along the cable route which in some case may be in the middle of arable fields.

6.7.16. The applicant responded to BFL concerns [REP2-018]. The applicant confirmed that it had engaged with BFL and/ or their agent in relation to ongoing survey works throughout 2023-2025.The applicant stated that throughout these meetings, the landowner raised their concerns with the irrigation main on the farm and their reliance on this water to ensure their farm remains economically viable. The applicant stated that as part of its discussions with the landowner it had included mitigation measures as part of its accommodation works register which would be passed on to the applicant's main works contractor. The applicant confirmed that

the project has committed to helping BFL mitigate any losses throughout construction and operation.

6.7.17. In relation to BFL soil management concerns the applicant stated that the proposed development's outline soil management plan [REP6-066] had been developed to provide the necessary guidance in relation to soil handling and management, including, where land is being returned to agriculture at the end of the construction phase, that this land should be returned to the pre-construction agricultural land classification grade. The final version of the soil management plan would be in accordance with the outline version, secured under requirement 6 of the dDCO. The applicant confirmed that the outline soil management plan provided clarity on how different soil types and/ or soil horizons (topsoil and subsoil) should be handled, stockpiled, and restored in different ways depending on the soil profile and associated characteristics required to support the proposed end use. The applicant also stated that archaeological survey work was progressing and a written scheme of investigation had been prepared (Suffolk [REP7-131]) [REP2-018].

6.7.18. The applicant confirmed that measures were contained in the register of environmental actions and commitments (REAC) [REP7-359] to re-provide suitable means of existing field (land) drainage should this be disrupted by the proposed works (commitment W10). The applicant stated that the REAC also included a commitment (commitment W08) to the consideration of applying appropriate measures to identify and mitigate impacts to private utility supplies from ongoing discussions with landowners [REP2-018].

6.7.19. The applicant stated that it had committed within the voluntary agreements to install underground cables at a minimum depth of 1.2 metres (m) where required, as a result of agricultural methodology. In relation to cropping and farm management the applicant confirmed that it would engage with landowners prior to and throughout the construction of the scheme, with the aim of mitigating any losses incurred and ensuring practical solutions are implemented on the Blackheath Estate where possible. The applicant also confirmed that access to and from residential, community and agricultural land uses would be maintained throughout the construction period or as agreed with landowner discussions (commitment AS03 in the REAC [REP7-359]) [REP2-018].

6.7.20. The applicant was concerned that BFL had confused link boxes with link pillars. The applicant clarified that, unlike link pillars (which would require protective fences above ground) link boxes would be buried with a cover of up to 1.2m. The applicant confirmed that link pillars would only apply between the Saxmundham converter

station and the Friston substation and would not apply along the rest of the cable route [REP2-018].

6.7.21. BFL did not request to be heard, nor did it attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1, in response to the ExA's request for an update on negotiation progress, the applicant confirmed that discussions were continuing in relation to agreeing matters on construction [REP4-084]. In response to action point AP4 from CAH2 the applicant updated the SoNLI [REP7-011] providing detail on the progress towards agreement.

6.7.22. The ExA understands the concerns of BFL that the proposed development could negatively impact the Blackheath Estate. However, we are satisfied that the applicant has been actively seeking to achieve voluntary agreements with BFL and are content that the issues raised by BFL would be mitigated as discussed above.

6.7.23. Whilst there would undoubtably be some disruption to BFL during the construction phase of the proposed development, the ExA is satisfied that with the mitigation secured this impact would be reduced to as low as possible. The ExA is satisfied that the proposed underground cable system would need to be positioned within plots 2/109 to 2/112, 3/35, 3/40, 3/44, 3/46, 3/48 to 3/53, 3/55, 3/61 to 3/63, 4/5, 4/20, 4/25 and 5/1. The ExA is also satisfied that, based on the proposed underground cable position, rights for access and drainage would need to be positioned within plots 2/84, 2/101, 2/106, 3/37, 3/45, 3/56 to 3/60, 3/64, 4/6, 4/8, 4/9, 4/12 to 4/17, 4/18, 4/19, 4/21, 4/23, 4/24, 4/26 and 5/2. Furthermore, the ExA considers TP powers would be required over plots 2/21, 2/22, 2/22a, 2/22b, 2/23, 2/23a, 2/24, 2/25, 2/27, 2/30, 2/66, 2/105, 2/107, 2/108, 3/23, 3/38, 3/39, 3/43,3/47, 4/1 to 4/4, 4/10, 4/11, 4/14 and 4/22 for construction, mitigation, maintenance and dismantling of the underground cable system and access.

6.7.24. BFL did not submit any specific objection to the CA of rights over plots 2/85 and 4/7 for environmental mitigation nor the proposed class 10 land (plots 4/27 and 4/28), where no CA or TP powers are sought.

6.7.25. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which BFL has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

East Suffolk Council

6.7.26. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Suffolk plots 6/1 and 6/3.
- The CA of rights for access (class 5) at Suffolk plots 6/5 and 6/6.

6.7.27. ESC is listed in the BoR [REP7-009] as being category 1 (owner/ tenant/ occupier) for plots 6/3, 6/5 and 6/6 and having category 2 interests in plot 6/1. The plots comprise beach and foreshore land, including a section of Thorpe Road.

6.7.28. ESC did not initially submit a specific objection to CA and stated in [REP3-075] "…if the decision maker deems the project's Need Case to be robust, ESC does not wish to pursue any overall objection to the Compulsory Acquisition and Temporary Possession of land sought by the Applicant in order to deliver the project if consented." However, ESC did request to be heard at a CAH and attended CAH1 and CAH2.

6.7.29. In CAH1 [EV6-001] the ExA asked ESC to clarify if it had a specific objection to CA. ESC confirmed that it was in active negotiations with the applicant and that issues had been narrowed since the first issue of the heads of terms to ESC. However, ESC noted that there remained several unresolved issues. ESC stated that it was concerned about and queried the extent of the rights sought as compared to the area of land actually required for the development proposed across the plots in question. ESC considered that the rights sought reflected the land that would be required for a cut and fill approach to laying the cables, where in fact horizontal directional drilling was instead proposed. ESC confirmed that subject to resolving all outstanding issues, it considered that agreement ought to be reached with the applicant in respect of the necessary rights within the examination timetable [REP4-118].

6.7.30. In CAH2 [EV8-001] the ExA again asked ESC to clarify if it had any outstanding specific objections to CA. ESC explained that it still maintained an overarching objection to the scheme, which had not yet been addressed and, so although, the objection was not per se to the CA powers, it was maintained and applied to the CA powers (unless and until a negotiated agreement was reached). However, ESC repeated that if the Secretary of State was minded to grant the DCO in face of its objection then ESC makes it clear, it has no freestanding objection to the grant of CA powers over the ESC plots [REP6-159].

6.7.31. The applicant confirmed that discussions were continuing and a revised heads of terms had been submitted on 17 March 2026 [REP6-107]. The applicant stated that it considered that the revised heads of terms would address ESC's outstanding concerns. The applicant confirmed that it would continue negotiations beyond the

close of the examinations with the intention of reaching a voluntary agreement prior to the DCO decision being made [REP7-011].

6.7.32. The ExA is satisfied that, should voluntary negotiations not be completed, the CA powers sought in respect of all plots in which ESC has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Ebbsfleet Minster Ltd

6.7.33. The applicant has requested powers for:

- The CA of land (class 1) at Kent plots 3/26 and 3/28.
- The CA of rights for the underground cable system (class 3) at Kent plots 3/35, 3/38, 3/46, 3/47 and 3/76.
- The CA of rights for access (class 5) at Kent plots 3/74 and 4/5.
- The CA of rights for drainage (class 6) at Kent plots 3/24 and 3/32.
- The TP at Kent plots 3/29, 3/31,3/39, 3/41 and 3/75 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).
- The TP at Kent plot 3/10 for access (class 9).

6.7.34. St Augustine's Golf Course is planning to expand onto land owned by Ebbsfleet Minster Ltd and Edward Spanton (the AP addressed below). The agent for Ebbsfleet Minster Ltd explained that it was proposed that the extension area be raised by importing fill to create a varied range of additional holes. However, it was noted that the applicant was seeking to restrict the amount of fill in certain undefined areas (in the location of transitional joint bays) and that this could prevent the expansion [REP7-183]. The land owned by Ebbsfleet Minster Ltd proposed to be used for the expansion was identified as Kent plots 3/46 and 3/47 [REP6-221].

6.7.35. Ebbsfleet Minster Ltd did not request to be heard, nor did it attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). Ebbsfleet Minster Ltd's agent did attend CAH2 on its behalf and confirmed that discussions were ongoing. Ebbsfleet Minster Ltd's agent also advised that land owned by Ebbsfleet Minster Ltd was subject to an option agreement with Statkraft UK Ltd [EV8-003]. The option grants Statkraft UK Ltd the rights to take an option over an area of the order land for a 'Greener Grid Park'. Statkraft UK Ltd stated that it was modelling the feasibility of the technology options with a view to optimisation at this location. Statkraft UK Ltd stated that this would comprise a grid support project that could include (but is not limited to) provision of energy storage, flexibility, capacity, stability, frequency response and/ or services to the network operator (the Statkraft Project) [RR-5075].

6.7.36. The applicant confirmed that Statkraft UK Ltd were listed as a category 2 interest in Kent plots; 3/28, 3/31, 3/32, 3/38, 3/39, 3/41, 3/46, 3/47, 3/74, 3/75, 3/76 and 4/5 [REP6-121]. The applicant stated that it would continue to liaise with Statkraft regarding how the two projects could coexist [REP7-011].

6.7.37. In the SoNLI [REP7-011] the applicant stated that there had been ongoing discussion with the landowner's agent to discuss how the proposed development and golf club expansion proposals could co-exist. The applicant confirmed that the landowner's development proposals involved raising the ground levels up to 4m above the existing ground level. The applicant explained that this proposed change to the ground levels could impact the proposed development. However, the applicant confirmed it was willing to work with the landowner to provide more detailed design information. The applicant confirmed that a revised drawing of the transition joint bay was provided to the landowner to allow adjustments to be made to the landowner's proposals, enabling both proposals to co-exist.

6.7.38. The applicant noted that a draft SoCG had been produced to provide assurances that the applicant is willing to work with the landowner to determine if their golf club extension development proposals and the proposed development proposals could co-exist. The applicant confirmed that it would continue negotiations beyond the close of examination with the intention of reaching voluntary agreement prior to the DCO decision being made [REP7-011].

6.7.39. No SoCG between Ebbsfleet Minister Ltd and the applicant was submitted into the examination.

6.7.40. At DL7 the agent on behalf of Ebbsfleet Minster Ltd confirmed that whilst agreement had not been reached, should the applicant be able to accommodate the extension to St Augustine’s Golf Club then the objections would likely be withdrawn [REP7-183]. Neither Ebbsfleet Minster Ltd, its agent or Statkraft UK Ltd submitted any further evidence with respect to the option agreement with Statkraft UK Ltd.

6.7.41. Whilst there are several plots, in which Ebbsfleet Minster Ltd has an interest, where the applicant is seeking powers (including those with an option agreement for Statkraft UK Ltd), the ExA is only aware of an objection in relation to plots 3/46 and 3/47. In relation to these plots, the ExA is satisfied that the applicant has designed the proposed cable route by balancing the need to be economic and efficient and would seek to minimise impact to Ebbsfleet Minster Ltd land. We are satisfied that whilst the proposed underground cable system would need to be positioned within plots 3/46 and 3/47, the applicant has committed to work with the landowner to enable the proposed development and the golf club expansion to co-exist.

6.7.42. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which Ebbsfleet Minster Ltd has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Edward Spanton

6.7.43. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Kent plots 3/49, 3/50, 3/51, 3/53, 3/54, 3/55, 3/57 and 3/78.
- The CA of rights for access (class 5) at Kent plots 3/44, 3/79, 3/80, 3/82, 3/87 and 4/7.
- The CA of rights for drainage (class 6) at Kent plots 3/56 and 4/8.
- The TP at Kent plots 3/45, 3/63, 3/77 and 3/83 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.44. St Augustine's Golf Course is planning to expand onto land owned by Edward Spanton and Ebbsfleet Minster Ltd. The agent for Edward Spanton explained that until the applicant could assure Edward Spanton that the proposed development would not prejudice the extension of St Augustine's Golf Course then Edward Spanton formally objected to the proposal [REP7-183].

6.7.45. The land owned by Edward Spanton proposed to be used for the expansion was identified as Kent plots 3/50, 3/51, 3/54 and 3/55 [REP6-221].

6.7.46. Edward Spanton did not request to be heard, nor did he attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). Edward Spanton's agent did attend CAH2 on his behalf. In CAH2, in response to the ExA's request for an update on negotiation progress, the applicant confirmed that its next step was to provide an updated plan to the landowner's agent to assist with the refinement of the expansion proposals. The applicant also explained that further input would be required from its engineers and its asset protection team, as the expansion proposals involve significant changes in ground levels. The applicant confirmed that it would continue to work collaboratively with the landowner to address the interaction between the proposed changes to the golf course and the requirements of the proposed development. The applicant stated that due to the ongoing nature of discussions relating to the development proposals, it did not anticipate that a final agreement would be reached by the end of the examination. However, the applicant expressed the expectation that agreement could be achieved once the landowner's development proposals have been finalised [REP6-107].

6.7.47. The applicant noted that a draft SoCG had been produced to provide assurances that the applicant is willing to work with the landowner to determine if their golf club expansion proposals and the proposed development could co-exist. The applicant confirmed that it would continue negotiations beyond the close of examination with the intention of reaching voluntary agreement prior to the DCO decision being made [REP7-011].

6.7.48. No SoCG between Edward Spanton and the applicant was submitted into the examination.

6.7.49. Whilst there are several plots, in which Edward Spanton has an interest, where the applicant is seeking powers, the ExA is only aware of an objection in relation to plots 3/50, 3/51, 3/54 and 3/55. In relation to these plots, the ExA is satisfied that the applicant has designed the proposed cable route by balancing the need to be economic and efficient, and would seek to minimise impact to Edward Spanton's land. We are satisfied that whilst the proposed underground cable system would need to be positioned within plots 3/50, 3/51, 3/54 and 3/55 the applicant has committed to work with the landowner to enable the proposed development and the golf club expansion to co-exist.

6.7.50. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which Edward Spanton has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Erik and Karen Collins

6.7.51. The applicant has requested powers for:

- The CA of rights for access (class 5) at Kent plots 2/81 and 2/82.

6.7.52. Erik and Karen Collins benefit from a right of way along Marsh Farm Road, which is listed in the BoR as an unregistered road subject to a caution against first registration in favour of the applicant [REP7-009]. Erik and Karen Collins were concerned that the use of the road for the proposed development (plots 2/81 and 2/82) would affect access to their property. Erik and Karen Collins were also concerned about the proposed removal and cutting back of trees on the boundary to their property and noise and dust pollution during construction ([RR-1596] and [RR-2818]).

6.7.53. Erik and Karen Collins requested to be heard at a CAH ([REP1-134] and [REP1-136]). However, they did not attend either of the two compulsory acquisition hearings

(CAH1 and CAH2). Through CAH1 ([EV6-001] and [EV6-034]) and CAH2 ([EV8-001] and [EV8-006]) the ExA examined the concerns raised by Erik and Karen Collins.

6.7.54. In response to action point 7 (AP7) from CAH2 [EV8-006] the applicant confirmed that it had met with Erik and Karen Collins in January 2026 to discuss their concerns directly. The applicant stated that Marsh Farm Lane would be used to create a temporary scaffold on the north bank of the Stour. The applicant explained that the purpose of the scaffold would be to act as a safety net for the installation of upgraded conductors on the pylons and would prevent them, in a worst-case scenario, from falling to the ground/ into the Stour. The applicant confirmed that the proposed works would be a relatively short programme compared with the converter station build. The applicant stated that most of the noise and construction would be on the other side of the railway from Erik and Karen Collins' property. The applicant clarified that the hedgerow management plan identified the roadside hedge to be managed where it was overhanging the highway boundary. The applicant confirmed that there would not be a requirement for Erik and Karen Collins' boundary hedge line to be significantly cut back, only minor pruning where the hedge or overhanging branches could impede access. The applicant confirmed that concerns in relation to traffic management had been noted and would be passed to the contractor in due course to consider appropriate mitigations [REP6-110].

6.7.55. The applicant stated that no voluntary agreements were being sought in relation to the right, as no further land rights were being sought. Erik and Karen Collins were not included in the SoNLI [REP7-011].

6.7.56. The ExA notes that the CA of rights over plots 2/81 and 2/82 would not extinguish Erik and Karen Collins' existing access right. However, the exercise of the powers sought may result in some degree of interference with that right. On the evidence presented, the ExA is satisfied that any interference would be limited in nature, and that reasonable access to Erik and Karen Collins' property would be maintained throughout. Accordingly, the ExA is satisfied that the interference with Erik and Karen Collins' rights is proportionate, and that the CA of rights over plots 2/81 and 2/82 is justified, having regard to the compelling case in the public interest.

Gordon Young

6.7.57. The applicant has requested powers for:

- The CA of land (class 1) at Suffolk plot 1/11.
- The CA of rights for a construction compound (class 4) at Suffolk plot 1/9.
- The CA of rights for access (class 5) at Suffolk plots 1/2, 1/5 and 1/7.

- The CA of rights for drainage (class 6) at Suffolk plots 1/4 and 1/8.
- The TP at Suffolk plot 1/10 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.58. Gordon Young has category 2 interests in the plots listed above. The plots are on land to the south of Saxmundham, situated in the vicinity of the proposed convertor station. Gordon Young did not mention any specific objection in relation to his category 2 interests in his original representation, albeit he raised concerns that the proximity of the converter station to his home would significantly and permanently impact his property's value [RR-1866].

6.7.59. Gordon Young requested to be heard at a CAH [REP1-294], but did not attend either of the two compulsory acquisition hearings (CAH1 and CAH2). In response to action point 27 from CAH2 [EV8-006] (which asked for an explanation why an objection remained) Gordon Young submitted a further representation [REP6-278]. Gordon Young raised various concerns including that he considered that the proposed CA represented a significant and unjustified interference with his rights to private and family life and to the peaceful enjoyment of his property. Gordon Young also stated that he considered that there had been no meaningful engagement by the applicant to explore opportunities to avoid, reduce, or mitigate the impacts on his property and surrounding land [REP6-278].

6.7.60. The applicant responded to Gordon Young's concerns confirming that it was not seeking any land interest or property rights from Gordon Young. The applicant explained that the category 2 interest, held by Gordon Young, was in relation to the services supplying Gordon Young's property. The applicant stated that there would be no impact to these services and that they would be maintained at all times [REP7-257].

6.7.61. The ExA notes that the CA of rights and TP sought by the applicant would not extinguish Gordon Young's existing rights associated with services supplying his property. The applicant has confirmed that services would be maintained at all times. The ExA understand Gordon Young's concerns however, these are not directly related to the category 2 interests held. Consequently, when specifically considering the category 2 interests, the ExA is satisfied that there would be no interference with rights, and that the CA of land and rights, and TP over plots 1/2, 1/4, 1/5, 1/8 to 1/11 would be justified, having regard to the compelling case in the public interest.

Ian David Mather

6.7.62. The applicant has requested powers for:

- The CA of land (class 1) at Kent plots 2/132 and 2/133.
- The CA of rights for the underground cable system (class 3) at Kent plots 2/145, 2/147, 2/148, 2/152, 2/154, 4/14, 4/15, 4/16 and 4/17.
- The CA of rights for mitigation (class 7) at Kent plots 2/144, 2/149 and 2/150.
- The TP at Kent plots 2/153 and 4/18 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.63. Ian Mather did not submit a specific objection in relation to the CA of land or rights or TP. In response to action point 26 from CAH2 [EV8-006] the agent for Ian Mather stated [REP6-221]:

"The scale of the Land Plans (EN020026-002801-2.3 Land Plans Part 2 of 2) make it difficult to determine exactly which plot corresponds with the rights sought by the Applicant to divert existing electricity lines, however it appears to be plot 4/17.

The issue is that, should the project be consented then rights are to be granted for the diversion of the existing 11kV OHL, yet the Applicant cannot confirm where, within the plot the lines will be installed and the methodology for doing so. The question therefore remains that with such a level of uncertainty how can the Applicant confirm that all of the land is specifically required under the Order?"

6.7.64. The applicant responded stating that it was standard practice in such projects to provide a solution for the necessary diversions ahead of the detailed design being available and to ensure the diversion can happen within the necessary timeframes. The applicant explained that the principal consents 'a' solution not necessarily 'the' solution without needing to rely on the utility undertakers' statutory powers [REP7-257].

6.7.65. Whilst there are several plots, in which Ian Mather has an interest, where the applicant is seeking powers, the ExA is only aware of the objection detailed above in relation to plot 4/17. In relation to this plot, the ExA is satisfied that the applicant would seek to minimise impact to Ian Mather's land.

6.7.66. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which Ian Mather has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Ian Rix

6.7.67. The applicant has requested powers for:

- The CA of land (class 1) at Suffolk plots 2/7a, **2/7b**, 2/20, **2/20b, 2/20c, 2/20d, 2/20e, 2/20f**, 2/57, 2/58, 2/62, 2/70 and 2/71.
- The CA of rights for the OHL (class 2) at Suffolk plot **2/36**.
- The CA of rights for the underground cable system (class 3) at Suffolk plots 1/49, **1/49a,1/69**, 2/5, **2/15, 2/15b**, 2/19, **2/42**, 2/43, **2/46, 2/47, 2/48** and 2/49.
- The CA of rights for access (class 5) at Suffolk plots 1/50, 1/64, **1/71**, 1/91, 1/92, 1/95, 1/96, 2/2, 2/3, **2/11, 2/11a, 2/38**, 2/40 and 2/53.
- The CA of rights for drainage (class 6) at Suffolk plots 1/58 and **1/72**.
- The CA of rights for mitigation (class 7) at Suffolk plots 1/93, 1/94, 1/99, 1/100, **2/17** and **2/99**.
- The TP at Suffolk plots 1/12, 1/67, **1/70, 1/73**, 1/89, 1/98, 2/6, **2/10, 2/10a**, 2/12, 2/13, **2/14, 2/16, 2/18**, 2/35, **2/37**, 2/59, 7/1, 7/4, 7/13, 7/15 and 7/17 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.68. Ian Rix has category 1 interests (owner) in the plots listed above apart from Suffolk plots 2/12, 2/13, 2/19, 2/20, 2/35, 2/57, 2/58, 2/59, 2/70, 2/71 and 7/4 in which he has category 2 interests, (the majority of which are owned by ScottishPower Renewables UK Limited (SPR)). The plots listed in bold above are those which SPR have the option to purchase. The majority of the plots owned by Ian Rix are in the vicinity of the proposed Suffolk substation.

6.7.69. Ian Rix ([RR-5010], [REP1-203]) objected to the CA and TP powers sought by the applicant. Ian Rix was represented at CAH1 and CAH2 by David Rix, who assisted the ExA in understanding Ian Rix's concerns in more detail ([REP4-171], [REP4-172], [REP6-198] and [REP6-210]).

6.7.70. At the close of the examination objections in relation to a number of plots remained outstanding and these are identified and discussed below and grouped due to the specific issues raised.

Suffolk plot 2/20d

6.7.71. Ian Rix explained that this plot was left to facilitate access between two fields created by SPR's purchase of adjoining land. Ian Rix stated that whilst he understood the need for access rights to be sought by the applicant, he considered the need to CA the land was not clear [REP6-198].

6.7.72. The applicant stated that SPR had not supplied it with any detail as to any agreement between SPR and Ian Rix in relation to this access provision. The applicant explained that the area remained identified as being required for mitigation and landscaping. The applicant confirmed that once the SPR landscaping

plans were formally approved the applicant would review and engage further with Ian Rix in the anticipation that a mutually acceptable position on access could be agreed. The applicant noted that it seeks to acquire land (class 1 rights) where the current nature and use would be permanently changed, and it requires control to ensure delivery [REP7-257].

6.7.73. The ExA understands the concerns of Ian Rix and agrees that if the applicant only requires this land for access, then acquisition of this land would be excessive. However, SPR has an option to purchase the plot for landscaping, and the applicant has agreed to work with Ian Rix to agree a mutually acceptable position on access once the SPR landscaping plans are formally approved. The ExA also understands the reasons why the applicant seeks control over a plot which would have its nature and use permanently changed. Consequently, the ExA is satisfied that, in relation to plot 2/20d, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 2/20b and 2/20f

6.7.74. Ian Rix stated that no further justification had been provided for the additional land required over and above what SPR have already acquired to facilitate the same access. Ian Rix stated that if additional land was taken the field size and shape left would be unviable with modern farming practices and the required efficiencies [REP6-198].

6.7.75. The applicant confirmed that SPR had an option to purchase these plots and they had not been excluded from the SPR option agreement. The applicant also explained that the land was required to accommodate a veteran tree identified in the applicant's surveys and allow for a diversion of the UK Power Networks 33 kV line [REP7-257].

6.7.76. The ExA is mindful of the landowner's concerns that if these plots were taken the land remaining may be unviable for economic and efficient farming. However, the ExA is satisfied that SPR has an option to purchase plots 2/20b and 2/20f. We are also satisfied that plots 2/20b and 2/20f are required for Work No. 1B (proposed substation). Consequently, the ExA is satisfied that, in relation to plots 2/20b and 2/20f, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plot 2/20c

6.7.77. Ian Rix requested that SPR's landscaping proposals be reflected in this plot. Ian Rix stated that if the plot size could be corrected then the objection in relation to this plot would be withdrawn [REP6-198].

6.7.78. The applicant confirmed that SPR had an option to purchase this plot for landscaping. The applicant confirmed that once the SPR landscaping proposals had been formally signed off or approved it would review and consider if it was necessary to refine the areas required or not [REP7-257].

6.7.79. The ExA is satisfied that SPR has an option to purchase plot 2/20c. We are also content that the applicant will review and consider refining the areas once the extent of SPR landscaping is agreed. Consequently, the ExA is satisfied that, in relation to plot 2/20c, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 2/38, 2/39 and 2/99

6.7.80. Ian Rix stated that there was an existing hedgerow on the roadside. Ian Rix explained that the effect of the acquisition of rights over this land would be to narrow the field entrance at the same time as impacting on the visibility splays which were required when moving large machinery in and out of the field. Ian Rix considered that what the applicant was seeking to impose on the landowner would not be acceptable within its own policies for visibility and movement of large machinery and equipment [REP6-198].

6.7.81. The applicant confirmed that these plots were already under option to SPR to deliver the substation, which was mirrored in this application [REP7-257].

6.7.82. The ExA notes that the BoR does not list Ian Rix as having an interest in plot 2/39, nor does it record that SPR have an option to purchase plot 2/39. The ExA therefore suggests that the Secretary of State request the applicant to review this and correct as necessary. Nevertheless, the ExA is satisfied that SPR does has an option to purchase plots 2/38 and 2/99. Consequently, the ExA is satisfied that, in relation to plots 2/38 and 2/99, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 2/11 and 2/11a

6.7.83. Ian Rix stated that the applicant had repeatedly advised that it did not wish to look at alternative access routes. Ian Rix considered that there were existing tracks which could provide access within 30 m of the proposed inspection bay. Ian Rix stated that the applicant had been aware of this for a considerable period (1 year) and it had been brought to their attention on multiple occasions. Ian Rix considered that in the event that access over the existing tracks could not be established, at the very least, the right of way could run beside the public right of way constructed by SPR to

minimise impact on the cultivation and cropping of the field. Ian Rix considered that the current proposals appeared to maximise, rather than minimise, disturbance to the farming activities within the field. Ian Rix understood that surveys had been carried out for both alternative access routes [REP6-198].

6.7.84. The applicant acknowledged that plot 2/11 was owned by Ian Rix and was not subject to SPR option. The applicant explained that plot 2/11 was included in the application as class 5 compulsory rights of access to enable access to the cables and junction boxes for post construction inspection and maintenance. The applicant confirmed that it would liaise with Ian Rix to establish if there was a suitable alternative but until an alternative was agreed and documented it must retain the proposed route. However, the applicant did state that it was not envisaged that this access would be used frequently and thus any disruption would be kept to a minimum. The applicant also noted that any unlikely damage arising as a result of taking access would be covered by the compensation code. Furthermore, the applicant stated that the alternatives put forward to date would impact additional landowners and were outside the order limits [REP7-257].

6.7.85. The ExA notes that, contrary to the submission by the applicant above, SPR is listed as having an option to purchase plots 2/11 and 2/11a in the BoR. The ExA therefore suggests that the Secretary of State request the applicant to review this and correct as necessary. Nevertheless, the ExA is satisfied that plots 2/11 and 2/11a would be required for access. Consequently, the ExA is satisfied that, in relation to plots 2/11 and 2/11a, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 2/17 and 2/18

6.7.86. Ian Rix stated that the current landscape plans did not allow for maintenance of the ditch, into which drainage from the field discharges. Ian Rix stated that access would be required to maintain the ditch to ensure the free movement of water down the ditch line from the land [REP6-198].

6.7.87. The applicant acknowledged that plots 2/17 and 2/18 were subject to SPR option for acquisition for landscaping. However, the applicant noted that SPR's landscaping plans were not yet formally approved [REP7-257].

6.7.88. The ExA notes that whilst SPR has an option to purchase plots 2/17 and 2/18 the applicant is only seeking CA of rights for mitigation (plot 2/17) and TP (plot 2/18). The ExA considers that whilst the rights the applicant seeks for CA and TP may result in some degree of interference it should not extinguish Ian Rix's existing rights to maintain the ditch. Consequently, the ExA is satisfied that, in relation to plots 2/11

and 2/11a, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 2/5, 2/7 and 2/7b

6.7.89. Ian Rix requested that this area mirrored that of the SPR plans for access/ service road. Ian Rix stated that the project description in Part 1, Chapter 4 [REP1A-003] set out the rationale for inclusion of the SPR order limits within the proposed development order limits, which is why this has been included in this order and related heads of terms. However, Ian Rix noted that the requirement/ necessity for plot 2/7b had not been explained [REP6-198].

6.7.90. The applicant stated that plot 2/5 was owned by Ian Rix and that plot 2/7 was under option to SPR. The applicant explained that plot 2/5 was required for temporary purposes to facilitate utility services and confirmed that it would be returned to its former use and the landowner's control post construction. [REP7-257].

6.7.91. The ExA notes that, contrary to the submission by the applicant above, SPR is listed as having an option to purchase plots 2/5 and 2/7b in the BoR. The BoR does not record Ian Rix having any interests in plot 2/7; SPR is listed as owner. The ExA therefore suggests that the Secretary of State request the applicant to review these issues and correct as necessary.

6.7.92. Nevertheless, in relation to plot 2/5, the ExA is satisfied that this plot would be required to facilitate utility diversions. Consequently, the ExA is satisfied that, in relation to plot 2/5 the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

6.7.93. In relation to plot 2/7b the works plan [REP4-006] show it to be required for Work No. 14 (proposed access for construction, monitoring and maintenance outside linear and non-linear limits of deviation) and Work No. 16 (proposed utility diversions). The applicant did not provide an explanation as to why the CA of land at plot 2/7b is necessary for these works. In other locations, for these works, the CA of rights or TP have been sought rather than the CA of land. However, the ExA is satisfied that, considering the location of the plot, it could be used to improve sightlines for the access. Therefore, the ExA is content that plot 2/7b is required for the proposed development. We subsequently consider the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

Suffolk plots 1/93, 1/94, 1/99 and 1/100

6.7.94. Ian Rix stated that throughout the pre-application consultation process the exclusion of these land parcels had been requested. Ian Rix considered that a new hedge at this location would not integrate into the existing surrounding landscape but, rather, detract from it. Ian Rix stated that there was no evidence of historic planting alongside the road, explaining that his family had been at the property since the 1960s. Subsequently, Ian Rix did not consider that the establishment of a hedge at this location would aid in screening the proposed development. Furthermore, Ian Rix stated that the planting of the hedge would cause damage to the adjacent Christmas tree plantation through shading, moisture retention and nutrient competition. Ian Rix considered that the applicant had not explained why it was not possible for the proposed ecological mitigation to be located elsewhere, away from the edge of the road. David Rix considered that the proposed development could be built and exist without the use of this land and in his opinion, it caused unnecessary impact on the family business [REP6-198].

6.7.95. The ExA explored Ian Rix's concerns at CAH1 and CAH2 ([EV6-034] and [EV8-006]) The applicant confirmed that it had arranged meetings with Ian Rix and his agent to address his concerns and find a workable solution for both parties [REP4-086].

6.7.96. The applicant stated that the proposed hedge along the B1119 was essential mitigation for landscape and visual effects. The applicant explained that the proposed hedgerow and tree planting would form part of the wider landscape and visual mitigation measures, as presented in the Outline Landscape and Ecological Management Plan - Suffolk (section 5, [REP4-065]). The applicant confirmed that the hedgerow and tree planting along the B1119 had been developed through the pre-application stage with Suffolk County Council (SCC) and ESC where the planting was considered to be an essential component to the landscape mitigation. The applicant referred to the British Standard (BS 5837:2012: Trees in relation to design, demolition and construction), stating on this basis it did not consider that it would be possible for shadow to be cast on the land occupied by the Christmas trees. The applicant also stated that the 5m access strip for maintenance of the hedgerow, which would lie to the south of the hedgerow, would mean that even if there was some shade cast from the hedgerow during early morning light, the shade would not extend beyond the access track (based on the likely 3-4 m height that the hedgerow would be maintained at) [REP7-257].

6.7.97. In response to action point 8 from CAH2 [EV8-006] the applicant confirmed that with respect to the effect on the landscape and visual assessment, it considered that it was unlikely that, if the proposed hedge in Ian Rix's land were to be removed, this would alter the rating of the landscape assessment on Landscape Character

Area L1 (i.e moving it from a moderate adverse to a major adverse effect). However, the applicant confirmed that the removal of the proposed hedge in Ian Rix's land would increase the adverse visual effect for people travelling along the B1119 towards Saxmundham for a short section of their journey represented by viewpoint 4. The applicant stated that, without the hedge, it would lose an opportunity, of which there were limited, to provide another layer of vegetation in the local landscape which was an important feature of the current and historic landscape pattern. The applicant also noted that the removal of this section of proposed hedge would limit the ecological connectivity and consequently limit the ability to provide new habitat for wildlife including nesting birds and commuting bats [REP6-110].

6.7.98. The ExA's rule 17 letter [PD-025] asked SCC and ESC to provide comments on the implications of the removal of Suffolk plots 1/93, 1/94, 1/99 and 1/100 from the book of reference and the proposed hedgerow to the south of the B1119 from the order limits.

6.7.99. SCC considered that the removal of plots 1/93, 1/94, 1/99 and 1/100 would remove part of the layered planting for screening views of the proposed convertor station, including from the B1119, Footpath 8, Bridleway 29 and possibly Footpath 10 where visual receptors would be more affected if the parcels in question were to be taken out. SCC noted the concerns set out in Ian Rix's submissions and suggested that the implementation of hedgerow planting without trees may be a suitable approach to address the concerns whilst also providing some layered planting for screening views for the aforementioned visual receptors to reduce adverse visual effects [REP7-368].

6.7.100. ESC stated that it considered that the proposed hedgerow to the south of the B1119 was an essential component of the landscape mitigation planting around the converter station site. ESC stated that if the hedging and trees were not planted, there would be long-term open views across to the site from the B1119 which would be unscreened until planting nearer and around the converter station established and began to mature. ESC also stated that due to its proximity to the road, the hedgerow south of the B1119 would have a much more immediate beneficial screening effect for road users. ESC stated that it had considered the representations of Ian and David Rix [REP6-210] and [REP6-198]. ESC considered that the screening benefit that the hedging would offer for road users was justified. ESC acknowledged the landowner's concerns regarding potential shading of the Christmas tree farm from the hedge, but ESC considered this would be minor and would not be a justifiable ground for objecting to the planting [REP7-176].

6.7.101. The ExA acknowledges SCC and ESC concerns that without the environmental mitigation within plots 1/93, 1/94, 1/99 and 1/100 there would be a reduction in the screening of views from the B1119 and footpaths in the vicinity. However, we note that the applicant considered that whilst the removal of the hedge would increase the visual effect for people travelling along the B1119 towards Saxmundham for a short section of their journey it was unlikely that it would negatively alter the overall rating of the landscape assessment.

6.7.102. The ExA understands the concerns of Ian Rix that the planting of the hedge would cause damage to the adjacent Christmas tree plantation through shading, moisture retention and nutrient competition. We appreciate that the applicant, SCC and ESC acknowledge the shading issue, but no substantive evidence has been supplied with respect to the moisture retention and nutrient competition concerns raised.

6.7.103. Ian Rix has explained how the proposed environmental mitigation would impact his Christmas tree plantation and hence his business, and the ExA considers these to be legitimate concerns. However, we consider that the proposed hedging within plots 1/93, 1/94, 1/99 and 1/100 is necessary to mitigate landscape and visual effects and for ecological connectivity. Furthermore, whilst the rights the applicant seeks, for the implementation of the environmental mitigation, would result in some interference it should not extinguish Ian Rix's rights to plant Christmas trees on his land. Consequently, the ExA is satisfied that, in relation to plots 1/93, 1/94, 1/99 and 1/100, the impact to Ian Rix is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA powers sought.

James Henry Rogers

6.7.104. The applicant has requested powers for:

- The CA of land (class 1) at Suffolk plots 2/20, 2/20b, 2/20c, 2/20d, 2/20e, 2/20f, 2/57, 2/58, 2/70 and 2/71.
- The CA of rights for the OHL (class 2) at Suffolk plot 2/36.
- The CA of rights for the underground cable system (class 3) at Suffolk plots 1/49a, 1/69, 2/13, 2/15, 2/15b, 2/19, 2/42, 2/46, 2/47 and 2/48.
- The CA of rights for access (class 5) at Suffolk plots 1/71, 2/11, 2/11a and 2/38.
- The CA of rights for drainage (class 6) at Suffolk plot 1/72.
- The CA of rights for mitigation (class 7) at Suffolk plots 2/17 and 2/99.
- The TP at Suffolk plots 1/70, 1/73, 2/10, 2/10a, 2/12, 2/14, 2/16, 2/18, 2/35, 2/37 and 2/59 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.105. James Henry Rogers (via an agent) advised that Suffolk plot 2/19 was subject to an option agreement with Cambridge Power Limited for the development of a battery energy storage site. James Henry Rogers requested that the applicant take account of the option agreement and look to minimise sterilisation of the land by ensuring that the cable route was located tightly into the south-western corner of plot 2/19 (if not avoiding it altogether) and that any land sterilised by the proposed development did not impede or limit the development of the battery energy storage site [RR-6000].

6.7.106. James Henry Rogers did not request to be heard, nor did he (or his agent) attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1 in response to the ExA's request for an update on negotiation progress, the applicant confirmed the ongoing engagement in relation to the option agreement for the battery storage site that overlapped with cable limits of deviation. The applicant stated that it was seeking to understand the timelines of other developments but was working to reach agreement before the end of examination [REP4-084].

6.7.107. At CAH2 the applicant confirmed that, while it hoped that heads of terms could be agreed in principle by the end of the examination, the fundamental constraint at plot 2/19 arose from the existence of an option held by a third party for a separate power related development. The applicant explained that the cable limits of deviation in this area had been deliberately designed to provide flexibility to accommodate potential interaction with the SPR proposed landscaping and associated works. The applicant stated that until it was able to confirm the precise location of the cable within those limits of deviation, the landowner had indicated that they were not willing to enter into heads of terms, on the basis that doing so could prejudice the proposed battery storage development. The applicant also noted that the landowner could require consent from the option holder before entering into any agreement with the applicant. The applicant confirmed that this issue related solely to plot 2/19. It was explained that, aside from this specific point, the heads of terms were otherwise ready to be agreed in principle. However, due to the overlapping development proposals and the need to resolve the option issue, the applicant did not anticipate that the matter would be fully resolved before the end of the examination [REP6-110].

6.7.108. While James Henry Rogers has an interest in several plots for which the applicant is seeking powers, the ExA is only aware of an objection in relation to plot 2/19. Insofar as it concerns plot 2/19, the ExA is satisfied that the applicant has designed the proposed cable route by balancing the need to be economic and efficient, and would seek to minimise impact to James Henry Rogers land. We are satisfied that whilst the proposed underground cable system would need to be positioned within

plot 2/19 this would only affect a small proportion (south-west corner) of the land with the option agreement for a battery energy storage site.

6.7.109. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which James Henry Rogers has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

James Bedford Pace and Alexandra Ruth Pace

6.7.110. The applicant has requested powers for:

- The CA of land (class 1) at Kent plots 2/123, 2/124, 2/127, 2/128, 2/129, 2/130, 2/132, 2/133, 2/137, 2/141, 2/169, 2/174, 3/9, 3/11, 3/17, 3/20, 3/20a, 3/21, 3/22, 3/98 and 4/1.
- The CA of rights for the underground cable system (class 3) at Kent plots 2/145, 2/146, 2/147, 2/148, 2/152, 2/154, 2/160, 2/170, 2/183, 3/7, 4/14, 4/15, 4/16, 4/17 and 4/29.
- The CA of rights for access (class 5) at Kent plots 2/118, 3/2 and 4/23.
- The CA of rights for drainage (class 6) at Kent plots 2/120, 2/122, 2/161, 2/166 and 2/168.
- The CA of rights for mitigation (class 7) at Kent plots 2/138, 2/139, 2/140, 2/142, 2/143, 2/144, 2/149, 2/150, 2,157, 2/162, 2/163, 2/164, 2/165, 2/167, 2/171, 2/172, 2/175, 2/178 and 2/179.
- The TP at Kent plots 2/119, 2/121, 2/134, 2/151, 2/153, 2/159, 2/173, 2/176, 2/177, 2/180, 2/182, 3/6, 3/8 and 4/18 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).
- The TP at Kent plots 4/22 and 4/26 for access (class 9).

6.7.111. James Bedford Pace and Alexandra Ruth Pace did not submit a specific objection in relation to the CA of land or rights or TP. In response to action point 26 from CAH2 [EV8-006] the agent for James Bedford Pace and Alexandra Ruth Pace stated [REP6-221]:

"Included at Appendix 1 is the Decision relating to the recent case heard at the Upper Tribunal (Lands Chamber) between Mr S Robertson and Mr & Mrs Pace.

This Decision provides all of the necessary detail and concluded that the restrictive covenant was enforceable.

As such, should the Applicant wish to enter into a voluntary agreement with Mr Robertson then a parallel agreement would also have to be reached with Mr & Mrs Pace.

This would apply to both temporary and permanent land use. Terms have been put to the Applicant on behalf of Mr & Mrs Pace."

6.7.112. The applicant responded stating that it understood the position with the restrictive covenant and would engage with James Bedford Pace and Alexandra Ruth Pace via their agent. The applicant noted that this should not prevent Struan Roberston from signing the heads of terms [REP7-257].

6.7.113. Whilst there are several plots in which James Bedford Pace and Alexandra Ruth Pace have an interest, where the applicant is seeking powers, the ExA is only aware of the submission detailed above. The ExA is satisfied that this is not an objection per se and is simply highlighting an issue the applicant should be aware of. As covered above, the ExA can confirm that even though a specific objection or representation may not have been raised in relation to a particular plot of land, the ExA has nevertheless applied the relevant tests to the whole of the land that would be subject to the powers of CA or TP in reaching its overall conclusions. Therefore, the ExA, considering the detail above, is satisfied that the impact to James Bedford Pace and Alexandra Ruth Pace is necessary, proportionate and justified and that there is a compelling case in the public interest for the proposed CA and TP powers sought.

Jean Veronica Spanton

6.7.114. The applicant has requested powers for:

- The TP at Kent plots 4/25, 4/26 and 4/27 for access (class 9).

6.7.115. Jean Veronica Spanton has category 1 (owner) interests for plots 4/26 and 4/27 and category 2 interests in plot 4/25. Jean Veronica Spanton (via an agent who was also representing the estate of Christopher John Spanton) raised concern that the proposed use of her property for access would cause unacceptable disruption to her quiet enjoyment of the land, including through noise, dust, vibration, and air pollution. Furthermore, Jean Veronica Spanton was concerned that the grant of permanent access rights was likely to result in a significant devaluation of the property [RR-5840].

6.7.116. Jean Veronica Spanton did not request to be heard, nor did she (or her agent) attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1, in response to the ExA's request for an update on the negotiation progress, the applicant confirmed that it had received feedback from the party's agent

followed by further discussions including working through points on vehicle movements via the temporary access [REP4-084].

6.7.117. At CAH2 [EV8-001] and in the SoNLI [REP7-011] the applicant confirmed that it had attempted to continue negotiations to agree heads of terms which had further refined the rights sought to reflect the temporary nature of the access provisions, however no communication had been received from the landowner's agent since February 2026. At DL7 the applicant stated that on the 14 April 2026 it had emailed the landowner's agent confirming that it would be contacting the landowner to discuss the heads of terms in the absence of a response. The landowner's agent responded on the 14 April 2026 providing a summary of the landowner's position and requesting a response on three points [REP7-011]:

- The duration of the agreement and the timescales for the required works themselves.
- The nature of the rights granted versus the actual project requirements.
- The basis for the commercial payment.

6.7.118. The applicant confirmed that it would continue negotiations beyond the close of examination with the intention of reaching voluntary agreement prior to the DCO decision being made [REP7-011].

6.7.119. Plots 4/25, 4/26 and 4/27 comprise Ebbsfleet Lane and a track off Ebbsfleet Lane. The plots are required for Work No. 14 - proposed accesses for construction, monitoring and maintenance outside linear and non-linear limits of deviation. These plots provide access to the duct laydown area and proposed cable route corridor.

6.7.120. The ExA notes that the TP for access over plots 4/25, 4/26 and 4/27 would not extinguish the existing access right. Nonetheless, the exercise of the powers sought may result in some degree of interference with that right albeit temporarily. The ExA is therefore satisfied that this interference would be temporary, limited in nature, and considers that reasonable access to Jean Spanton's property could be maintained throughout.

6.7.121. The ExA is therefore satisfied that, should voluntary negotiations not be completed, the TP powers sought in respect of all plots in which Jean Veronica Spanton has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Kent Wildlife Trust

6.7.122. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Kent plots 3/102, 3/104, 3/107, 3/109, 5/13 and 5/27.
- The CA of rights for access (class 5) at Kent plot 5/34.
- The TP at Kent plots 3/110, 5/1, 5/9, 5/10, 5/18, 5/25, 5/28, 5/29, 5/37, 5/38, 5/40, 5/41, 5/42, 5/43 and 5/44 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.123. Kent Wildlife Trust (KWT) is listed in the BoR [REP7-009] as having category 1 (owner/ tenant/ occupier) and category 2 interests over the plots listed above. The plots include NT land where KWT is a lessee/ tenant.

6.7.124. KWT objected to the proposed development but did not submit a specific objection to CA or TP. In CAH1 the ExA asked the applicant to clarify if KWT did have a CA objection. In response the applicant confirmed that KWT had been unresponsive to its attempts to engage [REP4-084]. The ExA subsequently asked KWT directly in AP16 [EV6-034] to provide an update on engagement with the applicant regarding the progress of agreeing land rights and heads of terms. KWT did not provide a response.

6.7.125. ExQ2GEN33 [PD-021] asked KWT if it had an outstanding objection to the CA or TP of land or rights to provide detail of the reasons for the objection including which plots the objection relates to. In response KWT confirmed that internal discussions regarding CA and TP of land were ongoing, however consideration of the applicant's proposals, including any draft heads of terms had not been agreed. KWT stated that it continued to object to the proposed development and therefore also maintained an objection to the CA and TP of land or rights in its ownership or management that were sought by the applicant. However, KWT stated that should the DCO be granted, it would then be willing to engage further with the applicant to discuss the implications for its land and to consider appropriate arrangements, including measures to avoid, minimise and mitigate impacts on the habitats and conservation interests managed by KWT [REP5-196].

6.7.126. In CAH2 [EV8-001] the ExA again asked KWT to provide written details of its specific objections in relation to land rights for each plot. KWT explained that it objected to the project as a whole and therefore did not support the use of land within its ownership to facilitate its delivery. KWT explained that plots 5/10, 5/13, 5/18 and 5/38 fell within the intertidal zone and comprise priority habitat mudflats, which are highly sensitive and form part of internationally and nationally designated sites,

including the Thanet Coast and Sandwich Bay special protection area (SPA), Ramsar and Special Area of Conservation. KWT noted that it was particularly concerned about the construction methodologies within these areas, including the trenching works and cofferdam, which in KWT's view would carry a clear risk of adverse effects on protected habitats and their associated ecological features. KWT concluded that given these sensitivities, it could not support the use of its land for activities that may damage or degrade these habitats. KWT also considered that there was a reputational consideration in that permitting the use of its land could be interpreted as facilitating a project that it has consistently opposed on environmental grounds [REP6-169].

6.7.127. At DL7 the applicant confirmed that KWT remained unwilling to enter into negotiations for a voluntary agreement. However, the applicant confirmed that it remained willing to engage with KWT after the examination has closed, should their position change [REP7-011].

6.7.128. The ExA is not persuaded, by the evidence before us at the close of the examination, that an agreement is close or likely to be signed by the time the Secretary of State makes their decision. However, we are satisfied that KWT's concerns in relation to the construction methodologies would be appropriately mitigated as discussed in section 3 of this report. We are also satisfied that whilst KWT maintained an objection throughout the examination, that this was in respect of the proposed development, as a whole, as opposed to a specific objection to CA or TP powers. Furthermore, we note that KWT confirmed that should the DCO be granted, it would then be willing to engage further with the applicant to discuss the implications for its land and to consider appropriate arrangements.

6.7.129. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which KWT has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Lindsay Peter Tomlinson

6.7.130. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Suffolk plots 5/15, 5/17, 5/18 and 5/22.
- The CA of rights for access (class 5) at Suffolk plots 5/14, 5/19, 5/21 and 5/25.
- The CA of rights for drainage (class 6) at Suffolk plots 5/24 and 5/31.

- The TP at Suffolk plots 5/20, 5/23 and 5/30 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.131. Lindsay Peter Tomlinson has category 1 (owner) interests for all the plots listed above. Lindsay Peter Tomlinson raised concerns about the effect the proposed development would have on their property. Lindsay Peter Tomlinson was particularly concerned about the effect of the proposed cable route on their trees, especially those which were positioned on the proposed cable route. Lindsay Peter Tomlinson also raised concerns in relation to the financial compensation they would be entitled to [RR-3196].

6.7.132. Lindsay Peter Tomlinson did not request to be heard, nor did he attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1, in response to the ExA's request for an update on negotiation progress, the applicant confirmed that it was working with the agent for Lindsay Peter Tomlinson to agree template terms [REP4-084].

6.7.133. At CAH2 [EV8-001] and in the SoNLI [REP7-011] the applicant confirmed negotiations were continuing. At DL7 the applicant stated that on the 14 April 2026 the applicant's agent had met with the landowner and their agent to discuss the heads of terms and the impact of the proposed works on their residential property. The applicant confirmed that it would continue negotiations beyond the close of examination with the intention of reaching voluntary agreement prior to the DCO decision being made [REP7-011].

6.7.134. Lindsay Peter Tomlinson did not submit any concerns in relation to specific plots. In relation to the concern about the effect of the cable route on trees the ExA is satisfied that mitigation secured in the dDCO provides suitable protection for trees, including those within the cable corridor and those with preservation orders. In relation to financial compensation this is not a matter for the examination save to say the ExA is satisfied that sufficient funds would be available to cover any potential claims arising from the exercise of CA powers.

6.7.135. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which Lindsay Peter Tomlinson has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Nicholas Jon and Jill Stuchfield

6.7.136. The applicant has requested powers for:

- The CA of rights for the underground cable system (class 3) at Suffolk plots 5/33.

6.7.137. Nicholas Jon Stuchfield and Jill Stuchfield have category 1 interests (owner) in plot 5/33. Plot 5/33 comprises the north-east corner of the Stuchfield's garden. The Stuchfields understood that there were two proposed construction compounds (one for the tunnel-boring for the seaward cable, and one for the trench-digging for the landward cable), covering up to 10 acres in total, both tightly positioned against their garden fence. The Stuchfields were concerned that this would result in light pollution, noise and vibration effects, dust, refuse and the despoliation of the beautiful view and the peace and tranquillity. However, the Stuchfields did acknowledge that these nuisances whilst being significant would be temporary ([RR-2471], [RR-4009] and [REP1-230]).

6.7.138. Nicholas Jon and Jill Stuchfield did not request to be heard, nor did they attend, either of the two compulsory acquisition hearings (CAH1 and CAH2). In CAH1, in response to the ExA's request for an update on negotiation progress, the applicant confirmed discussions were ongoing about impact on residential amenity, with a meeting scheduled for 23 February 2026. The applicant also stated that it considered it likely that resolutions would be found during examination [REP4-084].

6.7.139. At CAH2 [EV8-001] and in the SoNLI [REP7-011] the applicant stated that the rights being sought from the landowner were over a very small plot and underground cable rights only, with no works proposed at surface level. However, the applicant did acknowledge that the landowner's primary concerns were in relation to construction impacts on their adjoining residential property. The applicant confirmed it would continue to engage with the landowner and their agent to apply accommodation works to mitigate disruption where possible. The applicant noted that any remaining proven disturbance or diminution in value could be adequately addressed by the compensation code [REP7-011].

6.7.140. The ExA understands the Stuchfields' concerns and agrees that the construction of the proposed development would undoubtably result in some disruption to them. However, the ExA is satisfied that this disruption would be temporary and limited in nature.

6.7.141. The ExA is therefore satisfied that, should voluntary negotiations not be completed, the CA powers sought in respect of all plots in which Nicholas Jon Stuchfield and Jill Stuchfield have an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Struan Gordon Robertson

6.7.142. The applicant has requested powers for:

- The CA of land (class 1) at Kent plots 2/123, 2/124, 2/127, 2/128, 2/129, 2/130, 2/133, 2/137, 2/141, 2/169, 2/174, 3/9, 3/11, 3/17, 3/20, 3/20a, 3/21, 3/22, 3/23, 3/25, 3/26, 3/98, 3/98a and 4/1.
- The CA of rights for the underground cable system (class 3) at Kent plots 2/146, 2/158, 2/160, 2/170, 2/183, 3/7, 3/35 and 4/29.
- The CA of rights for access (class 5) at Kent plots 2/118, 2/186, 3/1, 3/2, 3/3 and 4/4.
- The CA of rights for drainage (class 6) at Kent plots 2/116, 2/122, 2/161, 2/166, 2/168 and 3/24.
- The CA of rights for mitigation (class 7) at Kent plots 2/138, 2/139, 2/140, 2/142, 2/143, 2/155, 2/156, 2/157,2/162, 2/163, 2/164 2/165, 2/167, 2/171, 2/172, 2/175, 2/178 and 2/179.
- The TP at Kent plots 2/119, 2/121, 2/134, 2/151, 2/159, 2/173, 2/176, 2/177, 2/180, 2/182, 3/6, 3/8 and 3/29 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).
- The TP at Kent plots 2/181, 2/184 and 3/10 for access (class 9).

6.7.143. Struan Gordon Robertson is the owner of Jade Farms in Kent. Struan Gordon Robertson, to which the plots above relate, considered that the proposed development would be catastrophic for his business. Struan Robertson stated that the loss of land would destroy the profitability of his business and damage soil structure and the environment [REP1A-183]. In response to ExQ2GEN36 [PD-021] Struan Gordon Robertson reiterated concerns already submitted and added concerns regarding the proposed reinstatement and creation of temporary drainage ponds in arable fields [REP5-223].

6.7.144. In response to the ExA's rule 17 letter [PD-025] Struan Gordon Robertson again repeated his concerns. Struan Gordon Robertson stated that the affected land, alongside other land in his ownership in the local area, currently comprised a significant and efficient block of land from a farming perspective. Struan Gordon Robertson explained that following the permanent acquisition, this block of land would be significantly reduced, comprising of smaller fields which would be less efficient and less desirable. Struan Gordon Robertson was also concerned about the 30.37 acres required for a temporary compound stating that whilst he was still awaiting detailed information on the compounds, he had concerns over the use of the land for a prolonged period and the condition this land would be in once it was handed back. Struan Gordon Robertson stated that it was likely that being out of arable use for a length of time would have a significant impact on its condition,

particularly regarding soil health and structure. Struan Gordon Robertson concluded that the loss in area as a result of the permanent acquisition would cause significant disruption to his contract farmer and reduce the efficiency of his business which he stated in the current economic climate, with the pressures facing agriculture in the United Kingdom, was extremely concerning [REP7-190].

6.7.145. The applicant confirmed that 84 acres were proposed to be acquired outright, the remainder was for temporary use for access and drainage rights. The applicant stated that it was working with the landowner and their agent to understand the impacts of the acquisition of land and rights would have on their holding and to mitigate the impacts where possible. The applicant highlighted that there was a specific commitment, W31, within the REAC, that secured the removal of the drainage ponds serving temporary works and the subsequent re-instatement of the land. The applicant confirmed that the temporary drainage ponds would typically be in situ for a period of approximately 2 years. With regard to land reinstatement the applicant confirmed that it was committed to working with the landowner to ensure that these impacts are appropriately mitigated where reasonably practicable and that any losses incurred were fully and fairly compensated in accordance with the statutory compensation code and National Grid's Land Rights Strategy and Payment Schedule. The applicant acknowledged the potential impact construction activities involving the stripping and stockpiling of soil resources could have and stated that this has been considered within Part 3 Kent Chapter 6 Agriculture and Soils [PDA-023], which assesses the adverse effects on soil function as significant. The applicant explained that the key mitigation was detailed within the outline soil management plan – Kent [REP6-068] which sets out the framework for how good practice measures would be employed through soil stripping, stockpiling and reinstatement to enable land to be returned to its pre-construction condition. The applicant also noted that it has committed to pre and post recording of conditions to be conducted during the construction phase [REP6-106].

6.7.146. Struan Gordon Robertson requested to be heard at a CAH [REP1-140], but did not attend, either of the two compulsory acquisition hearings (CAH1 and CAH2).

6.7.147. The applicant confirmed that discussions were ongoing with the landowner. The applicant stated that the landowner and landowner's agent were happy that the documentation and principles were progressing in the right direction towards voluntary agreement, however, a number of matters are subject to ongoing discussion. The applicant explained that these matters included ancillary rights sought across the wider holding, accommodation works and value of the retained land. The applicant confirmed that it issued an editable version of the latest heads of terms to allow further comments from the landowner's agents. The applicant

stated that progress had been made on the proposed structure of the transaction but given the complex nature of the acquisition it was not believed heads of terms would be signed by the end of examination. However, the applicant stated that on 9 April 2026 it had received confirmation that for the class 1 land areas the landowner was content to go straight to acquisition on a voluntary basis, and the terms for this were under active negotiation [REP7-011].

6.7.148. The ExA understands the concerns of Struan Gordon Robertson that the proposed development could negatively impact his business. However, we are satisfied that the applicant has been actively seeking to achieve voluntary agreements and are content that the concerns raised, particularly with respect to the potential impact to the soil, would be mitigated as discussed above.

6.7.149. Whilst there would undoubtably be some disruption to Struan Gordon Robertson during the construction phase of the proposed development the ExA is satisfied that with the mitigation (described above) this impact would be reduced to as low as possible. The ExA is satisfied that the proposed underground cable system would need to be positioned within plots 2/146, 2/158, 2/160, 2/170, 2/183, 3/7, 3/24, 3/35 and 4/29. The ExA is also satisfied that, based on the proposed underground cable position, rights for access and drainage would need to be positioned within plots 2/116, 2/118, 2/122, 2/161, 2/166, 2/168, 2/186, 3/1, 3/2, 3/3 and 4/4. Furthermore, the ExA considers TP powers would be required over plots 2/119, 2/121, 2/134, 2/151, 2/159, 2/173, 2/176, 2/177, 2/180, 2/181, 2/182, 2/184, 3/6, 3/8, 3/10 and 3/29 for access, construction, mitigation, maintenance and dismantling of the underground cable system and access.

6.7.150. Struan Gordon Robertson did not submit any specific objection to the CA of rights over plots 2/138, 2/139, 2/140, 2/142, 2/143, 2/155, 2/156, 2/157,2/162, 2/163, 2/164 2/165, 2/167, 2/171, 2/172, 2/175, 2/178 and 2/179 for environmental mitigation.

6.7.151. The applicant seeks the CA of land (class 1) at Kent plots 2/123, 2/124, 2/127, 2/128, 2/129, 2/130, 2/133, 2/137, 2/141, 2/169, 2/174, 3/9, 3/11, 3/17, 3/20, 3/20a, 3/21, 3/22, 3/23, 3/25, 3/26, 3/98, 3/98a and 4/1. The ExA is satisfied that this land would be required for the proposed converter station and substation, access road to these and sections of the underground high voltage direct current cables. Furthermore, as confirmation has been received that the landowner was content for the land to be acquired on a voluntary basis in early April 2026, we are hopeful that an agreement will have been reached between the parties by the time the Secretary of State makes its decision.

6.7.152. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which Struan Gordon Robertson has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

William Notcutt Estates Limited

6.7.153. The applicant has requested powers for:

- The CA of land (class 1) at Suffolk plots 1/3 and 1/11.
- The CA of rights for a construction compound (class 4) at Suffolk plot 1/9.
- The CA of rights for access (class 5) at Suffolk plots 1/1, 1/2, 1/5 and 1/7.
- The CA of rights for drainage (class 6) at Suffolk plots 1/4 and 1/8.
- The TP at Suffolk plot 1/10 for construction, mitigation, maintenance and dismantling of redundant infrastructure (class 8).

6.7.154. William Notcutt Estates Limited (WNEL) is the owner of the above plots in Suffolk. WNEL stated that there had been constructive discussions regarding the potential implications of the access road over its land, but whilst dialogue had been positive, it remained inconclusive. WNEL considered that insufficient detail had been provided specifically about the property management agreement that would relate to land to be leased by the applicant and that more generally the terms for the purchase and lease had not been agreed. WNEL stated that accordingly it needed to reserve the position to raise any objections specifically in relation to the access arrangements, until such a time as agreement is reached [REP1-291]. In response to ExQ2GEN29 [PD-021] WNEL reiterated that discussions were ongoing, but that agreement had not been reached. WNEL [REP5-210] stated that three concerns remained:

1. The uncommercial designation of land for environmental mitigation which leaves small parts of the field orphaned and separated from the rest of the retained land.
2. The location of the construction compound and its impact on a high value diversification activity.
3. The alignment of the access road which unnecessarily increases the footprint of the land take.

6.7.155. The applicant responded to the three points raised by WNEL [REP6-106]. In relation to the first concern the applicant stated that the designated land for environmental mitigation was proposed to remain in agricultural use and farmed as cropland, through the inclusion of skylark plots where other crops are proposed. The

applicant explained that the 'orphaned' area would not be orphaned because it could still be farmed as cropland, it would just need to either be planted with cereal crops that are suitable for skylark nesting (i.e. spring cereals) or, where the landowner intends to plant unsuitable crops, would need to include skylark plots. The applicant noted that skylark plots are small fallow patches in an otherwise arable field, and they are intended to be incorporated into conventional farm management. The applicant concluded that the use of this land for the proposed mitigation should not make the land unfarmable and it should be able to be integrated with farming the area of land to the south.

6.7.156. In relation to the second concern the applicant stated that at the time of statutory consultation the landowner did not provide feedback in relation to the alternative use/ diversification of the proposed compound area. The applicant noted that a planning application for a dog walking field in this location was submitted in December 2024. The applicant confirmed that once the project has constructed the bridge and the access road up to the converter station, the compound would be released back to the landowner to use the land for what they wish to do. The applicant stated that it would then provide four weeks' notice if it was ever needed to reinstall the compound in the future.

6.7.157. In relation to the third concern the applicant provided an explanation as to the design and alignment of the access road. The applicant stated that the access road alignment (which had to be suitable for abnormal indivisible load vehicles) had been developed taking into account a number of fixed points:

- The bellmouth location - positioned on the grounds of safety, taking account of the horizontal and vertical geometry of the B1121 to determine the most suitable location where visibility could be obtained for the design speed of the road.
- The bridge crossing location - determined on environmental grounds enabling the structure to be built without impacting veteran and ancient trees, and keeping the bridge footprint outside the flood zone of the River Fromus, whilst maximising the distance from Grade II listed Hurts Hall.
- The access point south of Wood Farm - selected to limit the impact on existing vegetation that provides screening of the proposed converter site and angle views away from the proposed converter station.

6.7.158. WNEL did not request to be heard, nor did it (nor its agent) attend, either of the two compulsory acquisition hearings (CAH1 and CAH2).

6.7.159. In response to the ExA's rule 17 letter [PD-025] WNEL stated that its issues in relation to its second concern remained. WNEL reiterated that it considered that the

construction compound would have less deleterious impact upon it and the operation of the retained land if it was located to the immediate north of the access road, rather than due south. WNEL considered that repositioning would not have any adverse impact on the build process but would enable the squaring up of the land take and significantly reduce the operational impact [REP7-191].

6.7.160. Considering the above, the ExA understands that an objection from WNEL only remains with respect to the CA of rights the applicant seeks over Suffolk plot 1/9. We understand the concerns of WNEL that the proposed location of the construction compound could negatively impact the operation of the retained land. However, the ExA is satisfied that the disruption to WNEL would be limited to the time period for the construction of the access (including the bridge). We are content that following this work the plot would be released back to the landowner. We also note that the applicant stated that it would provide four weeks' notice if the compound required reinstallation in the future.

6.7.161. Whilst there would undoubtably be some disruption to WNEL during the construction phase of the proposed development the ExA is satisfied that this impact would be reduced to as low as possible. The ExA is satisfied that the construction compound would need to be positioned within plot 1/9.

6.7.162. The ExA is satisfied that, should voluntary negotiations not be completed, the CA and TP powers sought in respect of all plots in which WNEL has an interest are for a legitimate purpose, that they are necessary and proportionate and that there is a compelling case in the public interest for the powers to be granted, which would outweigh private loss.

Class 10 land

6.7.163. The following plots are listed in the BoR [REP7-009] as class 10:

- Suffolk plot 1/5a (0.88 square metres)
- Suffolk plot 1/97 (19 square metres)
- Suffolk plot 4/27 (134,639 square metres)
- Suffolk plot 4/28 (66,326 square metres)
- Kent plot 4/19a (1 square metre)

6.7.164. Class 10 land is presented as white on the land plans [REP6-002] and [REP5-003] and described in the BoR [REP7-009] as "Land that is not subject to powers of acquisition nor temporary use."

6.7.165. The ExA explored the reasons for class 10 land remaining in the BoR when the applicant was not seeking to acquire any CA or TP powers over the plots ([EV6-001], [EV6-034] and [PD-021]).

6.7.166. The applicant responded ([REP4-086] and [REP5-135]) stating that it did not consider the removal of class 10 plots or amending the order limits to be necessary or appropriate. The applicant was of the view that the order limits could remain, noting the stage of the examination. The applicant stated that it was not unusual for there to be changes during an examination and for there to be 'white land' (class 10 in the present case) where powers/ land rights are no longer sought. The applicant considered that this did not in any way undermine the legal position, as it was expressly not seeking any powers which put the land on a higher footing than land outwith the order limits. The applicant explained that class 10 was expressly defined in the BoR as "Land that is not subject to powers of acquisition nor temporary use" and the dDCO only empowers the CA of land or rights "described" in the BoR. Furthermore, the applicant noted that the second column of tables 3.1 and 3.2 in the BoR contained a "description" of the land or right to be acquired in respect of each plot and in respect of class 10 plots, the description is that no land or rights (permanent or temporary) are to be acquired. However, the applicant acknowledged the ExA's concerns in relation to class 10 land and article 27 (temporary use of land for carrying out the authorised project). Article 27(a)(ii) "any other Order land…". was therefore amended to specifically state that class 10 land was excluded.

6.7.167. The ExA understands that removing the five plots of class 10 land from the order limits would involve amendments to documents beyond the BoR and land plans. Furthermore, we agree that it is not unusual to have 'white land' on land plans albeit that this is not usually included within the BoR and would normally be land enclosed by plots where CA and TP powers are sought. The primary reason given by the applicant not to remove the plots is the amount of work that would be required to amend the application documents. For completeness and absolute clarity, the ExA still considers it preferable to remove the five plots of class 10 land from the BoR and land plans. That said, in light of the amendments to article 27, the relatively limited number of class 10 plots in this case, and the extensive nature of amendments to certified documents that would be required, the ExA accepts the inclusion of Suffolk plots 1/5a, 1/97, 4/27 and 4/28 and Kent plot 4/19a in the BoR [REP7-009].

6.8. OTHER LAND AND RIGHTS CONSIDERATIONS

SU LAND, RIGHTS OR APPARATUS

6.8.1. Section 7.3 of the SoR [REP7-007] sets out the SUs identified by the applicant that may have land, rights or apparatus belonging to them in the order limits.

6.8.2. Throughout the examination the applicant has sought to reach agreement with affected SUs and, where necessary, to include protective provisions (PP) within schedule 15 of the dDCO to protect their interests. The applicant provided a s127 and s138 statement at the close of the examination [REP7-165]. [REP7-165] lists all affected SUs, explains any outstanding objections and details where the Secretary of State can consider objections to be withdrawn. The ExA has identified errata within [REP7-165] in relation to the plot numbers referred to for each SU and has subsequently used the BoR [REP7-009] in its discussions below when referring to plots. At the close of the examination objections from the following SUs remained outstanding:

- Network Rail Infrastructure Limited
- Northumbrian Water Limited
- The SPR parties

6.8.3. As a consequence, s127 and s138 of the PA2008 apply.

Network Rail Infrastructure Limited (NR)

6.8.4. NR is listed in the BoR [REP7-009] as being category 1 (owner/ tenant/ occupier) for 17 plots and having category 2 interests in 25 plots. The applicant is seeking the CA of rights over 18 plots and TP powers over 22 plots [REP7-009].

6.8.5. NR objected to CA and TP [RR-3936], [REP1-144] and [REP5-200].

6.8.6. The applicant confirmed that it was in on-going discussion with NR and that no land owned by NR needed to be compulsorily acquired, only rights over that land [REP7-165].

6.8.7. At the close of the examination NR stated that without the inclusions of the restrictions on compulsory acquisition, as included in their preferred drafting of PP (provision 4), it must maintain its objection on the basis that the proposed CA of rights over railway property does not satisfy the tests in s127 or s138 of the PA2008 [REP7-206].

6.8.8. The ExA has considered the wording of the PP (schedule 15 part 7) in section 7 of this report, including finding on the matters of substantive dispute between the

parties for the dDCO. The ExA notes that the final version of the dDCO [REP7-002] does include the drafting for provision 4 as requested by NR. As a result, the ExA is satisfied that the dDCO 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.

Northumbrian Water Limited (NWL)

6.8.9. NWL (operating in the south-east of England as Essex & Suffolk Water) is listed in the BoR [REP7-009] as being category 1 (owner/ tenant/ occupier) for 40 plots and having category 2 interests in 113 plots. The applicant is seeking the CA of rights over 89 plots and TP powers over 44 plots [REP7-009].

6.8.10. NWL objected to the CA and TP ([RR-5598], [PDA-049], [REP3A-036] and [REP6-170]). In its representations up to DL6 NWL raised concerns over the lack of engagement from the applicant. However, its DL6 representations stated there were active discussions albeit agreement had not been reached at that point.

6.8.11. The applicant confirmed that it was continuing to negotiate with NWL to manage any interfaces between the proposed development and apparatus and/ or rights vested in NWL on, under or over the order land [REP7-165].

6.8.12. At the close of the examination NWL stated that whilst discussions continued, a fundamental issue remained unresolved. NWL objected to the applicant's proposed requirement for NWL to contribute to the costs of providing alternative apparatus necessary for NWL to exercise its statutory functions [REP7-207].

6.8.13. The ExA has considered the wording of the PP (schedule 15 part 8) in section 7 of this report, including finding on the matters of substantive dispute between the parties for the dDCO. The ExA notes that the final version of the dDCO [REP7-002] includes the majority of NWL's preferred drafting (including provision 8 expenses and costs). As a result, the ExA is satisfied that the dDCO would provide an appropriate form of protection for NR, and that the powers sought are necessary for the proposed development and therefore the tests in s127(5) and s138(4) would be met.

The SPR Parties

6.8.14. SPR is the parent company of East Anglia ONE North Limited (EA1NL), who has the benefit of the East Anglia ONE North Offshore Wind Farm Order 2022 (EA1N), and East Anglia TWO Limited (EA2L), who has the benefit of the East Anglia TWO Offshore Wind Farm Order 2022 (EA2). SPR, EA1NL and EA2L together are known as the SPR parties.

6.8.15. SPR is listed in the BoR [REP7-009] as being category 1 (owner/ tenant/ occupier) for 2 plots and having category 2 interests in 64 plots. EA1NL and EA2L are listed in the BoR [REP7-009] as being category 1 (owner/ tenant/ occupier) for 32 plots and having category 2 interests in 11 plots. The applicant is seeking to the CA of land or rights over 82 plots and TP powers over 27 plots [REP7-009].

6.8.16. The SPR parties made representations throughout the examination ([RR-1415], [RR-1416], [RR-4903], [RR-6039], [REP1A-055], [REP2-046], [REP3-084], [REP3A-014], [REP4-112], [REP4-113], [REP4-114], [REP5-171] and [REP6-155]), raising concerns over the CA of land which is owned by the SPR parties or which the SPR parties hold easements or TP powers over land in order to construct, operate, maintain and decommission EA1N and EA2. The SPR parties stated that in the absence of a formal agreement between them and the applicant, it has been the SPR parties' stance throughout the examination that the dDCO should contain a provision that following the completion of the transfer documents, the CA powers no longer required should fall out of the dDCO. The SPR parties stated that the exercise by the applicant of any CA powers over land which has been acquired by EA1NL and EA2L for the purposes of the EA1N and EA2 projects could have a serious detrimental impact on the ability for these projects to be constructed and operated [REP7-194].

6.8.17. The SPR parties stated that this is particularly important because once the EA1N and EA2 onshore cables have been constructed, EA1NL and EA2L have a legal obligation to transfer these to an offshore electricity transmission (OFTO) which is a process overseen by Ofgem. OFTOs connect offshore windfarms to the onshore transmission network. This transfer takes place by way of a transfer of benefit agreement. The SPR parties consider that it is wholly inappropriate to expect this transfer to proceed in circumstances where a third party has residual CA rights over the assets in question [REP7-194].

6.8.18. The SPR parties stated that they are currently engaged in negotiations in respect of transfer documents in relation to the Friston substation. The SPR parties confirmed that at the point that the transfer documents are agreed, any CA powers granted within any DCO for the proposed development, which are also subject to the transfer, would become entirely unnecessary. The SPR parties noted that most of the requirements in respect of Friston substation under EA1N/ EA2 have been discharged and given the anticipated construction timeframes for the proposed development, the SPR parties anticipate negotiations in respect of the transfer documents will progress quickly in the coming months [REP7-194]. That being the case, the Secretary of State may wish to seek an update on this matter in order to avoid unnecessary CA powers being included if the order is made.

6.8.19. The ExA has considered the wording of the PPs for EA1NL and EA2L (schedule 15 parts 13 and 14) and the proposed PP for SPR, in section 7 of this report, including finding on the matters of substantive dispute between the parties for the dDCO. As a result the ExA is satisfied that the dDCO 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 and therefore the tests in s127(2), s127(5) and s138(4) would be met.

Other Statutory Undertakers

6.8.20. A number of other SUs have land and rights that would be affected by the proposed development. With regards to those SUs whose rights and apparatus would be interfered with by the construction and operation of the proposed development but who have not made a representation, part 1 of schedule 15 of the dDCO includes provisions for the protection of all electricity, gas, water and sewage undertakers and part 2 provides protection for operators of electronic communications code networks. However, as they have not made representations the provisions of s127 are not triggered. In respect of the plots in which other SUs hold interests, the ExA is satisfied, noting the general PPs included in the dDCO and the lack of representations from other SUs, that the powers sought by the applicant would be consistent with s138(4) of PA2008 and that there would be no serious detriment to any of these SUs' undertakings.

SPECIAL CATEGORY LAND

6.8.21. This section sets out the ExA's consideration of objections and issues raised in respect to the CA of rights and/ or TP of special category land and the applicant's responses to those. It should be read in conjunction with the applicant's final versions of the LRT and SoNLI submitted into the examination at DL7 [REP7-037] and [REP7-011].

THE NATIONAL TRUST

6.8.22. There are 15 Kent plots (3/109, 3/110, 5/1, 5/9, 5/26, 5/27, 5/28, 5/29, 5/34, 5/37, 5/40, 5/41, 5/42, 5/43, 5/44) listed in part 1 of the BoR [REP7-009] where the NT is the owner of the plot. The applicant, through the land reference process and undertaking due diligence, determined that the NT land at plots 3/109, 5/27, 5/34 was held inalienably and therefore subject to s130 which makes provision for SPP.

6.8.23. The applicant seeks permanent rights over the Kent plots 3/109, 5/27 and 5/34 for an easement for underground cables and a permanent right of access.

6.8.24. The applicant stated that feedback from the NT at consultation confirmed that it did not object to the scheme in principle but required further discussion on the likely potential impact to and around their land interests in Pegwell Bay including the location of works, detailed activities and the construction methodology [REP7-007]. However, an objection was submitted to the examination from the NT through representations ([RR-5384], [AS-039] and [AS-075]). The applicant confirmed that discussions continued throughout the examination with the NT and its tenants KWT in relation to seeking a voluntary agreement to acquire the necessary land interests and remove the formal objection [REP7-007].

6.8.25. The DL7 SoCG between the applicant and the NT (final but unsigned) [REP7-344] confirmed that the parties had made substantial progress on discussions on the SoCG and expected to agree heads of terms before the close of examination, or shortly afterwards, which would enable NT to remove their objection to the project before a decision is made on the application. On the day the examination closed the NT confirmed that heads of terms between it and the applicant had been agreed. NT stated that while the heads of terms were subject to contract and completion of legal agreements, they represented an agreed position in principle on the main terms between the parties. NT stated that it anticipated that solicitors would shortly be instructed to progress the drafting of the associated legal agreements in accordance with the heads of terms. NT confirmed that it would continue to engage constructively with the applicant to progress matters and did not consider that any outstanding issues remained which would prevent the agreements being concluded following exchange and completion of the legal documentation [REP7-363].

ExA findings on NT land

6.8.26. Given that the NT [REP7-363] states that heads of terms have been agreed but still mention potential outstanding issues, the ExA recommends that if the Secretary of State is minded to grant consent, it may wish to seek an update from the applicant and the NT, confirming whether or not the objection from the NT has been withdrawn. If parties confirm that the NT's objection has been withdrawn, then the Secretary of State may conclude that the case for CA of rights and TP of the NT's land is made. Until such confirmation has been received the risk of necessity for SPP remains.

OPEN SPACE

6.8.27. The applicant is seeking the CA of rights over land identified as open space. This engages s132 of the PA2008. No open space would be subject to CA of land and as such, s131 of the PA2008 is not relevant.

6.8.28. S132(2) of the PA2008 states that an order granting development consent which authorises the CA of a right over open space will be subject to SPP unless: a) the Secretary of State is satisfied that one of subsections (3) to (5) applies; and b) that fact, and the subsection concerned, are recorded in the order or otherwise in the instrument or other document containing the order. Subsection (3) applies if the order land, when burdened with the order right, will be no less advantageous than it was before to: (a) the persons in whom it is vested; (b) other persons, if any, entitled to rights of common or other rights; and (c) the public.

6.8.29. The BoR [REP7-009] details all the land plots which are open space. Only open space land where the applicant is seeking permanent rights is considered special category land and potentially requiring SPP. These plots are recorded within part 5 of the BoR and considered below.

Suffolk plots 6/3, 6/5, 6/6, 6/7 (Aldeburgh beach) and Kent plots 3/101, 3/102 and 3/104 (Pegwell Bay)

6.8.30. The applicant seeks permanent rights over Suffolk plots 6/3, 6/5, 6/6, 6/7 (Aldeburgh beach) and Kent plots 3/101, 3/102 and 3/104 (Pegwell Bay) for the underground cables from offshore [REP4-019]. It is proposed that these works would be conducted from outside the open space area by trenchless techniques and therefore no closure or disturbance would occur to the open space (which is enjoyed only at ground level and not below) during either construction or operation and maintenance as the cables would be laid below the surface of the beach. The compulsory acquisition powers, construction activity or presence of the cables thereafter activity would not change the ability of those who enjoy the beach to continue to do so. The land would be no less advantageous when burdened with the rights sought.

Kent plots 2/57, 2/58, 2/105 and 2/106 (River Stour)

6.8.31. The applicant seeks permanent rights over Kent plots 2/57, 2/58, 2/105 and 2/106 (River Stour) for OHLs across these plots [REP7-019]. The applicant has considered the River Stour as having the potential to be open space. The applicant stated that it understands that this section of river is navigable and hence the interference with that right is proposed to be authorised by virtue of the dDCO article 53. On that basis the applicant considers that whilst the river is unlikely to fall under the definition of open space, it has chosen to include these plots on a precautionary basis. The applicant did not anticipate there would be an interference at surface level from the OHLs once installed.

6.8.32. The construction of the proposed development is expected to require that a section of the River Stour would be temporarily closed for navigation (pursuant to article 53

of the dDCO) for between 1 and 5 days during the construction and removal of the temporary bridge which would be installed to facilitate the installation of the OHL section from the Kent converter station to the existing OHL. The proposed works would take place on and from the banks of the river for both the construction and removal of the temporary bridge over the river.

6.8.33. The construction activity (the bridge) would present a temporary disruption to the use of the river for navigation. However, the presence of the bridge temporarily and the OHL thereafter would not change the ability of those who enjoy the river to continue to do so. Therefore, the land (being the section of river) would be no less advantageous when burdened with the rights sought.

Kent plots 3/111, 3/112, 5/33, 5/45 and 5/47 (Hoverport)

6.8.34. The applicant seeks permanent rights over Kent plots 3/111, 3/112, 5/33, 5/45 and 5/47 (the hoverport) to provide a permanent pedestrian and vehicular access to the offshore and landfall areas of the cable [REP7-019]. The applicant noted that the disused hoverport site, whilst not designated as open space, appears to be used for access by walkers. The applicant thus considered the relevant plots as open space on a precautionary basis. For the purpose of assessing potential impact associated with construction access, the applicant assumed that for all construction activities occurring in the intertidal area, construction plant and vehicles would use the construction access, from the hoverport, up to four times a day (depending on tides) [REP7-146]. The applicant also stated that use of the hoverport would be negligible in terms of emergency access during construction and for annual checks. The applicant confirmed that there are no proposed physical works within this land. The applicant also confirmed that the use of the land would not be restricted in any way and public access would not be prevented, therefore the land would be no less advantageous when burdened with the rights sought.

ExA findings on open space

6.8.35. Based on the above the ExA considers that the land considered to be open space would be no less advantageous than it was before to the persons in whom it is vested, persons entitled to use the land for recreational use, and the public. The ExA therefore concludes that the test set out in section 132(3) of the PA2008 is satisfied.

CROWN LAND

6.8.36. The order limits include Crown land; part 4 of the BoR [REP7-009], and Special Category and Crown land plans [REP4-004] and [REP4-005] identify plots in which there is a Crown interest that would be affected by the proposed development (Suffolk plot 6/7 and Kent plots 2/58, 2/62, 2/85, 2/91, 2/98, 2/105, 5/11, 5/12,

5/14, 5/15 and 5/16). Article 41 of the dDCO [REP7-002] sets out the Crown rights and that nothing in the dDCO authorises the undertaker to interfere with any land or rights of TCE, without the consent in writing of the owner of any Crown interest in the land which is included in the order limits.

6.8.37. The ExA sought updates from the applicant on progress with securing Crown consent in CAH1 and CAH2 [EV6-001] and [EV8-001].

6.8.38. The applicant confirmed that it had entered into discussions with TCE with regard to the voluntary agreements for the construction and operation of the scheme. The applicant stated that previously TCE and its agents had been engaged with survey access in TCE property. The applicant stated that ongoing discussions with TCE also included the s135 consent. The applicant noted that TCE had confirmed there are no lessees on TCE land which were required to be accommodated [REP7-007]. At DL7 the applicant confirmed that heads of terms had been agreed with TCE [REP7-192].

ExA findings on Crown land

6.8.39. At the close of the examination, whilst heads of terms had been agreed, Crown consent had not been received from TCE. In the absence of consents from TCE, the ExA concludes that the order cannot authorise the CA or TP of those plots of land and/ or interests which are Crown land because the requirements in s135(1) and s135(2) of the PA2008 have not been met. However, in its closing statement [REP7-192] the applicant confirmed that it had made a request for s135(1) consent and was in negotiation. The applicant considered that significant progress had been made and that it was anticipated that the s135 consent would be obtained shortly after the close of examination. The ExA is not aware of any impediments to the granting of Crown consent by TCE. The Secretary of State will need to ensure that Crown consent is forthcoming from TCE prior to the grant of development consent.

HUMAN RIGHTS ACT 1998 AND THE EQUALITY ACT 2010 CONSIDERATIONS

6.8.40. The European Convention on Human Rights (ECHR) was incorporated into UK domestic law by the Human Rights Act 1998. The CA Guidance, paragraph 10 states that the Secretary of State must be persuaded that the purposes for which an order authorises the CA of land are legitimate and are sufficient to justify interfering with the human rights of those with an interest in the land affected. Therefore, in assessing whether there is a case in the public interest for the land to be acquired compulsorily, it is also necessary to consider the interference with human rights which would occur, if CA and TP powers were granted.

6.8.41. The applicant acknowledged that the dDCO would engage a number of articles of the Human Rights Act 1998:

- Article 1 of the First Protocol (the right to those whose property would be compulsorily acquired to the peaceful enjoyment of their possessions)
- Article 6 of the First Protocol (which entitles those affected by the powers sought to a fair and public hearing); and
- Article 8 of the First Protocol (which seeks to protect private and family life, home and correspondence)

6.8.42. No public authority is allowed to interfere with these rights except if it is in accordance with the law and is necessary in the interests of national security, public safety or the economic well-being of the country. The applicant set out in the SoR [REP7-007] (section 8) the considerations that arise in relation to this application and advised that it had carefully considered the balance to be struck between individual rights and the wider public interest. For the reasons set out in section 8 of the SoR the applicant concluded that the inclusion of powers for CA and TP would not breach the convention rights of those who would be affected and that it would be appropriate and proportionate to make the DCO, including the grant of powers of CA and TP.

6.8.43. During its unaccompanied site inspections the ExA identified two caravans which appeared to be in residential use ([EV1-002] and [EV1-003]). One caravan was within the order limits on land which the applicant sought to compulsorily acquire, the other was outside the order limits. The ExA alerted the applicant to the location of the two caravans and informed it that, in the absence of any evidence to the contrary, the occupiers of the caravans should be treated as affected persons in accordance with section 59 of the PA2008 [PD-006] and [PD-008].

6.8.44. 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. The applicant confirmed that the letters had included its contact details and details for the Planning Inspectorate should the recipients wish to engage in the examination process. The applicant stated that it would continue to liaise with, and keep updated, the occupiers of both the caravans throughout the examination [AS-106].

6.8.45. The ExA invited the occupiers of the caravans to the preliminary meeting [PD-010] and ensured that the invitation and all other procedural decisions (including offering them an opportunity to request a CAH and an open floor hearing (OFH)) made

during the examination were hand delivered. The ExA also ensured that the occupiers of the caravans were included in the BoR.

6.8.46. The applicant stated that it had been in discussions with the occupier of the caravan within the order limits. The applicant confirmed that it had provided an agent to ensure the occupier could make any representations to the examination they wished to. The applicant also stated it would work with the occupier to investigate potential locations the caravan could be moved to.

6.8.47. Whilst the ExA understands that the applicant is working with the occupier to investigate where the caravan could be moved to, the ExA cannot 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. Notwithstanding that conclusion, the ExA finds that the purpose for which the CA of the land on which the caravan is located is legitimate and sufficient to justify interfering with the human rights of those with an interest in the land affected. Because of the ExA's procedural decisions, the ExA is content that the occupiers of both the caravans have had a fair opportunity to participate in the examination, and in that regard the requirement of Article 6 of the Human Rights Act is met.

6.8.48. Regarding Article 8 and Article 1 of the First Protocol, and having regard to the conclusions from section 5 of this report that the planning merits case for the proposed development has made, the ExA considers the proposed interference with individuals' rights under these articles would be lawful, necessary, proportionate and justified in the public interest. The ExA is therefore satisfied that the CA and TP sought is compatible with the Human Rights Act 1998 and the ECHR.

6.8.49. The Equality Act 2010 establishes a duty to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The ExA has had regard to this duty throughout the examination and in its consideration of the issues raised in this report.

6.8.50. ExQ1GEN72 [PD-017] asked the applicant if any APs had been identified as having protected characteristics since the Equalities Impact Assessment (EqIA) [APP-362] was undertaken, and if so, what regard had been given to them. The applicant responded that the EqIA concluded there were no landowners with protected characteristics. However, the applicant stated that every landowner was encouraged to appoint a professional representative, to advise them during the examination and

in negotiations of the voluntary agreement. The applicant confirmed that it meets the reasonable cost of this professional representation [REP3-069].

6.8.51. In CAH1 the ExA asked the applicant to further clarify if any APs had been identified as having protected characteristics since the EqIA was undertaken, and if so, provide detail on what regard has been had to them [EV6-001]. The applicant responded by producing 'The Equalities [sic] Act 2010 Supplemental Note' [REP4-097] which considers how potentially affected parties and parties with an interest in land have been accommodated during negotiations and the examination period and sets out the measures which the applicant has taken, in its consideration of the Equality Act 2010 duties.

6.8.52. To ensure participation in the examination was accessible for all, including those who may have accessibility issues or restricted access to computers the ExA made a procedural decision that the applicant should arrange for satellite venues in Suffolk and Kent for use during the hearings [PD-013]. The venues were local to the proposed project and included the technology necessary to allow IPs to participate virtually, including giving evidence to the ExA where appropriate.

6.8.53. 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, and we are satisfied that there is adequate evidence to support and confirm the representations by all parties. In compliance with its duties under the Equality Act 2010 and to discharge its Public Sector Equality Duty (PSED), the ExA via the Case Team at the Planning Inspectorate, adjusted the way it communicated with the occupiers of the caravans. The ExA is also satisfied that the applicant has behaved reasonably with the occupiers of both the caravans and concludes that they have been offered reasonable level of advice and support to navigate the process.

6.8.54. Overall, the ExA finds that the proposed development would not harm the interests of persons who share a protected characteristic or have any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. On that basis, the ExA has found no breach of the PSED.

6.9. CONCLUSIONS

6.9.1. In the event that the Secretary of State is minded to grant development consent for the proposed development the ExA recommends that:

- The CA powers included in the recommended Development Consent Order (rDCO) 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 SPP).
- The TP powers included in the rDCO be granted.
- The CA of SUs land and rights over land included in the rDCO be granted.
- The powers authorising the extinguishment of rights and removal of apparatus of SUs included in the rDCO be granted.
- The powers included in the rDCO to apply, modify or exclude a statutory provision be granted.
- The CA of rights over open space included in the rDCO be granted.

7. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

7.1. INTRODUCTION

7.1.1. This section provides a summary of the draft Development Consent Order (dDCO) as applied for, the examination of and changes made to the dDCO during the course of the examination and reports on the more contentious parts of the dDCO where issues arose and disagreement remained at the close of the examination. It then goes on to set out the changes that the Examining Authority (ExA) would recommend to the applicant's final version of the dDCO [REP7-002] should the Secretary of State decide to grant development consent. The ExA's recommended DCO (rDCO) is contained in appendix A of this recommendation.

7.1.2. This section focuses on the main discussion points and contentious matters raised during the examination and does not report on every change made. This is because many amendments were made to correct typographical or referencing errors, slight revisions to the drafting as a result of discussion between the applicant and interested parties (IP)s, or to reflect minor changes following discussions at issue specific hearings (ISH)s or written questions.

7.2. THE ORDER AS APPLIED FOR

7.2.1. The applicant submitted a dDCO [APP-007] and an Explanatory Memorandum (EM) [APP-008] as part of the application for development consent. The EM describes the purpose and effect of each article of, and the schedules to, the dDCO and why the applicant considers that they are required. The applicant's final dDCO [REP7-002] was submitted at deadline (DL) 7.

7.2.2. The EM [REP7-004] explains that the dDCO is based on the general model provisions that were contained in the now repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009 unless otherwise stated. The EM explains that the general model provisions were followed because there are no model provisions for electric lines.

7.2.3. The articles within the dDCO [REP7-002] are structured as follows:

- Part 1, articles 1 and 2 which deal with preliminary matters including how the order may be cited, when it comes into force and the meaning of various terms used in the order.
- Part 2, articles 3 to 10 inclusive where articles 3 and 4 contain principal powers including development consent for the proposed development and allow it to

be constructed, maintained and operated. Article 5 sets out limits of deviation, articles 6 and 7 set out who has the benefit of the powers of the order and how these powers can be transferred. Article 8 sets provisions where planning permission is granted pursuant to the Town and Country Planning Act 1990. Article 9 is the disapplication of the Community Infrastructure Levy (CIL) Regulations 2010. Article 10 deals with the physical overlap between the proposed development and planning permissions or other consents.

- Part 3, articles 11 to 19 inclusive provide powers to carry out works to and within streets, including the construction and maintenance of new, altered or diverted streets, temporarily close streets and restrict their use, permanently stop up and restrict the use of streets, form and lay out means of access, use of private roads and make, modify or revoke traffic regulation orders.
- Part 4, articles 20 to 23 inclusive which contain supplemental powers relating to discharge of water, protective works to buildings and authority to survey and investigate land. Whilst the numbering for article 23 "Removal of human remains" is still listed in the dDCO this article was removed at DL7.
- Part 5, articles 24 to 46 inclusive provide powers for the undertaker to be able to compulsorily acquire the order land and rights over and within it, and to temporarily use parts of the order land for the construction or maintenance of the proposed development. The powers also extend to creating rights over land for Statutory Undertakers (SU)s and other persons who require those rights to undertake, operate and maintain the proposed development.
- Part 6, articles 47 to 62 inclusive provide various miscellaneous and general provisions including provision for a marine licence, application of landlord and tenant law, defence to proceeding in respect of statutory nuisance, traffic regulations, powers to fell or lop trees and remove or manage hedgerows, temporary closure of, and works in, the relevant rivers.

7.2.4. There are 20 schedules to the dDCO structured as follows:

- Schedule 1 provides the description of the authorised development.
- Schedule 2 lists the plans submitted with the application.
- Schedule 3 details the 22 DCO requirements.
- Schedule 4 sets out the procedure for the discharge of requirements.
- Schedule 5 defines streets subject to street works.
- Schedule 6 defines streets subject to alteration of layout.
- Schedule 7 sets out the streets and public rights of way to be permanently stopped up.
- Schedule 8 sets out the streets, public rights of way and permissive paths to be temporarily closed.

- Schedule 9 sets out the locations where access would be taken from the public highway, for construction and/ or operation/ maintenance purposes.
- Schedule 10 sets out the modification of compensation and compulsory purchase enactments for creation of new rights.
- Schedule 11 sets out the land where only temporary possession (TP) may be taken.
- Schedule 12 sets out these plots where rights in relation to removed apparatus are to be extinguished.
- Schedule 13 sets out the streets that are subject to traffic regulation measures.
- Schedule 14 sets out the trees subject to preservation orders.
- Schedule 15 provides protective provisions (PP) for SUs and their apparatus.
- Schedule 16 is the Deemed Marine Licence (DML). This is split into two parts; part 1 specifies the licensed marine activities and part 2 sets out the conditions.
- Schedule 17 makes provision applying, modifying and excluding statutory provisions referred to in article 58.
- Schedule 18 sets out the amendment of local legislation.
- Schedule 19 lists the documents to be certified.
- Schedule 20 provides a table of discharging authorities.

7.2.5. The structure of the dDCO [REP7-002] is set out in the contents and listed on its face. The ExA is satisfied that the structure of the dDCO is fit for purpose and does not recommend any changes to it in its rDCO.

7.3. EXAMINATION OF AND CHANGES MADE TO THE DRAFT DCO

EXA'S EXAMINATION OF THE DRAFT DCO

7.3.1. The ExA's examination into the dDCO commenced with first written questions [PD-017] where the ExA asked 58 questions on the dDCO. These questions explored all matters within the dDCO and raised several points of errata. The applicant responded at DL3 [REP3-069] and [REP3-070].

7.3.2. The examination of the dDCO continued during ISH2 [EV6-002] where the ExA explored matters orally, including article 10, and in writing through questions within the supplementary agenda [EV6-003]. The applicant responded in the hearing [EV6-029] and at DL4 [REP4-086] and [REP4-087].

7.3.3. Further examination occurred during second [PD-021] and third [PD-023] written questions where the ExA asked 41 questions including those seeking comments on the wording in respect of PPs. The applicant responded at DL5 [REP5-135] and DL6 [REP6-111].

7.3.4. The ExA issued its schedule of changes to the dDCO [PD-024] containing a schedule of recommended amendments to the applicant's dDCO submitted at DL6 [REP6-004]. Responses to the recommended amendments are considered further in section 7.5 below. The ExA separately sought comments on matters not covered in the schedule of recommended amendments (including proposed new articles and requirements) in a rule 17 letter [PD-025]. The applicant [REP7-173] and several IPs (including Suffolk County Council (SCC) [REP7-368], East Suffolk Council (ESC) [REP7-176] and Thanet District Council (TDC) [REP7-185]) responded at DL7.

ITERATIONS OF THE DRAFT DCO

7.3.5. The applicant updated the dDCO three times during the pre-examination period and seven times during the examination at DLs 1, 3, 4, 5, 6 and 7 and at change request deadline 1 (CR1) responding to matters raised in written and oral questions from the ExA and by IPs. The applicant submitted both clean and track changed versions of the dDCO and a table of amendments to the dDCO with each revision (as requested in the ExA's procedural decision in its rule 6 letter ([PD-010], annex E). The final dDCO was submitted at DL7 [REP7-002].

Table 4: Key DCO documentation submitted into the examination

dDCO version	Deadline (DL)	Examination Library (EL) reference
A	Submission	Application dDCO [APP-007] EM version A [APP-008]
B	Response to s51 advice	dDCO (clean) [AS-012] dDCO (tracked) [AS-013]
C	Response to 89(3) letter 8 July	dDCO (clean) [AS-043] dDCO (tracked) [AS-044] EM version B (clean) [AS-045] EM version B (tracked) [AS-046] Schedule of changes version A [AS-067]
D	Response to 89(3) letter 5 August	dDCO (clean) [AS-087] dDCO (tracked) [AS-088] EM version C (clean) [AS-089]

dDCO version	Deadline (DL)	Examination Library (EL) reference
		EM version C (tracked) [AS-090] Schedule of changes version B (clean) [AS-100] Schedule of changes version B (tracked) [AS-101]
E	DL1	dDCO (clean) [REP1-036] dDCO (tracked) [REP1-037] EM version D (clean) [REP1-038] EM version D (tracked) [REP1-039] Schedule of changes version C (clean) [REP1-106] Schedule of changes version C (tracked) [REP1-107]
E (version 2)	CR1	dDCO (clean) [CR1-027] dDCO (tracked) [CR1-028] EM D version 2 (clean) [CR1-029] EM D version 2 (tracked) [CR1-030] Schedule of changes C version 2 (clean) [CR1-050] Schedule of changes C version 2 (tracked) [CR1-51]
F	DL3	dDCO (clean) [REP3-006] dDCO (tracked) [REP3-007] EM version E (clean) [REP3-008] EM version E (tracked) [REP3-009] Schedule of changes version D (clean) [REP3-056] Schedule of changes version D (tracked) [REP3-057]
G	DL4	dDCO (clean) [REP4-217] dDCO (tracked) [REP4-218] EM version F (clean) [REP4-219]

dDCO version	Deadline (DL)	Examination Library (EL) reference
		EM version F (tracked) [REP4-220] Schedule of changes version E (clean) [REP4-227] Schedule of changes version E (tracked) [REP4-228]
H	DL5	dDCO (clean) [REP5-005] dDCO (tracked) [REP5-006] EM version G (clean) [REP5-007] EM version G (tracked) [REP5-008] Schedule of changes version F (clean) [REP5-106] Schedule of changes version F (tracked) [REP5-107]
I	DL6	dDCO (clean) [REP6-004] dDCO (tracked) [REP6-005] EM version H (clean) [REP6-006] EM version H (tracked) [REP6-007] Schedule of changes version G (clean) [REP6-129] Schedule of changes version G (tracked) [REP6-130]
J	DL7	dDCO (clean) [REP7-002] dDCO (tracked) [REP7-003] EM version I (clean) [REP7-004] EM version I (tracked) [REP7-005] Schedule of changes version H (clean) [REP7-085] Schedule of changes version H (tracked) [REP7-086]

NOTABLE CHANGES MADE TO THE DRAFT DCO

7.3.6. The table below provides a summary of the notable changes made throughout the examination, primarily in response to issues raised by the ExA (in written questions and orally in hearings) or submissions by IPs.

7.3.7. Changes related to articles 7, 10, 11, 13 and 18, requirement 15, schedule 4 and schedule 15 are not included in the table but instead covered in detail in section 7.4 of this report as main examination issues. Changes in relation to schedule 3, requirements 3 (Detailed Design), 7 (Construction Hours), 16 (Trenchless Landfall Techniques), 18 (Control of Operational Noise), 21 (Mitigation of Intra Project Cumulative Effects) and Schedule 16, conditions 10 (Trenchless Landfall Techniques), 11 (Red Throated Diver), 15 (Pre-construction surveys and monitoring) and 18 (River Stour Channel) are covered in section 3 of this report.

7.3.8. Many changes were made as a result of typographical or referencing errors and slight revisions to improve precision and consistency which are not reported in the interests of conciseness. A list of all the changes made to the dDCO since the point of submission can be found in the schedule of changes submitted at DL7 [REP7-085].

Table 5: Notable changes made to the dDCO throughout the examination

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
Throughout the dDCO	J/DL7	Removal of the words "such approval must not be unreasonably withheld or delayed"
Article 2 (1)	E/DL1	Definition of 'commence' inserted following Natural England's relevant representation
	F/DL3	Text inserted to make the clear that the definition of maintain does not permit the whole of the authorised development to be reconstructed or replaced using maintenance powers.
Article 2 (3)	H/DL5	Insertion of text to explain the meaning of ‘existing ground level’, being the highest existing ground level within the footprint of the lateral Limit of Deviation provided for the work in question.
Article 5	H/DL5	Table of parameters amended to clarify the distinction between existing ground level and finished ground level.
	I/DL6	Insertion of new paragraph (4) to commit to ensuring that the footprint of the fenced compound area to be constructed as part of the

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
		substation in Suffolk under Work No.1B to reflect the footprint secured under the East Anglia One North (EA1N) and East Anglia Two (EA2) Windfarm Orders 2022.
Article 27	G/DL4	Insertion of new text to restrict the replanting of trees, shrubs, shrubberies or any other deep-rooted organism above or within 10m of underground cables.
	H/DL5	Removal of the text ",shrubs, shrubberies"
	I/DL6	Insertion of text to (1)(a)(ii) to confirm that it excludes any land identified in the land plans and Book of Reference as Class 10 land. Also, removal of the text in (1)(a)(j) "or any other deep rooted organism".
Article 28	J/DL7	Insertion of text to clarify that any land identified in the land plans and Book of Reference as Class 10 land is excluded from temporary use for maintenance.
Article 51	J/DL7	Insertion of new paragraph " (11) The power conferred by paragraph (1) does not apply to any trees identified as ancient or veteran in the Arboricultural Impact Assessment, unless it has previously been agreed with the relevant planning authority that they are unsafe and there is no alternative to their removal."
Article 62	E/DL1	Insertion of new paragraph to clarify that the Marine Management Organisation (MMO) should not be subject to the arbitration provisions.
Schedule 3, Interpretation	J/DL7	Insertion of text to clarify the meaning of "substantially in accordance with".
Schedule 3, Requirement 4 (Stages of the	J/DL7	Notice given to the relevant planning authority for carrying out pre-commencement works

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
Authorised Development)		amended from no less than seven days to no less than 28 days.
Schedule 3, Requirement 5 (Management plans and commitments)	F/DL3	Insertion of text to include the outline overarching written schemes of investigation.
	G/DL4	Amendment of text and deletion of "construction" to ensure requirement covers all management plans and commitments. Text also inserted to include the Register of Environmental Actions and Commitments (REAC).
Schedule 3, Requirement 6 (Management plans to be approved)	F/DL3	Insertion of text requiring the Environment Agency (EA) to be consulted. Text also inserted to include the Code of Construction Practice and the REAC in the list of management plans.
	G/DL4	Insertion of text to include consultation with additional statutory bodies and clarification on the management plan descriptions.
	H/DL5	Insertion of text "unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate."
	I/DL6	Insertion of text to make the National Trust a consultee. Removal of the Code of Construction Practice from the list of management plans
Schedule 3, Requirement 9 (Reinstatement schemes)	F/DL3	Insertion of text to allow hedgerows to be reinstated above, or within 10m, of underground cables.
	G/DL4	Deletion of text which precluded the reinstatement of land above or within 10m of underground cables.

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
Schedule 3, Requirement 10 (Unsuspected contamination)	F/DL3	Amendment made at the request of the EA to include their preferred wording in relation to unsuspected contamination.
	H/DL5	Insertion of text to include pre-commencement operations.
Schedule 3, Requirement 17 (Depth protection)	H/DL5	New requirement inserted to secure the depths that must be safeguarded in the Areas of Interest to reflect discussions with Port of London Authority (PLA), London Gateway Port Limited (LGPL) and the Marine and Coastguard Agency (MCA).
	I/DL6	Insertion of new paragraph (3) to clarify that no part of Work No.6 is to be installed within the Sea Link Exclusion Area (as shown on the Areas of Safeguarded Water Depth Plan).
Schedule 3, Requirement 19 (Emergency Planning)	J/DL7	Insertion of a new requirement to set out emergency planning provisions.
Schedule 3, Requirement 20 (Reinstatement planting plan)	J/DL7	Insertion of a new requirement to make provision for a reinstatement planting plan.
Schedule 3, Requirement 22 (Access to Pegwell Bay)	J/DL7	Insertion of a new requirement to deal with access to Pegwell Bay.
Schedule 16, part 1 (2)	I/DL6	Amendment of the maximum size of the cable corridor disposal site from 250,000 to 325,000 cubic metres to reflect the additional pre-sweeping required in the Sunk Pilot Boarding Area to meet the port authorities' requested safeguarded water depth.

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
Schedule 16, part 1 (3)	H/DL5	Insertion of text to Work No 6 to reflect that the works to lay the marine electric cables include burying the cables.
Schedule 16, part 1 (4)	F/DL3	Amendment of text to replicate the approach taken in relation to the various management plans listed in schedule 3, requirement 6. Text also inserted to prohibit the undertaker reducing the water depth by more than 5% unless agreed with the MMO.
Schedule 16, part 2, condition 1 (Design parameters)	H/DL5	Insertion of new paragraph to limit wet storage activities, exclusion zones and cable joints within the Areas of Interest. The total pre-sweeping volume was also amended from 250,000 to 325,000 cubic metres to reflect the additional pre-sweeping required due to the commitment to the maintain the safeguarded depths in the Areas of Interest at the Sunk Pilot Boarding Area.
	J/DL7	Insertion of new condition 1(f) which deals with cable crossings within the Areas of Safeguarded Water Depth following engagement with the port authorities.
Schedule 16, part 2, condition 3 (Notifications and inspections)	H/DL5	Time to issue a notice to mariners changed from seven to 14 days and the time allowed to provide notices to MMO, MCA and United Kingdom Hydrographic Office changed from 24 hours to 5 days.
Schedule 16, part 2, condition 4 (Pre-construction plans and documentation)	H/DL5	Text amended to include additional consultation for the PLA and Trinity House. Additional wording also added to 4(a)(v) which had been requested following meetings with the MMO and MCA to provide greater clarity on the detailed cable laying and burial plan.

Article/ Schedule	dDCO version/ DL	Summary of notable changes made
		Text also amended in (b) to (g) from "general accordance" to "substantial accordance". Insertion of text in 4(3) to remove the provision permitting a document to be deemed to be approved by MMO within a timescale which has been changed from 16 weeks to six months. Insertion of 2 new paragraphs (6) and (7) relating to the maintenance of water depths and due to the additional pre-sweeping activities required at the Sunk Pilot Boarding Area.
	I/DL6	Insertion of new text to include additional details within the Navigation and Installation Plan following discussion with the MMO. Insertion of new text to add items (i) to (m) to the list of plans. New plans include an In-Principle Monitoring Plan, the Red Throated Diver Protocol and provision for a landfall method statement and a chemical risk assessment.
Schedule 16, part 2, condition 8 (Chemical, drilling and debris)	I/DL6	Text amended and inserted in relation to chemicals as agreed with the MMO.
Schedule 16, part 2, condition 13 (Deployment of cable protection)	H/DL5	Insertion of new paragraph to include an additional condition to govern cable protection within the Sandwich Bay Special Area of Conservation and any cable protection being installed 10 years post-construction.
Schedule 18	I/DL6	An additional section of public general legislation included to provide that the undertaker shall be deemed to be a person interested in the order land or any part of it for the purposes of Section 106 (1) of the Town and Country Planning Act (TCPA) 1990.

7.4. MAIN ISSUES CONSIDERED IN THE EXAMINATION

7.4.1. This section deals with overarching DCO matters and focuses on the issues the ExA considers to be significant because they gave rise to several questions or submissions or were outstanding matters of disagreement. Section 3 of this report covers specific topic related DCO and DML matters which are not repeated here. This section does not report on every change or any questions that we consider have been adequately justified by the applicant.

7.4.2. Based on the comments raised by IPs and the ExA's review of the application documents, the main issues considered during the examination were:

- Article 7 (Consent to transfer benefit of Order)
- Article 10 (Planning Permission and other consents)
- Articles 11 (Street works), 13 (Application of the 1991 Act) and 18 (Construction, alteration and maintenance of streets)
- Friston substation
- Requirement 15 (Restriction on carrying out works when consented in another order)
- The addition of a Department for Energy Security and Net Zero (DESNZ) discharging unit
- Schedule 15 (Protective provisions)
- Schedule 16 (DML)

ARTICLE 7

7.4.3. The MMO objected to the inclusion of article 7. The MMO considered that this provision operated to make the decision that of the undertaker, with the Secretary of State providing consent to the transfer, rather than the MMO as the regulatory authority for marine licences considering the merits of any application for a transfer. The MMO stated that these provisions should be removed and any transfer should be subject to the existing regime under the Marine and Coastal Access Act 2009 (MCAA), with the decision maker remaining the MMO [REP7-203].

7.4.4. The applicant amended the wording of article 7 to include consultation with the MMO before any such transfer of benefit. The applicant stated that this would be consistent with the approach used in other DCOs. However, the applicant confirmed that it would continue to engage with the MMO on the matter [REP7-015].

ExA's findings

7.4.5. The ExA recognises that the drafting of article 7 has never been intended to apply to the MMO alone; the article deals with all licences that would be required to construct the proposed development and must, therefore, be fit for purpose for those eventualities. The ExA is mindful that a key purpose of the Planning Act 2008 (PA2008) is to provide a simpler, singular, process for obtaining consent for nationally significant infrastructure projects within one legal instrument; the rDCO.

7.4.6. The ExA also recognises that articles similar to that proposed by the applicant in this case have been included in numerous made DCOs (including the recently made The Outer Dowsing Offshore Wind Farm). The ExA therefore considers that it is safe to reason that in those cases the Secretary of State made its decision on firm legal ground and that the Secretary of State should not in this case be unduly concerned that the inclusion of provisions such as those set out in article 7 might be unsafe. Furthermore, the ExA notes that the amendment to name the MMO as a consultee provides a safeguard whereby it could raise any legitimate concerns with the Secretary of State prior to a decision being made.

7.4.7. For these reasons, the ExA does not recommend that the MMO is made exempt from article 7.

ARTICLE 10

7.4.8. The applicant stated that the purpose of article 10 (Planning permission and other consents) was to make provision in respect of other planning permissions and development consents. The applicant explained that it considered it important to ensure that the interface between the DCO (if granted) and any other such consents (which may not yet exist) was provided for, to ensure clarity of the interface. The applicant stated that article 10(1) ensured that, where a planning permission was granted after the making of the order, then if the criteria were met, pursuing works or use under that permission would not cause a breach of the DCO. The applicant stated that it was not expecting to make any applications for such permission, however if it did need to do so then this article would have effect. The applicant referred to several other DCOs (both onshore and offshore) but did not detail any potential conflicts. The applicant also explained that article 56 (safeguarding), sought to safeguard the proposed development and to enable the applicant to make representations, including to seek to avoid inconsistencies in relation to other permissions that might be granted [REP3-069].

7.4.9. The ExA explored how article 10 would work in practice in ISH2 [EV6-029]. The applicant stated that article 10 protected the Sea Link DCO from being rendered legally unimplementable if another planning permission was granted and built out

within the order limits. The applicant noted that following the Supreme Court Judgement in the case of Hillside Parks Ltd v Snowdonia National Park Authority ([2022] UKSC 30) 'Hillside judgement', a later permission, if physically incompatible with an earlier one, can invalidate the earlier consent. The applicant explained that the article therefore ensured that the Sea Link consent (if granted) could not be undermined by subsequent development that would otherwise create an inconsistency in law. However, the applicant reiterated that although the article provided a legal mechanism, the intention was that it should not need to be relied upon in practice, because the applicant was proactively engaging with the undertakers for other made and potential DCOs (including Scottish Power Renewables (SPR) and LionLink Interconnector) to avoid physical incompatibilities between schemes. The applicant maintained that this liaison was intended to prevent conflicts and ensure compatibility, such that article 10 need not be relied upon [REP4-085].

7.4.10. Several local authorities were concerned that that under the provisions of article 10, the Sea Link undertaker could theoretically submit subsequent TCPA applications for elements of the Sea Link project without needing to fully implement the mitigation measures secured under the made DCO. SCC stated that it understood that 10(2) and 10(3) may be sufficient to prevent enforcement action being taken against SPR in relation to any inconsistencies between SPR's authorised development and Sea Link's. However, SCC considered the wording of article 10 should be amended to ensure it could not be used as a vehicle to undermine the controls consented under the SPR orders [REP4-150]. The ExA asked the applicant to work with the councils to agree suitable wording of article 10 which all parties were content with and to supply an update on progress on this matter for DL4 (action point 115 [EV-033]).

7.4.11. In [REP6-276] SCC provided suggested drafting for article 10 (which had been agreed with other local authorities (Dover District Council (DDC) [REP6-260], ESC [REP6-261], TDC [REP6-274]). SCC noted an error in the paragraphs referenced in article 10(3) and proposed the insertion of the following new paragraph:

"(4) Where any development to which this article relates is carried out or used pursuant to a planning permission granted under the 1990 Act or development consent granted under the 2008 Act, nothing in this article -

(a) authorises any development that would give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement; or

(b) prevents any enforcement action under the 1990 Act or the 2008 Act being taken in relation to any breach of that permission or consent where that breach is not an inconsistency for the purposes of paragraph (2)."

7.4.12. The ExA requested that the applicant and all local authorities provide comment on the article 10 wording supplied by SCC at DL6 [PD-025].

7.4.13. ESC agreed with the drafting of the new 10(4) proposed by SCC. However, ESC stated that whilst it accepted that any inconsistency with the approved DCO should be disregarded (article 10(2)(a)), as the relevant planning authority, it did not agree that its statutory powers of enforcement should be removed as provided by article 10(2)(b). ESC explained that a local planning authority's statutory powers of enforcement in the circumstances now under consideration quite properly extend far beyond just the carrying out of a development that may be inconsistent with an approved DCO. ESC noted that those powers in addition encompass how the permitted development should be undertaken, including compliance with conditions and approved timescales. ESC stated that if this sub-paragraph remained it would effectively give the applicant "carte blanche" to amend the consented development without risk of enforcement. ESC considered that this would enable the applicant to override the fundamental provisions of the TCPA 1990 which was not the intention of the legislature in promoting the Planning Act 2008 [REP7-176].

7.4.14. TDC agreed with SCC suggested article 10 wording [REP7-185]. No other local authority provided comment on SCC's drafting of article 10.

7.4.15. Friston Parish Council (FPC) also agreed with SCC suggested drafting of article 10. However, FPC were concerned that the use of the word "materially" in paragraph 4(a) would in practice create uncertainty and a debate as to what "materially" means. FPC considered that it was inevitable that what SCC, ESC and FPC consider material would be different from what the applicant considered to be material. FPC therefore stated that the word "materially" should be deleted from SCC suggested 10(4)(a) text [REP7-177].

7.4.16. The applicant did not agree with SCC's suggested wording for 10(4)(a) stating that it considered that the wording went beyond the proper policy intent and could capture other consents beyond that which it should. The applicant also noted that the DCO, if made, would grant (via article 3 and schedule 1) development consent, but that article 10 does not function so as to grant any consent. The applicant stated that if other consents were granted, then they would have been so granted on their respective merits by the body with appropriate jurisdiction and therefore could not agree the SCC suggested provision in 10(4)(a). However, the applicant did agree with SCC's drafting for 10(4)(b) and updated the dDCO accordingly to include a new

10(4) which mirrored the SCC 10(4)(b) text [REP7-002]. The applicant stated that nothing in the article prevented any enforcement action under the 1990 Act or the 2008 Act from being taken in relation to any breach of that permission or consent where that breach is not an inconsistency for the purposes of 10(2) [REP7-004].

ExA's findings

7.4.17. The reference to the PA2008 within article 10 is novel drafting and has not appeared in other DCOs which only deal with the TCPA 1990 and issues (real or hypothetical) arising from the 'Hillside judgement' concerning inconsistent overlapping planning permissions.

7.4.18. There are existing and proposed DCOs which have an interface with the proposed development (including the SPR schemes, Manston Airport and LionLink Interconnector). PP are included in schedule 15 for the SPR schemes (discussed below) but nothing is included for Manston airport.

7.4.19. In relation to ESC's request to remove 10(2)(b) the ExA understands ESC's concern that this could enable the applicant to amend the consented development without risk of enforcement. However, the addition of 10(4)(b) ensures that enforcement action is not prevented for any breach that is not in relation to an inconsistency. We also note that the text in 10(2)(b) has been included in other made DCOs, including Bramford to Twinstead and London Luton Airport Expansion. No other local authority has raised any concerns with the inclusion of this text. The ExA is therefore satisfied that the text in 10(2)(b) should remain.

7.4.20. In relation to whether 10(4)(a), as proposed by SCC, should be included in the rDCO the ExA is satisfied that any other consents granted will have been done on their respective merits by the body with appropriate jurisdiction. It would therefore not be appropriate or necessary for article 10 to include this proposed provision. Furthermore, the ExA considers that the wording proposed by SCC for 10(4)(a) would not provide protection against the undermining of controls consented under the SPR orders, which would need to be justified in accordance with those consents. The ExA therefore finds that there is no legitimate justification in this case for including SCC's proposed paragraph 10(4)(a) within the rDCO.

7.4.21. In relation to FPC request that "materially" is removed from 10(4)(a) the ExA understand FPC's concerns. Nonetheless the ExA considers that the words "materially new or materially different" are standard in most DCOs and therefore there should be no debate or uncertainty over their meaning. However, as discussed above, the ExA considers that 10(4)(a) should not be included in the rDCO

and therefore there is no need to consider the removal the word "materially" from 10(4)(a) as requested by FPC.

7.4.22. Consequently, the ExA is content with the drafting of article 10 in the dDCO [REP7-002] albeit with the amendment of the reference in paragraph (3) to “under paragraph (1) or (3) or otherwise” to be amended to “under paragraph (1) or (2) or otherwise” to correct a referencing error. This correction is reflected within the rDCO.

ARTICLES 11, 13 AND 18

7.4.23. In relation to article 11 SCC considered that some of the powers listed in article 11(1) were, absent robust justification, in excess of those required to deliver the project and could compromise the street authority’s ability to safely manage its network at reasonable expense. SCC specifically stated, the matters listed in sub-paragraphs (c), (d), (e), (f), (g) and (i) could result in permanent works being incorporated into the highway maintainable at public expense without any involvement from the street authority. SCC explained that this was a matter of concern for SCC as it is bound by the Highways Act 1980 (s41) to maintain such works or remove or modify them at public expense. SCC stated that absent a suitable highways side agreement or PP to protect SCC’s highways interests, SCC considered art.11(1) should be subject to the street authority’s consent [REP6-237].

7.4.24. The EM states that the list of the types of works that the undertaker is authorised to carry out within 11(1) has been expanded from article 8(1) of the general model provisions. The EM states that these additional provisions relate to the authorised development, namely carrying out civil engineering or other works. The EM explains that they are also necessary and expedient to give full effect to the power to carry out the development authorised under article 3 of the dDCO [REP7-004].

7.4.25. In relation to article 13 SCC considered that the provisions in 13(3) (a), (b), (e) and (g) be excluded for the following reasons [REP6-237]:

"(a) the omission would preclude the local highway authorities (LHA) from directing the undertaker to undertake works in co-ordination with others. This would prevent the LHA from being able to reduce the impact on highway users.

(b) the omission would compromise the LHA’s ability to prevent apparatus being placed in a location that adversely impacts road safety e.g. by compromising visibility.

(e) this provision must be retained to ensure that areas of streets adjacent to the authorised works are surfaced to avoid future defects, the cost of which would have

to then be covered by the LHA. (For example, areas between multiple trenches or alongside longitudinal tranches).

(g) this provision must be retained to ensure that the LHA does not incur future costs resulting from poor material or workmanship."

7.4.26. SCC considered that article 18 should be amended to add a new (3) regarding temporary works. SCC stated that this was to avoid the local highway authority incurring the cost for temporary works that solely benefit the undertaker, and which should be met by the undertaker [REP6-237].

7.4.27. The applicant did not consider that SCC's suggested amendments to articles 11, 13 and 18 were necessary because the PP for the protection of the highways authorities contained at schedule 15 already provided the requisite protection for the highway authority [REP7-173].

7.4.28. However, the Status of Negotiations with SUs and Schedule of Protective Provisions [REP7-039] confirmed that at the end of the examination SCC had not agreed the PP as included in the dDCO. PP are discussed below.

7.4.29. In its final statement [REP7-367] SCC did not mention articles 11,13, or 18, or PP. Kent County Council (KCC) did not submit any comments in relation to articles 11, 13 nor 18.

ExA's findings

7.4.30. The ExA is mindful that had the PPs with the relevant highways authorities been agreed by the close of the examination, SCC's concerns regarding articles 11, 13 and 18 may have been resolved. In the absence of a suitable highways side agreement or PP to protect SCC's highways interests the ExA considers the articles as follows.

7.4.31. In relation to article 11 the ExA considers that in the absence of a suitable highways side agreement or PP to protect SCC's highways interests, article11(1) should be subject to the street authority's consent. We therefore propose that 11(1) is amended as follows:

Street works 11.—(1) **With the consent of the street authority,** t~~T~~he undertaker may, for the purposes of the authorised project, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 5 (streets subject to street works) as is within the Order limits and may with~~out~~ the consent of the street authority—

7.4.32. The ExA considers that whilst 11(1)(c) to (g) may result in permanent works being incorporated into the highway maintainable at public expense, with the insertion of

the SCC proposed text at 11(1), these activities would not occur without any involvement from the street authority. The ExA therefore concludes that these provisions remain in 11(1).

7.4.33. In summary, with respect to article 11 and considering the PP discussion below, the ExA considers that only the amendment to article 11(1), to ensure the street authority's consent, should be included in the rDCO.

7.4.34. In relation to article 13 the ExA understands the concerns of SCC in relation to the omission of provisions which would preclude the local highway authority from directing on matters such as timing and workmanship. The ExA also notes that the SPR made DCOs do not omit the equivalent provisions of SCC concern. The ExA therefore considers that 13(3)(a), (b), (e) and (g) are not proportionate and should be removed from the rDCO.

7.4.35. In relation to article 18 the ExA understands SCC's justification for the amendment as avoiding the local highway authority incurring the cost for temporary works that solely benefit the undertaker. In that respect the ExA understands and agrees with the reason for the proposed inclusion of SCC's new 18(3). SCC did not comment or supply any justification for any deletion of 18(3) to 18(6) which cover new land not previously part of the public highway and action against the undertaker (including defence of any action) in respect to loss or damage resulting from any failure to maintain a street. The ExA therefore considers that article 18 should only be amended to include the following new 18(3) as proposed by SCC:

18(3) For temporary works, the period of 12 months mentioned in paragraphs (1) and (2) commences when the street is reinstated.

FRISTON SUBSTATION

7.4.36. The National Grid substation proposed at Friston as part of the Sea Link application (Work No. 1B) has an existing consent as part of SPR's EA1N and EA2 Windfarm projects. The applicant explained that it was anticipated that the substation would be constructed under the extant SPR consents, with the works undertaken under the Sea Link consent being more limited. In the Sea Link application, this approach to consenting and constructing the Friston substation is referred to as scenario 1. However, the applicant recognised that this scenario depended on works undertaken under other consents, subsequently the Friston substation was also included in the order limits and the description of development for Sea Link. A scenario where the Friston substation was constructed as part of the Sea Link consent is described in the application as scenario 2. The applicant explained that this scenario was considered highly unlikely to occur but had been included to

demonstrate and ensure deliverability of the proposed development. The applicant confirmed that both scenarios had been assessed in the ES [APP-001].

7.4.37. In ISH1 the ExA explored the status of the Friston substation including asking ESC if any applications to discharge requirements by SPR had been or were expected to be made. The ExA also asked the applicant to justify the need for Friston substation scenario 2 to be included in the dDCO [EV3-001]. ESC confirmed that the SPR schemes commenced in July 2025 and that it anticipated that SPR would start to submit the requirement discharge documents relating to substation earthworks and permanent substation access during November 2025 [REP1A-046]. However, the applicant confirmed that it was unlikely that all necessary matters would be resolved, nor the required transfer of benefits from SPR undertaken, by the end of the examination and therefore scenario 2 needed to remain in the dDCO [REP1-124].

7.4.38. ExQ1GEN11 asked the applicant to compare, in detail, in a side-by-side comparison the requirements and schedules of documents to be certified for the proposed development and the SPR made order that relate to Friston substation and explain any differences [PD-017]. In response the applicant supplied a comparison document [REP3-070] however urged caution about considering an approach that would indicate there was a need for consistency between the applications. The applicant explained that commitments that were necessary for SPR would not necessarily be required for the proposed development because the projects differ in the development proposed at Friston, as well as differing significantly outside the area where the order limits of the three projects overlapped. The applicant stated that requirements for the proposed development must reflect the application and ES for this project, as opposed to requirements for another project [REP3-069].

7.4.39. Several IPs including SCC [REP3-081] and FPC [REP3-088] expressed concerns that the mitigations secured for the Friston substation within the SPR DCOs were not protected and could be reduced or eliminated by the proposed development if scenario 2 occurred. The ExA examined the differences in the mitigation proposed for the SPR schemes, compared to the proposed development, for the substation. The ExA explored whether, and if so how, any mitigation measures within the SPR DCO's could be secured within the dDCO during examination of individual topics (see section 3 of this report).

7.4.40. SCC remained concerned about the discrepancies between the DCOs for the SPR schemes and the proposed development and subsequently proposed a new requirement to duplicate the SPR requirements for the Friston substation into the dDCO. SCC explained that the proposed new requirement would obviate the need

for the dDCO to replicate (but in different terms) the controls on the Friston substation set out in the SPR DCO's [REP5-181] and [REP6-237].

7.4.41. In [PD-025] the ExA asked whether, in the event that it wasn't minded to include the new requirement, SCC and all local authorities could provide further drafting, with reasons, to allay any outstanding concerns with regards to the existing requirements for the substation.

7.4.42. In response to [PD-025] SCC stated that the key mitigations of concern were drainage, landscape planting, design and working hours. SCC stated that it considered that the issue of drainage was resolved within the outline Drainage Management Plan. In relation to landscape planting, SCC stated that it considered that figure 5 of the outline landscape and ecological management plan was inadequate and did not reflect certain key mitigation planting secured under the SPR consents. SCC stated that this figure should be updated as per its suggestions to better mirror the belts of woodland along the track leading west from Grove Road to the north-west of the site. For working hours, SCC considered the drafting of requirement 7 it provided at DL6 [REP6-237] would resolve that issue. For design, SCC was supportive of the ExA's proposed change to requirement 3(2) [REP7-368].

7.4.43. In its principal areas of disagreement summary statement (PADSS) [REP7-302] SCC stated that the applicant should seek to use the SPR consent and remove scenario 2 from the DCO once it was clear that the substation would be built using the SPR consent. SCC stated that it understood that under the SPR consent, it is National Grid who would be constructing the substation. Once the works had commenced, SCC did not see why scenario 2 would be necessary. SCC stated that the applicant should either remove scenario 2 from the authorised development once this had occurred or otherwise commit to not constructing it under the Sea Link order if it had already started construction under another consent. SCC referred to its wording of requirement 15 which is discussed below.

7.4.44. In response to [PD-025], ESC stated that it remained supportive of the new requirement as proposed by SCC, however, it would defer to SCC if the new requirement was not included in rDCO. ESC PADSS [REP7-301] confirmed that ESC considered that the applicant had embedded all of SPR's approved landscape mitigation as the starting point for their own proposed embedded mitigation which is strongly supported. ESC therefore considered this matter to be closed.

ExA's findings

7.4.45. The ExA is cognisant that commitments necessary for one scheme may differ from those for another. The ExA also agrees that the commitments secured for the

proposed development must reflect the application and ES for this project. However, the ExA understands and shares the concerns of IPs that if scenario 2 were to be necessary, with the Friston substation included within the proposed development, then mitigation measures already secured through the SPR schemes for the substation could be lost or watered down.

7.4.46. Nevertheless, the ExA considers that it would not be appropriate or proportionate to insert a universal requirement pulling through all requirements from the SPR schemes. The ExA considers that requiring the applicant to adhere to the requirements placed on a consent for a different project with only a minor area of overlapping works would be highly problematic. This could have unintended consequences for other elements of the proposed mitigation and create internal inconsistencies with the existing requirements for the proposed development.

7.4.47. The ExA considers that through examination of the topics (discussed in section 3 of this report) sufficient measures have been added to the rDCO to ensure that, if scenario 2 was necessary, mitigation measures secured for the proposed development would be equivalent to those secured by the SPR DCOs.

REQUIREMENT 15

7.4.48. Requirement 15 ("Restriction on carrying out works when consented in another order") was inserted into the dDCO by the applicant at DL1 [REP1-036]. The applicant explained, in the EM, that the addition of this new requirement would prevent any part of Work No.1B, which has been completed pursuant to another development consent order, from being constructed pursuant to the dDCO, save where amendments to those works are required for the purposes of the proposed development [REP1-038]. Works No.1B relate to the Friston substation.

7.4.49. SCC did not consider that requirement 15 functioned as intended by the applicant in terms of preventing the substation from being constructed under the Sea Link DCO after construction had started under another. SCC stated that firstly, the requirement only applied to a part of the substation, so if one part had been completed another part could still be constructed under a different order. Secondly, it stated that the requirement's restriction would only apply when that part was completed, rather than commenced. SCC considered that this meant that the substation could commence under SPR's DCO and could be completed under Sea Link's DCO. SCC did not see why this would be necessary given that commencement would mean all requirements would have been discharged by SPR and National Grid would be the entity constructing the Friston substation under that consent anyway. SCC stated that instead, the requirement should prevent Work no. 1B from being

constructed under the Sea Link DCO if it had been commenced under another consent [REP4-201].

7.4.50. In response to ExQ3GEN27 [PD-023] and questions within [PD-025] SCC provided two options for drafting of requirement 15, with option 2 including an additional paragraph (4) if the ExA considered that "another development consent order" needs to be particularised [REP7-368]:

Option 1

"(1) Where any part of the **substation comprised within** Work No.1B has been ~~completed~~ **commenced** pursuant to another development consent order, ~~those works~~ **that substation** must not be constructed under this Order, save where ~~amendments~~ **alterations** to ~~those works~~ **that substation** are required for the purposes of the Authorised Project".

(2) The undertaker must give not less than 28 days' notice to the relevant planning authority of the proposed commencement of either –

(a) any part of the substation, where such commencement is proposed under this Order; or

(b) any alteration to the substation, where it has been constructed under another development consent order.

(3) Any notice given under paragraph (2)(a) must include a declaration that the substation has not been commenced pursuant to another development consent order."

Option 2 – additional paragraph to be added if required

"**(4) In this requirement, "another development consent order" means East Anglia ONE North Offshore Wind Farm Order 2022(a) or East Anglia TWO Offshore Wind Farm Order 2022(b)."**

(a) S.I. 2022/432.

(b) S.I. 2022/433."

7.4.51. SCC stated that it considered that the control mechanism should be the prohibition of the construction of Work No. 1B under this order where any part of it had been commenced pursuant to another DCO. However, SCC stated that on reflection, to assist with the smooth operation of the post consent stage of the project, SCC considered a mechanism was required to inform the relevant planning authority of any proposal to commence Work No.1B or to commence any alterations to that (completed) work [REP7-368].

7.4.52. SCC did not consider that any detail needed be added to clarify what 'alterations' would comprise or be limited to. SCC also confirmed that because an article is concerned with the grant of powers, and a requirement is concerned with the control of development, since the proposed requirement 15 seeks to control the exercise Work No. 1B, it considered it was appropriate that this provision remained in schedule 3 [REP7-368].

7.4.53. SCC also noted the wide definition in schedule 1 to the dDCO [REP6-005] of “Work No.1B”. SCC stated that owing to the fact it considered requirement 15 should apply to the substation element of that work only, it suggested that requirement 15 drafting be amended so that the references to “Work No.1B” are replaced with references to “the substation” [REP7-368].

7.4.54. As requested, SCC also provided a working example to show how the requirement as per SCC drafting would be applied and discharged in practice [REP7-368].

7.4.55. ESC confirmed that it had reviewed SCC proposed requirement 15 drafting and was supportive of the proposed wording. However, ESC stated it believed that the requirement should be generic, rather than specifically referring to the SPR projects. ESC queried how this obligation would work if explicitly referring to the SPR projects in a scenario where the substation was ultimately delivered by another project (for example LionLink Interconnector), rather than the SPR projects or Sea Link [REP7-176].

7.4.56. The applicant maintained that requirement 15 did not need any amendment. The applicant stated that it considered that it was not appropriate for the requirement to refer to Work No.1B being commenced, rather than completed, as it would not give the applicant the necessary powers to complete the substation works should it be necessary to do so. The applicant also did not consider that the wording "save where alterations to that Work are required for the purposes of the Authorised Project" went far enough to provide sufficient protection against the risk that the applicant would ‘lose’ the powers to complete and construct the substation, if no ‘alteration’ to the Work was required. The applicant remained of the view that completion of the works was the correct criterion [REP7-173].

ExA's findings

7.4.57. The ExA understands the applicant's concerns that it would ‘lose’ the powers to complete and construct the substation, if no ‘alteration’ to the Work was required. However, we agree with SCC that it is inherently unlikely that, were construction of the substation to be commenced (which in reality would be works undertaken by the current applicant), it would not be completed. The ExA also agrees with SCC

that if, for any reason, the substation was not completed, that transfer of the benefit of the relevant DCO to the applicant would not be possible, so as to allow its completion under whichever of the 2022 orders was applicable. However, the ExA also considers that the description for Work No 1B should be amended to ensure the applicant has the clear and unambiguous right to alter or adapt what may have been built for the SPR entities if required. The ExA has therefore included the following amended wording in the rDCO;

Works as shown on Sheet 2 of the Work Plans – Suffolk comprising a Substation at Grove Wood, Friston **(including any alterations to that Substation),** which may include —

7.4.58. The ExA understands SCC's reasoning for including requirement 15(2) which would ensure that if the Sea Link applicant subsequently decided it wished to alter that substation for the purposes of the Sea Link project, it must give ESC not less than 28 days' notice of any alteration. If, however, the Sea Link applicant proposed to commence the Friston substation under the Sea Link DCO, it must also give ESC not less than 28 days' notice of commencement. The ExA therefore agrees that paragraph 15(2), as suggested by SCC, should be included.

7.4.59. The ExA agrees with the reasoning supplied by ESC that the requirement should be generic and not specifically refer to the SPR schemes to ensure it could be applied to any future project if necessary (for example the LionLink Interconnector). The ExA therefore concludes that requirement 15 as proposed by SCC (option 1 without the additional paragraph (4) proposed in option 2), should be included in the rDCO.

THE ADDITION OF A DESNZ DISCHARGING UNIT

7.4.60. 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 dDCO to provide a mechanism for that DESNZ unit to have jurisdiction in respect of the discharge of requirements. The applicant stated that it was sharing this as an early DL7 submission, to enable other parties to provide comments on this proposal at DL7.

7.4.61. The applicant included its proposed changes in [AS-167] and in the DL7 dDCO [REP7-002]. The changes comprise the following amendments:

- Article 55 - text inserted to include a power for requirements to be discharged by a DESNZ unit.
- Schedule 3 (interpretation, paragraph 1(1)) - text inserted to include the definition of a DESNZ unit and explanation that the discharging authority for

requirements could be the DESNZ unit or other discharging authority in accordance with schedule 4.

- Schedule 4 - insertion of the following new text;

"1. —(1) Where notice has been received by the undertaker pursuant to paragraph 1(6) of Schedule 3 (requirements)—

(a) the undertaker may make an application for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement) or any document referred to in any requirement to either, at the undertaker's discretion, the DESNZ unit or the body that would otherwise have been the relevant authority (being either the relevant planning authority, relevant highway authority or discharging authority pursuant to the Requirements, as appropriate) if not for the establishment of the DESNZ unit; and

(b) in the case of Requirements (including part of a Requirement) pursuant to which the undertaker has made such application to the DESNZ unit as the relevant authority the DESNZ unit must consult with the body that would otherwise have been the relevant authority as though it was named as a body to be consulted in that Requirement and such body shall be treated as a "Requirement consultee" for the purposes of this Schedule 4 (discharge of requirements)."

7.4.62. Over 40 IPs (including [REP7-196], [REP7-210], [REP7-222], [REP7-233], [REP7-265], [REP7-280] and [REP7-291]) submitted objections to this proposal at DL7.

7.4.63. SCC raised two concerns in relation to a DESNZ unit. SCC stated that whilst it welcomed the approach that retains the relevant local authorities as a potential discharging authority, rather than this being always a function of the DESNZ unit, 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. SCC provided suggested drafting for schedule 4 that it considered would ensure a defined process was set out, including safeguards to ensure that there was adequate time for such consultation and that consultation responses were taken fully into account [REP7-366].

7.4.64. SCC explained that it considered that there were two benefits of the current regime which risked being undermined by removing discharge of requirements from local authorities; the local knowledge possessed by local authorities, and the accountability to the interests of local communities the requirement for local authority approval brings. SCC also considered that the DCO should be written such that the involvement of local authorities was retained as far as possible. SCC stated that one way to promote this would be to ensure procedural provisions for

consultation are strengthened and suggested that this could be secured using similar wording to that of requirement 23 from the Lower Thames Crossing made DCO [REP7-366].

7.4.65. 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. ESC noted that at the time of writing (DL7), no detailed formal guidance had been published by DESNZ, the Ministry of Defence and the Ministry of Housing, Communities and Local Government regarding the interpretation and function of the new DESNZ unit. ESC stated it and the local communities it represented had significant concerns regarding the DESNZ Unit proposal, which ESC considered would effectively take post-consent requirement discharge powers away from the local planning authority, relegating this input to a pre-submission consultee role only. ESC considered that the proposal that local planning authority involvement would be secured through a requirement for consultation prior to submission to DESNZ would add another layer of complexity and 'red tape' to the established requirement discharge process. ESC believed that this would also restrict meaningful engagement by affected local communities who would otherwise have fed into the relevant local authority's requirement discharge process, irrespective of whether they are named consultees in the DCO or not. ESC concluded that the text proposed by the applicant should not be accepted by the ExA [REP7-260].

7.4.66. KCC did not submit any comments on [AS-167].

ExA's findings

7.4.67. The ExA understands the reasoning for the applicant's proposed amendments to the dDCO. 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.

7.4.68. It is clear from the number of representations made that there is considerable objection to the applicant's proposed drafting which would provide a mechanism to include a DESNZ unit. The ExA also notes that KCC did not submit any comments in relation to the applicant's proposed text. Furthermore, whilst SCC supplied alternative drafting, again due to the late stage in the examination, this drafting could neither be examined nor consulted on. 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 therefore agrees with ESC that the consideration of the mechanism by which requirements could be discharged

through the new DESNZ unit is premature in the context of Sea Link. The ExA consequently recommends that further consultation is undertaken on this matter. The ExA recommends that any consultation, as a minimum, include allowing the applicant to respond to the submissions received just before the examination closed.

7.4.69. The ExA therefore concludes that the suggested drafting supplied by the applicant and incorporated into the dDCO [REP7-002] should not be included in the rDCO.

SCHEDULE 15 - PROTECTIVE PROVISIONS

7.4.70. Schedule 15 comprises 14 parts and sets out the applicant's PP. The PP in part 1 and 2 are the applicant's standard PP in favour of electricity, gas, water and sewerage undertakers; and electronic communications code networks. Parts 3 to 14 are bespoke PP. The ExA examined PP in compulsory acquisition hearings (CAH) 1 [EV6-001] and 2 [EV8-001] and through written questions [PD-021]. Details of the applicant's negotiations with SUs is covered in [REP7-039]. The table below provides detail of the status of each of the PP at the end of the examination. Parts where there remains substantial disagreement between the parties are discussed below. The ExA considers it is unsatisfactory and disappointing that so many PPs are not agreed at the close of examination, despite all efforts from the ExA before and during examination to encourage their timely and complete submission.

Table 6: Status of the PP at the end of the examination.

Part	For the protection of	Status at the close of the examination
3	Anglian Water Services Limited	The applicant and the SU have reached agreement on a set of bespoke PP which are included in the rDCO.
4	Cadent Gas Limited	The applicant and the SU have reached agreement on a set of bespoke PP which are included in the rDCO.
5	The Highway Authorities	Not agreed - discussed below.
6	London Gateway Port Limited (LGPL)	LGPL stated that it sought a right of approval over the cable specification and installation plan, the navigation installation plan and offshore construction and environmental management plan and that this should be secured in the PP. LGPL confirmed that save for this the PPs are agreed [REP7-180]. At DL7 the applicant inserted text to the PP to secure enhanced consultation

		for LGPL to avoid the double approval of documents between LGPL and the MMO [REP7-002]. The ExA agrees with the applicant that it should be the MMO that approves the plans albeit following consultation with LGPL. In the absence of comments from LGPL on the applicants' latest PP we consider that the applicants' version [REP7-002] should be accepted. However, prior to making a decision, the Secretary of State may wish to seek LPGL's confirmation that agreement has been reached between the parties.
7	Railway interests - Network Rail (NR)	Not agreed - discussed below
8	Northumbrian Water Limited (NWL)	In its summary statement of unresolved matters [REP7-207] NWL states that agreement has not been reached on the PPs in relation to cost contributions. NWL supplied its preferred drafting for the PP. The applicant included the majority of this preferred drafting (including that in relation to costs) and supplied justification where not included [REP7-039]. In the absence of comments from NWL on the applicant's latest PP we consider that the applicants' version [REP7-002] should be accepted. However, prior to making a decision, the Secretary of State may wish to seek NWL's comments if agreement has not been reached between the parties.
9	The Port of London Authority (offshore) (PLA)	The applicant has agreed the terms of the PP for the benefit of the PLA and included these terms in the dDCO submitted at DL7 [REP7-002].
10	Southern Gas Networks PLC	The applicant and the SU have reached agreement on a set of bespoke PP which are included in the rDCO.
11	Southern Water Services Limited	The applicant and the SU have reached agreement on a set of bespoke PP which are included in the rDCO.

12	East Anglia Three Offshore Wind Farm (EA3)	The applicant has agreed the terms of the PP for the benefit of EA3 [REP7-195] which are included in the rDCO.
13	East Anglia Two Limited (EA2L)	Not agreed - discussed below
14	East Anglia One North Limited (EA1NL)	Not agreed - discussed below

Part 5 - The Highway Authorities

7.4.71. The statement of common ground (SoCG) (final, unsigned) between KCC and the applicant stated that KCC was currently seeking legal advice in relation to the PP for highway works, given their view that they are significantly more favourable to the body carrying out the highway works than their standard s278 agreement. The applicant stated that it was its view that PP would offer KCC, as the highways authority, all of the protections that a s278 agreement would give [REP7-021].

7.4.72. The applicant confirmed that it had been attempting to engage with KCC in relation to the PP to be included for its benefit in the dDCO. However, it stated that, to date substantive comments have not been proposed on the PP included in the dDCO submitted at DL5 and the parties have therefore not reached agreement on the terms of these PP. The applicant subsequently stated that it had included its own preferred terms in the dDCO submitted at DL7 which is consistent with those included at deadline 5 [REP7-039].

7.4.73. In the SoCG (final, unsigned) between SCC and the applicant in '3.15.26 cost recovery - not agreed' SCC stated that it required adequate cost recovery in relation to highways costs incurred as a result of the project. SCC stated that provision for this was included in SCC's version of PP submitted at DL7 which had been relayed to the applicant. SCC stated that it understood that the two parties would engage after the end of examination with a view to reach agreement on the wording of PP. The applicant confirmed that it had been agreeing and providing funding for SCC's cost recovery for several years and was in the process of finalising the post Examination Planning Performance Agreement for this to continue. The applicant noted that this process was separate to and outside the DCO process [REP7-355].

7.4.74. SCC provided its suggested drafting of PP which it stated were designed to achieve two goals: maintain consistency with SCC's standard arrangements (as captured in

their section 278 agreement) and to address shortcomings they considered existed in arrangements arising from other development consent orders [REP7-324]. SCC preferred wording supplied in [REP7-324] is substantially different from that within the applicant's final dDCO [REP7-002].

7.4.75. SCC did not raise any concerns with respect to the PP in its 'Summary statement of previously raised matters that have not be resolved to the Council's satisfaction' [REP7-367].

7.4.76. The applicant confirmed that it has been engaging with SCC in relation to the PP to be included for its benefit in the dDCO. The applicant stated that SCC returned substantive comments on the proposed PP included in the dDCO submitted at DL5 on 27 April 2026 and, due to the considerable amendments made, these were still under review by the applicant, and the parties have therefore not reached agreement on the terms of these PP. The applicant subsequently stated that it had included its own preferred terms in the dDCO submitted at DL7 which are consistent with those included at DL5 and would continue to engage with SCC. The applicant stated that it hoped to return comments on the version received from SCC shortly after DL7 and anticipated to reach agreement [REP7-039]. The ExA did not receive confirmation that agreement had been reached by the end of the examination.

7.4.77. The ExA understands SCC's reasoning in relation to its preferred PP wording. However, we are also mindful that the PP in part 5 are for the benefit of all highway authorities and KCC has not provided comment in this respect. Furthermore, as discussed above, the ExA agrees with SCC's submission that in the absence of a suitable highways side agreement or PP to protect SCC's highways interests, article11(1) should be subject to the street authority's consent. We therefore consider that the inclusion in article 11(1) of text to require the street authority's consent as suggested by SCC should mitigate the fact that its preferred wording for PP have not been included in the rDCO.

7.4.78. In the absence of comments from KCC on the applicant's or SCC's PP or the submission to the examination of KCC's own preferred PP we consider that the applicants' version (part 5 [REP7-002]) should be accepted. However, prior to making a decision, the Secretary of State may wish to seek SCC's and KCC's comments on part 5 if agreement has not been reached between the parties.

Part 7- Network Rail

7.4.79. Network Rail (NR) confirmed that a substantial proportion of the PP have been agreed. However, NR stated that the parties had not been able to agree the form of provision 4 (concerning the restriction on the use of compulsory powers without

NR's prior consent (not to be unreasonably withheld)) [REP7-206]. At DL7 the applicant amended and inserted text to the PP to provision 4 in accordance with NR requested text [REP7-002].

7.4.80. NR also raised concerns over provisions 5(3) and 9(2) (step in rights) and 11(6) (electromagnetic interference) [REP7-206]. The applicant confirmed that it had added wording which would require NR's engineer to provide reasons for their approval to refuse a plan submitted under paragraph 5. The applicant explained that this would assist it in revising plans, where reasonable, to accommodate concerns raised by NR's engineer which should streamline the approvals process. In relation to 11(6) the applicant stated it had amended this text to bring it in line with the equivalent paragraphs included in the Yorkshire Green DCO and was open to further understanding NR's concerns about that process and potential changes to this paragraph, as appropriate [REP7-039].

7.4.81. The ExA is content that the applicant has amended provision 4 in accordance with NR's wishes. In relation to provisions 5, 9 and 11, in the absence of comments from NR on the applicants' latest PP we consider that the applicants' version [REP7-002] is reasonable and should be accepted. However, prior to making a decision, the Secretary of State may wish to seek NR's comments if agreement has not been reached between the parties.

Parts 13 and 14 - EA1N and EA2

7.4.82. Part 13 and 14 are bespoke PP for the protection of EA2L and EA1NL. The SPR parties considered that PP were substantively agreed in relation to EA1NL and EA2L; however, stated that the applicant provided at a late hour (6:42pm on 27 April), amendments to these PP and a proposed (previously undiscussed) side agreement. The SPR parties stated that given the lateness of the submission and the importance of the PP to their assets, they did not have enough time to consider, negotiate and agree these before DL7. The SPR parties therefore included preferred drafting for parts 13 and 14 and confirmed that they would continue to engage with the applicant, providing a further update as soon as possible following DL7. The SPR parties also stated that a bespoke PP had been agreed with the applicant for SPR and supplied a copy of the drafting however, this was not included with the dDCO [REP7-002] submitted by the applicant at DL7 [REP7-194].

7.4.83. The applicant confirmed it had been engaging with the SPR parties in relation to the PP to be included for its benefit in the dDCO. The applicant stated that the parties were largely agreed on the protections to be provided but disagreed on the form of those protections across PP and bespoke commercial side agreements. The applicant explained that there were considerable overlaps in the interests of SPR,

EA1NL and EA2L, particularly in terms of the construction of the Friston substation. The applicant therefore stated that it was continuing to pursue engagement with the SU on PP and related bespoke commercial agreements for SPR, EA1NL and EA2L. The applicant provided the proposed PP in respect of EA1NL and EA2L which were included in the dDCO submitted at DL7 and stated that these were currently under review by the SPR parties along with accompanying side agreements which include detailed commercial aspects of the practical operation of those PP. The applicant stated that it hoped to reach agreement on the outstanding points on each of these entities shortly after DL7 [REP7-039].

7.4.84. The ExA did not receive confirmation that agreement had been reached by the end of the examination from the SPR parties nor the applicant. It is disappointing that despite discussion at compulsory acquisition (CA) hearings 1 and 2 (CAH1 [EV6-001] and CAH2 [EV8-001]) the PP for the SPR parties were not included within the dDCO until DL7. It is also of great concern that there remains substantial disagreement between the parties on the wording of the PPs. This leaves the ExA in the difficult position of not knowing whether agreement has subsequently been reached or whether the disputed matters require adjudication.

7.4.85. The ExA understands the SPR parties' concerns that without PP the compulsory acquisition could have a serious detrimental impact on the ability for EA1N and EA2 projects to be constructed and operated. However, we are also aware that the SPR parties consider that PP to be substantively agreed with the applicant albeit that the parties are not aligned in respect of the proposed side agreement. The SPR parties' suggested PP drafting for SPR, EA1NL and EA2L (proposed in lieu of a side agreement), includes several matters that overlap with the powers within the rDCO, particularly those governing CA and Work No 1B. The ExA is therefore reluctant to include the SPR parties' PP drafting to the rDCO because of the effect the additional provisions included could have on powers already within the rDCO that have been examined and agreed with other parties.

7.4.86. Considering that there is substantial agreement between the parties, and parts of the SPR parties' suggested drafting could conflict with the rDCO and is only required in the absence of a side agreement, we consider that the applicants' version [REP7-002] should be accepted. However, this should only be on the basis that a side agreement is in place. The ExA therefore strongly suggests that, prior to making a decision, the Secretary of State seeks SPR's comments on whether agreement has been reached between the parties.

SCHEDULE 16 – DML

7.4.87. The MMO considered that condition 2 (Extension of time periods) was not necessary. The MMO explained that under this provision any time period given in the licence to either the undertaker or the MMO could be extended with the agreement of the other party in writing with such agreement not to be unreasonably withheld or delayed. The MMO stated that it did not agree with the inclusion of this condition and requested that it was removed. The MMO concluded that the wording of condition 2 was not included in a standard marine licence and subsequently it did not consider it necessary. The MMO noted that all conditions within the DML should include all information relevant to that condition, including in relation to time periods [REP7-203].

7.4.88. The applicant stated that the inclusion of extensions of time periods for the submission and discharge of documents was secured as part of the DML as an appropriate measure to enable greater flexibility to suit all parties. The applicant did not consider that the inclusion of condition 2 would weaken any of the conditions included within the DML, as it was only implemented on the agreement of both the applicant and the MMO. Subsequently the applicant considered that condition 2 only provided the potential for increased flexibility should the appropriate need arise. The applicant also noted that the inclusion in the DML was in line with other recent DCO developments in the area, namely The Five Estuaries Offshore Wind Farm [REP7-015].

7.4.89. The MMO considered that condition 9 (Force Majeure) should be removed from part 2 of schedule 16, the DML. The MMO had concerns with the inclusion of condition 9(1) in relation to enforcement and liability issues. The MMO stated that Force Majeure was not something that the MMO would include in standalone marine licences. The MMO did not consider provisions on Force Majeure to be necessary as it considered that section 86 MCAA 2009 provided a defence for action taken in an emergency in breach of any licence conditions. The MMO explained that a defence under section 86 of MCAA had two limbs, and in the event that the undertaker failed to notify the appropriate licensing authority, in this case the MMO, within a reasonable time of their actions (Section 86(2) “matters”) the defence could not be relied upon in the event of any enforcement action. The MMO also considered that condition 9(2) was not required. The MMO considered that condition 9(2), which stipulated that unauthorised deposits must be removed at the expense of the undertaker unless written approval was obtained by the MMO, was covered by condition 8(8) [REP7-203].

7.4.90. The applicant disagreed that 9(2) was not necessary, stating that it was covered by the dropped object procedure. The applicant stated that the purpose of the force

majeure condition was that it would apply in an emergency scenario. The applicant stated that section 86 of the MCAA provides a defence for actions taken in an emergency whereas this condition relates to notifying of a deposit in those circumstances. The applicant considered that it did not overlap with section 86, which would still apply. The applicant also noted that the wording was well-precedented in other made DCOs with a DML and subsequently did not propose a change to the dDCO [REP7-015].

ExA's findings

7.4.91. The ExA understands the MMO's concerns that condition 2 is not necessary because all the conditions within the DML should include all information relevant to that condition, including in relation to time periods. However, we are satisfied that the inclusion of condition 2 would not weaken any of the conditions included within the DML, because it would only be implemented with the agreement of both the applicant and the MMO. The ExA also recognises that an identical condition to that proposed by the applicant in this case has been included in the recently made The Five Estuaries Offshore Wind Farm. The ExA is therefore satisfied that condition 2 remains in the DML. However, the ExA considers that the inclusion of 'which shall not be or must not be unreasonably withheld or delayed' (or a variation of such words) would add ambiguity rather than clarity. The ExA asked for removal of such text in the schedule of changes to the dDCO. The applicant agreed to this change (table 3.8 [REP7-085]). The ExA has therefore removed the text 'such agreement not be unreasonably withheld or delayed' from condition 2 in the rDCO.

7.4.92. In relation to the request by MMO that condition 9 (Force Majeure) is removed the ExA is content that this condition would not result in the disapplication of section 86 of the MCAA. The ExA also recognises that conditions similar to that proposed by the applicant in this case have been included in numerous made DCOs (including the recently made The Five Estuaries Offshore Wind Farm). The ExA is therefore satisfied that condition 9 remains in the DML.

7.5. EXA'S CONSULTATION DRAFT DCO

7.5.1. The ExA issued its schedule of recommended amendments to the applicant's dDCO on 17 April 2026 [PD-024]. This set out 34 recommended changes in a table format which were drafted in light of matters arising out of hearings, written questions and comments from IPs.

7.5.2. The applicant responded at DL7 (table 3.8 [REP7-085]) accepting and amending some of the suggested changes, whilst rejecting others with an explanation. Where the ExA is satisfied with the applicant's suggested wording it has incorporated these

within its rDCO. Several IPs (including SCC [REP7-313], ESC [REP7-308] FPC [REP7-309], Walberswick Parish Council [REP7-315], DDC [REP7-307] and TDC [REP7-314]) commented on the amendments recommended by the ExA. All IPs welcomed the proposed amendments albeit some included some minor drafting suggestions.

7.6. EXA'S RECOMMENDED CHANGES TO THE DRAFT DCO

7.6.1. The table below sets out the ExA's recommended changes to the final version of the dDCO submitted by the applicant [REP7-002], taking into account the findings above. Text highlighted in **bold** identities insertion of new recommended text, while text shown with a ~~strikethrough~~ is recommended for deletion. The recommended changes are incorporated in the rDCO at appendix A of this report.

7.6.2. The ExA has incorporated minor changes, such as addressing typographical corrections or incorrect referencing, in its rDCO which are not reported in the table below. The minor changes include the insertion of the word 'outline' in front of document titles where these has been omitted in error by the applicant. The ExA has also added all the document references (apart from those for the Environmental Statement) to schedule 19 which were also omitted in error by the applicant. The applicant removed article 23 at DL7 but left the reference to the article in the dDCO with text stating 'article removed at deadline 7'. The ExA has amended this text to 'article not used'. The ExA has not removed article 23 and renumbered the rDCO as we consider this would cause confusion.

Table 7: The ExA's recommended changes to the final draft DCO [REP7-002]

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
Use of 35 day decision period within the dDCO in: • article 11(3) • article 14(5) • article 15(9) • article 17(2) • article 20(9) • article 22(8) • article 50(9) • article 51(5)	~~35~~ **56** days	The ExA considers that given the volume of Nationally Significant Infrastructure Projects (NSIP)s within the local authority areas and the need to allow for consultation and proper scrutiny, that a 56 day period is reasonable and appropriate.
Article 11(1)	Street works 11.—(1) **With the consent of the street authority,** t~~T~~he undertaker may, for the purposes of the authorised project, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 5 (streets subject to street works) as is within the Order limits and may with~~out~~ the consent of the street authority—	See paragraphs 7.4.31 to 7.4.33 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
Article 13(3)	(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order— ~~(a) section 56 (power to give directions as to timing of street works);~~ ~~(b) section 56A (power to give directions as to placing of apparatus);~~ (~~c~~**a**) section 58 (restrictions on works following substantial road works); (~~d~~**b**) section 58A (restriction on works following substantial street works); ~~(c) section 73A (power to require undertaker to re-surface street);~~ (~~f~~**c**) section 73B (power to specify timing etc. of re-surfacing); ~~(g) section 73C (materials, workmanship and standard of re-surfacing);~~ (~~h~~**d**) section 78A (contributions to costs of re-surfacing by undertaker); and	See paragraph 7.4.34 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(~~i~~**e**) Schedule 3A (restriction on works following substantial street works).	
Article 14 (4)	(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority ~~(such consent not to be unreasonably withheld or delayed)~~.	The ExA considers that the inclusion of 'which shall not be or must not be unreasonably withheld or delayed' (or a variation of such words) would add ambiguity rather than clarity. The ExA subsequently asked for removal of such text in the schedule of changes to the dDCO. The applicant agreed to this change (table 3.8 [REP7-085]) however omitted removal from article 14 (4).
Article 18	18.-(1) **Subject to paragraph (3)** ~~A~~**a**ny street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the	See paragraph 7.4.35 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority. (2) **Subject to paragraph (3)** ~~W~~**w**here a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained to the same condition (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority. **(3) For temporary works, the period of 12 months mentioned in paragraphs (1) and (2) commences when the street is reinstated.** (~~3~~**4**) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(~~4~~**5**) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic. (~~5~~**6**) For the purposes of a defence under paragraph (4), the court must in particular have regard to the following matters— (a) the character of the street and the traffic which was reasonably to be expected to use it; (b) the standard of maintenance appropriate for a street of that character and used by such traffic; (c) the state of repair in which a reasonable person would have expected to find the street;	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and (e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed, but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions. (~~6~~7) In determining who is the street authority in relation to a street for the purposes of Part 3 of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) should be disregarded.	
Reference to the code of construction	~~code of construction practice~~	The DL5 cover letter [REP5-001] stated that the outline onshore and offshore construction environmental

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
practice within the dDCO in: • article 49 • schedule 19 • schedule 20		management plans (CEMP) had been updated to reflect reorganisation of commitments and to split measures formerly in the code of construction practice (CoCP) to make the approvals process clearer. At DL6 reference to the outline CoCP was removed from schedule 3 requirement 6 [REP6-005]. However, references to the CoCP remained in the dDCO. The ExA understands that the CoCP has been superseded by the onshore and offshore CEMPs and therefore any reference to it within the rDCO should be removed
Article 49(2). Defence to proceedings in	(2) For the purposes of paragraph (1) above, compliance with **Requirement 18 (Control of operational noise), and** the controls and measures relating to noise described in the ~~relevant code of construction practice,~~ the CEMP, the Register of Environmental Commitments and the Construction Noise and	See paragraph 3.20.62 in section 3.20 (Noise and vibration) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
respect of statutory nuisance	Vibration Management Plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.	
Article 51	~~(10) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow~~ ~~Regulations 1997.~~ (~~11~~**10**) The power conferred by paragraph (1) does not apply to any tree~~s~~ identified as ancient or veteran in the Arboricultural Impact Assessment, unless ~~it has previously been agreed with~~ the relevant planning authority ~~that they are~~ **has agreed the tree is** unsafe and there is no alternative to ~~their~~ removal. **(11) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997.**	In the interests of precision minor amendments to article 51(10) and 51(11)
Article 55 (1)	(1) Where an application or request is submitted to a relevant planning authority, ~~including where the relevant planning authority is the DESNZ unit for the purposes of a Requirement,~~ a highway authority, (a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of	See paragraphs 7.4.67 to 7.4.69 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	the provisions of this Order such consent, agreement or approval, if given, must be given in writing.	
Schedule 1 Part 1 Authorised Development	Work No. 1B – new Substation at Grove Wood, Friston, Suffolk Works as shown on Sheet 2 of the Work Plans – Suffolk comprising a Substation at Grove Wood, Friston **(including any alterations to that Substation)**, which may include —	See paragraphs 7.4.57 to 7.4.59 in section 7.4 of this report.
Schedule 3 Requirement 1(1)	**1.** —(1) In this Schedule unless the context requires otherwise— ~~"DESNZ unit" means a group or body set up by or on behalf of the Secretary of State for the purpose of providing any consent, agreement or approval required by requirements contained in~~ ~~development consent orders including the Requirements;~~ "authorised development" means the development described in Part 1 (authorised development) of Schedule 1 (authorised project) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;	See paragraphs 7.4.67 to 7.4.69 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	"discharging authority" means the body responsible for giving any consent, agreement or approval required by a requirement included in this Order (as set out in Schedule 20), or further to any document referred to in any requirement, or the local authority in the exercise of functions set out in sections 60 or 61 of the Control of Pollution Act 1974; "limits of deviation" means the limits of deviation referred to in article 5 (limits of deviation); "HGV" means lorries over 3.5 tonnes maximum gross weight but excluding abnormal indivisible loads; "part" means a given geographical section, component or location of the authorised development; "stage" means a defined stage of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to Requirement 4 (stages of the authorised development); "start-up and close down activities" means—	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(a) arrival and departure of workforce and staff at site and movement to and from places of work; (b) general refuelling of plant; (c) site inspections and safety checks; (d) site meetings inspections and walkovers; (e) site clean-up (site housekeeping that does not require the use of plant); (f) general site maintenance; and (g) low key maintenance and safety checking of plant and machinery.	
Schedule 3 Requirement 1(6)	~~(6) From the date of receipt by the undertaker of written notice from the Secretary of State that the DESNZ unit has been established, for the purposes of—~~ ~~(a) each Requirement in this Schedule 3 (requirements) or any document referred to in any requirement, the "relevant planning authority" or as the case may be the "relevant highway authority"~~	See paragraphs 7.4.67 to 7.4.69 in section 7.4 of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	~~shall mean either the DESNZ unit or the body that would otherwise have been the~~ ~~relevant planning authority or relevant highway authority if not for the establishment of the DESNZ unit; and~~ ~~(b) Requirements 5 (management plans and commitments) and 6 (management plans to be approved) or any document referred to in those requirements, in respect of onshore works the "discharging authority" shall mean either the DESNZ unit or the body that would otherwise have been the discharging authority if not for the establishment of the DESNZ unit, for offshore works the "discharging authority" will be the relevant body stated in those requirements.~~ ~~in each case as identified by the undertaker pursuant to paragraph 1(1) of Schedule 4 (discharge of requirements).~~	
Schedule 3, Requirement 3	Detailed Design 3.—(1) Suffolk Converter Station **and Suffolk Substation**, Kent Converter Station and Kent Substation	See paragraph 3.13.32 in section 3.13 (Design) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(a) No construction of buildings included in Works Nos. **1B,** 3B, 9B and 11 (Suffolk converter station, Kent converter station and Kent substation) may commence until details of the design, scale and external appearance of that building has been submitted and approved by the relevant planning authority. The details must be substantially in accordance with the relevant Key Design Principles. Design details for Works No.9B and 11 may only be approved following consultation with Historic England and Dover District Council. (b) When discharging this requirement, the relevant planning authority must take into account that the undertaker must meet the Critical Design Constraints. (c) In sub-paragraphs (~~2~~**1**)(a) and (~~2~~**1**)(b), the Key Design Principles and Critical Design Constraints mean those set out in the relevant tables in the Design Principles – Suffolk and Design Principles – Kent, certified under article 60 (certification of documents). For avoidance of doubt, in sub-paragraphs 3(1)(a) and 3(1)(b) the construction of buildings does not include the construction of the platform or other elements of the authorised project that are not above finished ground level in the location of the buildings.	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(d) In submitting the details set out in paragraph 3(1)(a), a statement must be included confirming that the detailed design has been reviewed by an independent design review panel and describing the actions taken by the undertaker in response to comments received. (e) The authorised development must be carried out in accordance with the details approved or confirmed by the relevant planning authority. ~~further to sub-paragraphs (2)(a) and (2)(b).~~ ~~(2) Suffolk Substation (Friston)~~ ~~(a) Unless otherwise approved by the relevant planning authority, the Suffolk Substation (Work No 1B) will be constructed in accordance with the following details:~~ ~~(i) Substation buildings will be clad in metal cladding using either cool sky tones, light/mid-range ground colours, and darker hedgerow/woodland elements. These colours would include RAL DESIGN 240 80 05, RAL DESIGN 110 60 20 or RAL DESIGN 120 50 05 or similar.~~	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	~~(ii) The roof cladding should match the colour of the uppermost wall cladding on the buildings.~~ ~~(iii) The door colour should match the colour of the cladding around it.~~ ~~(iv) Perimeter security fences would be coloured green (RAL DESIGN 110 60 20 or similar).~~ ~~(b) Insofar as the details approved pursuant to Requirement 12 of SI 2022/433 are amended or if the East Anglia TWO or East Anglia ONE North projects do not progress as currently planned, then the relevant planning authority shall have regard to such circumstances when considering whether to approve otherwise pursuant to sub-paragraph (a).~~ (~~3~~**2**) Bridge over the River Fromus (a) Development of the bridge crossing of the River Fromus (part of Work No. 3~~a~~**A**) must not commence until details of the design, layout, scale and external appearance of the bridge have been submitted to and	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	approved by the relevant planning authority, following consultation with the Environment Agency and Suffolk County Council. (b) The bridge over the River Fromus should be designed in accordance with the following parameters: (i) the bridge shall not have a soffit height lower than 10.49 m Above Ordnance Datum (approximately 4m above the Q95 flow level); (ii) abutments for the bridge shall be set back no less than 8m from the top of the bank; and (iii) the bridge shall not have a deck width greater than 6m. (c) The design details submitted under sub-paragraph (a) must be accompanied by a technical statement demonstrating how, recognising the minimum size parameters in sub-paragraph (b)(i) and (b)(ii), the Applicant has sought to reduce the scale of the bridge and achieve good design in accordance with paragraphs 4.7.1 to 4.7.8 of the Overarching National Policy Statement for Energy (EN-1, 2023). In achieving these aims, the Applicant will have regard to the relationship with the landscape mitigation proposals, the articulation of the spanning structure, the design of the	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	abutment walls, and the design of the parapet railings. The technical statement will include a plan, elevation and section drawings, and 3D renders of the bridge design in key view VP02 and CH02. (d) Should the bridge design comprise a soffit height of less 12.49 m Above Ordnance Datum (approximately 6m above the Q95 flow level), then development of the bridge must not commence until a macro invertebrate monitoring and contingency plan has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency. The invertebrate monitoring and contingency plan must include: (i) the requirement to carry out Water Framework Directive compliant surveys twice yearly (spring and autumn), upstream and downstream of the Fromus crossing for a period of five years following completion of the construction of the Fromus crossing. (ii) principles of the contingency monetary fund set out in sub-paragraph (e) and criteria for when provision of the fund would be triggered.	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(e) Following receipt and review of the monitoring results under sub-paragraph (d)(i), should the criteria in sub-paragraph (d)(ii) be exceeded, then a contingency fund would be provided to fund measures to encourage the passage of macro invertebrates around the Fromus crossing and/or enhancement of Water Framework Directive invertebrate habitat upstream of the Fromus crossing. This would be secured via an appropriate legal agreement. (f) The development shall be carried out in accordance with the details approved by the relevant planning authority further to sub-paragraph 3(3)(a). (**43**) No operational lighting may be installed as part of Work No. 3B, 9B or 11 until an Operational Lighting Management Plan for that stage of the works has been submitted and approved by the relevant planning authority, which must be substantially in accordance with the outline Operational Lighting Management Plan. The lighting shall be installed and operated in accordance with the approved Operational Lighting Management Plan.	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(~~5~~**4**) If Work No. 1B is constructed as part of the Authorised Project, an Operational Lighting Management Plan will be submitted and approved by the relevant planning authority prior to the installation of operational lighting at the substation. The lighting shall be installed and operated in accordance with the approved Operational Lighting Management Plan.	
Schedule 3, Requirement 5(2)(c)	~~(c) Skills, Supply Chain and Employment Plan~~	See paragraphs 3.22.94 to 3.22.98 in section 3.22 (Socio-economics) of this report.
Schedule 3, Requirement 5(3)	(3) For the avoidance of doubt, all pre-commencement operations must be carried out in accordance with the plans listed in sub-paragraph (2), **the arboricultural method statement,** the outline management plans and drainage strategies listed in paragraph 6(1) below, and the outline overarching written schemes of investigation listed in paragraph 14(1) below	See paragraph 3.14.223 in section 3.14 (Ecology, biodiversity and ornithology) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned.	
Schedule 3, Requirement 6(1)	6.—(1) No stage of the authorised development may commence until, for that stage, the following plans as relevant to that stage have been submitted to and approved by the relevant planning authority or other discharging authority as may be appropriate to the relevant plan, scheme or strategy concerned (in consultation with the relevant district or county council, the Environment Agency in the case of the Onshore Construction Environmental Management Plan, Construction Noise and Vibration Management Plans, the Material and Waste Management Plan, the Landscape and Ecological Management Plan and Drainage Management Plans and in consultation with the statutory nature conservation body in the case of the Landscape and Ecological Management Plans and Drainage Management Plans, and in consultation with the National Trust in relation to the Landscape and Ecological Management Plan - Kent)— (a) Onshore Construction Environmental Management Plan (which must be substantially in accordance with the Onshore Outline Construction Environmental Management Plan);	For 6(1)(b) and (c) see paragraphs 3.18.89 to 3.18.91 in section 3.18 (Traffic and transport) of this report. For 6(1)(s) see paragraph 3.22.94 to 3.22.98 in section 3.22 (Socio-economics) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(b) Construction Traffic Management and Travel Plan – Suffolk (which must be substantially in accordance with the Outline Construction Traffic Management and Travel Plan – Suffolk **and shall include maximum number of heavy goods vehicles and monitoring locations; and details of a process to implement corrective measures if maximum numbers are exceeded, to be agreed with the relevant highway authority**); (c) Construction Traffic Management and Travel Plan – Kent (which must be substantially in accordance with the Outline Construction Traffic Management and Travel Plan – Kent **and shall include maximum number of heavy goods vehicles and monitoring locations; and details of a process to implement corrective measures if maximum numbers are exceeded, to be agreed with the relevant highway authority.**); (d) Air Quality Management Plan – Suffolk (which must be substantially in accordance with the Outline Air Quality Management Plan – Suffolk); (e) Air Quality Management Plan – Kent (which must be substantially in accordance with the Outline Air Quality Management Plan – Kent);	

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	(f) Landscape and Ecological Management Plan (LEMP) – Suffolk (which must be substantially in accordance with the Outline LEMP – Suffolk) (g) Landscape and Ecological Management Plan (LEMP) – Kent (which must be substantially in accordance with the Outline LEMP – Kent); (h) Construction Noise and Vibration Management Plan (NVMP) – Suffolk (which must be substantially in accordance with the Outline Construction NVMP - Suffolk); (i) Construction Noise and Vibration Management Plan (NVMP) – Kent (which must be substantially in accordance with the Outline NVMP – Kent); (j) Public Rights of Way (PRoW) Management Plan – Suffolk (which must be substantially in accordance with the Outline PRoW - Suffolk) (k) Public Rights of Way (PRoW) Management Plan – Kent (which must be substantially in accordance with the Outline PRoW - Kent); (l) Soil Management Plan – Suffolk (which must be substantially in accordance with the Outline Soil Management Plan - Suffolk);	

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	(m) Soil Management Plan – Kent (which must be substantially in accordance with the Outline Soil Management Plan - Kent); (n) Material and Waste Management Plan - Suffolk (which must be substantially in accordance with the Outline Material and Waste Management Plan – Suffolk and such approval to be given in consultation with the Environment Agency); (o) Material and Waste Management Plan - Suffolk (which must be substantially in accordance with the Outline Material and Waste Management Plan – Kent and such approval to be given in consultation with the Environment Agency); (p) Drainage Management Plan - Suffolk (which must be substantially in accordance with the Suffolk Drainage Strategy); (q) Drainage Management Plan – Kent (which must be substantially in accordance with the Kent Drainage Strategy); ~~and~~ (r) Flood Management Plan (FMP)**; and** **(s) Skills, Supply Chain and Employment Plan**	

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Schedule 3, Requirement 7	Construction hours (1) Subject to sub-paragraphs (2), (3)~~,~~ **and** (4) ~~and (7)~~ onshore construction work may only take place between 0700 and 1900 Monday to Friday and between 0700 and ~~1700~~ **1300** on Saturdays, **with no activity on Sundays or bank holidays**~~, Sundays and Bank Holidays (the core working hours), unless otherwise approved by the relevant planning authority. There will be no working on Bank Holidays in respect of Work No. 3B, Work No. 9B, and Work No. 11,~~ except for the operations described in sub-paragraph (4) below or with the prior agreement of the relevant planning authority~~. In respect of those works, for Bank Holiday Mondays (meaning Easter Monday, the early May bank holiday, the Spring bank holiday, and the summer bank holiday) there will also be no working on the preceding Saturday or Sunday in each case.~~ (2) Percussive piling works are limited to 0700 to 1900 Monday to Friday and 0700 to **1300** ~~1700~~ on Saturdays and may not occur on Sundays or Bank Holidays, unless otherwise approved by the relevant planning authority. (3) Subject to sub-paragraph (4), HGV deliveries are limited to 0700 to 1900 Monday to Friday and 0700 to **1300** ~~1700~~ on Saturdays and may not occur	See paragraphs 3.21.63 to 3.21.72 in section 3.21 (Health and wellbeing) of this report.

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	on Sundays or Bank Holidays, unless otherwise approved by the relevant highway authority. (4) The following operations may take place outside the core working hours referred to in sub-paragraph (1)— (a) trenchless crossing operations including at landfalls and beneath highways, railway lines, woodlands, nature reserves, Sites of Special Scientific Interest or watercourses; (b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses; (c) the jointing of underground cables; (d) the continuation of any work activity commenced during the core working hours to a point where they can securely and or safely be paused; (e) delivery to the transmission works of abnormal loads and any highway works **provided that they have been** requested by the highway authority to be undertaken outside the core working hours;	

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	(f) the testing or commissioning of any electrical plant installed as part of the authorised development including undertaking of any identified corrective activities; (g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities; (h) activity necessary in the instance of an emergency where there is a risk to persons or property; (i) marine works (all works below the mean high water springs line); (j) security monitoring; (k) intrusive and non-intrusive surveys; (l) mechanical and electrical installation works within buildings once erected and enclosed; (m) any highway works requested by the highway authority to be undertaken outside the core working hours; and	

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	(n) any railway works to be undertaken as part of the project on a Saturday, Sunday, Bank Holiday or outside the core working hours. (5) The core working hours referred to in sub-paragraph (1) exclude start-up and close down activities up to 1 hour either side of the core working hours. A 50dBA noise limit will apply at the nearest noise-sensitive receptor for start-up and close down activities. (6) The severe weather conditions referred to in sub-paragraph (4)(g) means any weather which prevents work from taking place during the core working hours referred to in sub-paragraph (1) and, as the case may be, the hours referred to in sub-paragraph (3) by reason of physical incapacity (whether for reasons of visibility, ground conditions, power availability, site access, wind or otherwise) or being contrary to safe working practices. ~~(7) In respect of Work No.1A and Work No. 1B, construction work may only take place between 0700 hours and 1900 hours Monday to Friday and 0700 hours and 1300 hours on Saturdays, with no activity on Sundays or bank holidays, except as specified in sub-paragraph (8). These working hours will also apply to those elements of Work No. 4, Work No. 13, Work No. 15 and~~	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	~~Work No. 17 insofar as they are works required to construct, operate and/or mitigate the environmental impacts of Work No.1A and Work No.1B.~~ ~~(8) Outside the hours specified in sub-paragraph (7), construction work may be undertaken for essential activities including but not limited to—~~ ~~(a) continuous periods of operation that are required as assessed in the environmental statement, such as concrete pouring and the installation and removal of conductors, pilot wires and associated protective netting across highways or public footpaths;~~ ~~(b) internal fitting out works associated with the substation;~~ ~~(c) the completion of construction activities commenced during the approved working hours which cannot safely be stopped;~~ ~~(d) the testing or commissioning of any electrical plant installed as part of the authorised development; and~~ ~~(e) activity necessary in the instance of an emergency where there is a risk to persons or property.~~	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	~~(9) With the exception of activities undertaken in accordance with sub-paragraph (8)(e), the timing and duration of construction work undertaken in accordance with sub-paragraph (8) and, where works do not fall within sub-paragraphs (8)(a) to (e), whether such works are essential, must be approved by the relevant planning authority in writing in advance, and must be carried out within the approved time.~~	
Schedule 3, Requirement 15	*Restriction on carrying out works when consented in another order* (1) Where any part of the **substation comprised within** Work No.1B has been ~~completed~~ **commenced** pursuant to another development consent order, ~~those works~~ **that substation** must not be constructed under this Order, save where ~~amendments~~ **alterations** to ~~those works~~ **that substation** are required for the purposes of the Authorised Project". **(2) The undertaker must give not less than 28 days' notice to the relevant planning authority of the proposed commencement of either –** **(a) any part of the substation, where such commencement is proposed under this Order; or**	See paragraphs 7.4.57 to 7.4.59 in section 7.4 of this report.

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	(b) any alteration to the substation, where it has been constructed under another development consent order. **(3) Any notice given under paragraph (2)(a) must include a declaration that the substation has not been commenced pursuant to another development consent order.**	
Amend "exit pits" to "entry/exit pits" within the dDCO in: • schedule 3, requirements 16(1), 16(2), 16(4), 16(7) • schedule 16, conditions 10(1) 10(2), 10(4), 10(7)	~~exit pit~~ **entry/exit pits**	See paragraph 3.6.41 in section 3.6 (Marine physical environment) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
Schedule 3, Requirement 16 (5)	~~(5) No exit to trenchless landfall techniques must occur within 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical Note.~~ **(5) Exit or entry to trenchless landfall techniques must occur at least 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical note.**	See paragraph 3.6.41 in section 3.6 (Marine physical environment) of this report.
Schedule 3, Requirement 18	~~18. —(1) No installation of the marine cables in Pegwell Bay may commence until a monitoring and contingency plan has been submitted to and approved by the Marine Management Organisation in consultation with the relevant planning authority and the Environment Agency.~~ ~~(2) The marine and contingency plan will —~~ ~~(a) set out monitoring proposals for the River Stour Channel within Pegwell Bay throughout the operational life of the cables. Monitoring will be undertaken annually for the first five years following installation of the cables after which the frequency and scope of monitoring will be reviewed in consultation with the Environment Agency; and~~	See paragraph 3.6.52 in section 3.6 (Marine physical environment) of this report.

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	~~(b) set out actions that will be undertaken where monitoring demonstrates a need for potential remediation as a result of the River Stour channel migrating to within 50m of the installed cables. In such circumstances, and unless otherwise agreed with the Environment Agency, cable lowering would be the primary mitigation method and no mitigation would be proposed involving the use of sheet piling or dredging.~~ ~~(3) Mitigation and remediation measures will be agreed with and approved by the Environment Agency prior to the undertaking of any remedial works.~~	
Schedule 3, Requirement 18	**Control of Operational Noise** **18 –(1) No part of Work Nos. 1B, 3B, 9B and 11 shall come into operation until an operational noise assessment has been submitted to and approved in writing by the relevant planning authority. The assessment shall—** **(a) be based on the final specification and layout of plant and equipment;**	See paragraphs 3.20.59 to 3.20.63 in section 3.20 (Noise and vibration) of this report.

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	(b) demonstrate compliance with the rating levels set out in sub paragraph (3); and **(c) identify any mitigation measures required to achieve compliance.** **(2) The development shall be operated in accordance with the approved assessment and any mitigation measures therein, which shall be implemented prior to operation and maintained for the lifetime of the development.** **(3) The rating level (L_{Ar}) of noise from the normal operation of the authorised development shall not exceed—** **(a) 34 dB L_{Ar} for any fifteen-minute period between 23:00 and 07:00; and** **(b) 34 dB L_{Ar} for any one-hour period between 07:00 and 23:00, determined one metre free field external to any window or door of**	

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	any existing permanent residential premises using the definitions and methods described in BS4142:2014+A1:2019. **(4) In the event that substantiated noise complaints are received following commencement of operation, the operator shall, upon request, submit a noise impact assessment to the relevant planning authority for approval. The assessment shall—** **(a) Include attended measurements at or near the affected receptor(s);** **(b) Include comparison with predicted noise levels and BS4142 assessment;** **(c) Identify whether the operational noise is resulting in adverse impacts; and** **(d) Where necessary, include details of mitigation measures and a timetable for implementation.**	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(5) Any approved mitigation shall be implemented in accordance with the agreed timetable and shall remain in place for the lifetime of the development.	
Schedule 3, Requirement 21	*Mitigation of Intra Project Cumulative Effects* 21.—(1) **Prior to commencement of development,** ~~O~~once detailed design is complete and detailed construction and programme information is available, the undertaker commits to undertaking a review of the intra-project cumulative effects assessment submitted with the application (as amended during the Examination) **to be submitted to and agreed with the relevant planning authorities,** to consider: (a) if the significant intra-project cumulative effects are still considered likely to occur; (b) if they are still considered likely to occur, what additional appropriate mitigation measures may be applied to reduce their significance; ~~and~~	See paragraphs 3.24.41 to 3.24.45 in section 3.24 (Cumulative effects) of this report.

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	(c) if no such mitigation measures are available, what additional appropriate offsetting measures may be applied following the mitigation hierarchy~~.~~**; and** **(d) any such mitigation or offsetting measures must be agreed with the relevant local authorities, including a timetable for their implementation, and once agreed shall be implemented in accordance with the terms of such timetable.** (2) Measures considered in **21**~~19~~(1) would be those that ~~would meet the tests set out in paragraph 4.1.16, being measures that~~ are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects. ~~(3) Following the process set out in (1) the undertaker would share a draft report with the relevant planning authority and invite feedback on measures identified, providing a 21 day period for comment. The report would then be finalised, incorporating any alternative or additional measures that the undertaker agrees would meet the tests in (2) and including a timetable for the implementation of any measures identified in~~	

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	~~(1) if applicable. This final report would be shared with relevant planning authorities for information purposes.~~ ~~(4) All measures detailed in the report will be implemented as detailed, unless otherwise agreed with the relevant planning authority.~~	
Schedule 3, Requirement 22(3)	**22(3) Where the trigger levels referred to in 22(2)(c) demonstrate that action is necessary to contain contaminated materials, the applicant shall cease activities that are causing release of contaminating materials and submit proposals for remediation to the Environment Agency, in consultation with the SNCB and the relevant planning authority. The works shall be implemented as approved.**	See paragraph 4.2.19 in appendix B (Habitats Regulations Assessment) of this report.
Schedule 4, Discharge of Requirements	1.— ~~(1) Where notice has been received by the undertaker pursuant to paragraph 1(6) of Schedule 3 (requirements)—~~ ~~(a) the undertaker may make an application for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement) or any document referred to in any requirement to either, at the undertaker's discretion, the DESNZ unit or the body that would otherwise have been the relevant authority (being either the relevant planning authority, relevant highway authority or~~	In relation to the DESNZ discharging unit see paragraphs 7.4.67 to 7.4.69 in section 7.4 of this report. The ExA considers that given the volume of NSIPs within the local authority areas and the need to allow

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	~~discharging authority pursuant to the Requirements, as appropriate) if not for the establishment of the DESNZ unit; and~~ ~~(b) in the case of Requirements (including part of a Requirement) pursuant to which the undertaker has made such application to the DESNZ unit as the relevant authority the DESNZ unit must consult with the body that would otherwise have been the relevant authority as though it was named as a body to be consulted in that Requirement and such body shall be treated as a "Requirement consultee" for the purposes of this Schedule 4 (discharge of requirements).~~ (~~2~~**1**) Where an application has been made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), the relevant authority must give notice to the undertaker of its decision on the application within a period of **56** ~~35~~ days beginning with— (a) where no further information is requested under paragraph 2, the day immediately following that on which the application is received by the authority;	for consultation and proper scrutiny, that a 56 day period is reasonable and appropriate.

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	(b) where further information is requested under paragraph 2, the day immediately following that on which further information has been supplied by the undertaker; or (c) such longer period as may be agreed in writing by the undertaker and the relevant authority. (~~3~~**2**) Subject to sub-paragraph (~~4~~**3**), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph (~~2~~**1**), the relevant authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period. (~~4~~**3**) Where— (a) an application has been made to the relevant authority for any consent, agreement or approval required by a Requirement included in this Order; (b) the relevant authority does not determine such application within the period set out in sub-paragraph (~~2~~**1**); and	

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	(c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement, then the application is taken to have been refused by the relevant authority at the end of that period.	
Schedule 16, Condition 2	2. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing ~~such agreement not to be unreasonably withheld or delayed~~.	See paragraph 7.4.91 in section 7.4 of this report.
Schedule 16, Condition 4 (1)(a)	(a) Cable Specification and Installation Plan document in respect of those licensed activities, which is in substantial accordance with the principles set out in the outline Cable Specification and Installation Plan and which has been informed by a cable burial risk assessment ~~which~~ **and** shall include ~~details of —~~	To avoid ambiguity, the ExA considers that condition 4(1)(a) should be reworded so that it is clear that the referenced plans are required to be submitted for approval.

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		Also see paragraph 3.14.102 in section 3.14 (Ecology, biodiversity and ornithology) of this report.
Schedule 16, Condition 4 (1)(a)(iii)	(iii) **the** proposed detailed location and route of offshore cables, including **a micro siting plan (informed by pre-construction surveys) which details avoidance of features of archaeological or ecological importance** ~~micro-siting~~ where necessary, together with timings;	See paragraph 3.4.99 in section 3.4 (Benthic ecology) of this report.
Schedule 16, Condition 4 (1)(l)	**(l) a monitoring plan to include details of proposed pre-construction surveys, baseline report format and content, post-construction monitoring and related reporting (which shall include, but not be limited to, the monitoring of the recoverability of mudflats at the Kent landfall intertidal area) in accordance with conditions 15 and 17 to be submitted to the MMO (unless otherwise agreed in writing by the MMO) in accordance with the following –** **(i) at least six months prior to the first survey, details of the pre-condition surveys and an outline of all proposed monitoring;**	See paragraphs 3.4.97 to 3.4.100 in section 3.4 (Benthic ecology) of this report.

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	(ii) at least six months prior to completion of construction, detail of post-construction (and operational) monitoring.	
Schedule 16, Condition 4 (8) and (9)	**4(8) Trial trenching must not be carried out until a method statement and mitigation plan for the proposed trial trenching has been submitted to and approved in writing by the MMO in consultation with the statutory nature conservation body. Trial trenching must be carried out in accordance with the approved method statement and mitigation plan.** 4(~~8~~**9**) The licensed activities or any part of those activities must not commence until details of the final cable route, including coordinates have been approved by the MMO pursuant to paragraph 4(1).	See paragraph 3.14.115 in section 3.14 (Ecology, biodiversity and ornithology) of this report.
Schedule 16, Condition 7 (3)	(3) The undertaker must during the whole period from the commencement of the licensed activities to completion of decommissioning of the authorised development keep Trinity House **and the MMO** informed of progress of the authorised development seaward of MHWS by way of issuing it with-	At DL6 the MMO [REP5-175] requested that 7(3) be changed to; "(3) The undertaker must during the whole period from the commencement of the ~~licensed activities~~ **authorised project** to completion of decommissioning of the authorised development keep

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		Trinity House **and the MMO** informed of progress of the authorised ~~development~~ **project** ~~seaward of MHWS by way of issuing it with~~ **including"** The applicant agreed to this amendment [REP6-109] however did not include in the dDCO submitted at DL7. The ExA therefore considers that 7(3) should be amended in the rDCO, albeit without reference to the "authorised project" to ensure the condition is limited to the DML. The ExA also considers that "by way of issuing it with" is more precise than "including" and therefore should kept.

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Schedule 16, Condition 7 (3)(c)	(c) notice of completion of construction of the authorised development within ~~seven~~ **five** days.	See paragraph 3.9.25 in section 3.9 (Shipping and Navigation) of this report.
Schedule 16, Condition 10 (5)	~~(5) No exit to trenchless landfall techniques must occur within 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical Note.~~ **(5) Exit or entry to trenchless landfall techniques must occur at least 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical note.**	See paragraph 3.6.41 in section 3.6 (Marine physical environment) of this report.
Schedule 16, Condition 11 (1)	11.—(1) Unless otherwise agreed in writing with the MMO, in consultation with the statutory nature conservation body and the JNCC as the relevant statutory nature conservation body (SNCB), none of the following activities relating to cable laying are permitted to take place on the seabed within the Outer Thames Estuary SPA and a 2km buffer between 1 November and 31 March inclusive— (a) pre-sweeping dredging;	See paragraph 4.6.22 in appendix B (Habitats Regulations Assessment) of this report.

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	(b) boulder clearance, pre-lay grapnel run and cable crossing preparation; (c) cable installation ~~(specifically mechanical ploughing or cutting and/or water jetting and post lay burial operation)~~; (d) cable protection ~~(specifically rock placement)~~; (e) routine monitoring and maintenance.	
Schedule 16, Condition 11 (4)	(4) The undertaker will comply with the red-throated diver protocol throughout the construction, operation, maintenance **and decommissioning** of the authorised development.	See paragraph 4.6.23 in appendix B (Habitats Regulations Assessment) of this report.
Schedule 16, Condition 15	~~Pre-construction surveys and monitoring~~ ~~15. —(1) The undertaker must carry out pre-construction surveys, in accordance with the outline In Principle Monitoring Plan, to inform the delivery of commitments and mitigation identified in the Outline Offshore Construction Environmental Management Plan in condition 4(b);~~	See paragraphs 3.4.97 to 3.4.100 in section 3.4 (Benthic ecology) of this report.

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	~~(2) The pre-construction surveys referred to in sub-paragraph (1) must have due regard to, but not be limited to, the need to undertake—~~ ~~(a) a survey to determine the location and extent of any benthic habitats of principal importance (qualifying as Habitats Regulations Annex I habitats; Natural Environment and Rural Communities (NERC) Section 41 habitats and species) within the Order limits in which it is proposed to carry out the licensed activities forming part of Work No.6 or any part of those activities under Work No.6;~~ ~~(b) a full sea floor coverage swath bathymetry survey undertaken to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out of the licensed activities forming part of Work No.6 or any part of those activities under Work No.6.~~ ~~(3) In accordance with the environmental principles set out in the Outline Cable Specification and Installation Plan, where benthic habitats of principal importance (qualifying as Habitats Regulations Annex I habitats; Natural Environment and Rural Communities (NERC) Section 41 habitats and species) are identified during pre-construction surveys, and additional~~	

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	~~mitigation is required to avoid or reduce impacts impact on these habitats, the undertaker must prepare a Benthic Mitigation Plan. If necessary, a Benthic Mitigation Plan(s) must be submitted to and approved in writing by the MMO prior to Work no.6 commencing and should include a timetable for implementation of the mitigation and details of any necessary monitoring. Any agreed mitigation and/or monitoring must be implemented in accordance with the agreed timetable.~~ ~~(4) The undertaker must produce a monitoring plan, in substantial accordance with the outline In-Principle Monitoring Plan, based on sub paragraphs (1)(2) and (3), to be submitted to the MMO (unless otherwise agreed in writing by the MMO) within three months of the 'as-built survey' taking place;~~ ~~(5) In the event that the reports provided to the MMO identify impacts which are unanticipated, and in the view of the MMO, in consultation with the relevant statutory nature conservation body, are significantly beyond those predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, an Adaptive Management Plan shall be produced and submitted alongside the relevant post-construction monitoring reports. The plan shall identify measures to~~	

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	~~reduce effects to ensure that these impacts are no worse than was predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, unless otherwise agreed by the MMO in writing in consultation with the relevant statutory nature conservation bodies. This plan must be agreed by the MMO in consultation with the relevant statutory nature conservation bodies to reduce effects to an agreed suitable level for this development. Any such agreed and approved adaptive management or mitigation should be implemented and monitored in full to a timetable first agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.~~	
Schedule 16, Condition 15	**Pre-construction Surveys** **15.—(1) The undertaker must, in discharging condition 4(1)(l), submit details for written approval by the MMO, in consultation with the relevant statutory bodies, of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and**	See paragraphs 3.4.97 to 3.4.100 in section 3.4 (Benthic ecology) of this report.

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	(a) the survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and **(b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.** **(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—** **(a) a survey to determine the location and extent of any sensitive benthic habitats or species, where benthic habitats of principal importance such as those qualifying as annex 1 or s41 of the Natural Environment and Rural Communities Act 2006 (NERC) are identified, Sabellaria spinulosa reefs, and Mytilus edulis beds, inside the areas within the Order limits in which it is proposed to carry out construction works;**	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(b) a full sea floor coverage swath-bathymetry survey undertaken to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including an appropriate buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within the buffer; **(c) any marine mammal monitoring required by the monitoring plan submitted.** **(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.**	
Schedule 16, Condition 16	**Benthic Mitigation Plans** **16 - Based on pre-construction surveys required in conditions 4(1)(l) and 15 and in agreement with MMO, the Undertaker must prepare a Benthic Mitigation Plan(s). Any necessary Benthic Mitigation Plans must be**	See paragraphs 3.4.97 to 3.4.100 in section 3.4 (Benthic ecology) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	submitted to and approved in writing by the MMO prior to offshore works commencing and should include a timetable for implementation of the mitigation and details of any necessary monitoring. Any agreed mitigation and/or monitoring must be implemented in accordance with the agreed timetable.	
Schedule 16, Condition 17	**Post Construction Monitoring** **17 – (1) The undertaker must, in discharging condition 4(1)(l), submit a plan for post-construction monitoring, providing details of proposed post-construction surveys, including methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre–construction position and/or will enable the validation or otherwise of key predictions in the environmental statement. The undertaker must then carry out the surveys and monitoring as agreed and provide these reports in the approved format in accordance with the timetable agreed with the MMO, unless otherwise agreed in writing with the MMO.**	See paragraphs 3.4.97 to 3.4.100 in section 3.4 (Benthic ecology) of this report.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	(2) In the event that the MMO and/or the applicant find that the reports referred to in (1) provided to the MMO identify impacts which are unanticipated, and/or in the view of the MMO, in consultation with the relevant statutory nature conservation body, are significantly beyond those predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, an Adaptive Management Plan shall be produced to a timetable to be agreed with the MMO. The plan shall identify measures to reduce effects to ensure that these impacts are no worse than was predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, unless otherwise agreed by the MMO in writing in consultation with the relevant statutory nature conservation bodies. This plan must be agreed by the MMO in consultation with the relevant statutory nature conservation bodies to reduce effects to an agreed suitable level for this development. Any such agreed and approved adaptive management or mitigation should be implemented and monitored in full to a timetable first agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.	

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
Schedule 16, Condition 18	**River Stour Channel** **18. —(1) No installation of the marine cables in Pegwell Bay may commence until a monitoring and contingency plan has been submitted to and approved by the Marine Management Organisation in consultation with the relevant planning authority, the Environment Agency and the statutory nature conservation body.** **(2) The monitoring and contingency plan will—** **(a) set out monitoring proposals for the River Stour Channel within Pegwell Bay throughout the operational life of the cables. Monitoring will be undertaken annually following installation of the cables unless otherwise agreed in writing by the Environment Agency and the statutory nature conservation body; and** **(b) set out actions that will be undertaken where monitoring demonstrates a need for potential remediation as a result of the River Stour channel migrating to within 50m of the installed cables. In such circumstances, and unless otherwise agreed with the Environment Agency and the statutory nature conservation body, cable lowering would be the primary mitigation method and no**	See paragraph 3.6.52 in section 3.6 (Marine physical environment) of this report, which explains why this former requirement is now a condition. See paragraph 4.5.110 in appendix B (Habitats Regulations Assessment) of this report, which explains the recommended amendments.

Article / Schedule in final dDCO [REP7-002]	ExA's recommended change	ExA reasons
	mitigation would be proposed involving the use of sheet piling or dredging. **(3) Mitigation and remediation measures will be agreed with and approved by the Environment Agency in consultation with the statutory nature conservation body prior to the undertaking of any remedial works. The remedial works will be undertaken in accordance with the approved details.**	

7.7. CONCLUSIONS

7.7.1. The ExA has considered all iterations of the dDCO as provided by the applicant, from the submission version [APP-007] to the final version [REP7-002] and has considered the degree to which the applicant's final version has addressed the matters raised. A number of matters are the subject of recommendations in this section and are included in the rDCO in appendix A of this report.

7.7.2. Overall, the ExA considers that the rDCO (appendix A) only includes requirements that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise, and reasonable in all other respects. On that basis we are of the view that paragraph 4.1.16 of the overarching national policy statement for energy (NPS EN-1) is satisfied.

7.7.3. Taking all of this into account, if the Secretary of State is minded to make the DCO, it is recommended in the form as set out in appendix A of this report.

8. SUMMARY OF FINDINGS AND CONCLUSIONS

8.1. CONSIDERATION OF FINDINGS AND CONCLUSIONS

8.1.1. The Examining Authority's (ExA)'s conclusions are subject to the provisions of the recommended Development Consent Order (rDCO) in appendix A of this report.

8.1.2. The ExA considers the proposed development against section (s)104 of the Planning Act 2008 (PA2008) as it is within the scope of the Overarching National Policy Statement (NPS) for Energy (EN-1), the NPS for Renewable Energy Infrastructure (EN-3) and the NPS for Electricity Networks Infrastructure (EN-5), the 2023 versions which came into force on the 17 January 2024 are the relevant designated NPSs for this project. The ExA finds that these are relevant NPS and have effect. The ExA finds no evidence to indicate that s104(4) to (8) of the PA2008 apply and as required by s104(3), the ExA concludes that the application must be decided in accordance with the relevant NPSs.

8.1.3. The ExA finds that the proposed development is critical national priority (CNP) infrastructure in accordance with the relevant NPSs. The ExA concludes that even without CNP infrastructure considerations, the adverse effects do not outweigh the benefits arising from the need for the proposed development. In the alternative, if the Secretary of State disagrees, the ExA considers that the adverse effects arising from the development would be outweighed by the urgent need for CNP infrastructure.

8.1.4. In relation to s104(2) and s104(3) of the PA2008, the ExA concludes that making the rDCO would be in accordance with the relevant NPSs, relevant development plan, and other relevant policy and guidance. With the mitigation secured by the rDCO, the ExA considers that adverse impacts arising from the proposed development, and cumulatively with other developments, would be unlikely to outweigh its benefits. Furthermore, there is nothing to indicate that the application should be decided other than in accordance with NPS EN-1, NPS EN-3 and NPS EN-5 (which came into force on 6 January 2026). Whilst the 2025 suite of energy NPSs are important and relevant, the ExA does not consider that they alter its conclusion on the case for development consent.

8.1.5. The ExA has had regard to matters arising from the local impact reports from Suffolk County Council (SCC), Kent County Council, East Suffolk Council, Thanet District Council and Dover District Council, and to all matters that the ExA considers to be both important and relevant in reaching its conclusions. The ExA has considered all relevant legislation and guidance.

8.1.6. The Secretary of State is the competent authority under the Conservation of Habitats and Species Regulations 2017 and the Conservation of Offshore Marine Habitats and Species Regulations 2017 and will make the definitive assessment. However, the ExA concludes that subject to mitigation secured in the rDCO, an adverse effect on integrity from the proposed development alone or in combination with other plans or projects can be excluded for all European sites within the UK National Site Network.

8.1.7. Under Regulation 3 of the Infrastructure Planning (Decisions) Regulations 2010 (Decisions Regulations), the ExA has found the proposed development would result in less than substantial harm to designated heritage assets. However, those harms are outweighed by the substantial benefit from the proposed development to meet the need identified in NPS EN-1 as summarised in section 3.

8.1.8. Under Regulations 4 and 5 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA is satisfied that the likely effects of the proposed development on navigation, shipping, the marine environment and other legitimate users of the sea have been adequately assessed, and that the requirements of the relevant NPS are met. In terms of biodiversity and bearing in mind Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, the ExA is satisfied that biodiversity, ecological and nature conservation issues have been adequately assessed and that the requirements of NPS EN-1 are met. The ExA considers that this report, together with the Environmental Statement (ES), considers biodiversity sufficiently to inform the Secretary of State in this respect.

8.1.9. The ExA has considered the case for compulsory acquisition (CA) and temporary possession (TP) of land and rights in order to implement the proposed development. We are satisfied that the legal interests in all plots of land included in the final Book of Reference (BoR) [REP7-009] and indicated on the final Land Plans [REP6-002] and [REP5-003] would be required for the proposed development with regard to both CA and TP powers. In relation to land subject to CA, the ExA is satisfied that the land to be taken is no more than is reasonably required and is proportionate. The applicant has a clear idea of how it intends to use the land and funds are available for the implementation of the proposed development.

8.1.10. The ExA accepts that the applicant has explored all reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred. The Secretary of State will note that there are outstanding matters relating to Crown Land and National Trust as detailed in section 6.8 above.

8.1.11. The ExA has had regard to the provisions of the Human Rights Act 1998, in particular, Article 6, Article 8 and Article 1 of the First Protocol. The ExA is satisfied

that the examination has ensured a fair and public hearing, that any interference with human rights arising from implementation of the proposed development would be proportionate and would strike a fair balance between the rights of the individual and the public interest and that compensation would be available in respect of any quantifiable loss. There would thus be no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998. The weight of national policy in favour of the proposed development and the wider public interest qualifies any interference with the human rights affected. The ExA finds that there is a compelling case in the public interest for the land rights powers sought and concludes that the powers should be granted, subject to relevant Crown consent under s135 of the PA2008.

8.1.12. The ExA has had regard to the Public Sector Equality Duty (PSED). It finds no harm to the interests of persons who share a protected characteristic, or any adverse effect on the relationships between such persons and persons who do not share a protected characteristic. The ExA thus finds no breach of the PSED.

8.1.13. Taking account of the mitigation and compensation secured through the rDCO in appendix A of this report, the ExA finds there are no adverse impacts arising from the proposed development that would outweigh its benefits. In respect of all other matters and representations received, the ExA is satisfied that there are no important or relevant matters that would individually or collectively lead to a different recommendation from that set out below.

8.2. CONCLUSION

8.2.1. For all of the above reasons, the ExA considers the proposed development meets the tests of s104 of the PA2008. On that basis, the ExA concludes that the case for the development has been made and that the Secretary of State makes the Sea Link Order in the form attached at appendix A to this report.

8.3. MATTERS FOR THE SECRETARY OF STATE

8.3.1. The ExA considers the evidence before the Secretary of State at the close of the examination is sufficient for them to determine the application. Whilst at the close of the examination, Crown consent had not been specifically received from any of the relevant Crown authorities, the ExA is not aware of any impediments to the granting of Crown consent. There are some other important areas that the ExA draw's to the Secretary of State's attention. These are shown in the table below:

Table 8: Matters for the Secretary of State

Matter	Reason	Section of report
Unless the Secretary of State is satisfied that SCC has had an opportunity to comment on the Unilateral Undertaking (UU) in respect of the Furthering the Purposes Compensation Fund, consult SCC in this respect.	To ensure SCC has a fair opportunity to make comments on the submitted UU.	Landscape and visual section 3.12, paragraph 3.12.112
Direct that the applicant amends the Register of Environmental Actions and Commitments [REP7-359], the outline onshore construction environmental management plan [REP7-129] and associated control documents.	To improve precision in the securing of measures and in the interest of clarity and enforceability.	Ecology, biodiversity and ornithology section 3.14, paragraphs 3.14.47, 3.14.53, 3.14.54, 3.14.93, 3.14.110, 3.14.120, 3.14.142, 3.14.160 and 3.14.286. Habitats Regulations Assessment, appendix B, paragraphs 4.5.69, 4.5.71 and 4.6.19 Health and wellbeing section 3.21, paragraphs 3.21.47 and 3.21.48 Landscape and visual section 3.12 paragraph 3.12.3

Matter	Reason	Section of report
The Secretary of State may wish to undertake further consultation with Natural England in light of the applicant's additional deadline (DL) 7 submissions.	To confirm its final position on the HRA and ES in light of additional assessments and updated mitigation submissions made at DL7. This should include, but not be limited to, its final position on: - the potential for adverse effects on the integrity of Thanet Coast and Sandwich Bay Special Protection Area and Ramsar site. - effects on marine mammals from emergency use of hovercraft in Pegwell Bay and cable laying. - to confirm its final position on the effects of unexploded ordnance. - whether all pathways of effects to benthic habitats have been considered.	Ecology, biodiversity and ornithology section 3.14 paragraph 3.14.190. Habitats Regulations Assessment, appendix B, paragraphs 1.6.3, 4.4.5, 4.4.11, 4.5.98, 4.5.139, 5.1.5. Marine mammals section 3.5, paragraph 3.5.30. Benthic Ecology section 3.4 3.4.38.
Direct that the applicant reviews and updates the BoR [REP7-009].	To ensure the BoR accurately records the interests of affected persons.	Land rights and related matters section 6.7, paragraphs 6.7.82, 6.7.85 and 6.7.91.
Obtain confirmation that the objection to the proposed development has been withdrawn by the National Trust.	To avoid the need for a Special Parliamentary Procedure.	Land rights and related matters section 6.8, paragraph 6.8.26.
Obtain confirmation that a side agreement is in place	To avoid impacting the construction and operation	Land rights and related matters and

Matter	Reason	Section of report
for the ScottishPower Renewables (SPR) parties.	of SPR's East Anglia ONE North Offshore Wind Farm and East Anglia TWO Offshore Wind Farm.	draft Development Consent Order and related matters, sections 6.8 and 7.4, paragraphs 6.8.18 and 7.4.86.
Request that the applicant responds to the submissions made by the local authorities on its proposal which provides a mechanism by which requirements could be discharged through a new Department of Energy Security and Net Zero unit.	This proposal was submitted five working days before the examination closed and subsequently there was no opportunity to examine the proposals or for meaningful consultation with interested parties.	Draft Development Consent Order and related matters section 7.4, paragraph 7.4.68.
Obtain confirmation that the protection provisions within schedule 15 are agreed with the following parties; • The Highway Authorities – part 5 • London Gateway Port Limited – part 6 • Railway interests – part 7 • Northumbrian Water Limited – part 8 • East Anglia Two Limited – part 13 • East Anglia One North Limited – part 14	To ensure safeguarding of the statutory apparatus owners' interests.	Draft Development Consent Order and related matters section 7.4, table 6 and paragraphs 7.4.78, 7.4.81 and 7.4.86.

Matter	Reason	Section of report
Request that the applicant provides the missing document references for the ES in schedule 19 of the dDCO.	The applicant did not provide a completed schedule 19 in the dDCO [REP7-002], consequently, the ExA has inserted document references but recommends that the Secretary of State ask the applicant to confirm the documents that it considers comprise the final ES (and any supplemental or additional environmental information)	Draft Development Consent Order and related matters section 7.6, paragraph 7.6.2

8.4. RECOMMENDATION

8.4.1. For all of the above reasons, and in light of the ExA's findings and conclusions on important and relevant matters set out in this report, the ExA recommends that the Secretary of State makes the Sea Link order in the form recommended at appendix A of this report.

APPENDIX A: THE RECOMMENDED DEVELOPMENT CONSENT ORDER

STATUTORY INSTRUMENTS

20[XX] No.[XX]

INFRASTRUCTURE PLANNING

The [Draft] National Grid (Sea Link) Order 20[xx]

Made - - - - ***

Coming into force ***

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An application under section 37 of the Planning Act 2008(**a**) (the "2008 Act") and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(**b**) has been made to the Secretary of State for an Order granting development consent.

(**a**) 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).
(**b**) S.I. 2009/2264, amended by S.I. 2010/439, S.I. 2010/602, S.I. 2012/635, S.I. 2012/2654, S.I. 2012/2732, S.I. 2013/522, S.I. 2013/755, S.I. 2014/469, S.I. 2014/2381, S.I. 2015/377, S.I. 2015/1682, S.I. 2017/524, S.I. 2017/572, S.I. 2018/378, S.I. 2019/734, S.I 2020/1534, S.I 2020/764, S.I 2021/978 and, S.I. 2022/634 and S.I. 2023/1071.

The application has been examined by a panel of 5 members ("the Panel"), appointed pursuant to Chapter 2 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(**a**).

The Panel, having examined the application with the documents that accompanied the application, and the representations made and not withdrawn, has, in accordance with section 74(2) of the 2008 Act, made a report and recommendation to the Secretary of State.

The Secretary of State, having considered the report and recommendation of the Panel, has taken into account the environmental information in accordance with regulation 4 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017(**b**) and has had regard to the documents and matters referred to in section 104(2) of the 2008 Act.

The Secretary of State is satisfied that the special category land within the order limits, when burdened with the rights imposed by this Order, will be no less advantageous than it was before to the persons in whom it is vested, other persons, if any, entitled to rights of common or other rights, and to the public; and that, accordingly, section 132(3) of the 2008 Act applies.

The Secretary of State, having decided the application, has determined to make an Order granting development consent for the development described in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

Accordingly, the Secretary of State, in exercise of the powers in sections 114, 115, 117, 120, 122 and 123 of the 2008 Act, makes the following Order:

PART 1

PRELIMINARY

Citation and commencement

1. This Order may be cited as the National Grid (Sea Link) Order 20[xx] and comes into force on [date].

Interpretation

2.—(1) In this Order, unless the context requires otherwise—

"1961 Act" means the Land Compensation Act 1961(**c**);

"1965 Act" means the Compulsory Purchase Act 1965(**d**);

"1980 Act" means the Highways Act 1980(**e**);

"1981 Act" means the Compulsory Purchase (Vesting Declarations) Act 1981(**f**);

"1984 Act" means the Road Traffic Regulation Act 1984(**g**);

"1990 Act" means the Town and Country Planning Act 1990(**h**);

"1991 Act" means the New Roads and Street Works Act 1991(**i**);

(**a**) S.I. 2010/103, amended by S.I. 2012/635.
(**b**) S.I. 2017/572, amended by S.I. 2017/1012, 2018/695, 2018/834, 2018/942, 2018/1232, 2020/764, 2020/904 and 2020/1534.
(**c**) 1961 c. 33.
(**d**) 1965 c. 56.
(**e**) 1980 c. 66.
(**f**) 1981 c. 66.
(**g**) 1984 c. 27.
(**h**) 1990 c. 8.
(**i**) 1991 c. 22.

"2003 Act" means the Communications Act 2003(**a**);

"2008 Act" means the Planning Act 2008(**b**);

"2009 Act" means the Marine and Coastal Access Act 2009(**c**);

"2016 Act" means the Housing and Planning Act 2016(**d**);

"Access, Rights of Way and Public Rights of Navigation Plans" means the plans listed in Part 1 of Schedule 2 (plans) and certified as the Access, Rights of Way and Public Rights of Navigation Plans by the Secretary of State for the purposes of this Order;

"Ancillary works" means—

(a) the ancillary works described in Part 2 of Schedule 1 (ancillary works); and

(b) any other works authorised by this Order, which are not development within the meaning of section 32 (meaning of "development") of the 2008 Act;

"Arboricultural Impact Assessment" means the document of that description certified by the Secretary of State as the Arboricultural Impact Assessment for the purposes of this Order under article 60 (certification of documents);

"areas of safeguarded water depth" means the areas, or any part thereof, shown on the Areas of Safeguarded Water Depth Plan which comprises three areas labelled: Sunk Pilot Boarding area, Long Sand Head Two-Way Route crossing area, and North East Spit area and any reference to any individual one of those areas means the area as shown on the Areas of Safeguarded Water Depth Plan;

"areas of safeguarded water depth plan" means the document of that description certified by the Secretary of State as the areas of safeguarded water depth plan for the purposes of this Order under article 60 (certification of documents);

"authorised development" means the development described in Part 1 of Schedule 1 (authorised development), and any other development within the meaning of section 32 (meaning of "development") of the 2008 Act authorised by this Order;

"authorised project" means the authorised development and the ancillary works;

"Bank Holiday" means a bank holiday in England and Wales under section 1 of the Banking and Financial Dealings Act 1971;

"Book of Reference" means the Book of Reference certified under article 60 (certification of documents) by the Secretary of State as the Book of Reference for the purposes of this Order;

"building" includes any structure or erection or any part of a building, structure or erection;

"business day" means Monday to Friday excluding Bank Holidays and other public holidays;

"carriageway" has the same meaning as in the 1980 Act;

"commence" means—

(a) in relation to works seaward of MHWS, the first carrying out of any licensed marine activities authorised by the deemed marine licence, save for operations consisting of pre–construction surveys, trial trenching and monitoring approved under the deemed marine licence;

(b) in respect of any other works comprised in the authorised project, the carrying out of any material operation (as defined in section 155(2) (when development begins) of the 2008 Act) forming part of the authorised project other than the pre-commencement operations;

and the words "commencement" and "commenced" are to be construed accordingly;

"Construction Drainage Management Plan" means the document of that description listed in paragraph 6 of Schedule 3;

(**a**) 2003 c. 21
(**b**) 2008 c. 29.
(**c**) 2009 c. 23.
(**d**) 2016 c. 22.

"deemed marine licence" means the marine licence granted by this Order as set out in Schedule 16;

"electric line" has the meaning set out in section 64(1) (interpretation etc. of Part 1) of the Electricity Act 1989 which includes but is not limited to new pylons, foundations and steelwork, conductors, insulators and fittings, fibre optic earth wire conductors, joint boxes, joint pits, joint bays, cables, cable ducts, link pillars and offshore cables;

"electronic transmission" means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

and in this definition "electronic communication network" has the same meaning as in section 32(1) (meaning of electronic communications networks and services) of the 2003 Act.

"Environmental Statement" means the environmental statement together with any supplemental or additional environmental information certified under article 60 (certification of documents) and any environmental statement submitted for the purposes of complying with and/or discharging the Requirements;

"Flood Management Plan" means the document of that description listed in paragraph 6 of Schedule 3;

"Greenhouse Gas Reduction Strategy" means the document of that description certified by the Secretary of State as the Greenhouse Gas Reduction Strategy for the purposes of this Order under article 60 (certification of documents);

"GridLink Interconnector Project" means the proposed GridLink Interconnector electricity interconnector project designated as a European Union Project of Common Interest with project number No. 2018/540;

"highway" and "highway authority" have the same meaning as in the 1980 Act;

"Land Plans" mean the relevant plans listed in Part 2 of Schedule 2 (plans) and certified under article 60 (certification of documents), and references to a particular Land Plan are to be construed accordingly;

"limits of deviation" means the limits of deviation referred to in article 5 (limits of deviation) and shown on the Works Plans;

"main river" has the same meaning as in Part 4 of the Water Resources Act 1991(**a**);

"maintain" includes inspect, repair, adjust, alter, dismantle, remove, clear, refurbish, paint, surface treat, decommission, improve, reconstruct or replace any part, but not remove, reconstruct or replace the whole of the authorised project including through the use of robots, helicopters, drones, gadgets or similar devices either remote controlled or autonomous, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement, and any derivative of "maintain" must be construed accordingly;

"Material and Waste Management Plan" means the document of that description for Kent and Suffolk respectively certified by the Secretary of State as the Material and Waste Management Plan for the purposes of this Order under article 60 (certification of documents);

"mean high water springs" or "MHWS" means the highest level which spring tides reach on average over a period of time;

"operational use" occurs when part of the authorised development first transmits electricity;

"Order land" means the land shown on the Land Plans and described in the Book of Reference;

"Order limits" means the limits shown on the Works Plans within which the authorised project may be carried out;

"Outline Construction Noise and Vibration Management Plan" means the document of that description for Kent and Suffolk respectively (together with their appendices) certified by the

(**a**) 1991 c. 57.

Secretary of State as the Construction Noise and Vibration Management Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Construction Traffic Management and Travel Plan" means the document of that description for Kent and Suffolk respectively (together with their appendices) certified by the Secretary of State as the Construction Traffic Management and Travel Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Landscape and Ecological Management Plan" means the document of that description for Kent and Suffolk respectively (together with their appendices) certified by the Secretary of State as the Landscape and Ecological Management Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Operational Lighting Management Plan" means the document of that description certified by the Secretary of State as the Outline Operational Lighting Management Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Onshore Construction Environmental Management Plan" means the document of that description (together with its appendices) certified by the Secretary of State as the Onshore Construction Environmental Management Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Onshore Overarching Written Scheme of Investigation" means the document of that description for Kent and Suffolk respectively, certified by the Secretary of State as the outline written schemes of investigation for the purposes of this Order under article 60 (certification of documents), setting out the proposed approach to archaeological mitigation;

"Outline Offshore Overarching Written Scheme of Investigation" means the document of that description certified by the Secretary of State as the Offshore Overarching Written Scheme of Investigation for the purposes of this Order under article 60 (certification of documents);

"Outline Public Right of Way Management Plan" means the document of that description for Kent and Suffolk respectively (together with their appendices) certified by the Secretary of State as the Public Rights of Way Management Plan for the purposes of this Order under article 60 (certification of documents);

"Outline Soil Management Plan" means the document of that description for Kent and Suffolk respectively certified by the Secretary of State as the Soil Management Plan for the purposes of this Order under article 60 (certification of documents);

"owner", in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981(**a**);

"permit scheme" means the Traffic Management (Suffolk County Council) Permit Scheme Order 2020(**b**) made under Part 3 of the Traffic Management Act 2004(**c**) as in force at the date on which this Order is made;

"pre-commencement operations" means—

(a) operations consisting of engineering investigations and surveys;

(b) environmental (including archaeological) investigations and monitoring;

(c) surveys and monitoring investigations for the purpose of assessing ground conditions;

(d) diversion and laying of services;

(e) demolition of existing buildings;

(f) site clearance;

(g) environmental mitigation measures;

(h) remediation in respect of any contamination or other adverse ground conditions;

(i) set up works associated with the establishment of construction compounds;

(**a**) 1981 c. 67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c. 34). There are other amendments to the 1981 Act which are not relevant to this Order.

(**b**) S.I. 2020/[●].

(**c**) 2004 c.18.

(j) temporary accesses;

(k) erection of any temporary means of enclosure or temporary demarcation fencing marking out site boundaries; and

(l) the temporary display of site notices or advertisements;

"relevant highway authority" means, in any given provision of this Order, the local highway authority for the area to which the provision relates;

"relevant planning authority" means, in any given provision of this Order, the local planning authority for the area to which the provision relates;

"relevant street authority" means, in any given provision of this Order, the local highway authority for the area to which the provision relates;

"Requirements" means the Requirements listed in Schedule 3, and any reference to a numbered Requirement is to be construed accordingly;

"Special Category Land and Crown Land Plans" means the plans listed in Part 3 of Schedule 2 (plans) and certified under article 60 (certification of documents) and references to a particular Special Category Land or Crown Land Plan are to be construed accordingly;

"statutory nature conservation body" means the appropriate nature conservation body as defined in regulation 5 of the Conservation of Habitats and Species Regulations 2017.

"statutory undertaker" means any person falling within section 127(8) of the 2008 Act;

"street" means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;

"street authority", in relation to a street, has the same meaning as in Part 3 of the 1991 Act;

"temporary construction works" means any of the temporary construction works described in Schedule 1 (authorised development) to the Order;

"traffic" has the same meaning as in section 329(1) of the 1980 Act;

"traffic authority" has the same meaning as in the 1984 Act;

"Traffic Regulation Order Plans" mean the plans listed in Part 4 of Schedule 2 (plans) and certified under article 60 (certification of documents), and references to a particular Traffic Regulation Plan are to be construed accordingly;

"Trees and Important Hedgerows to be Removed or Managed Plans" means the plans listed in Part 5 of Schedule 2 (plans) and certified under article 60 (certification of documents), and references to a particular Trees and Important Hedgerows to be Removed or Managed Plan is to be construed accordingly;

"the tribunal" means the Lands Chamber of the Upper Tribunal;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"the undertaker" means National Grid Electricity Transmission plc (registered company number 2366977);

"watercourse" includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, rhynes, sewers and passages through which water flows except a public sewer or drain; and

"Works Plans" means the plans listed in Part 6 of Schedule 2 (plans) and certified under article 60 (certification of documents), and references to a particular Works Plan are to be construed accordingly.

(2) References in this Order to rights over land include references to rights to do, or to place and maintain, anything in, on or under land or in the airspace above its surface and references in this Order to the imposition of restrictions in respect of land are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land which is acquired, or rights over which are acquired, under this Order.

(3) All distances, directions, levels and lengths referred to in this Order, are approximate. Distances between points on a work comprised in the authorised project are taken to be measured along that work. All distances for scheduled linear works referred to in this Order are measured along the centre line of the limits of deviation for that work. All pylon identification numbers set out in this Order are

identified by reference to the work plans, and are subject to the limits of deviation for that work, such that the tower numbering and location of towers may adjust in accordance with the limits of deviation identified in article 5 (limits of deviation). Unless otherwise specified in article 5 (limits of deviation) or Schedule 1 (authorised project), heights and depths in this Order or on the work plans are measured from the proposed final ground level. References to existing ground level shall be taken as the highest existing ground level within the limit of deviation for each work as shown on the Works Plans.

(4) All areas described in square metres in the Book of Reference are approximate.

(5) References in this Order to points identified by letters or numbers are to be construed as references to points so lettered or numbered on the plans to which the reference relates.

(6) References in this Order to numbered Works are references to the Works as numbered in Schedule 1 (authorised project).

(7) References in this Order to "document" followed by a number or numbers are references to documents submitted by National Grid in support of the application for development consent that resulted in the making of this Order.

(8) References in this Order to any statutory body includes that body's successor in respect of functions which are relevant to this Order.

(9) References in this Order to any statute, order, regulation or similar instrument are to be construed as a reference to the statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(10) References in this Order to materially new or materially different environmental effects in comparison with those reported in the Environmental Statement shall not be construed so as to include the avoidance, removal or reduction of an adverse environmental effect that was reported in the Environmental Statement as a result of the authorised project.

PART 2

PRINCIPAL POWERS

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order (including the Requirements) the undertaker is granted—

(a) development consent for the authorised development; and

(b) consent for the ancillary works.

(2) The undertaker may—

(a) install and keep installed the authorised project;

(b) remove or replace any electric line including pylons and underground cables that may require removal as part of the authorised project.

(3) The undertaker may operate and use the authorised project as part of the high-voltage electricity transmission system in England and Wales.

(4) The authorised project must be constructed and installed in the lines and situations shown on the Works Plans subject to article 5 (limits of deviation).

(5) Schedule 3 (Requirements) has effect.

Maintenance of authorised project

4.—(1) The undertaker may at any time maintain the authorised project, except to the extent that this Order, or an agreement made under this Order, provides otherwise.

(2) The power to maintain conferred under paragraph (1) does not relieve the undertaker of any requirement to obtain any further licence under Part 4 of the 2009 Act (marine licensing) for offshore works not covered by the deemed marine licence.

Limits of deviation

5.—(1) Subject to paragraph 4, the undertaker may—

(a) in respect of the onshore and offshore electric line forming part of the authorised project for which it is granted development consent by paragraph (1) of article 3 (development consent etc. granted by the Order), deviate from the lines or situations of the authorised project shown on the Works Plans within the limits of deviation relating to a Work shown on those plans and carry out construction activities for the purpose of the authorised project anywhere within the Order limits; and

(b) in respect of the pylons deviate vertically from the levels of the authorised project (being 53.2m above finished ground level in Suffolk and 51m above finished ground level in Kent)—

(i) to any extent upwards not exceeding 6 metres;

(ii) to such extent downwards as the undertaker considers necessary or convenient;

(c) in respect of the overhead conductors and fibre-optic earth wires deviate vertically from the lines or situations of the authorised project shown on the Works Plans to such extent as the undertaker considers necessary or convenient; and

(d) in respect of the onshore underground electric line (excluding link pillars, chambers and where within substations and converter stations), deviate vertically—

(i) upwards such that the minimum distance that will be kept between the top of the cable or the top of the protective tiles and finished ground level is 0.75 metres; and

(ii) downwards to such extent as the undertaker considers necessary or convenient.

(2) Without prejudice to article 3(5) the removal, clearance, decommissioning and demolition of any existing electric line may take place within the Order limits;

(3) In respect of other permanent above ground structures, erections and apparatus, including substations and converter stations forming part of the authorised project:

(a) the authorised project is to be carried out within any applicable non-linear limits of deviation shown on the Works Plans; and

(b) the undertaker may deviate to any extent upwards as detailed in the table of parameters and to such extent downwards as the undertaker considers necessary or convenient.

Table of Parameters

Work	*Type of structure*	*Height*
1B	Substation – Suffolk	16m above finished ground level of 18.5m AOD (not including roof mounted equipment)
3B	Converter Station – Suffolk	26m above existing ground level (not including roof mounted equipment)
9B, 11	Substation and Converter Station – Kent	28m above existing ground level (not including roof mounted equipment) and in respect of Work No. 11, not above 20m above existing ground level.
2, 5, 7	Link pillars	2.2 m above finished ground level.

(4) The operational fenced compound constructed as part of the Substation under Work No.1B of the Authorised Project would be no greater than 16,800m2. The operational fenced compound includes all buildings and equipment within the electrified fence but not including the access and security airlock.

(5) The maximum limits of vertical deviation specified in paragraphs (1)(b), (1)(d) and 3(b) do not apply where it is demonstrated by the undertaker to the Secretary of State's satisfaction and the Secretary of State, following consultation with the relevant planning authority and any other person

the Secretary of State considers appropriate having regard to the proposed deviation in question and the statutory roles and responsibilities of such person, certifies accordingly that a deviation in excess of these limits would not give rise to any materially new or materially different environmental effects to those identified in the Environmental Statement.

Benefit of Order

6.—(1) Subject to article 7 (consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker in respect of the authorised project.

(2) Paragraph (1) does not apply to the benefit of the consent granted by this Order for works carried out by the undertaker for the benefit or protection of land or persons (including statutory undertakers) affected by the authorised project.

Consent to transfer benefit of Order

7.—(1) The undertaker may, with the consent of the Secretary of State—

(a) transfer to another person ("the transferee") any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee;

(b) grant to another person ("the lessee") for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.

(2) Where a transfer or grant has been made in accordance with paragraph (1) references in this Order to the undertaker, except in paragraph (3), are to include references to the transferee or the lessee.

(3) The exercise by a person of any benefits or rights transferred or granted in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) Subject to paragraph (5) the undertaker may with the written consent of the Secretary of State—

(a) where an agreement has been made in accordance with paragraph (1)(a), transfer to the transferee the whole of any of the deemed marine licences and such related statutory rights as may be agreed between the undertaker and the transferee; or

(b) where an agreement has been made in accordance with paragraph (1)(b), transfer to the lessee for the duration of the period mentioned in paragraph (1)(b), the whole of any of the deemed marine licence and such related statutory rights as may be so agreed.

(5) The Secretary of State must consult the MMO before giving consent to the transfer or grant to another person of the benefit of the provisions of the deemed marine licence.

(6) Sections 72(7) and (8) of the 2009 Act (variation, suspension, revocation and transfer) do not apply to a transfer or grant of the whole of the benefit of the provisions of the deemed marine licence to another person by the undertaker pursuant to an agreement under paragraph (1) save that the MMO may amend the deemed marine licence granted under Schedule 16 (Deemed marine licence) of the Order to correct the name of the undertaker to the name of a transferee or lessee under this article 7 (consent to transfer benefit of the Order).

Application of the 1990 Act

8.—(1) In respect of the temporary construction works, section 57(2) (planning permission required for development) of the 1990 Act applies as if the development consent granted by this Order were planning permission granted for a limited period.

(2) Development consent granted by this Order is to be treated as specific planning permission for the purposes of section 264(3)(a) (cases in which land is to be treated as not being operational land for the purposes of that Act) of the 1990 Act.

(3) In the exercise of the power under paragraphs (1) and (2) of article 11 (street works) the undertaker is to be deemed to be the highway authority for the purposes of section 55(2)(b) (meaning of "development" and "new development") of the 1990 Act.

Application of the Community Infrastructure Levy Regulations 2010

9. Notwithstanding the provisions of section 208 (liability) of the 2008 Act, for the purposes of regulation 6 of the Community Infrastructure Levy Regulations 2010(**a**) any building comprised in the authorised project is deemed to be—

(a) a building into which people do not normally go; or

(b) a building into which people go only intermittently for the purpose of inspecting or maintaining fixed plant or machinery.

Planning Permission and other consents

10.—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following publication of this Order that is—

(a) not itself a project for which development consent is required under the 2008 Act or part of such a project; and

(b) required to complete or enable the construction, use or operation of any part of the development authorised by this Order,

then the carrying out, use or operation of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

(2) To the extent any development carried out or used pursuant to a planning permission granted under the 1990 Act or development consent granted under the 2008 Act or compliance with any conditions of that permission or requirements of that development consent is inconsistent with the exercise of any power or right under this Order or the authorised project—

(a) that inconsistency is to be disregarded for the purposes of establishing whether any development which is the subject matter of that planning permission or development consent is capable of physical implementation; and

(b) in respect of that inconsistency, no enforcement action under the 1990 Act or the 2008 Act may be taken in relation to development carried out or used pursuant to that planning permission or development consent whether inside or outside the Order limits.

(3) Any development or any part of a development within the Order limits which is constructed or used under the authority of a planning permission granted under the 1990 Act or of a development consent granted under the 2008 Act, including permissions falling under paragraph (1) or (3) or otherwise, is deemed not to be a breach of, or inconsistent with, this Order and will not prevent the authorised project being carried out or used or any other power or right under this Order being exercised.

(4) Where any development to which this article relates is carried out or used pursuant to a planning permission granted under the 1990 Act or development consent granted under the 2008 Act, nothing in this article prevents any enforcement action under the 1990 Act or the 2008 Act being taken in relation to any breach of that permission or consent where that breach is not an inconsistency for the purposes of paragraph (2).

(**a**) S.I. 2010/948.

PART 3
STREETS

Street works

11.—(1) With the consent of the street authority, the undertaker may, for the purposes of the authorised project, or for purposes ancillary to it, enter upon so much of any of the streets specified in column (2) of Schedule 5 (streets subject to street works) as is within the Order limits and may without the consent of the street authority—

(a) break up or open the street, or any sewer, drain or tunnel within or under it;

(b) tunnel or bore under the street, or carry out any works to strengthen or repair the carriageway;

(c) remove or use all earth and materials in or under the street;

(d) place and keep structures and apparatus in the street (including signage);

(e) maintain, renew or alter apparatus in or on the street or change its position;

(f) execute any works to provide or improve sight lines required by the highway authority;

(g) execute and maintain any works to provide hard and soft landscaping;

(h) carry out re-lining and placement of new temporary markings; and

(i) execute any works required for or incidental to any works referred to in sub-paragraphs (a) to (h).

(2) Without limiting the scope of the powers conferred by paragraph (1) but subject to the consent of the street authority, the undertaker may, for the purposes of the authorised project, or for purposes ancillary to it, enter on so much of any other street whether or not within the Order limits, for the purposes set out at paragraph (1)(a) to (i) and paragraph (3) of article 8 (application of the 1990 Act) shall apply.

(3) If a street authority that receives an application for consent under paragraph (2) fails to notify the undertaker of its decision within 56 days (or such other period agreed by the street authority and the undertaker) beginning with the date on which the application was received, that authority will be deemed to have granted consent.

(4) Any application for consent under paragraph (2) must include a statement that the provisions of paragraph (3) apply to that application.

(5) If an application for consent under paragraph (2) does not include the statement required under paragraph (4) then the provisions of paragraph (3) will not apply to that application.

(6) The authority given by paragraph (1) or (2) is a statutory right for the purposes of sections 48(3) (streets, street works and undertakers) and 51(1) (prohibition of unauthorised street works) of the 1991 Act.

(7) The powers conferred in paragraphs (1) and (2) are without limitation of the powers of the undertaker under the Electricity Act 1989**(a)**.

(8) In this article "apparatus" has the meaning given in Part 3 of the 1991 Act.

Application of the Permit Scheme

12.—(1) The permit schemes apply to the construction and maintenance of the authorised project and will have effect in connection with the exercise by the undertaker of any powers conferred by this Part.

(2) For the purposes of this Order—

(a) a permit may not be refused or granted subject to conditions which relate to the imposition of moratoria;

(**a**) 1989 c. 29.

(b) a permit may not be granted subject to conditions where compliance with those conditions would constitute a breach of this Order or where the undertaker would be unable to comply with those conditions through the exercise of the powers conferred by this Order;

(c) a permit may not be refused where the proposed reason for refusal is the inability to impose a condition which will not comply with sub-paragraph (b); and

(d) where a provisional advance authorisation has been granted to the undertaker in advance of the grant of a permit in relation to the construction of the authorised project, the relevant street authority may not grant a permit for any other works in the location during the time period to which that provisional advance authorisation relates save that nothing will restrict the ability of the relevant highway authority to grant a permit for immediate works.

(3) Irrespective of anything which is stated to the contrary within the permit schemes, where the undertaker submits an application for a permit in relation to the construction or maintenance of the authorised project subject to proposed conditions and the relevant highway authority wishes for different conditions to be imposed on the permit, the relevant highway authority must seek to reach agreement with the undertaker on the conditions subject to which the permit is to be granted and provide alternative permit conditions to the undertaker within ten working days following the date on which the application for the permit is made by the undertaker and must not refuse an application for a permit before the end of the period which is five working days following the date on which the alternative permit conditions are provided to the undertaker.

(4) Where the undertaker confirms its agreement to the alternative permit conditions provided by the relevant highway authority pursuant to paragraph (3) before the expiry of five working days following the date on which any such alternative permit conditions are provided to the undertaker, the relevant highway authority must grant the permit subject to those conditions.

(5) Any alternative permit conditions provided by a relevant highway authority in accordance with paragraph (3) must comply with paragraph (2)(b).

(6) References to moratoria in paragraph (2) mean restrictions imposed under section 58 (restrictions on works following substantial road works) or section 58A (restriction on works following substantial street works) of the 1991 Act.

(7) Reference to immediate works in paragraph (2)(d) means emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007(**a**).

(8) Without restricting the undertaker's recourse to any alternative appeal mechanism which may be available under the permit schemes or otherwise, the undertaker may appeal any decision to refuse to grant a permit or to grant a permit subject to conditions pursuant to the permit schemes in accordance with the mechanism set out in Schedule 4 (discharge of Requirements) of this Order.

Application of the 1991 Act

13.—(1) Works carried out under this Order in relation to a highway which consists of or includes a carriageway must be treated for the purposes of Part 3 of the 1991 Act (street works in England and Wales) as major highway works if—

(a) they are of a description mentioned in any of paragraphs (a), (c) to (e), (g) and (h) of section 86(3) of the 1991 Act (which defines what highway authority works are major highway works); or

(b) they are works which, had they been executed by the relevant highway authority, might have been carried out in exercise of the powers conferred by section 64 of the 1980 Act (dual carriageways and roundabouts).

(2) In Part 3 of the 1991 Act, in relation to works which are major highway works by virtue of paragraph (1), references to the highway authority concerned are to be construed as references to the undertaker.

(**a**) S.I. 2007/1951.

(3) The following provisions of the 1991 Act do not apply in relation to any works executed under the powers of this Order—

(a) section 58 (restrictions on works following substantial road works);

(b) section 58A (restriction on works following substantial street works);

(c) section 73B (power to specify timing etc. of re-surfacing);

(d) section 78A (contributions to costs of re-surfacing by undertaker); and

(e) Schedule 3A (restriction on works following substantial street works).

(4) The following provisions of the 1991 Act do not apply in relation to any works executed under article 12 (application of the permit scheme) of this Order—

(a) section 53 (the street works register);

(b) section 54 (advance notice of certain works);

(c) section 55 (notice of starting date of works);

(d) section 57 (notice of emergency works); and

(e) section 66 (avoidance of unnecessary delay or obstruction).

(5) The provisions of the 1991 Act mentioned in paragraph (6) (which, together with other provisions of that Act, apply in relation to the carrying out of street works) and any regulations made, or code of practice issued or approved under those provisions, apply (with necessary modifications) in relation to any stopping up, alteration or diversion of a street of a temporary nature by the undertaker under the powers conferred by article 15 (temporary closure of streets and public rights of way and permissive paths) whether or not the stopping up, alteration or diversion constitutes street works within the meaning of that Act.

(6) The provisions of the 1991 Act referred to in paragraph (5) are—

(a) section 54 (advance notice of certain works), subject to paragraph (7);

(b) section 55 (notice of starting date of works), subject to paragraph (7);

(c) section 57 (notice of emergency works);

(d) section 59 (general duty of street authority to co-ordinate works);

(e) section 60 (general duty of undertakers to co-operate);

(f) section 68 (facilities to be afforded to street authority);

(g) section 69 (works likely to affect other apparatus in the street);

(h) section 71 (materials, workmanship and standard of reinstatement);

(i) section 76 (liability for cost of temporary traffic regulation)

(j) section 77 (liability for cost of use of alternative route); and

(k) all such other provisions as apply for the purposes of the provisions mentioned in sub-paragraphs (a) to (j).

(7) Sections 54 and 55 of the 1991 Act as applied by paragraph (5) have effect as if references in section 57 of that Act to emergency works were references to a stopping up, alteration or diversion (as the case may be) required in a case of emergency.

Power to alter layout, etc. of streets

14.—(1) The undertaker may, without the consent of the street authority, and for the purposes of carrying out the authorised project, permanently or temporarily alter the layout of, or carry out any works in, a street specified in column (1) of Part 1 or 2 of Schedule 6 (streets subject to alteration of layout) in the manner specified in relation to that street in column (2).

(2) Without limitation on the specific powers conferred by paragraph (1), but subject to paragraph (4), the undertaker may, for the purposes of constructing and maintaining the authorised project, permanently or temporarily alter the layout of any street (and carry out works ancillary to such alterations) whether or not within the Order limits and the layout of any street having a junction with such a street and, without limiting the scope of this paragraph, the undertaker may—

(a) increase the width of the carriageway of the street by reducing the width of any kerb, footpath, footway, cycle track, central reservation or verge within the street;

(b) alter the level or increase the width of any such kerb, footpath, footway, cycle track, central reservation or verge;

(c) reduce the width of the carriageway of the street;

(d) execute any works to widen or alter the alignment of pavements;

(e) make and maintain crossovers and passing places;

(f) execute any works of surfacing or resurfacing of the highway;

(g) carry out works for the provision or alteration of parking places, loading bays and cycle tracks;

(h) execute any works necessary to alter or provide facilities for the management and protection of pedestrians; and

(i) execute any works to provide or improve sight lines required by the highway authority.

(3) The undertaker must restore to the reasonable satisfaction of the street authority any street that has been temporarily altered under this article.

(4) The powers conferred by paragraph (2) may not be exercised without the consent of the street authority.

(5) If a street authority which receives an application for consent under paragraph (4) fails to notify the undertaker of its decision before the end of the period of 56 days (or such other period as agreed by the street authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

(7) If an application for consent under paragraph (2) does not include the statement required under paragraph (6) then the provisions of paragraph (5) will not apply to that application.

Temporary closure of streets and public rights of way and permissive paths

15.—(1) During and for the purposes of carrying out the authorised project, the undertaker may temporarily close, alter or divert any street, public right of way or permissive path shown on the Access, Rights of Way and Public Rights of Navigation Plans or within the Order limits and may for any reasonable time—

(a) divert the traffic from the street or public right of way; and

(b) subject to paragraph (3), prevent all persons from passing along the street, public right of way or permissive path.

(2) Without limitation on the scope of paragraph (1), the undertaker may, with the consent of the street authority, use as a temporary working site any street, public right of way or permissive path which has been temporarily closed, altered or diverted under the powers conferred by this article.

(3) The undertaker must provide reasonable access for pedestrians going to or from premises abutting a street, public right of way or permissive path affected by the temporary closure, alteration or diversion under this article if there would otherwise be no reasonable access.

(4) Without limitation on the scope of paragraph (1), the undertaker may temporarily close, alter or divert the streets, public rights of way or permissive path specified in columns (1) and (2) of Parts 1 and 2 of Schedule 8 (streets, public rights of way and permissive paths to be temporarily closed) to the extent specified, by reference to the letters and numbers shown on the Access, Rights of Way and Public Rights of Navigation, in column (3) of that Schedule, and, if it does so in respect of a street, public right of way or permissive path specified in Part 1 of Schedule 8, must provide the temporary diversion as specified in column (4) of that Part.

(5) The undertaker must not temporarily close, alter or divert—

(a) any street, public right of way or permissive path specified as mentioned in paragraph (4) without first consulting the street authority; or

(b) any other street, public right of way or permissive path without the consent of the street authority which may attach reasonable conditions to any consent.

(6) Where the undertaker provides a temporary diversion under paragraph (4), the temporary alternative route is not required to be of a higher standard than the temporarily closed street or public right of way in columns (1) and (2) of Parts 1 and 2 of Schedule 8 (streets, public rights of way and permissive paths to be temporarily closed).

(7) Prior to the reopening of any street, public right of way or permissive path temporarily closed, altered or diverted under paragraph (4), the undertaker must remove all temporary works and restore the street or public right of way to the reasonable satisfaction of the street authority.

(8) Any person who suffers loss by the suspension of any private right of way under this article is entitled to compensation to be determined, in case of dispute, under Part 1 (determination of questions of disputed compensation) of the 1961 Act.

(9) If a street authority which receives an application for consent under paragraph (2) or (5)(b) fails to notify the undertaker of its decision before the end of the period of 56 days (or such other period as agreed by the relevant planning authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(10) Any application for consent under paragraph (2) or (5)(b) must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under paragraph (2) or (5)(b) does not include the statement required under paragraph (10) then the provisions of paragraph (9) will not apply to that application.

Permanent stopping up of streets and public rights of way

16.—(1) Subject to the provisions of this article, the undertaker may, in connection with the carrying out of the authorised project, stop up each of the streets and public rights of way specified and described in column (1) and (2) of Schedule 7 (streets or public rights of way to be permanently stopped up) to the extent specified in column (3) of that Schedule.

(2) No street or public right of way specified in column (2) of Schedule (7) is to be wholly or partly stopped up under this article unless—

(a) the new street or public right of way to be substituted for it, which is specified in column (4) of that Schedule, is open for use and in the case of a street, has been completed to the reasonable satisfaction of the street authority; or

(b) a temporary alternative route for the passage of such traffic as could have used the street or public right of way is first provided and in the case of a street, is subsequently maintained by the undertaker, to the reasonable satisfaction of the street authority, until the completion and opening of the new street or public right of way in accordance with sub-paragraph (a).

(3) Where a street has been stopped up under this article—

(a) All rights of way over or along the street so stopped up are extinguished; and

(b) The undertaker may appropriate and use for the purposes of the authorised project so much of the site of the street as is bounded on both sides by land owned by the undertaker.

(4) Any person who suffers loss by the suspension or extinguishment of any private right of way under this article will be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

Access to works

17.—(1) The undertaker may, for the purposes of the authorised project—

(a) form and lay out means of access, or improve existing means of access, in the location specified in column (2) of Schedule 9 (access to works); and

(b) with the consent of the relevant planning authority after consultation with the relevant highway authority, form and lay out such other means of access or improve existing means

of access, at such locations within the Order limits as the undertaker reasonably requires for the purposes of the authorised project.

(2) If a relevant planning authority which receives an application for consent under paragraph (1)(b) fails to notify the undertaker of its decision before the end of the period of 56 days (or such other period as agreed by the relevant planning authority and the undertaker) beginning with the date on which the application was received, it is deemed to have granted consent.

(3) Any application for consent under paragraph (1)(b) must include a statement that the provisions of paragraph (2) apply to that application.

(4) If an application for consent under paragraph (1)(b) does not include the statement required under paragraph (3), then the provisions of paragraph (2) will not apply to that application.

Construction, alteration and maintenance of streets

18.—(1) Subject to paragraph (3) any street (other than any private streets) to be constructed under this Order must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(2) Subject to paragraph (3) where a street is altered or diverted under this Order, the altered or diverted part of the street must be completed to the reasonable satisfaction of the street authority and must, unless otherwise agreed with the street authority, be maintained to the same condition (including any culverts or other structures laid under that part of the highway) by and at the expense of the undertaker for a period of 12 months from its completion and at the expiry of that period by and at the expense of the street authority.

(3) For temporary works, the period of 12 months mentioned in paragraphs (1) and (2) commences when the street is reinstated.

(4) Where new land not previously part of the public highway is to form part of the public highway further to the provisions of this Order it must unless otherwise agreed with the street authority, be deemed as dedicated as part of the public highway on the expiry of the period of 12 months from its completion.

(5) In any action against the undertaker in respect of loss or damage resulting from any failure by it to maintain a street under this article, it is a defence (without prejudice to any other defence or the application of the law relating to contributory negligence) to prove that the undertaker had taken such care as in all the circumstances was reasonably required to secure that the part of the street to which the action relates was not dangerous to traffic.

(6) For the purposes of a defence under paragraph (5), the court must in particular have regard to the following matters—

(a) the character of the street and the traffic which was reasonably to be expected to use it;

(b) the standard of maintenance appropriate for a street of that character and used by such traffic;

(c) the state of repair in which a reasonable person would have expected to find the street;

(d) whether the undertaker knew, or could reasonably have been expected to know, that the condition of the part of the street to which the action relates was likely to cause danger to users of the street; and

(e) where the undertaker could not reasonably have been expected to repair that part of the street before the cause of action arose, what warning notices of its condition had been displayed,

but for the purposes of such a defence it is not relevant to prove that the undertaker had arranged for a competent person to carry out or supervise the maintenance of the part of the street to which the action relates unless it is also proved that the undertaker had given the competent person proper instructions with regard to the maintenance of the street and that the competent person had carried out those instructions.

(7) In determining who is the street authority in relation to a street for the purposes of Part 3 of the 1991 Act, any obligation of the undertaker to maintain the street under paragraph (1) or (2) should be disregarded.

Agreements with street authorities

19.—(1) A street authority and the undertaker may enter into agreements with respect to—

(a) the construction of any new street including any structure carrying the street over or under an electric line authorised by this Order;

(b) the maintenance of the structure of any bridge or tunnel carrying a street over or under an electric line authorised by this Order;

(c) any stopping up, alteration or diversion of a street authorised by this Order;

(d) the carrying out in the street of any of the works referred to in article 11 (street works); and

(e) such other matters as the parties may agree, including such matters as may be included in agreements made pursuant to section 278 or section 38 of the 1980 Act.

(2) Such an agreement may, without limitation on the scope of paragraph (1)—

(a) make provision for the street authority to carry out any function under this Order which relates to the street in question;

(b) include an agreement between the undertaker and the street authority specifying a reasonable time for the completion of the works;

(c) provide for the dedication of any new street as public highway;

(d) contain such terms as to payment as the parties consider appropriate; and

(e) contain such other terms as the parties may agree.

PART 4

SUPPLEMENTAL POWERS

Discharge of water

20.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance or decommissioning of the authorised project, and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) must be determined as if it were a dispute under section 106 (right to communicate with public sewers) of the Water Industry Act 1991(**a**).

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose.

(4) The undertaker must not make any opening into any public sewer or drain except—

(a) in accordance with plans approved by the person to whom the sewer or drain belongs; and

(b) where that person has been given the opportunity to supervise the making of the opening.

(5) The undertaker must not, in carrying out or maintaining or decommissioning works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.

(6) The undertaker must, unless otherwise authorised under the provisions of this Order or any environmental permit relating to the discharge of water in connection with the authorised project, take

(**a**) 1991 c. 56. Section 106 was amended by sections 35(1) and (8) and 43(2) of the Competition and Service (Utilities) Act 1992 (c. 43), sections 36 and 99 of the Water Act 2003 (c. 37) and section 49 of, and paragraph 16(1) of Schedule 3 to the Flood and Water Management Act 2010 (c.29).

such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain under the powers conferred by this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension; but nothing in this Order requires the undertaker to maintain a watercourse or public sewer or drain or the drainage works.

(7) Nothing in this article overrides the requirement for an environmental permit under regulation 12(1)(b) of the Environmental Permitting (England and Wales) Regulations 2016(**a**).

(8) This article does not permit any activity listed in paragraph 3(1) of Schedule 21 to the Environmental Permitting (England and Wales) Regulations 2016.

(9) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to notify the undertaker of a decision within 56 days of receiving an application, that person is deemed to have granted consent or given approval, as the case may be.

(10) Any application for consent under paragraph (3) or approval under paragraph (4)(a) must include a statement that the provisions of paragraph (9) apply to that application.

(11) If an application for consent under paragraph (3) or approval under paragraph (a) does not include the statement required under paragraph (10) then the provisions of paragraph (9) will not apply to that application.

(12) In this article—

(a) "public sewer or drain" means a sewer or drain which belongs to Homes England, the Environment Agency, a harbour authority within the meaning of section 57 (interpretation) of the Harbours Act 1964(**b**), an internal drainage board, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation;

(b) "main river" has the same meaning as in the Water Resources Act 1991(**c**); and

(c) other expressions, excluding watercourse, used both in this article and in the Environmental Permitting (England and Wales) Regulations 2016 have the same meaning as in those Regulations.

Protective works

21.—(1) Subject to the following provisions of this article, the undertaker may at its own expense carry out such protective works to any land, building, structure, apparatus or equipment, lying within the Order limits or which may be affected by the authorised project, as the undertaker considers necessary or expedient.

(2) Protective works may be carried out—

(a) at any time before or during the carrying out in the vicinity of the land, building, structure, apparatus or equipment, of any part of the authorised project or works ancillary to it; or

(b) after the completion of any part of the authorised project in the vicinity of the land, building, structure, apparatus or equipment, at any time up to the end of the period of five years beginning with the day on which that part of the authorised project is first brought into operational use.

(3) For the purpose of determining how the functions under this article are to be exercised, the undertaker may enter and survey—

(a) any land, building, structure, apparatus or equipment, falling within paragraph (1) and any land within its curtilage; and

(b) where reasonably necessary, any land which is adjacent to the land, building, structure, apparatus or equipment, whether or not within the Order limits,

and place on, leave on and remove from the building, structure, apparatus or equipment any apparatus and equipment for use in connection with the survey.

(**a**) S.I. 2016/1154.
(**b**) 1964 c. 40. Paragraph 9B was inserted into Schedule 2 by the Transport and Works Act 1992 (c. 42), section 63(1) and Schedule 3, paragraph 9(1) and (2).
(**c**) 1991 c. 57.

(4) For the purpose of carrying out protective works under this article to any land, building, structure, apparatus or equipment, the undertaker may (subject to paragraphs (5) and (6))—

(a) enter the land, building or structure and any land within its curtilage; and

(b) where the works cannot be carried out reasonably conveniently without entering land which is adjacent to the land, building or structure but outside its curtilage, enter the adjacent land (but not any building erected on it).

(5) Before exercising—

(a) a right under paragraph (1) to carry out protective works to any land, building, structure, apparatus or equipment;

(b) a right under paragraph (3) to enter and/or survey any land, building, structure, apparatus or equipment, and land within its curtilage or any adjacent land;

(c) a right under paragraph (4)(a) to enter the land, building or structure and land within its curtilage; or

(d) a right under paragraph (4)(b) to enter land,

the undertaker must, except in the case of emergency, serve on the owners and occupiers of the building or land not less than 14 days' notice of its intention to exercise that right and, in a case falling within sub-paragraph (a) or (c), specify the protective works proposed to be carried out.

(6) Where a notice is served under paragraph (5)(a), (c) or (d), the owner or occupier of the land, building, structure, apparatus or equipment concerned may, by serving a counter-notice within the period of ten days beginning with the day on which the notice was served, require the question whether it is necessary or expedient to carry out the protective works or to enter the building or land to be referred to arbitration under article 62 (arbitration).

(7) The undertaker must compensate the owners and occupiers of any land, building, structure, apparatus or equipment, in relation to which rights under this article have been exercised, for any loss or damage arising to them by reason of the exercise of those rights.

(8) Where—

(a) protective works are carried out under this article to any land, building, structure, apparatus or equipment; and

(b) within the period of five years beginning with the day on which the part of the authorised project carried out in the vicinity of the land, building, structure, apparatus or equipment is first brought into operational use it appears that the protective works are inadequate to protect the land, building, structure, apparatus or equipment against damage caused by the carrying out or use of that part of the authorised project,

the undertaker must compensate the owners and occupiers of the land, building, structure, apparatus or equipment for any loss or damage sustained by them.

(9) Subject to article 57 (no double recovery), nothing in this article relieves the undertaker from any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act (**a**).

(10) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act(**b**) applies to the entry onto, or possession of, land under this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act(**c**).

(11) Any compensation payable under paragraph (7) or (8) must be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(12) In this article "protective works" in relation to any land, building, structure, apparatus, equipment or the authorised project means—

(**a**) Section 152 was amended by S.I. 2009/1307.

(**b**) Section 13 was amended by sections 62(3) and 139(4) to (9) of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**c**) Section 125 was amended by section 190 of, and paragraph 17 of Schedule 16 to, the 2016 Act (c.22).

(a) underpinning, strengthening, ground strengthening, earthing and any other works the purpose of which is to prevent damage which may be caused to the land, building, structure, apparatus, equipment or the authorised project by the carrying out, maintenance or use of the authorised project; and

(b) any works the purpose of which is to remedy any damage which has been caused to the land, building, structure, apparatus or equipment by the carrying out, maintenance or use of the authorised project.

Authority to survey and investigate the land

22.—(1) The undertaker may for the purposes of this Order enter on any land either shown within the Order limits or land which may be affected by the authorised project and—

(a) survey, monitor or investigate the land (including any watercourses, groundwater, static water bodies or vegetation on the land);

(b) without prejudice to the generality of sub-paragraph (a), survey, monitor or investigate the land and any buildings on that land for the purpose of investigating the potential effects of the authorised project on that land or buildings on that land or for enabling the construction, use and maintenance of the authorised project;

(c) without limitation on the scope of sub-paragraph (a), make trial holes, boreholes, excavations or take horizontal cores in such positions on the land as the undertaker thinks fit to investigate the nature of the surface layer, subsoil, groundwater and other materials below ground level and/or remove soil, rock, water and/or other material samples and discharge water from sampling operations on to the land;

(d) without limitation on the scope of sub-paragraph (a), carry out ecological or archaeological investigations and monitoring on the land, including making any excavations or trial holes on the land for such purposes; and

(e) place on, leave on and remove from the land apparatus (including but not limited to welfare facilities and apparatus attached to buoys) for use in connection with the survey, monitoring or investigation of land, making of trial holes, boreholes, excavations, cores, and/or the carrying out of ecological or archaeological investigations or monitoring.

(2) The power conferred by paragraph (1) includes without prejudice to the generality of that paragraph the power to take, and process, samples of or from any of the following found on, in or over the land—

(a) water;

(b) air;

(c) soil or rock;

(d) flora;

(e) bodily excretions, or dead bodies, of non-human creatures; or

(f) any non-living thing present as a result of human action.

(3) No land may be entered or equipment placed or left on or removed from the land under paragraph (1), unless at least 14 days' notice has been served on every owner and occupier of the land.

(4) Any person entering land under this article on behalf of the undertaker—

(a) must, if so required, before or after entering the land, produce written evidence of their authority to do so;

(b) must, before entering the land, provide in the notice details of the purpose specified in paragraph (1) to survey and investigate the land; and

(c) may take onto the land such vehicles and equipment, including robots, helicopters, drones, gadgets or similar devices either remote controlled or autonomous, as are necessary to carry out the survey, monitoring or investigation or to make the trial holes.

(5) No trial holes, boreholes, excavations or horizontal cores may be made under this article—

(a) on land located within the highway boundary without the consent of the relevant highway authority; or

(b) in a private street without the consent of the street authority.

(6) As soon as reasonably practicable following the completion of any activities carried out under paragraph (1), the undertaker must remove any apparatus and restore the land to the reasonable satisfaction of the owners of the land.

(7) The undertaker must compensate the owners and occupiers of the land for any loss or damage arising by reason of the exercise of the powers conferred by this article, such compensation to be determined, in case of dispute, under Part 1 of the 1961 Act (determination of questions of disputed compensation).

(8) If a highway authority or street authority which receives an application for consent fails to notify the undertaker of its decision within 56 days (or such other period as agreed by the relevant planning authority and the undertaker) of receiving the application for consent—

(a) under paragraph (5)(a) in the case of a highway authority; or

(b) under paragraph (5)(b) in the case of a street authority,

that authority is deemed to have granted consent.

(9) Any application for consent under either paragraph (5)(a) or paragraph (5)(b) must include a statement that the provisions of paragraph (8) apply to that application.

(10) If an application for consent under either paragraph (5)(a) or paragraph (5)(b) does not include the statement required under paragraph (9), then the provisions of paragraph (8) will not apply to that application.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

Removal of human remains

23. [Article not used]

PART 5

ACQUISITION AND POSSESSION OF LAND

Powers of acquisition

Compulsory acquisition of land

24. The undertaker may acquire compulsorily so much of the Order land described in the Book of Reference as is required for the construction, operation and maintenance and decommissioning of the authorised project or is incidental to it or required to facilitate it.

Compulsory acquisition of rights

25.—(1) Subject to the provisions of this article, the undertaker may acquire compulsorily the rights, and impose the restrictions, over the Order land, described in the Book of Reference, by creating them as well as by acquiring rights and the benefits of restrictions already in existence.

(2) This article is subject to article 24 (compulsory acquisition of land), article 27 (temporary use of land for carrying out the authorised project).

(3) Subject to section 8 (other provisions as to divided land) of the 1965 Act as substituted by Schedule 10 (modification of compensation and compulsory purchase enactments for creation of new rights) to this Order, where the undertaker acquires a right over land or imposes a restriction under paragraph (1), the undertaker is not required to acquire a greater interest in that land.

(4) Schedule 10 to this Order has effect for the purpose of modifying the enactments relating to compensation and the provisions of the 1965 Act in their application in relation to the compulsory acquisition under this article of a right over land by the creation of a new right or the imposition of a restriction.

(5) In any case where the acquisition of rights or the imposition of a restriction under paragraph (1) is required for the purpose of diverting, replacing or protecting apparatus of a statutory undertaker, the undertaker may, with the consent of the Secretary of State, transfer the power to acquire such rights or impose such restrictions to the relevant statutory undertaker.

(6) The exercise by a statutory undertaker of any power in accordance with a transfer under paragraph (5) is subject to the same restrictions, liabilities and obligations as would apply under this Order if that power were exercised by the undertaker.

(7) Nothing in this article authorises the acquisition of rights over, or the imposition of restrictions affecting, an interest which is for the time being held by or on behalf of the Crown.

Acquisition of subsoil or airspace only

26.—(1) The undertaker may compulsorily acquire so much of, or such rights in, the subsoil of, or the airspace of, the land referred to in article 24 (compulsory acquisition of land) and article 25 (compulsory acquisition of rights) as may be required for any purpose for which that land may be acquired or for which rights over or under the land may be acquired under those provisions instead of acquiring the whole of the land.

(2) Where the undertaker acquires any part of, or rights in, the subsoil of or the airspace over land under paragraph (1), the undertaker is not required to acquire an interest in any other part of the land.

(3) The following do not apply in connection with the exercise of the power under paragraph (1) in relation to subsoil or airspace only—

(a) Schedule 2A (counter-notice requiring purchase of land not in notice to treat) to the 1965 Act (as modified by article 36 (application of Part 1 of the 1965 Act));

(b) Schedule A1 (counter-notice requiring purchase of land not in general vesting declaration) to the 1981 Act; and

(c) section 153(4A) (blighted land: proposed acquisition of part interest; material detriment test) of the 1990 Act.

(4) Paragraph (2) does not prevent article 34 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.

(5) Subject to paragraph (6), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) Compensation is not payable under paragraph (5) to any person who is a statutory undertaker to whom section 85 (sharing of cost of necessary measures of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Temporary possession of land

Temporary use of land for carrying out the authorised project

27.—(1) The undertaker may, in connection with the carrying out of the authorised project—

(a) enter on and take temporary possession of—

(i) so much of the land specified in column (1) of Schedule 11 (land of which only temporary possession may be taken) to exercise the powers described in the Book of Reference for the purpose specified in relation to that land in column (2) of that Schedule relating to the part of the authorised project specified in column (3) of that Schedule; and

(ii) any other Order land (which for the avoidance of doubt excludes any land identified in the Land Plans and Book of Reference as Class 10 land) in respect of which no notice of entry has been served under section 11 of the 1965 Act (other than in connection with the acquisition of rights only) and no declaration has been made under section 4 (execution of a declaration) of the 1981 Act;

(b) remove any electric line, electrical plant, buildings, structures, pylons, apparatus, equipment, vegetation or any other thing from that land;

(c) construct temporary works (including the provision of means of access, security fencing, storage areas structures and buildings on that land); and

(d) construct any works specified in relation to that land in column (2) of Schedule 11 or any other mitigation works.

(2) Not less than 14 days before entering on and taking temporary possession of land under this article, the undertaker must serve notice of the intended entry on the owners and occupiers of the land.

(3) The undertaker may not, without the agreement of the owners of the land, remain in possession of any land under this article—

(a) in the case of land referred to in paragraph (1)(a)(i), after the end of the period of one year beginning with the date of completion of the part of the authorised project specified in relation to that land in column (3) of Schedule 11, or

(b) in the case of land referred to in paragraph (1)(a)(ii), after the end of the period of one year beginning with the date of completion of the work for which temporary possession of the land was taken unless the undertaker has, by the end of that period, served a notice of entry under section 11 of the 1965 Act or made a declaration under section 4 of the 1981 Act in relation to that land.

(4) The undertaker must provide the owners of any land of which temporary possession has been taken under this article with written notice of the date of completion of the works for which temporary possession was taken within 28 days of the completion of those works.

(5) Before giving up possession of land of which only temporary possession has been taken under paragraph (1)(a)(i), unless otherwise agreed with the owners of the land, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land, but the undertaker is not required to—

(a) replace a building, structure, apparatus, equipment, electric line, electrical plant or pylon removed under this article;

(b) restore the land on which any mitigation works have been carried out under paragraph (1)(d);

(c) restore the land on which any works have been carried out under paragraph (1) insofar as the element of works shown in column (4) of Schedule 11 is concerned;

(d) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations;

(e) remove any permanent work including pylons, electric lines, underground cables, or other permanent services, constructed or installed on, over, under or in that land as part of the authorised project;

(f) remove any ground-strengthening works (being either works listed in Schedule 11 of this Order or other works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised project;

(g) remove or reposition any apparatus belonging to statutory undertakers;

(h) remove any drainage works;

(i) restore ground levels adjusted as part of the authorised project; or

(j) replant trees in respect of land above or within 10 metres of underground cables installed as part of the authorised development.

(6) Before giving up possession of land of which temporary possession has been taken under paragraph (1)(a)(ii), unless otherwise agreed by the owners of the land, the undertaker must either

acquire the land or the interest on, over, or in the land in accordance with the provisions of paragraph (3)(b) or remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land; but the undertaker is not required to—

(a) replace a building, structure, apparatus, equipment, electric line, electrical plant or pylon removed under this article;

(b) restore the land on which any mitigation works have been carried out under paragraph (1)(d);

(c) remove any foundations below 1.5 metres which had been placed in that land to support pylons and electric lines constructed upon those foundations;

(d) remove any permanent work including pylons, electric lines, underground cables, or other permanent services, constructed or installed on, over, under or in that land as part of the authorised project;

(e) remove any ground-strengthening works (being works to provide safe and stable ground conditions) which have been placed in that land to facilitate construction of the authorised project;

(f) remove or reposition any apparatus belonging to statutory undertakers;

(g) remove any drainage works;

(h) restore ground levels adjusted as part of the authorised project; or

(i) replant trees in respect of land above or within 10 metres of underground cables installed as part of the authorised development.

(7) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the provisions of this article.

(8) Any dispute as to a person's entitlement to compensation under paragraph (7), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(9) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the carrying out of the authorised project, other than loss or damage for which compensation is payable under paragraph (7).

(10) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(11) Section 13 (refusal to give possession to acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act.

(12) Nothing in this article prevents the undertaker from taking temporary possession more than once in relation to any land specified in paragraph (1)(a).

Temporary use of land for maintaining the authorised project

28.—(1) Subject to paragraph (2), at any time during the maintenance period relating to any part of the authorised project, the undertaker may—

(a) enter upon and take temporary possession of any land within the Order limits if such possession is reasonably required for the purpose of maintaining the authorised project;

(b) construct such temporary works (including the provision of means of access) and buildings on the land as may be reasonably necessary for that purpose; and

(c) enter on any land within the Order limits for the purpose of gaining such access as is reasonably required for the purpose of maintaining the authorised project.

(2) Paragraph (1) does not authorise the undertaker to take temporary possession of—

(a) any house or garden belonging to a house;

(b) any building (other than a house) if it is for the time being occupied; or

(c) any land identified in the Land Plans and Book of Reference as Class 10 land.

(3) Not less than 28 days before entering upon and taking temporary possession of land under this article the undertaker must serve notice of the intended entry on the owners and occupiers of the land and that notice must explain the purpose for which entry is taken, except as provided in paragraph (11).

(4) The undertaker may remain in possession of land under this article only for so long as may be reasonably necessary to carry out the maintenance of the part of the authorised project for which possession of the land was taken.

(5) Before giving up possession of land of which temporary possession has been taken under this article, the undertaker must remove all temporary works and restore the land to the reasonable satisfaction of the owners of the land.

(6) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land of the powers conferred by this article.

(7) Any dispute as to a person's entitlement to compensation under paragraph (6), or as to the amount of the compensation, must be determined under Part 1 of the 1961 Act.

(8) Nothing in this article affects any liability to pay compensation under section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act or under any other enactment in respect of loss or damage arising from the maintenance of the authorised project, other than loss or damage for which compensation is payable under paragraph (6).

(9) Where the undertaker takes possession of land under this article, the undertaker is not required to acquire the land or any interest in it.

(10) Section 13 (refusal to give possession to the acquiring authority) of the 1965 Act applies to the temporary use of land pursuant to this article to the same extent as it applies to the compulsory acquisition of land under this Order by virtue of section 125 (application of compulsory acquisition provisions) of the 2008 Act).

(11) Where the undertaker has identified a potential risk to the safety of—

(a) the authorised project or any part of it; or

(b) the public; or

(c) the surrounding environment,

the requirement to serve not less than 28 days' notice under paragraph (3) does not apply and the undertaker may enter the land pursuant to paragraph (1) subject to giving such period of notice (if any) as is reasonably practicable in all the circumstances.

(12) In this article "the maintenance period" in relation to any part of the authorised project means the period of five years beginning with the date on which that part of the authorised project is brought into operational use, except where the authorised project is replacement or landscape planting where "the maintenance period" means the period of five years beginning with the date on which that part of the replacement or landscape planting is completed.

Use of subsoil under or airspace over streets

29.—(1) The undertaker may enter on and use so much of the subsoil of, or airspace over, any street within the Order limits as may be required for the purposes of the authorised project or for any other purpose ancillary to the authorised project and may use the subsoil or airspace for those purposes.

(2) Subject to paragraph (3), the undertaker may exercise any power conferred by paragraph (1) in relation to a street without being required to acquire any part of the street or any easement or right in the street.

(3) Paragraph (2) does not apply in relation to—

(a) any subway or underground building; or

(b) any cellar, vault, arch or other construction in, on or under a street which forms part of a building fronting onto the street.

(4) Subject to paragraph (5), any person who is an owner or occupier of land appropriated under paragraph (1) without the undertaker acquiring any part of that person's interest in the land, and who suffers loss as a result, is entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) Compensation is not payable under paragraph (4) to any person who is an undertaker to whom section 85 (sharing cost of necessary measures) of the 1991 Act applies in respect of measures of which the allowable costs are to be borne in accordance with that section.

Compensation

Disregard of certain interests and improvements

30.—(1) In assessing the compensation payable to any person on the acquisition from that person of any land or right over any land under this Order, the tribunal must not take into account—

(a) any interest in land; or

(b) any enhancement of the value of any interest in land by reason of any building erected, works executed or improvement or alteration made on relevant land,

if the tribunal is satisfied that the creation of the interest, the erection of the building, the execution of the works or the making of the improvement or alteration as part of the authorised project was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

(2) In paragraph (1) "relevant land" means the land acquired from the person concerned or any other land with which that person is, or was at the time when the building was erected, the works executed or the improvement or alteration made as part of the authorised project, directly or indirectly concerned.

Set-off for enhancement in value of retained land

31.—(1) In assessing the compensation payable to any person in respect of the acquisition from that person under this Order of any land (including any subsoil) the tribunal must set off against the value of the land so acquired any increase in value of any contiguous or adjacent land belonging to that person in the same capacity which will accrue to that person by reason of the construction of the authorised project.

(2) In assessing the compensation payable to any person in respect of the acquisition from that person of any new rights over land (including the subsoil), under article 25 (compulsory acquisition of rights), the tribunal must set off against the value of the rights so acquired—

(a) any increase in the value of the land over which the new rights are required; and

(b) any increase in value of any contiguous or adjacent land belonging to that person in the same capacity,

which will accrue to that person by reason of the construction of the authorised project.

(3) The 1961 Act has effect, subject to paragraphs (1) and (2), as if this Order were a local enactment for the purposes of that Act.

Supplementary

Compulsory acquisition of land – incorporation of the mineral code

32. Parts 2 and 3 of Schedule 2 (minerals) to the Acquisition of Land Act 1981(**a**) are incorporated into this Order subject to the modifications that—

(**a**) 1981 c. 67. Paragraph 3 of Part 3 of Schedule 2 was amended by The Transfer of Tribunal Functions (Lands Tribunal and Miscellaneous Amendments) Order (S.I. 2009/1307 and paragraph 8 of Part 3 of that Schedule was amended by section 46 of the Criminal Justice Act 1982 (c.48).

(a) paragraph 8(3) is not incorporated;

(b) for "the acquiring authority" there is substituted "the undertaker";

(c) for "undertaking" substitute "authorised project"; and

(d) for "compulsory purchase order" substitute "this Order".

Time limit for exercise of authority to acquire land compulsorily

33.—(1) After the end of the period of seven years beginning with the day on which this Order comes into force—

(a) no notice to treat may be served under Part 1 of the 1965 Act; and

(b) no declaration may be executed under section 4 of the 1981 Act as applied by article 35 (application of the 1981 Act).

(2) The authority conferred by article 27 (temporary use of land for carrying out the authorised project) ceases at the end of the period referred to in paragraph (1), save that nothing in this paragraph prevents the undertaker remaining in possession of land after the end of that period, if the land was entered and possession was taken before the end of that period.

(3) If any proceedings are begun to challenge the validity of this Order, the period specified in paragraph (1) is extended for the period specified in paragraph (4).

(4) Under paragraph (3) the period is taken to be extended by—

(a) a period equivalent to the period beginning with the day the proceedings are filed and ending on the day they are withdrawn or fully determined, or

(b) if shorter, one year.

(5) Proceedings are not finally determined for the purposes of sub-paragraph (4)(a) if any appeal—

(a) could be brought (ignoring any possibility of an appeal out of time with permission), or

(b) has been made and not withdrawn or finally determined.

Acquisition of part of certain properties

34.—(1) This article applies where—

(a) a notice to treat is served on a person ("the owner") under the 1965 Act (as so applied) in respect of land forming only part of a house, building or factory or of land consisting of a house with a park or garden ("the land subject to the notice to treat"); and

(b) a copy of this article is served on the owner with the notice to treat.

(2) In such a case, the owner may, within the period of 28 days beginning with the day on which the notice was served, serve on the undertaker a counter-notice objecting to the sale of the land subject to the notice to treat and stating that the owner is willing and able to sell the whole ("the land subject to the counter-notice").

(3) If no such counter-notice is served within that period, the owner is required to sell the land subject to the notice to treat.

(4) If such a counter-notice is served within that period, the question whether the owner is required to sell only the land subject to the notice to treat must, unless the undertaker agrees to take the land subject to the counter-notice, be referred to the tribunal.

(5) If on such a reference the tribunal determines that the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice; or

(b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the owner is required to sell the land subject to the notice to treat.

(6) If on such a reference the tribunal determines that only part of the land subject to the notice to treat can be taken—

(a) without material detriment to the remainder of the land subject to the counter-notice; or

(b) where the land subject to the notice to treat consists of a house with a park or garden, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house,

the notice to treat is deemed to be a notice to treat for that part.

(7) If on such a reference the tribunal determines that—

(a) the land subject to the notice to treat cannot be taken without material detriment to the remainder of the land subject to the counter-notice; but

(b) the material detriment is confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land to which the material detriment is confined in addition to the land already subject to the notice, whether or not the additional land is land which the undertaker is authorised to acquire compulsorily under this Order.

(8) If the undertaker agrees to take the land subject to the counter-notice, or if the tribunal determines that—

(a) none of the land subject to the notice to treat can be taken without material detriment to the remainder of the land subject to the counter-notice or, as the case may be, without material detriment to the remainder of the land subject to the counter-notice and without seriously affecting the amenity and convenience of the house; and

(b) the material detriment is not confined to a part of the land subject to the counter-notice,

the notice to treat is deemed to be a notice to treat for the land subject to the counter-notice whether or not the whole of that land is land which the undertaker is authorised to acquire compulsorily under this Order.

(9) Where by reason of a determination by the tribunal under this article a notice to treat is deemed to be a notice to treat for less land or more land than that specified in the notice, the undertaker may, within the period of six weeks beginning with the day on which the determination is made, withdraw the notice to treat; and, in that event, must pay the owner compensation for any loss or expense occasioned to the owner by the giving and withdrawal of the notice, to be determined in case of dispute by the tribunal.

(10) Where the owner is required under this article to sell only part of a house, building or manufactory or of land consisting of a house with a park or garden, the undertaker must pay the owner compensation for any loss sustained by the owner due to the severance of that part in addition to the value of the interest acquired.

Application of the 1981 Act

35.—(1) The 1981 Act applies as if this Order were a compulsory purchase order.

(2) The 1981 Act, as so applied, has effect with the following modifications.

(3) In section 1 (application of Act) for subsection (2) there is substituted —

"(2) This section applies to any Minister, any local or other public authority or any other body or person authorised to acquire land by means of a compulsory purchase order."

(4) In section 5 (earliest date for execution of declaration), in subsection (2), omit the words from "and this subsection" to the end.

(5) Section 5A (time limit for general vesting declaration)(**a**) is omitted.

(6) In section 5B (extension of time limit during challenge)(**b**)—

(**a**) Section 5A was inserted by section 182(2) of the 2016 Act and amended by section 185 of the Levelling-up and Regeneration Act 2023 (c.55).

(**b**) Section 5B was inserted by section 202(2) of the 2016 Act and amended by section 185 of the Levelling-up and Regeneration Act 2023 (c.55).

(a) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 (legal challenges relating to applications for orders granting development consent) of the Planning Act 2008"; and

(b) for "the applicable period for the purposes of section 5A" substitute "the seven year period mentioned in article 33 of the National Grid (Sea Link) Order 20[xx]".

(7) In section 6 (notices after execution of declaration)(**a**) for subsection (1)(b) there is substituted—

"(b) on every other person who has given information to the acquiring authority with respect to any of that land further to the invitation published and served under section 134 (notice of authorisation of compulsory acquisition) of the Planning Act 2008."

(8) In section 7 (constructive notice to treat)(**b**), in subsection (1)(a), omit "(as modified by section 4 of the Acquisition of Land Act 1981)".

(9) In Schedule A1(**c**) (counter-notice requiring purchase of land not in general vesting declaration), for paragraph 1(2) substitute—

"(2) But see article 26(3) (acquisition of subsoil or airspace only) of the National Grid (Sea Link) Order 20[xx], which excludes the acquisition of subsoil or airspace only from this Schedule."

(10) References to the 1965 Act in the 1981 Act must be construed as references to the 1965 Act as applied by section 125 (application of compulsory acquisition provisions) of the 2008 Act and as modified by article 36 (application of Part 1 of the 1965 Act) to the compulsory acquisition of land under this Order.

Application of Part 1 of the 1965 Act

36.—(1) Part 1 of the 1965 Act as applied to this Order by section 125 (application of compulsory acquisition provisions) of the 2008 Act is modified as follows.

(2) In section 4 (time limit for giving notice to treat) for "after the end of the applicable period beginning with the day on which the compulsory purchase order becomes operative" substitute "after the end of the period stated in article 33 (time limit for exercise of authority to acquire land compulsorily) of the National Grid (Sea Link) Order 20[xx]; and

(3) in section 4A(1) (extension of time limit during challenge)—

(a) for "section 23 of the Acquisition of Land Act 1981 (application to the High Court in respect of compulsory purchase order)" substitute "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent)"; and

(b) for "the applicable period for the purposes of section 4" substitute "the seven year period mentioned in article 33 (time limit for exercise of authority to acquire land compulsorily) of the National Grid (Sea Link) Order 20[xx]".

(4) In section 11A (powers of entry: further notices of entry)—

(a) in subsection (1)(a), after "land" insert "under that provision"; and

(b) in subsection (2), after "land" insert "under that provision".

(5) In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase), for "section 4 of this Act" substitute "article 33 (time limit for exercise of authority to acquire land compulsorily) of the National Grid (Sea Link) Order 20[xx]".

(6) In Schedule 2A (counter-notice requiring purchase of land not in notice to treat)—

(a) for paragraphs 1(2) and 14(2) substitute—

(**a**) Section 6 was amended by section 4 of, and paragraph 52(2) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c. 11) and paragraph 7 of Schedule 15 to the 2016 Act.

(**b**) Section 7(1) was substituted by paragraphs 1 and 3 of Schedule 18 to the2016 Act (c. 22) and amended by section 186 of the Levelling-up and Regeneration Act 2023 (c.55).

(**c**) Schedule A1 was inserted by paragraph 6 of Part 1 of Schedule 18 to the 2016 Act 2016 (c. 22) and amended by section 186 of the Levelling-up and Regeneration Act 2023 (c.55).

"(2) But see article 26(3) (acquisition of subsoil or airspace only) of the National Grid (Sea Link) Order 20[xx], which excludes the acquisition of subsoil or airspace only from this Schedule"; and

(b) after paragraph 29, insert —

"PART 4

INTERPRETATION

30. In this Schedule, references to entering on and taking possession of land do not include doing so under article 21 (protective works), 27 (temporary use of land for carrying out the authorised project) or 28 (temporary use of land for maintaining the authorised project) of the National Grid (Sea Link) Order 20[xx]."

Extinguishment and suspension of private rights

37.—(1) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to compulsory acquisition under this Order are extinguished or suspended—

(a) as from the date of acquisition of the land by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (powers of entry)(**a**) of the 1965 Act,

whichever is the earlier.

(2) Subject to the provisions of this article, all private rights and restrictive covenants over land owned by the undertaker which, being within the Order limits, is required for the purposes of this Order, are extinguished on the start of any activity authorised by this Order which interferes with or breaches such rights or such restrictive covenants.

(3) Subject to the provisions of this article, all private rights and restrictive covenants over land subject to the compulsory acquisition of rights or the imposition of restrictions under this Order are extinguished in so far as their continuance would be inconsistent with the exercise of the right acquired or the burden of the restriction imposed—

(a) as from the date of the acquisition of the right or the benefit of the restriction by the undertaker, whether compulsorily or by agreement; or

(b) on the date of entry on the land by the undertaker under section 11(1) (power of entry) of the 1965 Act in pursuance of the right; or

(c) on commencement of any activity authorised by the Order which interferes with or breaches those rights,

whichever is the earlier.

(4) Subject to the provisions of this article and article 40 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession), all private rights or restrictive covenants over land of which the undertaker takes temporary possession under this Order are suspended and unenforceable for as long as the undertaker remains in lawful possession of the land and in so far as their continuation would be inconsistent with the exercise of the powers under this Order or a breach of a restriction as to the user of land arising by virtue of a contract.

(5) Any person who suffers loss by the extinguishment or suspension of any private right or restrictive covenant under this article is entitled to compensation in accordance with the terms of section 152 (compensation in case where no right to claim in nuisance) of the 2008 Act to be determined, in case of dispute, under Part 1 of the 1961 Act.

(**a**) Section 11 was amended by paragraph 14 of Schedule 4 to the Acquisition of Land Act 1981 (c. 67), paragraph 12(1) of Schedule 5 to the Church of England (Miscellaneous Provisions) Measure 2006 (N0. 1) and sections 186, 187 and 188 of the Housing and Planning Act 2016 (c. 22)

(6) This article does not apply in relation to any right to which section 138 (extinguishment of rights, and removal of apparatus, of statutory undertakers etc.)(**a**) of the 2008 Act or article 44 (statutory undertakers) applies.

(7) Paragraphs (1) to (4) have effect subject to—

(a) any notice given by the undertaker before—

(i) the completion of the acquisition of the land or rights or the imposition of restrictive covenants over or affecting the land;

(ii) the undertaker's appropriation of it;

(iii) the undertaker's entry onto it; or

(iv) the undertaker's taking temporary possession of it,

that any or all of those paragraphs do not apply to any right specified in the notice; and

(b) any agreement made, in so far as it relates to the authorised project, at any time between the undertaker and the person in or to whom the right or restrictive covenant in question is vested, belongs or benefits.

(8) If any such agreement as is referred to in paragraph (7)(b)—

(a) is made with a person in or to whom the right is vested or belongs; and

(b) is expressed to have effect also for the benefit of those deriving title from or under that person,

it is effective in respect of the persons so deriving title, whether the title was derived before or after the making of the agreement.

(9) A reference in this article to private rights and restrictive covenants over land includes any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

Power to override easements and other rights

38.—(1) Any authorised activity which takes place on land within the Order limits (whether the activity is undertaken by the undertaker or by any person deriving title from the undertaker or by any servants or agents of the undertaker) is authorised by this Order if it is done in accordance with the terms of this Order, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to the user of land arising by virtue of a contract.

(2) In this article "authorised activity" means—

(a) the erection, construction or maintenance of any part of the authorised project; or

(b) the exercise of any power authorised by this Order; or

(c) the use of any land (including the temporary use of land).

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Where an interest, right or restriction is overridden by paragraph (1), compensation—

(a) is payable under section 7 (measure of compensation in case of severance) or 10 (further provision as to compensation for injurious affection) of the 1965 Act; and

(b) is to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections where—

(**a**) Section 138 was amended by section 23(4) of the Growth and Infrastructure Act 2013 (c. 27) and by S.I. 2017/1285.

(i) the compensation is to be estimated in connection with a purchase under that Act; or

(ii) the injury arises from the execution of works on or use of land acquired under that Act.

(5) Where a person deriving title under the undertaker by whom the land in question was acquired—

(a) is liable to pay compensation by virtue of paragraph (4), and

(b) fails to discharge that liability,

the liability is to be enforceable against that undertaker in accordance with section 204(3) (compensation for overridden easements etc) of the 2016 Act.

(6) Nothing in this article is to be construed as authorising any act or omission on the part of any person which is actionable at the suit of any person on any grounds other than such an interference or breach as is mentioned in paragraph (1) of this article.

Statutory authority to override easements and other rights

39.—(1) The carrying out or use of development authorised by this Order and the doing of anything else authorised by this Order is authorised by virtue of section 158 (nuisance: statutory authority) of the 2008 Act, notwithstanding that it involves—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to user of land arising by virtue of contract.

(2) The undertaker must pay compensation to any person whose land is injuriously affected by—

(a) an interference with an interest or right to which this article applies; or

(b) a breach of a restriction as to user of land arising by virtue of contract,

authorised by virtue of this Order and the operation of section 158 of the 2008 Act.

(3) The interests and rights to which this article applies include any trust, incident, easement, wayleave, liberty, privilege, right or advantage annexed to land (including any land forming part of a common, open space or fuel or field garden allotment) and adversely affecting other land, including any natural right to support, and including restrictions as to the user of land arising by virtue of a contract.

(4) Subsection (2) of section 10 (further provision as to compensation for injurious affection) of the 1965 Act applies to paragraph (2) by virtue of section 152(5) of the 2008 Act.

(5) Any rule or principle applied to the construction of section 10 of the 1965 Act will be applied to the construction of paragraph (2) (with any necessary modifications).

Extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession

40.—(1) This article applies to any Order land specified in Schedule 12 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession) and any other Order land of which National Grid takes temporary possession under article 27 (temporary use of land for carrying out the authorised project).

(2) All private rights or restrictive covenants in relation to apparatus belonging to National Grid removed from any land to which this article applies are extinguished from the date on which National Grid gives up temporary possession of that land under article 27 (temporary use of land by for carrying out the authorised project).

(3) The extinguishment of rights by paragraph (2) does not give rise to any cause of action relating to the presence on or in the land of any foundations (save for those which lie less than 1.5 metres underground) referred to in paragraph 27(5)(d) and 27(6)(c) of article 27 (temporary use of land for carrying out the authorised project) (National Grid is not required to remove foundations when giving up temporary possession).

(4) Schedule 12 (extinguishment of private rights and restrictive covenants relating to apparatus belonging to National Grid removed from land subject to temporary possession) has effect.

Crown rights

41.—(1) Nothing in this Order affects prejudicially any estate, right, power, privilege, authority or exemption of the Crown and, in particular, nothing in this Order authorises the undertaker or any licensee to take, use, enter on or in any manner interfere with any land or rights of any description (including any part of the shore or bed of the sea or any river, channel, creek, bay or estuary)—

(a) belonging to His Majesty in right of the Crown and forming part of the Crown Estate, without the consent in writing of the Crown Estate Commissioners;

(b) belonging to His Majesty in right of the Crown and not forming part of the Crown Estate, without the consent in writing of the government department having the management of that land; or

(c) belonging to a government department or held in trust for His Majesty for the purposes of a government department, without the consent in writing of that government department.

(2) Paragraph (1) does not apply to the exercise of any right under this Order for the compulsory acquisition of an interest in any Crown land (as defined in section 227 of the 2008 Act) that is for the time being held otherwise than by or on behalf of the Crown.

(3) A consent under paragraph (1)—

(a) may be given unconditionally or subject to terms and conditions; and

(b) is deemed to have been given in writing where it is sent electronically.

Saving provisions for Trinity House

42. Nothing in this Order prejudices or derogates from any of the rights, duties or privileges of Trinity House.

Special category land

43.—(1) So much of the special category land that is required for the purposes of the exercising by the undertaker of the Order rights will be discharged from all rights, trusts and incidents to which it was previously subject so far as their continuance would be inconsistent with the exercise of the Order rights.

(2) In this article—

"Order rights" means the rights exercisable over the special category land by the undertaker under article 25 (compulsory acquisition of rights); and

"special category land" means the land identified as forming part of a common, open space, or fuel or field allotment in the book of reference and marked as such on the plan entitled "Special Category Land and Crown Land Plans".

Statutory undertakers

44.—(1) Subject to the provisions of Schedule 15 (protective provisions) the undertaker may—

(a) further to the power in article 24 (compulsory acquisition of land), acquire compulsorily the Order land belonging to statutory undertakers, and described in the Book of Reference;

(b) extinguish or suspend the rights of, remove or reposition apparatus belonging to statutory undertakers where such apparatus is anywhere over or within the Order limits notwithstanding that repositioning may be outside of the Order limits;

(c) further to the power in article 25 (compulsory acquisition of rights), acquire compulsorily existing rights, create and acquire the new rights and impose restrictive covenants over land belonging to statutory undertakers described in the Book of Reference and indicated on the Land Plans;

(d) construct the authorised project in such a way as to cross underneath or over apparatus belonging to statutory undertakers and other like bodies within the Order limits; and

(e) construct over existing apparatus belonging to statutory undertakers any necessary track or roadway (whether temporary or permanent) together with the right to maintain or remove the same, and install such service media under or over the existing apparatus needed in connection with the authorised project.

(2) Paragraph 1(b) has no effect in relation to apparatus in respect of which Part 3 (street works in England and Wales) of the 1991 Act applies.

Apparatus and rights of statutory undertakers in stopped-up streets

45.—(1) Where a street is stopped up under article 16 (permanent stopping up of streets and public rights of way), any statutory undertaker whose apparatus is under, in, on, along or across the street has the same powers and rights in respect of that apparatus, subject to the provisions of this article, as if this Order had not been made.

(2) Where a street is stopped up under article 16, any statutory undertaker whose apparatus is under, in, on, over, along or across the street or public right of way may, and if reasonably requested to do so by the undertaker must—

(a) remove the apparatus and place it or other apparatus provided in substitution for it in such other position as the statutory undertaker may reasonably determine and have power to place it; or

(b) provide other apparatus in substitution for the existing apparatus and place it in such position as described in sub-paragraph (a).

(3) Subject to the following provisions of this article, the undertaker must pay to any statutory undertaker an amount equal to the cost reasonably incurred by the statutory undertaker in or in connection with-

(a) the execution of the relocation works required in consequence of the stopping up of the street or public right of way; and

(b) the doing of any other work or thing rendered necessary by the execution of the relocation works.

(4) If in the course of the execution of relocation works under paragraph (2)—

(a) apparatus of a better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration to be necessary, then, if it involves cost in the execution of the relocation works exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which, apart from this paragraph, would be payable to the statutory undertaker by virtue of paragraph (3) will be reduced by the amount of that excess.

(5) For the purposes of paragraph (4)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(6) An amount which, apart from this paragraph, would be payable to a statutory undertaker in respect of works by virtue of paragraph (3) (and having regard, where relevant, to paragraph (4)) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the utility any financial benefit by deferment of the

time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(7) Paragraphs (3) to (6) do not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purposes of Part 3 of the 1991 Act, but instead—

(a) the allowable costs of the relocation works are to be determined in accordance with section 85 (Sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) the allowable costs must be borne by the undertaker and the statutory undertaker in such proportions as may be prescribed by any such regulations.

(8) In this article—

"relocation works" means work executed, or apparatus provided, under paragraph (2); and

"statutory undertaker" means a statutory undertaker for the purposes of the 1980 Act or a public communications provider as defined in section 151(1) (Interpretation) of the 2003 Act.

Recovery of costs of new connections

46.—(1) Where any apparatus of a public utility undertaker or of a public communications provider is removed under article 44 (statutory undertakers), any person who is the owner or occupier of premises to which a supply was given from that apparatus is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of effecting a connection between the premises and any other apparatus from which a supply is given.

(2) Paragraph (1) does not apply in the case of the removal of a public sewer, but where such a sewer is removed under article 44 (statutory undertakers) any person who is—

(a) the owner or occupier of premises the drains of which communicated with that sewer; or

(b) the owner of a private sewer which communicated with that sewer,

is entitled to recover from the undertaker compensation in respect of expenditure reasonably incurred by that person, in consequence of the removal, for the purpose of making the drain or sewer belonging to that person communicate with any other public sewer or with a private sewerage disposal plant.

(3) In this article—

"public communications provider" has the same meaning as in section 151(1) (interpretation of Chapter 1) of the 2003 Act(**a**); and

"public utility undertaker" has the same meaning as in the 1980 Act.

PART 6

MISCELLANEOUS AND GENERAL

Deemed marine licence

47. The undertaker is granted a deemed marine licence under Part 4 of the 2009 Act, to carry out the activities described in Part 1 of Schedule 16, subject to the licence conditions set out in Part 2 of that Schedule.

Application of landlord and tenant law

48.—(1) This article applies to—

(**a**) 2003 c.21.

(a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and

(b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person's use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants prejudices the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law applies in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

(a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;

(b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or

(c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

Defence to proceedings in respect of statutory nuisance

49.—(1) Where proceedings are brought under section 82(1) (summary proceedings by persons aggrieved by statutory nuisance) of the Environmental Protection Act 1990(**a**) in relation to a nuisance falling within paragraphs (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise from vehicles, machinery or equipment in a street) of section 79(1) of that Act no order must be made, and no fine must be imposed, under section 82(2) of that Act if—

(a) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction sites) or a consent given under section 61 (prior consent for work on construction sites) of the Control of Pollution Act 1974(**b**); or

(ii) relates to premises used by the undertaker for the purposes of or in connection with the construction of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with the controls and measures relating to noise as described in the relevant Onshore Construction Environmental Management Plan or the relevant Construction Noise and Vibration Management Plan; or

(iii) is a consequence of the construction or maintenance of the authorised project and that it cannot reasonably be avoided; or

(iv) is a consequence of complying with a requirement of this Order and that it cannot reasonably be avoided; or

(b) the defendant shows that the nuisance—

(i) relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the

(**a**) 1990 c. 43. Section 82 is amended by section 5 of the Noise and Statutory Nuisance Act 1993, c. 40, and section 103 of the Clean Neighbourhoods and Environment Act 2005, c. 16. There are other amendments to this Act which are not relevant to this Order.

(**b**) 1974 c. 40. Section 61 was amended by section 133(2) of and Schedule 7 to, the Building Act 1984 (c. 55) and section 162 of, and paragraph 15(3) of Schedule 15 to, the Environmental Protection Act 1990, c. 43. There are other amendments to the 1974 Act which are not relevant to this Order.

authorised project which is being used in accordance with the measures contained within the Register of Environmental Actions and Commitments; or

(ii) is a consequence of the use of the authorised project and that it cannot reasonably be avoided.

(2) For the purposes of paragraph (1) above, compliance with Requirement 18 (Control of operational noise), and the controls and measures relating to noise described in the CEMP, the Register of Environmental Commitments and the Construction Noise and Vibration Management Plan will be sufficient, but not necessary, to show that an alleged nuisance could not reasonably be avoided.

(3) Where a relevant planning authority is acting in accordance with section 60(4) and section 61(4) of the Control of Pollution Act 1974 in relation to the construction of the authorised project then the local authority must also have regard to the controls and measures relating to noise referred to in the CEMP or the Construction Noise and Vibration Management Plan approved under Schedule 3 (Requirements).

(4) Section 61(9) (prior consent for work on construction site to include statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 does not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.

(5) In this article "premises" has the same meaning as in section 79 of the Environmental Protection Act 1990(**a**).

Traffic regulation

50.—(1) Subject to the provisions of this article, the undertaker may at any time for the purposes of the authorised project or for purposes ancillary to the construction or maintenance of the authorised project —

(a) prohibit waiting of vehicles and regulate vehicular speed by imposing a speed restriction on vehicles in the manner specified in Part 1 of Schedule 13 (traffic regulation orders) on a road specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule;

(b) prohibit use of roads by through traffic in the manner specified in Part 2 of Schedule 13 (traffic regulation orders) on the roads specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule;

(c) regulate the direction of vehicular movements in the manner specified in Part 3 of Schedule 13 (traffic regulation orders) on the roads specified in column (2) and along the lengths and between the points specified in column (3) in the manner specified in column (4) of that Part of that Schedule;

(2) Without limiting the scope of the specific powers conferred by paragraph (1) but subject to the provisions of this article and the consent of the traffic authority in whose area the road concerned is situated, the undertaker may, in so far as may be expedient or necessary for the purposes of or in connection with construction or maintenance of the authorised project, or for purposes ancillary to it, at any time—

(a) revoke, amend or suspend in whole or in part any order made, or having effect as if made, under the 1984 Act;

(b) permit, prohibit or restrict the stopping, parking, waiting, loading or unloading of vehicles on any road;

(c) authorise the use as a parking place of any road;

(d) make provision as to the maximum speed, direction or priority of vehicular traffic on any road; and

(e) permit, prohibit or restrict vehicular access to any road,

(**a**) 1990 c. 43.

either at all times or at times, on days or during such periods as may be specified by the undertaker.

(3) The undertaker must not exercise the powers in paragraphs (1) and (2) unless it has—

(a) given not less than four weeks' notice in writing of its intention so to do to the chief officer of police and to the traffic authority in whose area the road is situated; and

(b) advertised its intention in such manner as the traffic authority may specify in writing within seven days of its receipt of notice of the undertaker's intention as provided for in sub-paragraph (a).

(4) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2)—

(a) has effect as if duly made by—

(i) the traffic authority in whose area the road is situated as a traffic regulation order under the 1984 Act; or

(ii) the local authority in whose area the road is situated as an order under section 32 of the 1984 Act (power of local authorities to provide parking places),

and the instrument by which it is effected may specify savings and exemptions (in addition to those mentioned in Schedule 13 (traffic regulation orders)) to which the prohibition, restriction or other provision is subject; and

(b) is deemed to be a traffic order for the purposes of Schedule 7 to the Traffic Management Act 2004(**a**) (road traffic contraventions subject to civil enforcement).

(5) Any prohibition, restriction or other provision made under this article may at any time be suspended, varied or revoked by the undertaker from time to time by subsequent exercise of the powers conferred by paragraphs (1) and (2).

(6) Any prohibition, restriction or other provision made by the undertaker under paragraph (1) or (2) will cease to have effect on the expiry of the period of five years beginning with the date on which the authorised project is first brought into operational use, except where the authorised project is replacement or landscape planting in which case the period of five years will begin with the date on which that part of the replacement or landscape planting is completed.

(7) Before complying with the provisions of paragraph (3) the undertaker must consult the chief officer of police and the traffic authority in whose area the road is situated.

(8) Expressions used in this article and in the 1984 Act have the same meaning in this article as in that Act.

(9) If the traffic authority fails to notify the undertaker of its decision within 56 days of receiving an application for consent under paragraphs (1) and (2) the traffic authority is deemed to have granted consent.

Felling or lopping

51.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree, shrub, shrubbery, hedgerow, or important hedgerow under or within or overhanging or near any part of the authorised project, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree, shrub, shrubbery, hedgerow or important hedgerow—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or

(b) from constituting a danger to persons constructing, maintaining, or operating or decommissioning the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker must not cause any unnecessary damage to any tree, shrubbery or hedgerow, or important hedgerow and must pay compensation to any person for any loss or damage arising from such activity.

(**a**) 2004 c. 18.

(3) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

(4) Subject at all times to paragraph (8), the undertaker must not pursuant to paragraph (1) fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width a tree within or overhanging the extent of the public highway without the consent of the relevant highway authority.

(5) If the relevant highway authority fails to notify the undertaker of its decision within 56 days (or such other period as agreed by the relevant highways authority and the undertaker) of receiving an application for consent under paragraph (4) the relevant highway authority is deemed to have granted consent.

(6) Any application for consent under paragraph (4) must include a statement that the provisions of paragraph (5) apply to that application.

(7) If an application for consent under paragraph (4) does not include the statement required under paragraph (6), then the provisions of paragraph (5) will not apply to that application.

(8) The consent of the relevant highway authority is not required under paragraph (4) where—

(a) the tree to be felled, lopped, pruned, cut, trimmed, coppiced, pollarded, or reduced in height or width is described or shown on the Trees and Important Hedgerows to be Removed or Managed Plans; and

(b) the undertaker has given 5 days notice to the relevant highway authority of its intention to carry out any of the operations described in sub-paragraph (a).

(9) The power conferred by paragraph (1) removes any obligation upon the undertaker to secure any consent to remove hedgerows under the Hedgerows Regulations 1997(**a**).

(10) The power conferred by paragraph (1) does not apply to any trees identified as ancient or veteran in the Arboricultural Impact Assessment, unless the relevant planning authority has agreed the tree is unsafe and there is no alternative to removal.

(11) In this article "hedgerow" and "important hedgerow" have the same meaning as in the Hedgerow Regulations 1997.

Trees subject to Tree Preservation Orders

52.—(1) The undertaker may fell, lop, prune, cut, trim, coppice, pollard or reduce in height or width any tree described in Schedule 14 (trees subject to Tree Preservation Orders) and identified on the Trees and Important Hedgerows to be Removed or Managed Plans, or cut back its roots, if it reasonably believes it to be necessary in order to do so to prevent the tree—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or

(b) from constituting a danger to persons constructing, maintaining, or operating or decommissioning the authorised project.

(2) The undertaker may fell, lop, prune, cut, trim, coppice, pollard, or reduce in height or width, any tree within or overhanging land within the Order limits subject to a tree preservation order which was made after 19 September 2024, or cut back its roots, if it reasonably believes it to be necessary to do so in order to prevent the tree—

(a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or

(b) from constituting a danger to persons constructing, maintaining, or operating the authorised project.

(3) In carrying out any activity authorised by paragraph (1)—

(a) the undertaker must do no unnecessary damage to any tree and must pay compensation to any person for any damage arising from such activity; and

(b) the duty in section 206(1) of the 1990 Act (replacement of trees) does not apply.

(**a**) S.I. 1997/1160

(4) The authority given by paragraph (1) or (2) constitutes a deemed consent under the relevant tree preservation order.

(5) Any dispute as to a person's entitlement to compensation under paragraph (3), or as to the amount of compensation, must be determined under Part 1 of the 1961 Act.

Temporary closure of, and works in, the relevant rivers

53.—(1) The undertaker may, in connection with the construction of the authorised project, temporarily interfere with the relevant part of the rivers.

(2) Without limitation on the powers conferred by paragraph (1) but subject to paragraph (4) the undertaker may, in connection with the construction of the authorised project —

(a) temporarily moor or anchor barges or other vessels or craft in the relevant part of the river and may load or unload into and from such barges, other vessels or craft equipment, machinery, soil and any other materials in connection with the construction or maintenance of the authorised project; and

(b) on grounds of health and safety only, temporarily close to navigation the relevant part of the river.

(3) The power conferred by paragraphs (1) and (2) will be exercised in such a way which secures—

(a) that no more of the relevant part of the river is closed to navigation at any time than is necessary in the circumstances; and

(b) that, if complete closure to navigation of the relevant part of the river becomes necessary, all reasonable steps are taken to secure that the period of closure is kept to a minimum and that the minimum obstruction, delay or interference is caused to vessels or craft which may be using or intending to use the part so closed.

(4) Any person who suffers loss as a result of the suspension of any private right of navigation under this article is entitled to be paid compensation for such loss by the undertaker, to be determined, in case of dispute, under Part 1 of the 1961 Act.

(5) In this article, "the relevant part of the river" means so much of the rivers as are shown shaded yellow on the Access, Rights of Way and Public Rights of Navigation Plans.

Protection of interests

54. Schedule 15 (protective provisions) has effect.

Procedure regarding certain approvals etc.

55.—(1) Where an application or request is submitted to a relevant planning authority, a highway authority, a street authority or the owner of a watercourse, sewer or drain for any consent, agreement or approval required or contemplated by any of the provisions of this Order such consent, agreement or approval, if given, must be given in writing.

(2) Schedule 4 (discharge of Requirements) has effect in relation to all consents, agreements or approvals granted, refused or withheld in relation to the Requirements, and any document referred to in any requirement, and any other provisions of this Order.

(3) The procedure set out in paragraphs 3, 4 and 5 of Schedule 4 (discharge of Requirements) has effect in relation to any other consent, agreement or approval required under this Order where such consent, agreement or approval is granted subject to any condition to which the undertaker objects, or is refused or is withheld.

Safeguarding

56.—(1) Save in respect of exempt applications, before granting planning permission for development to which this article applies, a relevant planning authority must consult the undertaker.

(2) This article applies to development which would be wholly or partly within the Order limits.

(3) Where this article requires a relevant planning authority to consult the undertaker before granting planning permission—

(a) they must give the undertaker notice of the application for planning permission (unless the applicant has served a copy of the application on the undertaker); and

(b) they may not determine the application before the end of the period of 21 days, beginning two working days after the relevant planning authority has sent the notice to the undertaker by first class post or by such other means of service as may be agreed with the relevant planning authority, which will be deemed to be the date on which the undertaker receives the notice or copy of the application.

(4) But a relevant planning authority may determine an application during that period if the undertaker has—

(a) made representations to the relevant planning authority about the application, or

(b) notified the relevant planning authority that it does not intend to make representations.

(5) In determining an application for planning permission a relevant planning authority must take into account any representations received in accordance with this article.

(6) The requirement to consult under this article is a local land charge.

(7) The requirement to consult will cease to have effect upon completion of the decommissioning of the authorised project or the final part of it.

(8) In this article—

"exempt applications" means—

(a) an application for planning permission which relates to development that—

(i) consists of an alteration to an existing building, or the change of use of an existing building or land; and

(ii) does not involve, or is not likely to involve, any construction engineering or other operations below existing ground level;

(b) an application for planning permission which is to be determined by a relevant planning authority in the period of 21 days beginning on the day after the date on which the Order comes into force; and

"relevant planning authority" means the planning authority in receipt of an application for planning permission to which this article applies.

No double recovery

57. Compensation is not payable in respect of the same matter both under this Order and under any other enactment, contract or deed or rule of law, or under two or more different provisions of this Order.

Application, disapplication and modification of legislative provisions

58. Schedule 17 (public general legislation) to this Order, which makes provision applying, modifying and excluding statutory provisions which relate to matters for which provision may be made by this Order, has effect.

Amendment of local legislation

59.—(1) Any statutory provision of local application and, in particular, the local enactments specified in Schedule 18 (amendment of local legislation), and any byelaws or other provisions made under any of those enactments, are hereby excluded and do not apply insofar as inconsistent with a provision of, or a power conferred by, this Order.

(2) In particular, a power conferred by this Order may be exercised despite, and without having regard to, a provision made by or by virtue of a specified enactment, or any other statutory provision of local application, that—

(a) requires or permits a specified road, path, passage, bridge, parapet, fence or other place or structure to be kept open or maintained generally or in a specified manner;

(b) requires or permits the provision and maintenance of lights or other apparatus or structures generally or in a specified manner;

(c) prohibits or restricts (or imposes conditions or penalties on or in relation to) the obstruction or removal of, or the causing of damage to, a specified place or structure (or class of places or structures);

(d) prohibits or restricts (or imposes conditions on or in relation to) the erection of structures, or the undertaking of other works, in a specified place or structure (or class of places or structures);

(e) permits or requires a specified place or structure to be closed;

(f) makes provision about the conduct of persons using a specified walkway or other place or structure (or class of places or structures) whether by prohibiting or restricting movement (of persons, vehicles or animals) or otherwise;

(g) specifies a minimum or maximum depth for, or otherwise restricts or imposes conditions in relation to, the laying of pipes or the carrying out of any other works;

(h) prohibits the laying of pipes or the carrying out of any other works generally or without the consent of a specified person;

(i) makes provision about the construction or maintenance of, or any other matter relating to, pipes, drains or other means of connecting with sewers;

(j) in any other way would or might apply in relation to anything done, or omitted to be done, in the exercise of a power conferred by this Order.

(3) For the purpose of paragraph (1) a provision is inconsistent with the exercise of a power conferred by this Order if and insofar as (in particular)—

(a) it would make it an offence to take action, or not to take action, in pursuance of the power;

(b) action taken in pursuance of the power would cause the provision to apply so as to enable a person to require the taking of remedial or other action or so as to enable remedial or other action to be taken;

(c) action taken in pursuance of a power or duty under the provision would or might interfere with the exercise of any work authorised by this Order.

(4) Where any person notifies the undertaker in writing that anything done or proposed to be done by the undertaker or by virtue of this Order would amount to a contravention of a statutory provision of local application, the undertaker must as soon as reasonably practicable, and in any event within 14 days of receipt of the notice, respond in writing setting out—

(a) whether the undertaker agrees that the action taken or proposed does or would contravene the provision of local application;

(b) if the undertaker does agree, the grounds (if any) on which the undertaker believes that the provision is excluded by this article; and

(c) the extent of that exclusion.

Certification of documents

60.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of the plans and documents identified in Schedule 19 (certified documents) of this Order for certification as true copies of those plans and documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

(3) Where any plan or document identified in Schedule 18 (amendment of local legislation) is required to be amended to reflect the terms of the Secretary of State's decision to make this Order, that plan or document in the form amended to the Secretary of State's satisfaction is the version of the plan or document required to be certified under paragraph (1).

(4) Where a plan or document certified under paragraph (1)—

(a) refers to a provision in this Order (including any specified requirement) when it was in draft form; and

(b) identifies the provision by number or combination of numbers and letters, which is different from the number or combination of numbers or letters by which the corresponding provision of this Order is identified in the Order as made;

the reference in the plan or document concerned must be construed for the purposes of the Order as referring to the provisions (if any) corresponding to that provision in the Order as made.

(5) The undertaker must, following certification of the plans or documents in accordance with paragraph (1), make those plans or documents available in electronic form for inspection by members of the public.

Service of notices

61.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

(a) by post;

(b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or

(c) with the written consent of the recipient and subject to paragraphs (5) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(**a**) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

(a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and

(b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

(a) addressing it to that person by name or by the description of "owner", or as the case may be "occupier", of the land (describing it); and

(b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is taken to be fulfilled only where—

(a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;

(b) the notice or document is capable of being accessed by the recipient;

(c) the notice or document is legible in all material respects; and

(d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or part

(**a**) 1978 c. 30.

of that notice or other document, the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

(a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and

(b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

(10) In this article "legible in all material respects", in relation to a notice or document, means that the information contained in the notice or document is available to that person to no lesser extent than it would be if served, given or supplied by means of a notice or document in printed form.

Arbitration

62.—(1) Subject to article 55 (procedure regarding certain approvals, etc.) and article 42 (saving provisions for Trinity House) and except where otherwise expressly provided for in this Order or unless otherwise agreed between the parties, any difference under any provision of this Order must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) For the avoidance of doubt, any matter for which the consent or approval of the Secretary of State or the MMO is required under any provision of this Order is not subject to arbitration.

Signed by authority of the Secretary of State for Business, Energy and Industrial Strategy.

Name
[title]
Date Department of Energy Security and Net Zero

SCHEDULE 1

Article 3

AUTHORISED PROJECT

PART 1

AUTHORISED DEVELOPMENT

1. Development which is to be treated as development for which development consent is required as directed by the Secretary of State in the direction issued pursuant to section 35 of the 2008 Act dated 31 March 2022 and associated development under section 115(2) of that Act comprising —

In the District of East Suffolk

Work No. 1A – Suffolk Overhead Electric Line Works

Works as shown on Sheets 2 and 3 of the Work Plans – Suffolk comprising removal of and modification to existing overhead electric lines and installation of new overhead electric line —

(a) removal of and modification works to existing overhead electric lines;

(b) foundations and steel work to construct new pylons; and

(c) installation of overhead electric line.

Work No. 1B – new Substation at Grove Wood, Friston, Suffolk

Works as shown on Sheet 2 of the Work Plans – Suffolk comprising a Substation at Grove Wood, Friston (including any alterations to that Substation), which may include —

(a) access road including junction from the B1121 and culverts;

(b) site clearance and preparation and establishment;

(c) temporary work areas and laydown areas associated with the installation of the works;

(d) earthworks including to create platforms for the new Substation equipment, structures, landscaping, roads and compounds;

(e) foundations to support all new structures and equipment;

(f) support structures;

(g) electrical equipment;

(h) gantries;

(i) equipment between gantries and switchgear;

(j) switchgear and associated equipment;

(k) electrical control panels;

(l) standby back-up diesel generator(s);

(m) troughs and below ground services;

(n) earth mat;

(o) substation building(s);

(p) underground electric cables and fibre optic cables and cable ducts;

(q) relay rooms, battery rooms, storage rooms and other welfare facilities;

(r) electric vehicle charging points;

(s) telecommunications equipment;

(t) water tanks;

(u) drainage works;

(v) other site furniture;

(w) security perimeter fence including security gates;

(x) site access roads, hardstanding, car parking, footways and roadways;

(y) utility service connections for electricity, telecommunications and potable water and/or connection of power supply made from temporary generators;

(z) utility service connection for on-site storage for later disposal of grey water and sanitation;

(aa) lighting masts and lighting columns; and

(bb) landscaping, including mitigation planting.

Work No. 2 – works to connect the Suffolk Substation to the Suffolk Converter Station

Works as shown on Sheets 1 and 2 of the Works Plans – Suffolk comprising substation works and an underground electric cable between Work No.1B and Work No.3B, which may include —

(a) site clearance, preparation, establishment and earthworks;

(b) temporary work areas and laydown areas associated with the installation of the works and pulling of the onshore underground electric cables;

(c) foundations to support all new structures and equipment;

(d) support structures;

(e) switchgear and associated equipment;

(f) electrical control panels;

(g) troughs and below ground services;

(h) earth mat;

(i) underground electric cables and fibre optic cables and associated ducts;

(j) other site furniture;

(k) site access roads, hardstanding, car parking, footways and roadways;

(l) utility service connections for electricity, telecommunications and potable water and/or connection of power supply made from temporary generators;

(m) lighting masts and lighting columns;

(n) underground electric cables and cable ducts laid underground from Work No 1.B to Work No. 3B;

(o) cable jointing and cable jointing enclosures;

(p) fibre optic cables (including disturbed temperature sensing cables) and chambers; and

(q) link boxes and link pillars.

Work No. 3A – Access road to the Suffolk Converter Station

Works shown on Sheet 1 of the Works Plans – Suffolk comprising an access road to the Suffolk Converter Station near Saxmundham, which may include —

(a) an access road including access from the B1121 including bridges and culverts;

(b) site clearance, preparation and establishment;

(c) temporary work areas and laydown areas associated with the installation of the works;

(d) foundations to support all new structures and equipment;

(e) security perimeter fencing including security gates;

(f) drainage works; and

(g) soft and hard landscaping including mitigation planting and bunds.

Works No. 3B – Suffolk Converter Station and associated equipment

Works shown on Sheets 1 of the Works Plans - Suffolk comprising a Converter Station plus external equipment (such as lightning protection, railings for walkways and roof mounted electricity generation equipment) near Saxmundham, which may include —

(a) site clearance, preparation and establishment;

(b) temporary work areas and laydown areas associated with the installation of the Works;

(c) earth works including to create platforms for the new Converter Station equipment, structures, landscaping, roads and compounds;

(d) foundations to support all new structures and equipment;

(e) underground electronic cables and fibre optic cables and cable ducts laid underground;

(f) converter hall buildings and control building and spares building associated with the converter hall buildings and ancillary buildings;

(g) transformers;

(h) cable termination equipment including switchgears and busbars;

(i) valve cooling systems;

(j) standby back-up diesel generator(s);

(k) filter banks;

(l) lightning masts and lighting columns;

(m) security perimeter fence including security gates;

(n) drainage works;

(o) fire protection deluge systems;

(p) site access roads, hardstanding, car parking, footways and roadways;

(q) electric vehicle charging points;

(r) telecommunications equipment;

(s) water tanks;

(t) other site furniture;

(u) utility service connections for electricity, telecommunications and potable water and/or connection of power supply made from temporary generators;

(v) utility service connection for on-site storage for later disposal of grey water and sanitation; and

(w) soft and hard landscaping including mitigation planting and bunds.

Work No. 4 – Suffolk temporary work compounds

Works associated with No.1A, Work No.1B, Work No.2, Work No. 3A, Work No. 3B Work No.5 and Work No.6 shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans – Suffolk, which may include —

(a) site clearance, preparation and establishment;

(b) earthworks, soil stripping and storage, ground improvement;

(c) car parking, hard standing, roadways and access roads (including construction site services and temporary bridges and/or culverts);

(d) drainage works

(e) office and staff welfare facilities;

(f) utility service connections for electricity, communications and potable water and/or connection of power supply made from temporary generators;

(g) utility service connection or on site storage for later disposal of grey water and sanitation;

(h) emergency electrical generator;

(i) materials, tools and fuel storage and laydown areas;

(j) assembly areas;

(k) plant and equipment storage areas;

(l) wheel cleaning facilities;

(m) security cabin and fencing and gates;

(n) construction and security lighting; and

(o) construction waste management facilities.

Work No. 5 – underground electric line connection in Suffolk

Works shown on Sheets 1, 2, 3, 4 and 5 of the Works Plans – Suffolk between Work No.3B and a transition joint bay (TJB) at a landfall point where the cable transitions from onshore to offshore technology comprising works to lay the onshore underground electric cables, which may include —

(a) site clearance, preparation, establishment and earthworks;

(b) temporary work areas and laydown areas associated with the installation and pulling of the onshore underground electric cables;

(c) the underground electric cables and cable ducts underground from Work No.3B to the TJB;

(d) cable jointing and cable jointing enclosures;

(e) fibre optic cables (including distributed temperature sensing cables) and associated chambers;

(f) link boxes and link pillars; and

(g) trenchless crossing(s) including an entry/exit pit and associated temporary construction compounds.

In the Districts of East Suffolk, Thanet and Dover

Work No. 6 – marine electric line works

Works shown on Sheet 6 of the Works Plans – Suffolk, Sheets 1, 2 and 3 of the Works Plans – Offshore and Sheets 3, 4 and 5 of the Works Plans – Kent comprising the laying of a marine electric cable, which may include —

(a) temporary work areas and laydown areas associated with the installation and pulling of the cables;

(b) works to lay and bury marine electric cables and fibre optic cables within the Order limits seaward of MHWS and landward of MLWS between Work No. 5 and Work No.7 within the area shown on Sheet 6 of the Works Plans – Suffolk, Sheets 1, 2 and 3 of the Works Plans – Offshore and Sheets 3, 4 and 5 of the Works Plans, Kent;

(c) trenchless entry/exit pits and associated temporary construction compounds for the Suffolk landfall;

(d) trenchless entry/exit pits and associated temporary construction compounds for the Kent landfall;

(e) temporary work areas for vessels to carry out intrusive and non-intrusive activities; and

(f) marine cable protection works.

In the Districts of Thanet and Dover

Work No. 7 – underground electric line connection in Kent

Works shown on Sheets 2 and 3 of the Works Plans – Kent between a transition joint bay (TJB) at a landfall point where the cable transitions from offshore to onshore technology comprising works to lay underground electric cables to Work No.9B, which may include —

(a) site clearance, preparation, establishment and earthworks;

(b) temporary work areas and laydown areas associated with the installation and pulling of the onshore underground electric cables;

(c) the underground electric cables and cable ducts underground from Work No.6 and the TJB;

(d) cable jointing and cable jointing enclosures;

(e) fibre optic cables (including distributed temperature sensing cables) and associated chambers;

(f) link boxes and link pillars; and

(g) trenchless crossing(s) including an entry/exit pit and associated temporary construction compounds.

Work No. 8 – Kent temporary work compound

Works associated with Work No. 6, Work No. 7, Work No. 9A, Work No. 9B Work No. 10 and Work No. 11 shown on Sheets 2, 3 and 4 of the Works Plans – Kent, which may include —

(a) site clearance, preparation and establishment;

(b) earthworks, soil stripping and storage, ground improvement;

(c) car parking, hard standing, roadways and access roads (including construction site services and temporary bridges and culverts);

(d) drainage works;

(e) office and staff welfare facilities;

(f) utility service connections for electricity, communications and potable water and/or connection of power supply made from temporary generators;

(g) utility service connection or on site storage for later disposal of grey water and sanitation;

(h) emergency electrical generator;

(i) materials, tools and fuel storage and laydown areas;

(j) assembly areas;

(k) plant and equipment storage areas;

(l) wheel cleaning facilities

(m) security cabin and fencing and gates;

(n) construction and security lighting; and

(o) construction waste management facilities.

Work No. 9A – Access road to the Kent Converter Station and the Kent Substation

Works shown on Sheets 2 and 3 of the Work Plans – Kent comprising an access road to the Kent Converter Station and the Kent Substation near Minster, which may include —

(a) an access road including junction from the A256 and bridges and culverts;

(b) site clearance, preparation and establishment;

(c) temporary work areas and laydown areas associated with the installation of the works;

(d) foundations to support all new structures and equipment;

(e) security perimeter fence including security gates;

(f) drainage works; and

(g) soft and hard landscaping including mitigation planting and bunds.

Work No. 9B – Kent Converter Station and associated equipment

Works shown on Sheet 2 of the Works Plans – Kent comprising a Converter Station plus external equipment (such as lightning protection, railings for walkways and roof mounted electricity generation equipment) near Minster which may include —

(a) site clearance, preparation and establishment;

(b) temporary work areas and laydown areas associated with the installation of the works;

(c) earth works including to create platforms for the new Converter Station equipment, structures, landscaping, roads and compounds;

(d) foundations to support all new structures and equipment;

(e) underground electric cables and fibre optic cables cable ducts laid underground;

(f) converter hall buildings and control building and spares building associated with the converter hall buildings and ancillary buildings;

(g) transformers;

(h) cable termination equipment including switchgears and busbars;

(i) valve cooling systems;

(j) standby back-up diesel generator;

(k) filter banks;

(l) lightning masts and lighting columns;

(m) security perimeter fence including security gates;

(n) drainage works;

(o) fire protection deluge systems;

(p) site access roads, hardstanding, car parking, footways and roadways;

(q) electric vehicle charging points;

(r) telecommunications equipment;

(s) water tanks;

(t) other site furniture;

(u) utility service connections for electricity, telecommunications and potable water and/or connection of power supply made from temporary generators;

(v) utility service connection for on-site storage for later disposal of grey water and sanitation; and

(w) soft and hard landscaping including bunds.

Work No. 10 – works to connect the Kent Converter Station to the Kent Substation

Works as shown on Sheet 2 of the Works Plans – Kent comprising an electrical connection between Work No.9B and Work No.11, which may include either —

(a) temporary work areas and laydown areas associated with the works;

(b) fibre optic cables, ducts and chambers; and

(c) either a combination of gas insulated busbars and busbars or a gas insulated busbar connection.

Work No. 11 – new Kent Substation

Works as shown on Sheet 2 of the Work Plans – Kent comprising a Substation near Minster, which may include —

(a) site clearance and preparation and establishment;

(b) temporary work areas and laydown areas associated with the installation of the works;

(c) earthworks including to create platforms for the new Substation equipment, structures, landscaping, roads and compounds;

(d) foundations to support all new structures and equipment;

(e) support structures;

(f) electrical equipment;

(g) gantries and/or pylons;

(h) equipment between gantries and switchgear;

(i) switchgear and associated equipment;

(j) electrical control panels;

(k) standby backup diesel generator;

(l) troughs and below ground services;

(m) earth mat;

(n) substation building(s);

(o) underground electric cables and fibre optic cables and cable ducts;

(p) relay rooms, battery rooms, storage rooms and other welfare facilities;

(q) electric vehicle charging points;

(r) telecommunications equipment;

(s) water tanks;

(t) drainage works;

(u) other site furniture;

(v) security perimeter fence including security gates;

(w) site access roads, hardstanding, car parking, footways and roadways;

(x) utility service connections for electricity, telecommunications and potable water and/or connection of power supply made from temporary generators;

(y) utility service connection for on-site storage for later disposal of grey water and sanitation;

(z) lighting masts and lighting columns; and

(aa) landscaping, including mitigation planting.

Work No. 12 – Kent Overhead Line Works

Works as shown on Sheets 1 and 2 of the Works Plans – Kent comprising removal and modification works to existing overhead electric line, and the construction and installation of new overhead electric line from Work No.11 near Minster and the existing Richborough to Canterbury overhead electric line, which may include —

(a) temporary work areas and laydown areas associated with the installation and pulling of overhead electric cables;

(b) temporary culverts and/or bridges over other water courses;

(c) drainage works;

(d) removal of and modification works to the existing overhead electric line;

(e) scaffold protection;

(f) foundations and steel work to construct new pylons;

(g) installation of overhead electric line between Work No. 11 and the existing Richborough to Canterbury overhead electric line;

(h) installation of conductors, downleads and down droppers, insulators and fittings to facilitate connection to the existing Richborough to Canterbury overhead electric line; and

(i) the installation of fibre optic earthwire conductors, with optical fibres terminated in joint boxes.

In all Districts within the Order Limits

Works 13-17 as shown within the areas indicated on the Works Plans.

Work No. 13 – **Principal Drainage Works**

Work No. 14 – Principal Accesses

Accesses and associated works to facilitate access, including structural repairs and the installation of structures or apparatus associated with the access,

Work No. 15 – Principal Environmental Mitigation and Landscaping

Environmental mitigation includes works identified in the Environmental Statement and/or the management plans listed in Schedule 3, Requirement 6, which may include —

(a) ecological mitigation and enhancement; and

(b) landscaping mitigation and enhancement.

Work No. 16 – Principal Utility Diversions

Work No. 17 – Principal Public Right of Way Diversions

2. Such associated development not listed above, within the Order limits, as may be necessary or expedient for the purposes of or in connection with the construction or maintenance of the above Work Nos. or any of them, which may include —

(a) ramps, means of access, footpaths, bridleways, trackways and pontoons;

(b) embankment, bridge, aprons, abutments, foundations, retaining walls, drainage, wing walls, fencing and culverts;

(c) works to alter the position of apparatus, including construction and installation, decommissioning and partial removal and alteration of mains, sewers, drains, conductors and cables;

(d) works to alter the course of, or otherwise interfere with a watercourse, drainage works, attenuation ponds, and temporary culverts;

(e) landscaping, acoustic mitigation and other works to mitigate any adverse effects of the construction, maintenance, operation or use of the authorised development, together with means of access;

(f) tree and hedgerow planting and maintenance works;

(g) works for the benefit or protection of the environment including crop planting;

(h) works for the benefit or protection of land, structures, apparatus or equipment affected by the authorised development (including arcing horns, earthing and works for monitoring);

(i) works required for the strengthening, improvement, maintenance, or reconstruction of any streets and supporting structures;

(j) works to streets and any alteration, removal or installation of road furniture, including where required to facilitate the construction of temporary accesses;

(k) site preparation works, surveys, site clearance (including fencing, vegetation removal, demolition of existing buildings or structures and the creation of alternative footpaths), earthworks (including soilstripping and storage, site levelling, ground improvement);

(l) establishment of site construction compounds, temporary laydown and storage areas, temporary offices, temporary vehicle parking, construction fencing (including acoustic mitigation), perimeter enclosure, security fencing, construction related buildings, welfare facilities, construction and security and/or task lighting and haulage roads;

(m) establishment of launch pits and/or receiving pits to facilitate the use of trenchless techniques to install any underground electric line;

(n) temporary diversion of existing overhead electric line and associated works;

(o) upgrade of existing railway level crossing,

(p) temporary bridge crossing over the River Stour (Kent);

(q) wheel cleaning facilities;

(r) supervisory control and data acquisition communication equipment;

(s) installation of wires, cables, ducts (including for crossings of or by other assets), pipes and conductors, establishment of winching points and the installation of scaffolding;

(t) temporary cable burial equipment trials;

(u) cable protection;

(v) the construction of crossing structures over cables that are crossed by the marine HVDC cable;

(w) buoys, beacons, fenders and other navigational warning or ship impact protection works;

(x) drainage works; and

(y) such other works, including scaffolding, working sites storage areas, and works of demolition (which includes but is not limited to demolition of residential properties), as may be necessary or expedient for the purposes of or in connection with the construction of the authorised development and which do not give rise to any materially different environmental effects from those assessed in the Environmental Statement.

3. The grid coordinates for that part of the authorised development which is seaward of MHWS are specified below—

Table 1: Limits of deviation for marine cable area

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
1	52°9′ 51.024″	1°36′ 28.212″	386	51°19′ 2.627″	1°22′ 13.756″
2	52°9′ 51.022″	1°36′ 28.216″	387	51°19′ 2.181″	1°22′ 15.344″
3	52°9′ 50.697″	1°36′ 28.959″	388	51°18′ 56.818″	1°22′ 34.474″
4	52°9′ 46.458″	1°36′ 27.018″	389	51°18′ 49.449″	1°23′ 1.778″
5	52°9′ 45.864″	1°36′ 29.353″	390	51°18′ 49.422″	1°23′ 1.877″
6	52°9′ 44.063″	1°36′ 35.823″	391	51°18′ 42.071″	1°23′ 29.111″
7	52°9′ 42.206″	1°36 42.495″	392	51°18′ 26.101″	1°24′ 31.213″
8	52°9′ 37.403″	1°36′ 59.746″	393	51°18′ 10.122″	1°25′ 33.304″
9	52°9′ 10.971″	1°38′ 34.634″	394	51°18′ 9.106″	1°25′ 37.004″
10	52°9′ 9.934″	1°38′ 35.579″	395	51°18′ 8.090″	1°25′ 40.704″
11	52°9′ 9.080″	1°38′ 36.358″	396	51°18′ 7.108″	1°25′ 44.133″
12	52°8′ 54.481″	1°38′ 49.671″	397	51°18′ 6.125″	1°25′ 47.561″
13	52°8′ 54.129″	1°38′ 50.011″	398	51°18′ 5.649″	1°25′ 49.217″
14	52°8′ 25.709″	1°39′ 19.082″	399	51°18′ 5.173″	1°25′ 50.872″
15	52°8′ 17.615″	1°39′ 25.616″	400	51°18′ 4.772″	1°25′ 52.300″
16	52°7′ 52.944″	1°39′ 45.935″	401	51°18′ 4.371″	1°25′ 53.727″
17	52°7′ 38.010″	1°39′ 57.401″	402	51°18′ 3.998″	1°25′ 55.126″
18	52°7′ 26.814″	1°40′ 4.575″	403	51°18′ 3.651″	1°25′ 56.435″
19	52°7′ 16.168″	1°40′ 5.285″	404	51°18′ 3.472″	1°25′ 57.133″
20	52°7′ 4.369″	1°40′ 3.703″	405	51°18′ 3.376″	1°25′ 57.519″
21	52°7′ 2.877″	1°40′ 4.411″	406	51°18′ 3.036″	1°25′ 58.904″
22	52°7′ 0.826″	1°40′ 3.228″	407	51°18′ 2.860″	1°25′ 59.658″
23	52°6′ 55.845″	1°40′ 2.560″	408	51°18′ 2.554″	1°26′ 1.034″
24	52°6′ 42.749″	1°39′ 57.501″	409	51°18′ 2.385″	1°26′ 1.834″
25	52°6′ 42.564″	1°39′ 57.437″	410	51°18′ 2.212″	1°26′ 2.702″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
26	52°6′ 42.378″	1°39′ 57.373″	411	51°18′ 2.078″	1°26′ 3.405″
27	52°6′ 42.024″	1°39′ 57.264″	412	51°18′ 1.905″	1°26′ 4.366″
28	52°6′ 41.935″	1°39′ 57.236″	413	51°18′ 1.832″	1°26′ 4.786″
29	52°6′ 41.845″	1°39′ 57.209″	414	51°18′ 1.737″	1°26′ 5.345″
30	52°6′ 32.654″	1°39′ 55.091″	415	51°18′ 1.694″	1°26′ 5.605″
31	52°6′ 9.412″	1°39′ 49.072″	416	51°18′ 1.496″	1°26′ 6.828″
32	52°5′ 45.382″	1°39′ 43.448″	417	51°18′ 1.391″	1°26′ 7.490″
33	52°5′ 31.011″	1°39′ 40.928″	418	51°18′ 1.309″	1°26′ 8.011″
34	52°5′ 18.712″	1°39′ 39.029″	419	51°18′ 1.230″	1°26′ 8.518″
35	52°5′ 17.738″	1°39′ 38.850″	420	51°18′ 1.078″	1°26′ 9.502″
36	52°5′ 17.215″	1°39′ 38.823″	421	51°18′ 0.908″	1°26′ 10.610″
37	52°5′ 17.066″	1°39′ 38.793″	422	51°18′ 0.734″	1°26′ 11.758″
38	52°5′ 9.519″	1°39′ 38.487″	423	51°18′ 0.560″	1°26′ 12.921″
39	52°4′ 35.492″	1°39′ 33.308″	424	51°18′ 0.389″	1°26′ 14.078″
40	52°4′ 34.155″	1°39′ 33.285″	425	51°18′ 0.225″	1°26′ 15.209″
41	52°4′ 29.622″	1°39′ 33.815″	426	51°18′ 0.072″	1°26′ 16.298″
42	52°4′ 27.020″	1°39′ 34.841″	427	51°17′ 59.930″	1°26′ 17.340″
43	52°3′ 59.170″	1°39′ 54.185″	428	51°17′ 59.800″	1°26′ 18.331″
44	52°3′ 57.758″	1°39′ 54.643″	429	51°17′ 59.683″	1°26′ 19.277″
45	52°3′ 57.592″	1°39′ 54.385″	430	51°17′ 59.650″	1°26′ 19.551″
46	52°3′ 55.391″	1°39′ 51.057″	431	51°17′ 59.576″	1°26′ 20.183″
47	52°3′ 52.934″	1°39′ 48.506″	432	51°17′ 59.545″	1°26′ 20.458″
48	52°3′ 51.513″	1°39′ 47.565″	433	51°17′ 59.481″	1°26′ 21.049″
49	52°3′ 50.091″	1°39′ 46.623″	434	51°17′ 59.443″	1°26′ 21.404″
50	52°3′ 49.427″	1°39′ 46.288″	435	51°17′ 59.331″	1°26′ 22.524″
51	52°3′ 48.762″	1°39′ 45.952″	436	51°17′ 59.198″	1°26′ 23.940″
52	52°3′ 43.605″	1°39′ 44.121″	437	51°17′ 59.079″	1°26′ 25.259″
53	52°3′ 38.448″	1°39′ 42.290″	438	51°17′ 59.017″	1°26′ 25.962″
54	52°3′ 36.882″	1°39′ 41.989″	439	51°17′ 58.908″	1°26′ 27.254″
55	52°3′ 28.413″	1°39′ 41.712″	440	51°17′ 58.806″	1°26′ 28.555″
56	52°3′ 19.879″	1°39′ 41.433″	441	51°17′ 58.715″	1°26′ 29.843″
57	52°3′ 19.815″	1°39′ 41.431″	442	51°17′ 58.635″	1°26′ 31.140″
58	52°3′ 7.962″	1°39′ 41.347″	443	51°17′ 58.616″	1°26′ 31.495″
59	52°2′ 56.109″	1°39′ 41.263″	444	51°17′ 58.569″	1°26′ 32.416″
60	52°2′ 24.763″	1°39′ 42.407″	445	51°17′ 58.507″	1°26′ 33.760″
61	52°2′ 11.143″	1°39′ 37.346″	446	51°17′ 58.450″	1°26′ 35.058″
62	52°1′ 52.773″	1°39′ 30.312″	447	51°17′ 58.420″	1°26′ 35.759″
63	52°1′ 52.107″	1°39′ 30.107″	448	51°17′ 58.355″	1°26′ 37.353″
64	52°0′ 43.431″	1°39′ 13.834″	449	51°17′ 58.285″	1°26′ 39.138″
65	52°0′ 43.058″	1°39′ 13.760″	450	51°17′ 58.177″	1°26′ 42.077″
66	52°0′ 38.767″	1°39′ 13.072″	451	51°17′ 58.065″	1°26′ 45.410″
67	52°0′ 1.481″	1°39′ 7.093″	452	51°17′ 57.994″	1°26′ 47.682″
68	51°59′ 8.364″	1°38′ 58.579″	453	51°17′ 57.888″	1°26′ 51.346″
69	51°58′ 4.958″	1°38′ 45.835″	454	51°17′ 57.839″	1°26′ 53.211″
70	51°57′ 24.627″	1°38′ 37.734″	455	51°17′ 57.769″	1°26′ 56.251″
71	51°56′ 55.039″	1°38′ 31.793″	456	51°18′ 10.936″	1°26′ 58.247″
72	51°55′ 54.858″	1°38′ 19.433″	457	51°18′ 11.214″	1°27′ 6.328″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
73	51°55′ 9.629″	1°38′ 10.150″	458	51°18′ 11.599″	1°27′ 17.568″
74	51°54′ 45.460″	1°38′ 5.191″	459	51°18′ 12.089″	1°27′ 34.435″
75	51°54′ 35.061″	1°38′ 2.794″	460	51°18′ 12.579″	1°27′ 51.301″
76	51°54′ 24.662″	1°38′ 0.397″	461	51°18′ 12.855″	1°28′ 0.526″
77	51°54′ 23.031″	1°38′ 0.290″	462	51°18′ 13.131″	1°28′ 9.752″
78	51°54′ 1.179″	1°38′ 2.430″	463	51°18′ 18.656″	1°28′ 17.405″
79	51°53′ 39.328″	1°38′ 4.570″	464	51°18′ 21.391″	1°28′ 49.685″
80	51°53′ 26.614″	1°38′ 4.349″	465	51°18′ 22.379″	1°29′ 6.535″
81	51°53′ 14.807″	1°38′ 4.143″	466	51°18′ 24.798″	1°29′ 18.412″
82	51°53′ 14.411″	1°38′ 4.136″	467	51°18′ 27.551″	1°29′ 36.768″
83	51°53′ 13.521″′	1°38′ 4.270″	468	51°18′ 30.024″	1°29′ 54.112″
84	51°53′ 12.067″	1°38′ 4.385″	469	51°18′ 34.672″	1°30′ 10.865″
85	51°53′ 10.321″	1°38′ 4.755″	470	51°18′ 51.465″	1°30′ 29.126″
86	51°53′ 9.467″	1°38′ 4.936″	471	51°19′ 59.009″	1°31′ 42.633″
87	51°53′ 7.970″	1°38′ 5.253″	472	51°20′ 1.800″	1°31′ 42.227″
88	51°53′ 6.984″	1°38′ 5.591″	473	51°20′ 5.721″	1°31′ 40.284″
89	51°53′ 1.870″	1°38′ 7.648″	474	51°20′ 7.341″	1°31′ 39.982″
90	51°52′ 56.393″	1°38′ 10.111″	475	51°20′ 10.522″	1°31′ 40.953″
91	51°52′ 50.684″	1°38′ 12.197″	476	51°20′ 14.056″	1°31′ 43.686″
92	51°52′ 47.941″	1°38′ 13.434″	477	51°20′ 24.559″	1°31′ 47.656″
93	51°52′ 46.758″	1°38′ 13.985″	478	51°20′ 25.970″	1°31′ 49.039″
94	51°52′ 45.677″	1°38′ 14.534″	479	51°20′ 29.181″	1°31′ 52.187″
95	51°52′ 41.604″	1°38′ 15.590″	480	51°20′ 39.200″	1°32′ 8.762″
96	51°52′ 39.995″	1°38′ 16.285″	481	51°20′ 51.259″	1°32′ 31.175″
97	51°52′ 39.076″	1°38′ 16.904″	482	51°20′ 56.034″	1°32′ 39.915″
98	51°52′ 36.891″	1°38′ 19.129″	483	51°20′ 58.908″	1°32′ 43.274″
99	51°52′ 36.674″	1°38′ 19.508″	484	51°21′ 20.733″	1°32′ 58.413″
100	51°52′ 36.237″	1°38′ 20.421″	485	51°21′ 21.727″	1°32′ 58.982″
101	51°52′ 34.299″	1°38′ 24.224″	486	51°21′ 31.250″	1°33′ 3.342″
102	51°52′ 32.174″	1°38′ 28.241″	487	51°22′ 8.898″	1°33′ 31.804″
103	51°52′ 29.497″	1°38′ 41.918″	488	51°22′ 40.774″	1°34′ 21.429″
104	51°52′ 29.254″	1°38′ 43.497″	489	51°22′ 44.516″	1°34′ 25.729″
105	51°52′ 27.087″	1°39′ 2.546″	490	51°22′ 44.650″	1°34′ 25.880″
106	51°52′ 26.984″	1°39′ 6.026″	491	51°22′ 45.035″	1°34′ 26.278″
107	51°52′ 29.576″	1°39′ 54.917″	492	51°22′ 45.433″	1°34′ 26.641″
108	51°52′ 32.703″	1°40′ 27.274″	493	51°22′ 45.843″	1°34′ 26.967″
109	51°52′ 34.415″	1°40′ 42.540″	494	51°22′ 46.263″	1°34′ 27.255″
110	51°52′ 36.330″	1°40′ 57.465″	495	51°22′ 46.694″	1°34′ 27.505″
111	51°52′ 37.081″	1°41′ 6.346″	496	51°22′ 47.133″	1°34′ 27.715″
112	51°52′ 37.046″	1°41′ 8.500″	497	51°22′ 47.578″	1°34′ 27.886″
113	51°52′ 21.894″	1°42′ 0.486″	498	51°22′ 47.756″	1°34′ 27.942″
114	51°52′ 6.716″	1°42′ 47.929″	499	51°22′ 53.988″	1°34′ 29.802″
115	51°51′ 52.313″	1°43′ 21.776″	500	51°22′ 54.261″	1°34′ 29.876″
116	51°51′ 46.345″	1°43′ 35.425″	501	51°22′ 54.716″	1°34′ 29.965″
117	51°51′ 37.930″	1°43′ 58.087″	502	51°22′ 55.173″	1°34′ 30.013″
118	51°51′ 29.513″	1°44′ 20.747″	503	51°22′ 55.631″	1°34′ 30.019″
119	51°51′ 22.397″	1°44′ 33.340″	504	51°22′ 56.088″	1°34′ 29.984″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
120	51°51′ 14.299″	1°44′ 43.322″	505	51°22′ 56.544″	1°34′ 29.908″
121	51°50′ 39.589″	1°45′ 4.974″	506	51°22′ 56.996″	1°34′ 29.791″
122	51°50′ 26.046″	1°45′ 14.228″	507	51°22′ 57.443″	1°34′ 29.633″
123	51°50′ 12.743″	1°45′ 23.323″	508	51°22′ 57.884″	1°34′ 29.435″
124	51°50′ 12.417″	1°45′ 23.560″	509	51°22′ 58.317″	1°34′ 29.197″
125	51°49′ 58.283″	1°45′ 34.437″	510	51°22′ 58.741″	1°34′ 28.920″
126	51°49′ 28.626″	1°45′ 54.953″	511	51°22′ 59.154″	1°34′ 28.606″
127	51°49′ 13.775″	1°46′ 5.085″	512	51°22′ 59.556″	1°34′ 28.255″
128	51°48′ 44.008″	1°46′ 25.320″	513	51°22′ 59.737″	1°34′ 28.081″
129	51°48′ 23.543″	1°46′ 39.181″	514	51°23′ 5.870″	1°34′ 22.005″
130	51°48′ 10.890″	1°46′ 44.167″	515	51°23′ 28.073″	1°34′ 11.377″
131	51°48′ 1.426″	1°46′ 46.114″	516	51°23′ 43.030″	1°34′ 6.548″
132	51°47′ 56.726″	1°46′ 45.005″	517	51°23′ 58.269″	1°34′ 1.047″
133	51°47′ 50.929″	1°46′ 42.666″	518	51°24′ 18.161″	1°33′ 54.554″
134	51°47′ 48.489″	1°46′ 41.646″	519	51°24′ 26.552″	1°33′ 51.311″
135	51°47′ 45.780″	1°46′ 40.523″	520	51°24′ 41.830″	1°33′ 46.508″
136	51°47′ 35.887″	1°46′ 36.968″	521	51°24′ 57.605″	1°33′ 41.976″
137	51°47′ 6.370″	1°46′ 28.380″	522	51°25′ 10.378″	1°33′ 39.373″
138	51°46′ 38.729″	1°46′ 20.351″	523	51°25′ 19.738″	1°33′ 37.151″
139	51°46′ 37.060″	1°46′ 19.868″	524	51°25′ 25.834″	1°33′ 35.498″
140	51°46′ 34.877″	1°46′ 19.287″	525	51°25′ 36.822″	1°33′ 32.411″
141	51°46′ 34.582″	1°46′ 19.229″	526	51°25′ 48.880″	1°33′ 29.644″
142	51°46′ 34.146″	1°46′ 19.093″	527	51°25′ 54.674″	1°33′ 28.861″
143	51°46′ 33.557″	1°46′ 18.936″	528	51°26′ 0.014″	1°33′ 29.534″
144	51°46′ 30.748″	1°46′ 18.189″	529	51°26′ 17.234″	1°33′ 31.144″
145	51°46′ 30.664″	1°46′ 18.167″	530	51°26′ 34.360″	1°33′ 32.308″
146	51°46′ 30.536″	1°46′ 18.133″	531	51°26′ 35.658″	1°33′ 32.229″
147	51°46′ 30.501″	1°46′ 18.124″	532	51°26′ 42.032″	1°33′ 31.017″
148	51°46′ 28.142″	1°46′ 17.525″	533	51°26′ 47.025″	1°33′ 31.165″
149	51°46′ 27.956″	1°46′ 17.447″	534	51°26′ 53.928″	1°33′ 35.160″
150	51°46′ 27.448″	1°46′ 17.312″	535	51°26′ 56.736″	1°33′ 37.342″
151	51°46′ 26.251″	1°46′ 17.006″	536	51°26′ 59.235″	1°33′ 38.527″
152	51°46′ 22.962″	1°46′ 16.182″	537	51°27′ 7.621″	1°33′ 39.115″
153	51°46′ 22.287″	1°46′ 16.013″	538	51°27′ 8.932″	1°33′ 38.837″
154	51°46′ 21.238″	1°46′ 15.750″	539	51°27′ 13.492″	1°33′ 38.292″
155	51°46′ 20.357″	1°46′ 15.530″	540	51°27′ 18.401″	1°33′ 37.329″
156	51°46′ 19.283″	1°46′ 15.261″	541	51°27′ 19.041″	1°33′ 37.160″
157	51°46′ 10.789″	1°46′ 13.134″	542	51°27′ 21.415″	1°33′ 36.373″
158	51°45′ 54.419″	1°46′ 4.742″	543	51°27′ 33.297″	1°33′ 36.969″
159	51°45′ 24.692″	1°45′ 25.913″	544	51°27′ 40.117″	1°33′ 37.858″
160	51°45′ 11.957″	1°45′ 5.743″	545	51°27′ 54.386″	1°33′ 39.701″
161	51°45′ 3.605″	1°44′ 36.083″	546	51°28′ 29.484″	1°33′ 45.871″
162	51°44′ 53.281″	1°43′ 45.786″	547	51°28′ 32.134″	1°33′ 46.316″
163	51°44′ 53.017″	1°43′ 44.673″	548	51°29′ 9.371″	1°33′ 49.500″
164	51°44′ 49.372″	1°43′ 31.199″	549	51°29′ 44.103″	1°33′ 52.073″
165	51°44′ 47.930″	1°43′ 27.618″	550	51°29′ 51.013″	1°33′ 52.676″
166	51°44′ 44.251″	1°43′ 21.127″	551	51°30′ 9.571″	1°33′ 54.294″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
167	51°44′ 40.002″	1°43′ 13.725″	552	51°30′ 11.388″	1°33′ 53.781″
168	51°44′ 36.327″	1°43′ 8.412″	553	51°30′ 13.454″	1°33′ 53.547″
169	51°43′ 35.773″	1°42′ 17.154″	554	51°30′ 14.764″	1°33′ 52.897″
170	51°42′ 46.697″	1°41′ 31.855″	555	51°30′ 17.325″	1°33′ 51.626″
171	51°42′ 28.054″	1°41′ 14.537″	556	51°30′ 19.323″	1°33′ 50.132″
172	51°42′ 9.950″	1°40′ 57.649″	557	51°30′ 23.299″	1°33′ 45.878″
173	51°41′ 53.621″	1°40′ 39.411″	558	51°30′ 25.782″	1°33′ 42.380″
174	51°41′ 19.604″	1°40′ 2.227″	559	51°30′ 27.737″	1°33′ 39.973″
175	51°41′ 18.929″	1°40′ 1.564″	560	51°30′ 29.882″	1°33′ 37.406″
176	51°41′ 18.221″	1°40′ 0.943″	561	51°30′ 33.266″	1°33′ 33.733″
177	51°41′ 13.774″	1°39′ 57.045″	562	51°30′ 36.580″	1°33′ 31.977″
178	51°40′ 57.238″	1°39′ 42.551″	563	51°30′ 41.702″	1°33′ 34.284″
179	51°40′ 56.015″	1°39′ 41.682″	564	51°30′ 58.032″	1°33′ 46.372″
180	51°40′ 2.639″	1°39′ 11.953″	565	51°31′ 43.901″	1°34′ 20.979″
181	51°40′ 2.134″	1°39′ 11.701″	566	51°31′ 43.993″	1°34′ 21.047″
182	51°39′ 7.005″	1°38′ 47.364″	567	51°32′ 15.637″	1°34′ 44.162″
183	51°38′ 13.821″	1°38′ 24.719″	568	51°32′ 55.621″	1°35′ 14.279″
184	51°36′ 19.016″	1°37′ 22.343″	569	51°33′ 35.602″	1°35′ 44.411″
185	51°35′ 30.657″	1°36′ 46.420″	570	51°34′ 27.414″	1°36′ 23.011″
186	51°34′ 59.611″	1°36′ 20.335″	571	51°34′ 41.157″	1°36′ 34.329″
187	51°34′ 34.660″	1°35′ 59.787″	572	51°34′ 58.260″	1°36′ 48.519″
188	51°33′ 42.466″	1°35′ 20.899″	573	51°35′ 15.398″	1°37′ 1.171″
189	51°33′ 2.471″	1°34′ 50.763″	574	51°35′ 26.171″	1°37′ 9.240″
190	51°32′ 22.389″	1°34′ 20.578″	575	51°35′ 50.996″	1°37′ 27.791″
191	51°31′ 50.747″	1°33′ 57.469″	576	51°36′ 15.600″	1°37′ 46.179″
192	51°31′ 4.896″	1°33′ 22.882″	577	51°36′ 19.402″	1°37′ 49.987″
193	51°30′ 47.902″	1°33′ 10.306″	578	51°38′ 8.892″	1°38′ 49.494″
194	51°30′ 46.699″	1°33′ 9.595″	579	51°39′ 2.755″	1°39′ 12.466″
195	51°30′ 38.576″	1°33′ 5.937″	580	51°39′ 57.593″	1°39′ 36.683″
196	51°30′ 36.203″	1°33′ 5.457″	581	51°40′ 27.351″	1°39′ 53.259″
197	51°30′ 33.846″	1°33′ 6.110″	582	51°40′ 36.339″	1°39′ 58.267″
198	51°30′ 26.878″	1°33′ 9.804″	583	51°40′ 44.731″	1°40′ 1.916″
199	51°30′ 24.482″	1°33′ 11.841″	584	51°40′ 46.746″	1°40′ 4.067″
200	51°30′ 14.034″	1°33′ 24.734″	585	51°40′ 50.084″	1°40′ 5.927″
201	51°30′ 11.475″	1°33′ 27.384″	586	51°41′ 10.838″	1°40′ 24.122″
202	51°30′ 9.575″	1°33′ 28.326″	587	51°41′ 44.427″	1°41′ 0.842″
203	51°29′ 44.883″	1°33′ 26.177″	588	51°42′ 0.993″	1°41′ 19.347″
204	51°29′ 10.204″	1°33′ 23.614″	589	51°42′ 19.958″	1°41′ 37.090″
205	51°28′ 33.222″	1°33′ 20.457″	590	51°42′ 38.830″	1°41′ 54.623″
206	51°27′ 55.804″	1°33′ 13.891″	591	51°42′ 39.282″	1°41′ 55.013″
207	51°27′ 35.191″	1°33′ 11.224″	592	51°43′ 14.418″	1°42′ 28.213″
208	51°27′ 34.005″	1°33′ 11.086″	593	51°43′ 49.825″	1°42′ 57.731″
209	51°27′ 20.964″	1°33′ 10.434″	594	51°44′ 12.510″	1°43′ 16.691″
210	51°27′ 19.070″	1°33′ 10.697″	595	51°44′ 23.970″	1°43′ 25.574″
211	51°27′ 16.077″	1°33′ 11.689″	596	51°44′ 31.855″	1°43′ 33.447″
212	51°27′ 12.087″	1°33′ 12.486″	597	51°44′ 35.073″	1°43′ 43.597″
213	51°27′ 7.037″	1°33′ 13.111″	598	51°44′ 44.830″	1°44′ 20.916″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
214	51°27′ 4.772″	1°33′ 13.591″	599	51°45′ 0.786″	1°45′ 24.613″
215	51°27′ 2.568″	1°33′ 13.113″	600	51°45′ 6.581″	1°45′ 33.791″
216	51°27′ 0.726″	1°33′ 11.644″	601	51°45′ 14.201″	1°45′ 45.777″
217	51°27′ 0.083″	1°33′ 11.203″	602	51°45′ 45.415″	1°46′ 26.552″
218	51°26′ 59.869″	1°33′ 11.057″	603	51°45′ 48.072″	1°46′ 28.793″
219	51°26′ 52.636″	1°33′ 6.873″	604	51°45′ 49.501″	1°46′ 29.593″
220	51°26′ 47.656″	1°33′ 6.547″	605	51°46′ 6.477″	1°46′ 38.294″
221	51°26′ 39.535″	1°33′ 5.836″	606	51°46′ 7.688″	1°46′ 38.754″
222	51°26′ 37.534″	1°33′ 5.793″	607	51°46′ 16.083″	1°46′ 40.857″
223	51°26′ 35.785″	1°33′ 6.465″	608	51°46′ 24.477″	1°46′ 42.961″
224	51°26′ 32.255″	1°33′ 6.245″	609	51°46′ 34.366″	1°46′ 45.592″
225	51°26′ 17.984″	1°33′ 5.278″	610	51°47′ 3.447″	1°46′ 54.044″
226	51°26′ 3.627″	1°33′ 3.939″	611	51°47′ 32.528″	1°47′ 2.499″
227	51°25′ 53.970″	1°33′ 2.974″	612	51°47′ 42.125″	1°47′ 5.948″
228	51°25′ 47.145″	1°33′ 4.442″	613	51°47′ 46.568″	1°47′ 7.805″
229	51°25′ 25.893″	1°33′ 10.216″	614	51°47′ 46.903″	1°47′ 7.945″
230	51°25′ 11.657″	1°33′ 14.009″	615	51°47′ 46.968″	1°47′ 7.971″
231	51°24′ 50.218″	1°33′ 19.871″	616	51°47′ 50.078″	1°47′ 9.227″
232	51°24′ 34.276″	1°33′ 24.120″	617	51°47′ 50.937″	1°47′ 9.574″
233	51°24′ 17.499″	1°33′ 28.685″	618	51°47′ 52.471″	1°47′ 9.464″
234	51°24′ 11.596″	1°33′ 30.058″	619	51°47′ 52.960″	1°47′ 9.533″
235	51°24′ 10.391″	1°33′ 30.136″	620	51°47′ 53.458″	1°47′ 9.521″
236	51°23′ 25.342″	1°33′ 21.829″	621	51°47′ 54.029″	1°47′ 9.420″
237	51°22′ 5.760″	1°33′ 6.941″	622	51°47′ 55.904″	1°47′ 9.085″
238	51°22′ 0.566″	1°33′ 2.152″	623	51°48′ 0.768″	1°47′ 8.141″
239	51°21′ 46.470″	1°32′ 48.623″	624	51°48′ 4.663″	1°47′ 7.799″
240	51°21′ 40.758″	1°32′ 42.650″	625	51°48′ 12.188″	1°47′ 6.569″
241	51°21′ 38.222″	1°32′ 40.217″	626	51°48′ 15.112″	1°47′ 6.057″
242	51°21′ 37.528″	1°32′ 39.498″	627	51°48′ 18.538″	1°47′ 6.022″
243	51°21′ 36.343″	1°32′ 38.784″	628	51°48′ 20.556″	1°47′ 5.568″
244	51°21′ 26.694″	1°32′ 34.368″	629	51°48′ 21.825″	1°47′ 5.049″
245	51°21′ 25.238″	1°32′ 33.358″	630	51°48′ 22.775″	1°47′ 4.510″
246	51°21′ 7.029″	1°32′ 20.730″	631	51°48′ 24.034″	1°47′ 3.686″
247	51°21′ 3.475″	1°32′ 14.223″	632	51°48′ 25.492″	1°47′ 2.667″
248	51°20′ 51.007″	1°31′ 51.084″	633	51°48′ 26.464″	1°47′ 1.918″
249	51°20′ 40.112″	1°31′ 33.062″	634	51°48′ 27.326″	1°47′ 1.438″
250	51°20′ 38.524″	1°31′ 31.025″	635	51°48′ 40.720″	1°46′ 52.723″
251	51°20′ 31.921″	1°31′ 24.551″	636	51°48′ 43.979″	1°46′ 50.817″
252	51°20′ 29.550″	1°31′ 22.989″	637	51°48′ 54.507″	1°46′ 43.701″
253	51°20′ 10.305″	1°31′ 15.718″	638	51°48′ 57.044″	1°46′ 42.048″
254	51°20′ 7.707″	1°31′ 15.425″	639	51°49′ 1.912″	1°46′ 38.847″
255	51°19′ 56.877″	1°31′ 17.002″	640	51°49′ 6.370″	1°46′ 35.928″
256	51°19′ 54.143″	1°31′ 14.414″	641	51°49′ 10.004″	1°46′ 33.590″
257	51°19′ 44.221″	1°31′ 2.941″	642	51°49′ 12.834″	1°46′ 31.843″
258	51°19′ 22.248″	1°30′ 37.476″	643	51°49′ 16.873″	1°46′ 29.085″
259	51°19′ 21.878″	1°30′ 37.071″	644	51°49′ 21.772″	1°46′ 25.496″
260	51°19′ 17.489″	1°30′ 32.556″	645	51°49′ 24.406″	1°46′ 23.459″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
261	51°19′ 16.621″	1°30′ 29.330″	646	51°49′ 26.555″	1°46′ 21.854″
262	51°19′ 12.226″	1°30′ 8.241″	647	51°49′ 29.325″	1°46′ 19.779″
263	51°19′ 1.695″	1°29′ 13.708″	648	51°49′ 29.559″	1°46′ 19.610″
264	51°18′ 43.443″	1°27′ 41.147″	649	51°49′ 31.217″	1°46′ 18.481″
265	51°18′ 40.537″	1°27′ 26.469″	650	51°49′ 31.437″	1°46′ 18.271″
266	51°18′ 38.361″	1°27′ 15.755″	651	51°49′ 31.862″	1°46′ 17.852″
267	51°18′ 32.698″	1°27′ 5.361″	652	51°49′ 32.358″	1°46′ 17.408″
268	51°18′ 30.084″	1°27′ 0.160″	653	51°49′ 32.932″	1°46′ 16.938″
269	51°18′ 30.118″	1°26′ 57.986″	654	51°49′ 33.571″	1°46′ 16.448″
270	51°18′ 30.181″	1°26′ 55.230″	655	51°49′ 34.341″	1°46′ 15.980″
271	51°18′ 30.225″	1°26′ 53.549″	656	51°49′ 35.765″	1°46′ 15.044″
272	51°18′ 30.290″	1°26′ 51.267″	657	51°49′ 36.855″	1°46′ 14.279″
273	51°18′ 30.323″	1°26′ 50.175″	658	51°49′ 37.455″	1°46′ 13.868″
274	51°18′ 30.390″	1°26′ 48.030″	659	51°49′ 53.229″	1°46′ 3.357″
275	51°18′ 30.491″	1°26′ 45.023″	660	51°50′ 3.386″	1°45′ 57.066″
276	51°18′ 30.590″	1°26′ 42.309″	661	51°50′ 14.644″	1°45′ 50.122″
277	51°18′ 30.653″	1°26′ 40.695″	662	51°50′ 17.898″	1°45′ 48.283″
278	51°18′ 30.714″	1°26′ 39.222″	663	51°50′ 19.219″	1°45′ 47.266″
279	51°18′ 30.742″	1°26′ 38.573″	664	51°50′ 32.380″	1°45′ 38.269″
280	51°18′ 30.793″	1°26′ 37.391″	665	51°50′ 45.540″	1°45′ 29.271″
281	51°18′ 30.834″	1°26′ 36.490″	666	51°51′ 3.374″	1°45′ 18.151″
282	51°18′ 30.867″	1°26′ 35.852″	667	51°51′ 21.207″	1°45′ 7.028″
283	51°18′ 30.897″	1°26′ 35.349″	668	51°51′ 23.200″	1°45′ 5.226″
284	51°18′ 30.936″	1°26′ 34.783″	669	51°51′ 27.997″	1°44′ 59.315″
285	51°18′ 30.997″	1°26′ 34.003″	670	51°51′ 32.793″	1°44′ 53.403″
286	51°18′ 31.080″	1°26′ 33.025″	671	51°51′ 33.327″	1°44′ 52.613″
287	51°18′ 31.121″	1°26′ 32.549″	672	51°51′ 33.861″	1°44′ 51.824″
288	51°18′ 31.218″	1°26′ 31.480″	673	51°51′ 42.012″	1°44′ 37.399″
289	51°18′ 31.305″	1°26′ 30.548″	674	51°51′ 42.973″	1°44′ 35.314″
290	51°18′ 31.385″	1°26′ 29.745″	675	51°51′ 50.568″	1°44′ 14.870″
291	51°18′ 31.415″	1°26′ 29.468″	676	51°51′ 53.048″	1°43′ 57.342″
292	51°18′ 31.457″	1°26′ 29.110″	677	51°51′ 55.350″	1°43′ 54.404″
293	51°18′ 31.509″	1°26′ 28.685″	678	51°52′ 19.004″	1°43′ 5.199″
294	51°18′ 31.577″	1°26′ 28.165″	679	51°52′ 19.469″	1°43′ 4.305″
295	51°18′ 31.664″	1°26′ 27.524″	680	51°52′ 50.135″	1°41′ 19.585″
296	51°18′ 31.774″	1°26′ 26.743″	681	51°52′ 54.614″	1°40′ 13.491″
297	51°18′ 31.904″	1°26′ 25.844″	682	51°52′ 59.084″	1°39′ 7.393″
298	51°18′ 32.048″	1°26′ 24.868″	683	51°52′ 59.571″	1°39′ 1.476″
299	51°18′ 32.200″	1°26′ 23.855″	684	51°53′ 0.058″	1°38′ 55.559″
300	51°18′ 32.354″	1°26′ 22.839″	685	51°53′ 0.134″	1°38′ 54.840″
301	51°18′ 32.505″	1°26′ 21.853″	686	51°53′ 0.271″	1°38′ 54.145″
302	51°18′ 32.648″	1°26′ 20.930″	687	51°53′ 0.467″	1°38′ 53.487″
303	51°18′ 32.776″	1°26′ 20.106″	688	51°53′ 0.717″	1°38′ 52.880″
304	51°18′ 32.844″	1°26′ 19.678″	689	51°53′ 1.017″	1°38′ 52.336″
305	51°18′ 33.011″	1°26′ 18.651″	690	51°53′ 1.427″	1°38′ 51.797″
306	51°18′ 33.048″	1°26′ 18.432″	691	51°53′ 1.743″	1°38′ 51.474″
307	51°18′ 33.143″	1°26′ 17.916″	692	51°53′ 24.971″	1°38′ 32.626″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
308	51°18′ 33.276″	1°26′ 17.317″	693	51°53′ 39.441″	1°38′ 30.729″
309	51°18′ 33.476″	1°26′ 16.500″	694	51°54′ 1.604″	1°38′ 28.595″
310	51°18′ 33.569″	1°26′ 16.139″	695	51°54′ 23.190″	1°38′ 26.485″
311	51°18′ 33.788″	1°26′ 15.314″	696	51°54′ 43.236″	1°38′ 31.109″
312	51°18′ 34.007″	1°26′ 14.490″	697	51°56′ 53.011″	1°38′ 57.773″
313	51°18′ 34.650″	1°26′ 12.200″	698	51°59′ 6.470″	1°39′ 24.608″
314	51°18′ 35.549″	1°26′ 9.073″	699	52°0′41.276″	1°39′ 39.826″
315	51°18′ 37.685″	1°26′ 1.611″	700	52°1′ 49.429″	1°39′ 55.987″
316	51°18′ 39.919″	1°25′ 53.476″	701	52°2′ 5.757″	1°40′ 2.162″
317	51°18′ 47.920″	1°25′ 22.394″	702	52°2′ 19.229″	1°40′ 7.258″
318	51°19′ 11.908″	1°23′ 49.130″	703	52°2′ 38.252″	1°40′ 7.750″
319	51°19′ 22.775″	1°23′ 8.870″	704	52°2′ 41.321″	1°40′ 8.050″
320	51°19′ 26.409″	1°22′ 55.404″	705	52°2′ 56.146″	1°40′ 7.509″
321	51°19′ 30.327″	1°22′ 41.426″	706	52°3′ 19.680″	1°40′ 7.680″
322	51°19′ 31.196″	1°22′ 38.329″	707	52°3′ 35.762″	1°40′ 8.210″
323	51°19′32.3″N	1°22′34.6″E	708	52°3′ 44.620″	1°40′ 11.357″
324	51°19′37.1″N	1°22′28.8″E	709	52°3′ 45.442″	1°40′ 11.902″
325	51°19′37.2″N	1°22′28.0″E	710	52°3′ 46.491″	1°40′ 13.489″
326	51°19′38.3″N	1°22′27.2″E	711	52°3′ 47.702″	1°40′ 15.403″
327	51°19′38.7″N	1°22′26.9″E	712	52°3′ 48.441″	1°40′ 16.329″
328	51°19′39.1″N	1°22′27.0″E	713	52°3′ 49.181″	1°40′ 17.255″
329	51°19′38.5″N	1°22′26.7″E	714	52°3′ 50.490″	1°40′ 18.532″
330	51°19′37.9″N	1°22′26.9″E	715	52°3′ 53.685″	1°40′ 20.313″
331	51°19′37.1″N	1°22′27.7″E	716	52°3′ 57.051″	1°40′ 20.975″
332	51°19′35.8″N	1°22′26.8″E	717	52°3′ 59.607″	1°40′ 20.817″
333	51°19′ 34.829″	1°22′ 24.877″	718	52°4′ 3.162″	1°40′ 19.667″
334	51°19′ 34.802″	1°22′ 24.793″	719	52°4′ 4.762″	1°40′ 18.862″
335	51°19′ 33.482″	1°22′ 21.370″	720	52°4′ 32.139″	1°39′ 59.850″
336	51°19′ 33.191″	1°22′ 20.388″	721	52°4′ 34.649″	1°39′ 59.557″
337	51°19′ 32.987″	1°22′ 19.529″	722	52°5′ 8.283″	1°40′ 4.682″
338	51°19′ 32.941″	1°22′ 19.095″	723	52°5′ 33.094″	1°40′ 5.721″
339	51°19′ 32.964″	1°22′ 18.666″	724	52°5′ 55.307″	1°40′ 11.070″
340	51°19′ 33.103″	1°22′ 17.945″	725	52°6′ 11.802″	1°40′ 14.740″
341	51°19′ 33.472″	1°22′ 16.474″	726	52°6′ 39.189″	1°40′ 23.141″
342	51°19′ 33.505″	1°22′ 16.107″	727	52°6′ 52.695″	1°40′ 28.361″
343	51°19′ 33.460″	1°22′ 15.813″	728	52°6′ 53.902″	1°40′ 28.673″
344	51°19′ 33.360″	1°22′ 15.595″	729	52°7′ 15.334″	1°40′ 31.551″
345	51°19′ 32.982″	1°22′ 15.022″	730	52°7′ 28.843″	1°40′ 30.751″
346	51°19′ 32.919″	1°22′ 14.885″	731	52°7′ 31.480″	1°40′ 29.846″
347	51°19′ 31.947″	1°22′ 13.479″	732	52°7′ 37.837″	1°40′ 25.774″
348	51°19′ 31.554″	1°22′ 13.299″	733	52°7′ 40.081″	1°40′ 22.840″
349	51°19′ 31.424″	1°22′ 13.172″	734	52°7′ 46.142″	1°40′ 18.870″
350	51°19′ 31.330″	1°22′ 13.012″	735	52°7′ 54.029″	1°40′ 14.183″
351	51°19′ 31.267″	1°22′ 12.781″	736	52°7′ 59.972″	1°40′ 9.621″
352	51°19′ 31.259″	1°22′ 12.516″	737	52°8′ 0.202″	1°40′ 9.437″
353	51°19′ 31.264″	1°22′ 12.493″	738	52°8′ 8.481″	1°40′ 2.552″
354	51°19′ 26.603″	1°22′ 5.757″	739	52°8′ 16.761″	1°39′ 55.667″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
355	51°19′ 25.258″	1°22′ 3.868″	740	52°8′ 33.272″	1°39′ 42.342″
356	51°19′ 25.167″	1°22′ 3.741″	741	52°8′ 33.982″	1°39′ 41.695″
357	51°19′ 25.085″	1°22′ 3.626″	742	52°9′ 2.575″	1°39′ 12.451″
358	51°19′ 24.808″	1°22′ 3.225″	743	52°9′ 19.621″	1°38′ 58.526″
359	51°19′ 24.883″	1°22′ 0.411″	744	52°9′ 20.639″	1°38′ 57.375″
360	51°19′ 24.852″	1°22′ 0.351″	745	52°9′ 21.536″	1°38′ 55.985″
361	51°19′ 24.512″	1°21′ 59.398″	746	52°9′ 40.583″	1°38′ 21.585″
362	51°19′ 24.380″	1°21′ 59.113″	747	52°9′ 41.245″	1°38′ 20.216″
363	51°19′ 24.199″	1°21′ 58.859″	748	52°9′ 41.790″	1°38′ 18.717″
364	51°19′ 23.707″	1°21′ 58.339″	749	52°9′ 42.478″	1°38′ 16.503″
365	51°19′ 23.518″	1°21′ 58.053″	750	52°9′ 59.120″	1°37′ 15.816″
366	51°19′ 23.115″	1°21′ 56.959″	751	52°10′ 5.676″	1°36′ 51.897″
367	51°19′ 22.453″	1°21′ 55.626″	752	52°10′ 6.497″	1°36′ 48.902″
368	51°19′ 22.187″	1°21′ 55.159″	753	52°10′ 6.936″	1°36′ 47.300″
369	51°19′ 21.940″	1°21′ 54.813″	754	52°10′ 7.674″	1°36′ 44.608″
370	51°19′ 21.329″	1°21′ 54.081″	755	52°10′ 7.699″	1°36′ 44.514″
371	51°19′ 20.728″	1°21′ 53.247″	756	52°10′ 8.210″	1°36′ 42.649″
372	51°19′ 19.742″	1°21′ 52.317″	757	52°10′ 8.650″	1°36′ 41.044″
373	51°19′ 19.145″	1°21′ 51.535″	758	52°10′ 8.864″	1°36′ 40.262″
374	51°19′ 18.944″	1°21′ 51.363″	759	52°10′ 9.282″	1°36′ 38.739″
375	51°19′ 18.360″	1°21′ 50.981″	760	52°10′ 9.302″	1°36′ 38.664″
376	51°19′ 17.711″	1°21′ 50.413″	761	52°10′ 8.161″	1°36′ 38.074″
377	51°19′ 14.953″	1°22′ 1.124″	762	52°10′ 3.687″	1°36′ 35.840″
378	51°19′ 13.936″	1°22′ 0.539″	764	52°10′ 1.232″	1°36′ 34.433″
379	51°19′ 12.275″	1°21′ 59.585″	764	52°10′ 1.671″	1°36′ 33.128″
380	51°19′ 7.341″	1°21′ 56.750″	765	52°10′ 1.719″	1°36′ 32.950″
381	51°19′ 4.216″	1°22′ 8.087″	766	52°10′ 0.186″	1°36′ 32.072″
382	51°19′ 4.096″	1°22′ 8.515″	767	52°9′ 59.073″	1°36′ 31.526″
383	51°19′ 3.671″	1°22′ 10.031″	768	52°9 57.364″	1°36′ 30.852″
384	51°19′ 3.594″	1°22′ 10.305″	769	52°9′ 53.755″	1°36′ 29.252″
385	51°19′ 3.380″	1°22′ 11.069″	770	52°9′ 51.024″	1°36′ 28.212″

Table 2: Limits of deviation for access bridge and overhead cables over the River Stour

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
1	51° 18′ 58.905″	001° 19′ 35.189″	292	51° 19′ 1.006″	001° 18′ 38.515″
2	51° 18′ 58.742″	001° 19′ 34.839″	293	51° 19′ 1.018″	001° 18′ 38.646″
3	51° 18′ 59.071″	001° 19′ 34.295″	294	51° 19′ 1.038″	001° 18′ 38.869″
4	51° 18′ 59.187″	001° 19′ 34.118″	295	51° 19′ 1.061″	001° 18′ 39.093″
5	51° 18′ 59.370″	001° 19′ 33.816″	296	51° 19′ 1.090″	001° 18′ 39.312″
6	51° 18′ 59.513″	001° 19′ 33.568″	297	51° 19′ 1.121″	001° 18′ 39.485″
7	51° 18′ 59.615″	001° 19′ 33.384″	298	51° 19′ 1.155″	001° 18′ 39.658″
8	51° 18′ 59.726″	001° 19′ 33.133″	299	51° 19′ 1.195″	001° 18′ 39.831″
9	51° 18′ 59.825″	001° 19′ 32.944″	300	51° 19′ 1.242″	001° 18′ 40.016″
10	51° 18′ 59.880″	001° 19′ 32.845″	301	51° 19′ 1.292″	001° 18′ 40.195″
11	51° 18′ 59.965″	001° 19′ 32.603″	302	51° 19′ 1.345″	001° 18′ 40.374″
12	51° 19′ 0.084″	001° 19′ 32.286″	303	51° 19′ 1.381″	001° 18′ 40.491″
13	51° 19′ 0.266″	001° 19′ 31.783″	304	51° 19′ 1.435″	001° 18′ 40.663″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
14	51° 19′ 0.343″	001° 19′ 31.581″	305	51° 19′ 1.490″	001° 18′ 40.755″
15	51° 19′ 0.393″	001° 19′ 31.425″	306	51° 19′ 1.639″	001° 18′ 40.908″
16	51° 19′ 0.509″	001° 19′ 30.984″	307	51° 19′ 1.696″	001° 18′ 40.969″
17	51° 19′ 0.546″	001° 19′ 30.842″	308	51° 19′ 1.756″	001° 18′ 41.004″
18	51° 19′ 0.602″	001° 19′ 30.458″	309	51° 19′ 1.792″	001° 18′ 41.007″
19	51° 19′ 0.638″	001° 19′ 30.109″	310	51° 19′ 1.824″	001° 18′ 41.004″
20	51° 19′ 0.666″	001° 19′ 29.905″	311	51° 19′ 1.857″	001° 18′ 40.996″
21	51° 19′ 0.663″	001° 19′ 29.889″	312	51° 19′ 1.876″	001° 18′ 40.992″
22	51° 19′ 0.658″	001° 19′ 29.868″	313	51° 19′ 1.896″	001° 18′ 40.983″
23	51° 19′ 0.651″	001° 19′ 29.857″	314	51° 19′ 1.915″	001° 18′ 40.980″
24	51° 19′ 0.642″	001° 19′ 29.851″	315	51° 19′ 1.936″	001° 18′ 41.069″
25	51° 19′ 0.603″	001° 19′ 29.848″	316	51° 19′ 1.847″	001° 18′ 41.104″
26	51° 19′ 0.590″	001° 19′ 29.853″	317	51° 19′ 1.821″	001° 18′ 41.107″
27	51° 19′ 0.577″	001° 19′ 29.852″	318	51° 19′ 1.798″	001° 18′ 41.116″
28	51° 19′ 0.548″	001° 19′ 29.865″	319	51° 19′ 1.778″	001° 18′ 41.135″
29	51° 19′ 0.521″	001° 19′ 29.879″	320	51° 19′ 1.768″	001° 18′ 41.155″
30	51° 19′ 0.492″	001° 19′ 29.887″	321	51° 19′ 1.764″	001° 18′ 41.186″
31	51° 19′ 0.440″	001° 19′ 29.894″	322	51° 19′ 1.760″	001° 18′ 41.211″
32	51° 19′ 0.411″	001° 19′ 29.886″	323	51° 19′ 1.753″	001° 18′ 41.302″
33	51° 19′ 0.376″	001° 19′ 29.879″	324	51° 19′ 1.757″	001° 18′ 41.372″
34	51° 19′ 0.346″	001° 19′ 29.887″	325	51° 19′ 1.773″	001° 18′ 41.416″
35	51° 19′ 0.298″	001° 19′ 29.883″	326	51° 19′ 1.895″	001° 18′ 41.670″
36	51° 19′ 0.272″	001° 19′ 29.876″	327	51° 19′ 2.223″	001° 18′ 42.312″
37	51° 19′ 0.243″	001° 19′ 29.869″	328	51° 19′ 2.364″	001° 18′ 42.570″
38	51° 19′ 0.218″	001° 19′ 29.852″	329	51° 19′ 2.435″	001° 18′ 42.704″
39	51° 19′ 0.196″	001° 19′ 29.829″	330	51° 19′ 2.505″	001° 18′ 42.849″
40	51° 19′ 0.174″	001° 19′ 29.802″	331	51° 19′ 2.576″	001° 18′ 42.999″
41	51° 19′ 0.159″	001° 19′ 29.765″	332	51° 19′ 2.643″	001° 18′ 43.148″
42	51° 19′ 0.147″	001° 19′ 29.728″	333	51° 19′ 2.698″	001° 18′ 43.266″
43	51° 19′ 0.142″	001° 19′ 29.665″	334	51° 19′ 2.749″	001° 18′ 43.383″
44	51° 19′ 0.146″	001° 19′ 29.640″	335	51° 19′ 2.804″	001° 18′ 43.496″
45	51° 19′ 0.153″	001° 19′ 29.614″	336	51° 19′ 2.940″	001° 18′ 43.743″
46	51° 19′ 0.167″	001° 19′ 29.590″	337	51° 19′ 3.075″	001° 18′ 44.006″
47	51° 19′ 0.177″	001° 19′ 29.570″	338	51° 19′ 3.207″	001° 18′ 44.264″
48	51° 19′ 0.194″	001° 19′ 29.550″	339	51° 19′ 3.311″	001° 18′ 44.488″
49	51° 19′ 0.207″	001° 19′ 29.530″	340	51° 19′ 3.415″	001° 18′ 44.707″
50	51° 19′ 0.224″	001° 19′ 29.511″	341	51° 19′ 3.518″	001° 18′ 44.932″
51	51° 19′ 0.254″	001° 19′ 29.498″	342	51° 19′ 3.634″	001° 18′ 45.178″
52	51° 19′ 0.312″	001° 19′ 29.492″	343	51° 19′ 3.747″	001° 18′ 45.419″
53	51° 19′ 0.396″	001° 19′ 29.508″	344	51° 19′ 3.863″	001° 18′ 45.670″
54	51° 19′ 0.437″	001° 19′ 29.526″	345	51° 19′ 3.955″	001° 18′ 45.873″
55	51° 19′ 0.476″	001° 19′ 29.550″	346	51° 19′ 4.049″	001° 18′ 46.076″
56	51° 19′ 0.514″	001° 19′ 29.578″	347	51° 19′ 4.134″	001° 18′ 46.294″
57	51° 19′ 0.551″	001° 19′ 29.617″	348	51° 19′ 4.224″	001° 18′ 46.559″
58	51° 19′ 0.618″	001° 19′ 29.664″	349	51° 19′ 4.268″	001° 18′ 46.696″
59	51° 19′ 0.646″	001° 19′ 29.702″	350	51° 19′ 4.325″	001° 18′ 46.876″
60	51° 19′ 0.662″	001° 19′ 29.713″	351	51° 19′ 4.384″	001° 18′ 47.061″
61	51° 19′ 0.678″	001° 19′ 29.720″	352	51° 19′ 4.444″	001° 18′ 47.241″
62	51° 19′ 0.694″	001° 19′ 29.710″	353	51° 19′ 4.488″	001° 18′ 47.389″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
63	51° 19′ 0.705″	001° 19′ 29.696″	354	51° 19′ 4.533″	001° 18′ 47.532″
64	51° 19′ 0.705″	001° 19′ 29.680″	355	51° 19′ 4.577″	001° 18′ 47.680″
65	51° 19′ 0.742″	001° 19′ 29.414″	356	51° 19′ 4.621″	001° 18′ 47.859″
66	51° 19′ 0.802″	001° 19′ 29.010″	357	51° 19′ 4.658″	001° 18′ 48.037″
67	51° 19′ 0.852″	001° 19′ 28.709″	358	51° 19′ 4.675″	001° 18′ 48.124″
68	51° 19′ 0.890″	001° 19′ 28.428″	359	51° 19′ 4.680″	001° 18′ 48.146″
69	51° 19′ 0.929″	001° 19′ 28.167″	360	51° 19′ 4.695″	001° 18′ 48.221″
70	51° 19′ 0.948″	001° 19′ 27.838″	361	51° 19′ 4.729″	001° 18′ 48.378″
71	51° 19′ 0.980″	001° 19′ 27.411″	362	51° 19′ 4.763″	001° 18′ 48.541″
72	51° 19′ 1.003″	001° 19′ 26.932″	363	51° 19′ 4.794″	001° 18′ 48.698″
73	51° 19′ 1.023″	001° 19′ 26.572″	364	51° 19′ 4.845″	001° 18′ 48.970″
74	51° 19′ 1.030″	001° 19′ 26.324″	365	51° 19′ 4.867″	001° 18′ 49.106″
75	51° 19′ 1.061″	001° 19′ 25.701″	366	51° 19′ 4.896″	001° 18′ 49.260″
76	51° 19′ 1.085″	001° 19′ 25.197″	367	51° 19′ 4.911″	001° 18′ 49.383″
77	51° 19′ 1.092″	001° 19′ 25.052″	368	51° 19′ 4.920″	001° 18′ 49.410″
78	51° 19′ 1.138″	001° 19′ 24.353″	369	51° 19′ 4.926″	001° 18′ 49.431″
79	51° 19′ 1.155″	001° 19′ 24.080″	370	51° 19′ 4.938″	001° 18′ 49.458″
80	51° 19′ 1.220″	001° 19′ 22.834″	371	51° 19′ 4.953″	001° 18′ 49.485″
81	51° 19′ 1.271″	001° 19′ 21.831″	372	51° 19′ 4.972″	001° 18′ 49.502″
82	51° 19′ 1.305″	001° 19′ 21.306″	373	51° 19′ 5.017″	001° 18′ 49.536″
83	51° 19′ 1.365″	001° 19′ 20.349″	374	51° 19′ 5.042″	001° 18′ 49.543″
84	51° 19′ 1.390″	001° 19′ 19.932″	375	51° 19′ 5.065″	001° 18′ 49.539″
85	51° 19′ 1.401″	001° 19′ 19.664″	376	51° 19′ 5.269″	001° 18′ 49.544″
86	51° 19′ 1.440″	001° 19′ 18.846″	377	51° 19′ 5.418″	001° 18′ 49.548″
87	51° 19′ 1.467″	001° 19′ 17.782″	378	51° 19′ 5.477″	001° 18′ 49.548″
88	51° 19′ 1.147″	001° 19′ 17.704″	379	51° 19′ 5.473″	001° 18′ 49.745″
89	51° 19′ 1.168″	001° 19′ 17.552″	380	51° 19′ 5.415″	001° 18′ 49.745″
90	51° 19′ 1.488″	001° 19′ 17.639″	381	51° 19′ 5.264″	001° 18′ 49.734″
91	51° 19′ 1.534″	001° 19′ 17.116″	382	51° 19′ 5.183″	001° 18′ 49.734″
92	51° 19′ 1.564″	001° 19′ 16.860″	383	51° 19′ 5.154″	001° 18′ 49.726″
93	51° 19′ 1.636″	001° 19′ 16.152″	384	51° 19′ 5.122″	001° 18′ 49.724″
94	51° 19′ 1.899″	001° 19′ 13.758″	385	51° 19′ 5.095″	001° 18′ 49.738″
95	51° 19′ 1.984″	001° 19′ 12.927″	386	51° 19′ 5.069″	001° 18′ 49.762″
96	51° 19′ 2.126″	001° 19′ 12.033″	387	51° 19′ 5.048″	001° 18′ 49.791″
97	51° 19′ 2.262″	001° 19′ 11.206″	388	51° 19′ 5.031″	001° 18′ 49.831″
98	51° 19′ 2.297″	001° 19′ 10.996″	389	51° 19′ 5.017″	001° 18′ 49.866″
99	51° 19′ 2.444″	001° 19′ 10.056″	390	51° 19′ 5.010″	001° 18′ 49.902″
100	51° 19′ 2.526″	001° 19′ 9.571″	391	51° 19′ 5.005″	001° 18′ 49.938″
101	51° 19′ 2.572″	001° 19′ 9.306″	392	51° 19′ 5.000″	001° 18′ 50.005″
102	51° 19′ 2.661″	001° 19′ 8.780″	393	51° 19′ 5.005″	001° 18′ 50.072″
103	51° 19′ 2.711″	001° 19′ 8.499″	394	51° 19′ 5.016″	001° 18′ 50.140″
104	51° 19′ 2.756″	001° 19′ 8.192″	395	51° 19′ 5.041″	001° 18′ 50.509″
105	51° 19′ 2.803″	001° 19′ 7.912″	396	51° 19′ 5.070″	001° 18′ 50.847″
106	51° 19′ 2.911″	001° 19′ 7.256″	397	51° 19′ 5.079″	001° 18′ 50.992″
107	51° 19′ 2.931″	001° 19′ 7.136″	398	51° 19′ 5.077″	001° 18′ 51.085″
108	51° 19′ 2.710″	001° 19′ 7.058″	399	51° 19′ 5.089″	001° 18′ 51.319″
109	51° 19′ 2.581″	001° 19′ 7.038″	400	51° 19′ 5.090″	001° 18′ 51.629″
110	51° 19′ 2.451″	001° 19′ 7.019″	401	51° 19′ 5.099″	001° 18′ 51.888″
111	51° 19′ 2.451″	001° 19′ 7.000″	402	51° 19′ 5.098″	001° 18′ 52.167″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
112	51° 19′ 2.478″	001° 19′ 6.872″	403	51° 19′ 5.094″	001° 18′ 52.290″
113	51° 19′ 2.498″	001° 19′ 6.875″	404	51° 19′ 5.082″	001° 18′ 52.481″
114	51° 19′ 2.591″	001° 19′ 6.892″	405	51° 19′ 5.073″	001° 18′ 52.682″
115	51° 19′ 2.692″	001° 19′ 6.912″	406	51° 19′ 5.058″	001° 18′ 52.985″
116	51° 19′ 2.955″	001° 19′ 6.987″	407	51° 19′ 5.053″	001° 18′ 53.068″
117	51° 19′ 2.968″	001° 19′ 6.865″	408	51° 19′ 5.027″	001° 18′ 53.407″
118	51° 19′ 2.982″	001° 19′ 6.721″	409	51° 19′ 4.990″	001° 18′ 53.911″
119	51° 19′ 3.015″	001° 19′ 6.465″	410	51° 19′ 4.975″	001° 18′ 54.085″
120	51° 19′ 3.043″	001° 19′ 6.188″	411	51° 19′ 4.954″	001° 18′ 54.368″
121	51° 19′ 3.138″	001° 19′ 5.331″	412	51° 19′ 4.926″	001° 18′ 54.686″
122	51° 19′ 3.228″″	001° 19′ 4.568″	413	51° 19′ 4.848″	001° 18′ 55.399″
123	51° 19′ 3.259″	001° 19′ 4.250″	414	51° 19′ 4.809″	001° 18′ 55.727″
124	51° 19′ 3.394″	001° 19′ 2.937″	415	51° 19′ 4.551″	001° 18′ 57.967″
125	51° 19′ 3.441″	001° 19′ 2.516″	416	51° 19′ 4.482″	001° 18′ 58.592″
126	51° 19′ 3.502″	001° 19′ 1.973″	417	51° 19′ 4.461″	001° 18′ 58.761″
127	51° 19′ 3.565″	001° 19′ 1.358″	418	51° 19′ 4.310″	001° 19′ 0.305″
128	51° 19′ 3.616″	001° 19′ 0.912″	419	51° 19′ 4.219″	001° 19′ 1.229″
129	51° 19′ 3.655″	001° 19′ 0.568″	420	51° 19′ 4.109″	001° 19′ 2.280″
130	51° 19′ 3.685″	001° 19′ 0.312″	421	51° 19′ 4.055″	001° 19′ 2.793″
131	51° 19′ 3.911″	001° 18′ 58.297″	422	51° 19′ 3.947″	001° 19′ 3.762″
132	51° 19′ 3.950″	001° 18′ 57.928″	423	51° 19′ 3.859″	001° 19′ 4.557″
133	51° 19′ 4.016″	001° 18′ 57.303″	424	51° 19′ 3.794″	001° 19′ 5.167″
134	51° 19′ 4.099″	001° 18′ 56.570″	425	51° 19′ 3.751″	001° 19′ 5.515″
135	51° 19′ 4.207″	001° 18′ 55.621″	426	51° 19′ 3.729″	001° 19′ 5.741″
136	51° 19′ 4.252″	001° 18′ 55.284″	427	51° 19′ 3.688″	001° 19′ 6.136″
137	51° 19′ 4.333″	001° 18′ 54.463″	428	51° 19′ 3.671″	001° 19′ 6.285″
138	51° 19′ 4.343″	001° 18′ 54.334″	429	51° 19′ 3.696″	001° 19′ 6.312″
139	51° 19′ 4.365″	001° 18′ 54.150″	430	51° 19′ 3.770″	001° 19′ 6.343″
140	51° 19′ 4.379″	001° 18′ 53.991″	431	51° 19′ 3.886″	001° 19′ 6.367″
141	51° 19′ 4.393″	001° 18′ 53.847″	432	51° 19′ 3.872″	001° 19′ 6.501″
142	51° 19′ 4.400″	001° 18′ 53.698″	433	51° 19′ 3.785″	001° 19′ 6.510″
143	51° 19′ 4.418″	001° 18′ 53.410″	434	51° 19′ 3.756″	001° 19′ 6.503″
144	51° 19′ 4.423″	001° 18′ 53.244″	435	51° 19′ 3.733″	001° 19′ 6.491″
145	51° 19′ 4.436″	001° 18′ 53.013″	436	51° 19′ 3.711″	001° 19′ 6.489″
146	51° 19′ 4.446″	001° 18′ 52.895″	437	51° 19′ 3.688″	001° 19′ 6.498″
147	51° 19′ 4.445″	001° 18′ 52.791″	438	51° 19′ 3.668″	001° 19′ 6.512″
148	51° 19′ 4.450″	001° 18′ 52.048″	439	51° 19′ 3.651″	001° 19′ 6.536″
149	51° 19′ 4.451″	001° 18′ 51.918″	440	51° 19′ 3.637″	001° 19′ 6.566″
150	51° 19′ 4.454″	001° 18′ 51.691″	441	51° 19′ 3.626″	001° 19′ 6.607″
151	51° 19′ 4.443″	001° 18′ 51.375″	442	51° 19′ 3.619″	001° 19′ 6.653″
152	51° 19′ 4.445″	001° 18′ 51.205″	443	51° 19′ 3.614″	001° 19′ 6.694″
153	51° 19′ 4.442″	001° 18′ 51.091″	444	51° 19′ 3.598″	001° 19′ 6.812″
154	51° 19′ 4.436″	001° 18′ 50.961″	445	51° 19′ 3.582″	001° 19′ 7.048″
155	51° 19′ 4.429″	001° 18′ 50.847″	446	51° 19′ 3.561″	001° 19′ 7.202″
156	51° 19′ 4.423″	001° 18′ 50.619″	447	51° 19′ 3.533″	001° 19′ 7.499″
157	51° 19′ 4.419″	001° 18′ 50.536″	448	51° 19′ 3.497″	001° 19′ 7.864″
158	51° 19′ 4.386″	001° 18′ 50.090″	449	51° 19′ 3.472″	001° 19′ 8.063″
159	51° 19′ 4.353″	001° 18′ 49.757″	450	51° 19′ 3.459″	001° 19′ 8.176″
160	51° 19′ 4.343″	001° 18′ 49.673″	451	51° 19′ 3.378″	001° 19′ 8.744″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
161	51° 19′ 4.336″	001° 18′ 49.564″	452	51° 19′ 3.341″	001° 19′ 9.015″
162	51° 19′ 4.327″	001° 18′ 49.522″	453	51° 19′ 3.293″	001° 19′ 9.353″
163	51° 19′ 4.303″	001° 18′ 49.371″	454	51° 19′ 3.260″	001° 19′ 9.609″
164	51° 19′ 4.280″	001° 18′ 49.215″	455	51° 19′ 3.230″	001° 19′ 9.756″
165	51° 19′ 4.270″	001° 18′ 49.151″	456	51° 19′ 3.041″	001° 19′ 10.823″
166	51° 19′ 4.237″	001° 18′ 48.952″	457	51° 19′ 2.753″	001° 19′ 12.414″
167	51° 19′ 4.208″	001° 18′ 48.826″	458	51° 19′ 2.678″	001° 19′ 13.101″
168	51° 19′ 4.182″	001° 18′ 48.695″	459	51° 19′ 2.547″	001° 19′ 14.079″
169	51° 19′ 4.154″	001° 18′ 48.569″	460	51° 19′ 2.389″	001° 19′ 15.292″
170	51° 19′ 4.098″	001° 18′ 48.353″	461	51° 19′ 2.254″	001° 19′ 16.424″
171	51° 19′ 4.043″	001° 18′ 48.143″	462	51° 19′ 2.187″	001° 19′ 17.215″
172	51° 19′ 3.984″	001° 18′ 47.932″	463	51° 19′ 2.146″	001° 19′ 17.698″
173	51° 19′ 3.928″	001° 18′ 47.736″	464	51° 19′ 2.063″	001° 19′ 18.699″
174	51° 19′ 3.869″	001° 18′ 47.541″	465	51° 19′ 2.025″	001° 19′ 19.332″
175	51° 19′ 3.806″	001° 18′ 47.350″	466	51° 19′ 2.015″	001° 19′ 19.456″
176	51° 19′ 3.737″	001° 18′ 47.149″	467	51° 19′ 2.009″	001° 19′ 19.569″
177	51° 19′ 3.665″	001° 18′ 46.948″	468	51° 19′ 1.986″	001° 19′ 19.702″
178	51° 19′ 3.586″	001° 18′ 46.756″	469	51° 19′ 1.930″	001° 19′ 20.194″
179	51° 19′ 3.502″	001° 18′ 46.553″	470	51° 19′ 1.914″	001° 19′ 20.626″
180	51° 19′ 3.410″	001° 18′ 46.350″	471	51° 19′ 1.913″	001° 19′ 20.668″
181	51° 19′ 3.319″	001° 18′ 46.153″	472	51° 19′ 1.890″	001° 19′ 20.888″
182	51° 19′ 3.193″	001° 18′ 45.885″	473	51° 19′ 1.879″	001° 19′ 21.058″
183	51° 19′ 2.936″	001° 18′ 45.360″	474	51° 19′ 1.867″	001° 19′ 21.160″
184	51° 19′ 2.878″	001° 18′ 45.248″	475	51° 19′ 1.845″	001° 19′ 21.335″
185	51° 19′ 2.820″	001° 18′ 45.130″	476	51° 19′ 1.840″	001° 19′ 21.401″
186	51° 19′ 2.659″	001° 18′ 44.849″	477	51° 19′ 1.836″	001° 19′ 21.453″
187	51° 19′ 2.564″	001° 18′ 44.657″	478	51° 19′ 1.831″	001° 19′ 21.509″
188	51° 19′ 2.362″	001° 18′ 44.244″	479	51° 19′ 1.833″	001° 19′ 21.561″
189	51° 19′ 2.255″	001° 18′ 44.025″	480	51° 19′ 1.831″	001° 19′ 21.597″
190	51° 19′ 2.148″	001° 18′ 43.800″	481	51° 19′ 1.834″	001° 19′ 21.639″
191	51° 19′ 2.066″	001° 18′ 43.628″	482	51° 19′ 1.839″	001° 19′ 21.675″
192	51° 19′ 1.983″	001° 18′ 43.452″	483	51° 19′ 1.854″	001° 19′ 21.718″
193	51° 19′ 1.901″	001° 18′ 43.281″	484	51° 19′ 1.876″	001° 19′ 21.755″
194	51° 19′ 1.827″	001° 18′ 43.136″	485	51° 19′ 1.897″	001° 19′ 21.788″
195	51° 19′ 1.750″	001° 18′ 42.991″	486	51° 19′ 1.922″	001° 19′ 21.826″
196	51° 19′ 1.416″	001° 18′ 42.348″	487	51° 19′ 1.947″	001° 19′ 21.859″
197	51° 19′ 1.302″	001° 18′ 42.118″	488	51° 19′ 1.975″	001° 19′ 21.887″
198	51° 19′ 1.232″	001° 18′ 41.978″	489	51° 19′ 2.001″	001° 19′ 21.899″
199	51° 19′ 1.161″	001° 18′ 41.844″	490	51° 19′ 2.027″	001° 19′ 21.906″
200	51° 19′ 1.113″	001° 18′ 41.745″	491	51° 19′ 2.053″	001° 19′ 21.903″
201	51° 19′ 1.080″	001° 18′ 41.676″	492	51° 19′ 2.308″	001° 19′ 21.921″
202	51° 19′ 0.986″	001° 18′ 41.464″	493	51° 19′ 2.336″	001° 19′ 21.930″
203	51° 19′ 0.856″	001° 18′ 41.592″	494	51° 19′ 2.395″	001° 19′ 21.948″
204	51° 19′ 0.659″	001° 18′ 41.678″	495	51° 19′ 2.430″	001° 19′ 21.950″
205	51° 19′ 0.656″	001° 18′ 41.609″	496	51° 19′ 2.469″	001° 19′ 21.964″
206	51° 19′ 0.654″	001° 18′ 41.517″	497	51° 19′ 2.507″	001° 19′ 21.987″
207	51° 19′ 0.862″	001° 18′ 41.444″	498	51° 19′ 2.542″	001° 19′ 22.005″
208	51° 19′ 0.956″	001° 18′ 41.350″	499	51° 19′ 2.586″	001° 19′ 22.044″
209	51° 19′ 0.859″	001° 18′ 40.954″	500	51° 19′ 2.630″	001° 19′ 22.089″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
210	51° 19′ 0.738″	001° 18′ 40.429″	501	51° 19′ 2.674″	001° 19′ 22.139″
211	51° 19′ 0.684″	001° 18′ 40.167″	502	51° 19′ 2.749″	001° 19′ 22.253″
212	51° 19′ 0.644″	001° 18′ 39.978″	503	51° 19′ 2.846″	001° 19′ 22.378″
213	51° 19′ 0.607″	001° 18′ 39.789″	504	51° 19′ 2.807″	001° 19′ 22.474″
214	51° 19′ 0.574″	001° 18′ 39.600″	505	51° 19′ 2.757″	001° 19′ 22.424″
215	51° 19′ 0.547″	001° 18′ 39.407″	506	51° 19′ 2.710″	001° 19′ 22.353″
216	51° 19′ 0.523″	001° 18′ 39.220″	507	51° 19′ 2.679″	001° 19′ 22.304″
217	51° 19′ 0.503″	001° 18′ 39.027″	508	51° 19′ 2.651″	001° 19′ 22.261″
218	51° 19′ 0.472″	001° 18′ 38.746″	509	51° 19′ 2.623″	001° 19′ 22.228″
219	51° 19′ 0.450″	001° 18′ 38.491″	510	51° 19′ 2.592″	001° 19′ 22.195″
220	51° 19′ 0.443″	001° 18′ 38.377″	511	51° 19′ 2.566″	001° 19′ 22.172″
221	51° 19′ 0.437″	001° 18′ 38.268″	512	51° 19′ 2.538″	001° 19′ 22.149″
222	51° 19′ 0.426″	001° 18′ 38.081″	513	51° 19′ 2.509″	001° 19′ 22.137″
223	51° 19′ 0.426″	001° 18′ 38.071″	514	51° 19′ 2.458″	001° 19′ 22.108″
224	51° 19′ 0.413″	001° 18′ 37.951″	515	51° 19′ 2.394″	001° 19′ 22.077″
225	51° 19′ 0.407″	001° 18′ 37.837″	516	51° 19′ 2.366″	001° 19′ 22.060″
226	51° 19′ 0.400″	001° 18′ 37.717″	517	51° 19′ 2.337″	001° 19′ 22.047″
227	51° 19′ 0.394″	001° 18′ 37.593″	518	51° 19′ 2.305″	001° 19′ 22.040″
228	51° 19′ 0.395″	001° 18′ 37.345″	519	51° 19′ 2.276″	001° 19′ 22.032″
229	51° 19′ 0.393″	001° 18′ 37.278″	520	51° 19′ 2.250″	001° 19′ 22.036″
230	51° 19′ 0.395″	001° 18′ 37.211″	521	51° 19′ 2.221″	001° 19′ 22.039″
231	51° 19′ 0.394″	001° 18′ 37.138″	522	51° 19′ 2.143″	001° 19′ 22.038″
232	51° 19′ 0.400″	001° 18′ 37.040″	523	51° 19′ 2.065″	001° 19′ 22.043″
233	51° 19′ 0.409″	001° 18′ 36.943″	524	51° 19′ 2.013″	001° 19′ 22.039″
234	51° 19′ 0.415″	001° 18′ 36.840″	525	51° 19′ 1.961″	001° 19′ 22.051″
235	51° 19′ 0.421″	001° 18′ 36.773″	526	51° 19′ 1.912″	001° 19′ 22.084″
236	51° 19′ 0.426″	001° 18′ 36.701″	527	51° 19′ 1.875″	001° 19′ 22.127″
237	51° 19′ 0.428″	001° 18′ 36.634″	528	51° 19′ 1.847″	001° 19′ 22.182″
238	51° 19′ 0.434″	001° 18′ 36.542″	529	51° 19′ 1.823″	001° 19′ 22.242″
239	51° 19′ 0.443″	001° 18′ 36.454″	530	51° 19′ 1.805″	001° 19′ 22.288″
240	51° 19′ 0.448″	001° 18′ 36.362″	531	51° 19′ 1.794″	001° 19′ 22.333″
241	51° 19′ 0.458″	001° 18′ 36.233″	532	51° 19′ 1.771″	001° 19′ 22.487″
242	51° 19′ 0.468″	001° 18′ 36.110″	533	51° 19′ 1.743″	001° 19′ 22.676″
243	51° 19′ 0.479″	001° 18′ 35.982″	534	51° 19′ 1.722″	001° 19′ 23.057″
244	51° 19′ 0.502″	001° 18′ 35.725″	535	51° 19′ 1.596″	001° 19′ 25.347″
245	51° 19′ 0.555″	001° 18′ 35.212″	536	51° 19′ 1.575″	001° 19′ 25.966″
246	51° 19′ 0.616″	001° 18′ 34.669″	537	51° 19′ 1.539″	001° 19′ 26.532″
247	51° 19′ 0.647″	001° 18′ 34.392″	538	51° 19′ 1.510″	001° 19′ 26.995″
248	51° 19′ 0.713″	001° 18′ 33.870″	539	51° 19′ 1.493″	001° 19′ 27.247″
249	51° 19′ 0.351″	001° 18′ 33.740″	540	51° 19′ 1.459″	001° 19′ 27.771″
250	51° 19′ 0.371″	001° 18′ 33.595″	541	51° 19′ 1.433″	001° 19′ 28.100″
251	51° 19′ 0.375″	001° 18′ 33.561″	542	51° 19′ 1.425″	001° 19′ 28.270″
252	51° 19′ 0.728″	001° 18′ 33.700″	543	51° 19′ 1.357″	001° 19′ 28.963″
253	51° 19′ 0.786″	001° 18′ 33.353″	544	51° 19′ 1.318″	001° 19′ 29.409″
254	51° 19′ 0.903″	001° 18′ 32.669″	545	51° 19′ 1.293″	001° 19′ 29.630″
255	51° 19′ 0.945″	001° 18′ 32.414″	546	51° 19′ 1.258″	001° 19′ 29.942″
256	51° 19′ 0.991″	001° 18′ 32.164″	547	51° 19′ 1.248″	001° 19′ 30.045″
257	51° 19′ 1.037″	001° 18′ 31.909″	548	51° 19′ 1.225″	001° 19′ 30.183″
258	51° 19′ 1.083″	001° 18′ 31.659″	549	51° 19′ 1.181″	001° 19′ 30.469″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
259	51° 19′ 1.132″	001° 18′ 31.414″	550	51° 19′ 1.162″	001° 19′ 30.581″
260	51° 19′ 1.164″	001° 18′ 31.254″	551	51° 19′ 1.077″	001° 19′ 31.061″
261	51° 19′ 1.679″	001° 18′ 31.537″	552	51° 19′ 1.019″	001° 19′ 31.393″
262	51° 19′ 1.603″	001° 18′ 31.929″	553	51° 19′ 0.986″	001° 19′ 31.540″
263	51° 19′ 1.557″	001° 18′ 32.194″	554	51° 19′ 0.953″	001° 19′ 31.682″
264	51° 19′ 1.465″	001° 18′ 32.715″	555	51° 19′ 0.916″	001° 19′ 31.830″
265	51° 19′ 1.407″	001° 18′ 33.051″	556	51° 19′ 0.890″	001° 19′ 31.931″
266	51° 19′ 1.345″	001° 18′ 33.393″	557	51° 19′ 0.865″	001° 19′ 32.027″
267	51° 19′ 1.290″	001° 18′ 33.735″	558	51° 19′ 0.836″	001° 19′ 32.124″
268	51° 19′ 1.274″	001° 18′ 33.853″	559	51° 19′ 0.825″	001° 19′ 32.169″
269	51° 19′ 1.254″	001° 18′ 33.971″	560	51° 19′ 0.811″	001° 19′ 32.210″
270	51° 19′ 1.238″	001° 18′ 34.088″	561	51° 19′ 0.800″	001° 19′ 32.250″
271	51° 19′ 1.205″	001° 18′ 34.344″	562	51° 19′ 0.716″	001° 19′ 32.502″
272	51° 19′ 1.152″	001° 18′ 34.857″	563	51° 19′ 0.663″	001° 19′ 32.643″
273	51° 19′ 1.138″	001° 18′ 34.975″	564	51° 19′ 0.603″	001° 19′ 32.799″
274	51° 19′ 1.125″	001° 18′ 35.098″	565	51° 19′ 0.530″	001° 19′ 32.995″
275	51° 19′ 1.115″	001° 18′ 35.216″	566	51° 19′ 0.492″	001° 19′ 33.075″
276	51° 19′ 1.088″	001° 18′ 35.504″	567	51° 19′ 0.405″	001° 19′ 33.276″
277	51° 19′ 1.061″	001° 18′ 35.786″	568	51° 19′ 0.315″	001° 19′ 33.481″
278	51° 19′ 1.036″	001° 18′ 36.073″	569	51° 19′ 0.190″	001° 19′ 33.777″
279	51° 19′ 1.009″	001° 18′ 36.345″	570	51° 19′ 0.119″	001° 19′ 33.911″
280	51° 19′ 0.985″	001° 18′ 36.623″	571	51° 19′ 0.012″	001° 19′ 34.126″
281	51° 19′ 0.971″	001° 18′ 36.896″	572	51° 18′ 59.923″	001° 19′ 34.310″
282	51° 19′ 0.972″	001° 18′ 36.973″	573	51° 18′ 59.861″	001° 19′ 34.420″
283	51° 19′ 0.970″	001° 18′ 37.050″	574	51° 18′ 59.786″	001° 19′ 34.564″
284	51° 19′ 0.971″	001° 18′ 37.128″	575	51° 18′ 59.739″	001° 19′ 34.633″
285	51° 19′ 0.970″	001° 18′ 37.262″	576	51° 18′ 59.667″	001° 19′ 34.752″
286	51° 19′ 0.976″	001° 18′ 37.531″	577	51° 18′ 59.478″	001° 19′ 35.022″
287	51° 19′ 0.978″	001° 18′ 37.671″	578	51° 18′ 59.229″	001° 19′ 35.350″
288	51° 19′ 0.984″	001° 18′ 37.816″	579	51° 18′ 59.076″	001° 19′ 35.558″
289	51° 19′ 0.989″	001° 18′ 37.956″	580	51° 18′ 58.915″	001° 19′ 35.211″
290	51° 19′ 0.990″	001° 18′ 38.153″	581	51° 18′ 58.905″	001° 19′ 35.189″
291	51° 19′ 0.994″	001° 18′ 38.256″			

PART 2

ANCILLARY WORKS

Works, within the Order limits, which have been subject to an environmental impact assessment recorded in the environmental statement, comprising—

(a) temporary landing places, moorings, anchoring or other means of accommodating vessels in the construction and/or maintenance of the authorised development;

(b) buoys, beacons, fenders and other navigational warning or ship impact protection works; and

(c) temporary works for the benefit or protection of land or structures affected by the authorised project.

SCHEDULE 2

Article 2

PLANS

PART 1

ACCESS, RIGHTS OF WAY AND PUBLIC RIGHTS OF NAVIGATION PLANS

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Key Plan 1 of 1 In the district of East Suffolk District Council	DCO/S/KP/SS/0600	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Sheet 1 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0601	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans - Suffolk Regulation 5(2)(k) Sheet 2 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0602	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans - Suffolk Regulation 5(2)(k) Sheet 3 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0603	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans - Suffolk Regulation 5(2)(k) Sheet 4 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0604	C

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Sheet 5 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0605	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Sheet 6 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0606	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Sheet 7 of 7 In the district of East Suffolk District Council	DCO/S/AC/PS/0616	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Plan A In the district of East Suffolk District Council	DCO/S/AC/PS/0607	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Suffolk Regulation 5(2)(k) Plan B In the district of East Suffolk District Council	DCO/S/AC/PS/0608	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Key plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/0609	C

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0610	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0611	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0612	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0613	C
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0614	C

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Access, Rights of Way and Public Rights of Navigation Plans – Kent Regulation 5(2)(k) Sheet 6 of 6 in the districts of Dover District Council and Thanet District Council	DCO/K/AC/PS/0615	C

PART 2

LAND PLANS

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(I)-(iii) Key Plan In the district of East Suffolk District Council	DCO/S/KPA/SS/0100	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 1 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0101	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 2 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0102	G
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 3 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0103	G
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 4 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0104	F

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 5 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0105	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(I)(i)-(iii) Sheet 6 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0106	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(I)(i)-(iii) Sheet 7 of 7 In the district of East Suffolk District Council	DCO/S/LP/PS/0119	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Key plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/0107	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0108	F

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0109	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii)Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0110	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0111	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0112	F
The National Grid (Sea Link) Order PINS application number: EN020026 Land Plans Regulation 5(2)(i)(i)-(iii) Sheet 6 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/LP/PS/0113	F

PART 3

SPECIAL CATEGORY AND CROWN LAND PLANS

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plans - Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Key plan 1 of 1 In the district of East Suffolk District Council	DCO/S/KP/SS/0300	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 1 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0301	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 2 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0302	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 3 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0303	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 4 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0304	D

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan - Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 5 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0305	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Suffolk Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 6 of 6 In the district of East Suffolk District Council	DCO/S/CR/PS/0306	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plans – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Key plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/0307	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/CR/PS/0308	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan - Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/CR/PS/0309	D

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	CHANGEAPP/S/LRP/S/0118	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/CR/PS/0311	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	CHANGEAPP/S/LRP/S/0118	D
The National Grid (Sea Link) Order PINS application number: EN020026 Special Category and Crown Land plan – Kent Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 6 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/CR/PS/0313	D
The National Grid (Sea Link) Order PINS application number: EN020026 Crown Land plans – Offshore Regulation 5(2)(i)(iv) and 5(2)(n) Key plan In the districts of East Suffolk District Council, Dover District Council and Thanet District Council	DCO/M/KP/SS/0314	D

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Crown Land plans – Offshore Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 1 of 3 In the districts of East Suffolk District Council, Dover District Council and Thanet District Council	DCO/M/CR/PS/0315	D
The National Grid (Sea Link) Order PINS application number: EN020026 Crown Land plans – Offshore Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 2 of 3 In the districts of East Suffolk District Council, Dover District Council and Thanet District Council	DCO/M/CR/PS/0316	D
The National Grid (Sea Link) Order PINS application number: EN020026 Crown Land plans – Offshore Regulation 5(2)(i)(iv) and 5(2)(n) Sheet 3 of 3 In the districts of East Suffolk District Council, Dover District Council and Thanet District Council	DCO/M/CR/PS/0317	D

PART 4

TRAFFIC REGULATION ORDER PLANS

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Key Plan 1 of 1 In the district of East Suffolk District Council	DCO/S/KP/SS/0500	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 1 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0501	A ver.2

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 2 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0502	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans - Suffolk Regulation 5(2)(o) Sheet 3 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0503	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 4 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0504	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 5 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0505	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 6 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0506	A ver.2

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Suffolk Regulation 5(2)(o) Sheet 7 of 7 In the district of East Suffolk District Council	DCO/S/TR/PS/0516	A Ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans - Suffolk Regulation 5(2)(o) Plan A In the district of East Suffolk District Council	DCO/S/TR/PS/0507	A Ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans - Suffolk Regulation 5(2)(o) Plan B In the district of East Suffolk District Council	DCO/S/TR/PS/0508	A Ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Key plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/0509	A Ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0510	A

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0511	A
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0512	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0513	A
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0514	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Traffic Regulation Order Plans – Kent Regulation 5(2)(o) Sheet 6 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TR/PS/0515	A

PART 5

TREES AND IMPORTANT HEDGEROWS TO BE REMOVED OR MANAGED PLANS

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Key Plan 1 of 1 In the district of East Suffolk District Council	DCO/S/KP/SS/1100	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 1 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1101	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 2 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1102	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 3 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1103	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 4 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1104	A ver.2

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 5 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1105	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 6 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1106	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Suffolk Regulation 5(2)(o) Sheet 7 of 7 In the district of East Suffolk District Council	DCO/S/TH/PS/1114	A Ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Key plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/1107	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1108	A

Drawing Title	*Drawing Number*	*Revision*
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1109	A
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1110	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1111	A
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1112	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Trees and Important Hedgerows to be Removed or Managed Plans – Kent Regulation 5(2)(o) Sheet 6 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/TH/PS/1113	A

PART 6

WORKS PLANS

Drawing Title	Drawing Number	Revision
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Key Plan 1 of 1 In the district of East Suffolk District Council	DCO/S/KP/SS/0400	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 1 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0401	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 2 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0402	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 3 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0403	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 4 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0404	C

Drawing Title	Drawing Number	Revision
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans -Suffolk Regulation 5(2)(j) Sheet 5 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0405	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 6 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0406	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Suffolk Regulation 5(2)(j) Sheet 7 of 7 In the district of East Suffolk District Council	DCO/S/WK/PS/0418	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Key Plan 1 of 1 In the districts of Dover District Council and Thanet District Council	DCO/K/KP/SS/0407	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 1 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0408	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 2 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0409	C

Drawing Title	Drawing Number	Revision
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 3 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0410	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 4 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0411	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 5 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0412	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Kent Regulation 5(2)(j) Sheet 6 of 6 In the districts of Dover District Council and Thanet District Council	DCO/K/WK/PS/0413	C
The National Grid (Sea Link) Order PINS application number: EN020026 Works plans – Offshore Regulation 5(2)(j) Key Plan 1 of 1 In the districts of East Suffolk District Council, Dover District Council and Thanet District Council	DCO/M/KP/SS/0417	A ver.2

Drawing Title	Drawing Number	Revision
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans - Offshore Regulation 5(2)(j) Sheet 1 of 3 In the district of East Suffolk District Council	DCO/M/WK/PS/0414	A ver.2
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Offshore Regulation 5(2)(j) Sheet 2 of 3	DCO/M/WK/PS/0415	A
The National Grid (Sea Link) Order PINS application number: EN020026 Works Plans – Offshore Regulation 5(2)(j) Sheet 3 of 3 In the districts of Dover District Council and Thanet District Council	DCO/M/WK/PS/0416	A ver.2

SCHEDULE 3

Article 3

REQUIREMENTS

Interpretation

1.—(1) In this Schedule unless the context requires otherwise—

"authorised development" means the development described in Part 1 (authorised development) of Schedule 1 (authorised project) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;

"discharging authority" means the body responsible for giving any consent, agreement or approval required by a requirement included in this Order (as set out in Schedule 20), or further to any document referred to in any requirement, or the local authority in the exercise of functions set out in sections 60 or 61 of the Control of Pollution Act 1974;

"limits of deviation" means the limits of deviation referred to in article 5 (limits of deviation);

"HGV" means lorries over 3.5 tonnes maximum gross weight but excluding abnormal indivisible loads;

"part" means a given geographical section, component or location of the authorised development;

"stage" means a defined stage of the authorised development, the extent of which is shown in a scheme submitted to the relevant planning authority pursuant to Requirement 4 (stages of the authorised development);

"start-up and close down activities" means—

(a) arrival and departure of workforce and staff at site and movement to and from places of work;

(b) general refuelling of plant;

(c) site inspections and safety checks;

(d) site meetings inspections and walkovers;

(e) site clean-up (site housekeeping that does not require the use of plant);

(f) general site maintenance; and

(g) low key maintenance and safety checking of plant and machinery.

(2) Where under any of the Requirements the approval or agreement of the relevant planning authority or the relevant highway authority is required, that approval or agreement must be given in writing.

(3) Where any Requirement requires the authorised development to be carried out in accordance or general accordance with matters including a plan, document, or details approved by the relevant planning authority, those matters are to be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority. Where any requirement provides that the authorised development or any part of it is to be carried out 'substantially in accordance' with details, or a scheme, plan or other document, this means that the undertaker will carry out such work(s) in a way that is substantially consistent with the information set out in those details, schemes, plans or other document or any subsequent version of the details, scheme, plan or document approved under a requirement and (where the purpose is to mitigate effects identified in the Environmental Statement) in a way that achieves their required mitigatory purpose

(4) Where an approval or agreement is required under the terms of any Requirement or a document referred to in a Requirement, or any Requirement specifies "unless otherwise approved" or "unless otherwise agreed" by the relevant highway authority or the relevant planning authority, such approval or agreement may only be given in relation to minor or immaterial changes and where it has been demonstrated to the satisfaction of the relevant highway authority or the relevant planning authority that the subject matter of the approval or agreement sought will not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement

(5) Unless otherwise provided in this Order, where a Requirement relates to a specific site or work and it specifies "commencement of development", it refers to the commencement of development on that site or in relation to that work only.

Time Limits

2.—(1) The authorised development must be commenced within five years of the date of this Order.

(2) If any proceedings are begun to challenge the validity of this Order, the period specified in sub-paragraph (1) is extended by a period equivalent to the period beginning with the day the application to challenge is made and ending on the day it is withdrawn or finally determined.

(3) An application is not finally determined for the purposes of sub-paragraph (2) if any appeal in respect of the application—

(a) could be brought (ignoring any possibility of an appeal out of time with permission), or

(b) has been made and not withdrawn or finally determined.

Detailed Design

3.—(1) Suffolk Converter Station and Suffolk Substation, Kent Converter Station and Kent Substation

(a) No construction of buildings included in Works Nos. 1B, 3B, 9B and 11 (Suffolk converter station, Kent converter station and Kent substation) may commence until details of the design, scale and external appearance of that building has been submitted and approved by the relevant planning authority. The details must be substantially in accordance with the relevant Key Design Principles. Design details for Works No.9B and 11 may only be approved following consultation with Historic England and Dover District Council.

(b) When discharging this requirement, the relevant planning authority must take into account that the undertaker must meet the Critical Design Constraints.

(c) In sub-paragraphs **Error! Reference source not found.** and **Error! Reference source not found.**, the Key Design Principles and Critical Design Constraints mean those set out in the relevant tables in the Design Principles – Suffolk and Design Principles – Kent, certified under article 60 (certification of documents). For avoidance of doubt, in sub-paragraphs 3(1)(a) and 3(1)(b) the construction of buildings does not include the construction of the platform or other elements of the authorised project that are not above finished ground level in the location of the buildings.

(d) In submitting the details set out in paragraph 3(1)(a), a statement must be included confirming that the detailed design has been reviewed by an independent design review panel and describing the actions taken by the undertaker in response to comments received.

(e) The authorised development must be carried out in accordance with the details approved or confirmed by the relevant planning authority.

(2) Bridge over the River Fromus

(a) Development of the bridge crossing of the River Fromus (part of Work No. 3A) must not commence until details of the design, layout, scale and external appearance of the bridge have been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency and Suffolk County Council.

(b) The bridge over the River Fromus should be designed in accordance with the following parameters:

(i) the bridge shall not have a soffit height lower than 10.49 m Above Ordnance Datum (approximately 4m above the Q95 flow level);

(ii) abutments for the bridge shall be set back no less than 8m from the top of the bank; and

(iii) the bridge shall not have a deck width greater than 6m.

(c) The design details submitted under sub-paragraph (a) must be accompanied by a technical statement demonstrating how, recognising the minimum size parameters in sub-paragraph

(b)(i) and (b)(ii), the Applicant has sought to reduce the scale of the bridge and achieve good design in accordance with paragraphs 4.7.1 to 4.7.8 of the Overarching National Policy Statement for Energy (EN-1, 2023). In achieving these aims, the Applicant will have regard to the relationship with the landscape mitigation proposals, the articulation of the spanning structure, the design of the abutment walls, and the design of the parapet railings. The technical statement will include a plan, elevation and section drawings, and 3D renders of the bridge design in key view VP02 and CH02.

(d) Should the bridge design comprise a soffit height of less than 12.49 m Above Ordnance Datum (approximately 6m above the Q95 flow level), then development of the bridge must not commence until a macro invertebrate monitoring and contingency plan has been submitted to and approved by the relevant planning authority, following consultation with the Environment Agency. The invertebrate monitoring and contingency plan must include:

(i) the requirement to carry out Water Framework Directive compliant surveys twice yearly (spring and autumn), upstream and downstream of the Fromus crossing for a period of five years following completion of the construction of the Fromus crossing.

(ii) principles of the contingency monetary fund set out in sub-paragraph (e) and criteria for when provision of the fund would be triggered.

(e) Following receipt and review of the monitoring results under sub-paragraph (d)(i), should the criteria in sub-paragraph (d)(ii) be exceeded, then a contingency fund would be provided to fund measures to encourage the passage of macro invertebrates around the Fromus crossing and/or enhancement of Water Framework Directive invertebrate habitat upstream of the Fromus crossing. This would be secured via an appropriate legal agreement.

(f) The development shall be carried out in accordance with the details approved by the relevant planning authority further to sub-paragraph 3(2)(a).

(3) No operational lighting may be installed as part of Work No. 3B, 9B or 11 until an Operational Lighting Management Plan for that stage of the works has been submitted and approved by the relevant planning authority, which must be substantially in accordance with the outline Operational Lighting Management Plan. The lighting shall be installed and operated in accordance with the approved Operational Lighting Management Plan.

(4) If Work No. 1B is constructed as part of the Authorised Project, an Operational Lighting Management Plan will be submitted and approved by the relevant planning authority prior to the installation of operational lighting at the substation. The lighting shall be installed and operated in accordance with the approved Operational Lighting Management Plan.

Stages of the Authorised Development

4.—(1) Unless otherwise agreed with the relevant planning authority, written notice setting out the anticipated programme for the carrying out of pre-commencement operations must be given to the relevant planning authority no less than 28 days prior to the date on which those pre-commencement operations are first carried out.

(2) The authorised development may not commence until a written scheme setting out all stages of the authorised development has been submitted to the relevant planning authority.

(3) Any revisions to the written scheme referred to in sub-paragraph 4(2) above must be submitted to the relevant planning authority in advance of the commencement of the stage of the authorised development to which the revisions relate.

(4) Written notice of the completion of construction for each stage of the authorised development, and the operational use of that part of the authorised development, must be given to the relevant planning authority within 28 days of the relevant event being completed.

(5) The authorised development must be carried out in accordance with the written scheme submitted further to sub-paragraphs (2) or (3).

Management Plans and Commitments

5.—(1) The authorised development must be carried out in accordance with the management plans, schemes and strategies listed in sub-paragraph (2) below, unless otherwise agreed with the

relevant planning authority or other discharging authority as may be appropriate to the relevant plan, scheme or strategy concerned.

(2) The plans, schemes and strategies referred to in sub-paragraph (1) comprise the following—

(a) Greenhouse Gas Reduction Strategy; and

(b) Register of Environmental Actions and Commitments Section 1 (contained within Chapter 2 of Register of Environmental Actions and Commitments);

(3) For the avoidance of doubt, all pre-commencement operations must be carried out in accordance with the plans listed in sub-paragraph (2), the arboricultural method statement, the outline management plans and drainage strategies listed in paragraph 6(1) below, and the outline overarching written schemes of investigation listed in paragraph 14(1) below unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate to the relevant plan concerned.

Management Plans to be Approved

6.—(1) No stage of the authorised development may commence until, for that stage, the following plans as relevant to that stage have been submitted to and approved by the relevant planning authority or other discharging authority as may be appropriate to the relevant plan, scheme or strategy concerned (in consultation with the relevant district or county council, the Environment Agency in the case of the Onshore Construction Environmental Management Plan, Construction Noise and Vibration Management Plans, the Material and Waste Management Plan, the Landscape and Ecological Management Plans and Drainage Management Plans and in consultation with the statutory nature conservation body in the case of the Landscape and Ecological Management Plans and Drainage Management Plans, and in consultation with the National Trust in relation to the Landscape and Ecological Management Plan - Kent)—

(a) Onshore Construction Environmental Management Plan (which must be substantially in accordance with the Onshore Outline Construction Environmental Management Plan);

(b) Construction Traffic Management and Travel Plan – Suffolk (which must be substantially in accordance with the Outline Construction Traffic Management and Travel Plan – Suffolk and shall include maximum number of heavy goods vehicles and monitoring locations; and details of a process to implement corrective measures if maximum numbers are exceeded, to be agreed with the relevant highway authority);

(c) Construction Traffic Management and Travel Plan – Kent (which must be substantially in accordance with the Outline Construction Traffic Management and Travel Plan – Kent and shall include maximum number of heavy goods vehicles and monitoring locations; and details of a process to implement corrective measures if maximum numbers are exceeded, to be agreed with the relevant highway authority);

(d) Air Quality Management Plan – Suffolk (which must be substantially in accordance with the Outline Air Quality Management Plan – Suffolk);

(e) Air Quality Management Plan – Kent (which must be substantially in accordance with the Outline Air Quality Management Plan – Kent);

(f) Landscape and Ecological Management Plan (LEMP) – Suffolk (which must be substantially in accordance with the Outline LEMP – Suffolk)

(g) Landscape and Ecological Management Plan (LEMP) – Kent (which must be substantially in accordance with the Outline LEMP – Kent);

(h) Construction Noise and Vibration Management Plan (NVMP) – Suffolk (which must be substantially in accordance with the Outline Construction NVMP - Suffolk);

(i) Construction Noise and Vibration Management Plan (NVMP) – Kent (which must be substantially in accordance with the Outline NVMP – Kent);

(j) Public Rights of Way (PRoW) Management Plan – Suffolk (which must be substantially in accordance with the Outline PRoW - Suffolk)

(k) Public Rights of Way (PRoW) Management Plan – Kent (which must be substantially in accordance with the Outline PRoW - Kent);

(l) Soil Management Plan – Suffolk (which must be substantially in accordance with the Outline Soil Management Plan - Suffolk);

(m) Soil Management Plan – Kent (which must be substantially in accordance with the Outline Soil Management Plan - Kent);

(n) Material and Waste Management Plan - Suffolk (which must be substantially in accordance with the Outline Material and Waste Management Plan – Suffolk and such approval to be given in consultation with the Environment Agency);

(o) Material and Waste Management Plan - Suffolk (which must be substantially in accordance with the Outline Material and Waste Management Plan – Kent and such approval to be given in consultation with the Environment Agency);

(p) Drainage Management Plan - Suffolk (which must be substantially in accordance with the Suffolk Drainage Strategy);

(q) Drainage Management Plan – Kent (which must be substantially in accordance with the Kent Drainage Strategy);

(r) Flood Management Plan (FMP); and

(s) Skills, Supply Chain and Employment Plan

(2) The authorised development must be carried out in accordance with the relevant stage of the approved plans, schemes and strategies referred to in sub-paragraph (1) or with any amended plans, schemes or strategies that may subsequently be approved by the relevant planning authority or other discharging authority as may be appropriate to the relevant plan, scheme or strategy concerned unless otherwise agreed with the relevant planning authority or other discharging authority as may be appropriate.

(3) All landscaping must be carried out and maintained in accordance with the Landscape and Ecological Management Plans approved under sub-paragraph (1), and in accordance with the relevant recommendations of appropriate British Standards.

(4) Any tree or shrub planted as part of an approved Landscape and Ecological Management Plans that, within a period of five years after planting, is removed, dies or becomes, in the opinion of the relevant planning authority, seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted unless alternative timing or a different specimen is otherwise approved by the relevant planning authority.

Construction hours

7.—(1) Subject to sub-paragraphs 7(2), 7(3) and 7(4) onshore construction work may only take place between 0700 and 1900 Monday to Friday and between 0700 and 1300 on Saturdays, with no activity on Sundays or bank holidays, except for the operations described in sub-paragraph (4) below or with the prior agreement of the relevant planning authority.

(2) Percussive piling works are limited to 0700 to 1900 Monday to Friday and 0700 to 1300 on Saturdays and may not occur on Sundays or Bank Holidays, unless otherwise approved by the relevant planning authority.

(3) Subject to sub-paragraph (4), HGV deliveries are limited to 0700 to 1900 Monday to Friday and 0700 to 1300 on Saturdays and may not occur on Sundays or Bank Holidays, unless otherwise approved by the relevant highway authority.

(4) The following operations may take place outside the core working hours referred to in sub-paragraph (1)—

(a) trenchless crossing operations including at landfalls and beneath highways, railway lines, woodlands, nature reserves, Sites of Special Scientific Interest or watercourses;

(b) the installation and removal of conductors, pilot wires and associated protective netting across highways, railway lines or watercourses;

(c) the jointing of underground cables;

(d) the continuation of any work activity commenced during the core working hours to a point where they can securely and or safely be paused;

(e) delivery to the transmission works of abnormal loads and any highway works provided that they have been requested by the highway authority to be undertaken outside the core working hours;

(f) the testing or commissioning of any electrical plant installed as part of the authorised development including undertaking of any identified corrective activities;

(g) the completion of works delayed or held up by severe weather conditions which disrupted or interrupted normal construction activities;

(h) activity necessary in the instance of an emergency where there is a risk to persons or property;

(i) marine works (all works below the mean high water springs line);

(j) security monitoring;

(k) intrusive and non-intrusive surveys;

(l) mechanical and electrical installation works within buildings once erected and enclosed;

(m) any highway works requested by the highway authority to be undertaken outside the core working hours; and

(n) any railway works to be undertaken as part of the project on a Saturday, Sunday, Bank Holiday or outside the core working hours.

(5) The core working hours referred to in sub-paragraph (1) exclude start-up and close down activities up to 1 hour either side of the core working hours. A 50dBA noise limit will apply at the nearest noise-sensitive receptor for start-up and close down activities.

(6) The severe weather conditions referred to in sub-paragraph (4)(g) means any weather which prevents work from taking place during the core working hours referred to in sub-paragraph (1) and, as the case may be, the hours referred to in sub-paragraph (3) by reason of physical incapacity (whether for reasons of visibility, ground conditions, power availability, site access, wind or otherwise) or being contrary to safe working practices.

Retention and protection of existing trees and hedgerows

8.—(1) No stage of the authorised development may commence until, for that stage, an Arboricultural Method Statement identifying the trees, groups of trees and hedgerows to be retained during that stage has been submitted to and approved by the relevant planning authority.

(2) The Statement referred to in sub-paragraph (1) must include—

(a) a schedule of all proposed tree and hedgerow removal and management;

(b) specification for temporary physical protection including clearly defined root protection areas to prevent damage / compaction of roots by machinery; and

(c) details of an auditable system of compliance.

(3) The relevant works in proximity to the protected tree or hedgerow must not commence until the approved protection measures referred to in sub-paragraph (2) are in place, and they must thereafter be maintained during the construction of the relevant stage of the authorised development.

(4) The authorised development must proceed in accordance with the Statement referred to in sub-paragraph 8(1) unless otherwise approved by the relevant planning authority.

Reinstatement schemes

9.—(1) Subject to sub-paragraph 9(2), any land within the Order limits which is used temporarily for construction is to be reinstated to a condition suitable for its former use, or such condition as the relevant planning authority may approve, within 12 months of completion of the construction of the stage of authorised development for which it was required, or such further time as may be approved by the relevant planning authority.

(2) The requirement to reinstate the land to a condition suitable for its former use is subject to the provisions of article 27 (temporary use of land for carrying out the authorised project).

Unsuspected contamination

10.—(1) In the event that contaminated land, including groundwater, is found at any time when carrying out the authorised development including any pre-commencement operations, which was not previously identified in the environmental statement, then no further development (unless otherwise approved in writing by the relevant authorities) shall be carried out within the identifiable perimeters of the area in which the suspected contamination is located. It must be reported as soon as reasonably practicable to the relevant planning authority, and where necessary, the Environment Agency, and the undertaker must complete a risk assessment of the contamination in consultation with the relevant planning authority, and where necessary, the Environment Agency.

(2) Where the undertaker determines that remediation of the contaminated land is necessary, a written scheme and programme for the remedial measures to be taken to render the land fit for its intended purpose must be submitted to and approved in writing by the relevant planning authority, following consultation with the Environment Agency.

(3) Remediation must be carried out in accordance with the approved scheme under sub-paragraph (2).

(4) Following the implementation of the remediation strategy approved under sub-paragraph (2), a verification report, based on the data collected as part of the remediation strategy and demonstrating the completion of the remediation measures must be produced and supplied to the relevant planning authority and the Environment Agency.

Removal of temporary bridges and culverts

11.—(1) Any temporary bridge or culvert required in connection with a part of the authorised development must be removed within eighteen months of that part of the authorised development being first brought into operational use, or such further time as may be approved by the relevant planning authority.

Highway works

12.—(1) No work to construct, alter or temporarily alter any new or existing means of access to a highway to be used by vehicular traffic may commence until written details of design, layout and reinstatement of that means of access has been submitted to and approved by the relevant highway authority.

(2) The highway accesses must be constructed and reinstated in accordance with the details approved under sub-paragraph (1).

(3) For the avoidance of doubt, all pre-commencement operations involving the construction or alteration of temporary accesses must be carried out in accordance with sub-paragraphs (1) and (2) unless otherwise agreed with the relevant highway authority.

Decommissioning

13.—(1) Excluding that part of the authorised development comprised in the licensed marine activities authorised pursuant to Schedule 16 (deemed marine licence), in the event that, at some future date, the authorised development, or part of it, is to be decommissioned, a written scheme of decommissioning must be submitted for approval by the relevant planning authority, in consultation with the Environment Agency, at least six months prior to any decommissioning works.

(2) The approved scheme must be implemented as approved as part of the decommissioning of the authorised development or relevant part of it.

(3) This requirement does not apply to the part of the authorised development and associated development described in Schedule 1 (authorised project) which relates to the dismantling and removal of existing infrastructure or apparatus.

Archaeology

14.—(1) The authorised development must be undertaken in accordance with the following documents as relevant to the location of the works unless otherwise agreed with the relevant planning authority:

(a) Outline Onshore Overarching Written Scheme of Investigation – Suffolk for onshore works within the county of Suffolk; and

(b) Outline Onshore Overarching Written Scheme of Investigation – Kent for onshore works within the county of Kent.

(2) No stage of the authorised development may commence, including any pre-commencement operations that involve intrusive groundworks which for the avoidance of doubt, includes any vegetation removal, where this removal includes intrusive groundworks until for that stage either a preservation in situ Historic Environment Management Plan or a site-specific written scheme of investigation (which accords with the relevant Overarching Written Scheme of Investigation and is informed by the pre-commencement archaeological surveys) has been submitted to and approved by the relevant planning authority, in consultation with Historic England.

(3) Site-specific written schemes of investigation must be in accordance with the outline written scheme of investigation and must identify areas where archaeological works are required and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found and must include—

(a) an assessment of significance and research questions;

(b) the programme of methodology of site investigation and reporting;

(c) the programme for post-investigation assessment;

(d) proposals for providing for the analysis of site investigation and recording;

(e) proposals for providing archive deposition of the analysis and records of the site investigation;

(f) nomination of a competent person or persons/organisation to undertake the works set out within the detailed written scheme of investigation; and

(g) an implementation timetable.

(4) All archaeological works, including any pre-commencement operations that involve intrusive groundworks which for the avoidance of doubt, includes any vegetation removal, where this removal includes intrusive groundworks must be carried out in accordance with the approved site-specific written scheme of investigation for that stage.

(5) Unless otherwise agreed with the relevant planning authority:

(a) No later than two years following the completion of the fieldwork specified in each site-specific written scheme of investigation, a site-specific post excavation assessment for that site must be completed in accordance with the Overarching Archaeological Written Scheme of Investigation and submitted to the relevant planning authority for approval;

(b) No later than one year following the approval of the final site-specific post excavation assessment, an archaeological updated project design for all sites, must be submitted to the relevant planning authority for approval. The archaeological updated project design must be produced in general accordance with the Overarching Archaeological Written Scheme of Investigation, include details of the scope of post-excavation analysis and publication and have regard to the site-specific research agendas set out in the site-specific written schemes of investigation;

(c) Post-excavation analysis and publication must be carried out in accordance with the approved archaeological updated project design;

(d) The full archaeological archive must be submitted to the relevant planning authority in accordance with the archaeological updated project design.

Restriction on carrying out works when consented in another order

15.—(1) Where any part of the substation comprised within Work No.1B has been commenced pursuant to another development consent order, that substation must not be constructed under this Order, save where alterations to that substation are required for the purposes of the Authorised Project.

(2) The undertaker must give not less than 28 days' notice to the relevant planning authority of the proposed commencement of either –

(a) any part of the substation, where such commencement is proposed under this Order; or

(b) any alteration to the substation, where it has been constructed under another development consent order.

(3) Any notice given under paragraph (2)(a) must include a declaration that the substation has not been commenced pursuant to another development consent order.

Trenchless Landfall Techniques

16.—(1) In respect of installation of the landfall aspects of Work No.6, trenchless techniques shall be utilised between the onshore transition joint bay and the entry/exit pits.

(2) No entry/exit to trenchless landfall techniques must occur within 105m of saltmarsh habitat within Pegwell Bay.

(3) The temporary working area will be located at a minimum distance of 50m from the edge of the saltmarsh habitat within Pegwell Bay.

(4) No entry/exit to trenchless landfall techniques must occur within 50m of MLWS at Leiston to Aldeburgh SSSI.

(5) Exit or entry to trenchless landfall techniques must occur at least 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical note.

(6) Pneumatic casing installation shall not be used below MHWS unless otherwise agreed in writing with the MMO, following provision of appropriate underwater noise assessment and agreement of any relevant mitigation proposals.

(7) No open-cut trenching will be permitted for the repair and maintenance of cables installed by trenchless techniques between the onshore transition joint bay and the entry/exit pits unless otherwise approved by the relevant planning authority in consultation with the statutory nature conservation body.

Depth Protection

17.—(1) Subject to paragraph (2) below, any part of Work No.6, including any associated development or ancillary works, located within the Areas of Safeguarded Water Depth must be designed, installed, operated and maintained at a level which would not preclude or impede the dredging of those parts of the Areas of Safeguarded Water Depth to the following depths—

(a) "Sunk Pilot Boarding Area" to a level of 22 metres below Chart Datum;

(b) "Long Sand Head Two-Way Route Crossing Area" to a level of 12.5 metres below Chart Datum;

(c) "North East Spit Area" to a level of 12.5 metres below Chart Datum,

and in each case allowance shall be made for an 'over-dredge' tolerance of 0.5 metres in addition to the stated depths attributable to standard dredging methodology.

(2) In relation to any part of Work No.6 in the North East Spit Area, including any associated development or ancillary works, the depth protection required under sub-paragraph (1)(c), including the 0.5 metre over-dredge allowance, is to be preserved following the crossing of Work No.6 and the GridLink Interconnector Project cable(s) —

(a) by installing Work No.6 at a depth that provides sufficient vertical clearance for the GridLink Interconnector Project cable(s) to be laid over it without compromising the depth protection required by sub-paragraph (1)(c); and

(b) no part of Work No.6, including any associated development or ancillary works, is to be installed within the Sea Link exclusion area as shown on the Areas of Safeguarded Water Depth Plan.

Control of Operational Noise

18.—(1) No part of Work Nos. 1B, 3B, 9B and 11 shall come into operation until an operational noise assessment has been submitted to and approved in writing by the relevant planning authority. The assessment shall—

(a) be based on the final specification and layout of plant and equipment;

(b) demonstrate compliance with the rating levels set out in sub paragraph (3); and

(c) identify any mitigation measures required to achieve compliance.

(2) The development shall be operated in accordance with the approved assessment and any mitigation measures therein, which shall be implemented prior to operation and maintained for the lifetime of the development.

(3) The rating level (L_{Ar}) of noise from the normal operation of the authorised development shall not exceed—

(a) 34 dB L_{Ar} for any fifteen-minute period between 23:00 and 07:00; and

(b) 34 dB L_{Ar} for any one-hour period between 07:00 and 23:00, determined one metre free field external to any window or door of any existing permanent residential premises using the definitions and methods described in BS4142:2014+A1:2019.

(4) In the event that substantiated noise complaints are received following commencement of operation, the operator shall, upon request, submit a noise impact assessment to the relevant planning authority for approval. The assessment shall—

(a) Include attended measurements at or near the affected receptor(s);

(b) Include comparison with predicted noise levels and BS4142 assessment;

(c) Identify whether the operational noise is resulting in adverse impacts; and

(d) Where necessary, include details of mitigation measures and a timetable for implementation.

(5) Any approved mitigation shall be implemented in accordance with the agreed timetable and shall remain in place for the lifetime of the development.

Emergency Planning

19.—(1) No part of the relevant works may commence until the Suffolk Resilience Forum Radiation Emergency Plan has been reviewed to account for the relevant works or part thereof and reissued in accordance with the relevant Radiation Emergency Preparedness Regulations. The reissued Plan must include measures to—

(a) protect all members of the workforce engaged in any activity, work, or operation pursuant to any part of the authorised project, during a radiation emergency.

(b) minimise any interference, delay or hinderance arising from activities undertaken pursuant to the authorised project to the implementation of the Suffolk Resilience Forum Radiation Emergency Plan during a radiation emergency; and

(c) engage in bi-annual review of the Suffolk Resilience Radiation Emergency Plan with the Duty Holder following the reissuing of the Plan pursuant to sub-paragraph (1).

(2) Emergency planning arrangements specified within the Suffolk Resilience Forum Radiation Emergency Plan in respect of the relevant works must be implemented in relation to the relevant part of the relevant works, unless otherwise agreed with Suffolk County Council after consultation with the Sizewell Emergency Planning Consultative Committee and Suffolk Resilience Forum and, as appropriate, the Office for Nuclear Regulation.

(3) For the purposes of this requirement—

(a) "the relevant works" means—

(i) the onshore preparation works;

(ii) the Suffolk onshore works; and

(iii) to the extent that they are within the Sizewell B Outline Emergency Planning Zone, the offshore works; and

(b) "the relevant Radiation Emergency Preparedness Regulations" means the Radiation (Emergency Preparedness and Public Information) Regulations 2019;

(c) "the relevant Sizewell B Outline Emergency Planning Zone" means the Sizewell Outline Emergency Planning Zone detailed within the Suffolk Resilience Forum Radiation Emergency Plan; and

(d) "the Duty Holder" means "the Duty Holder" as defined within the Radiation (Emergency Preparedness and Public Information) Regulations 2019(a) as amended from time to time.

Reinstatement planting plan

20.—(1) Unless otherwise agreed with the relevant planning authority, no stage of the authorised development may be brought into operational use until, for that stage, a reinstatement planting plan for trees, groups of trees, woodlands and hedgerows to be reinstated during that stage has been submitted to and approved by the relevant planning authority.

(2) The reinstatement planting plan submitted under sub-paragraph (1) must include a schedule of trees, hedgerows or other plants or seedlings to be planted, noting numbers, species, sizes and planting density of any proposed planting or seedlings.

(3) The reinstatement planting plan submitted under sub-paragraph (1) must be in general accordance with the outline landscape and ecological management plan (or the final landscape and ecological management plan if approved pursuant to requirement 6). Reinstatement planting plan– implementation, compliance and replacement planting.

(4) Unless otherwise agreed with the relevant planning authority, all reinstatement planting works must be implemented at the earliest opportunity and no later than by the first available planting season after that part of the authorised development to which the reinstatement planting works apply is first brought into operational use.

(5) All reinstatement planting works must be carried out in accordance with the relevant reinstatement planting plan for that stage of the authorised development, unless otherwise approved by the relevant planning authority.

(6) All reinstatement planting works must be implemented, monitored and maintained in accordance with the 'Establishment Maintenance' prescriptions of the landscape and ecological management plan approved pursuant to requirement 6.

(7) Any trees or hedgerows planted as part of an approved reinstatement planting plan that, at any time within a period of five years after planting are removed, die or become in the opinion of the relevant planning authority seriously damaged or diseased, must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.

Mitigation of Intra Project Cumulative Effects

21.—(1) Prior to commencement of development, once detailed design is complete and detailed construction and programme information is available, the undertaker commits to undertaking a review of the intra-project cumulative effects assessment submitted with the application (as amended during the Examination) to be submitted to and agreed with the relevant planning authorities, to consider:

(a) if the significant intra-project cumulative effects are still considered likely to occur;

(b) if they are still considered likely to occur, what additional appropriate mitigation measures may be applied to reduce their significance;

(c) if no such mitigation measures are available, what additional appropriate offsetting measures may be applied following the mitigation hierarchy; and

(d) any such mitigation or offsetting measures must be agreed with the relevant local authorities, including a timetable for their implementation, and once agreed shall be implemented n accordance with the terms of such timetable.

(2) Measures considered in 19(1) would be those that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects.

Access to Pegwell Bay

22.—(1) Access to Pegwell Bay must be constructed in accordance with the following principles:

(a) vehicles and machinery must not directly traverse the edge of the concrete skirt. Access shall be via engineered ramps or temporary bridging structures designed to distribute weight and prevent direct contact with the skirt. Structures must be constructed from non-

contaminating materials (e.g. geotextile-reinforced matting) and approved by an independent structural engineer prior to use;

(b) the hoverport area and all access points must be pre-assessed via non-invasive surveys to identify weak zones;

(c) vehicle movements shall be limited to designated structurally sound pathways within the apron, avoiding proximity to the bay edge by at least 5 meters unless bridged;

(d) all entry/exit points must incorporate wheel-wash facilities (non-toxic to marine environment and aquatic organisms) or decontamination zones to prevent tracking of materials from the pad into the bay.

(2) Prior to construction works that require vehicles to traverse the hoverport structure at Pegwell Bay, a report shall be submitted to the relevant planning authority for approval in consultation with the Environment Agency and the statutory nature conservation body setting out:

(a) the results of surveys carried out to include baseline surveys of the concrete skirt integrity, subsurface materials, and bay sediments;

(b) proposals for vehicle routing taking account of the surveys above and any relevant ecological surveys, particularly showing the extent of the saltmarsh habitat;

(c) a monitoring program to monitor the condition of the hoverport during construction. The monitoring program shall include details of the inspection frequency (which shall be at least monthly), techniques and sampling methods and trigger levels for action.

(3) Where the trigger levels referred to in 22(2)(c) demonstrate that action is necessary to contain contaminated materials, the applicant shall cease activities that are causing release of contaminating materials and submit proposals for remediation to the Environment Agency, in consultation with the SNCB and the relevant planning authority. The works shall be implemented as approved.

SCHEDULE 4

Article 545

DISCHARGE OF REQUIREMENTS

Applications made under Requirements

1.—(1)Where an application has been made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), the relevant authority must give notice to the undertaker of its decision on the application within a period of 56 days beginning with—

(a) where no further information is requested under paragraph 2, the day immediately following that on which the application is received by the authority;

(b) where further information is requested under paragraph 2, the day immediately following that on which further information has been supplied by the undertaker; or

(c) such longer period as may be agreed in writing by the undertaker and the relevant authority.

(2) Subject to sub-paragraph (3), in the event that the relevant authority does not determine an application within the period set out in sub-paragraph 1, the relevant authority is taken to have granted all parts of the application (without any condition or qualification) at the end of that period.

(3) Where—

(a) an application has been made to the relevant authority for any consent, agreement or approval required by a Requirement included in this Order;

(b) the relevant authority does not determine such application within the period set out in sub-paragraph 1; and

(c) the application is accompanied by a report that considers it likely that the subject matter of the application is to give rise to any materially new or materially different environmental effects in comparison with those reported in the environmental statement,

then the application is taken to have been refused by the relevant authority at the end of that period.

Further information

2.—(1) Where an application has been made under paragraph 1 the relevant authority may request such reasonable further information from the undertaker as it considers is necessary to enable it to consider the application.

(2) If the relevant authority considers further information is necessary and the Requirement does not specify that consultation with a Requirement consultee is required, the relevant authority must, within 7 days of receipt of the application, notify the undertaker in writing specifying the further information required.

(3) If the Requirement specifies that consultation with a Requirement consultee is required, the relevant authority must issue the consultation to the Requirement consultee within 5 days of receipt of the application and must notify the undertaker in writing specifying any further information requested by the Requirement consultee within 5 days of receipt of such a request and in any event within 21 days of receipt of the application.

(4) If the relevant authority does not give the notification mentioned in sub-paragraphs (2) or (3) it is deemed to have sufficient information to consider the application and is not thereafter entitled to request further information without the prior agreement of the undertaker.

(5) Where further information is requested under this paragraph in relation to part only of an application, that part is treated as separate from the remainder of the application for the purposes of calculating the time periods referred to in paragraph 1 and in this paragraph.

Fees

3.—(1) Where an application is made to a relevant authority for any consent, agreement or approval required by a Requirement (including consent, agreement or approval in respect of part of a Requirement), other than when the relevant authority is the DESNZ unit, a fee must be paid to the relevant authority as follows—

(a) such fee as may be prescribed (under sections 303 and 333(2A) of the 1990 Act for the discharge of conditions attached to a planning permission); or

(b) a fee of £145 per request.

Appeals

4.—(1) The undertaker may appeal if—

(a) the relevant authority refuses an application for—

(i) any consent, agreement or approval required by a Requirement or any document referred to in any Requirement; or

(ii) any other consent, agreement or approval required under this Order,

or grants it subject to conditions to which the undertaker objects;

or does not determine such an application within the time period set out;

(b) having received a request for further information under paragraph 1(3) the undertaker considers that either the whole or part of the specified information requested by the relevant authority is not necessary for consideration of the application; or

(c) having received any further information requested, the relevant authority notifies the undertaker that the information provided is inadequate and requests additional information which the undertaker considers is not necessary for consideration of the application.

(2) The procedure for appeals is as follows –

(a) the undertaker must submit to the Secretary of State a copy of the application submitted to the relevant authority and any supporting documents which the undertaker may wish to provide ("the appeal documents");

(b) the undertaker must on the same day provide copies of the appeal documents to the relevant authority and the Requirement consultee (if applicable);

(c) as soon as is practicable after receiving the appeals documents the Secretary of State must appoint a person to determine the appeal ("the appointed person") and notify the appeal parties of the identity of the appointed person and the address to which all correspondence for the appointed person must be sent;

(d) the relevant authority and the Requirement consultee (if applicable) may submit any written representations in respect of the appeal to the appointed person within 14 days beginning with the first day immediately following the date on which the appeal parties are notified of the appointment of the appointed person and must ensure that copies of their written representations are sent to each other and to the undertaker on the day on which they are submitted to the appointed person;

(e) the appeal parties may make any counter-submissions to the appointed person within 14 days beginning with the first day immediately following the date of receipt of written representations pursuant to sub-paragraph (d) above; and

(f) the appointed person must make a decision and notify it to the appeal parties, with reasons, as soon as reasonably practicable.

(3) If the appointed person considers that further information is necessary to consider the appeal, the appointed person must as soon as practicable notify the appeal parties in writing specifying the further information required, the appeal party from whom the information is sought, and the date by which the information must be submitted.

(4) Any further information required pursuant to sub-paragraph (3) must be provided by the party from whom the information is sought to the appointed person and to the other appeal parties by the date specified by the appointed person.

(5) The appeal parties may submit written representations to the appointed person concerning matters contained in the further information.

(6) Any such representations must be submitted to the appointed person and made available to all appeal parties within 14 days of the date mentioned in sub-paragraph (3).

Outcomes of appeals

5.—(1) On an appeal under paragraph (4), the appointed person may—

(a) allow or dismiss the appeal; or

(b) reverse or vary any part of the decision of the relevant authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to the appointed person in the first instance.

(2) The appointed person may proceed to a decision on an appeal taking into account only such written representations as have been sent within the time limits prescribed or set by the appointed person under this paragraph.

(3) The appointed person may proceed to a decision even though no written representations have been made within those time limits if it appears to the appointed person that there is sufficient material to enable a decision to be made on the merits of the case.

(4) The decision of the appointed person on an appeal is final and binding on the parties, and a court may entertain proceedings for questioning the decision only if the proceedings are brought by a claim for judicial review.

(5) Any consent, agreement or approval given by the appointed person pursuant to this Schedule is deemed to be an approval for the purpose of Schedule 3 (Requirements) as if it had been given by the relevant authority.

(6) The relevant authority may confirm any determination given by the appointed person in identical form in writing but a failure to give such confirmation (or a failure to give it in identical form) does not affect or invalidate the effect of the appointed person's determination.

(7) Except where a direction is given pursuant to sub-paragraph (8) requiring the costs of the appointed person to be paid by the relevant authority, the reasonable costs of the appointed person must be met by the undertaker.

(8) On application by the relevant authority or the undertaker, the appointed person may give directions as to the costs of the appeal parties and as to the parties by whom the costs of the appeal are to be paid.

(9) In considering whether to make any such direction as to the costs of the appeal parties and the terms on which it is made, the appointed person must have regard to the Planning Practice Guidance published by the Department for Communities and Local Government or any circular or guidance which may from time to time replace it.

Interpretation of Schedule 4

6. In this Schedule—

"the appeal parties" means the relevant authority, the Requirement consultee and the undertaker;

"relevant authority" means the body responsible for giving any consent, agreement or approval under this schedule or relevant owner of a watercourse, sewer or drain as may be appropriate to the consent, agreement or approval sought; and

"requirement consultee" means any body named in a Requirement which is the subject of an appeal as a body to be consulted by the relevant authority in discharging that Requirement.

SCHEDULE 5

Article 11

STREETS SUBJECT TO STREET WORKS

(1) *Authority*	*(2)* *Streets subject to works*	*(3)* *Plan Reference*
Suffolk County Council	Thorpe Road	Sheet 6 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
	Leiston Road	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
	Aldeburgh Road (A1094)	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
	Snape Road	Sheet 3 and 4 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	Grove Road	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	School Road	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	Saxmundham Road	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	Kiln Lane	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	Redbarn Lane	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	B1119	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	The Street (B1121)	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans- Suffolk
	Church Hill (B1119)	Sheet 1 of Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
	Main Road (B1121)	Sheet 1 and sheet 7of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Kent County Council	Sandwich Road	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Ramsgate Road	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Cottington Road	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent

(1) *Authority*	*(2)* *Streets subject to works*	*(3)* *Plan Reference*
	Cottington Lane	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Ebbsfleet Lane	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	A256	Sheet 3 and 1 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Ebbsfleet Lane North	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Brook Lane	Sheet 3 and sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Jutes Lane	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Marsh Farm Road	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
	Whitehouse Drove	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent

SCHEDULE 6

Article 14

STREETS SUBJECT TO ALTERATION OF LAYOUT

PART 1

STREETS SUBJECT TO PERMANENT ALTERATION OF LAYOUT

Suffolk County Council

(1) *Street Subject to alteration of layout*	*(2)* *Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*
Saxmundham Road	At access point S-AP-12 a permanent bellmouth will be created (as shown on Suffolk Sheet 2) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.
B1121 (Main Road)	At access point S-AP-14 a permanent bellmouth will be created (as shown on Suffolk Sheet 1) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.
B1119	At access points S-MAP-4 and S-MAP-5 permanent bellmouths will be created (as shown on Suffolk Sheet 1) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required for each bellmouth.
Aldeburgh Road (A1094)	At access point S-EAP-1 a permanent bellmouth will be created improving the existing agricultural access (as shown on Suffolk Sheet 4) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.

Kent County Council

(1) *Street Subject to alteration of layout*	*(2)* *Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*
A256	At access points K-AP-5 and K-EAP-1 permanent bellmouths will be created (as shown on Kent Sheet 3 and Sheet 6) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.
Ebbsfleet Lane (North)	The permanent bellmouth to be installed at access point K-AP-5 that will cross Ebbsfleet

(1) *Street Subject to alteration of layout*	*(2)* *Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*
	Lane (North) and block access to an informal turning head at the end of the lane. A new turning head is proposed further north allowing vehicles to turn at the dead end.

PART 2

STREETS SUBJECT TO TEMPORARY ALTERATION OF LAYOUT

Suffolk County Council

(1) *Street Subject to alteration of layout*	*(2)* *Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans*
Leiston Road	At access point S-AP-2 and S-AP-3 temporary bellmouths will be created (as shown on Suffolk Sheet 5) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.
Snape Road	At access point S-AP-5 and S-AP-6 temporary bellmouths will be created (as shown on Suffolk Sheet 3) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.
Grove Road	At access point S-AP-8 and S-AP-9 temporary bellmouths will be created (as shown on Suffolk Sheet 2) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.

Kent County Council

(1) *Street Subject to alteration of layout*	*(2)* *Description of alteration of layout as shown on the Access, Rights of Way and Public Rights of Navigation Plans*
Ebbsfleet Lane South	At access point K-AP-4 a temporary bellmouth will be created (as shown on Kent Sheet 4) to enable access/egress. This will comprise of the installation of a new road surface, white lining, kerbing and a suitable drainage system, where required.

SCHEDULE 7

Article 16

STREETS OR PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP

PART 1

STREETS OR PUBLIC RIGHTS OF WAY TO BE PERMANENTLY STOPPED UP FOR WHICH A DIVERSION IS TO BE PROVIDED

(1) *Area*	*(2)* *Street or public right of way to be permanently stopped up*	*(3)* *Extent of permanent stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans*	*(4)* *New street or public right of way to be substituted as shown on the Access, Rights of Way and Public Rights of Navigation Plans*
Suffolk County Council	PRoW - Route 6 E-354/006/0	Between points S/PR/CP/03 and S/PR/CP/04 as shown on Suffolk Sheet 2	From S/PR/CP/03, east then south to S/PR/D/05, south then south west to S/PR/D/06, south west using existing PRoW E-354/007/0 to S/PR/D/07, north west to S/PR/CP/04 as shown on Suffolk Sheet 2
	PRoW - Route 5 E-491/005/0	Between points S/PR/CP/02 and S/PR/CP/01 as shown on Suffolk Sheet 1	Eastern and western diversions to be provided: From S/PR/CP/02, south to S/PR/D/03, north east to S/PR/0060.1/b, west to S/PR/CP/01 as shown on Suffolk Sheet 1 From S/PR/CP/02, west then north to S/PR/D/02, east to S/PR/CP/01 as shown on Suffolk Sheet 1
Kent County Council	Ebbsfleet Lane (North)	Between points K/RO/0027.4/a and K/RO/0027.4/b as shown on Kent Sheet 3	Existing turning head to be removed and replaced with a new turning head to the north of access point K-AP-5 as shown on Kent Sheet 3
	Cycle way and footway adjacent to Richborough Way	Between points K/CY/0027.1/a and K/CY/0027.1/b as shown on Kent Sheet 3	Between points K/CY/0027.1/a and K/CY/0027.1/b via the diversion line as

(1) *Area*	*(2)* *Street or public right of way to be permanently stopped up*	*(3)* *Extent of permanent stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans*	*(4)* *New street or public right of way to be substituted as shown on the Access, Rights of Way and Public Rights of Navigation Plans*
			shown on Kent Sheet 3

SCHEDULE 8

Article 15

STREETS, PUBLIC RIGHTS OF WAY AND PERMISSIVE PATHS TO BE TEMPORARILY CLOSED

PART 1

STREETS OR PUBLIC RIGHTS OF WAY TO BE TEMPORARILY CLOSED FOR WHICH A DIVERSION IS TO BE PROVIDED

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*
Suffolk County Council	PRoW – Route 16 E-103/016/0	Between points S/PR/0019/a and S/PR/0019/b as shown on Sheet 5	Between points S/PR/0019/a and S/PR/0019/b via diversion line as shown on Sheet 5
	PRoW - Route 13A E-260/013/A	Between points S/PR/0022/a and S/PR/0022/b as shown on Sheet 4	Between points S/PR/0022/a and S/PR/0022/b via diversion line as shown on Sheet 4
	PRoW - Route 13A E-260/013/A	Between points S/PR/0025/a and S/PR/0025/b as shown on Sheet 4	Between points S/PR/0025/a and S/PR/0025/b via diversion line as shown on Sheet 4
	PRoW - Route 12A E-206/012/A	Between points S/PR/0026/a and S/PR/0026/b as shown on Sheet 4	Between points S/PR/0026/a and S/PR/0026/b via diversion line as shown on Sheet 4
	B1069 Snape Road	Between points S/RO/0032/a and S/RO/0032/b as shown on Plan B	From S/RO/0032/a, east along Aldeburgh Road to S/RO/D/07, north along Leiston Road to S/RO/0017/a, west along
	B1122 Leiston Road	Between points S/RO/0017/a and S/RO/0017/b as shown on Plan B	From S/RO/0017/a, west along Aldringham Lane to S/RO/D/06, south west along Snape Road to S/RO/D/04, east along Aldeburgh Road to S/RO/D/07, north along Leiston

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*
			Road to S/RO/0017/b as shown on Plan B
	PRoW - Route 2 E-354/002/0	Between points S/PR/0034/a and S/PR/0034/b as shown on Sheet 2 and Sheet 3	Between points S/PR/0034/a and S/PR/0034/b via diversion line as shown on Sheet 2 and Sheet 3
	PRoW - Route 1 E-354/001/0	Between points S/PR/0035.3/a and S/PR/0035.3/b as shown on Sheet 3	Between points S/PR/0035.3/a and S/PR/0035.3/b via diversion line as shown on Sheet 3
	PRoW - Route 18 E-354/018/0	Between points S/PR/0035.4/a and S/PR/0035.4/b as shown on Sheet 3	Between points S/PR/0035.4/a and S/PR/0035.4/b via diversion line as shown on Sheet 3
	PRoW - Route 7A E-354/007/A	Between points S/PR/0038/a and S/PR/0038/b as shown on Sheet 2 and Sheet 3	Between points S/PR/0038/a and S/PR/0038/b via diversion line as shown on Sheet 2 and Sheet 3
	Grove Road	Between points S/RO/0039/a and S/RO/0039/b as shown on Plan A and Plan B	From S/RO/0039/a, west along Church Road to S/RO/D/03, south east along B1121 and A1094 to S/RO/D/04, north east along Snape Road to S/RO/D/05, north west along School Road to S/RO/0039/b as shown on Plan A and Plan B
	PRoW - Route 17 E-260/017/0	Between points S/PR/0053/a and S/PR/0053/b as shown on Sheet 1 and Sheet 2	Between points S/PR/0053/a and S/PR/0053/b via diversion line as shown on Sheet 1 and Sheet 2
	PRoW - Route 15 E-260/015/0	Between points S/PR/0054/a and S/PR/0054/b as shown on Sheet 1	Between points S/PR/0054/a and S/PR/0054/b via diversion line as shown on Sheet 1
	PRoW - Route 10 E-491/010/0	Between points S/PR/0058/a and	Between points S/PR/0058/a and

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*
		S/PR/0058/b as shown on Suffolk Sheet 1	S/PR/0058/b via diversion line as shown on Suffolk Sheet 1
	PRoW - Route 4 E-491/004/0	Between points S/PR/0060/a and S/PR/0060/b as shown on Sheet 1	Between points S/PR/0060/a and S/PR/0060/b via diversion line as shown on Sheet 1
	PRoW - Route 6 E-491/006/0	Between points S/PR/0060.1/a and S/PR/0060.1/b as shown on Sheet 1	From S/PR/0060.1/a, north to S/PR/0060.2/a, east to access point S-MAP-5, south west to S/PR/0060.1/b via diversion line as shown on Sheet 1
	PRoW - Route 23 E-460/023/0	Between points S/PR/0060.2/a and S/PR/0060.2/b as shown on Sheet 1	Between points S/PR/0060.2/a and S/PR/0060.2/b via diversion line as shown on Sheet 1
	PRoW - Route 16 E-260/016/0	Between points S/PR/0083/a and S/PR/0083/b as shown on Sheet 2	Between points S/PR/0083/a and S/PR/0083/b via diversion line as shown on Sheet 2
	PRoW - Route 17 E-260/017/0	Between points S/PR/0085/a and S/PR/0085/b as shown on Sheet 2	From S/PR/0085/a, east along Church Road to join the E-354/007/0 existing PRoW heading north east to S/PR/D/06, continue north east to S/PR/D/05, north and then west to S/PR/0085/b via diversion line as shown on Sheet 2
	B1121 Main Road	Between points S/RO/0090/a and S/RO/0090/b as shown on Plan A	From S/RO/0090/a, north along A12 to S/RO/D/01, east to S/RO/D/02, south to S/RO/0090/a via diversion line as shown on Plan A
	PRoW – Route 6 E-491/005/0	Between points S/PR/CP/02 and	S/PR/CP/01 is on the temporarily closed section of E-

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk*
		S/PR/CP/01 as shown on Sheet 1	491/006/0. Two diversions are therefore provided to S/PR/0060.1/a and S/PR/0060.1/b. From S/PR/CP/02, south to S/PR/D/03 via existing PRoW, north east to S/PR/0060.1/b via diversion line as shown on Sheet 1 From S/PR/CP/02, west then north to S/PR/D/02, north to S/PR/0060.1/a via diversion line as shown on Sheet 1
	PRoW – Route 6 E-354/006/0	Between points S/PR/CP/03 and S/PR/CP/04 as shown on Sheet 2	From S/PR/CP/03, east then south to S/PR/D/05, south then south west to S/PR/D/06 via diversion line, south west using existing PRoW E-354/007/0 to S/PR/D/07, then north west to S/PR/CP/04 via existing PRoW E-354/006/0
	Old railway line permissive path	Where permissive path intersects with order limits	Local diversion within order limits

Kent County Council

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*
Kent County Council	TE37	Between points K/PR/0018.5/a and K/PR/0018.5/b as shown on Sheet 3	Between points K/PR/0018.5/a and K/PR/0018.5/b via diversion line as shown on Sheet 3
	TE39	Between points K/PR/0028/a and K/PR/0028/b as shown on Sheet 2	Between points K/PR/0028/a and K/PR/0028/b via diversion line as shown on Sheet 2
	A256 (Ramsgate Road)	Between points K/RO/0027/a and K/RO/0027/b as shown on Sheet 3 and Sheet 4	Diversion via contraflow on southbound carriageway of A256 as shown on Sheet 3 and Sheet 4
	TE26	Between points K/PR/0040.4/a and K/PR/0040.4/b as shown on Sheet 2	Between points K/PR/0040.4/a and K/PR/0040.4/b via diversion line as shown on Sheet 2
	TE26	Between points K/PR/0040.5/a and K/PR/0040.5/b as shown on Sheet 2	Between points K/PR/0040.5/a and K/PR/0040.5/b via diversion line as shown on Sheet 2
	EE42	Between points K/PR/0040.6/a and K/PR/0040.6/b as shown on Sheet 2	Between points K/PR/0040.6/a and K/PR/0040.6/b via diversion line as shown on Sheet 2
	EE42	Between points K/PR/0040.7/a and K/PR/0040.7/b as shown on Sheet 2	Between points K/PR/0040.7/a and K/PR/0040.7/b via diversion line as shown on Sheet 2
	TE26	Between points K/PR/0050.1/a and K/PR/0050.1/b as shown on Sheet 2	Between points K/PR/0050.1/a and K/PR/0050.1/b via diversion line as shown on Sheet 2
	EE42	Between points K/PR/0051.1/a and K/PR/0051.1/b as shown on Sheet 2	Between points K/PR/0051.1/a and K/PR/0051.1/b via diversion line as shown on Sheet 2

(1) *Area*	*(2)* *Street or public right of way to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*	*(4)* *Temporary Diversion as shown on the Access, Rights of Way and Public Rights of Navigation Plans - Kent*
	EE42	Between points K/PR/0055.5/a and K/PR/0055.5/b as shown on Sheet 2	Between points K/PR/0055.5/a and K/PR/0055.5/b via diversion line as shown on Sheet 2
	TE26	Between points K/PR/0055.6/a and K/PR/0055.6/b as shown on Sheet 2	Between points K/PR/0055.6/a and K/PR/0055.6/b via diversion line as shown on Sheet 2
	TE35	Between points K/PR/0064/a and K/PR/0064/b as shown on Sheet 2	Between points K/PR/0064/a and K/PR/0064/b via diversion line as shown on Sheet 2

PART 2

STREETS AND PUBLIC RIGHTS OF WAY OR PUBLIC RIGHTS OF NAVIGATION TO BE TEMPORARILY CLOSED FOR WHICH NO DIVERSION IS TO BE PROVIDED

(1) *Area*	*(2)* *Street or public right of way or public right of navigation to be temporarily stopped up*	*(3)* *Extent of temporary stopping up as shown on the Access, Rights of Way and Public Rights of Navigation Plans*
Suffolk County Council	PRoW – Route 26 E-137/026/0	Access and egress point at S/PR/0091/a as shown on Suffolk Sheet 7
Kent County Council	Ebbsfleet Lane	Between points K/RO/0076/a and K/RO/0076/b as shown on Kent Sheet 4
Kent County Council	Ebbsfleet Lane (North)	Between points K/RO/0027.3/a and K/RO/0027.3/b as shown on Kent Sheet 3
Kent County Council	River Stour	The highlighted areas indicated by a highlight as shown on Sheet 2

SCHEDULE 9

Article 17

ACCESS TO WORKS

(1) *Street*	*(2)* *Access to works reference*	*(3)* *Plan Reference*
Thorpe Road (Foreshore access)	S-AP-1	Sheet 6 of the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk
Leiston Road	S-AP-2, S-AP-3	Sheet 5 of the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk
Aldeburgh Road (A1094)	S-AP-4, S-EAP-1	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk
Snape Road	S-AP-5, S-AP-6	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Grove Road	S-MAP-1, S-AP-8, S-AP-9	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
School Road	S-AP-7	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans - Suffolk
Saxmundham Road	S-AP-10, S-AP-12	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Kiln Lane leading onto Redbarn Lane	S-AP-11	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
B1119 (un-named)	S-MAP-2, S-MAP-4, S-MAP-5	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
The Street (B1121)	S-MAP-3	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Church Hill (B1119)	S-AP-13	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Main Road (B1121)	S-AP-14	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans – Suffolk
Sandwich Road	K-AP-1, K-AP-9	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
Ebbsfleet Lane	K-AP-2, K-MAP-1, K-AP-4	Sheet 4 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
Cottington Road	K-MAP-2	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
Cottington Lane	K-AP-3	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent

(1) *Street*	*(2)* *Access to works reference*	*(3)* *Plan Reference*
A256	K-AP-5, K-EAP-1	Sheet 3 and 6 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
Ebbsfleet Lane North	K-AP-6	Sheet 3 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent
Richborough (leading on to Whitehouse Drove)	K-AP-7	Sheet 1 of the Access, Rights of Way and Public Rights of Navigation Plans - Kent
Marsh Farm Road	K-AP-8	Sheet 2 of the Access, Rights of Way and Public Rights of Navigation Plans – Kent

SCHEDULE 10

Article 25

MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS

Compensation enactments

1. The enactments for the time being in force with respect to compensation for the compulsory purchase of land apply, with the necessary modifications as respects compensation, in the case of a compulsory acquisition under this Order of a right, by the creation of a new right or imposition of a restriction as they apply as respects compensation on the compulsory purchase of land and interests in land.

2.—(1) Without limitation on the scope of paragraph 1, the Land Compensation Act 1973(**a**) has effect subject to the modifications set out in sub-paragraph (2).

(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 5—

(a) for "land is acquired or taken from" substitute "a right or restrictive covenant over land is purchased from or imposed on"; and

(b) for "acquired or taken from him" substitute "over which the right is exercisable or the restrictive covenant enforceable".

3.—(1) Without limitation on the scope of paragraph 1, the 1961 Act has effect subject to the modification set out in sub-paragraph (2).

(2) For Section 5A(5A) (relevant valuation date) of the 1961 Act, after "If" substitute—

"(a) the acquiring authority enters on land for the purpose of exercising a right in pursuance of a notice of entry under section 11(1) of the 1965 Act;

(b) the acquiring authority is subsequently required by a determination under paragraph 13 of Schedule 2A to the 1965 Act (as substituted by paragraph 11 of Schedule 10 to the National Grid (Sea Link) Order 20[xx] to acquire an interest in the land; and

(c) the acquiring authority enters on and takes possession of that land, the authority is deemed for the purposes of subsection (3)(a) to have entered on that land when it entered on that land for the purpose of exercising that right."

Application of the 1965 Act

4.—(1) The 1965 Act has effect with the modifications necessary to make it apply to the compulsory acquisition under this Order of a right by the creation of a new right, or to the imposition under this Order of a restrictive covenant, as it applies to the compulsory acquisition under this Order of land, so that, in appropriate contexts, references in that Act to land must be read (according to the requirements of the particular context) as referring to, or as including references to—

(a) the right acquired or to be acquired, or the restriction imposed or to be imposed; or

(b) the land over which the right is or is to be exercisable, or the restriction is or is to be enforceable.

(2) Without limitation on the scope of sub-paragraph (1), Part 1 of the 1965 Act applies in relation to the compulsory acquisition under this Order of a right by the creation of a new right or, in relation to the imposition of a restriction, with the modifications specified in the following provisions of this Schedule.

(3) Section 4 (time limit for giving notice to treat) is omitted.

(4) In section 4A(1) (extension of time limit during challenge)—

(**a**) 1973 c. 26.

(a) for "section 23 of the Acquisition of Land Act 1981 (application to High Court in respect of compulsory purchase order)" substitute "section 118 of the Planning Act 2008 (legal challenges relating to applications for orders granting development consent"; and

(b) for "the three year period mentioned in section 4" substitute "the seven year period mentioned in article 33 of the National Grid (Sea Link) Order 20[xx]".

5. For section 7 of the 1965 Act (measure of compensation) substitute—

"**7.** In assessing the compensation to be paid by the acquiring authority under this Act, regard must be had not only to the extent (if any) to which the value of the land over which the right is to be acquired or the restrictive covenant is to be imposed is depreciated by the acquisition of the right or the imposition of the covenant but also to the damage (if any) to be sustained by the owner of the land by reason of its severance from other land of the owner, or injuriously affecting that other land by the exercise of the powers conferred by this or the special Act."

6. The following provisions of the 1965 Act (which state the effect of a deed poll executed in various circumstances where there is no conveyance by persons with interests in the land), that is to say—

(a) section 9(4) (failure by owners to convey);

(b) paragraph 10(3) of Schedule 1 (owners under incapacity);

(c) paragraph 2(3) of Schedule 2 (absent and untraced owners); and

(d) paragraphs 2(3) and 7(2) of Schedule 4 (common land),

are modified to secure that, as against persons with interests in the land which are expressed to be overridden by the deed, the right which is to be compulsorily acquired or the restrictive covenant which is to be imposed is vested absolutely in the acquiring authority.

7. Section 11(**a**) of the 1965 Act (powers of entry) is modified to secure that, as from the date on which the acquiring authority has served notice to treat in respect of any right or restriction, it has power, exercisable in equivalent circumstances and subject to equivalent conditions, to enter for the purpose of exercising that right or enforcing that restrictive covenant (which is deemed for this purpose to have been created on the date of service of the notice); and sections 12(**b**) (penalty for unauthorised entry) and 13(**c**) (entry on warrant in the event of obstruction) of the 1965 Act are modified correspondingly.

8. Section 20(**d**) of the 1965 Act (protection for interests of tenants at will, etc.) applies with the modifications necessary to secure that persons with such interests in land as are mentioned in that section are compensated in a manner corresponding to that in which they would be compensated on a compulsory acquisition under this Order of that land, but taking into account only the extent (if any) of such interference with such an interest as is actually caused, or likely to be caused, by the exercise of the right or the enforcement of the restrictive covenant in question.

9. Section 22 of the 1965 Act (interests omitted from purchase) is modified as to enable the acquiring authority, in circumstances corresponding to those referred to in that section, to continue to be entitled to exercise the right acquired or to enforce the restriction imposed, subject to compliance with that section as respects compensation.

10. In section 22(2) (expiry of time limit for exercise of compulsory purchase power not to affect acquisition of interests omitted from purchase) for "section 4 of this Act" substitute "article 33 of the National Grid (Sea Link) Order 20[xx]".

(**a**) Section 11 was amended by section 34(1) of, and Schedule 4 to the Acquisition of Land Act 1981 (c. 67, section 3 of, and Part 1 of Schedule 1 to, the Housing (Consequential Provisions) Act 1985 (c.71), section 14 of, and paragraph 12(1) of Schedule 5 to, the Church of England (Miscellaneous Provisions) Measure 2006 (No.1) and S.I. 2009/1307.

(**b**) Section 12 was amended by section 56(2) of, and Part 1 of, Part 1 of Schedule 9 to the Courts Act 1971 (c.23).

(**c**) Section 13 was amended by sections62(3), 139(4) to (9) and 146 of, and paragraphs 27 and 28 of Schedule 13 and Part 3 of Schedule 23 to, the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(**d**) Section 20 was amended by paragraph 4 of Schedule 15 to the Planning and Compensation Act 1991 (c. 34) and S.I. 2009/1307.

11. For Schedule 2A of the 1965 Act substitute—

"SCHEDULE 2A

COUNTER-NOTICE REQUIRING PURCHASE OF LAND

Introduction

1. This Schedule applies where an acquiring authority serves a notice to treat in respect of a right over, or restrictive covenant affecting, the whole or part of a house, building or factory and have not executed a general vesting declaration under section 4 of the 1981 Act as applied by article 35 (application of the 1981 Act) of the National Grid (Sea Link) Order 20[xx] in respect of the land to which the notice to treat relates.

2. In this Schedule, "house" includes any park or garden belonging to a house.

Counter-notice requiring purchase of land

3. A person who is able to sell the house, building or factory ("the owner") may serve a counter-notice requiring the authority to purchase the owner's interest in the house, building or factory.

4. A counter-notice under paragraph 3 must be served within the period of 28 days beginning with the day on which the notice to treat was served.

Response to counter-notice

5. On receiving a counter-notice, the acquiring authority must decide whether to—

(a) withdraw the notice to treat,

(b) accept the counter-notice, or

(c) refer the counter-notice to the Upper Tribunal.

6. The authority must serve notice of its decision on the owner within the period of 3 months beginning with the day on which the counter-notice is served ("the decision period").

7. If the authority decides to refer the counter-notice to the Upper Tribunal it must do so within the decision period.

8. If the authority does not serve notice of a decision within the decision period it is to be treated as if it had served notice of a decision to withdraw the notice to treat at the end of that period.

9. If the authority serves notice of a decision to accept the counter-notice, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in the house, building or factory.

Determination by Upper Tribunal

10. On referral under paragraph 7, the Upper Tribunal must determine whether the acquisition of the right or the imposition of the restrictive covenant would—

(a) in the case of a house, building or factory, cause medical detriment to the house, building or factory, or

(b) in the case of a park or garden, seriously affect the amenity or convenience of the house to which the park or garden belongs.

11. In making its determination, the Upper Tribunal must take into account—

(a) the effect of the acquisition of the right or the imposition of the covenant,

(b) the use to be made of the right or covenant proposed to be acquired or imposed, and

(c) if the right or covenant is proposed to be acquired or imposed for works or other purposes extending to other land, the effect of the whole of the works and the use of the other land.

12. If the Upper Tribunal determines that the acquisition of the right or the imposition of the covenant would have either of the consequences described in paragraph 10, it must determine how much of the house, building or factory the authority ought to be required to take.

13. If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the compulsory purchase order and the notice to treat are to have effect as if they included the owner's interest in that land.

14.—(1) If the Upper Tribunal determines that the authority ought to be required to take some or all of the house, building or factory, the authority may at any time within the period of 6 weeks beginning with the day on which the Upper Tribunal make its determination withdraw the notice to treat in relation to that land.

(2) If the acquiring authority withdraws the notice to treat under this paragraph they must pay the person on whom the notice was served compensation for any loss or expense caused by the giving and withdrawal of the notice.

15. Any dispute as to the compensation is to be determined by the Upper Tribunal."

12. In this Schedule, references to entering on and taking possession of land do not include doing so under articles 21 (protective works), 27 (temporary use of land for carrying out the authorised project) or 28 (temporary use of land for maintaining the authorised project) of this Order.

SCHEDULE 11

Article 27

LAND OF WHICH ONLY TEMPORARY POSSESSION MAY BE TAKEN

Suffolk

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
1/10, 1/12, 1/14, 1/16, 1/17, 1/18, 1/22, 1/26, 1/29, 1/30, 1/33, 1/34, 1/35, 1/36, 1/37, 1/38, 1/39, 1/40, 1/42, 1/43, 1/44, 1/46, 1/48, 1/52, 1/53, 1/56, 1/57, 1/67, 1/70, 1/73, 1/74, 1/75, 1/78, 1/83, 1/85, 1/88, 1/98	Construction of the authorised development and mitigation works	Work No. 2 Work No. 4 Work No. 5 Work No. 13 Work No. 14 Work No. 15 Work No. 16 Work No. 17	Landscaping
2/6, 2/6a, 2/9, 2/10, 2/10a, 2/12, 2/14, 2/16, 2/18	Construction of the authorised development and mitigation works	Work No. 1B Work No. 2 Work No. 5 Work No. 13 Work No. 14 Work No. 15 Work No. 16 Work No. 17	2/18 - Landscaping
2/21, 2/22, 2/22a. 2/22b	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 14	
2/23, 2/23a, 2/24, 2/25, 2/26, 2/27, 2/28	Construction of the authorised development and mitigation works	Work No. 1A Work No. 14	
2/29, 2/29a, 2/30, 2/31, 2/32, 2/32a	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 1A Work No. 14	
2/33, 2/34, 2/35, 2/37, 2/41, 2/52, 2/59, 2/61, 2/63,	Construction of the authorised	Work No. 1A Work No. 5 Work No. 13	

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
2/64, 2/66, 2/79, 2/79a, 2/80, 2/81, 2/105, 2/107, 2/108	development and mitigation works	Work No. 15 Work No. 17	
3/1, 3/6, 3/10, 3/15, 3/16	Construction of the authorised development and mitigation works	Work No. 1A Work No. 5 Work No. 13 Work No. 14 Work No. 16 Work No. 17	
3/17, 3/18	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 1A Work No. 14	
3/23, 3/38, 3/39, 3/43, 3/47	Construction of the authorised development and mitigation works	Work No. 4 Work No. 5 Work No. 13 Work No. 16 Work No. 17	
4/1, 4/2, 4/3, 4/4, 4/10, 4/11, 4/14, 4/22	Construction of the authorised development and mitigation works	Work No. 4 Work No. 5 Work No. 13 Work No. 14 Work No. 17	Highway improvements
5/6, 5/7, 5/10, 5/20, 5/23, 5/29, 5/30	Construction of the authorised development and mitigation works	Work No. 5 Work No. 6 Work No. 14 Work No. 16	
7/1, 7/4, 7/13, 7/15, 7/16, 7/17, 7/21, 7/22, 7/23, 7/24, 7/25, 7/26, 7/27, 7/28, 7/29, 7/30, 7/31	Construction of the authorised development and mitigation works	Work No. 14	

Kent

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
1/7, 1/10, 1/12, 1/14, 1/18, 1/19, 1/22	Construction of the authorised development and mitigation works	Work No. 12 Work No. 14 Work No. 16	Landscaping

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
2/1, 2/2, 2/5, 2/7, 2/9, 2/11, 2/12, 2/14, 2/15, 2/16, 2/20, 2/21, 2/22, 2/27, 2/29, 2/31, 2/32, 2/35, 2/38, 2/39, 2/41, 2/45, 2/46, 2/49, 2/50, 2/52, 2/54, 2/55, 2/56, 2/60, 2/61, 2/62, 2/63, 2/64, 2/65, 2/66, 2/68, 2/69, 2/70, 2/71, 2/72, 2/74, 2/75	Construction of the authorised development and mitigation works	Work No. 12 Work No. 14 Work No. 15 Work No. 16 Work No. 17	2/55, 2/61, 2/62, 2/63, 2/64, 2/65, 2/66, 2/68 - Landscaping
2/77	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 16	
2/78, 2/79, 2/80, 2/84, 2/85, 2/86, 2/87, 2/88, 2/89, 2/90, 2/91, 2/92, 2/93, 2/94, 2/97, 2/98, 2/99, 2/100, 2/101, 2/102, 2/103, 2/107, 2/109, 2/112, 2/115, 2/116, 2/119, 2/121, 2/125, 2/134, 2/151, 2/153, 2/159, 2/173, 2/176, 2/177, 2/180, 2/182	Construction of the authorised development and mitigation works	Work No. 7 Work No. 8 Work No. 12 Work No. 13 Work No. 14 Work No. 15 Work No. 16 Work No. 17	2/85, 2/86, 2/89, 2/90, 2/91, 2/92, 2/93, 2/97, 2/98, 2/99, 2/100, 2/101, 2/102, 2/103 - Landscaping
2/181, 2/184, 2/185	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 14 Work No. 16	
2/188	Construction of the authorised development and mitigation works	Work No. 14	

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
3/5, 3/6, 3/8	Construction of the authorised development and mitigation works	Work No. 7 Work No. 14 Work No. 16	
3/10	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 7 Work No. 14	
3/29, 3/31, 3/37, 3/39, 3/41, 3/42, 3/45, 3/61, 3/63, 3/75, 3/77, 3/81, 3/83,	Construction of the authorised development and mitigation works	Work No. 6 Work No. 7 Work No. 8 Work No. 9A Work No. 13 Work No. 14 Work No. 16	
3/91, 3/92, 3/93, 3/96	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 8 Work No. 14	
3/94, 3/110	Construction of the authorised development and mitigation works	Work No. 7 Work No. 8	
4/12, 4/13	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary works necessary to facilitate that access	Work No. 14 Work No. 16	
4/18, 4/19, 4/20	Construction of the authorised development and mitigation works	Work No. 16	
4/21, 4/22, 4/25, 4/26, 4/27, 4/28	Access to land for the purpose of carrying out the authorised development including the power to carry out any ancillary	Work No. 14 Work No. 16	

(1) *Plot number of land shown on Land Plan*	*(2)* *Purpose for which temporary possession may be taken*	*(3)* *Relevant part of the authorised development*	*(4)* *Element of Work in respect of which land is not required to be re-instated*
	works necessary to facilitate that access		
5/1, 5/6, 5/8, 5/9, 5/10, 5/11, 5/15, 5/17, 5/18, 5/26, 5/28, 5/29, 5/30, 5/30a, 5/31, 5/36, 5/37, 5/38, 5/39, 5/40, 5/41, 5/42, 5/43, 5/44	Construction of the authorised development and mitigation works	Work No. 6 Work No. 7	

SCHEDULE 12

Article 40

EXTINGUISHMENT OF PRIVATE RIGHTS AND RESTRICTIVE COVENANTS RELATING TO APPARATUS BELONGING TO NATIONAL GRID REMOVED FROM LAND SUBJECT TO TEMPORARY POSSESSION

Area	*Plot*
District of East Suffolk	N/A
District of Thanet	N/A
District of Dover	2/12, 2/15, 2/16, 2/27, 2/29, 2/38

SCHEDULE 13

Article 50

TRAFFIC REGULATION ORDERS

PART 1

TEMPORARY RESTRICTION OF WAITING AND RESTRICTION OF SPEED

Suffolk County Council

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Suffolk County Council	Thorpe Road	Between points TRO-S-11 and TRO-S-12 as shown on Suffolk Sheet 6	No waiting restriction between 7:00am to 7:00pm Monday to Sunday.
Suffolk County Council	Leiston Road	Between points TRO-S-1 and TRO-S-2 as shown on Suffolk Plan B	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Snape Road	Between points TRO-S-3 and TRO-S-4 as shown on Suffolk Sheet 3 and Sheet 4	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 40mph.
Suffolk County Council	Grove Road	Between points TRO-S-5 and TRO-S-6 as shown on Suffolk Sheet 2	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	Saxmundham Road	Between points TRO-S-7 and TRO-S-8 as shown on Suffolk Sheets 2	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 40mph.
Suffolk County Council	B1121 (Main Road)	Between points TRO-S-9 and TRO-S-10 as shown on Suffolk Sheet 1	No waiting restriction between 7:00am to 7:00pm Monday to

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
			Sunday. Speed limit to be restricted to 40mph.
Suffolk County Council	B1121 (Main Road)	Between points TRO-S-13 and TRO-S-14 as shown on Suffolk Sheet 7	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.
Suffolk County Council	B1119 (un-named)	Between points TRO-S-17 to TRO-S-18 and TRO-S-19 to TRO-S-20 as shown on Suffolk Sheet 1	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to remain as existing.
Suffolk County Council	A1094 (Aldeburgh Road)	Between points TRO-S-15 and TRO-S-16 as shown on Suffolk Sheet 4	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to remain as existing.

Kent County Council

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Kent County Council	A256	Between points TRO-K-3 to TRO-K-4 as shown on Kent Sheet 3 and Sheet 4, and between TRO-K-7 and TRO-K-8 as shown on Kent Sheet 6	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 50mph.
Kent County Council	Ebbsfleet Lane (South)	Between points TRO-K-1 and TRO-K-2 as shown on Kent Sheet 3 and Sheet 4	No waiting restriction between 7:00am to 7:00pm Monday to Sunday. Speed limit to be restricted to 30mph.

PART 2

TEMPORARY RESTRICTION OF ACCESS

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Suffolk County Council	Leiston Road	Between points TRO-S-1 and TRO-S-2 as shown on Suffolk Plan B	Prohibition of vehicular access.
Suffolk County Council	Snape Road	Between points TRO-S-3 and TRO-S-4 as shown on Suffolk Sheet 3 and Sheet 4	Prohibition of vehicular access.
Suffolk County Council	Grove Road	Between points TRO-S-5 and TRO-S-6 as shown on Suffolk Sheet 2	Prohibition of vehicular access.
Suffolk County Council	B1121 (Main Road)	Between points TRO-S-13 and TRO-S-14 as shown on Suffolk Sheet 7	Prohibition of vehicular access.

Kent County Council

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Kent County Council	Ebbsfleet Lane (North)	Between points TRO-K-5 and TRO-K-6 as shown on Kent Sheet 3	Prohibition of vehicular access.
Kent County Council	Ebbsfleet Lane (South)	Between points TRO-K-1 and TRO-K-2 as shown on Kent Sheet 3 and Sheet 4	Prohibition of vehicular access.

PART 3

TEMPORARY RESTRICTION OF MOVEMENT

Suffolk County Council

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Suffolk County Council	Leiston Road	Between points TRO-S-1 and TRO-S-2 as shown on Suffolk Sheet Plan B	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
			be implemented as required.
	Snape Road	Between points TRO-S-3 and TRO-S-4 as shown on Suffolk Sheets 3 and 4	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
	Grove Road	Between points TRO-S-5 and TRO-S-6 as shown on Suffolk Sheet 2	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
	Saxmundham Road	Between points TRO-S-7 and TRO-S-8 as shown on Suffolk Sheets 2	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
	B1121 (Main Road)	Between points TRO-S-9 and TRO-S-10 as shown on Suffolk Sheet 1	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
	B1121 (Main Road)	Between points TRO-S-13 and TRO-S-14 as shown on Suffolk Sheet 7	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
	B1119 (un-named)	Between points TRO-S-17 to TRO-S-18 and TRO-S-19 to TRO-S-20 as shown on Suffolk Sheet 1	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.
	A1094 (Aldeburgh Road)	Between points TRO-S-15 and TRO-S-16 as shown on Suffolk Sheet 4	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of implementation. To be implemented as required.

Kent County Council

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
Kent County Council	A256	Between points TRO-K-3 to TRO-K-4 as shown on Sheet 3 and Sheet 4, and between TRO-K-7 and TRO-K-8 as shown on Kent Sheet 6	One way movement restriction, to be either northbound or southbound dependent on preferred Traffic Management arrangements at the time of

(1) *Area*	*(2)* *Road*	*(3)* *Extent as shown on the Traffic Regulation Order Plans*	*(4)* *Note*
			implementation. To be implemented as required.

SCHEDULE 14

Article 52

TREES SUBJECT TO TREE PRESERVATION ORDERS

(1) *Type of tree*	*(2)* *Number reference shown on Trees and Important Hedgerows to be Removed or Affected Plans*	*(3)* *Work to be carried out*	*(4)* *TPO reference*
Woodland – (Mixed)	W12S on the Tree Protection Plans Suffolk Onshore Scheme within Application Document 6.10 Arboricultural Impact Assessment.	Part removal of approximately 116.5 meters squared of the northern edge of the woodland within the Order Limits to facilitate the construction of the haul road, cable route and associated infrastructure.	ESCC/54/ 00026 – W9

SCHEDULE 15

Articles 44, 46 and 54

PROTECTIVE PROVISIONS

PART 1

PROTECTION FOR ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS

1. For the protection of the statutory undertakers referred to in this Part of this Schedule the following provisions, unless otherwise agreed in writing between the undertaker and the statutory undertaker concerned, have effect.

2. In this Part of this Schedule—

"alternative apparatus" means alternative apparatus adequate to enable the statutory undertaker in question to fulfil its statutory functions in a manner not less efficient than previously; "apparatus" means—

(a) in the case of an electricity undertaker, electric lines or electrical plant (as defined in the Electricity Act 1989(**a**)), belonging to or maintained by that electricity undertaker for the purposes of electricity supply;

(b) in the case of a gas undertaker, any mains, pipes or other apparatus belonging to or maintained by that gas undertaker for the purposes of gas supply;

(c) in the case of a water undertaker, mains, pipes or other water apparatus belonging to or maintained by that water undertaker for the purposes of water supply; and

(d) in the case of a sewerage undertaker—

(i) any drain or works vested in the undertaker under the Water Industry Act 1991(**b**); and

(ii) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land; and

"statutory undertaker" means—

(e) any licence holder within the meaning of Part 1 of the Electricity Act 1989;

(f) a gas transporter within the meaning of Part 1 of the Gas Act 1986(**c**);

(g) a water undertaker within the meaning of the Water Industry Act 1991; and

(h) a sewerage undertaker within the meaning of Part 1 of the Water Industry Act 1991,

for the area of the authorised project, and in relation to any apparatus, means the statutory undertaker to whom it belongs or by whom it is maintained.

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and the statutory undertaker are regulated by the provisions of Part 3 of the 1991 Act.

(**a**) 1989 c.29
(**b**) 1991 c.56
(**c**) 1986 c.44

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

5.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be removed under this Part of this Schedule and any right of a statutory undertaker to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of the statutory undertaker in question.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to the statutory undertaker in question written notice of that requirement, together with a plan and section of the work proposed.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph (2), the statutory undertaker in question, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed.

(4) The statutory undertaker in question must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 62 (arbitration), and after the grant to the statutory undertaker of any such facilities and rights as are referred to in sub-paragraph (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(5) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to the statutory undertaker in question that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, that work, instead of being executed by the statutory undertaker, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of the statutory undertaker.

(6) Nothing in sub-paragraph (4) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within 300 millimetres of the apparatus.

6.—(1) Not less than 28 days before starting the execution of any works of the type referred to in paragraph 5(2) that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 5(2), the undertaker must submit to the statutory undertaker in question a plan, section and description of the works to be executed.

(2) Those works must be executed only in accordance with the plan, section and description submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by the statutory undertaker for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and the statutory undertaker is entitled to watch and inspect the execution of those works.

(3) Any requirements made by a statutory undertaker under sub-paragraph (2) must be made within a period of 28 days beginning with the date on which a plan, section and description under sub-paragraph (1) are submitted to it.

(4) If a statutory undertaker in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to 4 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to the statutory undertaker in question notice as soon as is reasonably practicable

and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

7.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to the statutory undertaker in question the proper and reasonable expenses reasonably incurred by that statutory undertaker in, or in connection with, the inspection, removal, alteration or protection of any apparatus.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 62 (arbitration) to be necessary,

then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to the statutory undertaker in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to a statutory undertaker in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on the statutory undertaker in question any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

PART 2

PROTECTION FOR OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS

1.—(1) For the protection of any operator, the following provisions, unless otherwise agreed in writing between the undertaker and the operator, have effect.

(2) In this Part of this Schedule—

"conduit system" has the same meaning as in the electronic communications code and references to providing a conduit system are to be construed in accordance with paragraph 1(3A) of that code;

"electronic communications apparatus" has the same meaning as in the electronic communications code;

"the electronic communications code" has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003(**a**);

(**a**) 2003 c.21

"electronic communications code network" means—

(a) so much of an electronic communications network or conduit system provided by an electronic communications code operator as is not excluded from the application of the electronic communications code by a direction under section 106 of the Communications Act 2003; and

(b) an electronic communications network which the Secretary of State is providing or proposing to provide; "electronic communications code operator" means a person in whose case the electronic communications code is applied by a direction under section 106 of the Communications Act 2003; and "operator" means the operator of an electronic communications code network.

2. The exercise of the powers of article 44 (statutory undertakers) are subject to Part 10 (undertaker's works affecting electronic communications apparatus) of the electronic communications code.

3.—(1) Subject to sub-paragraphs (2) to (3), if as the result of the authorised project or their construction, or of any subsidence resulting from any of those works any damage is caused to any electronic communications apparatus belonging to an operator (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works, or other property of an operator) the undertaker must bear and pay the cost reasonably and properly incurred by the operator in making good such damage.

(2) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage to the extent that it is attributable to the act, neglect or default of an operator, its officers, servants, contractors or agents.

(3) Any difference arising between the undertaker and the operator under this paragraph must be referred to and settled by arbitration under article 62 (arbitration).

4. This Part of this Schedule does not apply to—

(a) any apparatus in respect of which the relations between the undertaker and an operator are regulated by the provisions of Part 3 of the 1991 Act; or

(b) any damage, or any interruption, caused by electro-magnetic interference arising from the construction or use of the authorised project.

5. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and an operator in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

PART 3

FOR THE PROTECTION OF ANGLIAN WATER SERVICES LIMITED

Application

1. For the protection of Anglian Water the following provisions have effect, unless otherwise agreed in writing between the undertaker and Anglian Water.

Interpretation

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means alternative apparatus adequate to enable Anglian Water to fulfil its statutory functions in a manner no less efficient than previously;

"Anglian Water" means Anglian Water Services Limited (registered company number 02366656);

"apparatus" means:

(a) works, mains, pipes or other apparatus belonging to or maintained by Anglian Water for the purposes of water supply and sewerage;

(b) any drain or works so vested in Anglian Water under the Water Industry Act 1991;

(c) any sewer which is so vested or is the subject of a notice of intention of Anglian Water to adopt given under section 102(4) of the Water Industry Act 1991 or an agreement to adopt made under section 104 of that Act;

(d) any drainage system constructed for the purpose of reducing the volume of surface water entering any public sewer belonging to Anglian Water; and

(e) includes a sludge main, disposal main or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

and for the purpose of this definition, where words are defined by section 219 of the Water Industry Act 1991, they shall be taken to have the same meaning

"functions" includes powers and duties;

"in", in a context referring to apparatus or alternative apparatus in land, includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe the works to be executed;

On street apparatus

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Anglian Water are regulated by the provisions of Part 3 of the 1991 Act.

Apparatus in closed streets

4.—(1) Where any street is stopped up under article 16 (permanent closures of streets and public rights of way), where Anglian Water has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up, but nothing in this paragraph affects any right of the undertaker or of Anglian Water to require the removal of that apparatus under paragraph 7 or the power of the undertaker to carry out works under paragraph 9.

(2) Regardless of the temporary closure or diversion of any highway under the powers conferred by article 15 (temporary closure of streets and public rights of way), Anglian Water is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the temporary stopping up or diversion was in that highway subject to provision of reasonable prior notice to the undertaker (except in the case of emergency) and compliance at all times with the undertaker's reasonable site safety rules and health and safety law.

Protective works

5. The undertaker, in the case of the powers conferred by article 21 (protective works), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

Acquisition of land

6. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Anglian Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule, and any right of Anglian Water to maintain that apparatus in that land must not be extinguished, until—

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Anglian Water in accordance with sub-paragraphs (2) to (8); and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 8.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, the undertaker must give to Anglian Water 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Anglian Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed elsewhere than in other land of the undertaker, or the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2) in the land in which the alternative apparatus or part of such apparatus is to be constructed Anglian Water must, on receipt of a written notice to that effect from the undertaker, as soon as reasonably possible use its best endeavours to obtain the necessary facilities and rights in the land in which the alternative apparatus is to be constructed.

(4) Any alternative apparatus to be constructed in land of the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Anglian Water and the undertaker or in default of agreement settled by arbitration in accordance with article 62 (arbitration).

(5) Anglian Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 62 (arbitration), and after the grant to Anglian Water of any such facilities and rights as are referred to in sub-paragraphs (2) or (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (5), if Anglian Water gives notice in writing to the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker or to the extent that Anglian Water fails to proceed with that work in accordance with sub-paragraph (5) or the undertaker and Anglian Water otherwise agree, that work, instead of being executed by Anglian Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Anglian Water.

(7) If Anglian Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a notice of the required works from the undertaker, then such details are deemed to have been approved. For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which will remain the sole responsibility of Anglian Water or its contractors.

(8) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker must, before taking or requiring any further step in such substitution works, use best endeavours to comply with Anglian Water's reasonable requests for a reasonable period of time to enable Anglian Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Anglian Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted upon such terms and conditions as may be agreed between the undertaker and Anglian Water or in default of agreement settled by arbitration in accordance with article 62 (arbitration). If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Anglian Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Anglian Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

(2) Such facilities and rights as are set out in this paragraph are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2016 or other legislation.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus (or any means of access to it) the removal of which has not been required by the undertaker under paragraph 7(2), the undertaker must submit to Anglian Water a plan of the works to be executed.

(2) Those works must be executed only in accordance with the plan submitted under sub-paragraph (1) and in accordance with such reasonable requirements as may be made in accordance with sub-paragraph (3) by Anglian Water for the alteration or otherwise for the protection of the apparatus, or for securing access to it, and Anglian Water is entitled to watch and inspect the execution of those works subject to compliance at all times with the undertaker's reasonable site safety rules, inductions, and all applicable health and safety laws.

(3) Any requirements made by Anglian Water under sub-paragraph (2) must be made within a period of 21 days beginning with the date on which a plan under sub-paragraph (1) is submitted to it.

(4) If Anglian Water in accordance with sub-paragraph (3) and in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) of paragraph 7 apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(5) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan instead of the plan previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan.

(6) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case must give to Anglian Water notice as soon as is reasonably practicable and a plan of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances, using its best endeavours to keep the impact of those emergency works on Anglian Water's apparatus, on the operation of its water and sewerage network and on end-users of the services Anglian Water provides to a minimum but always in consideration of the statutory duties of both parties.

(7) For the purposes of sub-paragraph (1) and without prejudice to the generality of the principles set out in that sub-paragraph, works are deemed to be in land near Anglian Water's apparatus (where it is a pipe) if those works fall within the following distances measured from the medial line of such apparatus:

(a) 4 metres where the diameter of the pipe is less than 250 millimetres; 5 metres where the diameter of the pipe is between 250 and 400 millimetres, and

(b) a distance to be agreed on a case by case basis and before the submission of the Plan under sub-paragraph (1) is submitted where the diameter of the pipe exceeds 400 millimetres.

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Anglian Water all expenses reasonably and properly incurred by Anglian Water in, or in connection with, the inspection, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in consequence of the execution of any such works as are referred to in this Part of this Schedule.

(2) There must be deducted from any sum payable under sub-paragraph (1) the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of any new or alternative apparatus that value being calculated after removal by the undertaker (who will provide reasonable evidence of such value).

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated, and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 62 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Anglian Water by virtue of sub-paragraph (1) must be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(5) An amount which, apart from this sub-paragraph, would be payable to Anglian Water in respect of

(a) works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on Anglian Water any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit, the amount being calculated by Anglian Water (who will provide reasonable evidence of such amount) and agreed between the undertaker and Anglian Water or settled by arbitration in accordance with article [62] (arbitration).

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works referred to in paragraphs 7 or 9, or by reason of any subsidence resulting from such development or works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Anglian Water, or there is any interruption in any service provided, or in the supply of any goods, by Anglian Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Anglian Water in making good such damage or restoring the supply; and

(b) make reasonable compensation to Anglian Water for any other expenses, loss, damages, penalty or costs incurred by the undertaker, by reason or in consequence of any such damage or interruption.

(2) Anglian Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, penalties and costs to which the provisions of sub- paragraph (1) applies. If requested to do so by the undertaker, Anglian Water will provide an explanation of how any claim has been minimised. The undertaker will not be liable under sub-paragraph (1) for claims unreasonably incurred by Anglian Water.

(3) The fact that any act or thing may have been done by Anglian Water on behalf of the undertaker or in accordance with a plan approved by Anglian Water or in accordance with any requirement of Anglian Water or under its supervision does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Anglian Water fails to carry out and execute the works properly with due care and attention and in a skillful and professional like manner or in a manner that does not accord with the approved plan.

(4) Nothing in sub-paragraph (1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of Anglian Water, its officers, servants, contractors or agents.

(5) Anglian Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without the consent of the undertaker (such consent not to be unreasonably withheld or delayed) who, if withholding such consent, has the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Cooperation

12.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or Anglian Water requires the removal of apparatus under paragraph 7(2) or Anglian Water makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Anglian Water's undertaking, using existing processes where requested by Anglian Water, provided it is appropriate to do so, and Anglian Water must use all reasonable endeavours to co-operate with the undertaker for that purpose.

13. Where the undertaker identifies any apparatus which may belong to or be maintainable by Anglian Water but which does not appear on any statutory map kept for the purpose by Anglian Water, it shall inform Anglian Water of the existence and location of the apparatus as soon as reasonably practicable.

14. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Anglian Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

15. The undertaker and Anglian Water may by written agreement substitute any period of time for those periods set out in this Part of this Schedule.

PART 4

FOR THE PROTECTION OF CADENT GAS LIMITED AS GAS UNDERTAKER

Application

1. For the protection of Cadent the following provisions will, unless otherwise agreed in writing between the undertaker and Cadent, have effect.

Interpretation

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means appropriate alternative apparatus to the satisfaction of Cadent to enable Cadent to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipes, pressure governors, ventilators, cathodic protections, (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to or maintained by Cadent for the purposes of Cadent's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of Cadent for the purposes of Cadent's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2 (interpretation) of this Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"Cadent" means Cadent Gas Limited and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"Cadent's undertaking" means the rights, duties and obligations of Cadent Gas Limited as a public gas transporter within the meaning of Section 7 (licensing of public gas transporters) of the Gas Act 1986 (as amended by the Gas Act 1995);

"commence" has the same meaning as in article [2] (interpretation) of this Order and commencement will be construed to have the same meaning save that for the purposes of this Part of the Schedule the terms commence and commencement include operations for the purposes of archaeological or ecological investigations and investigations of the existing condition of the ground or of structures;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary and/or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by Cadent (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for Cadent's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of Cadent including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"rights" will include rights and restrictive covenants, and in relation to decommissioned apparatus the surrender of rights, release of liabilities and transfer of decommissioned apparatus; and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which:

will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) or otherwise;

may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under paragraph 7(2) (removal of apparatus) or otherwise; and/or

include any of the activities that are referred to in CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets); and

"undertaker" means the undertaker as defined in article [2] (interpretation) of this Order.

On Street Apparatus

3.—(1) Except for paragraphs 4 (*apparatus of Cadent in closed streets*), 7 (*Removal of Apparatus*) in so far as sub-paragraph (3) applies, 8 (*Facilities and Rights for Alternative Apparatus*) in so far as sub-paragraph (2) below applies, 9 (*retained apparatus: protection of Cadent*), 10 (*expenses*) and 11 (*indemnity*) of this Schedule which will apply in respect of the exercise of all or any powers under the Order affecting the rights and apparatus of Cadent, the other provisions of this Schedule do not apply to apparatus in respect of which the relations between the undertaker and Cadent are regulated by the provisions of Part 3 of the 1991 Act.

(2) Paragraphs 7(2) (removal of apparatus) and 8 (Facilities and Rights for Alternative Apparatus) (facilities and rights for alternative apparatus) of this Agreement will apply to diversions even where carried out under the 1991 Act, in circumstances where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within existing adopted public highway.

(3) Notwithstanding article [11] (street works) or any other powers in the Order generally, s85 (sharing of cost of necessary measures) of the 1991 Act in relation to cost sharing and the regulations made thereunder will not apply in relation to any diversion of apparatus of Cadent under the 1991 Act.

Apparatus of Cadent in closed streets

4.—(1) Without prejudice to the generality of any other protection afforded to Cadent elsewhere in the Order, where any street is stopped up under article [16] (*permanent stopping up of streets and public rights of way*), if Cadent has any apparatus is in the street or accessed via that street Cadent will be entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker will grant to Cadent, or will procure the granting to Cadent of, legal easements reasonably satisfactory to Cadent in respect of such apparatus and access to it prior to the stopping up of any such street or highway but nothing in this paragraph shall affect any right of the undertaker or of Cadent to require the removal of that apparatus under paragraph 7 (removal of apparatus).

(2) Notwithstanding the temporary stopping up or diversion of any highway under the powers of article [15] (*temporary closure of streets and public rights of way and permissive paths*), Cadent will be at liberty at all times to take all necessary access across any such closed highway and/or to execute and do all such works and things in, upon or under any such highway as it would have been entitled to do immediately before such temporary closure or diversion in respect of any apparatus which at the time of the closure or diversion was in that highway.

(3) The Protective Provisions in this Part of this Schedule apply and take precedence over article 44 (statutory undertakers) of the Order which will not apply to Cadent.

Protective works

5.—(1) The undertaker, in the case of the powers conferred by article [21] (*protective works*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of Cadent and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of Cadent or any interruption in the supply of gas by Cadent, as the case may be, is caused, solely and directly by the undertaker must bear and pay on receipt of a proper invoice the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

(a) pay compensation to Cadent for any loss sustained by it; and

(b) indemnify Cadent against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by Cadent, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of Cadent or its contractors or workmen; and Cadent will give to the undertaker reasonable written notice of any claim or demand as aforesaid within 30 days of becoming aware of such claim or demand and no settlement or compromise thereof will be made by Cadent, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any land interest or appropriate, acquire, extinguish or override any easement, other interest or right and/or apparatus of Cadent otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out of any part of the authorised works (or in such other timeframe as may be agreed between Cadent and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of Cadent and/or affects the provisions of any enactment or agreement regulating the relations between Cadent and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as Cadent reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between Cadent and the undertaker acting reasonably and which must be no less favourable on the whole to Cadent unless otherwise agreed by Cadent, and it will be the responsibility of the undertaker to seek to procure and secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and Cadent agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation and/or removal of apparatus including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by Cadent and/or other enactments relied upon by Cadent as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by Cadent under paragraph 9 (retained apparatus: protection of Cadent) or any other paragraph of this Part of this Schedule, will not be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement between the parties in sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of Cadent in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release Cadent from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any Cadent right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 7 (removal of apparatus) do not apply, the undertaker must:

(a) retain any notice of Cadent's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of Cadent's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of Cadent's easement, right or other interest in relation to such acquired land.

Removal of apparatus

7.—(1) If, in the exercise of the agreement reached in accordance with paragraph 6 (acquisition of land) or in any other authorised manner, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of Cadent to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed, is in operation, and the rights and facilities referred to in sub-paragraph (2) have been provided, to the satisfaction of Cadent and in accordance with sub-paragraph (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Cadent advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Cadent reasonably needs to move or remove any of its apparatus) the undertaker must afford to Cadent to its satisfaction (taking into account sub-paragraph 8(1) below) the necessary facilities and rights:

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, Cadent may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for Cadent to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Cadent and the undertaker.

(5) Cadent must, after the alternative apparatus to be provided or constructed has been agreed, and subject to the prior grant to Cadent of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to Cadent to its satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for Cadent facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Cadent acting reasonably and must be no less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by Cadent.

(2) If the facilities and rights to be afforded by the undertaker and agreed with Cadent under sub-paragraph 7(2) above in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to Cadent than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed (in Cadent's opinion) then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 15 (Arbitration) of this Part of this Schedule and the arbitrator will make such provision for the payment of compensation by the undertaker to Cadent as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of Cadent

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to Cadent a plan and, if reasonably required by Cadent, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to Cadent under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any works to which sub-paragraphs (1) and (2) apply until Cadent has given written approval of the plan so submitted.

(4) Any approval of Cadent required under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7); and,

(b) must not be unreasonably withheld or delayed.

(5) In relation to any work to which sub-paragraphs (1) and/or (2) apply, Cadent may require such modifications to be made to the plans as may be reasonably necessary for the purpose of securing apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the plan, submitted under sub-paragraph (1) and (2) or as relevant sub-paragraph (4), as approved or as amended from time to time by agreement between the undertaker and Cadent and in accordance with all conditions imposed under sub-paragraph (4)(a), and Cadent will be entitled to watch and inspect the execution of those works.

(7) Where Cadent requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried

out to Cadent's reasonable satisfaction prior to the commencement of any authorised works (or any relevant part thereof) for which protective works are required prior to commencement

(8) If Cadent, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs (1) to (3) and (6) to (8) apply as if the removal of the apparatus had been required by the undertaker under paragraph 7(2).

(9) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the authorised works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(10) The undertaker will not be required to comply with sub-paragraph (1) where it needs to carry out emergency works as defined in the 1991 Act but in that case it must give to Cadent notice as soon as is reasonably practicable and a plan of those works and must comply with—

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) sub-paragraph (11) at all times.

(11) At all times when carrying out any works authorised under the Order the undertaker must comply with Cadent's policies for safe working in proximity to gas apparatus "CD/SP/SSW/22 (Cadent's policies for safe working in the vicinity of Cadent's Assets" and HSE's "HS(~G)47 Avoiding Danger from underground services".

(12) As soon as reasonably practicable after any ground subsidence event attributable to the authorised development the undertaker must implement an appropriate ground mitigation scheme save that Cadent retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10 (expenses).

Expenses

10.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to Cadent on demand on receipt of an invoice or written breakdown all charges, costs and expenses reasonably anticipated or incurred by Cadent in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by Cadent in connection with the negotiation or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by Cadent as a consequence of Cadent—

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers in the Order transferred to or benefitting Cadent;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

(g) any watching brief pursuant to paragraph 9(6).

(2) There will be deducted from any sum payable under sub-paragraph [ ] the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (*Arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Cadent by virtue of sub-paragraph (1) will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to Cadent in respect of works by virtue of sub-paragraph (1) will, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on Cadent any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised works) or property of Cadent, or there is any interruption in any service provided, or in the supply of any goods, by Cadent, or Cadent becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on receipt of an invoice the cost reasonably incurred by Cadent in making good such damage or restoring the supply; and

(b) indemnify Cadent for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from Cadent, by reason or in consequence of any such damage or interruption or Cadent becoming liable to any third party as aforesaid other than arising from any default of Cadent.

(2) The fact that any act or thing may have been done by Cadent on behalf of the undertaker or in accordance with a plan approved by Cadent or in accordance with any requirement of Cadent or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless Cadent fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) will impose any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the neglect or default of Cadent, its officers, servants, contractors or agents; and

(b) any authorised works and/or any other works authorised by this Part of this Schedule carried out by Cadent as an assignee, transferee or lessee of the undertaker with the benefit of the Order pursuant to section 156 (benefit of order granting development consent) of the Planning Act 2008 or article [7] (*consent to transfer benefit of order*) subject to the proviso that once such works become apparatus ("new apparatus"), any authorised works yet to be executed and not falling within this sub-section (3)(b) will be subject to the full terms of this Part of this Schedule including this paragraph 11 (indemnity).

(4) Cadent must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Enactments and agreements

12. Save to the extent provided for to the contrary elsewhere in this Part of this Schedule or by agreement in writing between Cadent and the undertaker, nothing in this Part of this Schedule will affect the provisions of any enactment or agreement regulating the relations between the undertaker and Cadent in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any of the authorised works, the undertaker or Cadent requires the removal of apparatus under paragraph 7(2) or Cadent makes requirements for the protection or alteration of apparatus under paragraph 9 (retained apparatus: protection of Cadent) , the undertaker will use its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Cadent's undertaking and Cadent will use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever Cadent's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, Cadent's consent must not be unreasonably withheld or delayed.

Access

14. If in consequence of the agreement reached in accordance with paragraph 6(1) or the powers granted under this Order the access to any apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by Cadent in respect of the apparatus) is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable Cadent to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under paragraphs 7(2), 7(4), 8(1) and paragraph 9 (retained assets: protection of Cadent) any difference or dispute arising between the undertaker and

Cadent under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and Cadent, be determined by being referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institute of Civil Engineers and in settling any difference or dispute, the arbitrator must have regard to the requirements of Cadent for ensuring the safe, economic and efficient operation of Cadent's apparatus.

Notices

16. The plans submitted to Cadent by the undertaker pursuant to paragraph 9(1) must be sent to Cadent Gas Limited Plant Protection by e-mail to plantprotection@cadentgas.com copied by e-mail to landservices@cadentgas.com and sent to the General Counsel Department at Cadent's registered office or such other address as Cadent may from time to time appoint instead for that purpose and notify to the undertaker.

PART 5

FOR THE PROTECTION OF THE HIGHWAYS AUTHORITIES

Application etc

1.—(1) The provisions of this Part of this Schedule apply for the protection of the highway authority and have effect unless otherwise agreed in writing between the undertaker and the relevant highway authority.

Interpretation

2.—(1) Where the terms defined in article 2 (interpretation) of this Order are inconsistent with sub-paragraph (2), the latter prevail.

(2) In this Part of this Schedule –

"1980 Act" means the Highways Act 1980;

"approval period" means, unless otherwise agreed between the parties:

(a) in respect of a request for approval for Minor Works or works required to be undertaken where there is an emergency, a period of 14 days or less;

(b) in respect of a request for approval for Major Works, a period of 28 days; and

(c) in respect of a request for approval which comprises both Minor Works and Major Works, a period of 28 days,

"balancing payment" means a fee calculated pursuant to Paragraph [17], be calculated and agreed separately with the relevant highway authority;

"CDM regulations" means the Construction (Design and Management) Regulations 2015;

"certificate of final completion" means any of the certificates referred to in Paragraphs [13 and 14];

"certificate of substantial completion" means any of the certificates referred to in Paragraph [12];

"extraordinary expense" means the cost of repairing damage to any highway to which an existing condition survey relates pursuant to Paragraph [7] and which the relevant highway authority consider is directly attributable to use of those highways by extraordinary traffic as a result of the Project over and above the average cost of maintaining those highways.

"highway works" – means the works, activities or operations listed in Schedules [5 to 9] and Schedule [13] of the Order, any other works, activities or operations that are required to be undertaken on, to, above, adjacent, near or under any part of the highway as shown on the

accompanying plan for each phase or part of the works and for which the consent of the relevant highway authority is required pursuant to the Order;

"major works" means Highway Works of a substantive nature including, but not limited to, the construction of new temporary or permanent accesses, the upgrading of existing accesses and/or the realignment of existing carriageway;

"minor works" means any Highway Works which are not Major Works including, but not limited to, the removal of street furniture, the erection of temporary signage, the erection of temporary scaffolding and/or the carrying out of vegetation pruning/trimming (or similar operations) in respect of an existing access arrangement;

"senior representatives" means the [project director] on behalf of the undertaker and persons notified to the undertaker by the relevant highway authority as being their senior representatives.

"permit schemes" means as defined in Article 2 (Interpretation) of the draft Order.

"road safety audits" means the evaluation of each and all of the Highway Works, in accordance with Standard GG 119 (Revision 2.01) of the Department for Transport's Design Manual for Roads and Bridges or any superseding Standard, in order to identify potential road safety problems that may affect any users of the highway and to recommend measures to mitigate or remove those problems;

"security" means, in respect of any phase or element of the Highway Works, a letter of credit or bank bond from an acceptable credit provider in favour of the relevant highway authority to cover the undertaker's liability to that highway authority for an amount of not less than £10,000,000 (ten million pounds).

"specification" means design and construction to the Design Manual of Roads and Bridges or SCC Development Management Specification

"substantial completion" means complete to the reasonable satisfaction of the relevant highway authority and so that the Highway Works in question can be used for the purpose and operate in the manner for which they were designed;

"temporary works period" means such period of time as is agreed between National Grid and the relevant highway authority within which any Highway Works of a temporary nature are permitted to remain in situ on the highway, in each case such period of time to begin immediately following Substantial Completion of those Highway Works;

General

3. The undertaker agrees to act towards the highway authorities and its appointed contractors and agents at all times in good faith and to co-operate, communicate and liaise with the relevant highway authority in relation to its obligations under this Part of this Schedule.

4. The undertaker shall be the only client for the purpose of the CDM regulations and agrees to undertake the obligations of a client under the CDM regulations and to use all reasonable endeavours to ensure that each phase or element of the highway works is carried out in accordance with the CDM regulations.

Formal approval

5.—(1) Formal approval for design and implementation of highway works will only be provided by the developer who will be regarded as the client under CDM 2015.

(2) The highway works must not commence until in respect of that part of the highway works

(a) A programme of design and delivery is provided by the developer to the highway authority at least 4 weeks in advance of the first highway application. This programme is to be reviewed periodically to reflect changes.

(b) the initial checking fee in respect of that phase or element of the highway works has been paid to the relevant highway authority;

(c) the undertaker or its contractor has provided the relevant highway authority full details of the design of the highways works in question, such submission to include:

(i) detailed specifications, drawings and plans for those highway works, including confirmation as to which elements of those highway works are to be temporary or permanent in nature;

(ii) the name of the contractor appointed by the undertaker to undertake the highway works;

(iii) supporting documentation, including proposed traffic management measures, schedules of condition, and relevant road safety audits where necessary as defined by the Design Manual for Roads and Bridges guidance document GG 119 Road Safet Audit;

(iv) Details of any proposed landscaping which forms part of the highway works or otherwise falls within the highway;

(v) Notices in respect of any related temporary stopping-up orders or traffic regulation orders (or applications for the same where not otherwise listed in Schedules [7] and [13] respectively to the DCO);

(vi) evidence of all other consents and approvals necessary for those highway works to take place where relevant to the highway authority;

(vii) the reasonable estimate of the cost of those highway works, including the costs associated with traffic management, plus 10 (ten) per cent;

(viii) details of the Security proposed to be put in place in respect of those highway works in accordance with paragraph [20] (Security);

(ix) if relevant, the intended duration of the temporary works period; and

(x) any additional information required pursuant to the permit schemes.

(3) Unless the relevant highway authority specifies within 14 days of receipt of the information referred to in sub-paragraph [(1)] of this paragraph that any additional information**a** is reasonably required, it will be deemed to be confirmed that all the necessary documents, plans, drawings and other technical details or information have been provided to allow for review and determination.

(4) Following the submission of information pursuant to sub-paragraph [(1)] of this paragraph, the relevant highway authority must review and determine the submission made, acting reasonably, to it under sub-paragraph [(1)] within the approval period.

(5) Where the relevant highway authority requests, acting reasonably, the provision of any additional information pursuant to sub-paragraph [(2)] of this paragraph, the undertaker must as soon as reasonably practicable:

(a) use reasonable endeavours to address the concerns raised by the relevant highway authority and/or provide the additional information requested; or

(b) notify the relevant highway authority that it disagrees with the need to comply with sub-paragraph [ ] and intends to have recourse to the escalation process set out in paragraph [6] (Escalation of differences) of this Part of this Schedule below.

(6) Where additional information has been reasonably requested by the relevant highway authority under sub-paragraph [(1)] above, the approval period shall be paused until such time as that additional information has been provided to it by the undertaker.

(7) In the event that the relevant highway authority refuses to grant approval, or any approval is issued subject to conditions which the undertaker in its sole discretion considers are unreasonable or would place it in conflict with its statutory duties and/or transmission licence obligations, the undertaker must notify the relevant highway authority in writing as soon as reasonably practicable that it intends to have recourse to the escalation process set out in paragraph 6 (Escalation of differences) of this Part of this Schedule.

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a *For the avoidance of doubt, the additional information requested pursuant to 11(2) should be proportionate to the highway works and in line with the requirements for standard 278 applications.

(8) If the relevant highway authority has not approved or refused the submission made under sub-paragraph [(1)] above within the approval period, it is deemed to have approved the details as submitted.

(9) All approval(s) issued pursuant to this paragraph (whether by agreement, deemed consent or otherwise through the escalation process set out in paragraph 6 (Escalation of differences) of this Part of this Schedule) will be recorded in an approvals register which will include, as a minimum:

(a) a brief description of the highway works to which the approval relates;

(b) the date on which approval was issued or deemed to have been issued;

(c) any unique reference number(s) assigned by the relevant highway authority to that approval;

(d) the reference number(s) for all approved drawings, plans and other supporting information; and

(e) any conditions or other information attaching, or relevant to, the approval in question; and

(f) the duration of the highways works to which the approval relates.

(g) Officer authorising approval of the design.

Escalation of differences

6.—(1) The parties shall use their reasonable endeavours to secure the amicable resolution of any dispute or difference arising between them in accordance with the following provisions:

(a) The senior representatives shall meet as soon as reasonably practicable in order to identify a means through which matters in dispute may be resolved.

(b) If the matter is not resolved at that level within twenty (20) Working Days of either party requesting such a meeting (or such longer period as may be agreed between the parties) then the provisions of article 62 (Arbitration) will automatically apply.

Extraordinary traffic

7.—(1) Prior to the commencement of any phase or element of the highway works, or use of a construction route, the undertaker will:

(a) agree with the relevant highway authority a methodology for the surveying of the condition of any existing public highways likely to be affected by that phase or element of the highway works;

(b) promptly undertake a survey of the condition of existing public highways in accordance with the agreed methodology; and

(c) share the results of any such survey with the relevant highway authority.

(2) Following the carrying out of the corresponding phase or element of the highway works, or final use of a construction route, the undertaker shall have regard to any written evidence presented to it by the relevant highway authority of damage to any highway to which an existing condition survey relates pursuant to sub-paragraph (1) of this paragraph and which the relevant highway authority reasonably considers is directly attributable to use of those highways by extraordinary traffic as a result of the highway works, the repair of which will otherwise constitute an extraordinary expense.

(3) In such circumstances, the undertaker shall have the discretion to reimburse the relevant highway authorities for all or part of the amount of any extraordinary expenses.

(4) In the event that the undertaker elects not to reimburse the relevant highway authority for any extraordinary expenses, the relevant highway authority may have recourse to Section 59 of the 1980 Act in the usual way.

(5) Nothing in this paragraph [7] (extraordinary traffic) will restrict the undertaker or its contractors from undertaking repairs to any part of the existing public highway affected by any phase or element of the highway works at its own expense, and subject always to first obtaining the necessary approvals and permits.

Conduct of the highways works

8.—(1) Each phase or element of the highway works shall at all times be carried out in accordance with the approvals as recorded in the approvals register, this Order and the management plans therein.

Testing of materials

9.—(1) Each relevant highway authority may require the testing of materials plant and workmanship used or proposed to be used in the highway works and shall have the power to reject any materials plant or workmanship so tested which each relevant highway authority may reasonably and properly find to be not in accordance with the approved information pursuant to paragraph [5] (formal approval) of this Part of this Schedule and recorded in the approvals register pursuant to paragraph [5] (formal approval) of this Part of this Schedule.

(2) The undertaker shall, as soon as is reasonably practicable, replace or repair any materials plant or workmanship which have been found to be not in accordance with the approved information pursuant to paragraph [5] (formal approval) of this Part of this Schedule and recorded in the approvals register pursuant to paragraph [5] (formal approval) of this Part of this Schedule.

(3) Subject at all times to provision of appropriate notice and compliance with any overriding health and safety or similar obligations, any person or persons duly authorised by each highway authority shall be allowed reasonable access and admission to the highway works or the places where materials or plant for the highway works may be stored or in the course of preparation manufacture or use (unless such access or admission is refused due to circumstances beyond the control of the undertaker).

Inspection of the highways works

10.—(1) Subject at all times to provision of appropriate notice and compliance with any overriding health and safety or similar obligations, the undertaker shall, during the progress of each and all of the highway works, give to or procure for any person or persons duly authorised by each highway authority supervised access to every part of the highway works and the site thereof and permit those person or persons to inspect the same as they proceed and all materials used or intended to be used therein and shall give effect to any reasonable and proper requirements made or reasonable and proper directions given in order to ensure conformity with the approved information pursuant to paragraph [5] (formal approval) of this Part of this Schedule and recorded in the approvals register pursuant to paragraph [5] (formal approval) of this Part of this Schedule.

(2) The undertaker shall not cover up or put out of view any works forming part of the Highway Works without the approval of the relevant highway authority and shall afford full opportunity for any person or persons duly authorised by the relevant highway authority to examine and measure any work which is about to be covered up or put out of view and to examine foundations before permanent work is placed thereon and shall give at least seventy two (72) hours' notice to the relevant highway authority whenever any such work or foundations is or are ready or about to be ready for examination.

(3) Each relevant highway authority shall ensure that any person or persons duly authorised by it attend, without unreasonable delay, when required by the undertaker for the purpose of examining the highway works or of examining such foundations.

Opening up of the Highways Works

11.—(1) During the construction of each phase or element of the highway works and prior to the issue of the certificate of substantial completion for that phase or element of the highway works, the relevant highway authority may wish to open or expose any of the highway works which have been covered up without previously being inspected by the highway authority under paragraph [10] (Inspection of the highway works).

(2) Where sub-paragraph [(1)] of this paragraph applies, the relevant highway authority may so take up or expose the relevant part of the highway works causing as little damage or inconvenience as is possible in respect of any other part or parts of the highway works (and the undertaker shall be responsible for the reasonable and proper cost of such taking up or exposure and reinstatement)

provided that if the highway works or any part or parts thereof are covered up by the undertaker after giving the notice referred to in paragraph [16] of this Part of this Schedule and the relevant highway authority have failed to inspect in the period therein referred to and the relevant highway authority shall subsequently require the highway works or any part of them to be uncovered for the purposes of inspection:—

(a) if inspection reveals the relevant part or parts of the highway works to have been completed in accordance with the plans, drawings, specifications and other materials which have been approved pursuant to Paragraph [5] (Formal approval) and recorded in the approvals register, all costs in respect of such uncovering and inspection and of reinstating the part or parts of the highway works uncovered shall be borne by the relevant highway authority; or

(b) if inspection reveals the relevant part or parts of the highway works not to have been completed in accordance with the plans, drawings, specifications and other materials which have been approved pursuant to Paragraph [5] (Formal approval) and recorded in the approvals register all reasonable and proper costs in respect of uncovering and inspection and of reinstating the part or parts of the highway works uncovered shall be borne by the undertaker.

Site clearance and Certificates of Substantial Completion

12.—(1) The obligations in this paragraph [12] shall apply in respect of all highway works, irrespective of whether they are of a permanent or temporary nature.

(2) On substantial completion of each phase or element of the highway works, the undertaker shall:

(a) clear away and remove from the site of the highway works all construction plant and temporary works of every kind and leave the site of the highway works in a neat and tidy condition to the satisfaction of the relevant highway authority (the relevant highway authority being obliged to act reasonably); and

(b) as defined in GG 119, carry out stage 3 of the road safety audit process and comply to the satisfaction of the relevant highway authority (the relevant highway authority being obliged to act reasonably) with recommendations arising thereunder prior to the opening of the highway works to the public.

(c) Notify the relevant highway authority of completion of the highway works or any part thereof and apply to the relevant highway authority for a provisional certificate in respect of any works of a permanent nature.

(3) Following an application for a provisional certificate, the relevant highway authority shall as soon as reasonably practicable—

(a) Inspect the highway works; and

(b) Provide the undertaker with a written list of any works that are require for the provisional certificate to be issued or confirmation that no further works are required for this purpose.

(4) Upon substantial completion of each phase or element of the highway works, including any additional work resulting from stage 3 of the road safety audit process to the satisfaction in all respects of the relevant highway authority (the relevant highway authority being obliged to act reasonably), the relevant highway authority shall issue a certificate of substantial completion in respect of those highway works to the undertaker, provided that all costs and expenses owing to the relevant highway authority have been paid in respect of those highway works.

Temporary works period and certificate of reinstatement (temporary works only)

13.—(1) The obligations in this paragraph [13] shall apply only in respect of those highway works which are of a temporary nature.

(2) The undertaker shall be permitted to retain each phase or element of the highway works in situ for the temporary works period (or such longer period as is agreed between the undertaker and the relevant highway authority) provided this does not exceed completion of the construction phase of the consented project.

(3) The undertaker shall maintain each phase or element of the highway works in a condition satisfactory to the relevant highway authority for the temporary works period (the relevant highway authority being obliged to act reasonably).

(4) On the expiry of the temporary works period, the undertaker shall promptly clear away and remove from the site of the highway works all highway works of every kind (including construction plant and equipment) and reinstate the site of the highway works to the satisfaction of the relevant highway authority (the relevant highway authority being obliged to act reasonably).

(5) The relevant highway authority shall thereafter, and as soon as reasonably practicable, issue to the undertaker the certificate of reinstatement in respect of the relevant highway works.

Defects correction period and certificate of final completion (permanent works only)

14.—(1) The obligations in this paragraph [14] shall apply only in respect of those highway works which are of a permanent nature.

(2) The undertaker shall maintain each phase or element of the highway works for a period of:

(a) in the case of minor works, twelve (18) months (unless the relevant highway authority agrees in writing a lesser period) from the issue of the related certificate of substantial completion; and

and prior to the expiration of the relevant period, the undertaker shall reinstate and make good any damage or defect which may have arisen from any cause whatsoever or be discovered during the said period (including any defect in or damage to the surface water drainage system) so as to place the highway and the relevant highway works in a condition satisfactory to the relevant highway authority (the highway authority being obliged to act reasonably).

(3) After the expiration of the period of twelve (18) months from substantial completion, the undertaker shall (unless it is agreed between the parties that it is to be carried out sooner or that it is no longer required) carry out stage 4 of the road safety audit and comply to the satisfaction in all respects of the relevant highway authority (the highway authority being obliged to act reasonably) with any recommendations arising thereunder.

(4) After:

(a) the expiration of the relevant period referred to in sub-paragraph (2) (or such lesser period as agreed in writing by the relevant highway authority under sub-paragraph (2); and

(b) any defects have been made good as therein provided, including any improvements arising under stage 4 of the road safety audit to the satisfaction of the relevant highway authority (the relevant highway authority being obliged to act reasonably); and

(c) the undertaker has provided a plan showing the land over which the highways works have been constructed and a health and safety file complying with the CDM regulations, including a separate health and safety file for each structure.

the relevant highway authority shall as soon as reasonably practicable issue to the undertaker the certificate of final completion in respect of the relevant highway works, provided that the certificate of final completion shall in the case of road gullies extend only as far as their points of entry to the surface water sewers where those are not being adopted by the highway authority as highway drains.

(5) Upon issue of a certificate of final completion:

(a) any part of the highway works to which that certificate of final completion shall relate which is not already public highway shall be adopted by the relevant highway authority as part of the public highway; and

(b) the highway works so certified shall from then and at all times be maintainable at the public expense and the undertaker shall have no further liability under this Schedule in respect to the same.

Extraordinary traffic

15.—(1) Prior to the commencement of any phase or element of the highway works, the undertaker will:

(a) agree with the relevant highway authority a methodology for the surveying of the condition of any existing public highways likely to be affected by that phase or element of the highway works;

(b) promptly undertake a survey of the condition of existing public highways in accordance with the agreed methodology; and

(c) share the results of any such survey with the relevant highway authority.

(2) Following the carrying out of the corresponding phase or element of the highway works, the undertaker shall have regard to any written evidence presented to it by the relevant highway authority of damage to any highway to which an existing condition survey relates pursuant to sub-paragraph [(1)] of this paragraph and which the relevant highway authority reasonably considers is directly attributable to use of those highways by extraordinary traffic as a result of the highway works, the repair of which will otherwise constitute an extraordinary expense.

(3) In such circumstances, the undertaker shall have the discretion to reimburse the relevant highway authorities for all or part of the amount of any extraordinary expenses.

(4) In the event that the undertaker elects not to reimburse the relevant highway authority for any extraordinary expenses, the relevant highway authority may have recourse to Section 59 of the 1980 Act in the usual way.

(5) Nothing in this paragraph 15 (extraordinary traffic) will restrict the undertaker or its contractors from undertaking repairs to any part of the existing public highway affected by any phase or element of the highway works at its own expense, and subject always to first obtaining the necessary approvals and permits.

Permit schemes

16. The undertaker agrees that the provisions in this Part of this Schedule operate in parallel to the permit schemes, each of which is given effect in article 12 (Application of the permit schemes) of this Order.

17. Unless otherwise agreed in writing by the relevant highway authority, in the event of a conflict with the provisions of this Part of this Schedule and either or both of the permit schemes, the terms of the permit scheme will prevail.

Payments and Costs

18. The undertaker must pay to the relevant highway authority—

(a) an initial checking fee, to be calculated and agreed separately with the relevant highway authority, in relation to each phase or element of the highway works for which formal approval is sought, such sum to be payable prior to the submission of an application for formal approval;

(b) a balancing inspection payment, to be calculated and agreed separately with the relevant highway authority, such sum to be payable, if required, prior to commencement of the phase or element of the highway works in question including recovery of additional costs for changes during the construction phase;

(c) the reasonable costs incurred by the relevant highway authorities in monitoring the implementation of any recommendations arising from any road safety audits undertaken, such sum to be payable upon production of a valid invoice for the same;

(d) the reasonable cost of any temporary and permanent traffic regulation orders, such sum to be payable prior to the commencement of any work on the making of such Order;

(e) the reasonable cost of any other road traffic orders required to facilitate the highway works, such to be payable prior to the commencement of any work on the making of such Order; and

(f) any value added tax which is payable by the relevant highway authority in respect of such payments referred to in this paragraph [18] and for which it cannot obtain reinstatement from HM Revenue and Customs.

19.—(1) All funding and charging arrangements between the undertaker and the relevant highway authorities shall be in accordance with the following overarching principles:

(a) the charging must relate exclusively to the relevant highway authority's recovery of its costs in respect of the highway works and more broadly for the provision of services it is authorised but not required (by an enactment) to provide;

(b) where the services of the authorities maintenance contractor are required these will be charged at the rates within the authorities maintenance contact and subject to the conditions of the same:

(c) charges are to be incurred on a not-for profit basis (year by year) and, taking one year with another, the income from the charges for such services must not exceed the cost of providing them;

(d) there shall be full transparency with regard to costs incurred; and

(e) the relevant highway authority shall use all reasonable endeavours to keep costs payable by the undertaker to a minimum including by, but not limited to, sharing resources between the highway authorities, avoiding unnecessary duplication of time and/or effort, and making the best use of available information having due regard to statutory obligations.

(f) If significant changes are made to the approved design during construction the highway authority reserves the right to recover any additional costs incurred.

(2) All invoices submitted in connection with the costs and/or payments must comply with the principles set out in sub-paragraph [(1)] and be accompanied by a written report summarising all tasks carried out or activities undertaken which have given rise to such costs and such other supporting information as is reasonable for the undertaker to request in the circumstances.

Security

20.—(1) Prior to commencement of the highway works or part thereof, the undertaker shall provide the security.

(2) Should the undertaker default in the execution of its obligations in carrying out any or all of the relevant phase or element of the highway works, then the relevant highway authority may itself complete that phase or element of the highway works that has been commenced by the undertaker and maintain or remove and reinstate the same and call upon the undertaker to reimburse it for the cost expended in respect of the same provided that:

(a) unless there is a danger to users of the highway, the relevant highway authority shall first give 28 days prior written notice (or lesser period as may in the circumstances be reasonable) of its intention to commence work under this sub-paragraph (a);

(b) any notice served under this sub-paragraph (b) shall specify the period of the notice ("the notice period"), the extent of the work which the relevant highway authority proposes to carry out, and full details of all matters in respect of which the relevant highway authority considers that the highway works have not been carried out in accordance with this Part of this Schedule; and

(c) if before the expiry of the notice period, the undertaker serves written notice upon the relevant highway authority that it intends diligently to execute the works specified in the notice in accordance with this Part of this Schedule, and specifies a time to complete that the relevant highway authority considers reasonable in the circumstances the relevant highway authority shall not be entitled to execute the relevant part or parts of the highway works specified in the notice served under this paragraph unless the undertaker then fails to execute those works within the agreed timescale.

Insurance

21.—(1) Prior to the commencement of the highway works the undertaker must have in place public liability insurance in the minimum sum of £10,000,000.000 (ten million pounds) in respect of any one claim against any legal liability for damage loss or injury to any property or any person as a direct result of the execution of highway works or use of the local road network by the undertaker.

Indemnity

22.—(1) The undertaker shall, from the date of commencement of each phase or element of the highway works indemnify the relevant highway authority against all claims, charges, costs, expenses, liability or losses whatsoever arising out of any or all of that phase or element of the highway works provided that the undertaker's indemnity will not extend to any claims submitted to the relevant highway authority arising out of the negligence of the relevant highway authority's employees or arising after the issue of the certificate of final completion pursuant to Paragraph [13 and 14] or expiry of the temporary works period including re-instatement.

(2) The relevant highway authority shall:

(a) notify the undertaker immediately upon receipt of any claims, charges, costs, expenses, liability or losses referred to in sub-paragraph [(1)];

(b) at all times after that date keep the undertaker fully informed;

(c) permit and assist the undertaker to make such investigations and/or tests as the undertaker may reasonably deem necessary to verify such claims, charges, costs, expenses, liability or losses;

(d) not accept or compromise any claims, charges, costs, expenses, liability or losses to which this indemnity relates without the prior approval of the undertaker as to its validity and as to the amount of the settlement; and

(e) at the request of the undertaker instruct such reputable firm of solicitors as the undertaker may reasonably specify in respect of the conduct of negotiations and/or proceedings in respect of any claims, charges, costs, expenses, liability or losses to which this indemnity relates.

(3) The indemnity in sub-paragraph [ ] above includes:

(a) all fees incurred by claimants which the relevant highway authority is obliged to pay, and those of the relevant highway authority or its agent or contractor, in negotiating any claims (together with VAT payable on the claimants' professional advisors' fees);

(b) statutory interest payments to claimants and their professional advisors; and

(c) the relevant highway authority's reasonable and proper legal costs in making the compensation, fees and interest payments.

Arbitration

23. Any dispute under this Part of this Schedule shall be settled by arbitration in accordance with article 62 (arbitration).

PART 6

FOR THE PROTECTION OF LONDON GATEWAY PORT LIMITED

Application

1. For the protection of LGPL the following provisions will, unless otherwise agreed in writing between the undertaker and LGPL, have effect in relation to the construction, operation and maintenance of any specified work .

Interpretation

2. In this Part of this Schedule—

"Areas of Safeguarded Water Depth" means the areas, or any part thereof, shown on the Areas of Safeguarded Water Depth plan which comprises three areas labelled: Sunk Pilot boarding area, Long Sand Head Two-Way Route crossing area, and North East Spit area;

"Cable Specification and Installation Plan" means the cable specification and installation plan to be approved by the MMO under condition 4 of the Deemed Marine Licence;

"construction" includes execution, placing of a work and the carrying out of any operation, and "construct" and "constructed" are to be construed accordingly;

"commence" for the purpose of this Part of Schedule 15 means the carrying out of any authorised development and surveying and monitoring activities and "commencement" and "commenced" must be construed accordingly;

"Deemed Marine Licence" means the marine licence granted by this Order as set out in Schedule 16;

"LGPL" means London Gateway Port Limited;

"maintain" has the same meaning as in Article 2 save that it includes surveying and monitoring within the Areas of Safeguarded Water Depth and maintenance shall be construed accordingly;

"Navigation Installation Plan" means the Navigation Installation Plan to be approved under condition 4(k) of the Deemed Marine Licence;

"Offshore Construction Environmental Management plan" means the plan to be approved under condition 4(b) of the Deemed Marine Licence;

"plans" includes navigational risk assessments, plans, sections, elevations, drawings, specifications, programmes, construction methods and descriptions including, where applicable, relevant hydraulic information and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"Restricted Zone Works" means any specified work that would be carried out with a Recommended Restricted Zone as defined in the Deemed Marine Licence;

"specified work" means any works or operations forming part of the construction, operation or maintenance of the authorised development or any ancillary works that are within or which may affect the Areas of Safeguarded Water Depth; and

"undertaker" means the undertaker as defined in article 2 (interpretation) of this Order.

Consultation and Notice

3. The undertaker will consult LGPL on:

(1) the Cable Specification and Installation Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) no less than 20 business days before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4 of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth); and

(2) the Navigation Installation Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) no less than 20 business days before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4(k) of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth).

(3) the offshore Construction and Environmental Management Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4(1)(g) of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth).

4. The undertaker will construct and maintain the specified works in accordance with the plans as approved pursuant to paragraph 3, unless otherwise agreed in writing by the MMO pursuant to condition 4(4) of the deemed marine licence in Schedule 16. However, prior to seeking such an approval of the MMO the undertaker will consult LGPL and will provide the MMO with a copy of any response made by LGPL as part of any request for the MMO's approval.

5. The undertaker will consult LGPL on the proposed activities and programme for any pre-construction monitoring, construction monitoring, post construction monitoring or surveying and related reporting within or which may affect the Areas of Safeguarded Water Depth before such pre-construction monitoring, construction monitoring, post construction monitoring or surveying is programmed to commence. The undertaker must allow LGPL a period of 3 weeks in which to respond and have regard to any request made by LGPL for reasonable amendment to the programme.

6. The undertaker must notify LGPL of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring or survey work to be undertaken under this Order within or which may affect the Areas of Safeguarded Water Depth no less than 5 business days before such survey work is programmed to begin.

7. The undertaker will consult LGPL on any application for marine licensing for the clearance of unexploded ordnance from or which may affect the Areas of Safeguarded Water Depth before such applications are submitted to the MMO. The undertaker must have regard to any request made by LGPL for reasonable amendment to the proposed application, provided that the request is made to the undertaker within 10 business days of receipt of the details of the proposed application.

8. The undertaker must notify LGPL of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Safeguarded Water Depth no less than 10 business days before such disposal is programmed to begin.

9. The undertaker will consult LGPL on the activities and programme for any specified work which is not covered by the Cable Specification and Installation Plan before such specified work is programmed to commence. The undertaker must allow LGPL a period of 3 weeks in which to respond and have regard to any request made by LGPL for reasonable amendment to the activities or programme.

10. The undertaker must notify LGPL of the final method statement and programme for any for any specified work to be undertaken under this Order which is not covered by the Cable Specification and Installation Plan no less than 5 business days before such work is programmed to begin.

Cable Specification and Installation Plan

11. The Cable Specification and Installation Plan, or any other plan referred to in paragraph 3 must comply with Requirement 17 and set out for Work No.6, in so far as it applies to the Areas of Safeguarded Water Depth:

(1) The proposed cable installation methods and measures for management of construction risks;

(2) Cable protection measures proposed including type, maximum volume and locations;

(3) Arrangements to consult LGPL on matters regarding the construction of cables and cable protection measures within the Areas of Safeguarded Water Depth, including provision of a point of contact for continuing liaison and co-ordination throughout the construction of these works;

(4) The proposed programme of work for cable installation with arrangements for specific notification and liaison with the LGPL Harbour Master in relation to the undertaker's activities in the Areas of Safeguarded Water Depth throughout the programme, including as to the schedule of vessel activities and movements and arrangements for notification of any changes to the programme to LGPL;

(5) Arrangements for close liaison between the undertaker, its contractors and LGPL's Harbour Master to allow all parties to take steps to minimise impacts on vessels calling at London Gateway Part; and

(6) The programme and methodologies for monitoring and the arrangements for the results of monitoring surveys or other construction evidence being made available to LGPL within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in sub paragraph (1) of this paragraph;

Monitoring

12. The undertaker shall notify LGPL as soon as reasonably practicable, and in any event within 2 business days, in the event that any geophysical survey conducted using a multi-beam echo sounder confirms the exposure of any cable within the Areas of Safeguarded Water Depth.

Minimising the Impact of Restricted Zones

13.°Not less than two weeks prior to carrying out any Restricted Zone Works in any part of the Areas of Safeguarded Water Depth, the undertaker will notify LGPL's harbour master of that fact and LPGL's harbour master will in turn provide the undertaker with its schedule of vessel calls. The undertaker will have regard to the schedule in relation to the timings of the presence of its vessels and the carrying out of Restricted Zone Works so as to avoid and minimise disruption to vessels navigating to and from London Gateway Port.

14.°Pre-commencement meetings between LGPL's harbour master and the undertaker or the undertaker's relevant contractors will take place either one or two days before Restricted Zone Works begin in each of Areas of Interest and the undertaker will have regard to LGPL's representations at those meetings when planning and carrying out Restricted Zone Works in the Areas of Interest.

15.°Whilst Restricted Zone Works are carried out in the Areas of Safeguarded Water Depth, the Applicant will provide LGPL's harbour master with daily updates to inform LGPL's scheduling.

Provision of as built details

16. As soon as reasonably practicable following the completion of the construction of cables forming Work No. 6 (including any cable protection measures), and after any works or maintenance which would result in changes to the position, depth and/or cable protection measures installed as part of Work No.6, the undertaker must provide (on a strictly confidential basis) to LGPL as built drawings of Work No. 6 in a form and scale to be agreed between the undertaker and LGPL to show the position, depth and any cable protection measures installed as part of Work No. 6 in relation to the Areas of Safeguarded Water Depth.

17. LGPL must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to LGPL on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that LGPL may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by LGPL to treat such information as confidential.

Transfer of the benefit

18. The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Consent to transfer benefit of Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify LGPL in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

Arbitration

19. Any dispute arising between the undertaker and LGPL under this Part of this Schedule is to be escalated in the first instance to senior representatives from LGPL and the undertaker, and LGPL and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days.

20. Any difference or dispute arising between the undertaker and LGPL under this Part of this Schedule which has not been resolved within 10 days under paragraph 19 above must, unless otherwise agreed in writing between the undertaker and LGPL, be determined by being referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institute of Civil Engineers.

Notices

21. Any plans submitted to LGPL by the undertaker pursuant to this Part of this Schedule must be sent to LGPL by post to the address below such other address or e-mail address as LGPL may from time to time appoint instead for that purpose and notify to the undertaker.

London Gateway Port Harbour Master

London Gateway Port Limited

No. 1 London Gateway

London Gateway Drive

Stanford-le-Hope

Essex

SS17 9DY

Consultation Principles

22. Wherever the undertaker is required to consult LGPL under this Part of this Schedule the following shall apply:

(1) The undertaker shall provide LGPL with sufficient information to enable meaningful consideration, including detailed plans, specifications, and any relevant environmental or operational impact assessments

(2) LGPL shall be entitled to request any clarification or additional documentation necessary to understand the proposal, provided that the request is made to the undertaker within 10 business days of receipt of the details which are subject to consultation.

(3) LGPL shall be entitled to request a meeting to discuss the proposed works, and the undertaker shall use reasonable endeavours to arrange such meeting within 10 business days of the request.

(4) LGPL shall be entitled to request an extension to any of the relevant timeframes if required and such extension shall be granted by the undertaker wherever reasonably practicable provided that the request is made to the undertaker within 10 business days of receipt of the details which are subject to consultation or of receipt of any clarification or additional documentation requested pursuant to sub-paragraph (2).

(5) In relation to any consultation, the undertaker shall be obliged to receive and fully consider any and all comments provided by LGPL within the relevant timeframes and, to the extent practicable, to also consider comments received outside of these timeframes.

(6) In relation to any consultation, the undertaker shall have due regard to any comments, representations or objections made by LGPL and upon request shall respond in writing, setting out how such comments, representations or objections have been considered and, where applicable, addressed.

(7) The undertaker shall not commence the proposed works or apply for consent from the MMO, as relevant, until the consultation process has been completed in accordance with this Part of this Schedule, including the provision of responses to any comments, representations or objections made by LGPL (if requested).

(8) LGPL shall act reasonably and in good faith in reviewing any consultation materials and making any requests, representations, or objections.

(9) The undertaker shall act reasonably and in good faith in preparing and providing materials and in responding to any requests, representations, or objections from LGPL.

(10) The undertaker shall keep a written record of all consultation communications, including comments, requests, responses, representations, objections, and meeting notes, and shall provide a copy to LGPL upon request and shall provide a copy of any relevant request, representation, or objections from LGPL to the MMO with any application that is to be submitted to the MMO pursuant to Schedule 16 (deemed marine licence) or otherwise in respect of a plan, works or other proposal upon which LGPL has been consulted, provided that LGPL provide those requests, representations or objections to the undertaker before the relevant application is submitted to the MMO.

PART 7

FOR THE PROTECTION OF RAILWAY INTERESTS

1. The provisions of this Part of this Schedule have effect, unless otherwise agreed in writing between the undertaker and Network Rail and, in the case of paragraph 14 of this Part of this Schedule any other person on whom rights or obligations are conferred by that paragraph.

2.—(1) In this Part of this Schedule—

"asset protection agreement" means either an asset protection agreement, a basic asset protection agreement or both shall reasonably be determined by Network Rail to regulate the construction and maintenance of the specified work in a form prescribed from time to time by Network Rail;

"construction" includes execution, placing, maintenance, alteration and reconstruction and "construct" and "constructed" have corresponding meanings;

"the engineer" means an engineer appointed by Network Rail for the purposes of this Order;

"network licence" means the network licence, as the same is amended from time to time, granted to Network Rail Infrastructure Limited by the Secretary of State in exercise of their powers under section 8 (licences) of the Railways Act 1993;

"Network Rail" means Network Rail Infrastructure Limited (company number 02904587, whose registered office is at Waterloo General Office, London SE1 8SW) and any associated company of Network Rail Infrastructure Limited which holds property for railway purposes, and for the purpose of this definition "associated company" means any company which is (within the meaning of section 1159 of the Companies Act 2006) the holding company of Network Rail Infrastructure Limited, a subsidiary of Network Rail Infrastructure Limited or another subsidiary of the holding company of Network Rail Infrastructure Limited and any successor to Network Rail Infrastructure Limited's railway undertaking;

"plans" includes sections, designs, design data, software, drawings, specifications, soil reports, calculations, descriptions (including descriptions of methods of construction), staging proposals, programmes and details of the extent, timing and duration of any proposed occupation of railway property;

"railway operational procedures" means procedures specified under any access agreement (as defined in the Railways Act 1993) or station lease;

"railway property" means any railway belonging to Network Rail and—

(a) any station, land, works, apparatus and equipment belonging to Network Rail or connected with any such railway; and

(b) any easement or other property interest held or used by Network Rail or a tenant or licencee of Network Rail for the purposes of such railway or works, apparatus or equipment;

"regulatory consents" means any consent or approval required under:

(a) the Railways Act 1993;

(b) the network licence; and/or

(c) any other relevant statutory or regulatory provisions;

by either the Office of Rail and Road or the Secretary of State for Transport or any other competent body including change procedures and any other consents, approvals of any access or beneficiary that may be required in relation to the authorised development;

"specified work" means so much of any of the authorised development as is situated upon, across, under, over or within 15 metres of, or may in any way adversely affect, railway property and, for the avoidance of doubt, includes the maintenance of such works under the powers conferred by article 4 (maintenance of authorised development) in respect of such works.

3.—(1) Where under this Part of this Schedule Network Rail is required to give its consent or approval in respect of any matter, that consent or approval is subject to the condition that Network Rail complies with any relevant railway operational procedures and any obligations under its network licence or under statute.

(2) In so far as any specified work or the acquisition or use of railway property is or may be subject to railway operational procedures, Network Rail must—

(a) co-operate with the undertaker with a view to avoiding undue delay and securing conformity as between any plans approved by the engineer and requirements emanating from those procedures; and

(b) use their reasonable endeavours to avoid any conflict arising between the application of those procedures and the proper implementation of the authorised development pursuant to this Order.

(3) Where under this Part of this Schedule Network Rail is required to act reasonably, any standard of reasonableness required to be exercised by Network Rail shall constitute the standard of reasonableness to be expected of a prudent railway statutory undertaker acting in compliance with its statutory and regulatory duties.

4.—(1) The undertaker must not exercise the powers conferred by—

(a) article 20 (discharge of water);

(b) article 22 (authority to survey and investigate the land);

(c) article 51 (felling or lopping);

(d) article 52 (trees subject to Tree Preservation Orders);

in respect of any railway property unless the exercise of such powers is with the consent of Network Rail.

(2) The undertaker must not in the exercise of the powers conferred by this Order prevent pedestrian or vehicular access to any railway property, unless preventing such access is with the consent of Network Rail.

(3) The undertaker must not exercise the powers conferred by sections 271 or 272 of the 1990 Act, article 44 (statutory undertakers), or article 38 (power to override easements and other rights), in relation to any right of access of Network Rail to railway property, but such right of access may be diverted with the consent of Network Rail.

(4) The undertaker must not under the powers of this Order do anything which would result in railway property being incapable of being used or maintained or which would affect the safe running of trains on the railway.

(5) Where Network Rail is asked to give its consent pursuant to this paragraph—

(a) such consent must not be unreasonably withheld but may be given subject to reasonable conditions in the circumstances; and

(b) such consent must not be unreasonably delayed and if, by the end of 28 days beginning with the date on which such request for Network Rail's consent was made, Network Rail has not intimated its refusal together with the grounds of any such refusal of consent, the undertaker may serve upon Network Rail written notice requiring Network Rail to intimate approval or disapproval within a further period of 14 days beginning with the date upon which Network Rail receives written notice from the undertaker. If by the expiry of the further 14 days Network Rail has not intimated consent or refusal of consent, Network Rail is deemed to have given consent for the exercise of the respective powers.

(6) The undertaker must enter into an asset protection agreement prior to the carrying out of any specified work, and Network Rail must act reasonably at all times in connection with the negotiation of, and entry into, such an asset protection agreement.

5.—(1) The undertaker must before commencing construction of any specified work supply to Network Rail proper and sufficient plans of that work for the reasonable approval of the engineer and the specified work must not be commenced except in accordance with such plans as have been approved in writing by the engineer or settled by arbitration.

(2) The approval of the engineer under sub-paragraph (1) must not be—

(a) unreasonably withheld, but may be given subject to reasonable conditions in the circumstances, or;

(b) unreasonably delayed and if, by the end of the period of 28 days beginning with the date on which such plans have been supplied to Network Rail the engineer has not intimated their disapproval of those plans and the grounds of such disapproval the undertaker may serve upon the engineer written notice requiring the engineer to intimate approval or disapproval within a further period of 14 days beginning with the date upon which the engineer receives written notice from the undertaker. If by the expiry of the further 14 days the engineer has not intimated approval or disapproval, the engineer shall be deemed to have approved the plans as submitted.

(3) Where Network Rail refuses its approval of the plans supplied to it pursuant to sub-paragraph (1) Network Rail shall provide reasons for such refusal in writing and the undertaker shall revise the relevant plans to accommodate such reasons where reasonable to do so and the process in sub-paragraphs (1) and (2) shall be repeated.

(4) If Network Rail gives notice to the undertaker that Network Rail desires itself to construct any part of a specified work which in the opinion of the engineer will or may affect the stability of railway property or the safe operation of traffic on the railways of Network Rail by the earlier of the date:

(a) on which the engineer intimates their approval of the plans under sub-paragraph (2); or

(b) that is the end of the period of 14 days beginning with the date on which written notice was served upon the engineer under sub-paragraph (2)(b)

then, if the undertaker desires such part of the specified work to be constructed, Network Rail must construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to accordance with the plans approved or be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker provided that such specified works to which this paragraph shall apply shall be limited to works to railway infrastructure, railway apparatus or railway equipment and shall not extend to any works carried out on the undertaker's electricity transmission network.

(5) If Network Rail give notice to the undertaker under sub-paragraph (4) then, if reasonably required by the undertaker upon reasonable prior written notice, Network Rail will also construct any adjoining part of the specified work ("adjoining work"), provided that such adjoining work is integral to and necessary to be carried out in conjunction with that specified work, without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under this paragraph, and under the supervision (where appropriate and if given) of the undertaker, subject to—

(a) such adjoining work being located on railway property;

(b) Network Rail having sufficient rights to carry out such adjoining work;

(c) the undertaker first providing Network Rail with the requisite plans, specifications and any other information reasonably required by Network Rail to enable it to carry out such adjoining work;

(d) the engineer's approval of such adjoining work; and

(e) Network Rail being able to recover its costs of carrying out such adjoining work pursuant to paragraph 14(1).

(6) When signifying their approval of the plans pursuant to sub-paragraphs (1) and (2) the engineer may specify any protective works (whether temporary or permanent) which in the engineer's opinion (acting reasonably) need to be carried out before the commencement of the construction of a specified work to ensure the safety or stability of railway property or the continuation of safe and efficient operation of the railways of Network Rail or the services of operators using the same (including any relocation de-commissioning and removal of works, apparatus and equipment necessitated by a specified work and the comfort and safety of passengers who may be affected by the specified works), and such protective works as may be reasonably necessary for those purposes must be constructed by Network Rail or by the undertaker, if Network Rail so desires, and such protective works must be carried out at the expense of the undertaker in either case without unnecessary delay and the undertaker must not commence the construction of the specified works until the engineer has notified the undertaker that the protective works have been completed to their reasonable satisfaction provided that any such protective works would be on land held or controlled by Network Rail, and such protective works are authorised by the Order or are development permitted by either an Act of Parliament or a general development order made under the 1990 Act.

6.—(1) Any specified work and any protective works to be constructed by virtue of paragraph 5(5) must, when commenced, be constructed—

(a) without unnecessary delay in accordance with the plans approved or deemed to have been approved or settled under paragraph 5;

(b) under the supervision (where appropriate and if given) and to the reasonable satisfaction of the engineer;

(c) in such manner as to cause as little damage as is possible to railway property; and

(d) so far as is reasonably practicable, so as not to interfere with or obstruct the free, uninterrupted and safe use of any railway of Network Rail or the traffic thereon and the use by passengers of railway property.

7. The undertaker must—

(a) subject to compliance with all applicable health and safety requirements of Network Rail, at all times afford reasonable facilities to the engineer for access to a specified work during its construction; and

(b) supply the engineer with all such information as they may reasonably require with regard to a specified work or the method of constructing it.

8. Network Rail must—

(a) subject to compliance with all applicable health and safety requirements of Network Rail, at all times afford reasonable facilities to the undertaker and its agents for access to any works carried out by Network Rail under this Part of this Schedule during their construction; and

(b) supply the undertaker with such information as it may reasonably require with regard to such works or the method of constructing them.

9.—(1) If any permanent or temporary alterations or additions to railway property are reasonably necessary in consequence of the construction or by completion of a specified work in order to ensure the safety of railway property or the continued safe operation of the railway of Network Rail, such alterations and additions may be carried out by Network Rail and if Network Rail gives to the undertaker 56 days' notice (or in the event of an emergency or safety critical issue such notice as is reasonable in the circumstances) of its intention to carry out such alterations or additions (which must be specified in the notice), the undertaker must pay to Network Rail, following receipt of a

VAT invoice, the reasonable cost of those alterations or additions including, in respect of any such alterations and additions as are to be permanent, a capitalised sum representing the increase of the costs which may be expected to be reasonably incurred by Network Rail in maintaining, working and, when necessary, renewing any such alterations or additions.

(2) If during the construction of a specified work by the undertaker, Network Rail gives notice to the undertaker that Network Rail desires itself to construct that part of the specified work which in the opinion of the engineer is endangering the stability of railway property or traffic on the railways of Network Rail then, if the undertaker decides that part of the specified work is to be constructed, Network Rail must assume construction of that part of the specified work and construct it without unnecessary delay on behalf of and to the reasonable satisfaction of the undertaker in accordance with the plans approved or deemed to be approved or settled under paragraph 5, and under the supervision (where appropriate and if given) of the undertaker, and the undertaker must, notwithstanding any such approval of a specified work under paragraph 5(3), pay to Network Rail all reasonable expenses to which Network Rail may be put and compensation for any loss which it may suffer by reason of the execution by Network Rail of that specified work provided that such specified works to which this paragraph shall apply shall be limited to works to railway infrastructure, railway apparatus or railway equipment and shall not extend to any works carried out on the undertaker's electricity transmission network.

(3) The engineer must, in respect of the capitalised sums referred to in this paragraph and paragraph 10(1)(a) provide such details of the formula by which those sums have been calculated as the undertaker may reasonably require.

(4) If the cost of maintaining, working or renewing railway property is reduced in consequence of any such alterations or additions a capitalised sum representing such saving must be set off against any sum payable by the undertaker to Network Rail under this paragraph.

10.—(1) Provided such sums are not payable under any other agreement between the undertaker and Network Rail, the undertaker must repay to Network Rail, following receipt of a VAT invoice, all reasonable fees, costs, charges and expenses reasonably incurred by Network Rail—

(a) in constructing any part of a specified work on behalf of the undertaker as provided by paragraph 5(3), in constructing any adjoining works under the provisions of paragraph 5(5) or in constructing any protective works under the provisions of paragraph 5(6) including, in respect of any permanent protective works, a capitalised sum representing the cost of maintaining and renewing those works;

(b) in respect of the approval by the engineer of plans submitted by the undertaker and the supervision by the engineer of the construction of a specified work;

(c) in respect of the employment or procurement of the services of any inspectors, signallers, watch-persons and other persons whom it shall be reasonably necessary to appoint for inspecting, signalling, watching and lighting railway property and for preventing, so far as may be reasonably practicable, interference, obstruction, danger or accident arising from the construction or failure of a specified work;

(d) in respect of any special traffic working resulting from any speed restrictions which in the opinion of the engineer, need to be imposed by reason or in consequence of the construction or failure of a specified work or from the substitution or diversion of services which is reasonably necessary for the same reason; and

(e) in respect of any additional temporary lighting of railway property in the vicinity of the specified works, being lighting made reasonably necessary by reason or in consequence of the construction or failure of a specified work.

(2) Any additional expenses which Network Rail may reasonably incur in altering, reconstructing or maintaining railway property under any powers existing at the making of this Order by reason of the existence of a specified work must, provided that 56 days' previous notice of the commencement of such alteration, reconstruction or maintenance has been given to the undertaker, be repaid by the undertaker to Network Rail following receipt of a VAT invoice.

11.—(1) In this paragraph—

"EMI" means, subject to sub-paragraph (2), electromagnetic interference with Network Rail apparatus generated by the operation of the authorised development where such interference is of a level which adversely affects the safe operation of Network Rail's apparatus; and

"Network Rail's apparatus" means any lines, circuits, wires, apparatus or equipment (whether or not modified or installed as part of the authorised development) which are owned or used by Network Rail for the purpose of transmitting or receiving electrical energy or of radio, telegraphic, telephonic, electric, electronic or other like means of signalling or other communications.

(2) This paragraph applies to EMI only to the extent that such EMI is not attributable to any change to Network Rail's apparatus carried out after approval of plans under paragraph 5(1) for the relevant part of the authorised development giving rise to EMI (unless the undertaker has been given notice in writing before the approval of those plans of the intention to make such change).

(3) Subject to sub-paragraph (5), the undertaker must in the design and construction of the authorised development take all measures necessary to prevent EMI and must establish with Network Rail (both parties acting reasonably) appropriate arrangements to verify their effectiveness.

(4) In order to facilitate the undertaker's compliance with sub-paragraph (3)—

(a) the undertaker must consult with Network Rail as early as reasonably practicable to identify all Network Rail's apparatus which may be at risk of EMI, and thereafter must continue to consult with Network Rail (both before and after formal submission of plans under paragraph 5(1)) in order to identify all potential causes of EMI and the measures required to eliminate them;

(b) Network Rail must make available to the undertaker all information in the possession of Network Rail reasonably requested by the undertaker in respect of Network Rail's apparatus identified pursuant to sub-paragraph (a); and

(c) Network Rail must allow the undertaker reasonable facilities for the inspection of Network Rail's apparatus identified pursuant to sub-paragraph (a).

(5) In any case where it is established that EMI can only reasonably be prevented by modifications to Network Rail's apparatus, Network Rail must not withhold its consent unreasonably to modifications of Network Rail's apparatus, but Network Rail may, in its reasonable discretion, select the means of prevention and the method of their execution, and in relation to such modifications paragraph 5(1) has effect subject to the sub-paragraph.

(6) The undertaker shall use reasonable endeavours not to allow the use or operation of the authorised development in a manner that causes EMI and which introduces an intolerable risk to the operation of the railway or the safety of the track workers (such intolerable risk would include introducing exposure to electric and magnetic fields in excess of the requirements of the Control of Electromagnetic Field at Work Regulations 2016, unacceptable transferred voltage potentials and interference impacting the safe operation of the signalling equipment) until measures have been taken in accordance with this paragraph to reduce the risk to tolerable levels of EMI.

(7) In the event of EMI having occurred—

(a) the undertaker must afford reasonable facilities to Network Rail for access to the undertaker's apparatus in the investigation of such EMI;

(b) Network Rail must afford reasonable facilities to the undertaker for access to Network Rail's apparatus in the investigation of such EMI; and

(c) Network Rail must make available to the undertaker any additional material information in its possession reasonably requested by the undertaker in respect of Network Rail's apparatus or such EMI.

(8) Where Network Rail approves modifications to Network Rail's apparatus pursuant to sub-paragraphs (5) or (6)—

(a) Network Rail must allow the undertaker reasonable facilities for the inspection of the relevant part of Network Rail's apparatus;

(b) any modifications to Network Rail's apparatus approved pursuant to those sub-paragraphs must be carried out and completed by the undertaker in accordance with paragraph [6].

(9) To the extent that it would not otherwise do so, the indemnity in paragraph 14(1) applies to the costs and expenses reasonably incurred or losses suffered by Network Rail through the implementation of the provisions of this paragraph (including costs incurred in connection with the consideration of proposals, approval of plans, supervision and inspection of works and facilitating access to Network Rail's apparatus) or in consequence of any EMI to which sub-paragraph (6) applies.

(10) For the purpose of paragraph 10(1)(a) any modifications to Network Rail's apparatus under this paragraph shall be deemed to be protective works referred to in that paragraph.

(11) In relation to any dispute arising under this paragraph the reference in article 62 (Arbitration) to the Secretary of State shall be read as a reference to the Institution of Engineering and Technology.

12. If at any time after the completion of a specified work, not being a work vested in Network Rail, Network Rail gives notice to the undertaker informing it that the state of maintenance of any part of the specified work appears to be such as adversely affects the operation of railway property, the undertaker must, on receipt of such notice, take such steps as may be reasonably necessary to put that specified work in such state of maintenance as not adversely to affect railway property.

13. The undertaker must not provide any illumination or illuminated sign or signal on or in connection with a specified work in the vicinity of any railway belonging to Network Rail unless it has first consulted Network Rail and it must comply with Network Rail's reasonable requirements for preventing confusion between such illumination or illuminated sign or signal and any railway signal or other light used for controlling, directing or securing the safety of traffic on the railway.

14.—(1) The undertaker must pay to Network Rail all reasonable and proper costs, charges, damages and expenses not otherwise provided for in this Part of this Schedule (subject to article 57 (no double recovery)) which may be occasioned to or reasonably incurred by Network Rail—

(a) by reason of the construction, maintenance or operation of a specified work or the failure thereof;

(b) by reason of any act or omission of the undertaker or of any person in its employ or of its contractors or others whilst engaged upon a specified work;

(c) by reason of any act or omission of the undertaker or any person in its employ or of its contractors or others whilst accessing to or egressing from the authorised development;

(d) in respect of any damage caused to or additional maintenance required to, railway property or any such interference or obstruction or delay to the operation of the railway as a result of access to or egress from the authorised development by the undertaker or any person in its employ or of its contractors or others;

(e) in respect of costs incurred by Network Rail in complying with any railway operational procedures or obtaining any regulatory consents which procedures are required to be followed or consents obtained to facilitate the carrying out or operation of the authorised development;

and the undertaker must indemnify and keep indemnified Network Rail from and against all claims and demands arising out of or in connection with a specified work or any such failure, act or omission: and the fact that any act or thing may have been done by Network Rail on behalf of the undertaker or in accordance with plans approved by the engineer or in accordance with any requirement of the engineer or under the engineer's supervision shall not (if it was done without negligence on the part of Network Rail or of any person in its employ or of its contractors or agents) excuse the undertaker from any liability under the provisions of this sub-paragraph.

(2) Network Rail must—

(a) give the undertaker reasonable written notice of any such claims or demands referred to in sub-paragraph (1) as soon as reasonably practicable after Network Rail become aware of the same;

(b) not make any settlement or compromise of such a claim or demand without the prior consent of the undertaker;

(c) take all steps as are within its control and are reasonable in the circumstances to mitigate any liabilities relating to such claims or demands; and

(d) keep the undertaker informed where reasonably practicable to do so and have regard to the undertaker's representations in relation to any such claims or demands referred to in sub-paragraph (1).

(3) In no circumstances shall the undertaker be liable to Network Rail under sub-paragraph (1) for any indirect or consequential loss or loss of profits, save that the sums payable by the undertaker under sub-paragraph (1) shall if relevant include a sum equivalent to the relevant costs in circumstances where–

(a) Network Rail is liable to make payment of the relevant costs pursuant to the terms of an agreement between Network Rail and a train operator.

(4) Network Rail shall use reasonable endeavours to provide the undertaker with an estimate of the relevant costs in advance of any such liability occurring.

(5) Network Rail shall use reasonable endeavours to provide the undertaker with a copy of such agreement (or agreements) and to assist the undertaker in ascertaining the extent of Network Rail's potential liability under such agreement (or agreements).

(6) Nothing in sub-paragraph (1) shall impose any liability on the undertaker in respect of any costs, charges, damages and expenses to the extent that it is attributable to the act, omission, default or negligence of Network Rail or its officers, servants, contractors or agents.

(7) Subject to the terms of any agreement between Network Rail and a train operator regarding the timing or method of payment of the relevant costs in respect of that train operator, Network Rail must promptly pay to each train operator the amount of any sums which Network Rail receives under sub-paragraph (3) which relates to the relevant costs of that train operator.

(8) The obligation under sub-paragraph (3) to pay Network Rail the relevant costs shall, in the event of default, be enforceable directly by any train operator concerned to the extent that such sums would be payable to that operator pursuant to sub paragraph (6).

(9) In this paragraph—

"the relevant costs" means the costs, losses and expenses (including loss of revenue) reasonably incurred by each train operator as a consequence of any specified work including but not limited to any restriction of the use of Network Rail's railway network as a result of the construction, maintenance or failure of a specified work or any such act or omission as mentioned in sub-paragraph (1); and

"train operator" means any person who is authorised to act as the operator of a train by a licence under section 8 of the Railways Act 1993.

15. Network Rail must, on receipt of a request from the undertaker, from time to time provide the undertaker free of charge with written estimates of the costs, charges, expenses and other liabilities for which the undertaker is or will become liable under this Part of this Schedule (including the amount of the relevant costs mentioned in paragraph 14 and with such information as may reasonably enable the undertaker to assess the reasonableness of any such estimate or claim made or to be made pursuant to this Part of this Schedule (including any claim relating to those relevant costs).

16. In the assessment of any sums payable to Network Rail under this Part of this Schedule there must not be taken into account any increase in the sums claimed that is attributable to any action taken by or any agreement entered into by Network Rail if that action or agreement was not reasonably necessary and was taken or entered into with a view to obtaining the payment of those sums by the undertaker under this Part of this Schedule or increasing the sums so payable.

17. The undertaker and Network Rail may, subject in the case of Network Rail to compliance with the terms of its network licence, enter into, and carry into effect, agreements for the transfer or grant to the undertaker of—

(a) any railway property shown on the works and land plans and described in the book of reference;

(b) any lands, works or other property held in connection with any such railway property; and

(c) any rights and obligations (whether or not statutory) of Network Rail relating to any railway property or any lands, works or other property referred to in this paragraph.

(2) Nothing in this Order, or in any enactment incorporated with or applied by this Order, prejudices or affects the operation of Part I of the Railways Act 1993.

18. The undertaker must give written notice to Network Rail if any application is proposed to be made by the undertaker for the Secretary of State's consent, under article 7 (consent to transfer benefit of Order) of this Order and any such notice must be given no later than 14 days before any such application is made and must describe or give (as appropriate)—

(a) the nature of the application to be made;

(b) the extent of the geographical area to which the application relates; and

(c) the name and address of the person acting for the Secretary of State to whom the application is to be made.

19. The undertaker must no later than 28 days from the date that the plans submitted to and certified by the Secretary of State in accordance with article 60 (certification of documents) are certified by the Secretary of State, provide a set of those plans to Network Rail in a format specified by Network Rail.

20. In relation to any dispute arising under this part of this Part of this Schedule (except for those disputes referred to in paragraph 11(11)) the provisions of article 62 (Arbitration) shall not apply and any such dispute, unless otherwise provided for, must be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institution of Civil Engineers.

PART 8

FOR THE PROTECTION OF NORTHUMBRIAN WATER LIMITED

1.—(1) For the protection of NWL, the following provisions, unless otherwise agreed in writing between the undertaker and NWL, have effect.

(2) In this Part of this Schedule:

"alternative apparatus"	means alternative apparatus adequate to enable NWL to fulfil its statutory functions in a manner that is no less efficient than previously afforded to NWL and in all respects reasonably convenient to NWL including any reasonably necessary protective works for the apparatus;
"apparatus"	means the following items belonging to or maintained by NWL within the Order limits: (a) in the case of NWL's water undertaking: (i) mains, pipes, wells, boreholes, tanks, service reservoirs, pumping stations or other apparatus, structure, tunnel, shaft or treatment works or "accessories" (as defined in section 219(1) of the Water Industry Act 1991) belonging to or maintained or used by NWL for the purposes of water supply; and (ii) any water mains or service pipes which are the subject of a notice of intention to adopt under section 51A of the Water Industry Act 1991; and (b) in the case of NWL's sewerage undertaking: (i) any sewer, drain or disposal works vested in NWL under the Water Industry Act 1991; and

(ii) any sewer, drain or disposal works which is so vested or is the subject of a notice of intention to adopt given under section 102(4) of that Act or an agreement to adopt made under section 104 of that Act, and includes a sludge main, "disposal main" (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories (as defined in section 219(1) of the Water Industry Act 1991) forming part of any such sewer, drain or works, and any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions"	includes powers and duties;
"in"	in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;
"material difference"	the placing of alternative apparatus of a type or capacity or of those dimensions or at a depth which is other than that agreed pursuant to paragraph 5(2) or as determined by arbitration in accordance with article 62 (arbitration) to be necessary, save where the placing of such apparatus in such manner and form and in such location is in accordance with those details reasonably given rise to by conditions on site provided that (save in the case of emergencies) NWL has notified the undertaker of those conditions as soon as reasonably practicable and the undertaker has agreed (such agreement not to be unreasonably withheld or delayed) to the placing of such apparatus in such manner and form and "Materially Different" shall be construed accordingly;
"NWL"	means Northumbrian Water Limited, company number 02366703, whose registered office is at Northumbria House, Abbey Road, Pity Me, Durham, DH1 5FJ;
"plan"	includes sections, drawings, specifications and method statements;
"the standard protection strips"	means strips of land falling within the following distances to either side of the medial line of any relevant pipe or apparatus: (a) 2.25 metres where the diameter of the pipe is less than 150 millimetres; (b) 3 metres where the diameter of the pipe is between 150 and 450 millimetres; (c) 4.5 metres where the diameter of the pipe is between 450 and 750 millimetres; (d) 6 metres where the diameter of the pipe exceeds 750 millimetres; and (e) 6.5 metres where it is a sewer;
"undertaker"	means National Grid Electricity Transmission PLC.

Compulsory acquisition

2.—(1) The undertaker must not without express written agreement of NWL exercise any power conferred by article 24 (compulsory acquisition of land) or article 25 (compulsory acquisition of rights) to acquire any of NWL's interests (such agreement not to be unreasonably withheld or delayed).

(2) In the situation, where in exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which any apparatus is placed and such apparatus is to be relocated, extended, removed or altered in any way, no alteration extension, relocation or removal shall take

place until NWL has established to its reasonable satisfaction, without unnecessary delay, contingency arrangements in order to conduct its functions for the duration of the works to relocate, extend, remove or alter the apparatus.

(3) Regardless of any provision in the Order or anything shown on any plan, the undertaker must not acquire any apparatus otherwise than by agreement (such consent not to unreasonably witheld or delayed) and before extinguishing any existing rights for NWL to use, keep, inspect, renew and maintain its apparatus in the Order land, the undertaker must, with the agreement of NWL, create a new right for NWL to use, keep, inspect, renew and maintain the apparatus in a manner that is no less efficient than has previously been afforded to NWL, and which in all respects is reasonably convenient for NWL such agreement not to be unreasonably withheld or delayed.

Protection Strips

3.—(1) The undertaker must not within the standard protection strips interfere with or build over or under any apparatus within the Order limits or execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, the placement of protection slabs or execute any filling around the apparatus within the standard protection strips unless otherwise agreed in writing with NWL, such agreement not to be unreasonably withheld or delayed and being subject to paragraph 3(2), and this provision must be brought to the attention of any contractor responsible for carrying out any part of the authorised development on behalf of the undertaker.

(2) Where written agreement to undertake works within the standard protection strips is sought under this paragraph 3(2) NWL may request such further information as is reasonably necessary to understand the impact of the works proposed and provide approval under paragraph 3(1) provided that:

(a) Any request for further information is made within 15 Working Days of NWL receiving notification of the proposed works; and

(b) NWL must either reasonably agree to the proposed works or provide reasons for its failure to agree to the proposed works within 25 Working Days, or within 10 Working Days of receipt of all further information requested pursuant to paragraph 3(2)(a) (whichever is later).

(c) For the avoidance of doubt nothing in this paragraph 3(2) shall be construed as a deemed approval from NWL for works to be carried out within the standard protection strips of NWL's apparatus.

Alteration of NWL Apparatus

4.—(1) Without prejudice to the generality of the foregoing, the alteration, extension, removal or re-location of any apparatus shall not be implemented until:

(a) any requirement for any permits under the Environmental Permitting Regulations 2016 or other replacement legislation and any other associated consents are obtained;

(b) if applicable, the undertaker has made the appropriate application under sections 106 (right to communicate with public sewers), 112 (requirement that proposed drain or sewer be constructed so as to form part of the general system) or 185 (duty to move pipes, etc. in certain cases) of the Water Industry Act 1991 as may be required by those provisions and has provided a plan of the works proposed to NWL and NWL has given the necessary consent or approval under the relevant provision, such agreement not to be unreasonably withheld or delayed; and

(c) in the event that such works are to be executed by the undertaker, they are to be executed only in accordance with the plan, section and description submitted and in accordance with such reasonable requirements as may be made by NWL for the alteration or otherwise for the protection and maintenance of the apparatus, or for securing access to it.

(2) If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is materially obstructed the undertaker shall provide such alternative means of access to such apparatus as will reasonably enable NWL to maintain or use the apparatus.

(3) The undertaker, in the case of the powers conferred by the Order for the protective work to buildings, must exercise those powers so as not to obstruct any reasonable means of access to any apparatus belonging to NWL.

(4) Without prejudice to paragraph 2(2) hereof if, in the exercise of the powers conferred by the Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that NWL's apparatus is altered, relocated or diverted, that apparatus must not be altered, removed, and any right of NWL to maintain or access that apparatus in that land must not be extinguished, until:

(a) alternative apparatus has been constructed and is in operation to the reasonable satisfaction of NWL; and

(b) facilities and rights have been secured for that alternative apparatus in accordance with paragraph 5(1).

Alternative apparatus

5.—(1) Without prejudice to the generality of the foregoing and subject always to the provisions of paragraph 4(1) hereof, if, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under the Order, the undertaker requires the removal of any of NWL's apparatus placed in that land, the undertaker must give to NWL no less than 28 days' written notice of that requirement, together with a plan of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order an undertaker reasonably needs to remove any of its apparatus) the undertaker must, afford to NWL the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of and emergency access to that apparatus such works for completion and the commissioning and operation of such apparatus to be complete to the reasonable satisfaction of NWL in advance of the removal of NWL's existing apparatus.

(2) Any alternative apparatus to be constructed in land of the undertaker pursuant to the terms hereof must be constructed in such manner and in such line or situation as may be agreed between NWL and the undertaker.

(3) If NWL notifies the undertaker that it desires the undertaker to execute any work, or part of any work in connection with the construction or removal of apparatus in any land of the undertaker that work must be executed by the undertaker without unnecessary delay under the superintendence and to the reasonable satisfaction of NWL.

(4) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker shall, before taking or requiring any further step in such substitution works, use best endeavours to comply with NWL's reasonable requests for a reasonable period of time to enable NWL to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

(5) Where, in accordance with the terms of the Order, the undertaker affords to NWL facilities and rights for the construction, maintenance in and access to land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights are to be granted.

(6) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of NWL less favourable on the whole to NWL than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the undertaker must make provision for the payment of compensation by the undertaker to NWL as is reasonable having regard to all the circumstances.

(7) Such facilities and rights as are set out in the preceding paragraphs 5(1), 5(5) or 5(6) are deemed to include any statutory permits granted to the undertaker in respect of the apparatus in question, whether under the Environmental Permitting Regulations 2010 or other legislation.

Stopping up

6.—(1) Where in pursuance of the powers conferred by the Order any street is stopped up (permanent stopping up and restriction of use of streets and private means of access), where NWL has apparatus in the street or accessed by virtue of that street, it has the same powers and rights in respect of that apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to NWL legal easements reasonably satisfactory to NWL in respect of such apparatus and access to it.

(2) Regardless of the temporary stopping up or diversion of any highway under the powers conferred by the Order (temporary alteration, diversion, prohibition and restriction of the use of streets), NWL is at liberty at all times to take all necessary access across any such stopped up highway and to execute and do all such works and things in, upon or under any such highway as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that highway subject to provision of reasonable prior notice to the undertaker (except in the case of emergency) and compliance at all times with the undertaker's reasonable site safety rules and health and safety law.

Unmapped sewers/other apparatus

7.—(1) Where the undertaker identifies any apparatus which may belong to or be maintainable by NWL but which does not appear on any statutory map kept for the purpose by NWL, it shall inform NWL of the existence and location of the apparatus as soon as reasonably practicable.

(2) If in consequence of the exercise of the powers conferred by the Order, previously unmapped sewers, lateral drains or other apparatus are identified by the undertaker, notification of the location of such assets will immediately be given to NWL and afforded the same protection as other NWL assets.

Expenses and Costs

8.—(1) Subject to the following provisions of this paragraph and save where otherwise agreed in writing between NWL and the undertaker, the undertaker must repay to NWL following receipt of an itemised forecast, invoice or claim from NWL, all costs, charges and expenses which are reasonably and properly incurred or reasonably anticipated to be incurred by NWL within the following three months in connection with:

(a) the inspection, removal, alteration or protection of any apparatus which may be reasonably required in consequence of any works to construct the authorised development; or

(b) the construction of any alternative apparatus which may be required in consequence of the execution of any such works as referred to in paragraph 5 of this Part of the Schedule.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) Where the placing of alternative apparatus is Materially Different and such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been incurred if the apparatus placed had not been Materially Different, the amount which apart from this sub-paragraph would be payable to NWL by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (3) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of (3) apparatus of greater dimensions than those of the existing apparatus.

(5) An amount which apart from this sub-paragraph would be payable to NWL in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus placed more than 7 years and 6 months earlier so as to confer on NWL any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

(6) Where in accordance with sub-paragraph (1) the undertaker pays NWL in respect of an itemised forecast, invoice or claim for costs, charges, and expenses reasonably anticipated within the following

three months, should there be any unspent or uncommitted funds after the expiry of such three month period, NWL shall repay such unspent or uncommitted funds within 60 Working Days of the total charges, costs and expenses actually reasonably and properly incurred being known by NWL.

Indemnity

9.—(1) Subject to sub-paragraphs 9(2) and 9(3), if for any reason or in consequence of the construction of any of the works by or at the direction of the undertaker that is consequential to the terms hereof any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of NWL, or there is any interruption in any service provided, or in the supply of any goods, by NWL, the undertaker must indemnify and keep indemnified NWL against:

(a) any cost reasonably incurred by NWL in making good any damage or restoring the supply;

(b) any other expenses, loss, damages, penalty or costs reasonably incurred by NWL, by reason or in consequence of any such damage or interruption.

(2) NWL must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, and penalties to which the indemnity under this paragraph applies. If requested to do so by the undertaker, NWL must provide an explanation of how the claim has been minimised or details to substantiate any cost or compensation claimed pursuant to sub-paragraph 9(1). The undertaker shall only be liable under this paragraph for claims reasonably incurred by NWL.

(3) The fact that any act or thing may have been done by NWL on behalf of the undertaker or in accordance with a plan approved by NWL or in accordance with any requirement of NWL or under its supervision does not, subject to paragraph 9(4) excuse the undertaker from liability under the provisions of sub-paragraph 9(1) unless NWL fails to carry out and execute the works properly with due care and attention and in a skilful and professional like manner or in a manner that does not accord with the approved plan.

(4) Nothing in paragraph 9(1) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the unlawful or unreasonable act, neglect or default of NWL, its officers, servants, contractors or agents. NWL must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise is to be made, without having first consulted the undertaker and taken into account its representations.

Duty to cooperate

10.—(1) Where in consequence of the proposed construction of any of the authorised development, the undertaker or NWL requires the removal protection or alteration of apparatus, the undertaker must use all reasonable endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of NWL's undertaking and NWL must use all reasonable endeavours to co-operate with the undertaker for that purpose.

(2) Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and NWL in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

(3) Any dispute arising between the undertaker and NWL under this Part of this Schedule must be referred to and settled by arbitration under article 62 (arbitration).

PART 9

FOR THE PROTECTION OF THE PORT OF LONDON AUTHORITY (OFFSHORE)

Application

1. For the protection of PLA the following provisions will, unless otherwise agreed in writing between the undertaker and PLA, have effect in relation to the construction, operation and maintenance of any specified work.

Interpretation

2. In this Part of this Schedule—

"Areas of Safeguarded Water Depth" means the areas, or any part thereof, as shown on the Areas of Safeguarded Water Depth Plan as the Port of London Authority (PLA) Areas of Safeguard Depth which comprises three areas coloured turquoise: Sunk Pilot Boarding area, Long Sand Head Two-Way Route crossing area, and North East Spit area and includes the associated overlap areas;

"cable specification and installation plan" means the cable specification and installation plan to be approved by the MMO under condition 4 of the Deemed Marine Licence;

"construction" includes execution, placing, altering, replacing, relaying, removal, renewal works of maintenance and decommissioning, in its application to a specified work which includes or comprises any operation, means the carrying out of that operation, and "construct" and "constructed" are to be construed accordingly;

"commence" for the purpose of this Part of Schedule 15 means the carrying out of any authorised development and surveying and monitoring activities and trial trenching "commencement" and "commenced" must be construed accordingly;

"Deemed Marine Licence" means the marine licence granted by this Order as set out in Schedule 16;

"installation" has the same meaning as construction and installed is to be construed accordingly;

"maintain" has the same meaning as in Article 2 save that it includes surveying and monitoring within the Areas of Safeguarded Water Depth and maintenance shall be construed accordingly;

"Navigation and Installation Plan" means the Navigation and Installation Plan (NIP) to be approved under condition 4 of the Deemed Marine Licence;

"Offshore Construction Environmental Management plan" means the plan to be approved under condition 4(b) of the Deemed Marine Licence;

"plans" includes navigational risk assessments, plans, sections, elevations, drawings, specifications, programmes, construction methods and descriptions including, where applicable, relevant hydraulic information and other documents that are reasonably necessary to properly and sufficiently describe and assess the works to be executed;

"Restricted Zone Works" means any specified work that would be carried out with a Recommended Restricted Zone within the meaning of Rule 2 of the International Rules for Preventing Collisions at Sea (COLREGS) implemented under the Merchant Shipping (Distress Signals and Prevention of Collisions) Regulations 1996;

"specified work" means any works forming part of the authorised development (which for this purpose includes the maintenance and decommissioning of any part of the authorised development) that are within or which may affect the Areas of Safeguarded Water Depth;

"statutory enforcement action" means any power, measure or action taken or exercised by or on behalf of any statutory, regulatory or public authority arising from or in connection with:

(a) the Development Consent Order or enforcement under the Planning Act 2008;

(b) the deemed marine licence or enforcement under the Marine and Coastal Access Act 2009; or

(c) any other environmental, marine, navigational, planning or safety legislation.

"PLA" means the Port of London Authority.

"undertaker" means the undertaker as defined in article [2] (interpretation) of this Order.

Consultation and Notice

3. The undertaker will consult the PLA:

(1) On the cable specification and installation plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) no less than 20 business days before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4 of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth) ; and

(2) On a Navigation and Installation Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) no less than 20 business days before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4 of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth);

(3) on the offshore Construction and Environmental Management Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) before any application for approval of that plan may be submitted by the undertaker to the MMO in compliance with condition 4 of the Deemed Marine Licence and any revisions arising from such application (in so far as those revisions relate to any specified work or the Areas of Safeguarded Water Depth);

(4) where the undertaker is seeking the written agreement of the MMO pursuant to condition 4 (4) of the Deemed Marine Licence to carry out a specified work other than the in accordance with the plans referred to in this paragraph 3 that have been approved by the MMO;

4. The undertaker will consult the PLA on a pre-commencement Navigation and Installation Plan (in so far as that plan relates to any specified work or the Areas of Safeguarded Water Depth) based on the principles of the Outline Navigation and Installation Plan no less than 20 business days before any pre–construction surveys, trial trenching and pre-construction monitoring is carried out (unless otherwise agreed by the PLA).

5. The undertaker will consult the PLA on the proposed activities and programme for any pre-construction monitoring, construction monitoring, post construction monitoring or surveying and related reporting within or which may affect the Areas of Safeguarded Water Depth no less than 20 business days before such pre-construction monitoring, construction monitoring, post construction monitoring or surveying is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the programme, provided that the request is made to the undertaker within 5 business days of receipt of the details of the proposed activities and programme.

6. The undertaker must notify the PLA of the final planned programme for any pre-construction monitoring, construction monitoring, postconstruction monitoring or survey work to be undertaken under this Order within or which may affect the Areas of Safeguarded Water Depth no less than 5 business days before such survey work is programmed to begin.

7. The undertaker will consult the PLA on any application for marine licensing for the clearance of unexploded ordnance from or which may affect the Areas of Safeguarded Water Depth before such applications are submitted to the MMO. The undertaker must have regard to any request made by the PLA for reasonable amendment to the proposed application, provided that the request is made to the undertaker within 10 business days of receipt of the details of the proposed application.

8. The undertaker must notify the PLA of the final programme for any clearance of unexploded ordnance to be undertaken within the Areas of Safeguarded Water Depth no less than 10 business days before such clearance is programmed to begin.

9. The undertaker will consult the PLA on the activities and programme for any specified work which is not covered by the cable specification and installation plan no less than 20 business days before such specified work is programmed to commence. The undertaker must have regard to any request made by the PLA for reasonable amendment to the activities or programme, provided that the request is made to the undertaker within 10 business days of receipt of the details of the proposed activities and programme.

10. The undertaker must notify the PLA of the final method statement and programme for any specified work to be undertaken under this Order which is not covered by the cable specification and installation plan no less than 5 business days before such work is programmed to begin.

Cable Specification and Installation Plan

11. The cable specification and installation plan or any other plan referred to in paragraph 3 must be informed by a cable burial risk assessment, and set out for Work No.6, including any associated development or ancillary work in so far as it applies to the Areas of Safeguarded Water Depth:

(1) Compliance within paragraph 17 of the Requirements;

(2) The proposed cable installation methods and measures for management of construction risks;

(3) Cable protection measures proposed including type, maximum volume and locations;

(4) Arrangements to consult the PLA on matters regarding the construction of cables and cable protection measures within the Areas of Safeguarded Water Depth, including provision of a point of contact for continuing liaison and co-ordination throughout the construction of these works;

(5) The proposed programme of work for cable installation and arrangements for notification and liaison with the PLA in relation to the undertaker's activities in the Areas of Safeguarded Water Depth throughout the programme, including as to the schedule of vessel activities and movements and arrangements for notification of any changes to the programme to the PLA;

(6) The programme and methodologies for monitoring and the arrangements for the results of these surveys or other construction evidence being made available to the PLA within 10 business days of the undertaker receiving reports of the survey results or evidence to demonstrate compliance with the depths referred to in sub paragraph (1) of this paragraph; and

(7) A requirement for a process (subject to any existing statutory enforcement action) and timescales (both the undertaker and PLA acting reasonably) for cable re-installation should compliance with Requirement 17 in Schedule 3 not be achieved following the completion of Work No. 6, including any associated development or ancillary work, or over the lifetime of the authorised development.

Monitoring

12. The undertaker shall notify the PLA as soon as reasonably practicable, and in any event within 2 business days, in the event that any geophysical survey conducted using a multi-beam echo sounder confirms the exposure of any cable within the Areas of Safeguarded Water Depth.

13. The PLA must notify the undertaker of any potential cable exposure that is identified by the PLA in the relation to the Areas of Safeguarded Water Depth as soon as reasonably practicable, and in any event within 2 business days of the exposure being identified.

Minimising the Impact of Restricted Zones

14. °Not less than two weeks prior to carrying out any Restricted Zone Works in any part of the Areas of Safeguarded Water Depth, the undertaker will notify the PLA of that fact and PLA will in turn provide the undertaker with its schedule of vessel calls. The undertaker will have regard to the schedule in relation to the timings of the presence of its vessels and the carrying out of Restricted Zone Works so as to avoid and minimise disruption to vessels navigating to and from the Port of London.

15. °Pre-commencement meetings between the PLA and the undertaker or the undertaker's relevant contractors will take place either one or two days before Restricted Zone Works begin in

each of Areas of Interest and the undertaker will have regard to the PLA's representations at those meetings when planning and carrying out Restricted Zone Works in the Areas of Interest.

16. °Whilst Restricted Zone Works are carried out in the Areas of Safeguarded Water Depth, the Applicant will provide the PLA with daily updates to inform the PLA's scheduling.

Remediation

17. °Where the undertaker identifies, or is notified by the PLA following inspection, that any installed cable forming Work No. 6 or any associated development or ancillary work in the Areas of Safeguarded Water Depth does not achieve the levels specified in Requirement 17 in Schedule 3, or that the cable has subsequently moved such that Requirement 17 of Schedule 3 is no longer met:

(1) Unless initially identified by the PLA, the undertaker shall notify the PLA of that non-compliance being identified as soon as reasonably practicable, and in any event within 2 business days; and

(2) Unless otherwise agreed in writing with the PLA, the undertaker shall then carry out remediation works in accordance with the cable specification and installation plan, subject to paragraph 18 and always only insofar as it does not conflict or interfere with any existing statutory enforcement action.

18. Where remediation works are required under paragraph 17, the undertaker shall, insofar as it does not conflict or interfere with any existing statutory enforcement action:

(1) Consider whether any revisions to the cable specification and installation plan are required to ensure that the cable complies with the levels specified in Requirement 17 in Schedule 3;

(2) Obtain the approval of the PLA on any revisions to the cable specification and installation plan, such approval not to be unreasonably withheld or delayed; and

(3) Carry out the remediation works in accordance with the cable specification and installation plan, including any revisions, such that the levels specified in Requirement 17 in Schedule 3 are achieved.

19. The steps in paragraph 18 shall be repeated until the levels specified in Requirement 17 in Schedule 3 is achieved or the cable or associated development or associate work is permanently removed from the Areas of Safeguarded Water Depth.

Provision of as built details

20. As soon as reasonably practicable following the completion of the installation of cables forming Work No. 6, and after any works or maintenance which would result in changes to the position, depth and/or cable protection measures installed as part of Work No.6, the undertaker must provide (on a strictly confidential basis) to the PLA as built drawings of Work No. 6 in a form and scale to be agreed between the undertaker and the PLA to show the position, depth and any cable protection measures installed as part of Work No. 6 in relation to the Areas of Safeguarded Water Depth.

21. The PLA must not disclose (without the written consent of the undertaker) any information that has been provided by the undertaker to the PLA on a confidential basis or which is marked as commercially sensitive and must hold such information on a confidential basis only, except that the PLA may provide the information to contractors and agents acting on its behalf (including but not limited to contractors engaged to carry out dredging operations) provided that such agents and contractors are required by the PLA to treat such information as confidential.

Transfer of the benefit

22. The undertaker must within 7 days after the completion of any sale, agreement or other transaction under article 7 (Consent to transfer benefit of Order) in relation to which any powers, rights and obligations of the undertaker are transferred to another party, notify the PLA in writing, and the notice must include particulars of the other party to the transaction under article 7, the general nature of the transaction and details of the extent, nature and scope of the works or functions sold, transferred or otherwise dealt with.

Arbitration

23. Any dispute arising between the undertaker and the PLA under this Part of this Schedule is to be escalated in the first instance to senior representatives from the PLA and the undertaker, and the PLA and undertaker must seek to resolve the dispute through a meeting between the parties promptly and in any event within 10 business days.

24. Any difference or dispute arising between the undertaker and PLA under this Part of this Schedule which has not been resolved within 10 days under paragraph 24 above must, unless otherwise agreed in writing between the undertaker and PLA, be determined by being referred to and settled by a single arbitrator to be agreed between the parties, or failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) to the President of the Institute of Civil Engineers.

Notices

25. Any plans submitted to PLA by the undertaker pursuant to this Part of this Schedule must be sent to PLA by e-mail to SLCentre@pla.co.uk or such other address as PLA may from time to time appoint instead for that purpose and notify to the undertaker.

Consultation

26. Wherever the undertaker is required to consult the PLA under this Part of this Schedule the following shall apply:

(1) The undertaker shall provide the PLA with sufficient information to enable meaningful consultation, including detailed plans, specifications, and any relevant environmental or operational impact assessments

(2) The PLA shall be entitled to request any clarification or additional documentation necessary to understand and consult on the proposal, provided that the request is made to the undertaker within 10 business days of receipt of the details which are subject to consultation.

(3) The PLA shall be entitled to request a meeting to discuss the proposed works, and the undertaker shall use reasonable endeavours to arrange such meeting within 10 business days of the request.

(4) The PLA shall be entitled to comment on or make representations or objections to the proposed works, provided such comments, representations or objections are made within the relevant timeframes.

(5) The PLA shall be entitled to request an extension to any of the relevant timeframes if required and such extension shall be granted by the undertaker wherever reasonably practicable provided that the request is made to the undertaker within 10 business days of receipt of the details which are subject to consultation or of receipt of any clarification or additional documentation requested pursuant to sub-paragraph (2).

(6) The undertaker shall be obliged to receive and fully consider any and all comments provided by the PLA within the relevant timeframes and, to the extent practicable, to also consider comments received outside of these timeframes.

(7) The undertaker shall have due regard to any comments, representations or objections made by the PLA and upon request shall respond in writing, setting out how such comments, representations or objections have been considered and, where applicable, addressed.

(8) The undertaker shall not commence the proposed works or apply for consent from the MMO, as relevant until the consultation process has been completed in accordance with this Part of this Schedule, including the provision of responses to any comments, representations or objections made by the PLA (if requested).

(9) The PLA shall act reasonably and in good faith in reviewing the consultation materials and making any requests, representations, or objections.

(10) The undertaker shall act reasonably and in good faith in preparing and providing consultation materials and in responding to any requests, representations, or objections from the PLA.

(11) The undertaker shall keep a written record of all consultation communications, including comments, requests, responses, representations, objections, and meeting notes, and shall provide a copy to the PLA upon request and shall provide a copy of any relevant request, representation, or objections from the PLA to the MMO with any application that is to be submitted to the MMO pursuant to Schedule 16 (deemed marine licence) or otherwise in respect of a plan, works or other proposal upon which the PLA has been consulted, provided that PLA provide those requests, representations or objections to the undertaker before the relevant application is submitted to the MMO.

Indemnity

27. The undertaker will pay to the PLA its proper and reasonable legal costs, professional fees and disbursements incurred in connection with reviewing the details submitted to the PLA pursuant to this Part 9 of Schedule 15.

PART 10

FOR THE PROTECTION OF SOUTHERN GAS NETWORKS PLC

Application

1. For the protection of SGN the following provisions will, unless otherwise agreed in writing between the undertaker and SGN, have effect.

Interpretation

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991

"alternative apparatus" means appropriate alternative apparatus to the reasonable satisfaction of SGN to enable SGN to fulfil its statutory functions in a manner no less efficient than previously;

"apparatus" means any gas mains, pipelines, pipes, pressure governors, ventilators, cathodic protection (including transformed rectifiers and any associated groundbeds or cables), cables, marker posts, block valves, hydrogen above ground installations or other apparatus belonging to, or maintained by, SGN for the purposes of SGN's undertaking together with any replacement apparatus and such other apparatus constructed pursuant to this Order that becomes operational apparatus of SGN for the purposes of SGN's undertaking and includes any structure in which apparatus is or will be lodged or which gives or will give access to apparatus;

"authorised works" has the same meaning as is given to the term "authorised development" in article 2 of the Order and includes any associated development authorised by the Order and for the purposes of this Part of this Schedule includes the use and maintenance of the authorised works and construction of any works authorised by this Schedule;

"commence" and "commencement" include any below ground surveys, monitoring, work operations, remedial work in respect of any contamination or other adverse ground condition, the receipt and erection of construction plant and equipment, and non-intrusive investigations for the purpose of assessing ground conditions;

"deed of consent" means a deed of consent, crossing agreement, deed of variation or new deed of grant agreed between the parties acting reasonably in order to vary or replace existing easements, agreements, enactments and other such interests so as to secure land rights and interests as are necessary to carry out, maintain, operate and use the apparatus in a manner consistent with the terms of this Part of this Schedule;

"facilities and rights" for construction and for maintenance include any appropriate working areas required to reasonably and safely undertake that construction or maintenance, and any necessary rights of access;

"functions" includes powers and duties;

"ground mitigation scheme" means a scheme approved by SGN (such approval not to be unreasonably withheld or delayed) setting out the necessary measures (if any) for a ground subsidence event;

"ground monitoring scheme" means a scheme for monitoring ground subsidence which sets out the apparatus which is to be subject to such monitoring, the extent of land to be monitored, the manner in which ground levels are to be monitored, the timescales of any monitoring activities and the extent of ground subsidence which, if exceeded, must require the undertaker to submit for SGN's approval a ground mitigation scheme;

"ground subsidence event" means any ground subsidence identified by the monitoring activities set out in the ground monitoring scheme that has exceeded the level described in the ground monitoring scheme as requiring a ground mitigation scheme;

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over, across, along or upon such land;

"maintain" and "maintenance" have effect as if SGN's existing apparatus was authorised development and as if the term maintain includes protect and use / will include the ability and right to do any of the following in relation to any apparatus or alternative apparatus of SGN including retain, lay, construct, inspect, maintain, protect, use, access, enlarge, replace, renew, remove, decommission or render unusable or remove the apparatus;

"plan" or "plans" include all designs, drawings, specifications, method statements, soil reports, programmes, calculations, risk assessments and other documents that are reasonably necessary properly and sufficiently to describe and assess the works to be executed;

"rights" includes rights and restrictive covenants and, in relation to decommissioned apparatus, the surrender of rights, release of liabilities and transfer of decommissioned apparatus;

"SGN" means Southern Gas Networks PLC (05167021) whose registered office address is St Lawrence House, Station Approach, Horley, Surrey, RH6 9HJ and includes its successors in title or any successor as a gas transporter within the meaning of Part 1 of the Gas Act 1986;

"SGN's undertaking" means the rights, duties and obligations of SGN as a public gas transporter within the meaning of Section 7 of the Gas Act 1986 (as amended by the Gas Act 1995); and

"specified works" means any of the authorised works or activities (including maintenance) undertaken in association with the authorised works which—

(a) will or may be situated over, or within 15 metres measured in any direction of any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise;

(b) may in any way adversely affect any apparatus the removal of which has not been required by the undertaker under sub-paragraph 7(2) or otherwise; or

(c) include any of the activities that are referred to in CD/SP/SSW/22 SGN's policies for safe working in proximity to gas apparatus Specification for safe working in the vicinity of SGN Assets

"undertaker" means the undertaker as defined in article 2 of this Order.

On Street apparatus

3.—(1) This Schedule does not apply to apparatus in respect of which the relations between the undertaker and SGN are regulated by the provisions of Part 3 of the 1991 Act, except for—

(a) paragraphs 4, 9, 10 and 11; and

(b) where sub-paragraph (2) applies, paragraphs 6 and 7.

(2) This sub-paragraph applies where any apparatus is diverted from an alignment within the existing adopted public highway but not wholly replaced within the existing public highway, notwithstanding that any diversion may be carried out under the provisions of Part 3 of the 1991 Act.

(3) Paragraph 3(1) does not apply where the authorised development constitutes major highway works, major bridge works or major transport works for the purpose of Part 3 of the 1991 Act, but instead—

(a) The allowable costs of the relocation works are to be determined in accordance with section 85 (sharing of cost of necessary measures) of that Act and any regulations for the time being having effect under that section; and

(b) The allowable costs are to be borne by the undertaker and SGN in such proportions as may be prescribed by any such regulations.

(4) The Protective Provisions in this Part of this Schedule apply and take precedence over article 44 (statutory undertakers) of the Order which do not apply to SGN.

Apparatus of SGN in stopped up streets

4.—(1) Where any street is stopped up under article 16 (permanent stopping up of streets and public rights of way), if SGN has any apparatus in the street or accessed via that street SGN is entitled to the same rights in respect of such apparatus as it enjoyed immediately before the stopping up and the undertaker must grant to SGN, or procure the granting to SGN of, legal easements reasonably satisfactory to SGN in respect of such apparatus and access to it prior to the stopping up of any such street or highway, but nothing in this paragraph affects any right of the undertaker or of SGN to require the removal of that apparatus under paragraph 6.

(2) Notwithstanding the temporary alteration, diversion or restriction of use of any street under the powers of article [15] (temporary closure of streets and public rights of way and permissive paths), SGN will be at liberty at all times to take all necessary access across any such street and to execute and execute and do all such works and things in, upon or under any such street as it would have been entitled to do immediately before such temporary alteration, diversion or restriction in respect of any apparatus which at the time of the stopping up or diversion was in that street.

Protective works to buildings

5.—(1) The undertaker, in the case of the powers conferred by article 21 (*protective works*), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus without the written consent of SGN and, if by reason of the exercise of those powers any damage to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal or abandonment) or property of SGN or any interruption in the supply of gas by SGN, as the case may be, is caused, the undertaker must bear and pay on receipt of a proper invoice within 30 days the cost reasonably incurred by SGN in making good such damage or restoring the supply; and, subject to sub-paragraph (2), will—

(a) pay compensation to SGN for any loss sustained by it; and

(b) indemnify SGN against all claims, demands, proceedings, costs, damages and expenses which may be made or taken against or recovered from or incurred by SGN, by reason of any such damage or interruption.

(2) Nothing in this paragraph imposes any liability on the undertaker with respect to any damage or interruption to the extent that such damage or interruption is attributable to the act, neglect or default of SGN or its contractors or workmen; and SGN will give to the undertaker reasonable written notice of any claim or demand as aforesaid within 5 days of becoming aware of such claim or demand and no settlement or compromise thereof shall be made by SGN, save in respect of any payment required under a statutory compensation scheme, without first consulting the undertaker and giving the undertaker an opportunity to make representations as to the claim or demand.

Acquisition of land

6.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not appropriate or acquire any interest in land or appropriate, acquire, extinguish or override any easement or other interest in land of SGN otherwise than by agreement.

(2) As a condition of agreement between the parties in sub-paragraph (1), prior to the carrying out or maintenance of any part of the authorised works (or in such other timeframe as may be agreed between SGN and the undertaker) that are subject to the requirements of this Part of this Schedule that will cause any conflict with or breach the terms of any easement and/or other legal or land interest of SGN and/or affects the provisions of any enactment or agreement regulating the relations between SGN and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by

the undertaker, the undertaker must as SGN reasonably requires enter into such deeds of consent and variations upon such terms and conditions as may be agreed between SGN and the undertaker acting reasonably and which must be no less favourable on the whole to SGN unless otherwise agreed by SGN, and it will be the responsibility of the undertaker to procure and/or secure the consent to and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

(3) The undertaker and SGN agree that where there is any inconsistency or duplication between the provisions set out in this Part of this Schedule relating to the relocation or removal of apparatus, including but not limited to the payment of costs and expenses relating to such relocation and/or removal of apparatus and the provisions of any existing easement, rights, agreements and licences granted, used, enjoyed or exercised by SGN and other enactments relied upon by SGN as of right or other use in relation to the apparatus, then the provisions in this Schedule will prevail.

(4) Any agreement or consent granted by SGN under paragraph [8] or any other paragraph of this Part of this Schedule, will be taken to constitute agreement under sub-paragraph (1).

(5) As a condition of an agreement under sub-paragraph (1) that involves de-commissioned apparatus being left in situ the undertaker must accept a surrender of any existing easement and/or other interest of SGN in such decommissioned apparatus and consequently acquire title to such decommissioned apparatus and release SGN from all liabilities in respect of such de-commissioned apparatus from the date of such surrender.

(6) Where an undertaker acquires land which is subject to any SGN right or interest (including, without limitation, easements and agreements relating to rights or other interests) and the provisions of paragraph 6 do not apply, the undertaker must—

(a) retain any notice of SGN's easement, right or other interest on the title to the relevant land when registering the undertaker's title to such acquired land; and

(b) (where no such notice of SGN's easement, right or other interest exists in relation to such acquired land or any such notice is registered only on the Land Charges Register) include (with its application to register title to the undertaker's interest in such acquired land at the Land Registry) a notice of SGN's easement, right or other interest in relation to such acquired land.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, including pursuant to any agreement reached in accordance with paragraph 5, the undertaker acquires any interest in any land in which any apparatus is placed, that apparatus must not be decommissioned or removed under this Part of this Schedule and any right of SGN to maintain that apparatus in that land must not be extinguished or interfered with until alternative apparatus has been constructed, is in operation, and the facilities and rights referred to in sub-paragraph (2) have been provided, to the reasonable satisfaction of SGN and in accordance with sub-paragraphs (2) to (5) inclusive.

(2) If, for the purpose of executing any works in, on, under or over any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to SGN advance written notice of that requirement, together with a plan and section of the work proposed, and of the proposed position of the alternative apparatus to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order SGN reasonably needs to move or remove any of its apparatus) the undertaker must afford to SGN to its reasonable satisfaction (taking into account paragraph (1)) the necessary facilities and rights—

(a) for the construction of alternative apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus);

(b) subsequently for the maintenance of that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus); and

(c) to allow access to that apparatus (including appropriate working areas required to reasonably and safely undertake necessary works by SGN in respect of the apparatus).

(3) If the undertaker is unable to afford such facilities and rights as are mentioned in sub-paragraph (2), in the land in which the alternative apparatus or part of such apparatus is to be constructed, SGN may, on receipt of a written notice to that effect from the undertaker, take such steps as are reasonable in the circumstances in an endeavour to assist the undertaker in obtaining the necessary facilities and rights in the land in which the alternative apparatus is to be constructed save that this obligation will not extend to the requirement for SGN to use its compulsory purchase powers to this end unless it (in its absolute discretion) elects to so do.

(4) Any alternative apparatus to be constructed in land of or land secured by the undertaker under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between SGN and the undertaker or settled by arbitration.

(5) SGN must, after the alternative apparatus to be provided or constructed has been agreed or settled, and subject to the prior grant to SGN of such facilities and rights as are referred to in sub-paragraph (2) or (3) have been afforded to SGN to its reasonable satisfaction, then proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to decommission or remove any apparatus required by the undertaker to be decommissioned or removed under the provisions of this Part of this Schedule.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to or secures for SGN facilities and rights in land for the access to, construction and maintenance of alternative apparatus in substitution for apparatus to be decommissioned or removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and SGN acting reasonably and must be no less favourable on the whole to SGN than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed unless otherwise agreed by SGN.

(2) If the facilities and rights to be afforded by the undertaker and agreed with SGN under sub-paragraph (1) in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are less favourable on the whole to SGN (in SGN's reasonable opinion) than the facilities and rights enjoyed by it in respect of the apparatus to be decommissioned or removed, then the terms and conditions to which those facilities and rights are subject in the matter will be referred to arbitration in accordance with paragraph 15 of this Part of this Schedule and the arbitrator must make such provision for the payment of compensation by the undertaker to SGN as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus: protection of SGN

9.—(1) Not less than 56 days before the commencement of any specified works the undertaker must submit to SGN a plan and, if reasonably required by SGN, a ground monitoring scheme in respect of those works.

(2) The plan to be submitted to SGN under sub-paragraph (1) must include a method statement and describe—

(a) the exact position of the works;

(b) the level at which these are proposed to be constructed or renewed;

(c) the manner of their construction or renewal including details of excavation, positioning of plant etc.;

(d) the position of all apparatus;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The undertaker must not commence any specified works until SGN has given written approval of the plan so submitted (and the ground monitoring scheme if required).

(4) Any approval of SGN given under sub-paragraph (3)—

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraph (6); and

(b) must not be unreasonably withheld or delayed.

(5) For the purposes of sub-paragraph (4)(b) it will be deemed to be reasonable for any approval to be refused if SGN, acting reasonably, considers that the specified works as set out in the plan would:

(a) cause interference with or risk of damage to its apparatus; or

(b) prevent access to its apparatus at any time,

(6) In relation to any work to which sub-paragraphs [(1)] and/or (2) apply SGN may require such modifications to be made to the plan as may be reasonably necessary for the purpose of securing its apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(7) Works to which this paragraph applies must only be executed in accordance with—

(a) the plan submitted under sub-paragraph [(1)] (and ground monitoring scheme if required), as approved or as amended from time to time by agreement between the undertaker and SGN; and

(b) all conditions imposed under sub-paragraph (4)(a), and SGN will be entitled to watch and inspect the execution of those works where reasonably practicable to do so and in accordance with any relevant health and safety legislation.

(8) Where SGN requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to SGN's satisfaction prior to the commencement of any specified works (or any relevant part thereof) for which protective works are required prior to commencement.

(9) If SGN, in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, paragraphs 1 to (3) and (5) to (7) apply as if the removal of the apparatus had been required by the undertaker under paragraph (6).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 56 days before commencing the execution of the specified works, a new plan, instead of the plan previously submitted, and having done so the provisions of this paragraph will apply to and in respect of the new plan.

(11) As soon as reasonably practicable after any ground subsidence event attributable to the authorised works (including such an event attributable to its maintenance)—

(a) the undertaker must implement an appropriate ground mitigation scheme; and

(b) SGN retains the right to carry out any further necessary protective works for the safeguarding of its apparatus and can recover any such costs in line with paragraph 10.

(12) The undertaker is not required to comply with sub-paragraph [(1)] where it needs to carry out emergency works but in that case it must give to SGN notice as soon as is reasonably practicable and a plan of those works and must comply with

(a) the conditions imposed under sub-paragraph (4)(a) insofar as is reasonably practicable in the circumstances; and

(b) Sub-paragraph (14) at all times.

(13) In this paragraph, "emergency works" means works whose execution at the time when they are executed is required in order to put an end to, or to prevent the occurrence of, circumstances then existing or imminent (or which the person responsible for the works believes on reasonable grounds to be existing or imminent) which are likely to cause danger to persons or property.

(14) At all times when carrying out any works authorised under the Order the undertaker must comply with the SGN's policies for safe working in proximity to gas apparatus.

Expenses

10.—(1) Subject to the following provisions of this paragraph, the undertaker must pay to SGN on demand all charges, costs and expenses anticipated or incurred by SGN in, or in connection with, the inspection, removal, relaying or replacing, alteration or protection of any apparatus or the construction of any new or alternative apparatus which may be required in consequence of the execution of any authorised works as are referred to in this Part of this Schedule including without limitation—

(a) any costs reasonably incurred by or compensation properly paid by SGN in connection with the negotiation and/or acquisition of rights or the exercise of statutory powers for such apparatus including without limitation all costs (including professional fees) incurred by SGN as a consequence of SGN;

(i) using its own compulsory purchase powers to acquire any necessary rights under paragraph 7(3) if it elects to do so; and/or

(ii) exercising any compulsory purchase powers under this Order transferred to or benefitting SGN;

(b) in connection with the cost of the carrying out of any diversion work or the provision of any alternative apparatus;

(c) the cutting off of any apparatus from any other apparatus or the making safe of redundant apparatus;

(d) the approval of plans;

(e) the carrying out of protective works, plus a capitalised sum to cover the cost of maintaining and renewing permanent protective works;

(f) the survey of any land, apparatus or works, the inspection and monitoring of works or the installation or removal of any temporary works reasonably necessary in consequence of the execution of any such works referred to in this Part of this Schedule;

(g) any watching brief pursuant to sub-paragraph 9(6).

(2) There will be deducted from any sum payable under sub-paragraph [(1)] the value of any apparatus removed under the provisions of this Part of this Schedule and which is not re-used as part of the alternative apparatus, that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with paragraph 15 (*arbitration*) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to SGN by virtue of this paragraph will be reduced by the amount of that excess save where it is not possible or appropriate in the circumstances (including due to statutory or regulatory changes) to obtain the existing type of apparatus at the same capacity and dimensions or place at the existing depth in which case full costs will be borne by the undertaker.

(4) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus will not be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a pipe or cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole will be treated as if it also had been agreed or had been so determined.

(5) An amount which apart from this sub-paragraph would be payable to SGN in respect of works by virtue of this paragraph will, if the works include the placing of apparatus provided in substitution for apparatus placed more than seven years and six months earlier so as to confer on SGN any financial benefit by deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

Indemnity

11.—(1) Subject to sub-paragraphs (2) and (3), if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule (including without limitation relocation, diversion, decommissioning, construction and maintenance of apparatus or alternative apparatus) or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by the undertaker) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or alternative apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of the authorised development) or property of SGN, or there is any interruption in any service provided, or in the supply of any goods, by SGN, or SGN becomes liable to pay any amount to any third party, the undertaker will—

(a) bear and pay on receipt of a proper invoice within 30 days the cost reasonably incurred by SGN in making good such damage or restoring the supply; and

(b) indemnify SGN for any other expenses, loss, demands, proceedings, damages, claims, penalty, compensation or costs incurred by, paid by or recovered from SGN, by reason or in consequence of any such damage or interruption or SGN becoming liable to any third party as aforesaid other than arising from any default of SGN.

(2) The fact that any act or thing may have been done by SGN on behalf of the undertaker or in accordance with a plan approved by SGN or in accordance with any requirement of SGN or under its supervision including under any watching brief will not (unless sub-paragraph (3) applies) excuse the undertaker from liability under the provisions of this sub-paragraph (2) unless SGN fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of—

(a) any damage or interruption to the extent that it is attributable to the unlawful act, neglect or default of SGN, its officers, servants, contractors or agents; and

(b) any part of the authorised works carried out by SGN in the exercise of any functions conferred by this Order pursuant to a grant or transfer under article 7 (consent to transfer benefit of the Order) of the Order.

(4) SGN must give the undertaker reasonable notice of any such third party claim or demand and no settlement, admission of liability or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Enactments and agreements

12. Except where this Part of this Schedule provides otherwise, nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and SGN in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Co-operation

13.—(1) Where in consequence of the proposed construction of any part of the authorised works, the undertaker or SGN requires the removal of apparatus under paragraph 7(2) or SGN makes requirements for the protection or alteration of apparatus under paragraph 8, the undertaker must use

its best endeavours to co-ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised works and taking into account the need to ensure the safe and efficient operation of SGN's undertaking and SGN must use its best endeavours to co-operate with the undertaker for that purpose.

(2) For the avoidance of doubt whenever SGN's consent, agreement or approval is required in relation to plans, documents or other information submitted by the undertaker or the taking of action by the undertaker, SGN's consent must not be unreasonably withheld or delayed.

Access

14. If in consequence of any agreement reached in accordance with paragraph 5(1) or the powers conferred by this Order the access to any apparatus is materially obstructed, the undertaker must provide such alternative rights and means of access to such apparatus as will enable SGN to maintain or use the apparatus no less effectively than was possible before such obstruction.

Arbitration

15. Save for differences or disputes arising under sub-paragraphs 7(2) and 7(4) any difference or dispute arising between the undertaker and SGN under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and SGN, be determined by arbitration in accordance with article 62 (arbitration)

Notices

16. Notwithstanding article [61] (service of notices) the plans submitted to SGN by the undertaker pursuant to sub-paragraph 9(1) (*retained apparatus: protection of SGN*) must be sent to SGN at 1 Forbury Place, 43 Forbury Road, Reading, Berkshire RG1 3JH or such other address as SGN may from time to time appoint instead for that purpose and notify to the undertaker.

PART 11

FOR THE PROTECTION OF SOUTHERN WATER SERVICES LIMITED

1. For the protection of Southern Water, the following provisions, unless otherwise agreed in writing between the undertaker and Southern Water, have effect.

2. In this Part of this Schedule—

"1991 Act" means the New Roads and Street Works Act 1991;

"alternative apparatus" means alternative apparatus adequate to enable Southern Water to fulfil its statutory functions in a manner not less efficient than previously;

"apparatus" means

(a) any works, mains, pipes, pumping stations, connections, water booster stations or any other ancillary apparatus belonging to or maintained by that water undertaker for the purposes of water supply, water removal or drainage; and

(b) any drain or works vested in the undertaker under the Water Industry Act 1991(**a**); and

(c) any sewer which is so vested or is the subject of a notice of intention to adopt given under section 102(4) (adoption of sewers and disposal works) of that Act or an agreement to adopt made under section 104 (agreements to adopt sewer, drain or sewage disposal works, at a future date) of that Act,

and includes a sludge main, disposal main (within the meaning of section 219 of that Act) or sewer outfall and any manholes, ventilating shafts, pumps or other accessories forming part of any such sewer, drain or works, and in each case includes any structure in which apparatus is or is to be lodged or which gives or will give access to apparatus;

"functions" includes powers and duties;

(**a**) 1991 c.56

"in" in a context referring to apparatus or alternative apparatus in land includes a reference to apparatus or alternative apparatus under, over or upon land;

"plan" includes all designs, drawings, specifications, design principles, site locations, accesses, method statements, soil reports, programmes, calculations, risk assessments, standoff distances and other documents that are reasonably necessary to properly and sufficiently describe the works to be executed; and

"Southern Water" means Southern Water Services Limited, company number 02366670, whose registered office is at Southern House, Yeoman Road, Worthing, West Sussex, BN13 3NX.

Precedence of the 1991 Act in respect of apparatus in the streets

3. This Part of this Schedule does not apply to apparatus in respect of which the relations between the undertaker and Southern Water are regulated by the provisions of Part 3 of the 1991 Act.

Acquisition of land

4. Regardless of any provision in this Order or anything shown on the land plans, the undertaker must not acquire any apparatus otherwise than by agreement with Southern Water (such agreement not to be unreasonably withheld or delayed).

Apparatus in stopped up streets

5. Regardless of the temporary stopping up or diversion of any street under the powers conferred by article 15 (temporary closure of streets and public rights of way and permissive paths), Southern Water is at liberty at all times to take all necessary access across any such stopped up street and to execute and do all such works and things in, upon or under any such street as may be reasonably necessary or desirable to enable it to maintain any apparatus which at the time of the stopping up or diversion was in that street subject to serving 7 days' notice on the undertaker (save in cases of emergency) and compliance at all times with the undertaker's reasonable site safety rules and health and safety law.

Protective works to buildings

6.—(1) Subject to sub-paragraph 5 below, the undertaker, in the case of the powers conferred by article 21 (protective works), must exercise those powers so as not to obstruct or render less convenient the access to any apparatus.

(2) Where the undertaker proposes to provide to Southern Water an alternative means of access to any apparatus in compliance with sub-paragraph (1), the powers conferred by article 21 (protective works) must not be exercised until Southern Water has approved the proposed alternative means of access (such approval not to be unreasonably withheld or delayed and subject to sub-paragraph (3) below).

(3) If Southern Water fails either reasonably to approve the alternative means of access, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable the alternative means of access within 28 days of receiving a complete submission setting out the proposed alternative means of access from the undertaker, then such details are deemed to have been approved to the extent that the alternative means of access does not compromise the safe operation, maintenance or access to Southern Water's apparatus.

(4) Southern Water must confirm in writing when it considers the submission to be complete (such confirmation not to be unreasonably withheld or delayed), and the 28 day period does not begin until such confirmation has been provided.

(5) The provisions of this paragraph 6 will not apply in the case of emergency.

Removal of apparatus

7.—(1) If, in the exercise of the powers conferred by this Order, the undertaker acquires any interest in any land in which any apparatus is placed or requires that Southern Water's apparatus is relocated or diverted, that apparatus must not be removed under this Part of this Schedule and any right of Southern Water to maintain that apparatus in that land must not be extinguished until alternative apparatus has been constructed and is in operation to the reasonable satisfaction of Southern Water in accordance with sub-paragraphs (2) to12.

(2) If, for the purpose of executing any works in, on or under any land purchased, held, appropriated or used under this Order, the undertaker requires the removal of any apparatus placed in that land, it must give to Southern Water 28 days' written notice of that requirement, together with a plan and section of the work proposed and if the undertaker has designed the works, showing the proposed location of the alternative apparatus and accesses to be provided or constructed and in that case (or if in consequence of the exercise of any of the powers conferred by this Order Southern Water reasonably needs to remove any of its apparatus) the undertaker must, subject to sub-paragraph (3), afford to Southern Water the necessary facilities and rights for the construction of alternative apparatus in other land of the undertaker and subsequently for the maintenance of that apparatus.

(3) If alternative apparatus or any part of such apparatus is to be constructed as a consequence of the removal of apparatus placed on the land referred to in sub-paragraph (2), Southern Water, must on receipt of a written notice to that effect from the undertaker, as soon as reasonably practicable use its reasonable endeavours to obtain the necessary facilities and rights in other land in which the alternative apparatus is to be constructed save that this obligation shall not extend to the requirement for Southern Water to use its compulsory purchase powers to this end unless it elects to do so.

(4) Any alternative apparatus to be constructed under this Part of this Schedule must be constructed in such manner and in such line or situation as may be agreed between Southern Water and the undertaker or in default of agreement settled in accordance with article 62 (arbitration)

(5) Southern Water must, after the alternative apparatus to be provided or constructed has been agreed or settled by arbitration in accordance with article 62 (arbitration), and after the grant to Southern Water of any such facilities and rights as are referred to in sub-paragraphs (2) and (3), proceed without unnecessary delay to construct and bring into operation the alternative apparatus and subsequently to remove any apparatus required by the undertaker to be removed under the provisions of this Part of this Schedule.

(6) Regardless of anything in sub-paragraph (4), if the undertaker gives notice in writing to Southern Water that it desires itself to execute any work, or part of any work in connection with the construction or removal of apparatus, Southern Water will refer to its own guidance, policies and specifications for carrying out works of that nature, and if agreed by Southern Water (such agreement not to be unreasonably withheld or delayed), that work, instead of being executed by Southern Water, must be executed by the undertaker without unnecessary delay under the superintendence, if given, and to the reasonable satisfaction of Southern Water.

(7) If Southern Water fails either reasonably to approve, or to provide reasons for its failure to approve along with an indication of what would be required to make acceptable, any proposed details relating to required removal works under sub-paragraph (2) within 28 days of receiving a complete submission regarding the required works from the undertaker, then such details are deemed to have been approved to the extent that they do not compromise the safe operation, maintenance or access to Southern Water's apparatus.

(8) Southern Water must confirm in writing when it considers its submission to be complete (such confirmation not to be unreasonably withheld or delayed), and the 28 day period does not begin until such confirmation has been provided.

(9) For the avoidance of doubt, any such "deemed consent" does not extend to the actual undertaking of the removal works, which will remain the sole responsibility of Southern Water or its contractors.

(10) Whenever alternative apparatus is to be or is being substituted for existing apparatus, the undertaker will, before taking any steps that will trigger the need for those substitution works, use best endeavours to comply with Southern Water's reasonable requests for a reasonable period of time to enable Southern Water to:

(a) make network contingency arrangements; or

(b) bring such matters as it may consider reasonably necessary to the attention of end users of the utility in question.

(11) Nothing in sub-paragraph (4) authorises the undertaker to execute the placing, installation, bedding, packing, removal, connection or disconnection of any apparatus, or execute any filling around the apparatus (where the apparatus is laid in a trench) within the standoff distances agreed between the parties (acting reasonably) under sub-paragraph (2) and for the purposes of a sewer or rising main is the standard protective strip which is the strip of land falling either side of the sewer or rising main in accordance with the distances set out in the Southern Water Developer Services document titled "Stand-off distances to underground apparatus – V1.1 dated 7 August 2017" unless otherwise agreed with Southern Water (such agreement not to be unreasonably withheld or delayed and being subject to sub-paragraph 12 below), with such provision being brought promptly to the attention of any agent or contractor responsible for carrying out any work on behalf of the undertaker.

(12) Where written agreement is sought to undertake the works under sub-paragraph 11 above, Southern Water may request such further information as is reasonably necessary to understand the impact of the works proposed and provide approval under sub-paragraph 11 provided that:

(a) Any request for further information is made within 14 days of Southern Water receiving notification of the proposed works; and

(b) Southern Water must either reasonably agree to the proposed works or provide reasons for its failure to agree to the proposed works within 28 days or within 14 days of receipt of the information requested under this sub-paragraph 12.

Facilities and rights for alternative apparatus

8.—(1) Where, in accordance with the provisions of this Part of this Schedule, the undertaker affords to Southern Water facilities and rights for the construction and maintenance in land of the undertaker of alternative apparatus in substitution for apparatus to be removed, those facilities and rights must be granted upon such terms and conditions as may be agreed between the undertaker and Southern Water or in default of agreement settled by arbitration in accordance with article 62 (arbitration).

(2) If the facilities and rights to be afforded by the undertaker in respect of any alternative apparatus, and the terms and conditions subject to which those facilities and rights are to be granted, are in the opinion of the arbitrator less favourable on the whole to Southern Water than the facilities and rights enjoyed by it in respect of the apparatus to be removed and the terms and conditions to which those facilities and rights are subject, the arbitrator must make such provision for the payment of compensation by the undertaker to Southern Water as appears to the arbitrator to be reasonable having regard to all the circumstances of the particular case.

Retained apparatus

9.—(1) Not less than 28 days before starting the execution of any works in, on or under any land purchased, held, appropriated or used under this Order that are near to, or will or may affect, any apparatus the removal of which has not been required by the undertaker under paragraph 7 the undertaker must submit to Southern Water a plan, section and description of the works to be executed for approval by Southern Water.

(2) The undertaker must not commence the works outlined in paragraph (1) until the plan of works has been approved by Southern Water (such approval not to be unreasonably withheld or delayed and to be provided in accordance with the timeframes set out in this paragraph 9).

(3) Southern Water must advise the undertaker within 28 days of receipt of a complete plan of works submitted under paragraph (1) whether it is approved and if Southern Water does not approve the plan of works submitted under paragraph (1), it must, by the same date, request any reasonable amendments it requires to be made and may require the undertaker to re-submit the plan of works (revised plan of works) for approval to Southern Water. Southern Water must advise the undertaker within 14 days of submission of the revised plan of works whether it is approved.

(4) If the revised plan of works is not approved within 14 days, either the undertaker or Southern Water may require a meeting to be held within 28 days of submission of the revised plan of works between the chief engineers or a suitably qualified alternative representative of the undertaker and Southern Water to agree the plan of works.

(5) If the undertaker and Southern Water fail to reach an agreement on the plan of works, the dispute shall be resolved in accordance with article 62 (arbitration).

(6) Prior to submitting a plan of the works to be executed under sub-paragraph (1), the undertaker must consult with Southern Water in relation to its proposals for the works and share a draft plan of the works for Southern Water to review and provide feedback no later than 28 days after receiving the draft plan and as part of that feedback the affected undertaker may request that reasonably required testing or surveys are undertaken prior to submitting the plan of works under sub-paragraph (1).

(7) Any testing or surveys required to be carried out in accordance with paragraph (6) shall be carried out at the undertaker's own cost and may include trial pits and non-destructive testing (including ground-penetrating radar surveys or similar techniques) in order to confirm the location, depth, type and condition of any apparatus where this cannot be reliably ascertained through other methods.

(a) The undertaker must give Southern Water not less than 14 days' prior notice of the proposed trial-pitting or non-destructive testing works (save in cases of emergency), and Southern Water is entitled to attend, watch and inspect such works subject to compliance at all times with the undertaker's reasonable site safety rules, inductions, and all applicable health and safety laws.

(b) The undertaker must provide the results of all trial pits and non-destructive testing, including photographs, measurements, survey drawings, ground conditions and any digital survey outputs, to Southern Water as soon as reasonably practicable following completion of the works.

(8) Southern Water is entitled to watch and inspect the execution of the works detailed by the plan of works subject to compliance at all times with the undertaker's reasonable site safety rules, inductions, and all applicable health and safety laws.

(9) If Southern Water in consequence of the works proposed by the undertaker, reasonably requires the removal of any apparatus and gives written notice to the undertaker of that requirement, sub-paragraphs 1 to 8 and 10 to 12 apply as if the removal of the apparatus had been required by the undertaker under paragraph 5(2).

(10) Nothing in this paragraph precludes the undertaker from submitting at any time or from time to time, but in no case less than 28 days before commencing the execution of any works, a new plan, section and description instead of the plan, section and description previously submitted, and having done so the provisions of this paragraph apply to and in respect of the new plan, section and description.

(11) The undertaker is not required to comply with sub-paragraph (1) in a case of emergency but in that case it must give to Southern Water notice as soon as is reasonably practicable and a plan, section and description of those works as soon as reasonably practicable subsequently and must comply with sub-paragraph (2) in so far as is reasonably practicable in the circumstances.

(12) For the purposes of sub-paragraph (1), works are deemed to be in land near Southern Water's apparatus (where it is underground apparatus) if those works fall within the standoff distances agreed between the parties (acting reasonably) under paragraph 7(2).

Expenses and costs

10.—(1) Subject to the following provisions of this paragraph, the undertaker must repay to Southern Water the proper and reasonable expenses reasonably incurred by Southern Water in, or in connection with, the inspection, surveying, testing, identification, removal, alteration or protection of any apparatus or the construction of any new apparatus which may be required in connection with the authorised development.

(2) The value of any apparatus removed under the provisions of this Part of the Schedule is to be deducted from any sum payable under sub-paragraph (1), that value being calculated after removal.

(3) If in accordance with the provisions of this Part of this Schedule—

(a) apparatus of better type, of greater capacity or of greater dimensions is placed in substitution for existing apparatus of worse type, of smaller capacity or of smaller dimensions; or

(b) apparatus (whether existing apparatus or apparatus substituted for existing apparatus) is placed at a depth greater than the depth at which the existing apparatus was situated,

and the placing of apparatus of that type or capacity or of those dimensions or the placing of apparatus at that depth, as the case may be, is not agreed by the undertaker or, in default of agreement, is not determined by arbitration in accordance with article 62 (arbitration) to be necessary, then, if such placing involves cost in the construction of works under this Part of this Schedule exceeding that which would have been involved if the apparatus placed had been of the existing type, capacity or dimensions, or at the existing depth, as the case may be, the amount which apart from this sub-paragraph would be payable to Southern Water in question by virtue of sub-paragraph (1) is to be reduced by the amount of that excess.

(4) For the purposes of sub-paragraph (1), the identification of any apparatus will include any surveys and investigations as may be reasonably necessary to identify the specific location of an affected undertaker's apparatus.

(5) For the purposes of sub-paragraph (3)—

(a) an extension of apparatus to a length greater than the length of existing apparatus is not to be treated as a placing of apparatus of greater dimensions than those of the existing apparatus; and

(b) where the provision of a joint in a cable is agreed, or is determined to be necessary, the consequential provision of a jointing chamber or of a manhole is to be treated as if it also had been agreed or had been so determined.

(6) An amount which apart from this sub-paragraph would be payable to Southern Water in respect of works by virtue of sub-paragraph (1) must, if the works include the placing of apparatus provided in substitution for apparatus which, immediately prior to the carrying out of the works, is reasonably assessed (having regard to available asset records and any condition information that is available including site surveys and trials holes) and agreed between the undertaker and Southern Water (acting reasonably) to have reached the end of its design life so as to confer on Southern Water any demonstrable financial benefit (if any) by the deferment of the time for renewal of the apparatus in the ordinary course, be reduced by the amount which represents that benefit.

11.—(1) Subject to sub-paragraphs (2) and (3) and (4), if by reason or in consequence of the construction of any such works referred to in paragraphs 7 or 9, any damage is caused to any apparatus (other than apparatus the repair of which is not reasonably necessary in view of its intended removal for the purposes of those works) or property of Southern Water, or there is any interruption in any service provided, or in the supply of any goods, by Southern Water, the undertaker must—

(a) bear and pay the cost reasonably incurred by Southern Water in making good such damage or restoring the supply; and

(b) provide reasonable compensation to Southern Water for any other expenses, loss, damages, penalty or costs incurred by Southern Water,

by reason or in direct consequence of any such damage or interruption.

(2) Southern Water must use its reasonable endeavours to mitigate in whole or in part and to minimise any costs, expenses, loss, demands, penalties and costs to which the provisions of sub-paragraph (1) applies. If requested to do so by the undertaker, Southern Water will provide an explanation of how any claim has been minimised. The undertaker will not be liable under paragraph (1) for claims unreasonably incurred by Southern Water.

(3) The fact that any act or thing may have been done by Southern Water on behalf of the undertaker or in accordance with a plan approved by Southern Water or in accordance with any requirement of Southern Water or under its supervision does not, subject to sub-paragraph (4), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless Southern Water fails to carry out and

execute the works properly with due care and attention and in a skillful and professional like manner or in a manner that does not accord with the approved plan.

(4) Nothing in sub-paragraph (1) and (3) imposes any liability on the undertaker with respect to any damage or interruption to the extent that it is attributable to the act, neglect or default of Southern Water, its officers, servants, contractors or agents.

(5) Southern Water must give the undertaker reasonable notice of any such claim or demand and no settlement or compromise may be made without the consent of the undertaker which, if it withholds such consent, will have the sole conduct of any settlement or compromise or of any proceedings necessary to resist the claim or demand.

Access

12.—(1) If in consequence of the exercise of the powers conferred by the Order the access to any apparatus is obstructed the undertaker must provide such alternative means of access to such apparatus as will enable Southern Water to maintain or use the apparatus no less effectively or conveniently than was possible before such obstruction.

(2) Where the undertaker proposes to provide to Southern Water an alternative means of access to any apparatus in compliance with sub-paragraph (1), the powers conferred by the Order must not be exercised until Southern Water has approved the proposed alternative means of access (such approval not to be unreasonably withheld or delayed).

Enactments and agreements

13. Nothing in this Part of this Schedule affects the provisions of any enactment or agreement regulating the relations between the undertaker and Southern Water in respect of any apparatus laid or erected in land belonging to the undertaker on the date on which this Order is made.

Minster Wastewater Treatment works and Weatherlees Hill Wastewater Treatment Works

14.—(1) Prior to the submission of any application for a temporary traffic regulation order, road closure, diversion, or any other highways-related consent which may affect Southern Water's (including its employees, contractors and agents) access to Weatherlees Hill Wastewater Treatment Works or Minster Wastewater Treatment Works, the undertaker must provide Southern Water with—

(a) full details of the proposed highways application; and

(b) any proposed mitigation measures.

(2) The undertaker must have regard to any reasonable representations made by Southern Water in respect of the protection of its assets and operational access requirements within 14 days following receipt of the information provided under sub-paragraph (1) above.

(3) The undertaker must give Southern Water not less than 14 days' prior written notice of the commencement of any works within or affecting Jutes Lane or Marsh Farm Lane or other access roads to Minster Wastewater Treatment Works and Weatherless Hill Wastewater Treatment Works, unless otherwise agreed.

(4) The undertaker must keep Southern Water informed, as soon as reasonably practicable, of the anticipated key programme dates for any works or applications referred to in this paragraph, including (where known) the likely timing of any relevant highways applications, approvals and the commencement of works which may affect access to the Minster Wastewater Treatment Works or Weatherlees Hill Wastewater Treatment Works.

Cooperation

15.—(1) Where in consequence of the proposed construction of any part of the authorised development, the undertaker or Southern Water requires the removal of apparatus under paragraph 7(2) or Southern Water makes requirements for the protection or alteration of apparatus under paragraph 9, the undertaker must use reasonable endeavours to consult with Southern Water and co-

ordinate the execution of the works in the interests of safety and the efficient and economic execution of the authorised development and taking into account the need to ensure the safe and efficient operation of Southern Water's undertaking and Southern Water must use its reasonable endeavours to co-operate with the undertaker for that purpose.

(2) Where the undertaker identifies any apparatus which may belong to or be maintainable by Southern Water but which does not appear on any statutory map kept for the purpose by Southern Water, it shall inform Southern Water of the existence and location of the apparatus as soon as reasonably practicable and the apparatus identified shall be afforded the same protection as other assets belonging to the affected undertaker under this Part.

(3) The parties are to keep each other informed at reasonable intervals as to the progress of the authorised development and in relation to Southern Water's apparatus and shall meet in accordance with a schedule to be agreed between the parties (acting reasonably) having regard to the nature and extent of the interfaces between the authorised development and Southern Water's apparatus (unless otherwise agreed) during the construction of the authorised development to discuss such matters until a point in the programme where both parties agree (acting reasonably) that progress meetings are no longer required.

PART 12

PROTECTIVE PROVISION FOR THE BENEFIT OF THE UNDERTAKER OF THE EAST ANGLIA THREE OFFSHORE WIND FARM

Application

1.°For the protection of the statutory undertaker the following provisions have effect unless otherwise agreed in writing between the undertaker and the statutory undertaker.

Interpretation

2.°In this part of the Schedule –

"EA3" means the offshore windfarm approximately 69km from the Suffolk coast and an associated cable route to transport energy to a convertor station in Bramford.

"EA3 Control Area" means an area, or areas, within the boundaries of Work No. 6 described in Part 1 of Schedule 1 to the Order or any part of that work and which is within 10 metres extending outwards from the Order limits for EA3 as described in the East Anglia THREE Offshore Wind Farm Order 2017."

"EA3 Crossing Agreement" means an agreement setting out the technical and commercial terms governing the interactions between any works authorised by this Order, the EA3 Control Area and EA3.

"statutory undertaker" means, in relation to any particular provision of these protective provisions and any part of the authorised development to which the provision relates, East Anglia THREE Limited or any such party who from time to time has the benefit of, or part of, the East Anglia THREE Offshore Wind Farm Order 2017 insofar as that provision relates to works, assets, rights or statutory powers the benefit of which has been validly transferred to that transferee at the relevant time.

Control of works within the EA3 Control Area

3.—(1) No part of Work No.6 may be commenced within the EA3 control area or that may otherwise affect EA3 until the undertaker has entered into the EA3 Crossing Agreement with the statutory undertaker unless otherwise agreed in writing between the undertaker and the statutory undertaker.

(2) Any works within the EA3 Control Area must not be constructed except in accordance with the terms of the EA3 Crossing Agreement.

(3) Where required under sub-paragraph (1) the statutory undertaker must not unreasonably withhold or delay the entry into of the EA3 Crossing Agreement and, where reasonably requested by the undertaker, must engage promptly and in good faith in negotiations with a view to agreeing the terms of the EA3 Crossing Agreement as soon as reasonably practicable.

Indemnity

4.—(1) Subject to sub-paragraphs (2) and (3) and save as otherwise agreed in writing between the undertaker and the statutory undertaker, if by reason or in consequence of the construction of any such works authorised by this Part of this Schedule or in consequence of the construction, use, maintenance or failure of any of the authorised works by or on behalf of the undertaker or in consequence of any act or default of the undertaker (or any person employed or authorised by him) in the course of carrying out such works, including without limitation works carried out by the undertaker under this Part of this Schedule or any subsidence resulting from any of these works, any damage is caused to any apparatus or property of the statutory undertaker, or there is any interruption in any service provided, or in the supply of any goods, by the statutory undertaker, or the statutory undertaker becomes liable to pay any amount to any third party, the undertaker must—

(a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring the supply; and

(b) indemnify the statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker.

(2) The fact that any act or thing may have been done by the statutory undertaker on behalf of the undertaker or in accordance with a plan approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of this sub-paragraph (1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents.

(4) The statutory undertaker must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

Expert determination

5.—(1) Subject to the provisions of this paragraph, article [62] (arbitration) of the Order does not apply to this Part of this Schedule.

(2) Any difference or dispute arising between the undertaker and the statutory undertaker under this Part of this Schedule must, unless otherwise agreed in writing between the undertaker and the statutory undertaker, be determined by a single independent and suitable person who holds appropriate professional qualifications and is a member of a professional body relevant to the matter in dispute acting as an expert, such person to be agreed by the undertaker and statutory undertaker or, in the absence of agreement, identified by the President of the Institution of Civil Engineers.

(3) On notification by either party of a dispute, the parties must jointly instruct an expert within 14 days of notification of the dispute.

(4) All parties involved in settling any difference must use best endeavours to do so within 30 days from the date that an expert is appointed.

(5) The expert must –

(a) invite the parties to make submission to the expert in writing and copies to the other party to be received by the expert within 10 days of the expert's appointment;

(b) permit a party to comment on the submissions made by the other party within 10 days of receipt of the submission;

(c) issue a decision within 10 days of receipt of the submissions under sub-paragraph (b); and

(d) give reasons for the decision.

(6) Any determination by the expert is final and binding, except in the case of manifest error in which case the difference or dispute that has been subject to expert determination may be referred to and settled by arbitration under article [62] (arbitration).

(7) The fees of the expert are payable by the parties in such proportions as the expert may determine or, in the absence of such determination, equally.

PART 13

FOR THE PROTECTION OF EAST ANGLIA TWO LIMITED

Application

1.°For the Protection of the statutory undertaker the following provisions have effect unless otherwise agreed in writing between the undertaker and the statutory undertaker.

Interpretation

2.°In this Part of this Schedule –

"authorised development" has the same meaning as is given to the term in article [2] (interpretation) of this Order and includes any associated development authorised by the Order;

"As-built Survey" means a survey to be carried out following the completion of any part of the authorised development within 15m of the cable crossing recording (i) the configuration of the cable crossing and facilities ancillary thereto within a distance of two hundred metres (200m) of the cable crossing and the state of the land and position and condition of any cables within a distance of two hundred metres (200m) of the cable crossing.

"As-found Survey" means a survey to be carried out prior to the commencement of any part of the authorised development within 15m of the cable crossing recording the position and condition of the cable crossing and the state of the land along the proposed route of the cable crossing within a distance of two hundred metres (200m) of the cable crossing;

"cable crossing" means any location at which any part of the authorised development will intersect with the location identified under the East Anglia TWO Offshore Wind Farm Order 2022 as being required for Work No.26 as described in the East Anglia TWO Offshore Wind Farm Order 2022.

"EA2" means the East Anglia TWO Offshore Windfarm as authorised by the East Anglia TWO Offshore Wind Farm Order 2022.

"EA2 Transmission Infrastructure" means Work Nos. 6 to 37 of the East Anglia TWO Offshore Wind Farm Order 2022 and any related associated development.

"statutory undertaker" means, in relation to any particular provision of these protective provisions and any part of the authorised development to which the provision relates, East Anglia TWO Limited or any other such party who from time to time has the benefit of, or part of, the East Anglia TWO Offshore Wind Farm Order 2022 insofar as that provision relates to works, assets, rights or statutory powers the benefit of which has been validly transferred to that transferee at the relevant time.

Notice

3.°Where the undertaker is required to provide any plans or other information to the statutory undertaker under this Part of this Schedule, those plans or other information must be delivered by email to sealink@scottishpower.com or such other email address as confirmed by the statutory undertaker.

Acquisition of land

4.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not acquire any land interest or apparatus or rights or take temporary possession of land or override any easement or other interest including any powers of temporary possession held by the statutory undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in subparagraph (1), prior to the commencement of any part of the authorised development (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that will cause any conflict with or breach the terms of any easement or other land interest of the statutory undertaker or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise agreed by the statutory undertaker, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

Haul Road

5.—(1) No part of Work No.5 which may impact the statutory undertaker may commence until the undertaker has provided the statutory undertaker with a Haul Road Interface Plan and such Haul Road Interface Plan has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate how the authorised development will interface with the haul road required for Work No.26 as described in the East Anglia TWO Offshore Wind Farm Order 2022.

(3) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development in the vicinity of the haul road shall not impact on the statutory undertaker's ability to deliver EA2.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the Haul Road Interface Plan provided under subparagraph (1) or reasons why approval cannot be given within 25 working days of receipt of those details.

(5) Where the statutory undertaker does not provide a response within 25 working days in accordance with sub paragraph (4) those details provided under sub paragraph (1) will be deemed to have been approved.

Cable Crossing Design

6.—(1) No part of the authorised development within 15m of the cable crossing shall commence until a cable crossing design plan has been submitted to and approved in writing by the statutory undertaker.

(2) The cable crossing design plan must include a method statement and describe—

(a) the exact position and nature of the works required at the cable crossing;

(b) the level at which the works required at the cable crossing are proposed to be constructed;

(c) the manner of the construction of the works required at the cable crossing including details of excavation, positioning of plant etc;

(d) the position of all apparatus including the minimum separation distance shown in cross section drawings;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The cable crossing design plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development within 15m of the cable crossing shall not impact the statutory undertaker's assets or the statutory undertaker's ability to deliver EA2.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the cable crossing design plan provided under subparagraph (1) or reasons why approval cannot be given within 40 working days of receipt of those details, and any approval of the statutory undertaker required under sub-paragraph (1):

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7);

(b) must not be unreasonably withheld or delayed; and

(c) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (4) those details provided under sub paragraph (1) will be deemed to have been approved.

(5) In relation to any work to which sub-paragraph (1) applies, the statutory undertaker may require such modifications to be made to the cable crossing design plan as may be reasonably necessary for the purpose of:

(a) where the works required under the East Anglia TWO Offshore Wind Farm Order 2022 at the cable crossing have been completed, securing the statutory undertaker's assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets;

(b) where the works required under the East Anglia TWO Offshore Wind Farm Order 2022 at the cable crossing have commenced but have not been completed, ensuring the statutory undertaker's ability to complete such works is not impeded and securing the statutory undertaker's existing and future assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets; or

(c) where the works required under the East Anglia TWO Offshore Wind Farm Order 2022 at the cable crossing have not commenced, ensuring the statutory undertaker's ability to carry out such works is not impeded and securing the statutory undertaker's future apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the cable crossing design plan, submitted under sub-paragraph (2) as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertaker's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 25 working days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

Rectification of cable crossing

7.—(1) No part of the authorised development within 15m of the cable crossing shall commence until the undertaker has carried out and provided to the statutory undertaker an As-found Survey of the cable crossing and such As-found Survey has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The statutory undertaker shall, within 40 working days of receipt of the As-found Survey provided under sub-paragraph (1), provide the undertaker of its written approval or refusal to approve the As-found Survey.

(3) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (2) the As-found Survey provided under sub paragraph (1) will be deemed to have been approved.

(4) Within 25 working days following the completion of any part of the authorised development within 15m of the cable crossing, the undertaker shall carry out an As-built Survey of the cable crossing and shall provide a copy to the statutory undertaker for approval (such approval not to be unreasonably withheld or delayed).

(5) The statutory undertaker shall, within 40 working days of receipt of the As-built Survey provided under sub-paragraph (4), inform the undertaker of its approval or refusal to approve the survey.

(6) The statutory undertaker shall only be entitled to refuse to approve the survey provided under sub-paragraph (4) if the survey demonstrates that the works carried out at the cable crossing have not complied with the cable crossing design plan approved in accordance with paragraph (4).

(7) Where sub-paragraph (6) applies, the undertaker must immediately undertake works to rectify the non-compliance with the cable crossing design plan.

(8) Where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (5) the As-built Survey provided under sub paragraph (4) will be deemed to have been approved.

(9) Subject to provision of appropriate notice and compliance at all times to any applicable health and safety statutes, regulations or site rules, the statutory undertaker shall allow access for the undertaker or any agent or contractor on behalf of the undertaker to carry out the As-found Survey or As-built Survey.

Expenses

8.°The undertaker must pay to the statutory undertaker on demand all charges, costs and expenses reasonably anticipated or incurred by the statutory undertaker in, or in connection with fulfilling its obligations under this Part of this Schedule.

Indemnity

9.—(1) Subject to paragraphs (2) and (3) and save as otherwise agreed in writing between the undertaker and the statutory undertaker if by reason or in consequence of the construction, use, maintenance or failure of any part of the authorised development any physical damage is caused to any of the statutory undertaker's assets, or there is any disruption to the construction of EA2, or there is any disruption in the service provided, or any losses are incurred by the statutory undertaker as a result of any damage to any of the EA2 Transmission Infrastructure, the undertaker must –

(a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring such services; and

(b) indemnify the statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or delay or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker; and

(c) indemnify the statutory undertaker for any consequential loss of generation profit resulting from damage or disruption to the grid connection for EA2.

(2) The fact that any act or thing may have been done by the statutory undertaker on behalf of the undertaker or in accordance with a plan approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents.

(4) The statutory undertaker must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Where EA2 Transmission Infrastructure has been transferred to an offshore transmission owner, from the date of such transfer, "statutory undertaker" under this paragraph 10 means:

(a) in respect of the indemnity in subparagraph (1)(a) and (1)(b), where the event triggering the indemnity occurred on or after the date of the transfer of the EA2 Transmission Infrastructure, the offshore transmission owner;

(b) in respect of the indemnity outlined in subparagraph (1)(c), the owner of the generation assets for EA2.

PART 14

FOR THE PROTECTION OF EAST ANGLIA ONE NORTH LIMITED

Application

1.°For the Protection of the statutory undertaker the following provisions have effect unless otherwise agreed in writing between the undertaker and the statutory undertaker.

Interpretation

2.°In this Part of this Schedule –

"authorised development" has the same meaning as is given to the term in article [2] (interpretation) of this Order and includes any associated development authorised by the Order;

"As-built Survey" means a survey to be carried out following the completion of any part of the authorised development within 15m of the cable crossing recording (i) the configuration of the cable crossing and facilities ancillary thereto within a distance of two hundred metres (200m) of the cable crossing and the state of the land and position and condition of any cables within a distance of two hundred metres (200m) of the cable crossing.

"As-found Survey" means a survey to be carried out prior to the commencement of any part of the authorised development within 15m of the cable crossing recording the position and condition of the cable crossing and the state of the land along the proposed route of the cable crossing within a distance of two hundred metres (200m) of the cable crossing;

"cable crossing" means any location at which any part of the authorised development will intersect with the location identified under the East Anglia ONE North Offshore Wind Farm Order 2022 as being required for Work No.26 as described in the East Anglia One North Offshore Wind Farm Order 2022.

"EA1N" means the East Anglia ONE North Offshore Windfarm as authorised by the East Anglia ONE North Offshore Wind Farm Order 2022.

"EA1N Transmission Infrastructure" means Work Nos. 5, 6, 8, 9, 11, 12, 13, 16 17, 18, 19, 20, 21, 22, 23, 26, 30, 31, 32 of the East Anglia ONE North Offshore Wind Farm Order 2022.

"statutory undertaker" means, in relation to any particular provision of these protective provisions and any part of the authorised development to which the provision relates, East Anglia ONE North Limited or any other such party who from time to time has the benefit of, or part of, the East Anglia ONE North Offshore Wind Farm Order 2022 insofar as that provision relates to works, assets, rights or statutory powers the benefit of which has been validly transferred to that transferee at the relevant time.

Notice

3.°Where the undertaker is required to provide any plans or other information to the statutory undertaker under this Part of this Schedule, those plans or other information must be delivered by email to sealink@scottishpower.com or such other email address as confirmed by the statutory undertaker.

Acquisition of land

4.—(1) Regardless of any provision in this Order or anything shown on the land plans or contained in the book of reference to the Order, the undertaker may not acquire any land interest or apparatus or rights or take temporary possession of land or override any easement or other interest including any powers of temporary possession held by the statutory undertaker otherwise than by agreement.

(2) As a condition of agreement between the parties in subparagraph (1), prior to the commencement of any part of the authorised development (or in such other timeframe as may be agreed between the statutory undertaker and the undertaker) that will cause any conflict with or breach the terms of any easement or other land interest of the statutory undertaker or affects the provisions of any enactment or agreement regulating the relations between the statutory undertaker and the undertaker in respect of any apparatus laid or erected in land belonging to or secured by the undertaker, the undertaker must as the statutory undertaker reasonably requires enter into such deeds of consent upon such terms and conditions as may be agreed between the statutory undertaker and the undertaker acting reasonably and which must be no less favourable on the whole to the statutory undertaker unless otherwise agreed by the statutory undertaker, and it will be the responsibility of the undertaker to procure or secure the consent and entering into of such deeds and variations by all other third parties with an interest in the land at that time who are affected by such authorised works.

Haul Road

5.—(1) No part of Work No.5 which may impact the statutory undertaker may commence until the undertaker has provided the statutory undertaker with a Haul Road Interface Plan and such Haul Road Interface Plan has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate how the authorised development will interface with the haul road required for Work No.26 as described in the East Anglia ONE North Offshore Wind Farm Order 2022.

(3) The Haul Road Interface Plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development in the vicinity of the haul road shall not impact on the statutory undertaker's ability to deliver EA1N.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the Haul Road Interface Plan provided under subparagraph (1) or reasons why approval cannot be given within 25 working days of receipt of those details.

(5) Where the statutory undertaker does not provide a response within 25 working days in accordance with sub paragraph (4) those details provided under sub paragraph (1) will be deemed to have been approved.

Cable Crossing Design

6.—(1) No part of the authorised development within 15m of the cable crossing shall commence until a cable crossing design plan has been submitted to and approved in writing by the statutory undertaker.

(2) The cable crossing design plan must include a method statement and describe—

(a) the exact position and nature of the works required at the cable crossing;

(b) the level at which the works required at the cable crossing are proposed to be constructed;

(c) the manner of the construction of the works required at the cable crossing including details of excavation, positioning of plant etc;

(d) the position of all apparatus including the minimum separation distance shown in cross section drawings;

(e) by way of detailed drawings, every alteration proposed to be made to or close to any such apparatus; and

(f) any intended maintenance regimes.

(3) The cable crossing design plan prepared under subparagraph (1) must demonstrate that the construction of any part of the authorised development within 15m of the cable crossing shall not impact the statutory undertaker's assets or the statutory undertaker's ability to deliver EA1N.

(4) The statutory undertaker must provide the undertaker with its written decision on whether to approve the cable crossing design plan provided under subparagraph (1) or reasons why approval cannot be given within 40 working days of receipt of those details, and any approval of the statutory undertaker required under sub-paragraph (1):

(a) may be given subject to reasonable conditions for any purpose mentioned in sub-paragraphs (5) or (7);

(b) must not be unreasonably withheld or delayed; and

(c) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (4) those details provided under sub paragraph (1) will be deemed to have been approved.

(5) In relation to any work to which sub-paragraph (1) applies, the statutory undertaker may require such modifications to be made to the cable crossing design plan as may be reasonably necessary for the purpose of:

(a) where the works required under the East Anglia ONE North Offshore Wind Farm Order 2022 at the cable crossing have been completed, securing the statutory undertaker's assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets;

(b) where the works required under the East Anglia ONE North Wind Farm Order 2022 at the cable crossing have commenced but have not been completed, ensuring the statutory undertaker's ability to complete such works is not impeded and securing the statutory undertaker's existing and future assets against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any assets; or

(c) where the works required under the East Anglia ONE North Order 2022 at the cable crossing have not commenced, ensuring the statutory undertaker's ability to carry out such works is not impeded and securing the statutory undertaker's future apparatus against interference or risk of damage or for the purpose of providing or securing proper and convenient means of access to any apparatus.

(6) Works to which this paragraph applies must only be executed in accordance with the cable crossing design plan, submitted under sub-paragraph (2) as approved or as amended from time to time by agreement between the undertaker and the statutory undertaker, and the statutory undertaker will be entitled to watch and inspect the execution of those works.

(7) Where the statutory undertaker requires any protective works to be carried out by itself or by the undertaker (whether of a temporary or permanent nature) such protective works, inclusive of any measures or schemes required and approved as part of the plan approved pursuant to this paragraph, must be carried out to the statutory undertaker's satisfaction prior to the commencement of any authorised development (or any relevant part thereof) for which protective works are required and the statutory undertaker must give 25 working days' notice of such works from the date of submission of a plan pursuant to this paragraph (except in an emergency).

Rectification of cable crossing

7.—(1) No part of the authorised development within 15m of the cable crossing shall commence until the undertaker has carried out and provided to the statutory undertaker an As-found Survey of the cable crossing and such As-found Survey has been approved in writing by the statutory undertaker (such approval not to be unreasonably withheld or delayed).

(2) The statutory undertaker shall, within 40 working days of receipt of the As-found Survey provided under sub-paragraph (1), provide the undertaker of its written approval or refusal to approve the As-found Survey.

(3) where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (2) the As-found Survey provided under sub paragraph (1) will be deemed to have been approved.

(4) Within 25 working days following the completion of any part of the authorised development within 15m of the cable crossing, the undertaker shall carry out an As-built Survey of the cable crossing and shall provide a copy to the statutory undertaker for approval (such approval not to be unreasonably withheld or delayed).

(5) The statutory undertaker shall, within 40 working days of receipt of the As-built Survey provided under sub-paragraph (4), inform the undertaker of its approval or refusal to approve the survey.

(6) The statutory undertaker shall only be entitled to refuse to approve the survey provided under sub-paragraph (4) if the survey demonstrates that the works carried out at the cable crossing have not complied with the cable crossing design plan approved in accordance with paragraph (4).

(7) Where sub-paragraph (6) applies, the undertaker must immediately undertake works to rectify the non-compliance with the cable crossing design plan.

(8) Where the statutory undertaker does not provide a response within 40 working days in accordance with sub paragraph (5) the As-built Survey provided under sub paragraph (4) will be deemed to have been approved.

(9) Subject to provision of appropriate notice and compliance at all times to any applicable health and safety statutes, regulations or site rules, the statutory undertaker shall allow access for the undertaker or any agent or contractor on behalf of the undertaker to carry out the As-found Survey

Expenses

8.°The undertaker must pay to the statutory undertaker on demand all charges, costs and expenses reasonably anticipated or incurred by the statutory undertaker in, or in connection with fulfilling its obligations under this Part of this Schedule.

Indemnity

9.—(1) Subject to paragraphs (2) and (3) and save as otherwise agreed in writing between the undertaker and the statutory undertaker if by reason or in consequence of the construction, use, maintenance or failure of any part of the authorised development any physical damage is caused to any of the statutory undertaker's assets, or there is any disruption to the construction of EA1N, or there is any disruption in the service provided, or any losses are incurred by the statutory undertaker as a result of any damage to any of the EA1N Transmission Infrastructure, the undertaker must –

(a) bear and pay on demand the cost reasonably incurred by the statutory undertaker in making good such damage or restoring such services; and

(b) indemnify the statutory undertaker for any other expenses, loss, demands, proceedings, damages, claims, penalty or costs incurred by or recovered from the statutory undertaker, by reason or in consequence of any such damage or interruption or delay or the statutory undertaker becoming liable to any third party as aforesaid other than arising from any default of the statutory undertaker; and

(c) indemnify the statutory undertaker for any consequential loss of generation profit resulting from damage or disruption to the grid connection for EA1N.

(2) The fact that any act or thing may have been done by the statutory undertaker on behalf of the undertaker or in accordance with a plan approved by the statutory undertaker or in accordance with any requirement of the statutory undertaker or under its supervision does not (unless sub-paragraph (3) applies), excuse the undertaker from liability under the provisions of sub-paragraph (1) unless the statutory undertaker fails to carry out and execute the works properly with due care and attention and in a skilful and workman like manner or in a manner that does not accord with the approved plan.

(3) Nothing in sub-paragraph (1) imposes any liability on the undertaker in respect of any damage or interruption to the extent that it is attributable to the neglect or default of the statutory undertaker, its officers, servants, contractors or agents.

(4) The statutory undertaker must give the undertaker reasonable notice of any such third party claim or demand and no settlement or compromise must, unless payment is required in connection with a statutory compensation scheme, be made without first consulting the undertaker and considering their representations.

(5) Where EA1N Transmission Infrastructure has been transferred to an offshore transmission owner, from the date of such transfer, "statutory undertaker" under this paragraph 10 means:

(a) in respect of the indemnity in subparagraph (1)(a) and (1)(b), where the event triggering the indemnity occurred on or after the date of the transfer of the EA1N Transmission Infrastructure, the offshore transmission owner;

(b) in respect of the indemnity outlined in subparagraph (1)(c), the owner of the generation assets for EA1N.

SCHEDULE 16

Article 47

DEEMED MARINE LICENCE UNDER THE 2009 ACT

PART 1

LICENSED MARINE ACTIVITIES

1.—(1) In this licence—

"the 2009 Act" means the Marine and Coastal Access Act 2009(**a**);

"the 2017 Offshore Regulations" means the Conservation of Offshore Marine Habitats and Species Regulations 2017(**b**);

"the 2017 Regulations" means the Conservation of Habitats and Species Regulations 2017(**c**);

"authorised deposits" means the substances and articles specified in paragraph 6 of Part 1 of this licence;

"authorised scheme" means Work Nos. 6 and 12 described in paragraph 3 of Part 1 of this licence or any part of that work;

"buoys" means any floating device used for navigational purposes or measurement purposes, including LiDAR buoys, wave buoys and guard buoys;

"cable crossing" means the crossing of existing sub-sea cables authorised by the Order together with physical protection measures including cable protection;

"cable protection" means measures to protect cables from physical damage and including, but not limited to, the use of bagged solutions filled with grout or other materials, protective aprons or coverings, mattresses, flow energy dissipation devices or rock and gravel burial;

"Cefas" means the Centre for Environment, Fisheries and Aquaculture Science or any successor body to its function;

"chemicals" means both substances and preparations (a mixture or solution composed of two or more substances);

"Coastal Office" means the offices listed in Part 1, paragraph 4(b) and 4(c) of this Schedule;

"commence" means the first carrying out of any licensed marine activities authorised by this licence, save for operations consisting of pre–construction surveys, trial trenching and monitoring approved under this licence and the words "commencement" and "commenced" must be construed accordingly;

"condition" means a condition in Part 2 of this licence;

"emergency cable repair works" means repair works to Work No.6 which are necessary to be undertaken as a time-critical intervention in a serious and unexpected accident, event or situation which threatens damage sufficient to cause danger to persons or property (including risks to marine navigation and other sea users), and/or is sufficient to prevent the proper functioning of the offshore HVDC cable asset in circumstances where a prolonged outage would adversely affect the stability and security of the national transmission network;

"enforcement officer" means a person authorised to carry out enforcement duties under Chapter 3 of Part 4 (marine licensing) of the 2009 Act;

"environmental statement" means the document certified as the environmental statement by the Secretary of State for the purposes of the Order under article 60;

"European offshore marine site" has the meaning given in regulation 18 of the 2017 Offshore Regulations;

"European site" has the meaning given in regulation 27 of the 2017 Offshore Regulations;

(**a**) 2009 c. 23
(**b**) S.I. 2017/1013
(**c**) S.I. 2017/1012

“Historic England” means the Historic Buildings and Monuments Commission for England, or its successor in function;

“outline in-principle monitoring plan” means the document certified as the outline in-principle monitoring plan by the Secretary of State for the purposes of this Order under article 60;

“intertidal area” means the area between MHWS and MLWS;

“Kingfisher Bulletin” means the bulletin published by the Humber Seafood Institute or such other alternative publication approved in writing by the MMO for the purposes of this licence;

“licensed activities” means the activities specified in Part 1 of this licence;

“maintain” includes inspect, upkeep, repair, adjust, and alter and further includes remove, reconstruct and replace any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement; and “maintenance” must be construed accordingly;

“mean high water springs” or “MHWS” means the highest level which spring tides reach on average over a period of time;

“mean low water springs” or “MLWS” means the lowest level which spring tides reach on average over a period of time;

“Marine Management Organisation” or “MMO” means the body created under the 2009 Act which is responsible for the monitoring and enforcement of this licence;

“MCA” means the Maritime and Coastguard Agency;

“offshore Order limits” means the limits shown on the works plans within which the authorised project may be carried out;

“offshore preparation works” means surveying and monitoring activities seaward of MHWS undertaken prior to the commencement of construction to prepare for construction, including pre-lay grapnel run;

“the Order” means the National Grid (Sea Link) Order 202[xx];

“outline cable specification and installation plan” means the document certified as the outline cable specification and installation plan by the Secretary of State for the purposes of this Order under article 60;

“outline fisheries liaison and co-existence plan” means the document certified as the outline fisheries liaison and co-existence plan by the Secretary of State for the purposes of this Order under article 60;

“outline marine mammal mitigation plan” means the document certified as the outline marine mammal mitigation plan by the Secretary of State for the purposes of this Order under article 60;

“outline offshore construction and environmental management plan” means the document certified as the outline offshore construction and environmental management plan by the Secretary of State for the purposes of this Order under article 60;

“outline offshore invasive non-native species management plan” means the document certified as the outline offshore invasive non-native species management plan by the Secretary of State for the purposes of this Order under article 60;

“outline navigation installation plan” means the document certified as the outline navigation installation plan by the Secretary of State for the purposes of the Order under article 60;

“outline offshore written scheme of investigation” means the document certified as the outline offshore written scheme of investigation by the Secretary of State for the purposes of the Order under article 60;

“outline red-throated diver protocol” means the document certified as the outline red-throated diver protocol by the Secretary of State for the purposes of the Order under article 60;

“PLA” means the Port of London Authority;

“relevant site” means a European offshore marine site or a European site;

“SAC” means special area of conservation;

"SPA" means special protection area;

"substance" means a chemical element and its compounds in the natural state or obtained by any manufacturing process, including any additive necessary to preserve its stability and any impunity deriving from the process used, but excluding any solvent which may be separated without affecting the stability of the substance or changing its composition;

"trial trenching" means the testing of cable trenching tools within the Order Limits which may be undertaken to assess whether such tools achieve the required target trench depth;

"Trinity House" means the Corporation of Trinity House of Deptford Strond;

"trenchless landfall techniques" means cable installation techniques at a landfall which do not involve a trench and which may include Horizontal Directional Drilling (HDD), Microtunnelling or DirectPipe;

"undertaker" means National Grid Electricity Transmission plc (registered company number 2366977)

"vessel" means every description of vessel, however propelled or moved, and includes a non-displacement craft, a personal watercraft, a seaplane on the surface of the water, a hydrofoil vessel, a hovercraft or any other amphibious vehicle and any other thing constructed or adapted for movement through, in, on or over water and which is at the time in, on or over water;

"UK Hydrographic Office" means the UK Hydrographic Office of Admiralty Way, Taunton, Somerset, TA1 2DN;

"UK Standard Marking Schedule for Offshore Installations" means the Standard Marking Schedule for Offshore Installations published by the Department of Energy & Climate Change with reference DECC 04/11; and

"works plans" means the plans certified as the works plans by the Secretary of State for the purposes of the Order.

(2) A reference to any statute, order, regulation or similar instrument is construed as a reference to a statute, order, regulation or instrument as amended by any subsequent statute, order, regulation or instrument or as contained in any subsequent re-enactment.

(3) Unless otherwise indicated—

(a) all times are taken to be Greenwich Mean Time (GMT);

(b) all coordinates are taken to be latitude and longitude degrees, minutes and seconds to three decimal places in WGS84 Datum.

(4) Except where otherwise notified in writing by the relevant organisation, the primary point of contact with the organisations listed below and the address for returns and correspondence are—

(a) Marine Management Organisation

Marine Licensing

Tyneside House

Skinnerburn Road

Newcastle Business Park

Newcastle upon Tyne

NE4 7AT

Tel: 0300 123 1032;

(b) Marine Management Organisation (Lowestoft office)

Pakefield Road

Lowestoft

Suffolk

NR33 0HT

Tel: 0208 026 6094;

(c) Marine Management Organisation (Hastings office)

Muriel Matters House
Breeds Place
Hastings
East Sussex
TN34 3UY
Tel: 0208 026 9180

(d) Trinity House
Tower Hill
London
EC3N 4DH
Tel: 020 7481 6900;

(e) The United Kingdom Hydrographic Office
Admiralty Way
Taunton
Somerset
TA1 2DN
Tel: 01823 337 900;

(f) Maritime and Coastguard Agency
Navigation Safety Branch
Bay 2/20 Spring Place
105 Commercial Road
Southampton
SO15 1EG
Tel: 020 3817 2000
navigationsafety@mca.gov.uk

(g) Natural England
Guildbourne House
Chatsworth Road
Worthing
B11 1LD
Tel: 0300 060 4911;

(h) Historic England
Brooklands
24 Brooklands Avenue
Cambridge
CB2 8BU
Tel: 01223 582749.

(i) Port of London Authority
London River House
Royal Pier Road
Gravesend
Kent
DA12 2BG

Tel: 01474 562200

(5) Unless otherwise advised in writing by the MMO, the address for electronic communication with the MMO for the purposes of this licence is marine.consents@marinemanagement.org.uk, or where contact to the Local Office of the MMO is required, hastings@marinemanagement.org.uk and lowestoft@marine.management.org.uk.

(6) Unless otherwise advised in writing by the MMO, the Marine Case Management System ("MCMS") must be used for all licence returns or applications to vary this licence. The MCMS address is: https://marinelicensing.marinemanagement.org.uk/.

Details of licensed marine activities

2. Subject to the licence conditions, this licence authorises the undertaker (and any agent or contractor acting on their behalf) to carry out the following licensable marine activities under Section 66(1) (licensable marine activities) of the 2009 Act—

(a) the deposit at sea within the Order limits seaward of MHWS of the substances and articles specified in paragraph 6 below and within the cable corridor disposal site of up 325,000 cubic metres (being a maximum, not an approximate upper figure) of inert material of natural origin produced during construction drilling or seabed preparation for cable installation preparation and excavation of trenchless entry/exit pits works within Work No. 6;

(b) the construction of works in or over the sea or on or under the sea bed;

(c) dredging for the purposes of seabed preparation for cable laying through sandwave clearance and removal of material from the seabed required for the construction of Work No. 6;

(d) debris clearance works;

(e) boulder clearance works either by displacement ploughing or subsea grab technique or other equivalent method;

(f) the removal of out of service cables;

(g) pre-lay grapnel run;

(h) the removal of sediment samples for the purposes of informing environmental monitoring under this licence during pre-construction, construction and operation;

(i) removal of static fishing equipment; and

(j) site preparation works.

3. Such activities are authorised in relation to the construction, maintenance and operation of Work No. 6 and 12—

Work No. 6 – marine electric line works –

Works seaward of MHWS comprising the laying of a marine electric cable, which may include—

(a) temporary work areas and laydown areas associated with the installation and pulling of the cables;

(b) works to lay and bury marine electric cables and a fibre optic cable within the Order limits seaward of MHWS between Work No. 5 and Work No.7 within the area shown on Sheet 6 of the Works Plans – Suffolk, Sheets 1, 2 and 3 of the Works Plans – Offshore and Sheets 3, 4 and 5 of the Works Plans, Kent;

(c) trenchless entry/exit pits in the Suffolk landfall; and

(d) trenchless entry/exit pits in the Kent landfall;

(e) temporary work areas for vessels to carry out intrusive and non-intrusive activities; and

(f) marine cable protection works.

Work No. 12- Kent Overhead Line Works –

Works oversailing MHWS comprising removal and modification works to existing overhead electric line, and the construction and installation of new overhead electric line from Work No.11 near Minster and the existing Richborough to Canterbury overhead electric line, which may include—

(a) temporary culverts and/or bridges over other water courses;

(b) drainage works;

(c) removal of and modification works to the existing overhead electric line; and

(d) installation of overhead electric line between Work No. 11 and the existing Richborough to Canterbury overhead electric line.

4. In connection with such part of Work No. 6 and Work No.12 as specified below and to the extent that they do not otherwise form part of any such work, further associated development comprising such other works seaward or oversailing MHWS as may be necessary or expedient for the purposes of or in connection with the relevant part of the authorised project and which fall within the scope of the work assessed by the environmental statement, including but not limited to —

(a) in respect of Work No.6, cable protection measures such as rock placement, including rock bags, and the placement of concrete mattresses and frond mattresses;

(b) in respect of Work No.12, temporary diversion of existing overhead electric line and associated works;

(c) in respect of Work No.6, the removal of material from the seabed required for the construction of Work No. 6 and the disposal of seabed sediments produced during construction drilling and seabed preparation for cable laying; and

(d) in respect of Work No.6, temporary landing places, moorings or other means of accommodating vessels in the construction and/or maintenance of the authorised development.

5. In connection with such Work No. 6 and Work No. 12, ancillary works within the Order limits and below MHWS which have been subject to an environmental impact assessment recorded in the environmental statement comprising—

(a) temporary landing places, moorings, anchoring or other means of accommodating vessels or construction material used in the construction and/ or maintenance of the authorised project; and

(b) marking buoys, beacons, fenders and other navigational warning or ship impact protection works.

6. The substances or articles authorised for deposit at sea are—

(a) iron, steel, copper and aluminium;

(b) stone and rock;

(c) concrete and grout;

(d) sand and gravel;

(e) plastic and synthetics;

(f) bentonite drilling mud;

(g) anchors and weights used for the calibration of vessels, consisting of a hessian sack, metal shackles or chains;

(h) material extracted from within the offshore Order limits during construction, drilling and seabed preparation for the Works;

(i) marine coatings, other chemicals and timber; and

(j) any other substance or article to the extent that the effects of its deposit at sea will not give rise to any materially new or materially different environmental effects from those assessed in the Environmental Statement.

7. The grid coordinates for the authorised project are specified below—

Table 1: Limits of deviation for marine cable area

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
1	52°9′ 51.024″	1°36′ 28.212″	386	51°19′ 2.627″	1°22′ 13.756″
2	52°9′ 51.022″	1°36′ 28.216″	387	51°19′ 2.181″	1°22′ 15.344″
3	52°9′ 50.697″	1°36′ 28.959″	388	51°18′ 56.818″	1°22′ 34.474″
4	52°9′ 46.458″	1°36′ 27.018″	389	51°18′ 49.449″	1°23′ 1.778″
5	52°9′ 45.864″	1°36′ 29.353″	390	51°18′ 49.422″	1°23′ 1.877″
6	52°9′ 44.063″	1°36′ 35.823″	391	51°18′ 42.071″	1°23′ 29.111″
7	52°9′ 42.206″	1°36 42.495″	392	51°18′ 26.101″	1°24′ 31.213″
8	52°9′ 37.403″	1°36′ 59.746″	393	51°18′ 10.122″	1°25′ 33.304″
9	52°9′ 10.971″	1°38′ 34.634″	394	51°18′ 9.106″	1°25′ 37.004″
10	52°9′ 9.934″	1°38′ 35.579″	395	51°18′ 8.090″	1°25′ 40.704″
11	52°9′ 9.080″	1°38′ 36.358″	396	51°18′ 7.108″	1°25′ 44.133″
12	52°8′ 54.481″	1°38′ 49.671″	397	51°18′ 6.125″	1°25′ 47.561″
13	52°8′ 54.129″	1°38′ 50.011″	398	51°18′ 5.649″	1°25′ 49.217″
14	52°8′ 25.709″	1°39′ 19.082″	399	51°18′ 5.173″	1°25′ 50.872″
15	52°8′ 17.615″	1°39′ 25.616″	400	51°18′ 4.772″	1°25′ 52.300″
16	52°7′ 52.944″	1°39′ 45.935″	401	51°18′ 4.371″	1°25′ 53.727″
17	52°7′ 38.010″	1°39′ 57.401″	402	51°18′ 3.998″	1°25′ 55.126″
18	52°7′ 26.814″	1°40′ 4.575″	403	51°18′ 3.651″	1°25′ 56.435″
19	52°7′ 16.168″	1°40′ 5.285″	404	51°18′ 3.472″	1°25′ 57.133″
20	52°7′ 4.369″	1°40′ 3.703″	405	51°18′ 3.376″	1°25′ 57.519″
21	52°7′ 2.877″	1°40′ 4.411″	406	51°18′ 3.036″	1°25′ 58.904″
22	52°7′ 0.826″	1°40′ 3.228″	407	51°18′ 2.860″	1°25′ 59.658″
23	52°6′ 55.845″	1°40′ 2.560″	408	51°18′ 2.554″	1°26′ 1.034″
24	52°6′ 42.749″	1°39′ 57.501″	409	51°18′ 2.385″	1°26′ 1.834″
25	52°6′ 42.564″	1°39′ 57.437″	410	51°18′ 2.212″	1°26′ 2.702″
26	52°6′ 42.378″	1°39′ 57.373″	411	51°18′ 2.078″	1°26′ 3.405″
27	52°6′ 42.024″	1°39′ 57.264″	412	51°18′ 1.905″	1°26′ 4.366″
28	52°6′ 41.935″	1°39′ 57.236″	413	51°18′ 1.832″	1°26′ 4.786″
29	52°6′ 41.845″	1°39′ 57.209″	414	51°18′ 1.737″	1°26′ 5.345″
30	52°6′ 32.654″	1°39′ 55.091″	415	51°18′ 1.694″	1°26′ 5.605″
31	52°6′ 9.412″	1°39′ 49.072″	416	51°18′ 1.496″	1°26′ 6.828″
32	52°5′ 45.382″	1°39′ 43.448″	417	51°18′ 1.391″	1°26′ 7.490″
33	52°5′ 31.011″	1°39′ 40.928″	418	51°18′ 1.309″	1°26′ 8.011″
34	52°5′ 18.712″	1°39′ 39.029″	419	51°18′ 1.230″	1°26′ 8.518″
35	52°5′ 17.738″	1°39′ 38.850″	420	51°18′ 1.078″	1°26′ 9.502″
36	52°5′ 17.215″	1°39′ 38.823″	421	51°18′ 0.908″	1°26′ 10.610″
37	52°5′ 17.066″	1°39′ 38.793″	422	51°18′ 0.734″	1°26′ 11.758″
38	52°5′ 9.519″	1°39′ 38.487″	423	51°18′ 0.560″	1°26′ 12.921″
39	52°4′ 35.492″	1°39′ 33.308″	424	51°18′ 0.389″	1°26′ 14.078″
40	52°4′ 34.155″	1°39′ 33.285″	425	51°18′ 0.225″	1°26′ 15.209″
41	52°4′ 29.622″	1°39′ 33.815″	426	51°18′ 0.072″	1°26′ 16.298″
42	52°4′ 27.020″	1°39′ 34.841″	427	51°17′ 59.930″	1°26′ 17.340″
43	52°3′ 59.170″	1°39′ 54.185″	428	51°17′ 59.800″	1°26′ 18.331″
44	52°3′ 57.758″	1°39′ 54.643″	429	51°17′ 59.683″	1°26′ 19.277″
45	52°3′ 57.592″	1°39′ 54.385″	430	51°17′ 59.650″	1°26′ 19.551″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
46	52°3′ 55.391″	1°39′ 51.057″	431	51°17′ 59.576″	1°26′ 20.183″
47	52°3′ 52.934″	1°39′ 48.506″	432	51°17′ 59.545″	1°26′ 20.458″
48	52°3′ 51.513″	1°39′ 47.565″	433	51°17′ 59.481″	1°26′ 21.049″
49	52°3′ 50.091″	1°39′ 46.623″	434	51°17′ 59.443″	1°26′ 21.404″
50	52°3′ 49.427″	1°39′ 46.288″	435	51°17′ 59.331″	1°26′ 22.524″
51	52°3′ 48.762″	1°39′ 45.952″	436	51°17′ 59.198″	1°26′ 23.940″
52	52°3′ 43.605″	1°39′ 44.121″	437	51°17′ 59.079″	1°26′ 25.259″
53	52°3′ 38.448″	1°39′ 42.290″	438	51°17′ 59.017″	1°26′ 25.962″
54	52°3′ 36.882″	1°39′ 41.989″	439	51°17′ 58.908″	1°26′ 27.254″
55	52°3′ 28.413″	1°39′ 41.712″	440	51°17′ 58.806″	1°26′ 28.555″
56	52°3′ 19.879″	1°39′ 41.433″	441	51°17′ 58.715″	1°26′ 29.843″
57	52°3′ 19.815″	1°39′ 41.431″	442	51°17′ 58.635″	1°26′ 31.140″
58	52°3′ 7.962″	1°39′ 41.347″	443	51°17′ 58.616″	1°26′ 31.495″
59	52°2′ 56.109″	1°39′ 41.263″	444	51°17′ 58.569″	1°26′ 32.416″
60	52°2′ 24.763″	1°39′ 42.407″	445	51°17′ 58.507″	1°26′ 33.760″
61	52°2′ 11.143″	1°39′ 37.346″	446	51°17′ 58.450″	1°26′ 35.058″
62	52°1′ 52.773″	1°39′ 30.312″	447	51°17′ 58.420″	1°26′ 35.759″
63	52°1′ 52.107″	1°39′ 30.107″	448	51°17′ 58.355″	1°26′ 37.353″
64	52°0′ 43.431″	1°39′ 13.834″	449	51°17′ 58.285″	1°26′ 39.138″
65	52°0′ 43.058″	1°39′ 13.760″	450	51°17′ 58.177″	1°26′ 42.077″
66	52°0′ 38.767″	1°39′ 13.072″	451	51°17′ 58.065″	1°26′ 45.410″
67	52°0′ 1.481″	1°39′ 7.093″	452	51°17′ 57.994″	1°26′ 47.682″
68	51°59′ 8.364″	1°38′ 58.579″	453	51°17′ 57.888″	1°26′ 51.346″
69	51°58′ 4.958″	1°38′ 45.835″	454	51°17′ 57.839″	1°26′ 53.211″
70	51°57′ 24.627″	1°38′ 37.734″	455	51°17′ 57.769″	1°26′ 56.251″
71	51°56′ 55.039″	1°38′ 31.793″	456	51°18′ 10.936″	1°26′ 58.247″
72	51°55′ 54.858″	1°38′ 19.433″	457	51°18′ 11.214″	1°27′ 6.328″
73	51°55′ 9.629″	1°38′ 10.150″	458	51°18′ 11.599″	1°27′ 17.568″
74	51°54′ 45.460″	1°38′ 5.191″	459	51°18′ 12.089″	1°27′ 34.435″
75	51°54′ 35.061″	1°38′ 2.794″	460	51°18′ 12.579″	1°27′ 51.301″
76	51°54′ 24.662″	1°38′ 0.397″	461	51°18′ 12.855″	1°28′ 0.526″
77	51°54′ 23.031″	1°38′ 0.290″	462	51°18′ 13.131″	1°28′ 9.752″
78	51°54′ 1.179″	1°38′ 2.430″	463	51°18′ 18.656″	1°28′ 17.405″
79	51°53′ 39.328″	1°38′ 4.570″	464	51°18′ 21.391″	1°28′ 49.685″
80	51°53′ 26.614″	1°38′ 4.349″	465	51°18′ 22.379″	1°29′ 6.535″
81	51°53′ 14.807″	1°38′ 4.143″	466	51°18′ 24.798″	1°29′ 18.412″
82	51°53′ 14.411″	1°38′ 4.136″	467	51°18′ 27.551″	1°29′ 36.768″
83	51°53′ 13.521″′	1°38′ 4.270″	468	51°18′ 30.024″	1°29′ 54.112″
84	51°53′ 12.067″	1°38′ 4.385″	469	51°18′ 34.672″	1°30′ 10.865″
85	51°53′ 10.321″	1°38′ 4.755″	470	51°18′ 51.465″	1°30′ 29.126″
86	51°53′ 9.467″	1°38′ 4.936″	471	51°19′ 59.009″	1°31′ 42.633″
87	51°53′ 7.970″	1°38′ 5.253″	472	51°20′ 1.800″	1°31′ 42.227″
88	51°53′ 6.984″	1°38′ 5.591″	473	51°20′ 5.721″	1°31′ 40.284″
89	51°53′ 1.870″	1°38′ 7.648″	474	51°20′ 7.341″	1°31′ 39.982″
90	51°52′ 56.393″	1°38′ 10.111″	475	51°20′ 10.522″	1°31′ 40.953″
91	51°52′ 50.684″	1°38′ 12.197″	476	51°20′ 14.056″	1°31′ 43.686″
92	51°52′ 47.941″	1°38′ 13.434″	477	51°20′ 24.559″	1°31′ 47.656″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
93	51°52′ 46.758″	1°38′ 13.985″	478	51°20′ 25.970″	1°31′ 49.039″
94	51°52′ 45.677″	1°38′ 14.534″	479	51°20′ 29.181″	1°31′ 52.187″
95	51°52′ 41.604″	1°38′ 15.590″	480	51°20′ 39.200″	1°32′ 8.762″
96	51°52′ 39.995″	1°38′ 16.285″	481	51°20′ 51.259″	1°32′ 31.175″
97	51°52′ 39.076″	1°38′ 16.904″	482	51°20′ 56.034″	1°32′ 39.915″
98	51°52′ 36.891″	1°38′ 19.129″	483	51°20′ 58.908″	1°32′ 43.274″
99	51°52′ 36.674″	1°38′ 19.508″	484	51°21′ 20.733″	1°32′ 58.413″
100	51°52′ 36.237″	1°38′ 20.421″	485	51°21′ 21.727″	1°32′ 58.982″
101	51°52′ 34.299″	1°38′ 24.224″	486	51°21′ 31.250″	1°33′ 3.342″
102	51°52′ 32.174″	1°38′ 28.241″	487	51°22′ 8.898″	1°33′ 31.804″
103	51°52′ 29.497″	1°38′ 41.918″	488	51°22′ 40.774″	1°34′ 21.429″
104	51°52′ 29.254″	1°38′ 43.497″	489	51°22′ 44.516″	1°34′ 25.729″
105	51°52′ 27.087″	1°39′ 2.546″	490	51°22′ 44.650″	1°34′ 25.880″
106	51°52′ 26.984″	1°39′ 6.026″	491	51°22′ 45.035″	1°34′ 26.278″
107	51°52′ 29.576″	1°39′ 54.917″	492	51°22′ 45.433″	1°34′ 26.641″
108	51°52′ 32.703″	1°40′ 27.274″	493	51°22′ 45.843″	1°34′ 26.967″
109	51°52′ 34.415″	1°40′ 42.540″	494	51°22′ 46.263″	1°34′ 27.255″
110	51°52′ 36.330″	1°40′ 57.465″	495	51°22′ 46.694″	1°34′ 27.505″
111	51°52′ 37.081″	1°41′ 6.346″	496	51°22′ 47.133″	1°34′ 27.715″
112	51°52′ 37.046″	1°41′ 8.500″	497	51°22′ 47.578″	1°34′ 27.886″
113	51°52′ 21.894″	1°42′ 0.486″	498	51°22′ 47.756″	1°34′ 27.942″
114	51°52′ 6.716″	1°42′ 47.929″	499	51°22′ 53.988″	1°34′ 29.802″
115	51°51′ 52.313″	1°43′ 21.776″	500	51°22′ 54.261″	1°34′ 29.876″
116	51°51′ 46.345″	1°43′ 35.425″	501	51°22′ 54.716″	1°34′ 29.965″
117	51°51′ 37.930″	1°43′ 58.087″	502	51°22′ 55.173″	1°34′ 30.013″
118	51°51′ 29.513″	1°44′ 20.747″	503	51°22′ 55.631″	1°34′ 30.019″
119	51°51′ 22.397″	1°44′ 33.340″	504	51°22′ 56.088″	1°34′ 29.984″
120	51°51′ 14.299″	1°44′ 43.322″	505	51°22′ 56.544″	1°34′ 29.908″
121	51°50′ 39.589″	1°45′ 4.974″	506	51°22′ 56.996″	1°34′ 29.791″
122	51°50′ 26.046″	1°45′ 14.228″	507	51°22′ 57.443″	1°34′ 29.633″
123	51°50′ 12.743″	1°45′ 23.323″	508	51°22′ 57.884″	1°34′ 29.435″
124	51°50′ 12.417″	1°45′ 23.560″	509	51°22′ 58.317″	1°34′ 29.197″
125	51°49′ 58.283″	1°45′ 34.437″	510	51°22′ 58.741″	1°34′ 28.920″
126	51°49′ 28.626″	1°45′ 54.953″	511	51°22′ 59.154″	1°34′ 28.606″
127	51°49′ 13.775″	1°46′ 5.085″	512	51°22′ 59.556″	1°34′ 28.255″
128	51°48′ 44.008″	1°46′ 25.320″	513	51°22′ 59.737″	1°34′ 28.081″
129	51°48′ 23.543″	1°46′ 39.181″	514	51°23′ 5.870″	1°34′ 22.005″
130	51°48′ 10.890″	1°46′ 44.167″	515	51°23′ 28.073″	1°34′ 11.377″
131	51°48′ 1.426″	1°46′ 46.114″	516	51°23′ 43.030″	1°34′ 6.548″
132	51°47′ 56.726″	1°46′ 45.005″	517	51°23′ 58.269″	1°34′ 1.047″
133	51°47′ 50.929″	1°46′ 42.666″	518	51°24′ 18.161″	1°33′ 54.554″
134	51°47′ 48.489″	1°46′ 41.646″	519	51°24′ 26.552″	1°33′ 51.311″
135	51°47′ 45.780″	1°46′ 40.523″	520	51°24′ 41.830″	1°33′ 46.508″
136	51°47′ 35.887″	1°46′ 36.968″	521	51°24′ 57.605″	1°33′ 41.976″
137	51°47′ 6.370″	1°46′ 28.380″	522	51°25′ 10.378″	1°33′ 39.373″
138	51°46′ 38.729″	1°46′ 20.351″	523	51°25′ 19.738″	1°33′ 37.151″
139	51°46′ 37.060″	1°46′ 19.868″	524	51°25′ 25.834″	1°33′ 35.498″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
140	51°46′ 34.877″	1°46′ 19.287″	525	51°25′ 36.822″	1°33′ 32.411″
141	51°46′ 34.582″	1°46′ 19.229″	526	51°25′ 48.880″	1°33′ 29.644″
142	51°46′ 34.146″	1°46′ 19.093″	527	51°25′ 54.674″	1°33′ 28.861″
143	51°46′ 33.557″	1°46′ 18.936″	528	51°26′ 0.014″	1°33′ 29.534″
144	51°46′ 30.748″	1°46′ 18.189″	529	51°26′ 17.234″	1°33′ 31.144″
145	51°46′ 30.664″	1°46′ 18.167″	530	51°26′ 34.360″	1°33′ 32.308″
146	51°46′ 30.536″	1°46′ 18.133″	531	51°26′ 35.658″	1°33′ 32.229″
147	51°46′ 30.501″	1°46′ 18.124″	532	51°26′ 42.032″	1°33′ 31.017″
148	51°46′ 28.142″	1°46′ 17.525″	533	51°26′ 47.025″	1°33′ 31.165″
149	51°46′ 27.956″	1°46′ 17.447″	534	51°26′ 53.928″	1°33′ 35.160″
150	51°46′ 27.448″	1°46′ 17.312″	535	51°26′ 56.736″	1°33′ 37.342″
151	51°46′ 26.251″	1°46′ 17.006″	536	51°26′ 59.235″	1°33′ 38.527″
152	51°46′ 22.962″	1°46′ 16.182″	537	51°27′ 7.621″	1°33′ 39.115″
153	51°46′ 22.287″	1°46′ 16.013″	538	51°27′ 8.932″	1°33′ 38.837″
154	51°46′ 21.238″	1°46′ 15.750″	539	51°27′ 13.492″	1°33′ 38.292″
155	51°46′ 20.357″	1°46′ 15.530″	540	51°27′ 18.401″	1°33′ 37.329″
156	51°46′ 19.283″	1°46′ 15.261″	541	51°27′ 19.041″	1°33′ 37.160″
157	51°46′ 10.789″	1°46′ 13.134″	542	51°27′ 21.415″	1°33′ 36.373″
158	51°45′ 54.419″	1°46′ 4.742″	543	51°27′ 33.297″	1°33′ 36.969″
159	51°45′ 24.692″	1°45′ 25.913″	544	51°27′ 40.117″	1°33′ 37.858″
160	51°45′ 11.957″	1°45′ 5.743″	545	51°27′ 54.386″	1°33′ 39.701″
161	51°45′ 3.605″	1°44′ 36.083″	546	51°28′ 29.484″	1°33′ 45.871″
162	51°44′ 53.281″	1°43′ 45.786″	547	51°28′ 32.134″	1°33′ 46.316″
163	51°44′ 53.017″	1°43′ 44.673″	548	51°29′ 9.371″	1°33′ 49.500″
164	51°44′ 49.372″	1°43′ 31.199″	549	51°29′ 44.103″	1°33′ 52.073″
165	51°44′ 47.930″	1°43′ 27.618″	550	51°29′ 51.013″	1°33′ 52.676″
166	51°44′ 44.251″	1°43′ 21.127″	551	51°30′ 9.571″	1°33′ 54.294″
167	51°44′ 40.002″	1°43′ 13.725″	552	51°30′ 11.388″	1°33′ 53.781″
168	51°44′ 36.327″	1°43′ 8.412″	553	51°30′ 13.454″	1°33′ 53.547″
169	51°43′ 35.773″	1°42′ 17.154″	554	51°30′ 14.764″	1°33′ 52.897″
170	51°42′ 46.697″	1°41′ 31.855″	555	51°30′ 17.325″	1°33′ 51.626″
171	51°42′ 28.054″	1°41′ 14.537″	556	51°30′ 19.323″	1°33′ 50.132″
172	51°42′ 9.950″	1°40′ 57.649″	557	51°30′ 23.299″	1°33′ 45.878″
173	51°41′ 53.621″	1°40′ 39.411″	558	51°30′ 25.782″	1°33′ 42.380″
174	51°41′ 19.604″	1°40′ 2.227″	559	51°30′ 27.737″	1°33′ 39.973″
175	51°41′ 18.929″	1°40′ 1.564″	560	51°30′ 29.882″	1°33′ 37.406″
176	51°41′ 18.221″	1°40′ 0.943″	561	51°30′ 33.266″	1°33′ 33.733″
177	51°41′ 13.774″	1°39′ 57.045″	562	51°30′ 36.580″	1°33′ 31.977″
178	51°40′ 57.238″	1°39′ 42.551″	563	51°30′ 41.702″	1°33′ 34.284″
179	51°40′ 56.015″	1°39′ 41.682″	564	51°30′ 58.032″	1°33′ 46.372″
180	51°40′ 2.639″	1°39′ 11.953″	565	51°31′ 43.901″	1°34′ 20.979″
181	51°40′ 2.134″	1°39′ 11.701″	566	51°31′ 43.993″	1°34′ 21.047″
182	51°39′ 7.005″	1°38′ 47.364″	567	51°32′ 15.637″	1°34′ 44.162″
183	51°38′ 13.821″	1°38′ 24.719″	568	51°32′ 55.621″	1°35′ 14.279″
184	51°36′ 19.016″	1°37′ 22.343″	569	51°33′ 35.602″	1°35′ 44.411″
185	51°35′ 30.657″	1°36′ 46.420″	570	51°34′ 27.414″	1°36′ 23.011″
186	51°34′ 59.611″	1°36′ 20.335″	571	51°34′ 41.157″	1°36′ 34.329″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
187	51°34′ 34.660″	1°35′ 59.787″	572	51°34′ 58.260″	1°36′ 48.519″
188	51°33′ 42.466″	1°35′ 20.899″	573	51°35′ 15.398″	1°37′ 1.171″
189	51°33′ 2.471″	1°34′ 50.763″	574	51°35′ 26.171″	1°37′ 9.240″
190	51°32′ 22.389″	1°34′ 20.578″	575	51°35′ 50.996″	1°37′ 27.791″
191	51°31′ 50.747″	1°33′ 57.469″	576	51°36′ 15.600″	1°37′ 46.179″
192	51°31′ 4.896″	1°33′ 22.882″	577	51°36′ 19.402″	1°37′ 49.987″
193	51°30′ 47.902″	1°33′ 10.306″	578	51°38′ 8.892″	1°38′ 49.494″
194	51°30′ 46.699″	1°33′ 9.595″	579	51°39′ 2.755″	1°39′ 12.466″
195	51°30′ 38.576″	1°33′ 5.937″	580	51°39′ 57.593″	1°39′ 36.683″
196	51°30′ 36.203″	1°33′ 5.457″	581	51°40′ 27.351″	1°39′ 53.259″
197	51°30′ 33.846″	1°33′ 6.110″	582	51°40′ 36.339″	1°39′ 58.267″
198	51°30′ 26.878″	1°33′ 9.804″	583	51°40′ 44.731″	1°40′ 1.916″
199	51°30′ 24.482″	1°33′ 11.841″	584	51°40′ 46.746″	1°40′ 4.067″
200	51°30′ 14.034″	1°33′ 24.734″	585	51°40′ 50.084″	1°40′ 5.927″
201	51°30′ 11.475″	1°33′ 27.384″	586	51°41′ 10.838″	1°40′ 24.122″
202	51°30′ 9.575″	1°33′ 28.326″	587	51°41′ 44.427″	1°41′ 0.842″
203	51°29′ 44.883″	1°33′ 26.177″	588	51°42′ 0.993″	1°41′ 19.347″
204	51°29′ 10.204″	1°33′ 23.614″	589	51°42′ 19.958″	1°41′ 37.090″
205	51°28′ 33.222″	1°33′ 20.457″	590	51°42′ 38.830″	1°41′ 54.623″
206	51°27′ 55.804″	1°33′ 13.891″	591	51°42′ 39.282″	1°41′ 55.013″
207	51°27′ 35.191″	1°33′ 11.224″	592	51°43′ 14.418″	1°42′ 28.213″
208	51°27′ 34.005″	1°33′ 11.086″	593	51°43′ 49.825″	1°42′ 57.731″
209	51°27′ 20.964″	1°33′ 10.434″	594	51°44′ 12.510″	1°43′ 16.691″
210	51°27′ 19.070″	1°33′ 10.697″	595	51°44′ 23.970″	1°43′ 25.574″
211	51°27′ 16.077″	1°33′ 11.689″	596	51°44′ 31.855″	1°43′ 33.447″
212	51°27′ 12.087″	1°33′ 12.486″	597	51°44′ 35.073″	1°43′ 43.597″
213	51°27′ 7.037″	1°33′ 13.111″	598	51°44′ 44.830″	1°44′ 20.916″
214	51°27′ 4.772″	1°33′ 13.591″	599	51°45′ 0.786″	1°45′ 24.613″
215	51°27′ 2.568″	1°33′ 13.113″	600	51°45′ 6.581″	1°45′ 33.791″
216	51°27′ 0.726″	1°33′ 11.644″	601	51°45′ 14.201″	1°45′ 45.777″
217	51°27′ 0.083″	1°33′ 11.203″	602	51°45′ 45.415″	1°46′ 26.552″
218	51°26′ 59.869″	1°33′ 11.057″	603	51°45′ 48.072″	1°46′ 28.793″
219	51°26′ 52.636″	1°33′ 6.873″	604	51°45′ 49.501″	1°46′ 29.593″
220	51°26′ 47.656″	1°33′ 6.547″	605	51°46′ 6.477″	1°46′ 38.294″
221	51°26′ 39.535″	1°33′ 5.836″	606	51°46′ 7.688″	1°46′ 38.754″
222	51°26′ 37.534″	1°33′ 5.793″	607	51°46′ 16.083″	1°46′ 40.857″
223	51°26′ 35.785″	1°33′ 6.465″	608	51°46′ 24.477″	1°46′ 42.961″
224	51°26′ 32.255″	1°33′ 6.245″	609	51°46′ 34.366″	1°46′ 45.592″
225	51°26′ 17.984″	1°33′ 5.278″	610	51°47′ 3.447″	1°46′ 54.044″
226	51°26′ 3.627″	1°33′ 3.939″	611	51°47′ 32.528″	1°47′ 2.499″
227	51°25′ 53.970″	1°33′ 2.974″	612	51°47′ 42.125″	1°47′ 5.948″
228	51°25′ 47.145″	1°33′ 4.442″	613	51°47′ 46.568″	1°47′ 7.805″
229	51°25′ 25.893″	1°33′ 10.216″	614	51°47′ 46.903″	1°47′ 7.945″
230	51°25′ 11.657″	1°33′ 14.009″	615	51°47′ 46.968″	1°47′ 7.971″
231	51°24′ 50.218″	1°33′ 19.871″	616	51°47′ 50.078″	1°47′ 9.227″
232	51°24′ 34.276″	1°33′ 24.120″	617	51°47′ 50.937″	1°47′ 9.574″
233	51°24′ 17.499″	1°33′ 28.685″	618	51°47′ 52.471″	1°47′ 9.464″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
234	51°24′ 11.596″	1°33′ 30.058″	619	51°47′ 52.960″	1°47′ 9.533″
235	51°24′ 10.391″	1°33′ 30.136″	620	51°47′ 53.458″	1°47′ 9.521″
236	51°23′ 25.342″	1°33′ 21.829″	621	51°47′ 54.029″	1°47′ 9.420″
237	51°22′ 5.760″	1°33′ 6.941″	622	51°47′ 55.904″	1°47′ 9.085″
238	51°22′ 0.566″	1°33′ 2.152″	623	51°48′ 0.768″	1°47′ 8.141″
239	51°21′ 46.470″	1°32′ 48.623″	624	51°48′ 4.663″	1°47′ 7.799″
240	51°21′ 40.758″	1°32′ 42.650″	625	51°48′ 12.188″	1°47′ 6.569″
241	51°21′ 38.222″	1°32′ 40.217″	626	51°48′ 15.112″	1°47′ 6.057″
242	51°21′ 37.528″	1°32′ 39.498″	627	51°48′ 18.538″	1°47′ 6.022″
243	51°21′ 36.343″	1°32′ 38.784″	628	51°48′ 20.556″	1°47′ 5.568″
244	51°21′ 26.694″	1°32′ 34.368″	629	51°48′ 21.825″	1°47′ 5.049″
245	51°21′ 25.238″	1°32′ 33.358″	630	51°48′ 22.775″	1°47′ 4.510″
246	51°21′ 7.029″	1°32′ 20.730″	631	51°48′ 24.034″	1°47′ 3.686″
247	51°21′ 3.475″	1°32′ 14.223″	632	51°48′ 25.492″	1°47′ 2.667″
248	51°20′ 51.007″	1°31′ 51.084″	633	51°48′ 26.464″	1°47′ 1.918″
249	51°20′ 40.112″	1°31′ 33.062″	634	51°48′ 27.326″	1°47′ 1.438″
250	51°20′ 38.524″	1°31′ 31.025″	635	51°48′ 40.720″	1°46′ 52.723″
251	51°20′ 31.921″	1°31′ 24.551″	636	51°48′ 43.979″	1°46′ 50.817″
252	51°20′ 29.550″	1°31′ 22.989″	637	51°48′ 54.507″	1°46′ 43.701″
253	51°20′ 10.305″	1°31′ 15.718″	638	51°48′ 57.044″	1°46′ 42.048″
254	51°20′ 7.707″	1°31′ 15.425″	639	51°49′ 1.912″	1°46′ 38.847″
255	51°19′ 56.877″	1°31′ 17.002″	640	51°49′ 6.370″	1°46′ 35.928″
256	51°19′ 54.143″	1°31′ 14.414″	641	51°49′ 10.004″	1°46′ 33.590″
257	51°19′ 44.221″	1°31′ 2.941″	642	51°49′ 12.834″	1°46′ 31.843″
258	51°19′ 22.248″	1°30′ 37.476″	643	51°49′ 16.873″	1°46′ 29.085″
259	51°19′ 21.878″	1°30′ 37.071″	644	51°49′ 21.772″	1°46′ 25.496″
260	51°19′ 17.489″	1°30′ 32.556″	645	51°49′ 24.406″	1°46′ 23.459″
261	51°19′ 16.621″	1°30′ 29.330″	646	51°49′ 26.555″	1°46′ 21.854″
262	51°19′ 12.226″	1°30′ 8.241″	647	51°49′ 29.325″	1°46′ 19.779″
263	51°19′ 1.695″	1°29′ 13.708″	648	51°49′ 29.559″	1°46′ 19.610″
264	51°18′ 43.443″	1°27′ 41.147″	649	51°49′ 31.217″	1°46′ 18.481″
265	51°18′ 40.537″	1°27′ 26.469″	650	51°49′ 31.437″	1°46′ 18.271″
266	51°18′ 38.361″	1°27′ 15.755″	651	51°49′ 31.862″	1°46′ 17.852″
267	51°18′ 32.698″	1°27′ 5.361″	652	51°49′ 32.358″	1°46′ 17.408″
268	51°18′ 30.084″	1°27′ 0.160″	653	51°49′ 32.932″	1°46′ 16.938″
269	51°18′ 30.118″	1°26′ 57.986″	654	51°49′ 33.571″	1°46′ 16.448″
270	51°18′ 30.181″	1°26′ 55.230″	655	51°49′ 34.341″	1°46′ 15.980″
271	51°18′ 30.225″	1°26′ 53.549″	656	51°49′ 35.765″	1°46′ 15.044″
272	51°18′ 30.290″	1°26′ 51.267″	657	51°49′ 36.855″	1°46′ 14.279″
273	51°18′ 30.323″	1°26′ 50.175″	658	51°49′ 37.455″	1°46′ 13.868″
274	51°18′ 30.390″	1°26′ 48.030″	659	51°49′ 53.229″	1°46′ 3.357″
275	51°18′ 30.491″	1°26′ 45.023″	660	51°50′ 3.386″	1°45′ 57.066″
276	51°18′ 30.590″	1°26′ 42.309″	661	51°50′ 14.644″	1°45′ 50.122″
277	51°18′ 30.653″	1°26′ 40.695″	662	51°50′ 17.898″	1°45′ 48.283″
278	51°18′ 30.714″	1°26′ 39.222″	663	51°50′ 19.219″	1°45′ 47.266″
279	51°18′ 30.742″	1°26′ 38.573″	664	51°50′ 32.380″	1°45′ 38.269″
280	51°18′ 30.793″	1°26′ 37.391″	665	51°50′ 45.540″	1°45′ 29.271″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
281	51°18′ 30.834″	1°26′ 36.490″	666	51°51′ 3.374″	1°45′ 18.151″
282	51°18′ 30.867″	1°26′ 35.852″	667	51°51′ 21.207″	1°45′ 7.028″
283	51°18′ 30.897″	1°26′ 35.349″	668	51°51′ 23.200″	1°45′ 5.226″
284	51°18′ 30.936″	1°26′ 34.783″	669	51°51′ 27.997″	1°44′ 59.315″
285	51°18′ 30.997″	1°26′ 34.003″	670	51°51′ 32.793″	1°44′ 53.403″
286	51°18′ 31.080″	1°26′ 33.025″	671	51°51′ 33.327″	1°44′ 52.613″
287	51°18′ 31.121″	1°26′ 32.549″	672	51°51′ 33.861″	1°44′ 51.824″
288	51°18′ 31.218″	1°26′ 31.480″	673	51°51′ 42.012″	1°44′ 37.399″
289	51°18′ 31.305″	1°26′ 30.548″	674	51°51′ 42.973″	1°44′ 35.314″
290	51°18′ 31.385″	1°26′ 29.745″	675	51°51′ 50.568″	1°44′ 14.870″
291	51°18′ 31.415″	1°26′ 29.468″	676	51°51′ 53.048″	1°43′ 57.342″
292	51°18′ 31.457″	1°26′ 29.110″	677	51°51′ 55.350″	1°43′ 54.404″
293	51°18′ 31.509″	1°26′ 28.685″	678	51°52′ 19.004″	1°43′ 5.199″
294	51°18′ 31.577″	1°26′ 28.165″	679	51°52′ 19.469″	1°43′ 4.305″
295	51°18′ 31.664″	1°26′ 27.524″	680	51°52′ 50.135″	1°41′ 19.585″
296	51°18′ 31.774″	1°26′ 26.743″	681	51°52′ 54.614″	1°40′ 13.491″
297	51°18′ 31.904″	1°26′ 25.844″	682	51°52′ 59.084″	1°39′ 7.393″
298	51°18′ 32.048″	1°26′ 24.868″	683	51°52′ 59.571″	1°39′ 1.476″
299	51°18′ 32.200″	1°26′ 23.855″	684	51°53′ 0.058″	1°38′ 55.559″
300	51°18′ 32.354″	1°26′ 22.839″	685	51°53′ 0.134″	1°38′ 54.840″
301	51°18′ 32.505″	1°26′ 21.853″	686	51°53′ 0.271″	1°38′ 54.145″
302	51°18′ 32.648″	1°26′ 20.930″	687	51°53′ 0.467″	1°38′ 53.487″
303	51°18′ 32.776″	1°26′ 20.106″	688	51°53′ 0.717″	1°38′ 52.880″
304	51°18′ 32.844″	1°26′ 19.678″	689	51°53′ 1.017″	1°38′ 52.336″
305	51°18′ 33.011″	1°26′ 18.651″	690	51°53′ 1.427″	1°38′ 51.797″
306	51°18′ 33.048″	1°26′ 18.432″	691	51°53′ 1.743″	1°38′ 51.474″
307	51°18′ 33.143″	1°26′ 17.916″	692	51°53′ 24.971″	1°38′ 32.626″
308	51°18′ 33.276″	1°26′ 17.317″	693	51°53′ 39.441″	1°38′ 30.729″
309	51°18′ 33.476″	1°26′ 16.500″	694	51°54′ 1.604″	1°38′ 28.595″
310	51°18′ 33.569″	1°26′ 16.139″	695	51°54′ 23.190″	1°38′ 26.485″
311	51°18′ 33.788″	1°26′ 15.314″	696	51°54′ 43.236″	1°38′ 31.109″
312	51°18′ 34.007″	1°26′ 14.490″	697	51°56′ 53.011″	1°38′ 57.773″
313	51°18′ 34.650″	1°26′ 12.200″	698	51°59′ 6.470″	1°39′ 24.608″
314	51°18′ 35.549″	1°26′ 9.073″	699	52°0′41.276″	1°39′ 39.826″
315	51°18′ 37.685″	1°26′ 1.611″	700	52°1′ 49.429″	1°39′ 55.987″
316	51°18′ 39.919″	1°25′ 53.476″	701	52°2′ 5.757″	1°40′ 2.162″
317	51°18′ 47.920″	1°25′ 22.394″	702	52°2′ 19.229″	1°40′ 7.258″
318	51°19′ 11.908″	1°23′ 49.130″	703	52°2′ 38.252″	1°40′ 7.750″
319	51°19′ 22.775″	1°23′ 8.870″	704	52°2′ 41.321″	1°40′ 8.050″
320	51°19′ 26.409″	1°22′ 55.404″	705	52°2′ 56.146″	1°40′ 7.509″
321	51°19′ 30.327″	1°22′ 41.426″	706	52°3′ 19.680″	1°40′ 7.680″
322	51°19′ 31.196″	1°22′ 38.329″	707	52°3′ 35.762″	1°40′ 8.210″
323	51°19′32.3″N	1°22′34.6″E	708	52°3′ 44.620″	1°40′ 11.357″
324	51°19′37.1″N	1°22′28.8″E	709	52°3′ 45.442″	1°40′ 11.902″
325	51°19′37.2″N	1°22′28.0″E	710	52°3′ 46.491″	1°40′ 13.489″
326	51°19′38.3″N	1°22′27.2″E	711	52°3′ 47.702″	1°40′ 15.403″
327	51°19′38.7″N	1°22′26.9″E	712	52°3′ 48.441″	1°40′ 16.329″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
328	51°19′39.1″N	1°22′27.0″E	713	52°3′ 49.181″	1°40′ 17.255″
329	51°19′38.5″N	1°22′26.7″E	714	52°3′ 50.490″	1°40′ 18.532″
330	51°19′37.9″N	1°22′26.9″E	715	52°3′ 53.685″	1°40′ 20.313″
331	51°19′37.1″N	1°22′27.7″E	716	52°3′ 57.051″	1°40′ 20.975″
332	51°19′35.8″N	1°22′26.8″E	717	52°3′ 59.607″	1°40′ 20.817″
333	51°19′ 34.829″	1°22′ 24.877″	718	52°4′ 3.162″	1°40′ 19.667″
334	51°19′ 34.802″	1°22′ 24.793″	719	52°4′ 4.762″	1°40′ 18.862″
335	51°19′ 33.482″	1°22′ 21.370″	720	52°4′ 32.139″	1°39′ 59.850″
336	51°19′ 33.191″	1°22′ 20.388″	721	52°4′ 34.649″	1°39′ 59.557″
337	51°19′ 32.987″	1°22′ 19.529″	722	52°5′ 8.283″	1°40′ 4.682″
338	51°19′ 32.941″	1°22′ 19.095″	723	52°5′ 33.094″	1°40′ 5.721″
339	51°19′ 32.964″	1°22′ 18.666″	724	52°5′ 55.307″	1°40′ 11.070″
340	51°19′ 33.103″	1°22′ 17.945″	725	52°6′ 11.802″	1°40′ 14.740″
341	51°19′ 33.472″	1°22′ 16.474″	726	52°6′ 39.189″	1°40′ 23.141″
342	51°19′ 33.505″	1°22′ 16.107″	727	52°6′ 52.695″	1°40′ 28.361″
343	51°19′ 33.460″	1°22′ 15.813″	728	52°6′ 53.902″	1°40′ 28.673″
344	51°19′ 33.360″	1°22′ 15.595″	729	52°7′ 15.334″	1°40′ 31.551″
345	51°19′ 32.982″	1°22′ 15.022″	730	52°7′ 28.843″	1°40′ 30.751″
346	51°19′ 32.919″	1°22′ 14.885″	731	52°7′ 31.480″	1°40′ 29.846″
347	51°19′ 31.947″	1°22′ 13.479″	732	52°7′ 37.837″	1°40′ 25.774″
348	51°19′ 31.554″	1°22′ 13.299″	733	52°7′ 40.081″	1°40′ 22.840″
349	51°19′ 31.424″	1°22′ 13.172″	734	52°7′ 46.142″	1°40′ 18.870″
350	51°19′ 31.330″	1°22′ 13.012″	735	52°7′ 54.029″	1°40′ 14.183″
351	51°19′ 31.267″	1°22′ 12.781″	736	52°7′ 59.972″	1°40′ 9.621″
352	51°19′ 31.259″	1°22′ 12.516″	737	52°8′ 0.202″	1°40′ 9.437″
353	51°19′ 31.264″	1°22′ 12.493″	738	52°8′ 8.481″	1°40′ 2.552″
354	51°19′ 26.603″	1°22′ 5.757″	739	52°8′ 16.761″	1°39′ 55.667″
355	51°19′ 25.258″	1°22′ 3.868″	740	52°8′ 33.272″	1°39′ 42.342″
356	51°19′ 25.167″	1°22′ 3.741″	741	52°8′ 33.982″	1°39′ 41.695″
357	51°19′ 25.085″	1°22′ 3.626″	742	52°9′ 2.575″	1°39′ 12.451″
358	51°19′ 24.808″	1°22′ 3.225″	743	52°9′ 19.621″	1°38′ 58.526″
359	51°19′ 24.883″	1°22′ 0.411″	744	52°9′ 20.639″	1°38′ 57.375″
360	51°19′ 24.852″	1°22′ 0.351″	745	52°9′ 21.536″	1°38′ 55.985″
361	51°19′ 24.512″	1°21′ 59.398″	746	52°9′ 40.583″	1°38′ 21.585″
362	51°19′ 24.380″	1°21′ 59.113″	747	52°9′ 41.245″	1°38′ 20.216″
363	51°19′ 24.199″	1°21′ 58.859″	748	52°9′ 41.790″	1°38′ 18.717″
364	51°19′ 23.707″	1°21′ 58.339″	749	52°9′ 42.478″	1°38′ 16.503″
365	51°19′ 23.518″	1°21′ 58.053″	750	52°9′ 59.120″	1°37′ 15.816″
366	51°19′ 23.115″	1°21′ 56.959″	751	52°10′ 5.676″	1°36′ 51.897″
367	51°19′ 22.453″	1°21′ 55.626″	752	52°10′ 6.497″	1°36′ 48.902″
368	51°19′ 22.187″	1°21′ 55.159″	753	52°10′ 6.936″	1°36′ 47.300″
369	51°19′ 21.940″	1°21′ 54.813″	754	52°10′ 7.674″	1°36′ 44.608″
370	51°19′ 21.329″	1°21′ 54.081″	755	52°10′ 7.699″	1°36′ 44.514″
371	51°19′ 20.728″	1°21′ 53.247″	756	52°10′ 8.210″	1°36′ 42.649″
372	51°19′ 19.742″	1°21′ 52.317″	757	52°10′ 8.650″	1°36′ 41.044″
373	51°19′ 19.145″	1°21′ 51.535″	758	52°10′ 8.864″	1°36′ 40.262″
374	51°19′ 18.944″	1°21′ 51.363″	759	52°10′ 9.282″	1°36′ 38.739″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
375	51°19′ 18.360″	1°21′ 50.981″	760	52°10′ 9.302″	1°36′ 38.664″
376	51°19′ 17.711″	1°21′ 50.413″	761	52°10′ 8.161″	1°36′ 38.074″
377	51°19′ 14.953″	1°22′ 1.124″	762	52°10′ 3.687″	1°36′ 35.840″
378	51°19′ 13.936″	1°22′ 0.539″	764	52°10′ 1.232″	1°36′ 34.433″
379	51°19′ 12.275″	1°21′ 59.585″	764	52°10′ 1.671″	1°36′ 33.128″
380	51°19′ 7.341″	1°21′ 56.750″	765	52°10′ 1.719″	1°36′ 32.950″
381	51°19′ 4.216″	1°22′ 8.087″	766	52°10′ 0.186″	1°36′ 32.072″
382	51°19′ 4.096″	1°22′ 8.515″	767	52°9′ 59.073″	1°36′ 31.526″
383	51°19′ 3.671″	1°22′ 10.031″	768	52°9 57.364″	1°36′ 30.852″
384	51°19′ 3.594″	1°22′ 10.305″	769	52°9′ 53.755″	1°36′ 29.252″
385	51°19′ 3.380″	1°22′ 11.069″	770	52°9′ 51.024″	1°36′ 28.212″

Table 2: Limits of deviation for access bridge and overhead cables over the River Stour

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
1	51° 18′ 58.905″	001° 19′ 35.189″	292	51° 19′ 1.006″	001° 18′ 38.515″
2	51° 18′ 58.742″	001° 19′ 34.839″	293	51° 19′ 1.018″	001° 18′ 38.646″
3	51° 18′ 59.071″	001° 19′ 34.295″	294	51° 19′ 1.038″	001° 18′ 38.869″
4	51° 18′ 59.187″	001° 19′ 34.118″	295	51° 19′ 1.061″	001° 18′ 39.093″
5	51° 18′ 59.370″	001° 19′ 33.816″	296	51° 19′ 1.090″	001° 18′ 39.312″
6	51° 18′ 59.513″	001° 19′ 33.568″	297	51° 19′ 1.121″	001° 18′ 39.485″
7	51° 18′ 59.615″	001° 19′ 33.384″	298	51° 19′ 1.155″	001° 18′ 39.658″
8	51° 18′ 59.726″	001° 19′ 33.133″	299	51° 19′ 1.195″	001° 18′ 39.831″
9	51° 18′ 59.825″	001° 19′ 32.944″	300	51° 19′ 1.242″	001° 18′ 40.016″
10	51° 18′ 59.880″	001° 19′ 32.845″	301	51° 19′ 1.292″	001° 18′ 40.195″
11	51° 18′ 59.965″	001° 19′ 32.603″	302	51° 19′ 1.345″	001° 18′ 40.374″
12	51° 19′ 0.084″	001° 19′ 32.286″	303	51° 19′ 1.381″	001° 18′ 40.491″
13	51° 19′ 0.266″	001° 19′ 31.783″	304	51° 19′ 1.435″	001° 18′ 40.663″
14	51° 19′ 0.343″	001° 19′ 31.581″	305	51° 19′ 1.490″	001° 18′ 40.755″
15	51° 19′ 0.393″	001° 19′ 31.425″	306	51° 19′ 1.639″	001° 18′ 40.908″
16	51° 19′ 0.509″	001° 19′ 30.984″	307	51° 19′ 1.696″	001° 18′ 40.969″
17	51° 19′ 0.546″	001° 19′ 30.842″	308	51° 19′ 1.756″	001° 18′ 41.004″
18	51° 19′ 0.602″	001° 19′ 30.458″	309	51° 19′ 1.792″	001° 18′ 41.007″
19	51° 19′ 0.638″	001° 19′ 30.109″	310	51° 19′ 1.824″	001° 18′ 41.004″
20	51° 19′ 0.666″	001° 19′ 29.905″	311	51° 19′ 1.857″	001° 18′ 40.996″
21	51° 19′ 0.663″	001° 19′ 29.889″	312	51° 19′ 1.876″	001° 18′ 40.992″
22	51° 19′ 0.658″	001° 19′ 29.868″	313	51° 19′ 1.896″	001° 18′ 40.983″
23	51° 19′ 0.651″	001° 19′ 29.857″	314	51° 19′ 1.915″	001° 18′ 40.980″
24	51° 19′ 0.642″	001° 19′ 29.851″	315	51° 19′ 1.936″	001° 18′ 41.069″
25	51° 19′ 0.603″	001° 19′ 29.848″	316	51° 19′ 1.847″	001° 18′ 41.104″
26	51° 19′ 0.590″	001° 19′ 29.853″	317	51° 19′ 1.821″	001° 18′ 41.107″
27	51° 19′ 0.577″	001° 19′ 29.852″	318	51° 19′ 1.798″	001° 18′ 41.116″
28	51° 19′ 0.548″	001° 19′ 29.865″	319	51° 19′ 1.778″	001° 18′ 41.135″
29	51° 19′ 0.521″	001° 19′ 29.879″	320	51° 19′ 1.768″	001° 18′ 41.155″
30	51° 19′ 0.492″	001° 19′ 29.887″	321	51° 19′ 1.764″	001° 18′ 41.186″
31	51° 19′ 0.440″	001° 19′ 29.894″	322	51° 19′ 1.760″	001° 18′ 41.211″
32	51° 19′ 0.411″	001° 19′ 29.886″	323	51° 19′ 1.753″	001° 18′ 41.302″
33	51° 19′ 0.376″	001° 19′ 29.879″	324	51° 19′ 1.757″	001° 18′ 41.372″
34	51° 19′ 0.346″	001° 19′ 29.887″	325	51° 19′ 1.773″	001° 18′ 41.416″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
35	51° 19′ 0.298″	001° 19′ 29.883″	326	51° 19′ 1.895″	001° 18′ 41.670″
36	51° 19′ 0.272″	001° 19′ 29.876″	327	51° 19′ 2.223″	001° 18′ 42.312″
37	51° 19′ 0.243″	001° 19′ 29.869″	328	51° 19′ 2.364″	001° 18′ 42.570″
38	51° 19′ 0.218″	001° 19′ 29.852″	329	51° 19′ 2.435″	001° 18′ 42.704″
39	51° 19′ 0.196″	001° 19′ 29.829″	330	51° 19′ 2.505″	001° 18′ 42.849″
40	51° 19′ 0.174″	001° 19′ 29.802″	331	51° 19′ 2.576″	001° 18′ 42.999″
41	51° 19′ 0.159″	001° 19′ 29.765″	332	51° 19′ 2.643″	001° 18′ 43.148″
42	51° 19′ 0.147″	001° 19′ 29.728″	333	51° 19′ 2.698″	001° 18′ 43.266″
43	51° 19′ 0.142″	001° 19′ 29.665″	334	51° 19′ 2.749″	001° 18′ 43.383″
44	51° 19′ 0.146″	001° 19′ 29.640″	335	51° 19′ 2.804″	001° 18′ 43.496″
45	51° 19′ 0.153″	001° 19′ 29.614″	336	51° 19′ 2.940″	001° 18′ 43.743″
46	51° 19′ 0.167″	001° 19′ 29.590″	337	51° 19′ 3.075″	001° 18′ 44.006″
47	51° 19′ 0.177″	001° 19′ 29.570″	338	51° 19′ 3.207″	001° 18′ 44.264″
48	51° 19′ 0.194″	001° 19′ 29.550″	339	51° 19′ 3.311″	001° 18′ 44.488″
49	51° 19′ 0.207″	001° 19′ 29.530″	340	51° 19′ 3.415″	001° 18′ 44.707″
50	51° 19′ 0.224″	001° 19′ 29.511″	341	51° 19′ 3.518″	001° 18′ 44.932″
51	51° 19′ 0.254″	001° 19′ 29.498″	342	51° 19′ 3.634″	001° 18′ 45.178″
52	51° 19′ 0.312″	001° 19′ 29.492″	343	51° 19′ 3.747″	001° 18′ 45.419″
53	51° 19′ 0.396″	001° 19′ 29.508″	344	51° 19′ 3.863″	001° 18′ 45.670″
54	51° 19′ 0.437″	001° 19′ 29.526″	345	51° 19′ 3.955″	001° 18′ 45.873″
55	51° 19′ 0.476″	001° 19′ 29.550″	346	51° 19′ 4.049″	001° 18′ 46.076″
56	51° 19′ 0.514″	001° 19′ 29.578″	347	51° 19′ 4.134″	001° 18′ 46.294″
57	51° 19′ 0.551″	001° 19′ 29.617″	348	51° 19′ 4.224″	001° 18′ 46.559″
58	51° 19′ 0.618″	001° 19′ 29.664″	349	51° 19′ 4.268″	001° 18′ 46.696″
59	51° 19′ 0.646″	001° 19′ 29.702″	350	51° 19′ 4.325″	001° 18′ 46.876″
60	51° 19′ 0.662″	001° 19′ 29.713″	351	51° 19′ 4.384″	001° 18′ 47.061″
61	51° 19′ 0.678″	001° 19′ 29.720″	352	51° 19′ 4.444″	001° 18′ 47.241″
62	51° 19′ 0.694″	001° 19′ 29.710″	353	51° 19′ 4.488″	001° 18′ 47.389″
63	51° 19′ 0.705″	001° 19′ 29.696″	354	51° 19′ 4.533″	001° 18′ 47.532″
64	51° 19′ 0.705″	001° 19′ 29.680″	355	51° 19′ 4.577″	001° 18′ 47.680″
65	51° 19′ 0.742″	001° 19′ 29.414″	356	51° 19′ 4.621″	001° 18′ 47.859″
66	51° 19′ 0.802″	001° 19′ 29.010″	357	51° 19′ 4.658″	001° 18′ 48.037″
67	51° 19′ 0.852″	001° 19′ 28.709″	358	51° 19′ 4.675″	001° 18′ 48.124″
68	51° 19′ 0.890″	001° 19′ 28.428″	359	51° 19′ 4.680″	001° 18′ 48.146″
69	51° 19′ 0.929″	001° 19′ 28.167″	360	51° 19′ 4.695″	001° 18′ 48.221″
70	51° 19′ 0.948″	001° 19′ 27.838″	361	51° 19′ 4.729″	001° 18′ 48.378″
71	51° 19′ 0.980″	001° 19′ 27.411″	362	51° 19′ 4.763″	001° 18′ 48.541″
72	51° 19′ 1.003″	001° 19′ 26.932″	363	51° 19′ 4.794″	001° 18′ 48.698″
73	51° 19′ 1.023″	001° 19′ 26.572″	364	51° 19′ 4.845″	001° 18′ 48.970″
74	51° 19′ 1.030″	001° 19′ 26.324″	365	51° 19′ 4.867″	001° 18′ 49.106″
75	51° 19′ 1.061″	001° 19′ 25.701″	366	51° 19′ 4.896″	001° 18′ 49.260″
76	51° 19′ 1.085″	001° 19′ 25.197″	367	51° 19′ 4.911″	001° 18′ 49.383″
77	51° 19′ 1.092″	001° 19′ 25.052″	368	51° 19′ 4.920″	001° 18′ 49.410″
78	51° 19′ 1.138″	001° 19′ 24.353″	369	51° 19′ 4.926″	001° 18′ 49.431″
79	51° 19′ 1.155″	001° 19′ 24.080″	370	51° 19′ 4.938″	001° 18′ 49.458″
80	51° 19′ 1.220″	001° 19′ 22.834″	371	51° 19′ 4.953″	001° 18′ 49.485″
81	51° 19′ 1.271″	001° 19′ 21.831″	372	51° 19′ 4.972″	001° 18′ 49.502″
82	51° 19′ 1.305″	001° 19′ 21.306″	373	51° 19′ 5.017″	001° 18′ 49.536″
83	51° 19′ 1.365″	001° 19′ 20.349″	374	51° 19′ 5.042″	001° 18′ 49.543″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
84	51° 19′ 1.390″	001° 19′ 19.932″	375	51° 19′ 5.065″	001° 18′ 49.539″
85	51° 19′ 1.401″	001° 19′ 19.664″	376	51° 19′ 5.269″	001° 18′ 49.544″
86	51° 19′ 1.440″	001° 19′ 18.846″	377	51° 19′ 5.418″	001° 18′ 49.548″
87	51° 19′ 1.467″	001° 19′ 17.782″	378	51° 19′ 5.477″	001° 18′ 49.548″
88	51° 19′ 1.147″	001° 19′ 17.704″	379	51° 19′ 5.473″	001° 18′ 49.745″
89	51° 19′ 1.168″	001° 19′ 17.552″	380	51° 19′ 5.415″	001° 18′ 49.745″
90	51° 19′ 1.488″	001° 19′ 17.639″	381	51° 19′ 5.264″	001° 18′ 49.734″
91	51° 19′ 1.534″	001° 19′ 17.116″	382	51° 19′ 5.183″	001° 18′ 49.734″
92	51° 19′ 1.564″	001° 19′ 16.860″	383	51° 19′ 5.154″	001° 18′ 49.726″
93	51° 19′ 1.636″	001° 19′ 16.152″	384	51° 19′ 5.122″	001° 18′ 49.724″
94	51° 19′ 1.899″	001° 19′ 13.758″	385	51° 19′ 5.095″	001° 18′ 49.738″
95	51° 19′ 1.984″	001° 19′ 12.927″	386	51° 19′ 5.069″	001° 18′ 49.762″
96	51° 19′ 2.126″	001° 19′ 12.033″	387	51° 19′ 5.048″	001° 18′ 49.791″
97	51° 19′ 2.262″	001° 19′ 11.206″	388	51° 19′ 5.031″	001° 18′ 49.831″
98	51° 19′ 2.297″	001° 19′ 10.996″	389	51° 19′ 5.017″	001° 18′ 49.866″
99	51° 19′ 2.444″	001° 19′ 10.056″	390	51° 19′ 5.010″	001° 18′ 49.902″
100	51° 19′ 2.526″	001° 19′ 9.571″	391	51° 19′ 5.005″	001° 18′ 49.938″
101	51° 19′ 2.572″	001° 19′ 9.306″	392	51° 19′ 5.000″	001° 18′ 50.005″
102	51° 19′ 2.661″	001° 19′ 8.780″	393	51° 19′ 5.005″	001° 18′ 50.072″
103	51° 19′ 2.711″	001° 19′ 8.499″	394	51° 19′ 5.016″	001° 18′ 50.140″
104	51° 19′ 2.756″	001° 19′ 8.192″	395	51° 19′ 5.041″	001° 18′ 50.509″
105	51° 19′ 2.803″	001° 19′ 7.912″	396	51° 19′ 5.070″	001° 18′ 50.847″
106	51° 19′ 2.911″	001° 19′ 7.256″	397	51° 19′ 5.079″	001° 18′ 50.992″
107	51° 19′ 2.931″	001° 19′ 7.136″	398	51° 19′ 5.077″	001° 18′ 51.085″
108	51° 19′ 2.710″	001° 19′ 7.058″	399	51° 19′ 5.089″	001° 18′ 51.319″
109	51° 19′ 2.581″	001° 19′ 7.038″	400	51° 19′ 5.090″	001° 18′ 51.629″
110	51° 19′ 2.451″	001° 19′ 7.019″	401	51° 19′ 5.099″	001° 18′ 51.888″
111	51° 19′ 2.451″	001° 19′ 7.000″	402	51° 19′ 5.098″	001° 18′ 52.167″
112	51° 19′ 2.478″	001° 19′ 6.872″	403	51° 19′ 5.094″	001° 18′ 52.290″
113	51° 19′ 2.498″	001° 19′ 6.875″	404	51° 19′ 5.082″	001° 18′ 52.481″
114	51° 19′ 2.591″	001° 19′ 6.892″	405	51° 19′ 5.073″	001° 18′ 52.682″
115	51° 19′ 2.692″	001° 19′ 6.912″	406	51° 19′ 5.058″	001° 18′ 52.985″
116	51° 19′ 2.955″	001° 19′ 6.987″	407	51° 19′ 5.053″	001° 18′ 53.068″
117	51° 19′ 2.968″	001° 19′ 6.865″	408	51° 19′ 5.027″	001° 18′ 53.407″
118	51° 19′ 2.982″	001° 19′ 6.721″	409	51° 19′ 4.990″	001° 18′ 53.911″
119	51° 19′ 3.015″	001° 19′ 6.465″	410	51° 19′ 4.975″	001° 18′ 54.085″
120	51° 19′ 3.043″	001° 19′ 6.188″	411	51° 19′ 4.954″	001° 18′ 54.368″
121	51° 19′ 3.138″	001° 19′ 5.331″	412	51° 19′ 4.926″	001° 18′ 54.686″
122	51° 19′ 3.228″″	001° 19′ 4.568″	413	51° 19′ 4.848″	001° 18′ 55.399″
123	51° 19′ 3.259″	001° 19′ 4.250″	414	51° 19′ 4.809″	001° 18′ 55.727″
124	51° 19′ 3.394″	001° 19′ 2.937″	415	51° 19′ 4.551″	001° 18′ 57.967″
125	51° 19′ 3.441″	001° 19′ 2.516″	416	51° 19′ 4.482″	001° 18′ 58.592″
126	51° 19′ 3.502″	001° 19′ 1.973″	417	51° 19′ 4.461″	001° 18′ 58.761″
127	51° 19′ 3.565″	001° 19′ 1.358″	418	51° 19′ 4.310″	001° 19′ 0.305″
128	51° 19′ 3.616″	001° 19′ 0.912″	419	51° 19′ 4.219″	001° 19′ 1.229″
129	51° 19′ 3.655″	001° 19′ 0.568″	420	51° 19′ 4.109″	001° 19′ 2.280″
130	51° 19′ 3.685″	001° 19′ 0.312″	421	51° 19′ 4.055″	001° 19′ 2.793″
131	51° 19′ 3.911″	001° 18′ 58.297″	422	51° 19′ 3.947″	001° 19′ 3.762″
132	51° 19′ 3.950″	001° 18′ 57.928″	423	51° 19′ 3.859″	001° 19′ 4.557″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
133	51° 19′ 4.016″	001° 18′ 57.303″	424	51° 19′ 3.794″	001° 19′ 5.167″
134	51° 19′ 4.099″	001° 18′ 56.570″	425	51° 19′ 3.751″	001° 19′ 5.515″
135	51° 19′ 4.207″	001° 18′ 55.621″	426	51° 19′ 3.729″	001° 19′ 5.741″
136	51° 19′ 4.252″	001° 18′ 55.284″	427	51° 19′ 3.688″	001° 19′ 6.136″
137	51° 19′ 4.333″	001° 18′ 54.463″	428	51° 19′ 3.671″	001° 19′ 6.285″
138	51° 19′ 4.343″	001° 18′ 54.334″	429	51° 19′ 3.696″	001° 19′ 6.312″
139	51° 19′ 4.365″	001° 18′ 54.150″	430	51° 19′ 3.770″	001° 19′ 6.343″
140	51° 19′ 4.379″	001° 18′ 53.991″	431	51° 19′ 3.886″	001° 19′ 6.367″
141	51° 19′ 4.393″	001° 18′ 53.847″	432	51° 19′ 3.872″	001° 19′ 6.501″
142	51° 19′ 4.400″	001° 18′ 53.698″	433	51° 19′ 3.785″	001° 19′ 6.510″
143	51° 19′ 4.418″	001° 18′ 53.410″	434	51° 19′ 3.756″	001° 19′ 6.503″
144	51° 19′ 4.423″	001° 18′ 53.244″	435	51° 19′ 3.733″	001° 19′ 6.491″
145	51° 19′ 4.436″	001° 18′ 53.013″	436	51° 19′ 3.711″	001° 19′ 6.489″
146	51° 19′ 4.446″	001° 18′ 52.895″	437	51° 19′ 3.688″	001° 19′ 6.498″
147	51° 19′ 4.445″	001° 18′ 52.791″	438	51° 19′ 3.668″	001° 19′ 6.512″
148	51° 19′ 4.450″	001° 18′ 52.048″	439	51° 19′ 3.651″	001° 19′ 6.536″
149	51° 19′ 4.451″	001° 18′ 51.918″	440	51° 19′ 3.637″	001° 19′ 6.566″
150	51° 19′ 4.454″	001° 18′ 51.691″	441	51° 19′ 3.626″	001° 19′ 6.607″
151	51° 19′ 4.443″	001° 18′ 51.375″	442	51° 19′ 3.619″	001° 19′ 6.653″
152	51° 19′ 4.445″	001° 18′ 51.205″	443	51° 19′ 3.614″	001° 19′ 6.694″
153	51° 19′ 4.442″	001° 18′ 51.091″	444	51° 19′ 3.598″	001° 19′ 6.812″
154	51° 19′ 4.436″	001° 18′ 50.961″	445	51° 19′ 3.582″	001° 19′ 7.048″
155	51° 19′ 4.429″	001° 18′ 50.847″	446	51° 19′ 3.561″	001° 19′ 7.202″
156	51° 19′ 4.423″	001° 18′ 50.619″	447	51° 19′ 3.533″	001° 19′ 7.499″
157	51° 19′ 4.419″	001° 18′ 50.536″	448	51° 19′ 3.497″	001° 19′ 7.864″
158	51° 19′ 4.386″	001° 18′ 50.090″	449	51° 19′ 3.472″	001° 19′ 8.063″
159	51° 19′ 4.353″	001° 18′ 49.757″	450	51° 19′ 3.459″	001° 19′ 8.176″
160	51° 19′ 4.343″	001° 18′ 49.673″	451	51° 19′ 3.378″	001° 19′ 8.744″
161	51° 19′ 4.336″	001° 18′ 49.564″	452	51° 19′ 3.341″	001° 19′ 9.015″
162	51° 19′ 4.327″	001° 18′ 49.522″	453	51° 19′ 3.293″	001° 19′ 9.353″
163	51° 19′ 4.303″	001° 18′ 49.371″	454	51° 19′ 3.260″	001° 19′ 9.609″
164	51° 19′ 4.280″	001° 18′ 49.215″	455	51° 19′ 3.230″	001° 19′ 9.756″
165	51° 19′ 4.270″	001° 18′ 49.151″	456	51° 19′ 3.041″	001° 19′ 10.823″
166	51° 19′ 4.237″	001° 18′ 48.952″	457	51° 19′ 2.753″	001° 19′ 12.414″
167	51° 19′ 4.208″	001° 18′ 48.826″	458	51° 19′ 2.678″	001° 19′ 13.101″
168	51° 19′ 4.182″	001° 18′ 48.695″	459	51° 19′ 2.547″	001° 19′ 14.079″
169	51° 19′ 4.154″	001° 18′ 48.569″	460	51° 19′ 2.389″	001° 19′ 15.292″
170	51° 19′ 4.098″	001° 18′ 48.353″	461	51° 19′ 2.254″	001° 19′ 16.424″
171	51° 19′ 4.043″	001° 18′ 48.143″	462	51° 19′ 2.187″	001° 19′ 17.215″
172	51° 19′ 3.984″	001° 18′ 47.932″	463	51° 19′ 2.146″	001° 19′ 17.698″
173	51° 19′ 3.928″	001° 18′ 47.736″	464	51° 19′ 2.063″	001° 19′ 18.699″
174	51° 19′ 3.869″	001° 18′ 47.541″	465	51° 19′ 2.025″	001° 19′ 19.332″
175	51° 19′ 3.806″	001° 18′ 47.350″	466	51° 19′ 2.015″	001° 19′ 19.456″
176	51° 19′ 3.737″	001° 18′ 47.149″	467	51° 19′ 2.009″	001° 19′ 19.569″
177	51° 19′ 3.665″	001° 18′ 46.948″	468	51° 19′ 1.986″	001° 19′ 19.702″
178	51° 19′ 3.586″	001° 18′ 46.756″	469	51° 19′ 1.930″	001° 19′ 20.194″
179	51° 19′ 3.502″	001° 18′ 46.553″	470	51° 19′ 1.914″	001° 19′ 20.626″
180	51° 19′ 3.410″	001° 18′ 46.350″	471	51° 19′ 1.913″	001° 19′ 20.668″
181	51° 19′ 3.319″	001° 18′ 46.153″	472	51° 19′ 1.890″	001° 19′ 20.888″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
182	51° 19′ 3.193″	001° 18′ 45.885″	473	51° 19′ 1.879″	001° 19′ 21.058″
183	51° 19′ 2.936″	001° 18′ 45.360″	474	51° 19′ 1.867″	001° 19′ 21.160″
184	51° 19′ 2.878″	001° 18′ 45.248″	475	51° 19′ 1.845″	001° 19′ 21.335″
185	51° 19′ 2.820″	001° 18′ 45.130″	476	51° 19′ 1.840″	001° 19′ 21.401″
186	51° 19′ 2.659″	001° 18′ 44.849″	477	51° 19′ 1.836″	001° 19′ 21.453″
187	51° 19′ 2.564″	001° 18′ 44.657″	478	51° 19′ 1.831″	001° 19′ 21.509″
188	51° 19′ 2.362″	001° 18′ 44.244″	479	51° 19′ 1.833″	001° 19′ 21.561″
189	51° 19′ 2.255″	001° 18′ 44.025″	480	51° 19′ 1.831″	001° 19′ 21.597″
190	51° 19′ 2.148″	001° 18′ 43.800″	481	51° 19′ 1.834″	001° 19′ 21.639″
191	51° 19′ 2.066″	001° 18′ 43.628″	482	51° 19′ 1.839″	001° 19′ 21.675″
192	51° 19′ 1.983″	001° 18′ 43.452″	483	51° 19′ 1.854″	001° 19′ 21.718″
193	51° 19′ 1.901″	001° 18′ 43.281″	484	51° 19′ 1.876″	001° 19′ 21.755″
194	51° 19′ 1.827″	001° 18′ 43.136″	485	51° 19′ 1.897″	001° 19′ 21.788″
195	51° 19′ 1.750″	001° 18′ 42.991″	486	51° 19′ 1.922″	001° 19′ 21.826″
196	51° 19′ 1.416″	001° 18′ 42.348″	487	51° 19′ 1.947″	001° 19′ 21.859″
197	51° 19′ 1.302″	001° 18′ 42.118″	488	51° 19′ 1.975″	001° 19′ 21.887″
198	51° 19′ 1.232″	001° 18′ 41.978″	489	51° 19′ 2.001″	001° 19′ 21.899″
199	51° 19′ 1.161″	001° 18′ 41.844″	490	51° 19′ 2.027″	001° 19′ 21.906″
200	51° 19′ 1.113″	001° 18′ 41.745″	491	51° 19′ 2.053″	001° 19′ 21.903″
201	51° 19′ 1.080″	001° 18′ 41.676″	492	51° 19′ 2.308″	001° 19′ 21.921″
202	51° 19′ 0.986″	001° 18′ 41.464″	493	51° 19′ 2.336″	001° 19′ 21.930″
203	51° 19′ 0.856″	001° 18′ 41.592″	494	51° 19′ 2.395″	001° 19′ 21.948″
204	51° 19′ 0.659″	001° 18′ 41.678″	495	51° 19′ 2.430″	001° 19′ 21.950″
205	51° 19′ 0.656″	001° 18′ 41.609″	496	51° 19′ 2.469″	001° 19′ 21.964″
206	51° 19′ 0.654″	001° 18′ 41.517″	497	51° 19′ 2.507″	001° 19′ 21.987″
207	51° 19′ 0.862″	001° 18′ 41.444″	498	51° 19′ 2.542″	001° 19′ 22.005″
208	51° 19′ 0.956″	001° 18′ 41.350″	499	51° 19′ 2.586″	001° 19′ 22.044″
209	51° 19′ 0.859″	001° 18′ 40.954″	500	51° 19′ 2.630″	001° 19′ 22.089″
210	51° 19′ 0.738″	001° 18′ 40.429″	501	51° 19′ 2.674″	001° 19′ 22.139″
211	51° 19′ 0.684″	001° 18′ 40.167″	502	51° 19′ 2.749″	001° 19′ 22.253″
212	51° 19′ 0.644″	001° 18′ 39.978″	503	51° 19′ 2.846″	001° 19′ 22.378″
213	51° 19′ 0.607″	001° 18′ 39.789″	504	51° 19′ 2.807″	001° 19′ 22.474″
214	51° 19′ 0.574″	001° 18′ 39.600″	505	51° 19′ 2.757″	001° 19′ 22.424″
215	51° 19′ 0.547″	001° 18′ 39.407″	506	51° 19′ 2.710″	001° 19′ 22.353″
216	51° 19′ 0.523″	001° 18′ 39.220″	507	51° 19′ 2.679″	001° 19′ 22.304″
217	51° 19′ 0.503″	001° 18′ 39.027″	508	51° 19′ 2.651″	001° 19′ 22.261″
218	51° 19′ 0.472″	001° 18′ 38.746″	509	51° 19′ 2.623″	001° 19′ 22.228″
219	51° 19′ 0.450″	001° 18′ 38.491″	510	51° 19′ 2.592″	001° 19′ 22.195″
220	51° 19′ 0.443″	001° 18′ 38.377″	511	51° 19′ 2.566″	001° 19′ 22.172″
221	51° 19′ 0.437″	001° 18′ 38.268″	512	51° 19′ 2.538″	001° 19′ 22.149″
222	51° 19′ 0.426″	001° 18′ 38.081″	513	51° 19′ 2.509″	001° 19′ 22.137″
223	51° 19′ 0.426″	001° 18′ 38.071″	514	51° 19′ 2.458″	001° 19′ 22.108″
224	51° 19′ 0.413″	001° 18′ 37.951″	515	51° 19′ 2.394″	001° 19′ 22.077″
225	51° 19′ 0.407″	001° 18′ 37.837″	516	51° 19′ 2.366″	001° 19′ 22.060″
226	51° 19′ 0.400″	001° 18′ 37.717″	517	51° 19′ 2.337″	001° 19′ 22.047″
227	51° 19′ 0.394″	001° 18′ 37.593″	518	51° 19′ 2.305″	001° 19′ 22.040″
228	51° 19′ 0.395″	001° 18′ 37.345″	519	51° 19′ 2.276″	001° 19′ 22.032″
229	51° 19′ 0.393″	001° 18′ 37.278″	520	51° 19′ 2.250″	001° 19′ 22.036″
230	51° 19′ 0.395″	001° 18′ 37.211″	521	51° 19′ 2.221″	001° 19′ 22.039″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
231	51° 19′ 0.394″	001° 18′ 37.138″	522	51° 19′ 2.143″	001° 19′ 22.038″
232	51° 19′ 0.400″	001° 18′ 37.040″	523	51° 19′ 2.065″	001° 19′ 22.043″
233	51° 19′ 0.409″	001° 18′ 36.943″	524	51° 19′ 2.013″	001° 19′ 22.039″
234	51° 19′ 0.415″	001° 18′ 36.840″	525	51° 19′ 1.961″	001° 19′ 22.051″
235	51° 19′ 0.421″	001° 18′ 36.773″	526	51° 19′ 1.912″	001° 19′ 22.084″
236	51° 19′ 0.426″	001° 18′ 36.701″	527	51° 19′ 1.875″	001° 19′ 22.127″
237	51° 19′ 0.428″	001° 18′ 36.634″	528	51° 19′ 1.847″	001° 19′ 22.182″
238	51° 19′ 0.434″	001° 18′ 36.542″	529	51° 19′ 1.823″	001° 19′ 22.242″
239	51° 19′ 0.443″	001° 18′ 36.454″	530	51° 19′ 1.805″	001° 19′ 22.288″
240	51° 19′ 0.448″	001° 18′ 36.362″	531	51° 19′ 1.794″	001° 19′ 22.333″
241	51° 19′ 0.458″	001° 18′ 36.233″	532	51° 19′ 1.771″	001° 19′ 22.487″
242	51° 19′ 0.468″	001° 18′ 36.110″	533	51° 19′ 1.743″	001° 19′ 22.676″
243	51° 19′ 0.479″	001° 18′ 35.982″	534	51° 19′ 1.722″	001° 19′ 23.057″
244	51° 19′ 0.502″	001° 18′ 35.725″	535	51° 19′ 1.596″	001° 19′ 25.347″
245	51° 19′ 0.555″	001° 18′ 35.212″	536	51° 19′ 1.575″	001° 19′ 25.966″
246	51° 19′ 0.616″	001° 18′ 34.669″	537	51° 19′ 1.539″	001° 19′ 26.532″
247	51° 19′ 0.647″	001° 18′ 34.392″	538	51° 19′ 1.510″	001° 19′ 26.995″
248	51° 19′ 0.713″	001° 18′ 33.870″	539	51° 19′ 1.493″	001° 19′ 27.247″
249	51° 19′ 0.351″	001° 18′ 33.740″	540	51° 19′ 1.459″	001° 19′ 27.771″
250	51° 19′ 0.371″	001° 18′ 33.595″	541	51° 19′ 1.433″	001° 19′ 28.100″
251	51° 19′ 0.375″	001° 18′ 33.561″	542	51° 19′ 1.425″	001° 19′ 28.270″
252	51° 19′ 0.728″	001° 18′ 33.700″	543	51° 19′ 1.357″	001° 19′ 28.963″
253	51° 19′ 0.786″	001° 18′ 33.353″	544	51° 19′ 1.318″	001° 19′ 29.409″
254	51° 19′ 0.903″	001° 18′ 32.669″	545	51° 19′ 1.293″	001° 19′ 29.630″
255	51° 19′ 0.945″	001° 18′ 32.414″	546	51° 19′ 1.258″	001° 19′ 29.942″
256	51° 19′ 0.991″	001° 18′ 32.164″	547	51° 19′ 1.248″	001° 19′ 30.045″
257	51° 19′ 1.037″	001° 18′ 31.909″	548	51° 19′ 1.225″	001° 19′ 30.183″
258	51° 19′ 1.083″	001° 18′ 31.659″	549	51° 19′ 1.181″	001° 19′ 30.469″
259	51° 19′ 1.132″	001° 18′ 31.414″	550	51° 19′ 1.162″	001° 19′ 30.581″
260	51° 19′ 1.164″	001° 18′ 31.254″	551	51° 19′ 1.077″	001° 19′ 31.061″
261	51° 19′ 1.679″	001° 18′ 31.537″	552	51° 19′ 1.019″	001° 19′ 31.393″
262	51° 19′ 1.603″	001° 18′ 31.929″	553	51° 19′ 0.986″	001° 19′ 31.540″
263	51° 19′ 1.557″	001° 18′ 32.194″	554	51° 19′ 0.953″	001° 19′ 31.682″
264	51° 19′ 1.465″	001° 18′ 32.715″	555	51° 19′ 0.916″	001° 19′ 31.830″
265	51° 19′ 1.407″	001° 18′ 33.051″	556	51° 19′ 0.890″	001° 19′ 31.931″
266	51° 19′ 1.345″	001° 18′ 33.393″	557	51° 19′ 0.865″	001° 19′ 32.027″
267	51° 19′ 1.290″	001° 18′ 33.735″	558	51° 19′ 0.836″	001° 19′ 32.124″
268	51° 19′ 1.274″	001° 18′ 33.853″	559	51° 19′ 0.825″	001° 19′ 32.169″
269	51° 19′ 1.254″	001° 18′ 33.971″	560	51° 19′ 0.811″	001° 19′ 32.210″
270	51° 19′ 1.238″	001° 18′ 34.088″	561	51° 19′ 0.800″	001° 19′ 32.250″
271	51° 19′ 1.205″	001° 18′ 34.344″	562	51° 19′ 0.716″	001° 19′ 32.502″
272	51° 19′ 1.152″	001° 18′ 34.857″	563	51° 19′ 0.663″	001° 19′ 32.643″
273	51° 19′ 1.138″	001° 18′ 34.975″	564	51° 19′ 0.603″	001° 19′ 32.799″
274	51° 19′ 1.125″	001° 18′ 35.098″	565	51° 19′ 0.530″	001° 19′ 32.995″
275	51° 19′ 1.115″	001° 18′ 35.216″	566	51° 19′ 0.492″	001° 19′ 33.075″
276	51° 19′ 1.088″	001° 18′ 35.504″	567	51° 19′ 0.405″	001° 19′ 33.276″
277	51° 19′ 1.061″	001° 18′ 35.786″	568	51° 19′ 0.315″	001° 19′ 33.481″
278	51° 19′ 1.036″	001° 18′ 36.073″	569	51° 19′ 0.190″	001° 19′ 33.777″
279	51° 19′ 1.009″	001° 18′ 36.345″	570	51° 19′ 0.119″	001° 19′ 33.911″

Point	*Latitude (DMS)*	*Longitude (DMS)*	*Point*	*Latitude (DMS)*	*Longitude (DMS)*
280	51° 19′ 0.985″	001° 18′ 36.623″	571	51° 19′ 0.012″	001° 19′ 34.126″
281	51° 19′ 0.971″	001° 18′ 36.896″	572	51° 18′ 59.923″	001° 19′ 34.310″
282	51° 19′ 0.972″	001° 18′ 36.973″	573	51° 18′ 59.861″	001° 19′ 34.420″
283	51° 19′ 0.970″	001° 18′ 37.050″	574	51° 18′ 59.786″	001° 19′ 34.564″
284	51° 19′ 0.971″	001° 18′ 37.128″	575	51° 18′ 59.739″	001° 19′ 34.633″
285	51° 19′ 0.970″	001° 18′ 37.262″	576	51° 18′ 59.667″	001° 19′ 34.752″
286	51° 19′ 0.976″	001° 18′ 37.531″	577	51° 18′ 59.478″	001° 19′ 35.022″
287	51° 19′ 0.978″	001° 18′ 37.671″	578	51° 18′ 59.229″	001° 19′ 35.350″
288	51° 19′ 0.984″	001° 18′ 37.816″	579	51° 18′ 59.076″	001° 19′ 35.558″
289	51° 19′ 0.989″	001° 18′ 37.956″	580	51° 18′ 58.915″	001° 19′ 35.211″
290	51° 19′ 0.990″	001° 18′ 38.153″	581	51° 18′ 58.905″	001° 19′ 35.189″
291	51° 19′ 0.994″	001° 18′ 38.256″			

8. This licence remains in force until the authorised project has been decommissioned in accordance with a methodology and programme approved by the MMO and the completion of such programme has been confirmed by the MMO in writing.

9. The provisions of section 72 (variation, suspension, revocation and transfer) of the 2009 Act apply to this licence except that the provisions of section 72(7) and (8) relating to the transfer of the licence only apply to a transfer not falling within article 6 (benefit of the Order).

10. With respect to any condition which requires the licensed activities be carried out in accordance with the plans, protocols or statements approved under this licence, the approved details, plan or scheme are taken to include any amendments that may subsequently be approved in writing by the MMO.

11. Any amendments to the details, plan or scheme must be in accordance with the principles and assessments set out in the environmental statement, and approval for an amendment may be given only where it has been demonstrated to the satisfaction of the MMO that the amendment will not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.

PART 2

CONDITIONS

Design parameters

1.—(1) The total length of the marine cables, volume and area of cable protection areas (including cable crossings) between the respective MHWS at each of the Suffolk and Kent landfall for Work No. 6 must not exceed the following—

Table 2. Design parameters

Length of cable (km)	*Area of cable protection (m2)*	*Volume of cable protection (m3)*
122	196,100	582,200

(2) The total pre-sweeping volume must not exceed 325,000 cubic metres.

(3) In the Areas of Safeguarded Water Depth—

(a) no wet storage activities are to be carried out by the undertaker as part of the licensed activities in respect of Work No.6;

(b) no exclusion zones will be implemented as part of the licenced activities but this does not prevent any Recommended Restricted Zones in accordance with the Navigation and Installation Plan;

(c) there are to be no cable joints as part of the construction or maintenance of Work No. 6 (unless necessitated by emergency maintenance works);

(d) In the event that a cable crossing is reasonably necessary in the North East Spit Area due to the proposed GridLink Interconnector Project—

(i) If Work No.6 is installed first, the undertaker must install Work No. 6 at a depth that provides sufficient vertical clearance for the GridLink Interconnector Project cable(s) to be laid so that subsequent installation would not preclude or impede the dredging of those parts of the Areas of Safeguarded Water Depth to the depth specified in Requirement 17 of Schedule 3 and the undertaker is not responsible for any failure to meet the required depth protection caused by the subsequent installation of the GridLink Interconnector Project cable(s); and

(ii) If the GridLink Interconnector Project cable(s) are installed first, the undertaker must use reasonable endeavours to ensure that the GridLink Interconnector Project cable(s) are installed with sufficient vertical clearance to allow the subsequent installation of Work No. 6 to a depth which would not preclude or impede the dredging of those parts of the Areas of Safeguarded Water Depth to the depth specified in Requirement 17 of Schedule 3;

(e) Where there are existing cables installed in the North East Spit Area that are to be crossed by Work No.6 the undertaker must install Work No.6 so as to achieve the required depth protection specified in Requirement 17 of Schedule 3.

(f) There are to be no cable crossings as part of the construction of Work No.6 within the Long Sand Head Two-way Route Crossing area and the Sunk Pilot Boarding Area as shown on the certified Areas of Safeguard Water Depth Plan, except where a cable crossing is required to cross any new unforeseen cable which is laid prior to construction of Work No.6.

Extension of time periods

2. Any time period given in this licence given to either the undertaker or the MMO may be extended with the agreement of the other party in writing.

Notifications and inspections

3.—(1) The undertaker must ensure that—

(a) a copy of this licence (issued as part of the grant of the Order) and any subsequent amendments or revisions to it is provided to—

(i) all agents and contractors notified to the MMO in accordance with condition 5; and

(ii) the masters and transport managers responsible for the vessels notified to the MMO in accordance with condition 5;

(b) within 28 days of receipt of a copy of this licence and any subsequent amendments or revisions those persons referred to in sub-paragraph (a) above must confirm receipt of this licence in writing to the MMO.

(2) Only those persons and vessels notified to the MMO in accordance with condition 5 are permitted to carry out the licensed activities.

(3) Copies of this licence must also be available for inspection at the following locations—

(a) the undertaker's registered address;

(b) any site office located at or adjacent to the construction site and used by the undertaker or its agents and contractors responsible for the loading, transportation or deposit of the authorised deposits; and

(c) on board each vessel or at the office of any transport manager with responsibility for vessels from which authorised deposits or removals are to be made.

(4) The documents referred to in sub-paragraph (1) must be available for inspection by an authorised enforcement officer at the locations set out in sub-paragraph (3) above.

(5) The undertaker must provide access, and if necessary appropriate transportation, to the offshore construction site or any other associated works or vessels to facilitate any inspection that the MMO considers necessary to inspect the works during construction and operation of the authorised project.

(6) The undertaker must inform the MMO Coastal Office in writing at least seven days prior to commencement of the licensed activities or any part of them, and within 14 days of completion of the licensed activities.

(7) The undertaker must inform the Kingfisher Information Service of Seafish by email to kingfisher@seafish.co.uk of details regarding the vessel routes, timings and locations relating to the construction of the authorised project or relevant part—

(a) at least 14 days prior to the commencement of offshore activities, for inclusion In the Kingfisher Bulletin and offshore hazard awareness data;

(b) as soon as reasonably practicable and no later than 24 hours after completion of construction of all offshore activities; and

(c) confirmation of notification must be provided to the MMO within seven days.

(8) The undertaker must issue a notice to mariners at least 14 days prior to the commencement of the licensed activities or any part of them, such notice is to include a description of the project, a description of the activity the notification relates to, start date and anticipated completion date of the activity and the expected vessel routes from the local construction ports to the relevant location(s). Copies of all notices must be provided to the MMO, MCA and UKHO within five days of such notification.

(9) The undertaker must notify HM Coastguard (HMCG) (Zone10@hcmg.gov.uk, Zone11@hcmg.gov.uk, Zone13@hcmg.gov.uk and Zone14@hcmg.gov.uk) prior to commencement of licensed cable installation activities and the undertaker must send a copy to the MMO within seven days of the issue of such notification.

(10) The undertaker must notify The Source Data Receipt team at the UK Hydrographic Office of commencement of the licensed activities at least seven days prior to commencement of each licensed activity, such notice is to include the start data and end date, a description of the works, the positions of the work area (WGS84) and details of any marking arrangements and the undertaker must send a copy to the MMO, MCA and PLA within seven days of the issue of such notification.

(11) In case of damage to, or destruction or decay of, the authorised project seaward of MHWS or any part thereof the undertaker must as soon as possible and no later than 24 hours following the undertaker becoming aware of any such damage, destruction or decay, notify MMO, MCA, Trinity House, Kingfisher Information Service of Seafish and the UK Hydrographic Office.

(12) In case of exposure of cables on or above the seabed, the undertaker must, within five days following identification of a cable exposure, and as soon as practicable within the Areas of Safeguarded Water Depth and no later than five days, notify mariners by issuing a notice to mariners and by informing Kingfisher Information Service of the location and extent of exposure. Copies of all notices must be provided to the MMO, MCA, Trinity House, Kingfisher Information Service of Seafish and UK Hydrographic Office within seven days of the exposure identification.

Pre-construction plans and documentation

4.—(1) The licensed activities or any part of those activities under Work No. 6, save for trial trenching, must not commence until the following plans in respect of those activities have been submitted to and approved in writing by the MMO, such approval to be within a period of six months from submission (in consultation with the statutory nature conservation body, the JNCC, MCA, the Environment Agency, PLA, Trinity House and Cefas)—

(a) a Cable Specification and Installation Plan document in respect of those licensed activities, which is in substantial accordance with the principles set out in the outline Cable

Specification and Installation Plan and which has been informed by a cable burial risk assessment and shall include—

(i) a sediment disposal management plan;

(ii) technical specification of offshore cables below MHWS, including a desk-based assessment of attenuation of electromagnetic deviation of the high voltage cable route, shielding and cable burial depth in accordance with industry good practice;

(iii) the proposed detailed location and route of offshore cables, including a micro-siting plan (informed by pre-construction surveys) which details avoidance of features of archaeological or ecological importance where necessary, together with timings;

(iv) an intertidal works methodology and mitigation plan for Pegwell Bay;

(v) a detailed cable laying and burial plan, incorporating a burial risk assessment encompassing the identification of any cable protection that exceeds 5% of navigable depth referenced to Chart Datum and, in the event that any area of cable protection exceeding 5% of navigable depth is identified, details of any steps (to be determined following consultation with the MCA and Trinity House) to be taken to ensure existing and future safe navigation is not compromised or similar such assessment to ascertain suitable burial depths and cable laying techniques, including cable protection;

(vi) a detailed cable protection plan;

(vii) details of intended boulder removal;

(viii) a marine pollution contingency plan;

(ix) a waste management plan; and

(x) a landfall method statement in accordance with the construction methods assessed in the environmental statement;

(b) an Offshore Construction Environmental Management plan which is in substantial accordance with the principles set out in the outline Offshore Construction Environmental Management Plan;

(c) a Marine Mammal Mitigation Plan which is in substantial accordance with the principles set out in the outline Marine Mammal Mitigation Plan,

(d) a Marine Offshore Invasive Non-Native Species Management Plan which is in substantial accordance with the principles set out in the outline Offshore Invasive Non-Native Species Management Plan;

(e) a marine bio-security plan;

(f) a Fisheries Liaison and Co-existence Plan (FLCP) which is in substantial accordance with the principles set out in the outline Fisheries Liaison and Co-existence Plan;

(g) a navigation and installation plan for the relevant stage which is in substantial accordance with the principles set out in the outline navigation and installation plan which shall include details of—

(i) planned protocols;

(ii) concurrent activity restrictions; and

(iii) weather constraints.

(h) details of cable protection, any obstructions in the intertidal area and any clumping of disused cables for the updating of charts;

(i) a Red Throated Diver Protocol which is in accordance with the principles set out in the outline Red Throated Diver Protocol;

(j) Unless otherwise agreed in writing by the MMO, a chemical risk assessment submitted for approval no later than ten weeks prior to use, including (but not limited to) information regarding how and when chemicals are to be used, stored and transported in accordance with recognised best practice guidance and standards, and in accordance with the conditions of this licence

(k) Unless otherwise agreed in writing by the MMO, a site specific chemical risk assessment for any chemicals used for the licensed activities (outside the course of normal navigation) with a pathway to the marine environment, which should include—

(i) the function of the chemical, the quantities being used, the frequency of use, the location, and the estimated discharge;

(ii) the management measures preventing the release into the marine environment; and

(iii) the physical, chemical, and ecotoxicological properties of the chemical except where the chemical is present on the OSPAR List of Substances Used and Discharged Offshore which Are Considered to Pose Little or No Risk to the Environment (PLONOR), or chemicals where the MMO agree in writing that the management measures are sufficient to ensure no release into the marine environment.

(l) a monitoring plan to include details of proposed pre-construction surveys, baseline report format and content, post-construction monitoring and related reporting (which shall include, but not be limited to, the monitoring of the recoverability of mudflats at the Kent landfall intertidal area) in accordance with conditions 15 and 17 to be submitted to the MMO (unless otherwise agreed in writing by the MMO) in accordance with the following –

(i) at least six months prior to the first survey, details of the pre-condition surveys and an outline of all proposed monitoring;

(ii) at least six months prior to completion of construction, detail of post-construction (and operational) monitoring

(2) The licensed activities or any part of those activities under Work No. 6 must not commence unless a written scheme of archaeological investigation in respect of those activities has been submitted to and approved by the MMO, in consultation with the MCA and Trinity House, in accordance with the Outline Offshore Overarching Written Scheme of Investigation and the Marine Archaeological Method Statement as appropriate, and in accordance with industry good practice and in consultation with Historic England. The written scheme of archaeological investigation is to include –

(a) details of responsibilities of the undertaker, archaeological consultant and contractor;

(b) methodology for any further project investigation including specifications for geophysical, geotechnical and diver or remotely operated vehicle investigations;

(c) archaeological analysis of survey data, and timetable for reporting, which is to be submitted to the MMO;

(d) delivery of any mitigation including the use of archaeological construction exclusion zones in agreement with the MMO;

(e) the preparation of a reporting and recording protocol for archaeological discoveries, including reporting of any wreck or wreck material during delivery of the authorised project; and

(f) a requirement for the undertaker to ensure that a copy of any agreed archaeological report is deposited with the National Marine Heritage Record, by submitting a Historic England OASIS ('Online Access to the Index of Archaeological Investigations') form with a digital copy of the relevant report within six months of completion of construction of the authorised development, and to notify the MMO that the OASIS form has been submitted to the National Marine Heritage Record within fourteen days of the submission.

(3) Except where otherwise stated or agreed with the MMO in writing, each programme, statement, plan, protocol or scheme required to be approved under condition 4 must be submitted for approval at least six months prior to the intended commencement of the part of the licensed activities to which it relates. Any programme, statement, plan, protocol or scheme or phase of than plan, protocol or scheme can be submitted under the following phases of works—

(a) Landfall installation;

(b) Seabed preparation;

(c) Cable lay and burial; and

(d) Post lay cable protection.

(4) The licensed activities must be carried out in accordance with the approved plans, protocols, statements, schemes and details approved under condition 4, unless otherwise agreed in writing by the MMO.

(5) In undertaking the licensed activities, the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing in consultation with MCA and Trinity House, and within the Areas of Safeguarded Water Depth, water depth must not be reduced in exceedance of the depths specified in Schedule 3, Requirement 17.

(6) In undertaking the licensed activities, the undertaker must not reduce existing water depths between KP 33 and KP 38 unless agreed with the MMO in writing in consultation with the MCA and Trinity House.

(7) Unless otherwise agreed with the MMO, a sediment sampling plan request must be submitted and the results submitted for analysis to the MMO prior to any pre-sweeping works at the Sunk Pilot Boarding area as shown on the Areas of Safeguarded Water Depth Plan and the sediment sampling and analysis must be completed by a laboratory validated by the MMO.

(8) Trial trenching must not be carried out until a method statement and mitigation plan for the proposed trial trenching has been submitted to and approved in writing by the MMO in consultation with the statutory nature conservation body. Trial trenching must be carried out in accordance with the approved method statement and mitigation plan.

(9) The licensed activities or any part of those activities must not commence until details of the final cable route, including coordinates have been approved by the MMO pursuant to paragraph 4(1).

Reporting of engaged agents, contractors and vessels

5.—(1) The undertaker must provide the following information in writing to the MMO—

(a) the name and function of any agents, contractors or sub-contractors that will carry on any licensed activity or part of any licensed activity listed on behalf of the undertaker, no less than 24 hours before the commencement of the licensed activity; and

(b) any vessel that will carry on any licensed activity or any part of any licensed activity listed on behalf of the undertaker, no less than 24 hours before the commencement of the licensed activity, which shall include the master's name, vessel type, vessel IMO number and vessel owner or operating company.

(2) Any changes to the supplied details must be notified to the MMO in writing prior to the agent, contractor or vessel engaging in the licensed activities.

Compass deviation

6.—(1) The Undertaker must undertake a desk study to establish the levels of electromagnetic deviation affecting ship compasses and other navigation systems caused by the cable which must be provided to the MMO no less than eight weeks prior to cable installation activities.

(2) There must be no more than a 3 degree electromagnetic compass deviation for 95% of the cable route and for the remaining 5% of the cable route there must be no more than a 5 degree electromagnetic compass deviation in water depths of approximately 5 m and deeper ('the MCA requirement').

(3) If the MCA requirement cannot be met, a post installation actual electromagnetic compass deviation survey should be conducted for the cable in areas where compliance has not been achieved. This data must be provided to the MCA and UK Hydrographic Office (UKHO) in order to update Admiralty Charts accordingly, and the undertaker must send a copy of such data to the MMO within seven days.

Aids to navigation

7.—(1) Any vessels utilised during the licensed activities or any part of those activities under Work No. 6, when jacked up, must exhibit signals in accordance with the UK Standard Marking Schedule for Offshore Installations;

(2) The undertaker must during the whole period from the commencement of the licensed activities to completion of decommissioning of the authorised development exhibit such lights, marks, sounds, signals and other aids to navigation, and take such other steps for the prevention of danger to navigation as Trinity House may from time to time direct.

(3) The undertaker must during the whole period from the commencement of the licensed activities to completion of decommissioning of the authorised development keep Trinity House and the MMO informed of progress of the authorised development seaward of MHWS by way of issuing it with-

(a) notice of commencement of construction of the authorised development within 24 hours of commencement;

(b) notice of any aids to navigation being established or replaced by the undertaker within 24 hours; and

(c) notice of completion of construction of the authorised development within five days.

Chemical, drilling and debris

8.—(1) Unless otherwise agreed in writing by the MMO, all chemicals used in the construction of the authorised development must be selected from the List of Notified Chemicals approved for use by the offshore oil and gas industry under the Offshore Chemicals Regulations 2002 (as amended) as maintained by Cefas.

(2) The undertaker must ensure that any coatings/treatments are suitable for use in the marine environment and are used in accordance with relevant guidelines approved by Health and Safety Executive and Environment Agency.

(3) All chemicals used for the licensed activities should be selected with regard to their environmental impact. Where less hazardous or non-toxic substitutes are available, these must be used in preference to more harmful substances.

(4) The storage, handling, transport and use of fuels, lubricants, chemicals and other substances must be undertaken so as to prevent releases into the marine environment, including substances released by design or by degradation. This should include bunding of 110% of the total volume of all reservoirs and containers unless approved by the MMO in writing.

(5) The undertaker must ensure that only inert material of natural origin, drilling mud and dredged material, produced during the landfall installation or seabed preparation works is disposed of within the disposal site references(s) to be provided by the MMO within the extent of the Order limits seaward of MHWS.

(6) The undertaker must inform the MMO of the location and quantities of material disposed of each month under the Order, by submission of a disposal return by 15th February each year for the months August to January inclusive, and by 15th August each year for the months February to July inclusive.

(7) The undertaker must ensure that any rock material used in the construction of the authorised scheme is from a recognised source free from contaminants and containing minimal fines.

(8) The undertaker must ensure that any oil, fuel or chemical spill within the marine environment is reported to the MMO, Marine Pollution Response Team within 12 hours.

(9) All dropped objects must be reported to the MMO using the dropped object procedure form as soon as reasonably practicable and in any event within six hours of the undertaker becoming aware of an incident. Immediate notification must be made to HMCG via telephone where there is a perceived danger or hazard to navigation. On receipt of the dropped object procedure form, the MMO may require relevant surveys to be carried out by the undertaker (such as side scan sonar) if reasonable to do so and the MMO may require obstructions to be removed from the seabed at the undertaker's expense if reasonable to do so.

Force majeure

9.—(1) If, due to stress of weather or any other cause the master of a vessel determines that it is necessary to deposit the authorised deposits within or outside of the Order limits because the safety of human life and/or of the vessel is threatened, within 48 hours full details of the circumstances of the deposit must be notified to the MMO, MCA and Trinity House in the manner provided in condition 8(8).

(2) The unauthorised deposits must be removed at the expense of the undertaker unless written approval is obtained from the MMO.

Trenchless Landfall Techniques

10.—(1) Landfall installation must only use trenchless landfall techniques between the onshore transition joint bay and the entry/exit pits.

(2) No entry/exit to trenchless landfall techniques must occur within 105m of saltmarsh habitat within Pegwell Bay.

(3) The temporary working area will be located at a minimum distance of 50m from the edge of the saltmarsh habitat within Pegwell Bay.

(4) No entry/exit to trenchless landfall techniques must occur within 50m of MLWS at Leiston to Aldeburgh SSSI.

(5) Exit or entry to trenchless landfall techniques must occur at least 45m east of the continual Coralline Crag outcrop in Suffolk as identified in plate 2.3 of the Coralline Crag Technical note.

(6) Pneumatic casing installation shall not be used below MHWS unless otherwise agreed in writing with the MMO, following provision of appropriate underwater noise assessment and agreement of any relevant mitigation proposals.

(7) No open-cut trenching will be permitted for the repair and maintenance of cables installed by trenchless techniques between the onshore transition joint bay and the entry/exit pits unless otherwise approved by the relevant planning authority in consultation with the statutory nature conservation body.

Red Throated Diver

11.—(1) Unless otherwise agreed in writing with the MMO, in consultation with the statutory nature conservation body and the JNCC as the relevant statutory nature conservation body (SNCB), none of the following activities relating to cable laying are permitted to take place on the seabed within the Outer Thames Estuary SPA and a 2km buffer between 1 November and 31 March inclusive—

(a) pre-sweeping dredging;

(b) boulder clearance, pre-lay grapnel run and cable crossing preparation;

(c) cable installation;

(d) cable protection;

(e) routine monitoring and maintenance.

(2) Unless otherwise agreed in writing with the MMO, none of the following activities relating to landfall installation are permitted to take place on or under the seabed within the Outer Thames Estuary SPA between 1 January and 31 March inclusive—

(a) Trenchless landfall techniques for landfall installation.

(3) The provisions of paragraphs (1) and (2) do not apply in respect of emergency cable repair works (and for the avoidance of doubt emergency cable repair works are not a licensed marine activity for the purposes of this licence).

(4) The undertaker will comply with the red-throated diver protocol throughout the construction, operation, maintenance and decommissioning of the authorised development.

Maintenance

12.—(1) The undertaker may at any time maintain the authorised development, except to the extent that this licence or an agreement made under this licence provides otherwise.

(2) Maintenance works include but are not limited to—

(a) cable remedial burial;

(b) cable repairs and replacement;

(c) cable protection replenishment for areas of existing cable protection established within 10 years from the date of the grant of the order, unless otherwise agreed by the MMO in writing;

(d) cable inspection.

(3) In undertaking activities under condition 12(2)(d), the undertaker must not reduce water depth by more than 5% unless agreed with the MMO in writing in consultation with the MCA, and in the Areas of Safeguarded Water Depth water depth must not be reduced in exceedance of the depths specified in Schedule 3, Requirement 17.

Deployment of Cable Protection

13.—(1) Any new cable protection in areas previously not subject to cable protection authorised under this licence must be deployed within 10 years from the date of the grant of the order unless otherwise agreed by the MMO in writing.

(2) Unless otherwise agreed by the MMO in writing, no cable protection granted by the licence may be deployed within the Sandwich Bay Special Area of Conservation (SAC) after the construction period has ended and any cable protection to be installed outside of the Sandwich Bay SAC following completion of construction in locations where cable protection was not installed during construction must be deployed within 10 years of completion of construction.

Post construction

14.—(1) The undertaker must submit to the MMO and Trinity House within three months of completion of the licensed activities forming part of Work No.6 or any part of those activities under Work No.6 an 'as built' plan which will display—

(a) the location of the cable as laid with specific details of the achieved burial depths,

(b) locations of buried and surface-laid cables,

(c) the placed location and quantity of rock placement or concrete mattressing used in these licensed activities; and

(d) final clearance depths over the protected cables and clumped disused cables.

(2) Any programme, statement, plan, protocol or scheme under part (1) may be submitted under the following phases of works—

(a) cable lay and burial;

(b) post lay cable protection.

(3) Any area which is identified as a possible danger to navigation on assessment of the 'as built plan' in consultation with the MCA and Trinity House, may require marking with aids to navigation at the licence holder's expense, unless otherwise agreed with the MMO in writing.

(4) A written decommissioning plan must be submitted to the MMO for approval no less than six months prior to when decommissioning is due to commence. Any cable protection located within marine protected areas must be removed upon decommissioning, unless a decision is made at the time that it is best to leave it in situ.

(5) All equipment, temporary structures, waste and/or debris associated with the licensed activities must be removed within seven days of completion of the licensed activities.

(6) The undertaker must submit to the MCA and UK Hydrographic Office the post laid cable International Hydrographic Office (IHO1A) approved sonar or Multi Beam Echo Sounder survey data and the undertaker must send a copy of such notification to the MMO within seven days.

(7) The undertaker must notify the Source Data Receipt team of the UK Hydrographic Office on completion of the licensed activities no later than fourteen days after the completion of the licensed activities, which should include latitude and longitude coordinates in WGS84 of the installed works on and or above the seabed, any changes to engineering drawings and details of new or changed aids to navigation where applicable, and the undertaker must send a copy of such notification to the MMO and Trinity House within seven days of the notification being issued.

Pre-construction Surveys

15.—(1) The undertaker must, in discharging condition 4(1)(l), submit details for written approval by the MMO, in consultation with the relevant statutory bodies, of proposed pre-construction surveys, including methodologies and timings, and a proposed format and content for a pre-construction baseline report; and

(a) the survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the post-construction position and/or will enable the validation or otherwise of key predictions in the environmental statement; and

(b) the baseline report proposals must ensure that the outcome of the agreed surveys together with existing data and reports are drawn together to present a valid statement of the pre-construction position, with any limitations, and must make clear what post-construction comparison is intended and the justification for this being required.

(2) The pre-construction surveys referred to in sub-paragraph (1) must, unless otherwise agreed with the MMO, have due regard to, but not be limited to, the need to undertake—

(a) a survey to determine the location and extent of any sensitive benthic habitats or species, where benthic habitats of principal importance such as those qualifying as annex 1 or s41 of the Natural Environment and Rural Communities Act 2006 (NERC) are identified, Sabellaria spinulosa reefs, and Mytilus edulis beds, inside the areas within the Order limits in which it is proposed to carry out construction works;

(b) a full sea floor coverage swath-bathymetry survey undertaken to IHO Order 1a standard that meets the requirements of MGN654 and its annexes, and side scan sonar, of the area(s) within the Order limits in which it is proposed to carry out construction works including an appropriate buffer area around the site of each work, inclusive of seabed anomalies or sites of historic or archaeological interest that lie within the buffer;

(c) any marine mammal monitoring required by the monitoring plan submitted.

(3) The undertaker must carry out the surveys agreed under sub-paragraph (1) and provide the baseline report to the MMO in the agreed format in accordance with the agreed timetable, unless otherwise agreed in writing by the MMO in consultation with the relevant statutory nature conservation bodies.;

Benthic Mitigation Plans

16.—Based on pre-construction surveys required in conditions 4(1)(l) and 15 and in agreement with MMO, the Undertaker must prepare a Benthic Mitigation Plan(s). Any necessary Benthic Mitigation Plans must be submitted to and approved in writing by the MMO prior to offshore works commencing and should include a timetable for implementation of the mitigation and details of any necessary monitoring. Any agreed mitigation and/or monitoring must be implemented in accordance with the agreed timetable.

Post Construction Monitoring

17.— (1) The undertaker must, in discharging condition 4(1)(l), submit a plan for post-construction monitoring, providing details of proposed post-construction surveys, including

methodologies and timings, and a proposed format, content and timings for providing reports on the results. The survey proposals must specify each survey's objectives and explain how it will assist in either informing a useful and valid comparison with the pre–construction position and/or will enable the validation or otherwise of key predictions in the environmental statement. The undertaker must then carry out the surveys and monitoring as agreed and provide these reports in the approved format in accordance with the timetable agreed with the MMO, unless otherwise agreed in writing with the MMO.

(2) In the event that the MMO and/or the applicant find that the reports referred to in (1) provided to the MMO identify impacts which are unanticipated, and/or in the view of the MMO, in consultation with the relevant statutory nature conservation body, are significantly beyond those predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, an Adaptive Management Plan shall be produced to a timetable to be agreed with the MMO. The plan shall identify measures to reduce effects to ensure that these impacts are no worse than was predicted within the Environmental Statement, Habitats Regulations Assessment, or Marine Conservation Zone Assessment, unless otherwise agreed by the MMO in writing in consultation with the relevant statutory nature conservation bodies. This plan must be agreed by the MMO in consultation with the relevant statutory nature conservation bodies to reduce effects to an agreed suitable level for this development. Any such agreed and approved adaptive management or mitigation should be implemented and monitored in full to a timetable first agreed in writing with the MMO in consultation with the relevant statutory nature conservation body.

River Stour Channel

18.—(1) No installation of the marine cables in Pegwell Bay may commence until a monitoring and contingency plan has been submitted to and approved by the Marine Management Organisation in consultation with the relevant planning authority, the Environment Agency and the statutory nature conservation body.

(2) The monitoring and contingency plan will—

(a) set out monitoring proposals for the River Stour Channel within Pegwell Bay throughout the operational life of the cables. Monitoring will be undertaken annually following installation of the cables unless otherwise agreed in writing by the Environment Agency and the statutory nature conservation body; and

(b) set out actions that will be undertaken where monitoring demonstrates a need for potential remediation as a result of the River Stour channel migrating to within 50m of the installed cables. In such circumstances, and unless otherwise agreed with the Environment Agency and the statutory nature conservation body, cable lowering would be the primary mitigation method and no mitigation would be proposed involving the use of sheet piling or dredging.

(3) Mitigation and remediation measures will be agreed with and approved by the Environment Agency in consultation with the statutory nature conservation body prior to the undertaking of any remedial works. The remedial works will be undertaken in accordance with the approved details.

SCHEDULE 17

Article 58

PUBLIC GENERAL LEGISLATION

Hedgerow Regulations 1997

1. For the purposes of regulation 6(1) of the Hedgerow Regulations 1997(**a**), the removal of any hedgerow to which those regulations apply is permitted if it is required for the purposes set out in article 51 (felling or lopping) of this Order.

Local Government (Miscellaneous Provisions) Act 1976

2. Section 42 of the Local Government (Miscellaneous Provisions) Act 1976(**b**) (certain future local Acts etc. to be subject to the planning enactments etc. except as otherwise provided) will not apply to the extent that it would make provisions of this Order authorising the authorised project subject to other provisions.

Neighbourhood Planning Act 2017

3. The provisions of the Neighbourhood Planning Act 2017(**c**) shall not apply in so far as they relate to temporary possession of land under articles 27 (temporary use of land for carrying out the authorised project), and 28 (temporary use of land for maintaining the authorised project) of this Order.

Building Act 1984

4. Nothing in Part 1 of the Building Act 1984(**d**) with respect to building regulations, and nothing in any building regulations, will apply in relation to a building used, altered or demolished, or intended for use, alteration, or demolition, by the undertaker for the purposes of the authorised project before completion of construction.

National Parks and Access to the Countryside Act 1949

5. Sections 51, 52 and 55 of the National Parks and Access to Countryside Act 1949(**e**) (shall not apply in relation to the authorised project.

Town and Country Planning Act 1990

6. For the purposes only of Section 106 (1) of that Act the undertaker shall be deemed to be a person interested in the Order Land or any part of it and for the avoidance of doubt Section 106(3) (a) shall include any transferee or lessee under Article 7 of this Order and in Section 106(3)(b) reference to any person deriving title from a person falling within Section 106(3)(a) shall include the undertaker and any transferee or lessee who has the benefit of all or part of the provisions of the Order pursuant to Article 7 of the Order.

(**a**) S.I. 1997/1160
(**b**) 1976 c.57
(**c**) 2017 c.20
(**d**) 1984 c.55
(**e**) 1949 c.97

SCHEDULE 18

Article 59

AMENDMENT OF LOCAL LEGISLATION

Local Enactments

Year	Chapter	Title	Section
1825	clxvi	Canterbury Navigation and Sandwich Harbour Act 1825	CXIII (obstructions of the navigation to be removed)

SCHEDULE 19

Article 60

CERTIFIED DOCUMENTS

Document Title	*Document Reference*
Access, Rights of Way and Public Rights of Navigation Plans	Document 2.7 (revision C)
Land Plans Part 1 of 2	Document 2.3 (revision G)
Land Plans Part 2 of 2	Document 2.3 (revision F)
Special Category and Crown Land Plans	Document 2.4 (revision D)
Traffic Regulation Order Plans	Document 2.6 (revision A v2)
Trees and Important Hedgerows to be Removed or Managed Plans	Document 2.12 (revision A v2)
Work Plans – Suffolk	Document 2.5.1 (revision C)
Works Plans - Kent	Document 2.5.2 (revision C)
Book of Reference	Document 4.3 (revision H)
Environmental Statement (together with any supplemental or additional environmental information)	TBC
Outline Onshore Construction Environmental Management Plan	Document 7.5.3 (revision E)
Outline Offshore Construction Environmental Management Plan	Document 7.5.2 (revision E)
Outline Construction Traffic Management and Travel Plan – Suffolk	Document 7.5.1.1 (revision F)
Outline Construction Traffic Management and Travel Plan – Kent	Document 7.5.1.2 (revision C)
Outline Air Quality Management Plan – Suffolk	Document 7.5.6.1 (revision F)
Outline Air Quality Management Plan – Kent	Document 7.5.6.2 (revision D)
Outline Landscape and Ecological Management Plan (LEMP) - Suffolk	Document 7.5.7.1 (revision E)
Outline Landscape and Ecological Management Plan (LEMP) – Kent	Document 7.5.7.2 (revision E)
Outline Construction Noise and Vibration Management Plan (NVMP) – Suffolk	Document 7.5.8.1 (revision C)
Outline Construction Noise and Vibration Management Plan (NVMP) – Kent	Document 7.5.8.2 (revision C)
Outline Public Rights of Way (PRoW) Management Plan – Suffolk	Document 7.5.9.1 (revision B)
Outline Public Rights of Way (PRoW) Management Plan - Kent	Document 7.5.9.2 (revision B)
Outline Soil Management Plan – Suffolk	Document 7.5.10.1 (revision B)
Outline Soil Management Plan – Kent	Document 7.5.10.2 (revision B)
Register of Environmental Actions and Commitments	Document 9.84 (revision F)
Outline Cable Specification and Installation Plan	Document 9.92 (revision D)
Outline Marine Mammal Mitigation Plan	Document 7.5.11 (revision E)
Greenhouse Gas Reduction Strategy	Document 7.5.13 (revision A)
Design Principles – Suffolk	Document 7.12.1 (revision D)
Design Principles – Kent	Document 7.12.2 (revision C)

Document Title	*Document Reference*
Outline Onshore Overarching Written Scheme of Investigation – Suffolk	Document 7.5.4.1 (revision C)
Outline Onshore Overarching Written Scheme of Investigation – Kent	Document 7.5.4.2 (revision E)
Outline Offshore Overarching Written Scheme of Investigation	Document 7.5.5 (revision C)
Outline Fisheries Liaison and Co-existence Plan	Document 9.85 (revision A)
Outline Offshore Invasive Non-Native Species Management Plan	Document 7.5.12 (revision C)
Design Approach Document – Suffolk	Document 7.11.1 (revision B)
Design Approach Document – Kent	Document 7.11.2 (revision B)
Material and Waste Management Plan – Suffolk	Document 9.115.2 (revision A)
Material and Waste Management Plan – Kent	Document 9.115.2 (revision A)
Outline In-Principle Monitoring Plan	Document 9.140 (revision B)
Outline Red Throated Diver Protocol	Document 7.8 (revision D)
Outline Operational Lighting Management Plan	Document 9.147 (revision A)
Outline Navigation and Installation Plan	Document 9.12 (revision D)
Arboricultural Impact Assessment	Document 6.10 (revision A)
Areas of Safeguarded Water Depth Plan	Document 9.104 (revision C)
The Coralline Crag Technical Note	Document 9.113 (revision A)

SCHEDULE 20

Schedule 3

Table of Discharging Authorities

Requirement	*Discharging authority*	*In consultation with*
Requirement 3(1) (Detailed Design)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council and Historic England In Thanet, Dover District Council In Dover, Thanet District Council
Requirement 3(2) (Detailed Design)	East Suffolk Council	Suffolk County Council
Requirement 3(3) (Detailed Design)	East Suffolk Council	Suffolk County Council Environment Agency
Requirement 3(4) (Detailed Design)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council
Requirement 5	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council
Requirement 6: Onshore Construction Environmental Management Plan	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council In both Suffolk and Kent, Environment Agency
Requirement 6: Construction Traffic Management and Travel Plan - Suffolk	Suffolk County Council	East Suffolk Council
Requirement 6: Construction Traffic Management and Travel Plan - Kent	Kent County Council	Thanet District Council/Dover District Council
Requirement 6: Air Quality Management Plan - Suffolk	East Suffolk Council	Suffolk County Council
Requirement 6: Air Quality Management Plan - Kent	In Thanet, Thanet District Council In Dover, Dover District Council	Kent County Council
Requirement 6: Landscape and Ecological Management Plan (LEMP) - Suffolk	East Suffolk Council	Suffolk County Council Statutory nature conservation body Environment Agency
Requirement 6: Landscape and Ecological Management Plan (LEMP) - Kent	In Thanet, Thanet District Council In Dover, Dover District Council	Kent County Council Statutory nature conservation body Environment Agency National Trust
Requirement 6: Construction Noise and Vibration Management Plan (NVMP) - Suffolk	East Suffolk Council	Suffolk County Council Environment Agency

Requirement	*Discharging authority*	*In consultation with*
Construction Noise and Vibration Management Plan (NVMP) - Kent	In Thanet, Thanet District Council In Dover, Dover District Council	Kent County Council Environment Agency
Requirement 6: Public Rights of Way (PRoW) Management Plan - Suffolk	Suffolk County Council	East Suffolk Council
Requirement 6: Public Rights of Way (PRoW) Management Plan - Kent	Kent County Council	Thanet District Council/ Dover District Council
Requirement 6: Soil Management Plan - Suffolk	East Suffolk Council	Suffolk County Council
Requirement 6: Soil Management Plan - Kent	In Thanet, Thanet District Council In Dover, Dover District Council	Kent County Council
Requirement 6: Material and Waste Management Plan - Suffolk	East Suffolk Council	Suffolk County Council Environment Agency
Requirement 6: Material and Waste Management Plan - Kent	In Thanet, Thanet District Council In Dover, Dover District Council	Kent County Council Environment Agency
Requirement 6: Drainage Management Plan - Suffolk	Suffolk County Council	East Suffolk Council Environment Agency
Requirement 6: Drainage Management Plan - Kent	Kent County Council	Thanet District Council Dover District Council Statutory nature conservation body Environment Agency
Requirement 6: Flood Management Plan (FMP)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council In both Suffolk and Kent, Environment Agency
Requirement 7	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	
Requirement 7(3)	In Suffolk, Suffolk County Council In Kent, Kent County Council	
Requirement 8 (Retention and Protection of existing trees and important hedgerows)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	In Suffolk, Suffolk County Council In Kent, Kent County Council
Requirement 9 (Reinstatement Schemes)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	
Requirement 10 (Unsuspected contamination)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	Environment Agency

Requirement	*Discharging authority*	*In consultation with*
Requirement 11 (Removal of temporary bridges and culverts)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	
Requirement 12 (Highway works)	In Suffolk, Suffolk County Council In Kent, Kent County Council	
Requirement 13 (Decommissioning)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	Environment Agency
Requirement 14 (Archaeology)	In Suffolk, Suffolk County Council In Kent, Kent County Council	Historic England
Requirement 16(6) (Trenchless Landfall Techniques)	MMO	
Requirement 16(6) (Trenchless Landfall Techniques)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	Statutory nature conservation body
Requirement 18 (Control of Operational Noise)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council	
Requirement 19 (Emergency Planning)	Suffolk County Council	Sizewell Emergency Planning Consultative Committee and Suffolk Resilience Forum and, as appropriate, the Office for Nuclear Regulation.
Requirement 20 (Reinstatement Planting Plan)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	
Requirement 21 (Mitigation of Intra-Project Cumulative Effects)	In Suffolk, East Suffolk Council In Thanet, Thanet District Council In Dover, Dover District Council	
Requirement 22 (Access to Pegwell Bay)	Thanet District Council	Environment Agency Statutory nature conservation body

EXPLANATORY NOTE

(This note is not part of the Order)

This Order grants development consent to National Grid Electricity Transmission plc ("National Grid") to undertake works to the national electricity transmission system comprising a High Voltage Direct current (HVDC) link between the proposed substation in the Sizewell area of Suffolk and the existing Richborough to Canterbury 400kV overhead line close to Richborough in Kent. The proposed development is required to reinforce the transmission network in the South East of England and East Anglia, and to carry out all associated works.

The Order also makes provision in connection with the maintenance of the authorised development.

The Order allows National Grid to acquire compulsorily or by agreement, land and rights in land and to use land for this purpose.

A copy of the plans and Book of Reference referred to in this Order and certified in accordance with article 60 of this Order may be inspected free of charge during working hours at the offices of National Grid Electricity Transmission plc, 1-3 Strand, London, WC2N 5EH.

APPENDIX B: HABITATS REGULATIONS ASSESSMENT

APPENDIX B: FINDINGS AND CONCLUSIONS IN RELATION TO THE HABITATS REGULATIONS ASSESSMENT

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B.1 INTRODUCTION

1.1.1 This appendix sets out the Examining Authority's (ExA's) analysis and conclusions relevant to the Habitats Regulations Assessment (HRA). This will assist the Secretary of State for Energy Security and Net Zero (Secretary of State), as the competent authority, in performing their duties under The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations) and The Conservation of Offshore Marine Habitats and Species Regulations 2017 ('The Offshore Habitats Regulations').

1.1.2 The remainder of this appendix is structured as follows:

- section B.2: Findings in relation to likely significant effects (LSE)
- section B.3: Conservation Objectives
- section B.4: Findings in relation to adverse effects on integrity (AEoI)
- section B.5: HRA conclusions
- Tables B.10 to B.13: Summary tables

1.1.3 Under regulation 63 of The Habitats Regulations and regulation 28 of The Offshore Habitats Regulations, the competent authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test (Stage 1) is to identify the need for an 'appropriate assessment' (AA) undertaken by the competent authority and the activities, sites or plans and projects to be included for further consideration in the AA (Stage 2).

1.1.4 In accordance with the precautionary principle embedded in The Habitats Regulations, consent for the proposed development may be granted only after having ascertained that it will not adversely affect the integrity of European site(s) and no reasonable scientific doubt remains (CJEU Case C-127/02 Waddenzee 7 September 2004).

1.1.5 For the purpose of this recommendation, the term 'European sites' includes Special Areas of Conservation (SAC), candidate SACs, proposed SACs, Special Protection Areas (SPA), potential SPAs, listed and proposed Ramsar sites and sites identified or required as compensatory measures for adverse effects on any of these sites.

1.1.6 The United Kingdom (UK) NSN refers to the network of European sites within the UK.

1.1.7 Policy considerations and the legal obligations under The Habitats Regulations are described in section 2.4 of this recommendation.

1.1.8 The ExA has been mindful throughout the examination of the need to ensure that the Secretary of State has such information as may reasonably be required to carry out their duties as the competent authority. We have sought evidence from the applicant and the relevant interested parties (IPs), including Natural England (NE) and the Joint Nature Conservation Committee (JNCC) as the appropriate nature conservation bodies (ANCBs), through written questions and issue specific hearings (ISHs).

B.1.2 THE APPLICANT'S ASSESSMENT

1.2.1 The applicant's assessment of effects on European sites was presented in the Habitats Regulations Assessment Report [APP-290] at the application stage. This was superseded by [AS-007], [REP1-071], [REP2-009], [REP3-028], [REP4-057], [REP5-036], [REP6-050], [REP7-119] during the examination in response to IP representations, written questions and post-ISH action points, and a change request. Hereafter this will be referred to as the HRA Report, and the final version of the HRA Report [REP7-119] will be referred to unless otherwise specified.

1.2.2 The HRA Report was supported and informed by the Environmental Statement (ES), in particular:

- Suffolk Chapter 2, Ecology and Biodiversity [REP7-093]
- Kent Chapter 2, Ecology and Biodiversity [REP7-095]
- Marine Chapter 1, Physical Environment [REP7-097]
- Marine Chapter 2, Benthic Ecology [REP7-099]
- Marine Chapter 4, Marine Mammals [REP7-101]
- Marine Chapter 5, Marine Ornithology [REP7-103]

1.2.3 The HRA Report (table 3.1, [REP7-119]) identifies 19 European sites within the UK NSN for inclusion within the assessment. At the point of application, the applicant concluded that the proposed development would not adversely affect the integrity of any of the European sites and features assessed, either alone or in combination with other projects or plans.

B.1.3 APPROPRIATE NATURE CONSERVATION BODIES

1.3.1 The proposed development is in England and English waters. The applicant's HRA Report [REP7-119] identifies UK European sites for consideration that are in England and Scotland.

1.3.2 JNCC and NE registered as IPs and participated in the examination. JNCC [RR-2635] advised that whilst the proposed was in the UK inshore region (under the jurisdiction of NE), the cable would pass through the Southern North Sea (SNS) SAC and Outer Thames Estuary (OTE) SPA, which are jointly managed by JNCC and NE.

1.3.3 On 19 September 2025, the ExA wrote to NatureScot inviting it to participate in the examination as an 'other person' [PD-010]. NatureScot did not respond.

1.3.4 The applicant has used the term statutory nature conservation body (SNCB) in its draft Development Consent Order (dDCO). The definition of SNCB in Part 1 of the dDCO [REP7-002] is '*the appropriate nature conservation body as defined in regulation 5 of The Habitats Regulations*.'

B.1.4 NON-UK SITES

1.4.1 Section 4 of the HRA Report [REP7-119] confirms that no European sites in European Economic Area (EEA) states or devolved administrations have been included in the applicant's HRA, and that no other HRA-related consents would be required from different competent authorities. No matters relating to non-UK sites were raised for discussion by any IPs during the examination.

1.4.2 Only UK European sites are addressed in this recommendation.

B.1.5 CHANGE REQUEST

1.5.1 On 26 November 2025, the applicant submitted a change request [CR1-001] to [CR1-072] as described in section 1.5 of this recommendation. These changes were accepted by the ExA [PD-015] as described in section 1.5 of this recommendation. As described in the Report on the Implications for European Sites (RIES) (paragraph 1.4.3, [PD-022]), there were no HRA implications from changes 2 to 5. HRA matters arising from change 1 are considered in this appendix.

B.1.6 RIES AND CONSULTATION

1.6.1 The ExA produced the RIES [PD-022], which compiled, documented, and signposted HRA-relevant information provided in the DCO application and examination representations up to deadline (DL) 5 (10 March 2026). The RIES was issued to set out the ExA's understanding on HRA-relevant information and the position of the IPs in relation to the effects of the proposed development on European sites at that point in time. Consultation on the RIES took place between 18 March 2026 and 13 April 2026.

1.6.2 Comments were received from the applicant [REP6-115], NE [REP6-251], the Campaign to Protection Rural England (CPRE) [REP6-238], the JNCC [REP6-239], Kent Wildlife Trust (KWT) [REP6-240], and the Royal Society for the Protection of Birds (RSPB) [REP6-252] at DL6 (13 April 2026). These comments have been taken into account in the drafting of this appendix.

1.6.3 It is noted that at the point of issue of the RIES, several HRA matters remained outstanding. Numerous examination submissions at DL6 and DL7 included HRA-relevant information. In accordance with the Planning Inspectorate's Advice Page 10 (https://www.gov.uk/guidance/nationally-significant-infrastructure projects-advice-on-habitats-regulations-assessments), the RIES is not revised following consultation. This appendix considers all HRA representations made by IPs during the examination, including those made after publication of the RIES. However, given the amount of HRA information submitted following publication of the RIES, the Secretary of State may wish to undertake further consultation to fulfil the duties under the Habitats Regulations.

B.2 STAGE 1: FINDINGS IN RELATION TO LIKELY SIGNIFICANT EFFECTS

B.2.1 INTRODUCTION

2.1.1 Under regulation 63 of The Habitats Regulations and regulation 28 of The Offshore Habitats Regulations, the competent authority must consider whether a development will have LSE on a European site, either alone or in combination with other plans or projects. The purpose of the LSE test is to identify the need for an AA and the activities, sites or plans and projects to be included for further consideration in the AA.

2.1.2 The European sites identified in the applicant's HRA Report [REP7-119] are detailed in table B.1 below.

Table B.1: European sites in the UK NSN identified in the HRA Report

Name of European site	Distance from proposed development (kilometres (km))
OTE SPA	0
Sandwich Bay SAC	0
SNS SAC	0
Thanet Coast SAC	0
Minsmere-Walberswick SPA	1.7
Minsmere-Walberswick Ramsar site	1.7
Thanet Coast and Sandwich Bay (TCSB) SPA	0
TCSB Ramsar site	0
Sandlings SPA	0.20
Alde-Ore Estuary (AOE) SPA	1.1
AOE Ramsar site	1.1
Alde-Ore and Butley Estuaries SAC	6.0
Margate and Long Sands SAC	3.0
Stodmarsh SAC	6.5
Stodmarsh SPA	6.9
Stodmarsh Ramsar site	6.9
The Wash and North Norfolk Coast SAC	110
Humber Estuary SAC	160
Berwickshire and North Northumberland Coast SAC	412

2.1.3 The locations of these sites are depicted in appendix E (figure 1 European Sites) of the HRA Report [REP7-119], figure 6.4.4.5.2 'Relevant Designated Sites for the Protection of Ornithology' [REP5-032], figure 6.4.4.4 'Marine Mammal Study Area' [REP1-011] and Statutory and Non Statutory Sites of Nature Conservation Geological and Landscape Importance – Suffolk [CR1-012].

2.1.4 Section 4 of the HRA Report [REP7-119] identifies the potential LSE pathways for consideration in the assessment, as detailed in the summary tables B.10 to B.13 of this appendix.

B.2.2 LSE FROM THE PROPOSED DEVELOPMENT ALONE

2.2.1 The applicant's conclusions in respect of screening are presented in sections 4 to 6 of the HRA Report [REP7-119], with a summary table provided in appendix A.

2.2.2 The HRA Report concludes that the proposed development alone would not be likely to give rise to significant effects on all qualifying features of the Stodmarsh SAC and Alde-Ore and Butley Estuaries SAC. During the examination, NE confirmed it agreed with this conclusion for the Stodmarsh SAC in ExQ1ECOL60 [REP4-196]; however, NE advised [REP7-277] that it could not rule out AEoI of the Alde-Ore and Butley Estuaries SAC as an assessment of impacts had not been included in the HRA Report.

2.2.3 The HRA Report concludes that the proposed development alone would be likely to give rise to significant effects on one or more of the qualifying features of all the remaining sites detailed in table B.1 above.

2.2.4 Regarding the Suffolk onshore scheme, the HRA Report (paragraph 4.2.36, [REP7-119]) lists several standard water quality protection measures proposed to be implemented to avoid pollution. These measures are set out in the Outline Onshore Construction Environmental Management Plan (oCEMP) [REP7-129], which would be secured through requirement 6 of the dDCO [REP7-002]. The applicant states these measures are not proposed specifically to protect European sites and therefore were taken into account when concluding no LSE from pollution (terrestrial – changes in water quality) to the Sandlings SPA, the AOE SPA and Ramsar, and the Alde-Ore and Butley Estuaries SAC. Aside from matters relating to pollution from the proposed permanent outfall serving the Saxmundham converter station (discussed at paragraphs 2.2.11 to 2.2.14 of this appendix) the ExA is content with the applicant's approach.

2.2.5 The HRA Report concludes that all potential impacts during the decommissioning phase would be similar to those outlined in the construction phase and thus construction phase impacts screened in were automatically also screened in for the decommissioning phase.

2.2.6 Matters raised in the examination related to screening are summarised below, focused on matters that were unresolved at the close of examination.

A summary of matters resolved during examination is provided where there were such matters.

OVERARCHING MATTERS

PRECAUTION

2.2.7 KWT [REP1-152], [REP6-240] considered the applicant's screening had failed to apply the precautionary approach by screening out effects where impacts were described as unlikely or not anticipated rather than ruled out. It considered that the screening minimised the significance of likely impacts by using temporal and qualitative descriptors such as "temporary", "localised", or "small in scale" without evidential justification.

2.2.8 The ExA notes the applicant's response [REP2-034] that this is a point in semantics rather than a 'lower test' being applied and is satisfied with the level of precaution applied in the applicant's assessment.

HORIZONTAL DIRECTIONAL DRILLING (HDD) AT THE SUFFOLK AND KENT LANDFALLS

2.2.9 The proposed development includes HDD installation techniques (or an alternative trenchless crossing technique) at both the Suffolk and Kent landfalls. Several IPs were concerned about potential impacts to qualifying features of the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site if trenchless techniques were proved to not be feasible and open-cut trenching was required. Representations were received from NE (B1 and B6, [RR-3920]), KWT [RR-2980], [REP1-151], [REP1-152], [REP4-124], [REP6-240], [REP7-130], [REP7-265], the RSPB [REP1-158], [REP1-159], [REP1-165], [REP6-252], [REP7-054], Save Minster Marshes (SMM) [RR-4892], the National Trust (NT) [REP5-101] and the CPRE in response to RIESQ3 [REP6-246].

2.2.10 The ExA has reported on this matter in the Marine Physical Environment (MPE) and ecology, biodiversity section of this recommendation and is satisfied with the applicant's approach, subject to amendments to the wording of the dDCO, as set out in the recommended DCO (rDCO) and to the Register of Environmental Actions and Commitments (REAC) and other control documents.

ANNEX I HABITAT SACS

ALDE-ORE AND BUTLEY ESTUARIES SAC

Unresolved matters

Pollution (terrestrial – changes in water quality)

2.2.11 NE [REP5-215] advised that the HRA should assess potential for effects on water quality from a proposed permanent outfall serving the Saxmundham converter station, which would be located on a tributary of the River Fromus that feeds into the Alde-Ore and Butley Estuaries SAC. The applicant updated the HRA Report [REP7-119] to include an assessment. It concludes

no LSE based on the outfall only carrying surface water runoff and sustainable drainage systems (SuDS) being implemented. These measures would be secured through the oCEMP (W11, [REP7-129]) and requirement 6 of the dDCO (schedule 3, [REP7-002]). It states that it has a duty of care under relevant environmental regulations to the water environment, which applies irrespective of whether the runoff could affect a European site.

2.2.12 NE did not comment on the applicant's conclusion of no LSE; however it did advise [REP7-277] that it could not rule out AEoI as an assessment of impacts had not been included in the HRA Report.

2.2.13 NE's advice also applied to the AOE SPA and Ramsar site.

2.2.14 On a precautionary basis, the ExA considers there is a potential for LSE for this impact pathway for all qualifying features of the Alde-Ore and Butley Estuaries SAC and the AOE SPA and Ramsar site.

MARGATE AND LONG SANDS SAC

Resolved matters

2.2.15 Kent and Essex Inshore Fisheries Conservation Authority (KEIFCA) [RR-2976] and KWT [RR-2980] raised concerns about impacts to habitat features along the cable corridor near the Margate and Long Sands SAC, and whether sufficient mitigation was proposed. The applicant [REP2-014] stated that the offshore scheme was routed to avoid the Margate and Long Sands SAC and there was no potential for direct effects as the cable corridor would be 3km from the boundary. No further comments were received from KEIFCA or KWT on this matter, which the ExA interprets as those IPs having no further concerns and therefore considers this screening matter to have been resolved during examination.

SANDWICH BAY SAC

Resolved matters

2.2.16 Key matters which the ExA considers have been resolved during examination in respect of the Sandwich Bay SAC are as follows:

- Hydrological impacts from HDD to groundwater dependent humid dune slacks:
    - In response to NE's concerns (B1, B9, B21 and B30 to B33, [RR-3920]) that impacts were not fully considered, the applicant updated the HRA Report (paragraphs 4.4.3 to 4.4.6, and appendix F of [REP7-119]), confirming the absence of an impact pathway due to the chalk aquifer not underpinning the dune slack, and distance between any dewatering and the dune slack. NE responding to ExQ1ECOL59 [REP4-196] confirmed its concerns were addressed.
- Direct habitat loss from cable and/ or scour protection:
    - In response to NE's concerns (E31, [RR-3290]) and [REP3A-028] about the requirement for, and impacts of, permanent cable

protection, the applicant [REP4-241] confirmed 360 square metres (m^2) of concrete mattresses or rock bags would be required in the Sandwich Bay SAC that would be buried in intertidal mudflats (not a qualifying feature). It updated the HRA Report [REP7-119] and confirmed no change to the conclusion as there would be no permanent habitat loss. NE's remaining concerns about cable protection as noted in response to ExQ2BE12, [REP5-199]) did not relate to the Sandwich Bay SAC.

Unresolved matters

Direct habitat loss

2.2.17 HDD at the Kent landfall would take place under the dune slack habitats of the Sandwich Bay SAC. The ExA in RIESQ3 [PD-022] asked the applicant to explain why use of trenchless techniques at the Kent landfall did not constitute mitigation requiring assessment at Stage 2. The applicant responded in RIESQ3 [REP6-122] that its commitment to using trenchless techniques was made prior to completion of impact assessment work. It considered this to be materially different to the position in People Over Wind and Sweetman v Coillte Teoranta (Case C-323/17). It referred to subsequent decisions that confirmed the judgment cannot have the effect of precluding considering constituent elements of the project at screening stage. NE (responding to RIESQ4 [REP6-250]) advised that it had no concerns about the applicant's screening out of LSE for direct habitat loss.

2.2.18 However, the CPRE responding to RIESQ3 [REP6-246] stated that as HDD is relied upon as mitigation, it was incorrect to screen this LSE pathway out at screening stage. KWT [REP6-248] also considered that this pathway should be assessed at Stage 2, stating that HDD was not a fixed feature of the project design but a measure to avoid or reduce harm to the SAC.

2.2.19 The ExA notes that trenchless installation forms a constituent part of the proposed development, and it has not been proposed by the applicant to mitigate any effects to the dune features of the SAC. As such, it agrees with the applicant that a LSE can be ruled out.

Pollution (terrestrial – changes in water quality) - from the use of the hoverport at the Kent landfall

2.2.20 The HRA Report [REP7-119] acknowledges a potential direct pathway of pollution to the Sandwich Bay SAC from the use of the former hoverport to access to the intertidal area. This is addressed under the impact pathway of 'Pollution (terrestrial – changes in water quality)'.

2.2.21 The HRA Report acknowledges the potential for oxidative weathering of the hoverport, which could mobilise heavy metals. It notes there would be a structural integrity assessment of the hardstanding to ensure suitability for the access, which is included in the Outline Construction Traffic Management and Travel Plan – Kent (oCTMTP – Kent) [REP7-123] and a commitment in the oCEMP (W37, [REP7-129] for a hoverport condition monitoring plan. The applicant [REP5-135], responding to ExQ2ECOL26, did not consider there to

be a LSE as the hoverport site would only be used for access and there would be no ground disturbance.

2.2.22 However, this matter was subject to discussion during the examination, with NE [REP4-189], (point 2, [REP4-191]) (J31, [REP4-197]), ExQ2ECOL26 in [REP5-199], [REP5-217] advising that the movement of heavy construction vehicles and plant across the hoverport could result in debris and contaminant release. CPRE [REP3A-012] were concerned that intensified used of the hoverport could result in heavy metal leaching that had not been assessed in the HRA but did not specify for which European sites it was concerned. Other IPs (including photographic evidence) [REP5-154], [REP1A-091], [REP3A-065], [REP4-208], [REP4-209], [REP6-199], [REP6-200] also raised concerns about risk of pollution at Pegwell Bay but did not refer to specific European sites.

2.2.23 The HRA Report (section 3, [REP7-119]) identifies that the Sandwich Bay SAC is susceptible to water pollution, and a LSE from the pollution (terrestrial – change in water quality) pathway due to impacts from frac out is screened in. Given this, on a precautionary basis the ExA considers that changes to water quality from the release of contaminants and debris at the hoverport site should also be considered for potential LSE as part of the pollution (terrestrial – changes in water quality) impact pathway.

2.2.24 Relevant examination matters are discussed in section B.4 of this appendix.

THANET COAST SAC

Resolved matters

2.2.25 Key matters which the ExA considers have been resolved during examination in respect of the Thanet Coast SAC are as follows:

- Temporary physical disturbance during construction and permanent habitat loss of chalk reef:
    - In response to NE's concerns [REP3A-028] about damage to chalk reef from cable installation and operation, the applicant [REP4-241] provided mapping to show that the limits of deviation (LoD) for the proposed development avoid chalk reef. The Benthic Characterisation Report [APP-196] also identified that chalk reef is a geological feature, which does not support benthic communities. NE (new issue 36, appendix D, [REP5-217]) confirmed this matter as resolved.
- Physical process change or ecological halo effects from cable protection:
    - In response to NE's concerns (E44, [RR-3920]), the applicant [REP4-085] stated that halo effects from colonisation of marine structures typically arise where tall, complex structures support filter-feeding communities. Due to the cable protection's profile and distribution, the applicant considers this type of colonisation would not occur, and similarly concludes a negligible effect from sediment transport change [REP5-019]. NE (E44, [REP5-222]) recorded this matter as resolved.

Unresolved matters

Temporary physical disturbance to benthic habitats and species

2.2.26 The HRA Report [REP7-119] notes that the Kent landfall is located within the boundary of the Thanet Coast SAC, however, confirms that HDD activities are located away from the reef and sea cave qualifying features. It concludes no LSE from temporary physical disturbance.

2.2.27 As noted at paragraph 2.2.9 above, several IPs raised concerns about HDD installation and impacts to the Thanet Coast SAC. SMM [REP7-210] maintained that it did not consider that no AEoI could be concluded.

2.2.28 The ExA is content based on the updated HRA information that a LSE from temporary physical disturbance can be screened out.

Pollution (terrestrial – changes in water quality) – from the use of the hoverport at the Kent landfall

2.2.29 The HRA Report [REP7-119] does not consider this matter for the Thanet Coast SAC.

2.2.30 NE's comments described at paragraph 2.2.22 of this appendix regarding impacts from the release of contaminants and debris at the hoverport site also apply to the Thanet Coast SAC. NE raised concerns about the risk of toxic heavy metal release, which could affect features of the SAC. NE's concerns were echoed by KWT [REP4-124] and SMM [REP1-246], [REP3A-171], [REP6-148], [REP6-173] [REP6-214].

2.2.31 Noting the proximity of the Thanet Coast SAC to the hoverport area and that the SAC is susceptible to water pollution, the ExA also considers it reasonable to screen in a LSE from this potential pollution source.

2.2.32 Relevant examination matters are discussed in section B.4 of this appendix.

MARINE MAMMAL SACS

SNS SAC

Resolved matters

2.2.33 The following screening matter was resolved during examination in respect of the SNS SAC:

- Indirect effects through impacts to prey species:
    - Responding to the JNCC's concerns [RR-2635], [REP1-210], the applicant explained (ExQ1MM12) [REP4-083], (table 1.3, [REP4-094]) that <0.01% of the habitat of the SNS SAC could be affected by the proposed development. It concluded no LSE due to changes in the availability of prey species and that there is no potential to add to any in-combination effects. The JNCC responding to ExQ3MM4 [REP6-264] agreed that owing to the highly localised effect of the impact, a LSE was unlikely.

TERRESTRIAL ORNITHOLOGY SPA AND RAMSAR SITES

AOE SPA AND RAMSAR SITE

Unresolved matters

Pollution (terrestrial – changes in water quality)

2.2.34 See paragraphs 2.2.11 to 2.2.14 of this appendix regarding the proposed permanent outfall serving the Saxmundham converter station. On a precautionary basis, the ExA considers there to be potential for LSE from this impact pathway for all qualifying features.

MINSMERE-WALBERSWICK SPA AND RAMSAR SITE

Unresolved matters

Direct habitat loss - seawater incursion

2.2.35 The impacts of seawater incursion were not initially addressed by the applicant. However, Suffolk Energy Action Solutions Ltd (SEAS) [RR-5210] considered that the landfall and cables could cause seawater incursion to marshland due to the weakening of the natural storm ridge which would allow sea defences to breach. It advised that seawater incursion could have catastrophic implications for bittern of the Minsmere and Walberswick SPA.

2.2.36 The applicant [REP1A-043] responded that a trenchless technique at the landfall would avoid physical disturbance of watercourses and areas of coastal floodplain. It stated that no plant would operate on the natural storm shingle ridge at the Suffolk landfall and, therefore, there would be no potential for it to be weakened or for seawater incursion to occur. It confirmed that monitoring of existing flood defences would be undertaken during cable installation. Furthermore, it noted that impact on water levels in the RSPB North Warren Reserve from HDD was assessed in Suffolk Chapter 2, Ecology and Biodiversity [REP7-093].

2.2.37 As noted in sections 3.6 MPE and 3.14 ecology, biodiversity and ornithology of this report, the ExA is content that the cable is of sufficient depth that it would not impact on the natural foreshore storm ridge. The ExA does not consider there to be a LSE from this impact pathway.

SANDLINGS SPA

2.2.38 No matters relating to the screening of effects on the Sandlings SPA were discussed during the examination.

STODMARSH SPA AND RAMSAR SITE

Unresolved matters

Loss of functionally linked land for hen harrier

2.2.39 The RSPB [REP1-158] note the record of hen harrier along the River Stour during the wintering bird survey and queried the screening out of the Stodmarsh SPA. KWT [REP6-240] considered species' specific surveys

should have been undertaken and that it is not possible to conclude beyond reasonable scientific doubt that there would be no LSE. The CPRE responding to RIESQ7 [REP6-238] also questioned the conclusion of no LSE in the absence of survey data.

2.2.40 The applicant [REP2-034] responded that given the 6.9km distance between the SPA and the order limits, and as hen harriers are not purely found in SPAs, there was a low likelihood these birds were from the Stodmarsh SPA. On the basis of the information provided, including the wintering bird surveys, NE responding to RIESQ7 [REP6-250] agreed there would be no LSE. However, the matter is recorded as not agreed in the Statement of Common Ground (SoCG) with the RSPB [REP7-054]. No further comments on this matter were received in the final submissions of the CPRE [REP7-193] or KWT [REP7-202].

2.2.41 The ExA is satisfied, based on the applicant's reasoning, that LSE in respect of hen harrier can be screened out for the proposed development.

TCSB SPA AND RAMSAR SITE

Resolved matters

2.2.42 Key matters which the ExA considers have been resolved during examination in respect of the TCSB SPA and Ramsar site are as follows:

- Temporary increases in suspended sediment concentration (SSC) and sediment deposition:
    - NE [REP4-191] advised this pathway be assessed as the intertidal reef, mudflats and sandflats provide valuable feeding grounds and roosting areas. Although the HRA Report [REP7-119] does not explicitly consider the impact pathway in the screening section, consideration is given to the matter in the Stage 2 assessment of effects under the impact pathway heading 'Potential for indirect effects through impacts to prey species.' As such, the ExA considers a LSE to be acknowledged by the applicant.
- Loss of functionally linked land (FLL):
    - NE (B19, [RR-3920]) considered loss of FLL used by golden plover should be a construction phase impact, not operational as assessed by the applicant. Nevertheless, NE [REP3-117] did not consider a change to the HRA Report essential to the outcome of assessment as the impact had been considered and satisfactorily mitigated.
- Air quality – operational phase:
    - The HRA Report (paragraph 4.4.40, [REP7-119]) was revised during the examination to address NE's concerns regarding operational traffic emissions (B24 and B37, [RR-3920]) to confirm there would be up to four daily car or light goods vehicle trips during operation. NE [REP3-117] confirmed this matter as resolved.

Unresolved matters

Pollution (terrestrial – changes in water quality) – from the use of the hoverport at the Kent landfall

2.2.43 The HRA Report [REP7-119] acknowledges a potential direct pathway of pollution to the TCSB SPA and Ramsar site from the use of the former hoverport to access to the intertidal area. This is addressed under the impact pathway of 'Pollution (terrestrial – changes in water quality)'.

2.2.44 See paragraph 2.2.22 of this appendix regarding concerns related to impacts from the release of contaminants and debris at the hoverport site. NE raised concerns about the risk of toxic heavy metal release, which could affect features of the TCSB SPA and Ramsar site. NE's concerns were echoed by KWT [REP4-124], CPRE, SMM and other IPs as described above.

2.2.45 The HRA Report (section 3, [REP7-119]) identifies that the TCSB SPA and Ramsar site is susceptible to water pollution, and a LSE from the pollution (terrestrial – change in water quality) pathway due to impacts from frac out is screened in. Given this, on a precautionary basis the ExA considers that changes to water quality from the release of contaminants and debris at the hoverport site should also be considered for potential LSE as part of the pollution (terrestrial – changes in water quality) impact pathway. Relevant examination matters are discussed in section B.4 of this appendix.

Pollution (terrestrial – changes in water quality) - from the Minster converter and substation

2.2.46 At DL7, NE [REP7-270] noted that additional information had been provided in the HRA Report (paragraph 4.4.43, [REP7-119]) detailing that discharge outfalls associated with the Minster converter and substation would have a downstream connection to the TCSB SPA and Ramsar site. It did not contest the applicant's conclusion of no LSE. However, it advised that an additional REAC commitment be provided detailing the chemical and biological parameters that the discharged water would meet and how this would be monitored and managed throughout the lifetime of the project.

2.2.47 On a precautionary basis, the ExA has also identified the potential for LSE from this impact pathway and has therefore considered this matter in its consideration of AEoI for TCSB SPA and Ramsar site.

2.2.48 Relevant examination matters are discussed in section B.4 of this appendix.

Potential for indirect effects through impacts to prey species during operation

2.2.49 The Environment Agency (EA) [REP4-185], [REP5-088] noted concerns about cable burial depth at the Kent landfall not being sufficient to avoid exposure from northwards migration of the River Stour. NE [REP3-118] responding to ExQ2PE4, [REP5-199]) highlighted risks of cable exposure and the impacts of operational phase remedial works on the intertidal and shallow subtidal mudflats and saltmarsh providing supporting habitat to the TCSB SPA and Ramsar site.

2.2.50 NE's advice did not specify which impact pathway its concerns related to, however the ExA understands it to be indirect effects through impacts to prey species during the operational phase. The ExA considers there is a clear pathway for effects during operation and has applied the precautionary principle in concluding there to be a LSE.

MARINE ORNITHOLOGY SPAS

OTE SPA

Resolved matters

2.2.51 Key matters which the ExA considers have been resolved during examination in respect of the OTE SPA are as follows:

- Permanent loss of foraging habitat for qualifying features:
    - Responding to NE's concerns (E43, [RR-3920]), the applicant revised the HRA Report [REP7-119] to confirm up to 7.35km of cable might require cable protection in the OTE SPA. This would result in a loss of 0.0515km^2 of supporting habitat, equating to 0.0013% of the SPA. A conclusion of no LSE was agreed with NE (ExQ1ECOL61) [REP4-196].
- Airborne sounds and visual disturbance during operation:
    - NE (G2, G3, G4 and G9, [RR-3920]) and the JNCC [REP1-210], [REP3-090] raised concerns about the potential for impacts to red-throated diver (RTD) during the operational phase. The applicant revised the HRA Report (paragraph 4.3.14, [REP7-119]) to confirm that airborne sounds and visual disturbance during operation was taken forward for appropriate assessment.

B.2.3 LSE FROM THE PROPOSED DEVELOPMENT IN COMBINATION

2.3.1 The applicant addresses potential in-combination effects arising from the proposed development with other plans or projects detailed in section 5.3 of the HRA Report [REP7-119]. It identifies the plans or projects, which when considered in-combination with the proposed development, could result in significant effects.

2.3.2 Matters raised in the examination related to screening of in-combination effects are summarised below, focused on matters that were unresolved at the close of examination.

UNRESOLVED MATTERS

APPLICANT'S APPROACH

2.3.3 The applicant responding to ExQ1ECOL49 [REP3-069] confirmed that no in-combination LSEs had been identified where LSE had been excluded from the proposed development alone. KWT [REP6-240] raised concerns with this approach, as it did not recognise that effects which are not significant when

considered in isolation may become significant when combined with other plans or projects.

ExA's consideration

2.3.4 The ExA considers that the applicant's approach is consistent with practice on other major developments. The ExA notes that NE did not raise any concerns with the applicant's proposed approach and KWT did not provide specific examples of its concerns. The ExA is therefore satisfied with the applicant's approach.

THE ABERDEENSHIRE TO RICHBOROUGH AND KULIZUMBOO INTERCONNECTOR PROJECTS

2.3.5 KWT [REP4-124], [REP6-169], [REP6-240], [REP6-266] highlighted the potential for in-combination effects on the TCSB SPA and Ramsar site and the Thanet Coast SAC from multiple projects placing similar pressures in the same location. It was particularly concerned about the omission of the Aberdeenshire to Richborough project from the in-combination assessment which is currently proposed to make landfall at Pegwell Bay. It urged an assessment of the project on the basis of a realistic worst case scenario (WCS). CPRE Kent [REP4-108], [REP6-238] also considered the Aberdeenshire to Richborough project to be reasonably foreseeable.

2.3.6 The applicant [REP5-132] (table 5.1, [REP6-109]) explained that the Aberdeenshire to Richborough cable project had not been passed from the National Energy System Operator to the applicant for development and there is no information available such as connection points, programme or need. It did not consider a reasonable cumulative assessment could be undertaken.

2.3.7 [REP6-279], [REP7-228] stated that the applicant had failed to show the cumulative effects of the proposed Kulizumboo Interconnector project, which the representations stated had a completion date of 2027 and a high likelihood of making landfall at Pegwell Bay.

2.3.8 The applicant [REP7-257] explained that it has no information about the Kulizumboo Interconnector project other than what is provided on the project website and that connection point is identified as Canterbury 400 kilovolt substation (not Richborough or Minster).

2.3.9 The HRA Report (paragraph 5.1.2, [REP7-119]) states that the method used to identify other plans and projects for inclusion in the in-combination assessment is set out in ES Appendix 1.5.A Cumulative Effects Assessment Methodologies [APP-091]. Paragraph 1.5.7 and table 1.2 of [APP-091] explain that the long list was identified following the 3 tiered approach recommended in the Planning Inspectorate's advice on cumulative effects assessment, with tier 3 being projects for which the least information is available comprising projects on the Planning Inspectorate's programme that have not yet been subject to a scoping opinion, projects identified in a relevant development plan or other programme where such development is reasonable foreseeable to come forward. The Aberdeenshire to Richborough

and Kulizumboo Interconnector projects were not identified in the long list in ES Appendix 1.5.B [APP-092].

ExA's consideration

2.3.10 The ExA considers that applicant's approach to identifying other plans or projects for inclusion in the in-combination assessment is appropriate. It agrees based on the applicant's explanation of available information about the Aberdeenshire to Richborough and Kulizumboo Interconnector projects that there is insufficient detail to include them as tier 3 development and they are therefore at too early a stage of development to be considered in-combination with the proposed development.

IN-COMBINATION AIR QUALITY EMISSIONS

2.3.11 In its relevant representation, NE (B18 and B26, [RR-3920]) requested further explanation as to whether there could be LSE from in-combination construction phase emissions, although did not specify for which European sites its concern related to. NE responding in ExQ1ECOL64 [REP4-196] subsequently advised that air quality related aspects could be addressed using its standard advice (included in [REP3-117]).

2.3.12 The applicant [REP2-014] explained that the predicted project alone effects are too small to show in the model, and it considered there would be no in-combination effect. It provided a technical note (appendix A, [REP6-102]) detailing how the assessments complied with the standard advice. It confirmed a process contribution of 0.0 µg/cubic metre (m^3) in oxides of nitrogen concentrations at all assessed designated sites, which is less than NE's standard advice threshold of 1% of critical level/load (Step 4a). Consequently, the applicant concluded there would be no meaningful increment to aggregate with other plans or projects (Step 4b). NE [REP7-268] stated that it had not reviewed [REP6-102] owing to insufficient time but had engaged with the applicant in a series of meeting to consider its position; it was therefore unclear if NE's concerns were resolved.

ExA's consideration

2.3.13 Further to the applicant's explanation, the ExA is content that an in-combination LSE from construction phase emissions will not arise on any European site.

B.2.4 LSE ASSESSMENT OUTCOMES

2.4.1 Sections 4 and 5 of the HRA Report [REP7-119] provide the applicants assessment of LSE for the proposed development alone or in-combination, respectively. The European sites and qualifying features for which the applicant concluded there could be LSE because of the proposed development alone or in combination with other plans and projects are summarised in section 6.

2.4.2 The Alde-Ore and Butley Estuaries SAC and the Stodmarsh SAC are the only European sites for which the applicant concluded there would be no

LSE. The ExA is satisfied based on the information provided that there would be no LSE from the proposed development alone or in combination with other projects and plans on the Stodmarsh SAC. However, it disagrees with the applicant's conclusion of no LSE for the Alde-Ore and Butley Estuaries SAC for which it considers that there is also potential for LSE to all qualifying features. On a precautionary basis, the ExA has considered this SAC for AEoI in section B.4 of this appendix.

2.4.3 Taking into account the reasoning set out above, the ExA agrees that a LSE exists for all other sites identified by the applicant. It agrees the correct LSE impact pathways have been identified by the applicant, subject to the inclusion of the following additional LSE pathway, which is considered on a precautionary basis for AEoI in section B.4 of this appendix:

- potential for indirect effects through impacts to prey species during operation – TCSB SPA and Ramsar

2.4.4 In addition, the ExA does not agree with the applicant's conclusions of no LSE from the following impact pathways to the European sites listed and has also considered these on a precautionary basis for AEoI in section B.4 in this appendix:

- pollution (terrestrial – changes in water quality) – all qualifying features of the Alde-Ore and Butley Estuaries SAC and the AOE SPA and Ramsar site
- pollution (terrestrial – changes in water quality) – from the use of the hoverport at the Kent landfall – all qualifying features of the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site
- pollution (terrestrial – changes in water quality) – discharge from the Minster converter station and substation outfalls – all qualifying features of the TCSB SPA and Ramsar site

2.4.5 The ExA is satisfied that the applicant has identified the correct plans and projects in section 5.3 of the HRA Report [REP7-119]. It is satisfied with the LSE impact pathways considered.

2.4.6 Tables confirming the European sites, qualifying features and impact pathways for which the ExA concludes there is potential for LSE from the proposed development and in-combination with other projects and plans are presented in summary tables B.10 to B.13 of this appendix.

B.3 CONSERVATION OBJECTIVES

3.1.1 The conservation objectives for the European sites and features for which a LSE was identified by the applicant are included in the HRA Report [REP7-119] at section 3. This includes information on pressures to, and threats on, the European sites and the conservation status of marine SACs and SPAs.

3.1.2 The applicant responding to ExQ1ECOL50 [REP3-069] confirmed that NE does not publish the conservation status for terrestrial SACs or SPAs.

3.1.3 Section 3 of the HRA Report [REP7-119] notes that the following are in unfavourable condition:

- Margate and Long Sands SAC – sandbanks which are slightly covered by sea water all the time.
- OTE SPA – RTD and little tern.
- Thanet Coast SAC – reefs (40% unfavourable recovering).
- TCSB SPA – European golden plover, ruddy turnstone and little tern.
- The Wash and North Norfolk Coast SAC – sandbanks which are slightly covered by sea water all the time (28% unfavourable recovering), mudflats and sandflats not covered by sea water at low tide (99% unfavourable no change and 1% unfavourable declining), large shallow inlets and bays (60% unfavourable no change) and reefs (1% unfavourable, 37% unfavourable recovering and 61% unfavourable no change).

3.1.4 KWT [REP1-151] raised concerns that the applicant had failed to assess effects against site conservation objectives. The applicant [REP2-034] stated that legislation does not stipulate how the conservation objectives must be referenced. It considered that the impact pathways assessed were directly relatable to the conservation objectives and that the assessment had been made in view of site conservation objectives.

B.4 STAGE 2: FINDINGS IN RELATION TO AEOI

B.4.1 INTRODUCTION

4.1.1 The proposed development is not directly connected with, or necessary to, the management of a European site. Therefore, the Secretary of State must make an AA of the implications of the proposed development on potentially affected European sites in light of their conservation objectives.

4.1.2 The European sites and qualifying features for which LSEs were identified were further assessed by the applicant to determine if they could be subject to AEoI from the proposed development, either alone or in combination. The applicant's assessment of AEoI is summarised in sections 7 and 8 of the HRA Report [REP7-119] for the proposed development alone and in combination respectively.

4.1.3 The applicant's assessment takes into account mitigation measures, which are detailed within sections B.4.3 to B.4.6 of this appendix below for each receptor group.

4.1.4 The HRA Report [REP7-119] concludes the proposed development would not adversely affect the integrity of any of the European sites and features assessed, either alone or in combination with other projects or plans.

4.1.5 During the examination, queries were raised for every site for which a LSE was identified. The applicant revised the HRA Report [REP7-119] throughout the examination to reflect its position on these matters. Matters raised in the examination are detailed below for each site, preceded by a summary of overarching matters.

B.4.2 OVERARCHING ISSUES

RESOLVED MATTERS

MAXIMUM DESIGN SCENARIO FOR COASTAL AND MARINE PROCESSES' IMPACTS AT THE KENT LANDFALL

4.2.1 NE [REP4-191], [REP5-217] considered that the impacts of the proposed development on marine physical processes and the marine physical environment had not been fully identified or quantified. It advised this be addressed in order to inform the assessment of impacts to ecological receptors, including the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site.

4.2.2 Key matters which the ExA considers have been resolved during examination in respect of the maximum design scenario (MDS) for coastal and marine process change are as follows:

- In response to NE's request [REP4-191], [REP5-217] to update the MDS for construction including seabed disturbance due to cable installation and changes to hydrodynamics, sediment transport and morphology due to HDD exit pits and cofferdams the applicant provided the Pegwell Bay Construction Method Technical Note (PBCMTN) [REP7-146], which it continued to update in response to NE's comments [REP4-191] (new issue J30, [REP4-197]) and KWT responding to ExQ2MO5 [REP5-196]. It revised the MDS within Marine Chapter 1, Physical Environment (table 1.19, [REP7-097]) including temporary cofferdam dimensions and breakdown of seabed disturbance (total areas). NE responding to ExQ2PE4 [REP5-199] confirmed its MDS concerns relate primarily to impacts on intertidal and shallow subtidal mudflats and saltmarsh features which provide supporting habitat to the TCSB SPA and Ramsar site, as reported in section B.4.5 of this appendix and therefore not to the Sandwich Bay SAC and the Thanet Coast SAC. It was satisfied (new issue 30, appendix D, [REP5-222]) with the applicant's explanation [REP4-027] of the WCS assessed for cofferdams.
- NE [REP4-191] requested a full assessment of the realistic WCS in relation to impacts of the proposed development on marine physical

processes as a result of the proposed order limit change at the former hoverport. The applicant [REP5-132] confirmed there would be no change to the WCS assessed and stated that the Order Limit extension included in the applicant's change application was to provide flexibility to avoid impacts on the saltmarsh only.

MITIGATION FOR POLLUTION (TERRESTRIAL – CHANGES IN WATER QUALITY) – FROM FRAC OUT

4.2.3 Key matters which the ExA considers have been resolved during examination in respect of mitigation for frac out are as follows:

- The applicant committed to notifying and consulting NE and the RSPB on methods, locations and routes for spotters in the event of frac out in the oCEMP (B60, [REP7-129]) and REAC (B60, [REP7-359]). A high level plan was provided in appendix A of [APP-321].
- In response to NE's requests (B29, [RR-3920]), [REP4-195], the applicant committed to using handheld pumps operated at low pressure for dealing with frac out in the oCEMP (B61, [REP7-129]) and REAC (B61, [REP7-359]). NE (RI_J6, [REP7-364]) confirmed this matter was resolved.

UNRESOLVED MATTERS

ALTERNATIVES AND THE MITIGATION HIERARCHY

4.2.4 The RSPB [RR-4651], [REP1-158] considered there to have been insufficient consideration of alternatives to avoid impacts on designated sites. KWT [RR-2980], [REP1-152] was similarly concerned that less damaging onshore cable route options had not been included, specifically in relation to the permanent loss of land functionally linked to the TCSB SPA. It considered the mitigation hierarchy had not been properly applied [REP6-240]. CPRE Kent [REP1-147], [REP1-148], [REP1A-044] similarly considered the applicant had bypassed the primary step of avoidance and sought to retrofit mitigation to an unsuitable location; it did not agree there would be no alternative routes to going through Pegwell Bay. This was disputed by the applicant [REP1-115], [REP3-067], [REP5-092], [REP7-192] who asserted it had followed the mitigation hierarchy and identified opportunities to avoid and mitigate constraints whenever possible.

ExA's consideration

4.2.5 The ExA considers that it would be preferable to have avoided a landfall in Pegwell Bay but as set out in section 3.3 of this recommendation, accepts the applicant's reasoning regarding its approach to assessing alternatives and the basis for the final route option selected.

ASSESSMENT APPROACH

4.2.6 KWT [REP1-152] noted that impact pathways on sites had been considered separately but if addressed together there could be greater effects. The applicant [REP2-034] disputed KWT's assertion, noting it was not aware of any HRA that does not present its assessment by impact pathway.

4.2.7 SMM [REP5-167] raised general concerns about the applicant's assessment of impacts to the TCSB SPA and the Sandwich Bay SAC stating that there were deficiencies that raised doubt about whether a legally compliant appropriate assessment could be undertaken. It referred to detail in [REP4-144], where it raised concerns about little tern and turnstone of the TCSB SPA but did not specify for which impacts.

ExA's consideration

4.2.8 The ExA notes the concerns of KWT and SMM, but considers that the applicant's approach to assessment follows established practice. Furthermore, neither party provided specific details of their concerns.

KENT LANDFALL

Pollution (terrestrial – changes in water quality) – from the use of the hoverport)

4.2.9 As detailed in section B.2.2 above, the ExA considers there to be potential for a LSE to the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site from pollution (terrestrial – changes in water quality) due to the use of the hoverport site at the Kent landfall. This is not assessed in the Stage 2 assessment in the HRA Report [REP7-119].

4.2.10 NE [REP4-189] (point 2, [REP4-191]) (J31, [REP4-197]), CPRE [REP3A-012], KWT [REP4-124], SMM [REP1-246], [REP3A-171], [REP6-148], [REP6-173] [REP6-214] and other IPs (including photographic evidence) [REP1A-091], [REP3A-065], [REP4-208], [REP4-209], [REP5-154], [REP6-199], [REP6-200] raised concerns about release of contaminants from use of the hoverport for access to the intertidal area, with SMM [REP7-210] stating AEoI could not be excluded. The applicant (responding to ExQ2ECOL26) [REP5-135] confirmed it is a potential contamination source due to presence of colliery spoil and historic fuel storage. The HRA Report (paragraphs 4.4.17 to 4.4.20, [REP7-119]) sets out a pathway from oxidative weathering when material is exposed to air. It states that this would not occur where the hardstanding is intact but could where it is degrading. Paragraph 4.4.21 lists proposed standard water quality protection measures from the oCEMP [REP7-127], as summarised in the REAC [REP7-359], to prevent discharge into ground and surface waters. Measures would be secured through requirement 6 of the dDCO [REP7-002].

4.2.11 NE responding to ExQ2ECOL26 [REP5-199], [REP5-217] was unclear how the hoverpad's structural integrity would be affected by heavy plant and vehicle movements, which could result in release of contaminants such as coal affecting water acidity and toxic heavy metal. KWT [REP4-124] echoed these concerns and maintained in response to ExQ3GEN2 [REP6-266] that there was a credible pathway to contamination resulting in adverse effects on saltmarsh habitat that supports the TCSB SPA and Ramsar site. KWT [REP6-240] considered the applicant's approach was not consistent with the mitigation hierarchy as reasonable opportunities to avoid or reduce harm had not been pursued.

4.2.12 The HRA Report [REP7-119] states that suitability of the hardstanding would be checked through pre-construction survey as required in the oCTMTP - Kent [REP7-123], to avoid mobilisation of contamination from vehicle movements. Vehicles would not track over broken concrete, or repair works or trackway would be used to prevent damage to integrity. The oCEMP (W37, [REP7-129]) and Outline Offshore CEMP (oOCEMP) (W37, [REP7-127]) include commitments to monitoring of the hoverport condition during construction and managing potential contamination risk, which NE [REP6-244] RIESQ6 in [REP6-250] welcomed.

4.2.13 The ExA [PD-025] proposed wording for additional controls, limiting vehicle movements to structurally sound pathways informed by non-invasive baseline surveys, together with monitoring of the hoverport condition. In response, the applicant inserted requirement 22 in the dDCO [REP7-002]. The applicant would be required to prepare and submit a report to the relevant planning authority for approval in consultation with the EA and the SNCB prior to works requiring vehicles to traverse the hoverport. This would include survey of the concrete skirt integrity, subsurface materials and bay sediments. NE [REP7-277] supported the ExA's wording but requested it include agreement of the number of return trips by vehicle type and a vehicle speed limit to reduce vibration. Thanet District Council (TDC) [REP7-314] supported addition of the ExA's proposed wording. The EA did not comment.

4.2.14 NE retained concerns [REP7-273] that containment measures would involve use of cement to stop leeching and requested further investigation of options. It stated that structural integrity issues were not considered and advised that this should include further consideration of impacts from debris although it did not elaborate on any specific information it was seeking. The applicant could not respond as the examination closed.

4.2.15 The ExA screened in all European sites at the Kent landfall for this LSE pathway on a precautionary basis as explained in section B.2 of this appendix; however, the ExA notes that NE [REP7-277] advised that it agreed no AEoI of the Sandwich Bay SAC and the Thanet Coast SAC.

ExA's consideration

4.2.16 The ExA considers that the measures set out in requirement 22 would ensure that further break-up of the hoverport concrete surface and tracking of contaminated material into the intertidal area would be avoided. The ExA is satisfied that drainage discharge measures summarised in the REAC, which would be secured by requirement 6 of the dDCO, would prevent pollution via runoff. Use of the hoverport would be limited to vehicle access and could not commence until a structurally sound vehicle route has been proposed and agreed with the relevant planning authority in consultation with the SNCB, secured through requirement 22.

4.2.17 Requirement 22(2)(a) would require the applicant to survey the concrete skirt integrity and subsurface materials, and select a route that would avoid

degradation and therefore risk of debris in the coastal waters and the intertidal area.

4.2.18 The ExA has considered NE's comments regarding the need to amend requirement 22(2)(b) to specify the number of return trips and a speed limit to be agreed to ensure that potential impacts are minimised to resolve NE outstanding concerns. However, the ExA considers that the ExA's proposed wording of rDCO schedule 16, condition 4 to require provision of an intertidal works methodology and mitigation plan for Pegwell Bay to the Marine Management Organisation (MMO) in consultation with the SNCB provides an appropriate framework to secure this detail.

4.2.19 To ensure that any contamination is contained, the ExA has proposed an additional requirement in the rDCO "**22(3) Where the trigger levels referred to in 22(2)(c) demonstrate that action is necessary to contain contaminated materials, the applicant shall cease activities that are causing release of contaminating materials and submit proposals for remediation to the Environment Agency, in consultation with the SNCB and the relevant planning authority. The works shall be implemented as approved.**"

4.2.20 The ExA considers that the applicant has applied the mitigation hierarchy as using the hoverport would avoid worse impacts from trying to access the intertidal area from other locations, for example crossing saltmarsh or dune habitats.

4.2.21 The ExA notes NE's advice that AEoI can be excluded for the Sandwich Bay SAC and the Thanet Coast SAC and therefore understands that NE's outstanding concerns for this LSE pathway relate to the TCSB SPA and Ramsar site.

4.2.22 On the basis of the above information, including the measures secured by requirement 22 of the rDCO, the ExA is satisfied that there would be no AEoI of the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site from the proposed development alone or in combination with other plans or projects from this LSE pathway.

Mitigation

Pollution (terrestrial – changes in water quality) – from frac out

4.2.23 The HRA Report [REP7-119] identified mitigation to address the risk of frac out, which could result in LSE to the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site due to pollution from changes in water quality.

4.2.24 NE [RR-3920], [REP4-197], KWT [REP1-152], ExQ1ECOL26 in [REP3-092], the RSPB [RR-4651], [REP1-158], the NT [REP5-101] and the EA [RR-1586] raised concerns about the applicant's proposals for management of construction phase impacts from HDD installation and frac out, which could lead to changes in water quality.

4.2.25 By close of examination, the applicant had committed to produce a HDD landfall method statement (LMS) and drilling fluid management plan (DFMP) prior to commencement of any HDD activities in consultation with NE, KWT, the RSPB and others for approval by the relevant planning authority (dDCO) and the MMO (draft deemed marine licence (dDML)) as relevant. The DFMP commitment was set out in the oCEMP (B59 and GH10, [REP7-129]) (secured through requirement 6 of the dDCO [REP7-002]), and the Outline Cable Specification and Installation Plan (oCSIP) [REP7-159] and oOCEMP (B59, [REP7-127]) (secured through the dDML Condition 4(1)(a) and (b) and Condition 4(4) in schedule 16 of the dDCO [REP7-002]. The measures are summarised in the REAC [REP7-359].

4.2.26 NE [REP5-215] continued to advise that an outline DFMP should be submitted to the examination to inform decision-making. The oCSIP and oOCEMP include several principles for the DFMP. The applicant [REP6-109] maintained that preparation of the plan post-consent was a standard approach accepted on other nationally significant infrastructure projects such as Five Estuaries offshore wind farm (OWF).

4.2.27 NE (B29, [REP3A-025], [REP4-197]), [REP3A-028], ExQ1ECOL28 in [REP4-196] maintained concerns about access to saltmarsh in the event of a frac out. It requested an outline intertidal management plan. NT [REP5-101] echoed NE's concerns and request. The applicant did not consider that such a plan was required given its commitments in other management plans. The ExA [PD-024] recommended the insertion of a new Condition 4(1)(a) to the DML in schedule 16 of the dDCO requiring an intertidal works methodology and mitigation plan for Pegwell Bay. The applicant inserted the requirement for this plan as part of the detailed CSIP in Condition 4(1)(a)(iv) of the dDML in schedule 16 of the dDCO [REP7-002]. It stated (table 3.8, [REP7-085]) that it would be more appropriate to sit in the CSIP to avoid duplication of approvals from the MMO. NE and NT did not comment on the ExA's suggestion and could not comment on the applicant's approach due to close of examination.

4.2.28 The ExA in ExQ2ECOL53 [PD-021] asked IPs if they were satisfied that the applicant's mitigation measures would be sufficient to avoid AEoI. The RSPB [REP5-203] was satisfied subject to NE's concerns being alleviated. NE's outstanding concerns [REP3A-028], [REP5-199] related to ensuring it was consulted on the DFMP, which the applicant had committed to. KWT [REP5-196] noted that measures reflected standard industry practice but considered information was too high level without clear triggers or response procedures. It requested additional commitments to ensure AEoI could be excluded. The applicant [REP6-106] responded that consultation with KWT on the DFMP would allow for review of measures that KWT think would be required.

Changes to marine water quality (drilling fluids) during construction

4.2.29 The HRA Report [REP7-119] identified mitigation to address the risk of discharge of drilling fluids at breakout locations during HDD installation,

which could result in LSE to the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site from changes in marine water quality.

4.2.30 The applicant's proposed mitigation measures to manage frac out through a HDD LMS and DFMP, and the comments of IPs, as described above under 'Pollution (terrestrial – changes in water quality) during construction' are also relevant to this LSE impact pathway, and the management of drilling fluids.

4.2.31 In addition, the ExA considers the following matter to have been resolved during examination in respect of managing drilling fluid in the marine environment:

- The oOCEMP (LVS05, [REP7-127]) and REAC [REP7-359] state that avoidance measures would include use of biodegradable drilling fluids (pose little or no risk (PLONOR) substances) where practicable. The MMO (AP71, [REP5-175]) advised that a DML condition could be included to explicitly include the Oslo and Paris Conventions (OSPAR) PLONOR list. Condition 4(1)(k)(iii) of the dDML in schedule 16 of the dDCO [REP7-002]) requires a chemical risk assessment to be submitted and approved by the MMO for any chemicals used that have a pathway to the marine environment except where these are present on the OSPAR PLONOR list or there are measures in place to prevent release.

ExA's consideration

4.2.32 On the basis of the above information, including measures secured by the rDCO for approval of the relevant planning authority in consultation with the SNCB and commitments in the oCEMP, oOCEMP and oCSIP the ExA is satisfied that there would be no AEoI of the Sandwich Bay SAC, the Thanet Coast SAC and the TCSB SPA and Ramsar site from changes in water quality due to frac out.

4.2.33 The ExA is satisfied that although NE was unable to comment on the suggested intertidal works methodology and mitigation plan in schedule 16, condition 4(1) of the dDCO, its insertion is consistent with NE's requirements.

4.2.34 The ExA has proposed that REAC [REP7-359] commitment B67 is amended to include reference to saltmarsh monitoring on the route of the proposed trenchless crossing alignment in section 3.14 of this recommendation report.

B.4.3 ANNEX I HABITAT SACS

MITIGATION

4.3.1 Mitigation measures applicable to the assessment of effects on more than one site with Annex I habitat features are detailed in tables B.2 and B.3.

Table B.2 Mitigation measures for SACs with Annex 1 habitats within the oCEMP [REP7-129] and oOCEMP [REP7-127] (secured through dDCO requirements 6(1)(a) and dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO [REP7-002])

LSE pathway	Mitigation measure	Commitment number	Additional securing mechanism
Pollution (terrestrial changes in water quality from frac out)	Use of low-pressure hand pumps to manage frac-out	B61	n/a
	Measures to minimise frac-out	B09	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO
	Production of a HDD LMS	B59	dDML condition 4(1)(a)(x) in schedule 16 of the dDCO
	Production of a DFMP	GH10 and B59	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO
	Management of drilling fluid	LVS05	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO
Pollution (terrestrial – changes in water quality - from the use of the hoverport	Monitoring of the hoverport condition during construction in consultation with the EA, NE, KWT and TDC for approval by TDC	W37	n/a
Changes to marine water quality (drilling fluids)	Use of drilling fluids from the OSPAR list of PLONOR substances	LVS05	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO

LSE pathway	Mitigation measure	Commitment number	Additional securing mechanism
			dDML Condition 4(1)(k)(iii) in schedule 16 of the dDCO
Introduction and spread of invasive non-native species (INNS) via cable protection	Implementation of an INNS Management Plan and Marine Biosecurity Plan	BE01	Outline Offshore INNS Management Plan oOIMP [REP5-078] (secured through dDML condition 4(1)(d) in schedule 16 of the dDCO) Marine Biosecurity Plan [REP4-071] (secured through dDML condition 4(1)(e) in schedule 16 of the dDCO)
	Use of suitably sourced and cleaned material in the marine environment, including for rock protection	BE03	

Table B.3: Mitigation measures for Annex I habitats SACs not within the oCEMP or oOCEMP

LSE pathway	Mitigation measure description	Relevant control document	Securing mechanism
Pollution (terrestrial changes in water quality from frac out)	Intertidal works methodology and mitigation plan for Pegwell Bay	n/a	dDML condition 4(1)(a)(iv) in schedule 16 of the dDCO
Pollution (terrestrial – changes in water quality - from the use of the hoverport	Pre-construction survey of hoverport hardstanding	oCTMTP - Kent [REP7-123]	dDCO requirement 6(1)(c)
	Pre-construction report detailing hoverport condition survey results, proposals for vehicle	n/a	dDCO requirement 22

LSE pathway	Mitigation measure description	Relevant control document	Securing mechanism
	routing and hoverport condition monitoring programme with trigger levels for action		

ALDE-ORE AND BUTLEY ESTUARIES SAC

4.3.2 The HRA Report screens out all LSE pathways for the Alde-Ore and Butley Estuaries SAC, however as noted in section B.2.2 of this appendix, on a precautionary basis the ExA considers there to be a potential LSE from:

- pollution (terrestrial – changes in water quality) for all qualifying features

UNRESOLVED MATTERS

Pollution (terrestrial – changes in water quality)

4.3.3 NE advised [REP7-277] that it could not rule out AEoI of the Alde-Ore and Butley Estuaries SAC from effects on water quality from a proposed permanent outfall serving the Saxmundham converter station on the basis that an assessment of impacts had not been included in the HRA Report. It requested a commitment in the REAC detailing the chemical and biological parameters that discharged water would meet, and confirmation of how this would be monitored through the project's lifetime [REP7-269], [REP7-277] (A23, [REP7-364]).

4.3.4 NE's advice also applied to the AOE SPA and Ramsar site.

EXA'S CONSIDERATION OF ADVERSE EFFECTS TO THE ALDE-ORE AND BUTLEY ESTUARIES SAC

4.3.5 The ExA is satisfied with the applicant's proposed drainage mitigation measures as set out in the REAC [REP7-359] and drainage strategy [REP7-148]. The ExA notes NE's comments regarding the need for surface water monitoring but considers that since the runoff would comprise surface water runoff only, there is no need for specific water quality monitoring. On the basis that clean surface water is due to be discharged, the ExA considers that an AEoI of the Alde-Ore and Butley Estuaries SAC can be ruled out.

MARGATE AND LONG SANDS SAC

4.3.6 The HRA Report [REP7-11] assesses the following LSE pathway for all qualifying features of the Margate and Long Sands SAC:

- temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (paragraphs 7.3.1 to 7.3.8, 7.3.93 and section 8.3)

RESOLVED MATTERS

4.3.7 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the Margate and Long Sands SAC are as follows:

- NE (E31, [REP3A-028]), [REP3-118] raised general concerns about whether the WCS for increases in SSC and sediment deposition was based on the most recent construction information but clarified in response to the ExQ2BE15 [REP5-199] that there was no impact pathway to the Margate and Long Sands SAC.

4.3.8 At DL7, NE [REP7-277] confirmed it agreed with the applicant's conclusions of no AEoI of the site.

UNRESOLVED MATTERS

4.3.9 No unresolved matters pertaining to the Margate and Long Sands SAC remained at the close of examination.

EXA'S CONSIDERATION OF ADVERSE EFFECTS TO THE MARGATE AND LONG SANDS SAC

4.3.10 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to achieve favourable conservation status through maintaining or restoring the extent, distribution, structure and function of natural habitats, and the supporting processes on which the habitats rely. It is satisfied that there would no AEoI of the Margate and Long Sands SAC from the proposed development alone or in combination with other plans or projects.

SANDWICH BAY SAC

4.3.11 The HRA Report [REP7-119] assesses the following LSE pathways for all qualifying features of the Sandwich Bay SAC:

- changes to marine water quality during cable installation and laying from use of drilling fluids (paragraphs 7.3.9 to 7.3.12 and 7.3.93)
- introduction and spread of INNS via the addition of cable protection (paragraphs 7.3.81 to 7.3.83)
- pollution (terrestrial – changes in water quality) – from frac out (paragraphs 7.4.11 to 7.4.14 and 7.4.35)

4.3.12 As detailed in section B.2.2 above, the ExA considers there to be a LSE to all qualifying features of the Sandwich Bay SAC from pollution (terrestrial – changes in water quality) due to use of the hoverport site at the Kent landfall.

RESOLVED MATTERS

4.3.13 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the Sandwich Bay SAC are as follows:

- Introduction and spread of INNS via the addition of cable protection:
    - Responding to NE's concerns [REP3-118], [REP3A-025] (appendix E new issue point 39, [REP4-197]), the applicant revised the oOIMP [REP5-078] to include reference to INNS measures at trenchless crossing exits, and confirmation that a moonpool or prefabricated cofferdam would be compliant with the OIMP and in place for a short period (4 months), which would not be sufficient for INNS to establish and spread.
- Pollution (terrestrial – changes in water quality) – from frac out:
    - The applicant made updates to frac-out management in response to the NE's concerns as described in section 4.2 of this appendix under 'Mitigation'.
    - Confirmation in responses to ExQ2ECOL6 from the applicant [REP5-135] and NE [REP5-199] that a separate consenting or licensing process (with a separate HRA) would be required in respect of any intertidal ground investigation to inform risk management of frac out from drilling activity.

4.3.14 AT DL7, NE [REP7-277] confirmed its advice was that AEoI of the Sandwich Bay SAC could be excluded.

UNRESOLVED MATTERS

Pollution (terrestrial – changes in water quality)

Frac out

4.3.15 The HRA Report [REP7-119] concludes no AEoI based on mitigation that would be implemented to manage the risk of frac out, as described at section 4.2 under 'Mitigation.'

4.3.16 Whilst NE [REP7-277] advised that AEoI could be excluded, KWT [REP5-196] did not consider measures were sufficiently detailed to give confidence that there would be no AEoI.

Use of the hoverport

4.3.17 As detailed in paragraphs 4.2.9 to 4.2.15 above. NE [REP7-277] advised that it agreed AEoI could be excluded but other IPs retained concerns.

Changes to marine water quality during cable installation cable lay from use of drilling fluids

4.3.18 The Sandwich Bay SAC is vulnerable to changes in water quality and there is potential for up to 40m^3 of drilling fluid to be discharged at the Kent landfall [REP7-119]. The HRA Report concludes no AEoI as the volume released would be small, regular tidal movement would disperse and dilute the drilling fluid, and as there are commitments to select biodegradable drilling fluid (PLONOR substances) where practicable as described at section 4.2 under 'Mitigation'.

4.3.19 Whilst NE [REP7-277] advised that AEoI could be excluded, KWT [REP5-196] did not consider measures were sufficiently detailed to give confidence that there would be no AEoI.

EXA'S CONSIDERATION OF ADVERSE EFFECTS TO THE SANDWICH BAY SAC

4.3.20 Whilst KWT's position that there is lack of detail in the applicant's proposed mitigation is acknowledged, the ExA notes that KWT did not specify what further evidence it required to have confidence there would be no AEoI. It also notes the advice of NE as ANCB that AEoI of the Sandwich Bay SAC can be excluded. The applicant has committed to mitigation measures, which would be finalised through consultation with NE and KWT amongst others prior to implementation.

4.3.21 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to achieve favourable conservation status through maintaining or restoring the extent, distribution, structure and function of natural habitats, and the supporting processes on which the habitats rely. It is satisfied that there would be no AEoI of the Sandwich Bay SAC from the proposed development alone or in-combination with other plans or projects.

THANET COAST SAC

4.3.22 The HRA Report [REP7-119] assesses the following LSE pathways for all qualifying features of the Thanet Coast SAC unless otherwise specified:

- temporary increase in SSC (reefs only) and sediment deposition leading to increased turbidity and smothering effects (paragraphs 7.3.1 to 7.3.8, 7.3.93 and section 8.3)
- changes to marine water quality during cable installation cable lay from use of drilling fluids (paragraphs 7.3.9 to 7.3.12 and 7.3.93)
- introduction and spread of INNS via the addition of cable protection (paragraphs 7.3.81 to 7.3.83)

4.3.23 As detailed in section B.2.2 above, the ExA considers there to be a LSE to all qualifying features of the Thanet Coast SAC from pollution (terrestrial – changes in water quality) due to use of the hoverport site at the Kent landfall.

RESOLVED MATTERS

4.3.24 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the Thanet Coast SAC are as follows:

- Temporary increase in SSC (reefs only) and sediment deposition leading to increased turbidity and smothering effects:
    - NE (E35, [RR-3920]) advised that consideration be given to biotopes that are components of the SAC qualifying features. Marine Chapter 2, Benthic Ecology [REP7-099] confirms that cave habitats are not

sensitive to changes in SSC from cable installation, and was updated to assign medium sensitivity to reef biotopes on a precautionary basis. NE [REP5-218] and responding to ExQ2BE3 in [REP5-199] confirmed this matter as resolved as it related to assignment of sensitivity.
    - NE (E26, E41 and E45, [REP7-364]) considered that the assessment lacked quantification. The HRA Report [REP7-119] states that long-term increase in SSC above 250mg/l can impair growth of filter-feeding organisms but SSC increase would be short-term and temporary (up to 300mg/l within the first 24 hours reducing to up to 100mg/l). It refers to studies showing that epifauna associated with the SAC have the ability to tolerate temporary sediment deposition up to 2cm, which is greater than the 0.5mm deposition thickness predicted for the proposed development. NE [REP7-273] agreed deposition of 0.5mm would have a negligible smothering impact for reef and did not dispute the applicant's position on sea caves.
    - In response to NE's [RR-3290] concerns about construction effects from HDD exit pits or cofferdam installation, the applicant made updates, confirming [REP4-241] that the Landfall Sediment Modelling Report [PDA-038] showed any increase in SSC would be similar to natural disturbance in storm conditions. It further modelled SSC and changes in tidal flow conditions around the cofferdam in Additional Sediment Dispersion Modelling – Technical Note [REP6-120], which demonstrates a localised and minor effect in Pegwell Bay with wider sediment dispersion at levels below 1mg/l. NE responding to ExQ2PE4 in [REP5-199] indicated that its outstanding concerns did not relate to the Thanet Coast SAC. It (table 2, [REP7-277]) agreed no AEoI based on modelling in [REP6-120].

- Introduction and spread of INNS via the addition of cable protection:
    - As discussed under the Sandwich Bay SAC at paragraph 4.3.13.

UNRESOLVED MATTERS

Pollution (terrestrial - changes in water quality)

Use of the hoverport

4.3.25 As detailed in paragraphs 4.2.9 to 4.2.15 above. NE [REP7-277] advised that it agreed AEoI could be excluded but other IPs retained concerns.

Changes to marine water quality during cable installation cable lay from use of drilling fluids

4.3.26 The matters described in relation to the Sandwich Bay SAC at paragraph 4.3.20 also apply to the Thanet Coast SAC. NE (table 2, [REP7-277]) did not comment specifically on this LSE impact pathway but agreed that AEoI could be excluded. KWT [REP6-240] did not agree the AEoI can be excluded and stated that the applicant had not applied the mitigation hierarchy in respect of this LSE impact pathway.

EXA'S CONSIDERATION OF ADVERSE EFFECTS TO THE THANET COAST SAC

4.3.27 Whilst KWT's position on the mitigation hierarchy is acknowledged, the ExA notes the advice of NE as ANCB that AEoI of the Thanet Coast SAC can be excluded, and that using the hoverport would avoid worse impacts from trying to access the intertidal area from another location. The ExA is satisfied that the applicant has committed to mitigation measures which would be finalised through consultation with NE and KWT amongst others prior to implementation.

4.3.28 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to achieve favourable conservation status through maintaining or restoring the extent, distribution, structure and function of natural habitats, and the supporting processes on which the habitats rely. It is satisfied that there would be no AEoI of the Thanet Coast SAC from the proposed development alone or in-combination with other plans or projects.

B.4.4 MARINE MAMMAL SACS

OVERARCHING RESOLVED MATTERS

4.4.1 Key matters relating to the assessment of underwater sound impacts, which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity are as follows:

- NE (F28 and F30, [RR-3920]) and the JNCC [RR-2635] raised concerns that harbour porpoise should not be used as a proxy for pinnipeds. The applicant [REP2-014] subsequently confirmed that the assessment is based on separate underwater noise modelling for seals and harbour porpoise. NE responding to ExQ15MM1 [REP4-196] confirmed the matter as resolved. The JNCC did not comment further on the matter.
- NE (F29, [RR-3920]) and the JNCC [RR-2635], [REP1-210] initially advised that the sound exposure level (SEL) (SEL_{cum}) metric from the noise modelling should also be used to inform impacts to designated sites. Further to the applicant's justification for the use of sound pressure level (SPL_{peak}) [REP1-112], [REP2-014], NE responding to ExQ15MM1 [REP4-196] confirmed the matter as resolved. The JNCC did not comment further on the matter.
- The applicant [REP1-112], [REP2-014], the JNCC [REP1-210] and NE [REP4-196] agreed that the standard JNCC measures for minimisation of injury from underwater sound generated from geophysical surveys would be employed. Mitigation measures are included in section 1.8 of the Outline Marine Mammal Management Plan (oMMMP) [REP7-125].

BERWICKSHIRE AND NORTH NORTHUMBERLAND COAST SAC, HUMBER ESTUARY SAC AND THE WASH AND NORTH NORFOLK COAST SAC

4.4.2 The Berwickshire and North Northumberland Coast SAC, the Humber Estuary SAC and The Wash and North Norfolk Coast SAC are all located more than 100km from the proposed development. The applicant's description of the sites is presented in sections 3.11, 3.112 and 3.16 of the HRA Report [REP7-119], respectively. The following LSE pathways are assessed for the grey seal qualifying feature of the Berwickshire and North Northumberland Coast SAC and the Humber Estuary SAC, and the harbour seal qualifying feature of The Wash and North Norfolk Coast SAC:

- underwater sound impacts (paragraphs 7.3.13 to 7.3.36 and 7.3.93)
- vessel collision risk (paragraphs 7.3.37 to 7.3.45 and 7.3.93)
- airborne sounds and visual disturbance (paragraphs 7.3.63 to 7.3.65 and 7.3.93)

4.4.3 No further matters to the overarching underwater sound issues detailed above were raised and subsequently resolved in relation to the Berwickshire and the North Northumberland Coast SAC, the Humber Estuary SAC and The Wash and North Norfolk Coast SAC.

4.4.4 At DL7, NE [REP7-277] confirmed it agreed with the applicant's conclusions of no AEoI of these sites. However, in [REP7-274] it raised concerns about risk of disturbance to seal colonies from emergency use of hovercraft, included as commitment GG45 in the oCEMP [REP7-129] and oOCEMP [REP7-127]. It did not attribute impacts to any specific designated site and there was insufficient time in the examination to consider this matter further.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE BERWICKSHIRE AND NORTH NORTHUMBERLAND COAST SAC, THE HUMBER ESTUARY SAC AND THE WASH AND NORTH NORFOLK COAST SAC

4.4.5 The ExA is content that the overarching concerns regarding underwater sound impacts have been resolved. NE [REP7-277] confirmed it agreed with the applicant's conclusions of no AEoI of these sites. The ExA considers that NE's concerns regarding disturbance from hovercraft use are therefore not a HRA concern. Sites designated for harbour or grey seals are between 110km and 412km from the proposed development and therefore the ExA considers the number of seals from these sites in Pegwell Bay would likely be minimal and that an AEoI from any temporary and short-term emergency use of hovercrafts can be excluded. However, should the Secretary of State determine a need for greater certainty of this, the ExA recommends that the Secretary of State consults NE to seek confirmation that disturbance from hovercraft use is not a HRA concern for European sites designated for marine mammals.

4.4.6 The Berwickshire and North Northumberland Coast SAC is in English and Scottish waters. As noted previously, NatureScot did not participate in the

examination and, therefore, the ExA does not have its views on impacts to this European site for which it is responsible (jointly with NE).

4.4.7 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to maintain the favourable conservation status through maintaining or restoring the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the European sites from the proposed development alone or in combination with other plans or projects.

SNS SAC

4.4.8 The offshore cable would pass through the southern region of the SNS SAC. The applicant's description of the site is presented in section 3.14 of the HRA Report [REP7-119]. The following LSE pathways are assessed for the harbour porpoise qualifying feature:

- underwater sound impacts (paragraphs 7.3.13 to 7.3.36 and 7.3.93)
- vessel collision risk (paragraphs 7.3.37 to 7.3.45 and 7.3.93)
- effects of EMF emissions (paragraphs 7.3.71 to 7.3.75 and 7.3.93)

MITIGATION MEASURES

4.4.9 The applicant's assessment of underwater sound impacts takes into account the mitigation measures in table B.4 below.

Table B.4 Mitigation measures for marine mammal SACs

Mitigation measure	Relevant control document	Securing mechanism
MMMP[1]	oMMMP [REP7-125]	dDML conditions 4(1)(c) and 4(4) in schedule 16 of the dDCO
Seasonal restriction for offshore cable burial and landfall installation activities	dDCO [REP7-002]	dDML conditions 11(1) and 11(2) in schedule 16 of the dDCO
	RTD protocol [REP7-142], which the ExA assumes is the outline RTD (oRTD) protocol set out in schedule 16,	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO

[1] A plan to specify the overarching principles and detailed measures to minimise as far as reasonably practicable and mitigate the effects of the construction activities associated with the proposed development on marine mammals. It includes mitigation measures MM01 to MM04, GM03, FSF01, LVS02 and LVS05 detailed in the oOCEMP [REP7-127].

Mitigation measure	Relevant control document	Securing mechanism
	condition 4 of the dDCO [REP7-002] and is referred to as such hereafter.	dDML condition 11(4) in schedule 16 of the dDCO
Adherence to JNCC guidelines for minimisation of injury from underwater sound for sub-bottom profiling (SBP) activities	MM01 of the oOCEMP [REP7-127]	dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO
	oMMMP [REP7-125]	dDML conditions 4(1)(c) and 4(4) in schedule 16 of the dDCO
Commitment to participating in the Development Co-ordination Forum (DCF) to manage in-combination effects	MM03 of the oOCEMP [REP7-127]	dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO
	oMMMP [REP7-125]	dDML conditions 4(1)(c) and 4(4) in schedule 16 of the dDCO
Commitment to undertake survey activities involving SBP during summer, where practicable	MM04 of the oOCEMP [REP7-127]	dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO
	oMMMP [REP7-125]	dDML conditions 4(1)(c) and 4(4) in schedule 16 of the dDCO

4.4.10 No specific measures for other LSE pathways are referred to in the HRA Report [REP7-119].

RESOLVED MATTERS

4.4.11 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the SNS SAC are as follows:

- Baseline:
    - NE (F2, F8 and F12, [RR-3920]) and the JNCC [REP1-210] raised concerns regarding the adequacy of the harbour porpoise baseline. The applicant subsequently assessed impacts against the winter density of harbour porpoise, using Winter Small Cetaceans in European Atlantic waters and the North Sea (SCANS) 2025 data

(paragraph 7.3.21, [REP7-119]). NE responding to ExQ2MM3 [REP5-199] confirmed the matter of baseline characterisation to be resolved. The JNCC did not comment further on the matter.

- Underwater sound impacts (project alone impacts):
  - NE requested further details on the applicant's noise modelling (F15, [RR-3920]), [REP4-197]. However, it subsequently confirmed responding to ExQ2MM4 [REP5-199] that the effective deterrent range (EDR) approach used in the HRA Report [REP7-119] is the most appropriate method for designated sites.
  - The JNCC [RR-2635], [REP1-210] initially considered there to be insufficient information to support the conclusion of no AEoI due to disturbance to harbour porpoise from underwater noise. The applicant subsequently clarified that with a 3km EDR, 349 harbour porpoise could potentially be disturbed by underwater noise during construction, within 1.14% of the SNS SAC (paragraph 7.3.21, [REP7-119]) ExQ2MM8 in [REP5-135]. The JNCC did not raise further concerns regarding the impact of the proposed development alone.
  - NE responding to ExQ2MM3 [REP5-199] sought clarification as to whether the disturbance impact area reported is for one day or across a season. The applicant revised the HRA Report (paragraphs 7.3.23 to 7.3.30, [REP7-119]) to provide an assessment of disturbance impacts against the daily and seasonal JNCC disturbance thresholds.
  - NE responding to ExQ2MM3 [REP5-199] commented that the assessment did not include cable laying activities themselves. The applicant revised the HRA Report (paragraph 7.3.28, [REP7-119]) to confirm that cable laying activities are considered unlikely to generate sufficient sound source levels for auditory injury (including permanent threshold shift) in marine mammals and that the potential for temporary threshold shift is only likely in very close proximity to the source. NE did not comment on this matter further. Should the Secretary of State determine a need for greater certainty of NE's views on the matter, the ExA recommends that the Secretary of State consults NE.

- Vessel collision risk:
  - The JNCC [RR-2635], [REP1-210] queried how slow vessel speeds would be enforced. The applicant [REP1-112] confirmed that slow vessel speeds would be ensured through compliance with the International Regulations for Preventing Collisions at Sea 1972 (International Maritime Organisation, 1972). The JNCC (2MM7, [REP5-194], [REP6-239] acknowledged the explanation.

- Mitigation:
  - The applicant revised the oMMMP [REP7-125] to reflect comments from NE (F20, [RR-3920]) and the JNCC [RR-2635], [REP1-210]. NE (F20, [REP7-364]) confirmed the matter to be resolved. The JNCC did not comment further on the matter.

UNRESOLVED MATTERS

Underwater noise

In-combination effects

4.4.12 NE (F32, [RR-3920]), [REP3A-025], [REP5-219] RIESQ13 in [REP6-251], [REP6-246] and the JNCC [RR-2635], [REP1-210], [REP3-090] RIESQ13 in [REP6-239] raised several concerns regarding a lack of detail in the in-combination assessment. The applicant provided an in-combination assessment of the impact of underwater sound from all potential projects generating underwater sound in the SNS SAC (paragraphs 8.3.81 to 8.3.91, [REP7-119]). It concludes that, in combination with other plans or projects, the daily disturbance threshold would be exceeded when the SBP works are taking place; but that the seasonal threshold would not be exceeded. It notes that the assessment is based on a precautionary unmitigated assessment of piling at the OWFs and that the contribution from the proposed development is negligible and would be for 6 days only. The applicant has committed to participating in the DCF to manage in-combination effects and to undertake works where practicable in the summer period in the oOCEMP (MM03 and MM04, [REP7-127]). These measures are also summarised in the REAC [REP7-359]. It therefore concludes that the seasonal disturbance threshold would not be exceeded.

4.4.13 NE [REP7-274] explained that methodological concerns remained. However, in a joint position statement with the JNCC [REP7-274], it agreed that further to the applicant's commitment to participate in the DCF, there would be no AEoI of the SNS SAC. It proposed text for a condition which is included in the oOCEMP (table 1.14 [REP7-127]) and the oMMMP [REP7-125], however is not included as a separate condition within the dDML.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE SNS SAC

4.4.14 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objectives of the site, which are to maintain favourable conservation status through ensuring harbour porpoise is a viable component and there is no significant disturbance of it, and maintaining the condition of supporting habitat and processes to maintain prey availability for harbour porpoise. It is satisfied that there would be no AEoI of the SNS SAC from the proposed development alone or in-combination with other plans or projects. The ExA considers that the commitment to participate in the DCF is adequately secured in the oOCEMP [REP7-127] and oMMMP [REP7-125] and therefore a separate condition within the DML is not required.

B.4.5 TERRESTRIAL ORNITHOLOGY SPA AND RAMSAR SITES

MITIGATION MEASURES

4.5.1 Mitigation measures applicable to the assessment of effects on more than one site with terrestrial ornithological features are detailed in table B.5 below. Site specific mitigation measures are detailed under relevant site headings.

Table B.5 Mitigation measures for terrestrial ornithology SPA and Ramsar sites within the oCEMP [REP7-129] (secured through dDCO requirements 6(1)(a) and 6(2))

LSE pathway	Mitigation measure	Commitment number(s)	Relevant sites
Disturbance (noise, visual and lighting)	Use of best practicable means to reduce noise during construction	NV01 to NV05	AOE SPA and Ramsar site Minsmere-Walberswick SPA and Ramsar site Sandlings SPA TCSB SPA and Ramsar site
	Low level lighting	GG21	
	Construction compound lighting restriction	B38	
Collision risk	Bird diverters	B55	Stodmarsh SPA and Ramsar Site TCSB SPA and Ramsar site

OVERACHING RESOLVED MATTERS

EAST SUFFOLK COUNCIL CONCERNS REGARDING BASELINE SURVEYS

4.5.2 East Suffolk Council (ESC) [RR-1420] highlighted a generic concern about bird survey coverage, noting these would have implications for both the HRA and the ES. The applicant [REP1A-043] considered it had good coverage of the site and a good knowledge of the ornithological interest of the area. ESC [REP5-184] subsequently reported this matter as closed, stating it did not consider that further surveys would change the assessment outcome.

EXA'S CONSIDERATION

4.5.3 The ExA has considered representations regarding bird survey coverage, the applicant's ES and bird survey appendices and is satisfied that the applicant's survey is consistent with relevant standards and guidance.

AOE SPA AND RAMSAR SITE

4.5.4 The HRA Report [REP7-119]) assesses the following LSE pathways for the AOE SPA and Ramsar site:

- disturbance (noise and visual) from onshore works (paragraphs 7.2.21, 7.2.26 and 7.3.93) for marsh harrier and curlew of the SPA and Ramsar site

- airborne sounds and visual disturbance from offshore works (paragraphs 7.3.55 to 7.3.60 and 7.3.93) for:
    - lesser black-backed gull, sandwich tern and little tern of the SPA
    - lesser black-backed gull of the Ramsar site
- indirect effects through impacts to prey species (paragraphs 7.3.66 to 7.3.80 and 7.3.93) for:
    - lesser black-backed gull, sandwich tern and little tern of the SPA
    - lesser black-backed gull of the Ramsar site

4.5.5 As noted in section B.2.2 of this appendix, on a precautionary basis the ExA also considers there to be a potential LSE from:

- pollution (terrestrial – changes in water quality) for all qualifying features

RESOLVED MATTERS

4.5.6 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity of the AOE SPA and Ramsar site are as follows:

- Disturbance (noise and visual) from onshore works (also applicable to the Minsmere-Walberswick SPA and Ramsar site):
    - The RSPB [REP1-158] raised concerns regarding marsh harriers utilising the north of the RSPB North Warren Reserve; specifically of the impacts of construction noise on auditory cues used by marsh harrier to detect prey. It did not raise the matter further.

4.5.7 The RSPB confirms in its SoCG [REP7-054], that AEoI for the site can be excluded as a result of the proposed development alone or in-combination.

UNRESOLVED MATTERS

Disturbance (noise and visual) from onshore works

Marsh harrier (also applicable to the Minsmere-Walberswick SPA and Ramsar site)

4.5.8 SEAS [RR-5210], [REP2-115], [REP4-154] noted that marsh harriers can forage up to 15km from their nests, placing the proposed development within potential foraging distance of Alde-Ore Estuary SPA and the Minsmere-Walberswick SPA. It considered the species could be disturbed during the breeding season whilst using FLL. It acknowledged that marsh harriers had been recorded during breeding bird surveys but noted that the species is not mentioned in the Suffolk section of the HRA Report [REP7-119]. It considered the baseline survey data for the Suffolk onshore scheme to be deficient and queried why vantage point surveys were not undertaken.

4.5.9 The applicant [REP1A-043] responded that marsh harrier had been recorded feeding in the wetlands of the RSPB North Warren Reserve, which would be crossed by trenchless methods. It considered there to be limited suitable

farmland within 15km of the nest sites and that foraging birds of prey are at low risk of disturbance compared to birds on the nest or roosting.

4.5.10 SEAS [REP6-256F] maintained that the applicant had overlooked impacts on FLL for marsh harrier and that the lack of survey effort for marsh harrier meant that the evidential requirement for a competent authority to ascertain, beyond reasonable scientific doubt, that a project will not adversely affect the integrity of European designated sites had not been met.

Pollution (terrestrial – changes in water quality)

4.5.11 See paragraphs 4.3.3 to 4.3.4 of this appendix. NE [REP7-277] stated that it could not rule out AEoI for the AOE SPA and Ramsar site.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE AOE SPA AND RAMSAR SITE

4.5.12 As noted in paragraph 4.5.3 of this appendix, the ExA is content with the applicant's survey effort for marsh harrier and that this is adequate to inform the assessment of effects.

4.5.13 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the European sites from the proposed development alone or in-combination with other plans or projects.

MINSMERE-WALBERSWICK SPA AND RAMSAR SITE

4.5.14 The HRA Report [REP7-119] assesses the following LSE pathways for the Minsmere-Walberswick SPA and Ramsar site:

- disturbance (noise and visual) from onshore works (paragraphs 7.2.21 and 7.2.27) for non-breeding birds and breeding marsh harrier of the SPA and Ramsar site
- airborne sounds and visual disturbance from offshore works (paragraphs 7.3.55 to 7.3.60 and 7.3.93) for little tern of the SPA
- indirect effects through impacts to prey species (paragraphs 7.3.65 to 7.3.80 and 7.3.93) for little tern of the SPA

RESOLVED MATTERS

4.5.15 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the Minsmere-Walberswick SPA and Ramsar site are as follows:

- Disturbance (noise and visual) from onshore works
    - See paragraph 4.5.6 regarding the RSPB's resolved concerns about impacts on the auditory cues used by marsh harrier to detect prey.

- The RSPB [REP1-158] noted that white-fronted goose use FLL within the RSPB North Warren Reserve and raised concerns regarding disturbance from the proposed construction compound. The applicant [REP2-034] confirmed the A-weighted equivalent continuous sound level (L_{Aeq}) and the highest A-weighted sound level (for impulsive sound) (L_{Amax}) 60 decibel (dB) line would not extend into the reserve and has committed to bird monitoring and adaptive measures during trenchless compound set up, demobilisation, and drilling in the REAC (B23, [REP7-359]) with locations to be agreed with the RSPB. The measure is also referenced in the Suffolk Outline Landscape and Ecological Management Plan (oLEMP) - Suffolk [REP7-140]. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- The RSPB [REP1-158] raised concerns about disturbance to white-fronted geese winter commuting flights in combination with Sizewell C. The SoCG with the RSPB [REP7-054] confirms the matter as resolved further to the additional noise modelling (appendix B, [REP6-112]).
- The RSPB [REP1-158] raised concerns about disturbance from construction noise and lighting at dawn, dusk and during the night. The applicant [REP2-034] explained that the 60dB threshold agreed with NE would apply whenever works were undertaken and is not time restricted. It committed to avoiding direct illumination of construction compound boundary features in the oCEMP (B38, [REP7-129]) and provided a lighting plan for Suffolk compound (appendix C, [REP6-112]). The SoCG with the RSPB [REP7-054] confirms the matter as resolved.

4.5.16 At DL7, NE [REP7-277] confirmed it agreed with the applicant's conclusions of no AEoI of the site.

4.5.17 The RSPB confirms in its SoCG [REP7-054], that AEoI for the site can be excluded as a result of the proposed development alone or in-combination.

UNRESOLVED MATTERS

Disturbance (noise and visual) from onshore works

Marsh harrier

4.5.18 See paragraphs 4.5.8 to 4.5.10 above.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE MINSMERE-WALBERSWICK SPA AND RAMSAR SITE

4.5.19 The ExA has considered the assessment provided within the HRA Report [REP7-119], the information above and the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the European sites from the proposed development alone or in-combination with other plans or projects.

SANDLINGS SPA

4.5.20 The HRA Report [REP7-119] assesses the following LSE pathways for nightjar and woodlark of the Sandlings SPA:

- air quality (dust only) (paragraphs 7.2.1 to 7.2.3 and 7.2.27)
- loss of FLL (paragraphs 7.2.4 to 7.2.10 and 7.2.27)
- disturbance (noise and visual) from onshore works (paragraphs 7.2.11 to 7.2.25 and 7.2.27)

MITIGATION MEASURES

4.5.21 Site specific mitigation measures for the Sandlings SPA are detailed in table B.6.

Table B.6 Mitigation measures for the Sandlings SPA

LSE pathway	Mitigation measure description	Relevant control document	Securing mechanism
Disturbance (noise, visual and lighting)	3m high noise barrier at the Suffolk construction compound	B23 of the REAC [REP7-359]	dDCO requirement 5
	Noise monitoring adjacent to Sandling SPA and implementation of further mitigation measures if necessary		
	Measures to minimise disturbance from unexploded ordnance (UXO) clearance	GG39 of the oCEMP [REP7-129]	dDCO requirements 6(1)(a) and 6(2)
	Low level lighting	GG21 of the oCEMP [REP7-129]	
	Seasonal restriction for construction compound set-up and demobilisation, outside of nesting season	B27 of the oCEMP [REP7-129]	

RESOLVED MATTERS

4.5.22 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the Sandlings SPA are as follows:

- Loss of FLL:

- There would be a temporary loss of nightjar and woodlark foraging habitat through the removal of acid grassland at the trenchless construction compound and sections of cable trench and haul road. NE [REP1-154], [REP6-242], [REP5-215] (A19, [REP5-222]), EXQ2ECOL11 in [REP5-199], [REP6-242] highlighted several concerns regarding the information presented by the applicant in relation to acid grassland enhancement. The applicant [REP2-034] explained that acid grassland enhancement is not proposed as mitigation for loss of FLL and is not relied upon as justification for the conclusion of no AEoI for the Sandlings SPA; however, any enhancement would have consequential benefits for woodlark and possibly nightjar. The applicant revised the HRA Report [REP7-119] to remove reference to the acid grassland enhancement and provide clarity that a total of 7.5 hectares (ha) of acid grassland would be temporarily lost for six months, being unavailable for a single nesting season. It states that acid grassland is for foraging, not nesting and that there is over 100ha of acid grassland within 2km of the SPA. It concludes that the area that would be affected is therefore less than 5% of the available foraging and nesting habitat. It states that nightjars have broader foraging requirements than woodlark and were not recorded using habitat outside the SPA in surveys, therefore there would be less of an impact on the former than the latter. NE [REP7-269] subsequently agreed there would be no AEoI of the Sandlings SPA from the loss of foraging habitat for woodlark and nightjar within FLL.
    - The applicant updated the oLEMP - Kent [REP7-141] to include recommendations from the RSPB [REP1-158] regarding measures related to soil and topping of crops at the mitigation site.
    - The RSPB raised several concerns regarding the suitability of the FLL, in respect of how it was chosen, how it would function and the potential for disturbance [REP1-158] and regarding appropriate long-term management [REP1-158], ExQ2ECOL30 in [REP5-203]. However, the SoCG with the RSPB [REP7-054] records the mitigation for loss of FLL as an agreed matter.
    - NE [REP6-242] advised that cumulative onshore impacts between the proposed development and LionLink cannot be ruled out on the information available, noting that potential in-combination impacts on FLL had not been assessed. The applicant revised the HRA Report (section 7.2, [REP7-119]) to confirm LionLink would be more than 2km from Sandlings SPA. It concludes that there is no potential for in-combination effects on the SPA. NE did not comment on this matter at DL7, however as noted above, it agreed [REP7-269] there would be no AEoI of the Sandlings SPA from loss of foraging habitat for woodlark and nightjar within FLL.

- Disturbance (noise and visual) from onshore works:
    - Responding to the ExA's request for further information on the proposed noise and visual screen at the HDD trenchless compound, the applicant explained in ExQ1ECOL57 [REP3-069] that it would be

3m in height. It updated the REAC (B23, [REP7-359]) to commit to fencing of a minimum height of 3m at the trenchless compound.

- The RSPB [REP6-252] requested larger scale maps of noise contours where they overlap designated sites to aid identification of areas and species which may potentially be impacted by noise (including chronic noise – see below). The SoCG with the RSPB [REP7-054] confirms the matter as resolved further to mapping provided by the applicant (appendix B, [REP6-112]).
- The RSPB [REP1-158], [REP7-054] advised that chronic noise levels could affect densities and distribution of breeding birds and requested average noise levels from the continuous HDD drilling (planned during the breeding season). The applicant [REP2-034] explained that it had agreed a 60dB threshold for significant disturbance with NE and the RSPB, and that this threshold can be applied to L_{Aeq} (chronic noise) or L_{Amax} (peak maximum noise). It explained that L_{Amax} is always 5 to 15dB higher than the LA_{eq}. It confirmed that the 60dB L_{Amax} contour for HDD drilling did not extend into the RSPB North Warren Reserve. It further committed to bird monitoring within the reserve during trenchless compound set up, demobilisation, and drilling (with locations to be agreed with the RSPB) to inform any further mitigation (B23 of the REAC [REP7-359]). The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- The RSPB [REP1-158] noted that the noise modelling assumed a 10dB reduction from standard noise mitigation and that there were no monitoring proposals during construction. The applicant [REP2-034] confirmed that the 10dB reduction in noise levels applied in the applicant in the assessment arises from Annex B of BS 5228-1:2009+A1:2014 ‘Code of practice for noise and vibration control on construction and open sites – Part 1: Noise’. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- The RSPB [REP1-158] sought further detail on locations of noise and visual mitigation screening around the HDD construction compound. The applicant [REP2-034] explained that the precise positioning of plant and equipment had not been determined but would be in the Order Limits between the HDD compound and the SPA. Therefore, as a WCS the Order Limits around the HDD compound can be taken to be the fence location. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- The RSPB [REP1-158] sought confirmation of the transition joint bay (TJB) location. The applicant [REP2-034] confirmed it would be outside designated sites and that a WCS noise assessment of impacts on designated sites had been presented. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- The RSPB [REP1-158], [REP7-054] sought mapping of areas affected by visual disturbance from people and mobile infrastructure. The applicant [REP2-034], [REP7-054] did not consider mapping necessary given the existing treeline and the former railway embankment separating the Sandlings SPA from the HDD compound, as well as the commitment to visually screen the works. As noted

above, the applicant also revised the REAC (B23, [REP7-359]) committing to bird monitoring within the RSPB North Warren Reserve. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.

- In-combination effects:
    - NE [REP1-154] considered the HRA lacked detail on in-combination impacts with the approved application for the extension of Aldringham Golf Course. The applicant [REP2-034] confirmed these works had already been implemented.

UNRESOLVED MATTERS

Baseline

4.5.23 SEAS [RR-5210], [REP4-154], [REP6-256F] noted that the applicant had acknowledged limitations of its breeding bird surveys. Whilst not specifically referring to the HRA, SEAS considered the woodlark surveys were inadequate to inform a proper assessment as a large proportion of cable route was not surveyed. It also considered that the applicant's survey effort to determine the foraging areas of nightjars from the Sandlings SPA was not adequate as there had not been any use of automated acoustic detectors. It noted that nightjar routinely forage over the draft Order Limits and considered [REP6-256F] that nightjar surveys were insufficient.

4.5.24 The applicant did not respond to the suggestion of the use of automated acoustic detectors. However, it was confident it had good survey coverage and noted that NE did not raise any concerns in its relevant representation (tables 2.31 and 2.5.2, [REP1A-043]).

4.5.25 The ExA asked NE for any observations on the concerns raised by SEAS in the RIES [PD-022]. NE's response in RIESQ19, [REP6-251] did not respond directly to the question, noting that its comments relate to impacts of the project on the Sandlings SPA itself and impacts to FLL.

Disturbance (noise and visual) from onshore works

Light spill

4.5.26 NE [REP1-154], [REP5-215], RIESQ22 in [REP6-250] acknowledged that an assessment of construction lighting from the Suffolk HDD compound was provided in Suffolk Chapter 2, Ecology and Biodiversity [REP7-093] but did not consider it to be robust. It requested more evidence to demonstrate the mitigation would be sufficient.

4.5.27 The applicant updated the HRA Report (paragraph 7.2.18 to 7.2.20, [REP7-119]) with further details of lighting disturbance on the SPA and FLL and details of the mitigation measures. This confirms that the lighting plans for the compound (appendix C, [REP6-112]) show the 1 lux contour (equivalent to the illumination experienced at 1m from a candle) does not approach the Sandlings SPA. The applicant [REP7-173] could not agree to NE determining

lighting at the HDD compound as lighting requirements must be driven be engineering considerations.

4.5.28 The RSPB [REP1-158], [REP4-142], [REP6-252] agreed the proposed 3m fencing at the HDD compound would reduce noise and light spill and visual disturbance more generally, however, sought further information regarding visual disturbance from work at height, including clarity of any lighting that may be visible from the Sandlings SPA. The applicant [REP2-034], [REP7-054] explained that the use of cranes for the HDD landfall would typically be for up to a total of 8 days. It noted that equipment that could be visible above site fencing or screening would normally be the top of the HDD rig, the recycling system and excavator boom. Lighting on the booms would be directed at the working area in front of the excavator. Illumination above the height of the 3m barrier (B23, [REP7-359]) would be controlled through cowling and other appropriate measures in the oCEMP (B38 and GG21, [REP7-129]). Lighting would be monitored and modified if required by the Ecological Clerk of Works (ECoW). However, the matter is marked as not agreed in the RSPB SoCG [REP7-054], although the RSPB stated it would welcome consultation with the ECoW regarding additional controls.

4.5.29 At the close of examination, NE did not explicitly confirm if it considered there to be an AEoI from lighting. It did not comment specifically on the lighting plan or the applicant's revised assessment at DL7 [REP7-269], [REP7-277], however it did note that the REAC (B23, [REP7-359]) specifically cites noise mitigation. NE advised that lighting be referenced to provide clarity regarding the impact pathway and that correct monitoring is adopted. It recommended that an additional commitment be included in the REAC relating to compound lighting and the need to increase the HDD compound barrier height in response to any lit machinery or structures above 3m. It requested a commitment to monitoring of lighting impacts.

4.5.30 The ExA notes that the HRA Report (paragraph 7.2.19, [REP7-119]) states that specific shields and additional barriers could be added to control lux levels and to block visibility of any light fixtures from within the RSPB North Warren Reserve. The ECoW would determine whether specific shields or additional barriers are required to control lux levels and block visibility of fixtures at any designated ecological sites.

UXO clearance

4.5.31 The RSPB [REP1-158] highlighted the potential for UXO to be present and that its removal could result in disturbance to birds within the Sandlings SPA and damage to supporting habitats and noted that only limited references were made to this risk.

4.5.32 The applicant (AP16, [REP4-087]) confirmed that UXO removal would not be required within the SPA as the drill depth within the Sandlings SPA would be below the maximum bomb penetration depth. However, it acknowledged (table 2.1, [REP4-085]) that an UXO survey would still be required at the HDD launch pit and along the route of the trenchless installation in the RSPB

North Warren Reserve to ensure all possible UXO close to the trenchless drill are identified. Surveys would be non-invasive and likely undertaken by drone. They would be subject to Site of Special Scientific Interest (SSSI) assent from NE and agreement with the RSPB as the landowner. It explained in response to ExQ1GH1 [REP3-069] that options for disposal would be risk assessed at the time of identifying UXO and any consents or permits (including HRA) would be produced at that time and [REP4-087] confirmed that relevant statutory bodies would be consulted on the approach to removal should a UXO be found. This is reflected in the revised HRA Report [REP7-119], which notes that there is no recorded ordnance or evidence of bombs being dropped at the trenchless drill site.

4.5.33 Furthermore, the applicant updated commitment GG39 of the oCEMP [REP7-129] to confirm that mitigation measures would be implemented in accordance with the recommendations in the terrestrial UXO risk assessment (appendix A of the oCEMP). GG39 also commits to the applicant consulting with NE and the RSPB where it has influence over the control of any explosions.

4.5.34 The RSPB [REP4-142] was concerned about deferral of assessment until after the consenting process is complete. The matter is marked as not agreed in the RSPB SoCG [REP7-054]. Whilst the RSPB welcomed GG39, it stated that not all issues were resolved and anticipated continued discussion with the applicant should the proposed development be consented.

4.5.35 NE responding to ExQ2ECOL5 in [REP5-199] noted that the Ministry of Defence's policy is to detonate terrestrial UXO in situ but would welcome opportunities to avoid this, or otherwise to be consulted on how impacts would be reduced and habitats made good.

4.5.36 The HRA Report (paragraph 7.2.22, [REP7-119]) states that the non-invasive surveys would be undertaken at a period agreed with NE and the RSPB, where significant disturbance would not arise; this has not been committed to by the applicant but a separate SSSI assent would be required as described at paragraph 4.5.32. At the close of examination, NE [REP7-269] advised there should be an appropriately worded commitment in the REAC to undertaking UXO investigations outside core wintering and breeding bird seasons; this would ensure any required detonation would be undertaken in the least disturbing period of the year. NE did not explicitly confirm if it considered there to be an AEoI from UXO surveys and clearance.

In-combination effects

4.5.37 The HRA Report [APP-290] concluded that disturbance of the Sandlings SPA would only arise if multiple projects were to cause noise levels exceeding the 60dB threshold during the nightjar and woodlark nesting season. However, it considered space constraints would not allow for works for projects close to the SPA to take place simultaneously.

4.5.38 The RSPB [REP1-158] considered the applicant's approach did not account for impacts of multiple projects disturbing multiple areas of the SPA. The

applicant responded [REP2-034] that as it was reducing its impact to 'not-disturbing' (ie less than the 60dB L_{Amax} threshold agreed with NE), any in-combination effect would remain not significant.

4.5.39 The matter is marked as not agreed in the RSPB SoCG [REP7-054].

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE SANDLINGS SPA

4.5.40 Whilst the ExA acknowledges the concerns of SEAS about the baseline survey data for woodlark and nightjar, it is content with the applicant's position that there is good survey coverage, noting that NE as the ANCB did not raise any concerns in its relevant representation. The ExA is satisfied that the baseline information is sufficient for the purposes of the assessment.

4.5.41 The ExA considers that there would be a short-term loss for a single nesting season of acid grassland that is FLL used for foraging woodlark and nightjar qualifying features. However, the ExA is satisfied with the applicant's proposed mitigation measures and has not been presented with evidence to suggest that the affected acid grassland would not reinstate. It also notes that there is other foraging land in the local area. The ExA notes that NE as ANCB has advised that there would be no AEoI from loss of FLL. The ExA is satisfied that there would be no AEoI from this LSE pathway.

4.5.42 Based on the mitigation measures secured for noise and visual disturbance in the oCEMP and REAC as described above, the ExA is satisfied that these matters would be adequately controlled. The ExA has considered NE's comments regarding the control of lighting for plant and equipment that exceeds 3m but in light of the short duration of such activity, considers that this would not give rise to an AEoI of the Sandlings SPA.

4.5.43 The ExA notes that there would be a separate consenting process for SSSI assent in relation to UXO investigation and then clearance if required, and that NE and the RSPB as landowner would be consulted. Whilst it is not secured in the oCEMP, the SSSI assent process would provide a mechanism for the timing of the investigation to be specified so that it avoids core wintering and breeding bird seasons.

4.5.44 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information, and the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the Sandlings SPA from the proposed development alone or in-combination with other plans or projects.

STODMARSH SPA AND RAMSAR SITE

4.5.45 The HRA Report [REP7-119] assesses the following LSE pathway for all qualifying features of the Stodmarsh SPA and for bird species of the Stodmarsh Ramsar site:

- collision risk (paragraphs 7.4.30 to 7.4.34)

RESOLVED MATTERS

4.5.46 No matters in respect of the assessment of effects on integrity on the Stodmarsh SPA and Ramsar site were raised and subsequently resolved during the examination.

4.5.47 At DL7, NE [REP7-277] confirmed it agreed with the applicant's conclusions of no AEoI of the sites.

UNRESOLVED MATTERS

Collision risk (also applicable to the TCSB SPA and Ramsar site, see below)

4.5.48 NE (B36, [RR-3920]) confirmed that the applicant had provided sufficient information to conclude no AEoI of the Stodmarsh SPA and Ramsar site and the TCSB SPA and Ramsar site from bird collision risk. However, the RSPB [REP1-158] and RSPB Thanet [REP1A-061] considered collision and displacement risk for pylons across the River Stour had been underestimated and queried whether the survey effort was adequate to inform the collision risk assessment.

4.5.49 The applicant [REP3-067] considered its survey effort to be sufficient and proportionate for the new overhead powerline. Responding to the ExQ1ECOL, the applicant considered [REP3-069] that its assessment had broad criteria and assumptions which provided an exaggerated WCS and that the 6m vertical LoD for the proposed pylons would not materially change the assessment. It noted [REP4-086] ExQ2ECOL49 in [REP5-135] that earth wires are responsible for a higher rate of collisions than other parts of the overhead line infrastructure and that applying the 6m LoD, the earth wire would only be outside survey height risk range immediately either side of the pylon. It stated that birds would visually detect the pylon and avoid the large structure and airspace around them.

4.5.50 The applicant [REP4-085], ExQ1ECOL10 in [REP4-083] noted that birds currently interact with an existing wirescape across the River Stour. It stated that collision risk is fewer than one individual annually for most species and concluded no mitigation is required, as no significant effects are predicted. However, it confirmed that bird diverters would be fitted to the new section of overhead line. In response to a suggestion in ExQ3ECOL8 [PD-023], the applicant updated the oCEMP (B55, [REP7-129]) to state that bird diverters would be visible in low light conditions and at night.

4.5.51 NE responding to ExQ1ECOL10 [REP4-196] and ExQ2ECOL50 [REP5-199] confirmed that it did not consider there to be any need for additional diverters to be fitted to other lines in the area for the purposes of HRA. However, KWT [REP3-092], CPRE Kent responding to ExQ1ECOL10 [REP3-082] and the RSPB [REP5-092], [REP7-054] considered that bird diverters should be fitted to both existing and new wires.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE STODMARSH SPA AND RAMSAR SITE

4.5.52 The ExA has considered the potential for collisions in section 3.14 ecology, biodiversity and ornithology of this recommendation report. The ExA is satisfied that the applicant has committed to provision of diverters on proposed lines that are suitable for low light and night conditions.

4.5.53 The ExA has considered IPs representations regarding the need for bird diverters on existing lines and has not received compelling evidence to support their usage and NE has advised that this measure is not necessary from an HRA perspective. The ExA is therefore satisfied that from an HRA perspective this measure is not necessary.

4.5.54 The ExA agrees that in light of the low predicted collision rates, there would be no AEoI of the Stodmarsh SPA and Ramsar site and the TCSB SPA and Ramsar site from collision risk.

4.5.55 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information and the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the European sites from the proposed development alone or in-combination with other plans or projects.

TCSB SPA AND RAMSAR SITE

4.5.56 The HRA Report [REP7-119] assessed the following LSE pathways for all features of the TCSB SPA and Ramsar site unless specified below:

- changes to marine water quality during cable installation and cable lay from the use of drilling fluids (paragraphs 7.3.9 to 7.3.12 and 7.3.93)
- airborne sounds and visual disturbance from offshore works (7.3.46 to 7.3.52 and 7.3.93)
- indirect effects through impacts to prey species (paragraphs 7.3.66 to 7.3.80 and 7.3.93) (construction phase)
- direct habitat loss (paragraphs 7.4.1 to 7.4.5 and 7.4.35)
- disturbance (noise and visual) from onshore works (paragraph 7.4.6 to 7.4.10 and 7.4.35) for all SPA qualifying features and criterion 6 of the Ramsar site
- pollution (terrestrial changes in water quality from frac out) (paragraphs 7.4.11 to 7.4.14 and 7.4.35)
- loss of FLL (paragraphs 7.4.15 to 7.4.29) for golden plover of the SPA and Ramsar site
- collision risk (paragraphs 7.4.30 to 7.4.34) for all SPA qualifying features and criterion 6 of the Ramsar site

4.5.57 As detailed in section B.2.2 above, the ExA considers there to be a LSE to all qualifying features of the TCSB SPA and Ramsar site from:

- indirect effects through impacts to prey species during operation
- pollution (terrestrial – changes in water quality) due to the use of the hoverport site at the Kent landfall and discharge from the Minster converter station and substation outfalls

MITIGATION MEASURES

4.5.58 Site specific mitigation measures for the TCSB SPA and Ramsar site are detailed in tables B.7 and B.8.

Table B.7 Mitigation measures for the TCSB SPA and Ramsar site within the oCEMP [REP7-129] and oOCEMP [REP7-127] (secured through dDCO requirements 6(1)(a) and 6(2) and dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO)

LSE pathway	Mitigation measure	Commitment number(s)	Additional securing mechanism
Changes to marine water quality (drilling fluids)	Use of drilling fluids from the OSPAR list of PLONOR substances	LVS05	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO) dDML Condition 4(1)(k)(iii) in schedule 16 of the dDCO
Disturbance (noise, visual and lighting)	Use of hovercraft for emergencies only	GG45	n/a
Pollution (terrestrial changes in water quality from frac out)	Measures to minimise frac-out	B09	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO)
	Production of a HDD LMS	B59	dDML condition 4(1)(a)(x) in schedule 16 of the dDCO
	Use of low-pressure hand pumps to manage frac-out	B61	n/a
	Production of a DFMP	GH10 and B59	oCSIP (secured through dDML conditions 4(1)(a)

LSE pathway	Mitigation measure	Commitment number(s)	Additional securing mechanism
			and 4(1)(4) in schedule 16 of the dDCO)
	Management of drilling fluid	LVS05	oCSIP (secured through dDML conditions 4(1)(a) and 4(1)(4) in schedule 16 of the dDCO)
Pollution (terrestrial – changes in water quality) - from the use of the hoverport	Monitoring of the hoverport condition during construction in consultation with the EA, NE, KWT and TDC for approval by TDC	W37	n/a
Indirect effects through impacts to prey species	No excavation would be undertaken to remove stuck drilling equipment except within 40m of the entry or exit point, where the drill is at shallow depth (>5 m), and outside any areas of saltmarsh	B43	n/a
	No vehicular or pedestrian access across the saltmarsh Access to mudflats via hoverport Use of low pressure vehicles	B67	n/a
	Access routes across mudflats to be defined post-consent in consultation with NE, KWT and the NT and to be informed by a pre-construction saltmarsh habitat survey.	B67	oCSIP (secured through dDML conditions 4(1)(a) and 4(4) in schedule 16 of the dDCO)

LSE pathway	Mitigation measure	Commitment number(s)	Additional securing mechanism
	Trenchless crossing exit pits in Pegwell Bay will be at least 105m seaward from the edge of the saltmarsh. The temporary working area and access routes will be located at a minimum distance of 50m from the edge of the saltmarsh	B69	dDCO requirement 16(2) and (3) oCSIP (secured through dDML conditions 4(1)(a) and 4(4) in schedule 16 of the dDCO)
	A target depth of lowering (DoL) of 1.5m seaward of the marine HDD exit	MPE02	n/a
	Further analysis of coastal erosion over the lifetime of the project to inform detailed design	MPE08	n/a
	Monitoring of the River Stour Channel for the operational life of the proposed development	MPE09	dDCO requirement 18(2)
	Natural and, if required, mechanical backfill within the intertidal mudflat following removal of the cofferdams	MPE10	n/a
Direct habitat loss	No excavation would be undertaken to remove stuck drilling equipment except within 40m of the entry or exit point, where the drill is at shallow depth (>5 m), and outside any areas of saltmarsh	B43	n/a

Table B.8 Mitigation measures for the TCSB SPA and Ramsar site not within the oCEMP or oOCEMP

LSE pathway	Mitigation measure description	Relevant control document	Securing mechanism
Habitat loss	HDD installation at the Kent landfall	n/a	dDCO requirement 16(1) and dDML condition 10(1) in schedule 16 of the dDCO
Loss of FLL	Long-term management of 10ha of arable land adjacent to Discovery Business Park	oLEMP- Kent [REP7-141]	dDCO requirements 6(1)(g) and 6(3)
Pollution (terrestrial changes in water quality from frac out)	Intertidal works methodology and mitigation plan for Pegwell Bay	n/a	dDML condition 4(1)(a)(iv) in schedule 16 of the dDCO
Pollution (terrestrial – changes in water quality) - from the use of the hoverport	Pre-construction survey of hoverport hardstanding	oCTMP - Kent [REP7-123]	dDCO requirement 6(1)(c)
	Pre-construction report detailing hoverport condition survey results, proposals for vehicle routing and hoverport condition monitoring programme with trigger levels for action	n/a	dDCO requirement 22

RESOLVED MATTERS

4.5.59 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the TCSB SPA and Ramsar site are as follows:

- Direct habitat loss:
    - KWT [REP6-169] raised concerns about the potential for open-cut trenching methods to be used for maintenance or emergency repairs during operation. The applicant [REP6-108], [REP6-110] confirmed that, with the exception of the temporary entry and exit pits, no surface excavation works would be required above the trenchless landfall alignment during either the installation or operational phases (including emergency repair) of the project, and no rights are being sought in this regard. It noted that the design includes a spare duct to provide resilience should any issue arise. Following a recommended change from the ExA [PD-024], the applicant updated dDCO requirement 16(7) and dDML condition 10 in schedule 16 of the dDCO [REP7-002] to confirm that no open-cut trenching would be permitted for repair and maintenance between the TJB and exit pits unless otherwise agreed with the relevant planning authority in consultation with the SNCB. This was supported by KWT [REP7-310].
    - NE (B1 and B28, [RR-3920]), the RSPB [REP1-158] and ESC [REP1-128], queried the impacts of retrieving stuck HDD drilling equipment. The applicant updated the HRA Report (paragraph 7.4.4, [REP7-119]) confirming that it would be freed by additional tooling and works at the entry or exit or would be left in situ. It updated the oCEMP (B43, [REP7-129]) and oOCEMP (B43, [REP7-127]) to confirm that no excavation would be undertaken to remove stuck drilling equipment except within 40m of the entry or exit point, where the drill is at shallow depth (>5 m), and outside any areas of saltmarsh. NE (B1 and B28, [REP3A-025]) (tab B, point 4 [REP7-364]) confirmed it was satisfied with the applicant's response and the SoCG with the RSPB [REP7-054] confirmed the matter agreed.

- Disturbance (noise and visual) from onshore works:
    - At ISH2, the ExA queried the implications of moving the cable works to their southern extent within the LoD [EV6-033]. The applicant (AP21, [REP4-086]) confirmed that the assessment of disturbance to roosting and feeding waterbirds considers a WCS of the cable pull in works occurring anywhere within the LoD (shown as hashed area on figure 6.4.4.5.8 of [REP5-032]), with the modelled noise attenuation taken from the perimeter of the LoD.
    - To inform its understanding of disturbance impacts, the ExA in ExQ2MO6 [PD-021] requested a plan of key roost locations in Pegwell Bay. This was provided by the applicant in [REP5-032].
    - NE [REP3A-028] noted that no consideration had been given to disturbance to SPA birds from vehicle movements within the intertidal area. The applicant's response to ExQ2ECOL28 [REP5-135]

confirmed that vehicle movements, including noise generated, are considered as part of the airborne sounds and visual disturbance assessment in the HRA Report [REP7-119]. It provided noise contours in figures 6.4.4.5.7 and 6.4.4.5.8 [REP5-032] depicting predicted maximum noise levels along an illustrative access route corridor. NE's submissions (ExQ2MO5, [REP5-199]), [REP7-364], [REP7-273] highlight concerns of disturbance of intertidal mudflats and sandflat, but do not raise any further concerns due to airborne noise and disturbance. The LSE pathway is not identified as a remaining concern in NE's response to ExQ2PE4 [REP5-199].

- Pollution (terrestrial changes in water quality from frac out):
    - The applicant updated the proposed methods for managing frac-out in saltmarsh vegetation in response to NE's concerns (B29, [RR-3920]), to include use of handheld pumps operated at low pressure in the oCEMP (B61, [REP7-129]) and oOCEMP (B61, [REP7-127]). NE confirmed the matter resolved (RI_J6, [REP7-364]).
- Loss of FLL:
    - NE (B19, [RR-3920]) considered the loss of FLL used by golden plover should be a construction phase impact, and not operational as assessed by the applicant. Nevertheless, NE did not consider a change to the HRA Report essential to the outcome of the assessment as the impact had been considered and satisfactorily mitigated [REP3-117].
    - KWT [RR-2980] and the RSPB [REP1-158] noted discrepancies in golden plover numbers in the preliminary environmental information report (PEIR) (700) and the HRA Report [REP7-119] (370) and were concerned that habitat compensation needs were underestimated. The applicant [REP2-014] explained that surveys had recorded a flock of 370 golden plover and 700 lapwings, however this was mis-transcribed in the PEIR as 700 golden plovers. It noted that the size of the mitigation land (10ha) is greater than the area of land needed for mitigation (up to 7.2ha). It anticipated a net increase in habitat for most ecological receptors and considered there to be a high likelihood of success. The SoCG with the RSPB [REP7-054] records the matter as agreed and KWT [REP7-265] referred to a peak population count of approximately 370 individuals at DL7.
- Indirect effects through impacts to prey species (operational phase):
    - NE [REP5-217] requested monitoring of the cable route through Pegwell Bay over the project lifetime. This was agreed to by the applicant and secured in the oOCEMP (MPE09, [REP7-127]).
    - Responding to NE's concerns [REP5-218] about risk of habitat change or loss due to disposal of excavated material from HDD exit pits elsewhere within the Order Limits, the applicant added MPE10 as a commitment to the oOCEMP [REP7-127] to confirm that natural (and if required, mechanical) backfilling would occur on removal of the cofferdam.

UNRESOLVED MATTERS

Airborne sounds and visual disturbance from offshore works

Cable installation

4.5.60 KWT [REP6-169] acknowledged provisions in place to limit construction noise at the converter station and substation to 60dB LA_{max}. However, it considered that the predicted noise levels of 75dB LA_{max} during cable installation had potential to disturb breeding and wintering birds. It did not believe that this noise impact had been adequately addressed. The applicant [REP7-257] considered it had modelled and fully assessed all potential noise impacts.

Noise from construction traffic crossing the hoverport

4.5.61 The ExA noted that the noise modelling assumed all ground is soft except for areas of water and intertidal areas at low water and queried the applicant's approach for modelling the former hoverport in ExQ1NV16 [PD-017]. The applicant [REP3-069] confirmed the former hoverport had been modelled as soft ground and that this was proportionate due to the size of the area modelled, and that a small area of hard ground such as the hoverport would likely have negligible influence on modelling results. The ExA questioned whether this could have implications for traffic noise at ISH3 [EV9-008], [EV9-012]. KWT [REP6-169] shared the ExA's concerns, noting the hoverport is surfaced with tarmac.

4.5.62 The applicant submitted Hoverport Construction Access Noise Modelling – Technical Note [REP6-123], which modelled the ground as hard ground. However, the note confirms that it relates to impacts on residential receptors. It refers to figures 7 and 8 of ES Figures Marine Ornithology [REP5-032] for maximum noise levels from construction activities in relation to their impact on ecological receptors and predicted maximum sound levels.

Disturbance from hovercrafts

4.5.63 NE [REP3A-028] queried the need for hovercrafts proposed in the PBCMTN [REP7-147], given they are particularly disturbing to SPA birds and noting that hovercraft use is heavily controlled in other SPAs. The applicant [REP4-241] confirmed that the hovercraft would be on standby, used as a last resort for emergencies and made updates to the oCEMP (GG45, [REP7-129]) and oOCEMP (GG45, [REP7-127]) to reflect this.

4.5.64 However, at DL7, NE [REP7-274] remained concerned about the risk of disturbance. It considered there to be insufficient information on timings, extent and duration of works as well as phase of the emergency works (ie construction, operation or maintenance). It requested this information before it could provide further advice on the impacts.

Lighting of cofferdam in the intertidal area

4.5.65 NE [REP3A-028] noted that lighting of the cofferdam in the intertidal area was proposed. It requested further assessment of disturbance impacts to Annex I birds.

4.5.66 The applicant [REP4-241] responded that lighting would be required for a maximum of 28 days during construction of the cofferdams and would be directed inwards to the 21,600m^2 working area, with no impacts to birds in the intertidal area and no light spill to terrestrial habitats. The applicant further explained [REP7-173] that the area at the cofferdam has been treated in the assessment as a temporary loss of habitat, therefore birds would not be using the area so there would be no additional impact pathway from lighting of the cofferdam.

4.5.67 NE in RIESQ28 [REP6-251] stated that 21,600m^2 was a considerable area and could not exclude disturbance impacts to SPA birds. It noted that intertidal works at other SPAs have been undertaken outside of the sensitive period to avoid the issue. At DL7, NE [REP7-277] considered it unclear if cofferdam construction would occur in the hours of darkness, but it was likely to be the case. It advised that, due to the stage in the examination, a REAC commitment should be made to the provision and sign off of a lighting management plan to Tendring District Council and the MMO, in consultation with the relevant SNCB. The ExA notes that NE referred to Tendring District Council in its submission but believes it should have referred to TDC as the relevant planning authority.

ExA conclusion on airborne sounds and visual disturbance

4.5.68 The ExA has considered the applicant's assessment of disturbance due to noise from cable laying and vehicle movements. The ExA considers that some disturbance from cable laying and vehicles tracking across the intertidal area is inevitable, however considers that the applicant's noise assessment demonstrates that significant disturbance due to noise can be ruled out. The ExA considers that an AEoI of the TCSB SPA and Ramsar sites from airborne noise disturbance can be ruled out. This is due to the temporary and short term nature of effects, the scale of the works relative to the overall size of intertidal habitats available, and the need to agree working methods and mitigation with the SNCBs through the LMS and intertidal works methodology and mitigation plan secured by schedule 16, condition 4 of the rDCO.

4.5.69 The ExA notes that the applicant's indicative programme avoids the sensitive winter period. The ExA considers that commitment B59 to produce an LMS and the requirement to obtain approval for an intertidal methodology and mitigation plan in consultation with the SNCB would ensure that works during the sensitive wintering period would be avoided. The ExA recommends that Secretary of State requests that REAC commitment B59 is updated to include the following wording relating to the Kent landfall "**The landfall method statement shall ensure that works in Pegwell Bay are programmed to avoid the wintering period (November to February)**".

4.5.70 The ExA has considered the implications of hovercraft usage and considers that anything other than emergency usage would have potential to give rise to an AEoI of the designated sites due to noise and visual disturbance, in the absence of any assessment to the contrary. However, on the basis that commitment GG45 of the REAC [REP7-359], commits the applicant to using hovercraft for emergencies only, the ExA considers that AEoI can be ruled out. The ExA has separately recommended in section 3.14 of this recommendation report that the Secretary of State requests the applicant to update GG45 of the REAC [REP7-359], oCEMP [REP7-129] and oOCEMP [REP7-127] to strengthen this commitment by defining emergency use and providing for reporting on all instances of hovercraft use to NE and TDC and applying the commitment across all project phases.

4.5.71 The ExA considers that cofferdam lighting has potential to give rise to visual disturbance but accepts the applicant's argument that the lighting will be largely confined to the cofferdam area, which is a small area of overall foraging habitat within Pegwell Bay. In any case, the cofferdam area would be temporarily unavailable for foraging. The ExA notes NE's comments regarding the need for a lighting management plan but considers that this is a matter that can be addressed as part of the approval for an intertidal works methodology and mitigation plan for Pegwell Bay to be approved by the MMO as part of the detailed CSIP secured in dDML Condition 4(1)(a)(iv) in schedule 16 of the dDCO. This would be used to finalise the methods for works in the intertidal area in consultation with the SNCB and does not therefore need to be secured separately.

4.5.72 Overall, the ExA considers that an AEoI of the TCSB SPA and Ramsar sites can be ruled out from airborne sounds and visual disturbance.

Indirect effects through impacts to prey species (construction phase)

Impacts on supporting habitats from vehicle movements

4.5.73 The PBCMTN [REP7-146] states there may up to 40 vehicle movements across the mudflats per day at peak times (over an approximate one-year duration). It identifies access onto the intertidal mudflats via the disused hoverport, with the final location and width to be determined post-consent. It explains that there may be a requirement to install temporary road plates (steel sheet piles and steel support waling and struts) or protective trackway at locations where the former hoverport access corridor crosses the Nemo and Thanet cables.

4.5.74 NE [REP3A-028] noted that there was no consideration of how vehicle movements for cable installation and operation activities could impact on intertidal habitats and protected species which rely on the habitat. It considered [REP3A-028] that repeated access along the intertidal area could cause rutting and compaction of sediment that could hinder the transition to Annex I saltmarsh and change infaunal communities of which SPA species rely. It queried the necessity of some equipment including tractors and hovercraft, and the number of 4-wheel drive vehicles required and advised

that further measures should be considered to reduce impacts on intertidal habitats and sediment compaction.

4.5.75 KWT and CPRE Kent [CR1-053] were concerned that it was unclear how modification to the hoverport access would avoid damage to the saltmarsh.

4.5.76 The applicant [REP4-241] stated that it had assessed effects of vehicles transiting the intertidal area and the use of temporary bog mats in Marine Chapter 1, Physical Environment [REP7-097] and Marine Chapter 2, Benthic Ecology [REP7-099], which concluded no significant impact. It noted in responding to ExQ2MO5 [REP5-135] that bog matting would likely only be required in specific areas such as the crossing of the Thanet and Nemo cables and that Pegwell Bay represents 0.592% of the overall intertidal mudflat foraging resource based on 12.1825km^2 of mudflat habitat identified on the Ramsar site information sheet. It concluded that in the context of the wider intertidal mudflats, this extent of bog matting is unlikely they would contribute to a significant reduction in prey availability of foraging habitat.

4.5.77 The applicant [REP5-132] noted that the extension to the order limits in CR1 would provide more flexibility for construction access to avoid potential impacts on the saltmarsh. It updated the oCSIP [REP7-159], the oCEMP (B67, [REP7-129]), and oOCEMP (B67, [REP7-127]) to commit to defining the locations and widths of access routes across the mudflats post consent in consultation with NE, KWT and the NT as appropriate, and for this to be informed by a pre-construction saltmarsh habitat survey. B67 notes that this would ensure there would be no vehicular or pedestrian access across the saltmarsh. KWT [REP6-248] noted that the applicant's plans presented at ISH3 illustrated access routes across the hoverport and intertidal mudflats and raised concerns that they had therefore been pre-determined in advance of the consultation requirements.

4.5.78 The applicant explained [REP4-241] that 4-wheel drive vehicles are not expected to be frequently used and can be run with reduced tyre pressure if required. It committed to low-pressure vehicles in commitment B67. The applicant revised the HRA Report [REP7-119] to state that disturbance to the mudflat from construction plant and vehicles would be very superficial, and is expected to be visible for a very short period only, likely to be a single tidal cycle, or a few at worst. It concludes that there would be only short-term and localised impact to benthic infaunal communities, plus the very limited extent of disturbance compared to the total area of mudflat habitat at Pegwell Bay available for foraging.

4.5.79 However, NE [REP5-217] (appendix J, [REP5-222]), [REP7-273] remained concerned about movement of heavy construction plant and vehicles impacting intertidal mud and sand flats. It noted that evidence from cable installation in The Wash and at Hornsea 1 and 2 landfalls has demonstrated sediment compaction even with the use of low ground pressure excavators, resulting in limited recovery of habitats. It advised that strong commitments be made to only use low ground pressure vehicles (less than a human footprint), to limit the number of return trips per vehicle, to the use of

aluminium trackway to spread the load and reduce the speed of vehicles are required to resolve this issue.

4.5.80 NE [REP7-273] advised that monitoring of recovery of the intertidal mudflats morphology and biological communities following landfall construction works is required to validate the predictions made by the applicant. It stated that this issue could be considered resolved if appropriate monitoring is secured through an in-principle monitoring plan (IPMP).

4.5.81 The applicant submitted an Outline IPMP (oIPMP), which was updated at DL7 [REP7-167]. The oIPMP included commitments to monitoring of benthic and intertidal ecology, including pre- and post-construction surveys of the cable corridor but did not refer to impacts from vehicle movements or recoverability of the mudflats as requested by NE. A final IPMP in accordance with the oIPMP would be secured through dDML condition 15(4) in schedule 16 of the dDCO. Condition 15(5) requires submission and approval by the MMO in consultation with the SNCB of an adaptive management plan where post-construction monitoring identifies impacts that are worse than those predicted in the HRA. NE [REP7-364] recorded this matter as partially resolved.

Impacts on supporting habitats – saltmarsh

4.5.82 Open cut trenching would be required to install the cables from mean low water springs to the trenchless crossing exit pits. As detailed in table B.7, the applicant committed to locating the trenchless crossing exit pits at least 105m seaward of saltmarsh habitat, and the temporary working area a minimum of 50m from the saltmarsh (B69). In response to NE's concerns that 50m was insufficient [REP3A-028], [REP4-195], ExQ1ECOL34 in [REP4-196], the applicant stated (AP83, [REP6-110]) that the more disturbing works in relation to the cofferdam and exit pits would be over 90m from the saltmarsh edge and in response to ExQ2MO5 [REP6-106], [REP7-259] that there would be no open trenching through the saltmarsh habitat.

4.5.83 The applicant submitted a Pegwell Bay Saltmarsh Limits Topographic Survey [REP6-119]. NE [REP7-272] noted that the saltmarsh edge is near, or potentially overlapping with, the Pegwell HDD and exit areas, and this would affect the commitments made in B69. It highlighted concerns that there may be impacts on the prograding saltmarsh during construction, or later phases of the proposed development, if the setback distance or buffer is not sufficient. It advised that the latest saltmarsh limit topographic survey information should be used to establish a buffer between the seaward edge of the saltmarsh and the HDD exit pits and temporary working area. The applicant was unable to comment further prior to close of examination.

Impacts on supporting habitats – intertidal habitat disturbance

4.5.84 NE [REP3-118] queried the total intertidal seabed disturbance footprint from cable installation and sought further information on construction activities to inform assessment of seabed disturbance. The applicant provided information on the construction and operation activities at Pegwell Bay in the PBCMTN [REP7-146], and amendments were made to the HRA Report

[REP7-119] confirming the total intertidal seabed disturbance footprint for cable installation activities would be 0.0721km^2. However, NE [REP6-244] advised that some landfall construction activities were not included, and that clarification was needed about sequential or overlapping cable installation activities. The applicant [REP7-257] responded that it had revisited Marine Chapter 1, Physical Environment [REP7-097] and Marine Chapter 2, Benthic Ecology [REP7-099] further to discussions with NE. NE was unable to confirm their concern had been addressed as the examination closed and the matter is marked as not resolved in the risks and issues log (tab D, point 20, [REP7-364]).

4.5.85 NE [REP6-245] also noted the addition of the use of a backhoe dredger for cable lay and burial activities in the oCSIP [REP7-159]. It was not supportive of their use within intertidal supporting habitats for SPAs due to leg depressions from jack-up legs. It advised that this matter would be resolved if the applicant committed to a barge bottoming out in the intertidal area. However, the applicant [REP7-257] explained that the jack-up barge to be used at Pegwell Bay would be significantly smaller than those used in the offshore environment and would be in place for a maximum of 120 days; therefore, disturbance would be short-term with depressions backfilled by excavators. NE was unable to comment specifically on this matter prior to close of examination, however NE provided its draft standard advice which advises not using jack-up barge within designated sites (annex A, [REP7-277]).

Impacts on supporting habitats from intertidal sediment disturbance and blockages due to cofferdam and use of jack-up barges

4.5.86 NE [REP4-191], ExQ2PE4 in [REP5-199] highlighted the potential for the proposed temporary cofferdam to result in intertidal sediment disturbance and blockages, which could have an indirect effect on the TCSB SPA and Ramsar site features.

4.5.87 The applicant provided Additional Sediment Dispersion Modelling – Technical Note [REP6-120] to assess changes in tidal flow conditions around the cofferdam. The applicant concludes that the temporary cofferdam would not result in any meaningful change to sediment dynamics in Marine Chapter 2, Benthic Ecology [REP7-099]. It noted (table 15.2, [REP5-132]) that post-construction monitoring of Nemo Link Interconnector showed that the loss of intertidal fauna was localised and temporary, and by 2020 faunal communities and habitats present along the cable route reflected those seen during the baseline survey. It noted that the combined effects of episodic wave stirring tidal currents would ensure that the seabed naturally re-levels and recovers from temporary construction impacts without intervention

4.5.88 NE considered [REP5-217], [REP5-221] that there is a lack of empirical evidence (for example, from Thanet OWF or Nemo Link) to support the applicant's predictions of temporary morphological change. It noted [REP7-272] that the applicant's modelling results suggest there may be temporary wave blockage on the saltmarsh edge. It requested that landfall monitoring include a commitment to validate predictions of impacts due to cofferdam

presence including from an increase in current speed leading to erosion of saltmarsh sediments. It stated that this would likely resolve the issue.

4.5.89 NE [REP3A-028] also raised concerns about the impact of jack-up barges, which could be used as part of the cofferdam installation. It advised that there is evidence from OWFs of leg depression lasting more than 2 years. The applicant [REP4-241] stated that its preferred method at the HDD exit pit was ground barge but a jack-up barge may be used if freeboard at high tide is not sufficient. It stated that if used, an offshore environmental advisor would be appointed to monitor the depressions and identify any mitigation. The ExA [PD-025] sought further evidence from NE about whether data from OWFs would be relevant to the proposed development given the different water depth and energy levels between works in the marine and intertidal areas. NE [REP7-277] reiterated that jack-up barges can leave temporary or, in some cases, long lasting depressions and provided its standard advice in annex A, which advises not using jack-up barge within designated sites.

Temporary increases in SSC and sediment deposition

4.5.90 NE [REP4-191] advised that increases in SSC and sediment deposition should be considered, as the intertidal reef, mudflats and sandflats provide valuable feeding grounds and roosting areas. It considered changes to supporting processes could hinder conservation objectives to maintain or restore supporting habits upon which the features rely.

4.5.91 The applicant [REP4-241] stated that the upper intertidal habitat at Pegwell Bay is predominantly mud, which is relatively insensitive to smothering. It considered that sediment disturbed during cable burial would remain in suspension for a limited period before being deposited back onto the intertidal surface rather than being more widely dispersed. It concluded that natural sediment transport driven by tidal action is sufficient to ‘smooth-out’ any variations in the seabed caused by all nearshore temporary activities, returning the bed to equilibrium conditions.

4.5.92 NE [REP5-217] requested further detail regarding increased SSC and sediment deposition, including anticipated maximum spatial extent of increased SSC and subsequent sediment deposition thickness due to cable installation. The applicant’s Additional Sediment Dispersion Modelling – Technical Note [REP6-120] describes additional modelling undertaken to quantify increases in SSC from construction activities using a new release location at Pegwell Bay. It concluded that the SSC levels from this release point were less than or similar to those at the nearest release point used in the original modelling. The outcomes were used to inform updates to the HRA Report (paragraphs 7.3.73 to 7.3.75, [REP7-119]), which states that increased SSC and deposition would be extremely short-lived and highly localised to benthic infaunal communities, and not anticipated to be a significant effect on prey availability.

4.5.93 NE [REP7-272] noted that plate 2.8 of [REP6-120] shows a continuous trend of increasing deposition thickness across the intertidal area. It queried whether the modelling represented the overall WCS for any overlapping,

additive cable installation activities. It advised that the WCS parameters be provided for construction-related changes (such as footprint, thickness and persistence) to increase understanding of the changes to intertidal mudflat and sandflat morphology and elevation before it could advise on impact significance.

NE final position

4.5.94 NE [REP7-273] noted that no evidence had been presented that the area to be affected by the proposed development is comparatively more or less important than supporting SPA habitat, nor that that surrounding areas would provide the same resource. It advised that impacts to supporting habitats of the TCSB SPA and Ramsar site remain unresolved, but could be addressed through a commitment to pre-construction surveys of bird hotspot areas within the SPA. Due to the timing of the submission, the applicant was unable to respond.

ExA conclusion on indirect effects through impacts to prey species (construction phase)

4.5.95 The HRA Report assesses the potential impacts from cable installation construction activities and plant and vehicle movements. The ExA considers that the applicant's use of low pressure bearing vehicles and potentially trackways or matting, would serve to minimise the effect of vehicle movements on the intertidal area. Whilst NE remained concerned about the impact of vehicle movements, the ExA is satisfied that the intertidal works methodology and mitigation plan secured by dDML Condition 4 in schedule 16 of the dDCO, which requires MMO approval in consultation with the SNCB, would ensure that relevant controls on vehicle movements (including numbers and speed limits) could be secured. Along with the proposed mitigation in commitment B67, the ExA considers that this would avoid adverse effects from vehicle movements.

4.5.96 However, in light of the sensitivity of the surrounding environment, the ExA agrees with NE's suggestion that intertidal monitoring should be included. As described in the benthic ecology, section 3.4 of this recommendation, the ExA was not satisfied with the applicant's commitments in the oIPMP and dDCO schedule 16, condition 15. The ExA has therefore recommended in the rDCO a new condition 4(1)(l) in schedule 16, which requires submission and approval by the MMO in consultation with the SNCB of a monitoring plan, with a commitment to monitoring recoverability of the mudflats. The plan must be in accordance with condition 15 (replacement wording) and a new condition 17 of the rDCO, which provide strengthened commitments to survey, mitigation and adaptive management. The ExA is satisfied that with the measures in the rDCO there is a mechanism for validating the predicted effects to the mudflats and securing adaptive management as needed.

4.5.97 The ExA notes NE's concerns regarding prograding saltmarsh. However, the applicant has included REAC [REP7-359] commitment B69 regarding the proximity of trenchless crossing exit pits and temporary working areas from saltmarsh, which is included in the REAC, the oCSIP and specifically as

rDCO requirements 16(2) and (3), which would ensure that works remained offset from the saltmarsh.

4.5.98 The ExA notes that NE had outstanding concerns regarding the MDS within Pegwell Bay. The ExA is satisfied that the ES has been updated further to discussions between the applicant and NE but notes that NE was unable to comment on the final documents. The Secretary of State may wish to obtain a final position statement from NE regarding the DL7 submissions. The ExA is of the view that the total area of Pegwell Bay affected by the works would remain a relatively small percentage of the total intertidal habitat available. The ExA is therefore satisfied that alternative foraging areas would be available for bird species within Pegwell Bay.

4.5.99 With regards to impacts from the proposed cofferdam, the ExA considers that the applicant's additional dispersion modelling demonstrates that effects from the presence of the proposed cofferdam in the intertidal area would be minor, localised and temporary. The ExA is satisfied that, whilst minor increases in suspended sediment could arise, these effects would not give rise to AEoI and are unlikely to be worse than the range of suspended sediment concentrations experienced within storm conditions. The ExA considers that monitoring of the effects of the cofferdam on the saltmarsh edge is a matter that could be included in the intertidal works methodology and mitigation plan secured by rDCO schedule 16, condition 4. The ExA notes that NE considered that monitoring would likely resolve its concerns.

4.5.100 The ExA acknowledges NE's standing advice regarding the use of jack-up barges in designated sites however, based on the size of vessels indicated, the ExA does not consider that adverse effects would be likely. The ExA also considers that this is a matter that would be subject to consideration as part of the LMS and intertidal works methodology and mitigation plan in rDCO schedule 16, condition 4.

4.5.101 The ExA is satisfied with the applicant's modelling of cable installation activities, which demonstrates that natural sediment transport driven by tidal action is sufficient to 'smooth-out' variations in the seabed returning it to equilibrium conditions. The ExA is content that increased SSC would be short-lived and localised, and would not result in LSE on prey availability due to deposition (leading to smothering).

4.5.102 The ExA has considered NE's suggestion that hot spot modelling for bird areas within the SPA is undertaken. It did not provide detail on how this should be undertaken, nor how the results could be used post-consent. It is unclear to the ExA what changes could be made further to the results of hotspot modelling. Whilst the ExA considers that the provision of hotspot modelling would have been beneficial to provide greater clarity on impacts, it does not consider that its use post consent can be relied on for the purposes of the HRA. There is limited flexibility at the Kent landfall to take account of the hotspot modelling results and the impacts need to be determined for the purposes of the Secretary of State's decision.

4.5.103 Overall, the ExA considers that AEoI of the TCSB SPA and Ramsar site from indirect effects through impacts to prey species (construction phase) can be ruled out.

Indirect effects through impacts to prey species (operational phase)

4.5.104 As set out in paragraphs 2.2.49 to 2.2.50 of this appendix, the ExA noted NE's concerns about the impacts of remedial works during the operational phase and considers there to be a LSE from this impact pathway.

4.5.105 The applicant considers the uncertainty regarding future migration of the mouth of the River Stour in Marine Chapter 1, Physical Environment (paragraph 1.7.69, [REP7-097]). It states that this could not be reduced by additional modelling or surveys of present-day conditions. Noting its Landfall Sediment Modelling Report [PDA-038], the applicant concluded [REP4-241] that future variability would not pose a problem to the cable. Nevertheless, it confirmed [REP4-241] that remedial action would be carried out if the cable was exposed to avoid wider scale effects, with details of proposed remedial measures provided in (AP75, [REP4-086]). The applicant [REP6-108] confirmed that a marine licensing process would be required, which would include a HRA once the nature of works is known. It stated that based on discussion with the EA, the most likely remedial action would be re-burial of the cable.

4.5.106 The ExA [EV6-033] queried the feasibility of a 3m DoL below the bed level of the River Stour. The applicant (AP74 [REP4-086]) responded that this would result in an increased magnitude of disturbance that could have implications for the HRA. It stated that for these reasons and given the findings of the Landfall Sediment Modelling Report [PDA-038], a 1.5m cable depth below seabed was reasonable. The EA [REP5-173] requested the applicant commit to cable burial deeper than the mouth of the low flow River Stour channel. Alternatively, it stated that a commitment to ongoing maintenance dredging in combination with the port authority would be a suitably low impact method to control movement of the river mouth. NE [REP6-250] remained concerned that the DoL may not be sufficient to avoid impact from migration of the low river channel and requested further detailed analysis and additional mitigation such as a deeper burial or moving the cable north.

4.5.107 The applicant, responding to ExQ2ECOL25 in [REP5-135], also explained that a separate marine licence would be sought for any additional rock protection in the Sandwich Bay SAC if required and that no assessment was required in the HRA as this did not form part of the proposed development. It updated the dDML in schedule 16 of the dDCO [REP7-002]) to secure that no cable protection would be deployed within the SAC after construction has ended.

4.5.108 At the close of examination, NE [REP7-272] remained concerned that there was insufficient certainty about the future position of the river mouth relative to the cable route, and the need for remedial works that could lead to additional impacts to mud or sand flats in the TCSB SPA and Ramsar site. It did not consider that MPE09 was sufficiently specific to remove the risk of

AEoI. It requested that monitoring of the river channel should commence as soon as possible and that trigger points for contingency action should be defined. It also requested [REP7-271] that requirement 18(2) in the dDCO be amended to include consultation with the relevant SNCB.

ExA conclusion on indirect effects through impacts to prey species (operational phase)

4.5.109 The ExA has considered whether deeper cable burial than 1.5m would be appropriate to avoid subsequent cable exposure and the need for remedial works in the intertidal area. The ExA is of the view that whilst deeper cable burial would reduce the risk of future exposure the increased scale of excavation could extend the applicant's programme and the scale of effects on receptors within the TCSB SPA and Ramsar site.

4.5.110 The rDCO secures monitoring of River Stour migration over the lifetime of the proposed development in schedule 16, condition 18 (formerly requirement 18). This would serve to identify any issues with channel migration and condition 18 (3) would ensure that the Environment Agency would need to approve any mitigation works. Given that cable exposure may not occur, the ExA is content to rely on the subsequent agreement and approval with the Environment Agency to address any outstanding HRA matters. The revised condition includes reference to consultation with the relevant SNCB. To ensure that monitoring is secured for the lifetime of the development, the dDCO [REP7-002] wording of 18 (2)(a) is amended as follows "Monitoring will be undertaken annually ~~for the first five years~~ following installation of the cables, unless otherwise agreed in writing by the Environment Agency". The ExA has also modified section (3) of the condition to avoid uncertainty "**The remedial works will be undertaken in accordance with the approved details**". The ExA has separately amended the dDCO to include reference to consultation with the SNCB.

4.5.111 The ExA considers that the need to agree mitigation measures with the Environment Agency in consultation with the SNCB would ensure that no exposed rock protection in the Sandwich Bay SAC would be permitted after construction. Since the extent of the SAC and the TCSB SPA and Ramsar overlap, the ExA is satisfied that this provision would avoid indirect effects on prey species during operation in the SPA and Ramsar as well from deposit of cable protection materials.

Pollution (terrestrial changes in water quality)

Frac out

4.5.112 NE [REP3A-028] cited East Anglia One offshore cable installation as an example where SPA birds had been affected by a bentonite frac out. It advised that further consideration of the likely duration of bentonite remaining on the seabed and implications for the wider ecosystem be assessed. The applicant [REP4-241] responded that the HDD location for East Anglia One was a constrained environment with little coastal wave action, which is not comparable to the more dynamic environment of Pegwell Bay. It noted that

the saltmarsh in Pegwell Bay is dry 50% of the time and considered that frac-out could be easily removed.

4.5.113 NE responding to ExQ2ECOL53 in [REP5-199] stated that final signoff of the CSIP, LMS and DFMP prior to construction was essential to alleviating its concerns. As described at paragraph 4.2.25 above, the applicant subsequently committed to producing an HDD LMS and DFMP (in consultation with NE, KWT, the RSPB, NT, and TDC), prior to commencement of any HDD activities in the REAC (B59, [REP7-359]). It also secured the LMS as a pre-construction plan required under dDML condition 4 in schedule 16 of the dDCO [REP7-002].

4.5.114 As recorded in paragraph 4.2.28 above, the RSPB was satisfied with the applicant's proposed measures to manage frac out if NE's concerns were alleviated. However, at the close of examination, NE (RI_J19, [REP7-364]) stated the matter was not resolved, although noted that commitment B59 could be extended to provide the necessary assessment of impacts on SPA features.

Discharge from Minster converter station and substation outfall

4.5.115 As described in paragraph 2.2.47, on a precautionary basis the ExA has considered potential for discharge from the proposed outfall to contribute to the pollution LSE pathway, as NE advised that further commitments were required to water quality monitoring. No further concerns were raised by NE.

Use of the hoverport

4.5.116 See paragraphs 4.2.9 to 4.2.15 above.

ExA conclusion on pollution

4.5.117 The ExA is satisfied that dDML condition 4(1)(a)(iv) in schedule 16 of the dDCO [REP7-002] secures an intertidal works methodology and mitigation plan for Pegwell Bay that will ensure that pollution risk from frac out is minimised. In addition, commitments B09, B61 and LVS05 as described in table B.7 of this appendix are proposed. These include consultation with NE as the SNCB. The ExA is therefore satisfied that there would be no AEoI of the TCSB SPA and Ramsar site from this impact pathway from the proposed development alone or in-combination with other plans or projects.

4.5.118 Regarding runoff from the Minster converter station and substation, the ExA notes NE's comments regarding the need for surface water monitoring but considers that since the runoff would comprise surface water runoff only, there is no need for specific water quality monitoring. The ExA is satisfied that with the commitment to SuDS (W11, [REP7-129] there would be no AEoI due to this impact pathway.

4.5.119 Regarding pollution from the use of the hoverport, as noted in paragraphs 4.2.16 to 4.2.22 above, the ExA is satisfied that rDCO requirements, conditions and mitigation measures included in the REAC [REP7-359],

oCEMP [REP7-129] and oOCEMP [REP7-127] would avoid an AEoI due to this pathway.

Loss of FLL (golden plover)

4.5.120 Construction of the Minster converter and substation site in Kent would result in the loss of functionally linked arable foraging habitat for golden plover associated with the TCSB SPA and Ramsar site during early winter (October to December). The applicant proposed the long-term management of 10ha of arable land adjacent to Discovery Business Park to mitigate the loss.

Adherence to mitigation hierarchy

4.5.121 KWT [REP1-152] questioned adherence to the mitigation hierarchy, suggesting site selection was based on land availability and logistical convenience rather than ecological suitability. It considered [REP7-202] that the applicant had moved to compensation without exhausting opportunities for avoidance or reduction. The applicant [REP2-014] stated that site selection avoided environmental designations where possible, but noted that it is not always possible to avoid all factors at the siting stage.

Suitability of site

4.5.122 The HRA Report (paragraphs 7.4.15 to 7.4.19, [REP7-119]) proposes the long-term management of arable land as mitigation. Several IPs maintained concerns regarding the suitability of the mitigation site throughout the examination.

4.5.123 KWT [RR-2980], [REP1-152] and the RSPB [REP1-158] queried whether proposed mitigation land was already functionally linked to the SPA, in which case it could not be used for mitigation. The applicant submitted a wintering bird survey report for the area [REP4-078]. It confirmed [REP2-013] that surveys recorded golden plovers flying adjacent to the site, with one overflying, but no significant use. The RSPB agrees in its SoCG [REP7-054] that based on the surveys undertaken, the mitigation land does not appear to currently be FLL. KWT did not comment further on the matter.

4.5.124 Concerns of potential lighting and noise disturbance at the mitigation site were raised by KWT [RR-2980], [REP1-152], [REP6-169], [REP6-240], CPRE Kent [REP1-147], [REP1-148] and SMM [REP2-103]. The applicant disputed that noise disturbance is a concern [REP2-014], [REP7-259]; noting that there are numerous examples of wintering waterfowl and wader populations being recorded in proximity to busy roads. It stated that most of the proposed mitigation land is unaffected by lighting and that there are dense tree belts screening fields from the business park.

4.5.125 The applicant [REP2-034] explained NE had proposed arable land as an acceptable alternative habitat on the basis that the habitat being lost is arable land (not wet grassland). However, RSPB Thanet [REP1A-061] and KWT [REP6-169] considered the land would not be a like-for-like replacement. KWT [REP1-152] noted that golden plover depend on expansive, open, and low-disturbance landscapes (such as wet grassland,

stubble fields and grazed pasture) for predator detection and flock cohesion. KWT [REP1-152], [REP6-240], [REP6-169] considered there to be an absence of evidence regarding the long-term viability of golden plover mitigation. It considered there to be no scientific certainty that the proposal would maintain habitat connectivity or support the SPA's qualifying populations. KWT maintained its position [REP7-265], stating that it did not share the applicant's reliance on NE's position as evidence that the matter is resolved. It acknowledged a small number of individuals might use the site opportunistically, but did not agree the mitigation land could reliably support the ecological function of the affected land to a degree that avoids AEoI.

4.5.126 CPRE Kent [REP2-045] considered the proposed development would fragment habitats functionally linked to the SPA. It considered [REP1-147], [REP1-148] it far from certain that golden plover would use the mitigation site as they need wide expanses of open landscape with a mix of habitat. It [REP6-238] maintained its position that the proposed mitigation would not truly replace the function of the existing FLL.

4.5.127 KCC [REP1-079] initially raised concerns that insufficient information was provided to demonstrate suitability of the mitigation, and that no surveys to understand current use had been carried out, but this matter is recorded as agreed in its unsigned SoCG [REP7-021].

Management and monitoring

4.5.128 KWT [REP1-152], [REP7-265], [REP7-202] noted a lack of information on how mitigation would be implemented, monitored or enforced, nor what corrective measures would be taken in the event of failure. It considered [REP1-152], [REP6-240], [REP6-169] that success should not be judged simply on whether golden plover use the site but by whether it supports an equivalent level of use to that recorded on the converter station and substation site. It advised that if monitoring demonstrates this is not achieved, adaptive management measures should be triggered to implement additional land.

4.5.129 Responding to ExQ3ECOL20, NE [REP6-249] provided recommendations for information required in the oLEMP – Kent, including the need for clearer wording on management options and timing, further clarity on the monitoring and feedback mechanism and remedial measures. The applicant amended the oLEMP – Kent [REP7-141] setting out the process for monitoring and if necessary, rectifying any mitigation. It includes an explicit target in terms of numbers of golden plovers and further details regarding the certainty of mitigation measures, reference to providing monitoring data to NE and local planning authorities, and how monitoring would inform remedial measures. The applicant [REP7-259] confirmed that the text had been shared with NE but understood that NE had some further comments. As such, it included an additional commitment with the REAC (B79, [REP7-359]) confirming that the detailed wording of management and monitoring prescriptions would be agreed with NE and Dover District Council (DDC) prior to the commencement of clearance of the Minster converter station and substation field. Details of the monitoring are provided in the oLEMP – Kent [REP7-

141], which notes that the survey methodology and feedback mechanism will be agreed with NE and DDC.

4.5.130 NE was unable to comment on the DL7 documents but recommended [REP7-277] a REAC commitment to prepare and agree a detailed management and monitoring plan for the golden plover mitigation land.

In-combination loss

4.5.131 KWT [RR-2980], [REP1-152], [REP6-169] and the RSPB [REP1-158] raised concerns regarding the cumulative loss of ~160ha of FLL from nearby solar farms.

4.5.132 The applicant [REP2-014], [REP2-034], [REP7-259] confirmed that the HRA Report [REP7-119] includes all projects identified by KWT and the RSPB. It concludes that the delivery of mitigation for loss of golden plover foraging habitat from the proposed development would ensure no net loss of habitat and thus avoid in-combination effects. The applicant noted it is the responsibility of other projects to deliver mitigation if required and that it is only required to mitigate for its own contribution to any in-combination effect.

ExA conclusion on loss of FLL (golden plover)

4.5.133 The ExA is satisfied that the applicant has identified suitable replacement land to offset the loss of FLL for golden plover and demonstrated that the land is within reasonable proximity to the site for the relevant species. It has identified management measures to ensure that it is suitable for golden plover. The ExA notes that NE is satisfied with the applicant's proposed mitigation.

4.5.134 The ExA is satisfied that the oLEMP [REP7-141] addresses NE's [REP7-277] concerns regarding the need for a management plan for the mitigation land. This is subject to approval by the relevant planning authority in consultation with the SNCB, allowing opportunity for amendment. This would be supplemented by REAC commitment B79, which commits the applicant to agreeing detailed management and monitoring prescriptions with NE and DDC prior to commencement of converter station and substation works. The ExA considers that these provisions allow for any adaptive management requirements to be agreed.

4.5.135 The ExA is satisfied that in providing replacement FLL it has mitigated its impact on FLL for golden plover and is therefore not contributing to a cumulative loss of FLL.

4.5.136 Overall, the ExA considers that when taking account of proposed mitigation measures, an AEoI due to the loss of FLL can be ruled out.

Collision risk

4.5.137 See paragraphs 4.5.48 to 4.5.51 above.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE TCSB SPA AND RAMSAR SITE

4.5.138 As noted in the preceding sections, the ExA is content that no LSE pathway would result in an AEoI of the TCSB SPA and Ramsar site from either the proposed development alone or in-combination with other plans or projects. The ExA's conclusions have taken into account the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site.

4.5.139 The ExA acknowledges that this conclusion conflicts with the advice of NE as the SNCB for several LSE pathways, but notes that NE was unable to comment on the final submissions received from the applicant which included additional mitigation controls and a revised dDCO that may have addressed these concerns. The ExA is satisfied the applicant has addressed the potential for AEoI for the reasons set out above. However, in light of the number of matters in disagreement and NE's concerns, the Secretary of State may wish to consult with NE regarding its final position on the applicant's submissions and satisfy itself that there is no need for a derogation in respect of effects on the TCSB SPA and Ramsar site.

B.4.6 MARINE ORNITHOLOGY SPAS

OTE SPA

4.6.1 The offshore cable would pass through an eastern section of the OTE SPA. The applicant's description of the site is presented in section 3.3 of the HRA Report [REP7-119]. The following LSE pathways are assessed for all qualifying features of the site:

- airborne sounds and visual disturbance from offshore works (paragraphs 7.3.53 to 7.3.61 and 7.3.93)
- indirect effects through impacts to prey species (paragraphs 7.3.66 to 7.3.80 and 7.3.93)

MITIGATION MEASURES AND COMMITMENTS

4.6.2 The applicant's assessment takes into account the measures detailed in table B.9 below.

Table B.9 Mitigation measures for the OTE SPA

Mitigation measure / commitment	Relevant control document	Securing mechanism(s)
RTD protocol[2]	oRTD protocol [REP7-142]	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO dDML condition 11(4) in schedule 16 of the dDCO
Full seasonal restriction between 1 November and 31 March for offshore cable burial activities in the OTE SPA and 2km buffer around the SPA	dDCO [REP7-002]	dDML condition 11(1) in schedule 16 of the dDCO
	oRTD protocol [REP7-142]	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO dDML condition 11(4) in schedule 16 of the dDCO
	oOCEMP (O03, [REP7-127])	dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO
Restriction on trenchless landfall installation on or under the seabed within the OTE SPA between 1 January and 31 March	dDCO [REP7-002]	dDML condition 11(2) in schedule 16 of the dDCO
	oRTD protocol [REP7-142]	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO dDML condition 11(4) in schedule 16 of the dDCO
	oOCEMP (O03, [REP7-127])	dDML conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO
Any compensation required post-emergency repair to be	oRTD protocol [REP7-142]	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO

[2] A best practice protocol to minimise the disturbance to non-breeding RTD during the construction, operation and decommissioning of the proposed development. An outline is provided in [REP7-142] and would be certified under Article 60 of the dDCO [REP7-002]). It includes mitigation measures O01 to O06 detailed in the oOCEMP [REP7-127] (which is secured through dDML Conditions 4(1)(b) and 4(4) in schedule 16 of the dDCO).

Mitigation measure / commitment	Relevant control document	Securing mechanism(s)
discussed with, and approved by, the MMO		dDML condition 11(4) in schedule 16 of the dDCO
Provision of a report on any emergency activities that take place within the OTE SPA and 2km buffer between November and March	oRTD protocol [REP7-142]	dDML conditions 4(1)(i) and 4(4) in schedule 16 of the dDCO dDML condition 11(4) in schedule 16 of the dDCO

RESOLVED MATTERS

4.6.3 Key matters which the ExA considers have been resolved during examination in respect of the assessment of effects on integrity on the OTE SPA are as follows:

- Airborne sounds and visual disturbance from offshore works:
    - The applicant extended from the spatial coverage of the cable laying seasonal restriction from the initially proposed OTE SPA boundary to include a 2km buffer. This addressed comments from NE [REP4-189], [REP4-193] and KWT [REP6-169].
    - Pre-lay grapnel runs were initially excluded from the seasonal cable laying restriction, however the applicant included them further to a request from NE (G2, [RR-3920]) (table 1, [REP4-193]).
    - The applicant included routine operational and maintenance activities (including monitoring surveys) within the seasonal restriction, unless otherwise agreed with the MMO in consultation with the SNCB. This was further to concerns from the JNCC [REP1-210], [REP3-090], NE (G2, G3, G4 and G9, [RR-3920]) (table 1, [REP4-193]), ExQ2MO2 in [REP5-199] and the MMO responding to ExQ2MO2 in [REP5-175].
    - Responding to NE's comments regarding emergency repairs (G3, [RR-3920]), ExQ1ECOL62 in [REP4-196], [REP6-247], the applicant included a definition of emergency cable repair works in Part 1 of the dDML in schedule 16 of the dDCO [REP7-002], the oRTD protocol (paragraph 1.5.14, [REP7-142]) and the oCSIP (paragraph 6.1.3, [REP7-159]). NE [REP7-275] advised that it was unclear whether the definition of emergency works had been agreed with the MMO. However, footnote 1 of the oRTD protocol [REP7-142] confirms the definition was provided by the MMO. The applicant also committed to providing NE with a report on any emergency activities that take place within the OTE SPA and 2km buffer between November and March; this is included in the oRTD protocol (paragraph 1.5.15, [REP7-142]).
    - Furthermore, in respect of emergency works, the applicant [REP7-192] explained it would be a competent authority for the purposes of the Habitats Regulations by reason of being a statutory undertaker and would undertake an appropriate assessment for emergency works

at that future point in time. The applicant amended the oRTD protocol (paragraph 1.5.16, [REP7-142]) to confirm that any requirement for compensation post emergency repair would be discussed with, and approved by, the MMO.

- Further to the ExA's suggested schedule of DCO changes [PD-024], the applicant revised the dDML in schedule 16 of the dDCO [REP7-002] to confirm that the RTD protocol is an outline plan and would be a certified document under Article 60 of the dDCO [REP7-002]. It requires approval of the MMO in consultation with the SNCB.
- The RSPB [REP1-158] requested a more detailed RTD protocol that addressed not only the construction phase but also operation, maintenance and decommissioning, and a detailed outline vessel management plan (VMP) concerning all phases of the proposed development to be presented in the examination. The oRTD protocol [REP7-142] was subsequently revised with additional information and confirms a VMP would be developed post-consent to avoid high density areas of RTD. The SoCG with the RSPB [REP7-054] confirms the matter as resolved.
- Several concerns were raised regarding the robustness of the applicant's in-combination assessment by the JNCC [REP1-210], [REP3-090], [REP6-239] and NE (G11 and G15, [RR-3920]) (table 1, [REP4-193]), [REP5-220], [REP6-247]. However, NE [REP7-275] confirmed that with the implementation of the seasonal restriction, an in-combination assessment is not required.

UNRESOLVED MATTERS

4.6.4 By the close of examination, NE [REP7-725] had confirmed it agreed the applicant's mitigation would avoid AEoI of the OTE SPA. However, the ExA considers the following matters to be unresolved for other IPs.

Baseline – RTD distribution

4.6.5 Throughout the examination, the RSPB [REP1-158], [REP7-054] did not consider the applicant had substantiated its claim that most of the offshore cable route passes through areas with limited or no recorded occurrence of RTD. It did not consider data from 2018 provides a sound basis for conclusions about longer term distribution patterns.

4.6.6 The applicant [REP2-034] (1ECOL53, [REP3-069]) acknowledged limitations to data available on RTD distribution within the SPA, however it considered that works would avoid areas where RTD densities are highest.

Airborne sounds and visual disturbance from offshore works

Temporal extension to the restriction

4.6.7 The RSPB [REP1-158] welcomed the proposed seasonal cable laying restriction. However, referencing NE's Advice on Seasonality for the OTE SPA, it noted that RTD is likely to be present in significant numbers from October to May and considered that any project-related vessel movements should avoid this period. Any project-related vessel movements required

between October and May should be subject to clearly detailed and practical bird avoidance measures set out in a detailed VMP.

4.6.8 The applicant [REP2-034] acknowledged RTD may be present in the months outside of its proposed seasonal restriction, however it considered November to March to be the core period when numbers are greatest and environmental conditions the toughest and therefore the period when disturbance would have a greater effect on individuals.

4.6.9 Whilst the final, signed SoCG with the RSPB [REP7-054] sets out the RSPB's position as being that vessel movements should be avoided from October to May, it shows the matter of the seasonal restriction as agreed.

Emergency repairs

4.6.10 NE [REP6-247] requested a commitment in the CSIP and other relevant plans to apply the RTD protocol during emergency works to minimise the impacts as much as possible. This commitment is not made in the final oCSIP [REP7-159] or oOCEMP [REP7-128]. The oRTD protocol [REP7-142] does not state that it would apply to emergency works, however it confirms that consultation would be undertaken with the MMO and NE during any emergency works to minimise disturbance as far as practicable.

Decommissioning

4.6.11 NE (G2, [RR-3920] advised that decommissioning be included in the seasonal cable laying restriction. The applicant [REP2-014] explained the predicted operational life of the cables is between 40 and 60 years, during which regulatory requirements and industry best practice could change. It did not know if the cable would be decommissioned or if options for extending the life would be explored. The applicant confirmed a decommissioning plan would be prepared post-consent and a programme submitted to the MMO for approval at least 6 months prior to decommissioning. NE (table 1, [REP4-193]) agreed the WCS for decommissioning could be like construction.

4.6.12 The oRTD protocol [REP7-142] confirms that the best practice measures set out in sections 1.5.4 to 1.5.5 would apply during the decommissioning phase. These measures do not include the seasonal cable laying restriction. Therefore, the ExA [PD-024] suggested a revision to the DCO to require the undertaker to comply with the oRTD protocol during decommissioning. The applicant did not make this amendment in its final dDCO [REP7-002].

Vessel speeds

4.6.13 Although NE [REP7-275] confirmed there would be no AEoI of the OTE SPA from impacts to RTD, it considered more could be done to minimise impacts in the shoulder months either side of the seasonally restricted period, when high numbers of RTD can be present. It advised an additional commitment in the oOCEMP and oRTD protocol [REP7-142] to keep the speed of all vessels no higher than 20 knots within the OTE SPA and 2km buffer from October to April and that this should apply to emergency works where feasible. The applicant was unable to respond to the request as the

examination closed. However, the HRA [REP7-119] confirms that cable laying vessel speeds are in the order of 0-7 knots and table 4.12 of ES part 1, Chapter 4 [REP7-089] and the oRTD protocol suggest a maximum 12 knot speed for installation vessels.

In-combination effects

4.6.14 The RSPB [REP1-158] raised concerns about in-combination impacts on RTD of the OTE SPA. At the close of examination, it noted [REP7-209] that the agreed seasonal restriction and additional detail in the oRTD protocol reduced its concerns. However, the SoCG [REP7-054] states that the RSPB does not agree an AEoI could be excluded from the proposed development in combination with other plans or projects. No further details of the specific concern were given.

EXA'S CONSIDERATION OF ADVERSE EFFECTS ON THE OTE SPA

4.6.15 At the close of examination, NE [REP7-275], [REP7-277] agreed that the mitigation secured would avoid AEoI of the OTE SPA, subject to inclusion of the 2km buffer within the DML. This was included in the applicant's final dDCO [REP7-002] and is retained within the ExA's rDCO.

4.6.16 The JNCC [REP6-239] also confirmed that subject to the full seasonal restriction on cable burial activities and non-emergency operation and maintenance activities, it was satisfied AEoI could be ruled out alone or in combination with other plans and projects.

4.6.17 The ExA has considered the applicant's oRTD protocol [REP7-142] and is satisfied that the seasonal restriction for construction and routine operation and maintenance works would avoid AEoI of the OTE SPA. The ExA does not consider that an extension to the seasonal restriction is required beyond that suggested by NE. It is content that the restriction addresses any concerns regarding RTD distribution data and that it would ensure the proposed development would not contribute to any in-combination effects.

4.6.18 The ExA considered whether there was potential for impacts on RTD due to emergency repair works, which are not licensable activities with the dDML in schedule 16 of the dDCO [REP7-002]) and not subject to the cable laying restrictions. It is persuaded that such an event may never occur and whilst it is hypothetically possible, the applicant would have no basis for an assessment. The ExA is therefore satisfied that a separate assessment of emergency effects is not required at this stage, but would be undertaken by the applicant, as a competent authority, at that future point in time.

4.6.19 NE [REP6-247] is content that every effort would be made to mitigate impacts to the SPA from emergency works and that should currently unknown impacts arise, there will be a process to address adverse effects at that time. The applicant has committed to discussing any compensation required post-emergency repair with the MMO. The ExA is not persuaded that this suggested mechanism is consistent with the derogation requirements under the Habitats Regulations. The ExA recommends that the

Secretary of State requests an updated version of the oRTD protocol [REP7-142] with this commitment removed.

4.6.20 On the basis that emergency works are not licensable activities within the dDML in schedule 16 of the dDCO [REP7-002]), the ExA does not consider it appropriate to amend relevant plans to commit to applying the RTD protocol to emergency works.

4.6.21 In respect of vessel speeds, the oRTD protocol [REP7-142] describes maximum transit speeds of installation vessels as being 12 knots. The ExA is satisfied that additional controls on vessel speeds are not required.

4.6.22 The ExA considers that for the avoidance of doubt, condition 11(1)(c) and (d) should be amended to remove references to specific methods of working, to ensure that other methods that are not referenced could be undertaken during the winter period.

4.6.23 In response to comments from IPs regarding decommissioning effects, the ExA has included wording in schedule 16, condition 11(4) of the rDCO to ensure that the RTD protocol applies to such activity.

4.6.24 The ExA has considered the assessment provided within the HRA Report [REP7-119], the above information, and the conservation objective to maintain or restore the extent, distribution, structure and function of qualifying species' habitats, the supporting processes on which the habitats rely, and the populations and distribution of qualifying species in the site. It is satisfied that there would be no AEoI of the OTE SPA from the proposed development alone or in-combination with other plans or projects.

B.4.7 AEOI ASSESSMENT OUTCOMES – SUMMARY

4.7.1 Sections 6.2 to 6.4 of the applicant's HRA Report [REP7-119] set out the LSE impact pathways taken forward for assessment at Stage 2. The applicant's HRA Report concluded that AEoI can be excluded for all European sites from the proposed development alone, or in-combination with other plans and projects.

4.7.2 Based on the findings of the examination, the ExA is satisfied that AEoI can be excluded for the following European sites as a result of the proposed development alone or in-combination with other plans and projects:

- Annex I habitat SACs
    - Alde-Ore and Butley Estuaries SAC
    - Margate and Long Sands SAC
    - Sandwich Bay SAC
    - Thanet Coast SAC
- Marine mammal SACs
    - Berwickshire and North Northumberland Coast SAC
    - Humber Estuary SAC

- SNS SAC
- The Wash and North Norfolk Coast SAC

- Terrestrial ornithology SPA and Ramsar sites
  - AOE SPA
  - AOE Ramsar site
  - Minsmere-Walberswick SPA
  - Minsmere-Walberswick Ramsar site
  - Sandlings SPA
  - Stodmarsh SPA
  - Stodmarsh Ramsar site
  - TCSB SPA
  - TCSB Ramsar site

- Marine ornithology SPAs
  - OTE SPA

B.5 HRA CONCLUSIONS

5.1.1 The proposed development is not directly connected with, or necessary to, the management of a European site, and therefore the implications of the project with respect to adverse effects on potentially affected sites must be assessed by the Secretary of State.

5.1.2 Nineteen European sites and their qualifying features were considered in the applicant's assessment of LSE: the sites are listed in table B.1 of this appendix. The ExA considers that there could be LSE for all the European sites from the proposed development alone and in-combination with other plans or projects, aside from the Stodmarsh SAC for which LSEs can be excluded.

5.1.3 The methodology and outcomes of the applicant's screening for LSEs on European sites was subject to discussion and scrutiny during the examination. This resulted in the inclusion of an additional site (the Alde-Ore and Butley Estuaries SAC) and additional LSE pathways.

5.1.4 The methodology and outcomes of the applicant's Stage 2 assessment were similarly discussed, resulting in additional mitigation measures and a revised dDCO. The ExA's findings are that, subject to the mitigation measures to be secured in the rDCO and its associated control documents, AEoI of all European sites can be excluded as a result of the proposed development alone or in-combination with other plans or projects.

5.1.5 The ExA considers that there is sufficient information before the Secretary of State to enable them to undertake an appropriate assessment to fulfil their duty under the requirements of The Habitats Regulations. However, HRA submissions and updated mitigation were provided at DL7 (which NE was unable to comment on) as highlighted above. Given the additional submissions and considering NE's disagreement regarding AEoI for the TCSB SPA and Ramsar site and use of hovercraft in Pegwell Bay, the

Secretary of State may wish to consult with NE regarding its final position on the applicant's submissions and satisfy itself that there is no need for a derogation in respect of effects on these sites.

Table B.10: Annex I habitat SACs

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Alde-Ore and Butley Estuaries SAC						
Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) Estuaries Mudflats and sandflats not covered by seawater at low tide	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	**LSE (O)**	n/a	**AEoI (O)**	No AEoI
Margate and Long Sands SAC						
Sandbanks which are slightly covered by sea water all the time	Temporary physical disturbance to benthic habitats and species (C, D)	No LSE	No LSE	n/a	n/a	No LSE
	Temporary increase in SSC and sediment deposition leading to increased turbidity and smothering effects (C, D)	**LSE**	No LSE	No AEoI	n/a	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Disturbance due to thermal emissions (O)	No LSE	No LSE	n/a	n/a	No LSE
Sandwich Bay SAC						
Embryonic shifting dunes Shifting dunes along the shoreline with (*Ammophila arenaria*) ("white dunes") Fixed dunes with herbaceous vegetation ("grey dunes") Dunes with Salix repens ssp. argentea *(Salicion arenariae)* Humid dune slacks	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Permanent loss of foraging habitat for qualifying features (O)	No LSE	Not disputed	n/a	n/a	No LSE
	Introduction and spread of INNS via the addition of cable protection (O)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Direct habitat loss (C)	No LSE	No LSE	n/a	n/a	No LSE
	Air quality (dust and exhaust emissions) (C, O, D)	No LSE	No LSE	n/a	n/a	No LSE

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Pollution (terrestrial - changes in water quality) (C, O, D)	**LSE (C – from frac out)** **No LSE (O & D)**	**LSE from frac out not disputed** **LSE from use of hoverport**	No AEoI	No AEoI	No AEoI
Stodmarsh SAC						
Desmoulin's whorl snail (*Vertigo moulinsiana*)	Disturbance (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	No LSE	n/a	n/a	No LSE
Thanet Coast SAC						
Reefs Submerged or partially submerged sea caves	Temporary physical disturbance to benthic habitats and species (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Temporary increase in SSC and sediment deposition leading to increased	**LSE (reefs only for changes in**	Not disputed	No AEoI	No AEoI	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	turbidity and smothering effects (C, D)	**SCC, both habitats for sediment deposition)**				
	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Introduction and spread of INNS via the addition of cable protection (O)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Disturbance due to thermal emissions (O)	No LSE	Not disputed	n/a	n/a	No LSE
	Pollution (terrestrial - changes in water quality) – from the use of the hoverport (C)	**N/A – not assessed by applicant in HRA Report**	**LSE from use of hoverport**	No AEoI	No AEoI	No AEoI

Table B.11: Marine mammal SACs

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Berwickshire and North Northumberland Coast SAC and Humber Estuary SAC						
Grey seal (*Halichoerus grypus*)	Underwater sound impacts (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Vessel collision risk (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Airborne sounds and visual disturbance (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Indirect effects through impacts to prey species (C, D)	No LSE	NE: Defer to the Centre for Environment Fisheries and Aquaculture Science (CEFAS)	n/a	n/a	No LSE
			MMO (in consultation with			

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
			CEFAS): No LSE			
Note – the other qualifying features of the Berwickshire and North Northumberland Coast SAC and Humber Estuary SAC are identified in sections 3.11 and 3.12 of the HRA Report [REP7-119], respectively. Due to the distance of the site from the proposed development, only grey seals are considered to be within the zone of influence of the proposed development. Other qualifying features are therefore not assessed, nor have been the subject of discussion during the examination.						
Southern North Sea SAC						
Harbour porpoise (*Phocoena phocoena*)	Underwater sound impacts (C, D)	**LSE**	NE: Not disputed	No AEoI	NE: No AEoI	No AEoI
			JNCC: No LSE		JNCC: No AEoI	
	Vessel collision risk (C, D)	**LSE**	NE: Not disputed	No AEoI	NE: Not disputed	No AEoI
			JNCC: No LSE		JNCC: No AEoI	
	Indirect effects through impacts to prey species (C, D)	No LSE	NE: Defer to CEFAS	n/a	n/a	No LSE
			MMO (in consultation with			

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
			CEFAS): No LSE			
			JNCC: No LSE			
	Permanent loss of foraging habitat for qualifying features	No LSE	NE: Not disputed	n/a	n/a	No LSE
			JNCC: Not disputed			
	Disturbance due to thermal emissions (O)	No LSE	NE: Not disputed	n/a	n/a	No LSE
			JNCC: Not disputed			
	Effects of EMF emissions (O)	**LSE**	NE: Not disputed	No AEoI	NE: Not disputed	No AEoI
			JNCC: Not disputed		JNCC: No AEoI	
The Wash and North Norfolk Coast SAC						
Harbour seal (*Halichoerus grypus*)	Underwater sound impacts (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Vessel collision risk (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Airborne sounds and visual disturbance (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Indirect effects through impacts to prey species (C, D)	No LSE	NE: Defer to CEFAS	n/a	n/a	No LSE
			MMO (in consultation with CEFAS): No LSE			
Note – the other qualifying features of the Wash and North Norfolk Coast SAC are identified in section 3.16 of the HRA Report [REP7-119]. Due to the distance of the site from the proposed development, only harbour seals are considered to be within the zone of influence of the proposed development. Other qualifying features are therefore not assessed, nor have been the subject of discussion during the examination.						

Table B.12: Terrestrial ornithology

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Alde-Ore Estuary SPA						
Ruff (*Philomachus pugnax*) Avocet (*Recurvirostra avosetta*) Redshank (*Tringa tetanus*) Marsh harrier (*Circus aeruginosus*) Lesser black-backed gull (*Larus fuscus*) Sandwich tern (*Sterna sandvicensis*) Little tern (*Sterna albifrons*) Breeding and wintering assemblages	Direct habitat loss (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Loss of FLL (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Disturbance (noise and visual) from onshore works (C, O, D)	No LSE to birds at the SPA itself **LSE – (C & D) marsh harrier and curlew using FLL**	Not disputed	No AEoI	Not disputed	No AEoI
	Airborne sounds and visual disturbance from offshore works (C, D)	**LSE – lesser black-backed gull, sandwich**	Not disputed	No AEoI	Not disputed	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
		tern and little tern				
	Indirect effects through impacts to prey species (C, D)	**LSE – lesser black-backed gull, sandwich tern and little tern**	Not disputed	No AEoI	Not disputed	No AEoI
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	**LSE (O)**	n/a	**AEoI (O)**	No AEoI
Alde-Ore Estuary Ramsar site						
Criterion 2 - The site supports a number of nationally-scarce plant species and British Red Data Book invertebrates	Direct habitat loss (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Loss of FLL (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
Criterion 3 - The site supports a notable assemblage of	Disturbance (noise and visual) from onshore works (C, D)	No LSE to birds at the SPA	Not disputed	No AEoI	Not disputed	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
breeding and wintering wetland birds Criterion 6 – species/populations occurring at levels of international importance (breeding lesser black-backed gull and non-breeding avocet and redshank		**LSE – (C & D) marsh harrier and curlew**				
	Airborne sounds and visual disturbance from offshore works (C, D)	**LSE – lesser black-backed gull**	Not disputed	No AEoI	Not disputed	No AEoI
	Indirect effects through impacts to prey species (C, D)	**LSE – lesser black-backed gull**	Not disputed	No AEoI	Not disputed	No AEoI
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	**LSE (O)**	n/a	**AEoI**	No AEoI
Minsmere-Walberswick SPA						
Great bittern (*Botaurus stellaris*) Gadwall (*Anas strepera*)	Direct habitat loss (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Loss of FLL (C, D)	No LSE	Not disputed	n/a	n/a	No LSE

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Eurasian teal (*Anas crecca*) Northern shoveler (*Anas clypeata*) Eurasian marsh harrier (*Circus aeruginosus*) Hen harrier (*Circus cyaneus*) Pied avocet (*Recurvirostra avosetta*) Little tern (*Sterna albifrons*) European nightjar (*Caprimulgus europaeus*) Greater white-fronted goose (*Anser albifrons albifrons*)	Disturbance (noise and visual) from onshore works (C, O, D)	**LSE – non-breeding birds and breeding marsh harrier at FLL (C&D)** No LSE (O)	Not disputed	No AEoI	Not disputed	No AEoI
	Airborne sounds and visual disturbance from offshore works (C, D)	**LSE – little tern only**	Not disputed	No AEoI	Not disputed	No AEoI
	Indirect effects through impacts to prey species (C, D)	**LSE – little tern only**	Not disputed	No AEoI	Not disputed	No AEoI
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Minsmere-Walberswick Ramsar site						
Ramsar criterion 1 - The site contains a mosaic of marine, freshwater, marshland and associated habitats, complete with transition areas in between. Contains the largest continuous stand of reedbeds in England and Wales and rare transition in grazing marsh ditch plants from brackish to fresh water Ramsar criterion 2 - This site supports nine nationally scarce plants and at least 26 red data book invertebrates. Supports a population	Direct habitat loss (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Loss of FLL (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Disturbance (noise and visual) from onshore works (C, O, D)	**LSE – white-fronted goose (C&D)** No LSE (O)	Not disputed	No AEoI	Not disputed	No AEoI
	Airborne sounds and visual disturbance from offshore works (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Indirect effects through impacts to prey species (C, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
of the mollusc Vertigo angustior An important assemblage of rare breeding birds associated with marshland and reedbeds						
Sandlings SPA						
Nightjar (*Caprimulgus europaeus*) Woodlark (*Lullula arborea)*	Direct habitat loss (C)	No LSE	Not disputed	n/a	n/a	No LSE
	Air quality (dust and exhaust emissions)	**LSE (C, D) from dust only** No LSE (O)	Not disputed	No AEoI	Not disputed	No AEoI
	Loss of FLL (C, D)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Disturbance (noise and visual) from onshore works	**LSE (C, D)** No LSE (O)	Not disputed	No AEoI	**Not clear**	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE
Stodmarsh SPA						
Great bittern (*Botaurus stellaris*) (wintering) Gadwall (*Anas Strepera*) (wintering and breeding) Northern shoveler (*Anas clypeata*) (wintering) Hen harrier (*Circus cyaneus*) (wintering) Waterbird assemblage Breeding bird assemblage	Loss of FLL (O)	No LSE	Not disputed	n/a	n/a	No LSE
	Disturbance (noise and visual) from onshore works (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Collision risk (O)	**LSE**	**LSE**	No AEoI	No AEoI	No AEoI
Stodmarsh Ramsar site						
Ramsar Criterion 2 - 6 British Red Data Book	Loss of FLL (O)	No LSE	Not disputed	n/a	n/a	No LSE

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
wetland invertebrates 2 nationally rare plants, and 5 nationally scarce species and a diverse assemblage of rare wetland birds: gadwall (*Anas strepera*), great bittern (*Botaurus stellaris*), northern shoveler (*Anas clypeata*) and hen harrier (*Circus cyaneus*)	Disturbance (noise and visual) from onshore works (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Pollution (terrestrial - changes in water quality) (C, O, D)	No LSE	Not disputed	n/a	n/a	No LSE
	Collision risk (O)	**LSE – for bird species**	Yes	No AEoI	No AEoI	No AEoI
Thanet Coast and Sandwich Bay SPA						
European golden plover (*Pluvialis apricaria*) (non-breeding)	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Ruddy turnstone (*Arenaria interpres*) (non-breeding) Little tern (*Sterna albifrons*) (breeding)	Airborne sounds and visual disturbance from offshore works (C, D)	**LSE**	Not disputed	No AEoI	**AEoI**	No AEoI
	Indirect effects through impacts to prey species (C, O, D)	**LSE (construction phase)**	Not disputed	No AEoI	**AEoI**	No AEoI
	Direct habitat loss (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Disturbance (noise and visual) from onshore works (C, O, D)	**LSE (C, D) – noise** No LSE (C, D) – visual No LSE (O)	Not disputed	No AEoI	Not disputed	No AEoI
	Pollution (terrestrial - changes in water quality) (C, O, D)	**LSE (C: for frac out)** No LSE (O&D)	**LSE from frac out not disputed** **Also LSE from use of hoverport**	No AEoI	No AEoI from frac out **Unclear from use of hoverport**	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Loss of FLL (O)	**LSE (O) – golden plover**	**LSE** (but consider it a construction phase impact)	No AEoI	No AEoI	No AEoI
	Collision risk (O)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Air quality (dust and exhaust emissions) (C, O, D)	No LSE	No LSE for operational air quality C and D not disputed	n/a	n/a	No LSE
Thanet Coast and Sandwich Bay Ramsar site						
Ramsar Criterion 2 - supports 15 British Red Data Book wetland invertebrates	Changes to marine water quality during cable installation and cable lay from the use of drilling fluids (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Ramsar Criterion 6 - species/ populations occurring at levels of international importance – ruddy turnstone (*Arenaria interpres*)	Airborne sounds and visual disturbance from offshore works (C, D)	**LSE**	Not disputed	No AEoI	**AEoI**	No AEoI
	Indirect effects through impacts to prey species (C, O, D)	**LSE**	Not disputed	No AEoI	**AEoI**	No AEoI
	Direct habitat loss (C)	**LSE**	Not disputed	No AEoI	No AEoI	No AEoI
	Disturbance (noise and visual) from onshore works (C, O, D)	**LSE (C, D) – noise for Criterion 6** No LSE (C, D) – visual No LSE (O)	Not disputed	No AEoI	Not disputed	No AEoI
	Pollution (terrestrial - changes in water quality) (C, O, D)	**LSE (C: for frac out)** No LSE (O&D)	**LSE from frac out not disputed** **Also LSE from use of hoverport**	No AEoI	No AEoI from frac out **Unclear from use of hoverport**	No AEoI

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Loss of FLL (O)	**LSE (O) – golden plover**	**LSE** (but consider it a construction phase impact)	No AEoI	No AEoI	No AEoI
	Collision risk (O)	**LSE – Criterion 6**	Not disputed	No AEoI	No AEoI	No AEoI
	Air quality (dust and exhaust emissions) (C, O, D)	No LSE	No LSE for operational air quality C and D not disputed	n/a	n/a	No LSE

Table B.13: Offshore ornithology

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
Outer Thames Estuary SPA						
Red-throated diver *(G. Stellata)* Common tern *(Sterna hirundo)* Little tern *(Sternula albifrons)*	Direct habitat loss (C, O)	No LSE	NE: Not disputed	n/a	n/a	No LSE
			JNCC: Not disputed	n/a	n/a	
	Loss of FLL (C, D)	No LSE	NE: Not disputed	n/a	n/a	No LSE
			JNCC: Not disputed	n/a	n/a	
	Disturbance (noise and visual) from onshore works (C, D)	No LSE	NE: Not disputed	n/a	n/a	No LSE
			JNCC: Not disputed	n/a	n/a	
	Airborne sounds and visual disturbance from offshore works (C, O, D)	**LSE**	NE: Not disputed	No AEoI	NE: No AEoI	No AEoI
			JNCC: Not disputed		JNCC: No AEoI	

European site / qualifying feature	Potential impact	LSE (alone or in combination)?		AEoI (alone or in combination)?		ExA conclusion
		Applicant's conclusion	ANCB conclusion	Applicant's conclusion	ANCB conclusion	
	Indirect effects through impacts to prey species (C, D)	**LSE**	NE: Not disputed	No AEoI	NE: Not disputed	No AEoI
			JNCC: Not disputed		JNCC: No AEoI	
	Permanent loss of foraging habitat for qualifying features	No LSE	NE: No LSE	n/a	n/a	No LSE
			JNCC: Not disputed			

APPENDIX C: OTHER LEGISLATION

Other Legislation
▪ Acquisition of Land Act 1981 ▪ Ancient Monuments and Archaeological Areas Act 1979 ▪ Air Quality (England) Regulations 2000 ▪ Air Quality Standards Regulations 2010 (as amended) ▪ The Air Quality (Amendment of Domestic Regulations) (EU Exit) Regulations 2019 ▪ Ancient Monuments and Archaeological Areas Act 1979 ▪ Building Act 1984 and the Building Regulations 2010 ▪ Burial Act 1857 ▪ Carbon Budget Order 2021 ▪ Clean Power 2030 Action Plan ▪ Climate Change Act 2008 ▪ Commons Registration Act 1965 ▪ Compulsory Purchase Act 1965 ▪ Compulsory Purchase (Vesting Declarations) Act 1981 ▪ Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations 2017') ▪ Contaminated Land (England) (Amendment) Regulations 2012 ('Contaminated Land Regulations') ▪ Control of Electromagnetic Fields at Work Regulations 2016 ▪ Control of Pollution Act 1974 ▪ Controlled Waste (England and Wales) Regulations 2012 (SI 2012/811) ▪ Countryside and Rights of Way Act 2000 ▪ Electricity Act 1989 ▪ Environment Act 1995 ▪ Environment Act 2021 ▪ Environment (Amendment etc.) (EU Exit) Regulations 2019 ▪ Environmental Damage (Prevention and Remediation) (England) Regulations 2015 ▪ Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020 ▪ Environmental Permitting (England and Wales) Regulations 2016 ▪ Environmental Protection Act 1990 ▪ Environmental Noise (England) Regulations 2006 (as amended) ▪ Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019 ▪ European Landscape Convention (ELC) (Council of Europe, 2016) Hedgerow Regulations 1997 ▪ Equality Act 2010 ▪ Flood and Water Management Act 2010 ▪ Flood Risk Regulations 2009 ▪ Groundwater (Water Framework Directive) (England) Direction 2016 ▪ Hazardous Waste (England and Wales) Regulations 2005 (SI 2005/894) ▪ Health and Safety at Work etc. Act 1974 ▪ Health and Social Care Act 2012 ▪ The Hedgerows Regulations 1997 ▪ Highways Act 1980 ▪ Human Rights Act 1998 ▪ Infrastructure Planning (Decisions) Regulations 2010 ▪ The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 ▪ Land Drainage Act 1991 ▪ Land Drainage Act 1994 ▪ Levelling-up and Regeneration Act 2023 ▪ Localism Act 2011 ▪ Marine and Costal Access Act 2009 ▪ National Parks and Access to the Countryside Act 1949 ▪ National Parks and Access to the Countryside Act 2000 ▪ Natural Environment and Rural Communities Act 2006

- Neighbourhood Planning Act 2017
- New Roads and Street Works Act 1991
- Noise Insulation Regulations 1975
- The Planning Act 2008
- Planning (Hazardous Substances) Act 1990
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Pollution Prevention and Control Act 1999
- Protection of Badgers Act 1992
- The Air Navigation Order 2016 (SI 2016/765)
- The Air Quality Standards Regulations 2010
- The Construction (Design and Management) Regulations 2015
- The Conservation of Habitats and Species Regulations 2017
- The Conservation of Offshore Marine Habitats and Species Regulations 2017
- The Control of Substances Hazardous to Human Health (COSHH) Regulations 2002
- The Convention on Biological Diversity 1992
- The Convention on the Conservation of Migratory Species of Wild Animals (Bonn Convention) 1979
- The Convention on the International Regulations for Preventing Collisions at Sea (COLREGS) 1972
- The Energy Act 1983
- The Eels (England and Wales) Regulations 2009
- The Electricity (Safety, Quality and Continuity) Regulations 2002
- The Environment (Miscellaneous Amendments) (EU Exit) Regulations 2020
- The Environmental Permitting (England and Wales) (Amendment) (EU Exit) Regulations 2019
- The Environmental Targets (Fine Particulate Matter) (England) Regulations 2023.
- The Espoo and Aarhus Conventions
- The Hedgerows Regulations 1997
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
- The International Convention for the Safety of Life at Sea (SOLAS) 1974
- The Management of Health and Safety at Work Regulations 1999
- The OSPAR convention 1992
- The Traffic Management Permit Scheme (England) Regulations
- The Waste (England and Wales) Regulations 2011 (SI 2011/988)
- The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017
- Traffic Management Act 2004
- Treasure Act 1996
- Town and Country Planning Act 1990
- United Nations Convention on the Law of the Sea (UNCLOS) 1982
- United Nations Environmental Programme (UNEP) Convention on Biological Diversity 1992
- Waste (England and Wales) Regulations 2011
- Water Act 2003 and 2014
- Water Resources Act 1991
- Water Industry Act 1991
- Wild Mammals (Protection) Act 1996
- Wildlife and Countryside Act 1981

Other relevant Directives and assimilated EU laws

- Habitats Directive (92/43/EEC)
- Hazardous Waste Directive (2008/98/EC)
- Landfill Directive (1999/31/EC)
- The Birds Directive (2009/147/EC)
- Water Framework Directive (2000/60/EC)
- Waste Framework Directive (2008/98/EC)

APPENDIX D: ABBREVIATIONS LIST

APPENDIX D: LIST OF ABBREVIATIONS

AA	appropriate assessment (for the purposes of The Conservation of Habitats and Species Regulations 2017)
ADMS-6	atmospheric dispersion modelling software version 6
AEoI	adverse effect(s) on integrity
AGC	Aldeburgh Golf Club
AIL	abnormal indivisible load
ALARP	as low as reasonably practicable
ALC	agricultural land classification
ALSRP	Ash Level and South Richborough Pastures
ANCB	appropriate nature conservation body
AOE	Alde-Ore Estuary
AOI	area of interest
AONB	area of outstanding natural beauty
AP	affected person
AQMA	air quality management area
(o)AQMP	(outline) air quality management plan
AQO	air quality objectives
ASD	areas of safeguarded depth
ASI	accompanied site inspection
ASWD	areas of safeguarded water depth
BCT	Bat Conservation Trust
BFL	Blackheath Farms Limited
BMP	benthic mitigation plans
BMS	biodiversity management strategy
BMV	best and most versatile (agricultural land)
BNG	biodiversity net gain
BoR	Book of Reference
BPM	best practicable means
BWEK	Bird Wise East Kent
CA	compulsory acquisition
CA Guidance	the Department for Community and Local Government's 'Guidance related to procedures for the compulsory acquisition of land' published September 2013
CAH	compulsory acquisition hearing
CBRA	cable burial risk assessment
CCA	county character area
CEA	cumulative effects assessment
CEFAS	Centre for Environment Fisheries and Aquaculture Science
(o)CEMP	(outline) [onshore] construction environmental management plan
CIL	community infrastructure levy
CNP	critical national priority
(o)CNVMP	(outline) construction noise and vibration management plan
CO2	carbon dioxide
CoCP	code of construction practice
CPRE	Campaign to Protect Rural England
CR1	change request 1
CRoW Act	Countryside and Rights of Way Act 2000
(o)CSIP	(outline) cable specification and installation plan
(o)CTMTP	(outline) construction traffic management and travel plan

CWS	County Wildlife Site
dB	decibel
DCF	Development Co-ordination Forum
(d) or (r) DCO	(draft) (recommended) Development Consent Order
DDC	Dover District Council
Defra	Department for Environment, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
DFMP	drilling fluid management plan
DL	deadline
(d)DML	(draft) Deemed Marine Licence (schedule 16 of the dDCO)
DMO	local destination management organisation
DoL	depth of lowering
EA	Environment Agency
EA1N	East Anglia One North
EA1NL	East Anglia One North Limited
EA2	East Anglia Two
EA2L	East Anglia Two Limited
EA3	East Anglia Three Offshore Wind Farm
EAF	East Atlantic Flyway
ECHR	European Convention on Human Rights
ECoW	ecological clerk of works[LH2.1]
EDR	effective deterrent range
EEA	European Economic Area
EHO	environmental health officer
EIA	environmental impact assessment
EIA Regs	The Infrastructure Planning (EIA) Regulations 2017
EIFCA	Eastern Inshore Fisheries and Conservation Authority
EL	examination library
EM	Explanatory Memorandum
EMF	electro-magnetic field
EN-1	Overarching National Policy Statement (NPS) for Energy (2024)
EN-3	National Policy Statement for Renewable Energy Infrastructure (2024)
EN-5	National Policy Statement for Electricity Networks Infrastructure (2024)
EnvCoW	environmental clerk of works
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010
EPUK	Environmental Protection UK
EqIA	equalities impact assessment
ES	environmental statement
ESC	East Suffolk Council
EU	European Union
EUNIS	European Union Nature Identification Network
ExA	Examining Authority
ExQ1	ExA's first written questions
ExQ2	ExA's second written questions
ExQ3	ExA's third written questions
F-gas	fluorinated gas
FEP	flood emergency plan
FID	flight initiation distance
FLL	functionally linked land
(o)FLCP	(outline) fisheries liaison and coexistence plan

FLO	fisheries liaison officer
FPC	Friston Parish Council
FPGM	flood plain grazing marsh
FRA	flood risk assessment
FSA	formal safety assessment
FTP	furthering the purposes
FZ	flood zone
GHG	greenhouse gas
GI	ground investigation
GIL	gas insulated lines
GIS	gas insulated switchgear
GVA	gross value added
GW	gigawatt
The Habitats Regulations	The Conservation of Habitats and Species Regulations 2017
The Offshore Marine Regulations	The Conservation of Offshore Marine Habitats and Species Regulations 2017
ha	hectare(s)
HDD	horizontal directional drilling
HE	Historic England
HGV	heavy goods vehicle
HHA	Harwich Haven Authority
HND	holistic network design
HRA	habitats regulations assessment
HVAC	high voltage alternating current
HVDC	high voltage direct current
Hz	hertz
IAPI	initial assessment of principal issues
IAQM	Institute for Air Quality Management
ICES	International Council for the Exploration of Seas
IEMA	Institute of Sustainability and Environmental Professional (formerly Institute of Environmental Management and Assessment)
ILP	Institute of Lighting Professionals
IMO	International Maritime Organisation
INNS	invasive non-native species
IP	interested party
(o)IPMP	(outline) in-principle monitoring plan
ISH	issue specific hearing
IUCN	International Union for the Conservation of Nature
JNCC	Joint Nature Conservation Committee
JUV/JUB	jack up vessel/jack up barge
KCC	Kent County Council
KDP	Kent Dolphin Project
KEIFCA	Kent and Essex Inshore Fisheries and Conservation Authority
km	kilometre(s)
KP	kilometre point
kV	kilovolt
KWT	Kent Wildlife Trust
LA SSSI	Leiston-Aldeburgh SSSI

LA90,15min	A-weighted sound pressure level that is exceeded by the residual sound at the assessment location for 90% of a given time interval, T, measured using time weighting F and quoted to the nearest whole number of decibels
LAeq,T	A-weighted continuous equivalent sound pressure level for time interval T
LAQM.TG(22)	Local Air Quality Management Technical Guidance, 2022
LArTr	specific sound level plus any adjustment for the characteristic features of the sound for the reference time interval Tr. BS4142 defines this as 1 hour during the day from 07:00 to 23:00 hours and a shorter period of 15 min at night from 23:00 to 07:00 hours.
LCA	landscape character area
LCeq,T	C-weighted continuous equivalent sound pressure level for time interval T
LCT	landscape character type
(o)LEMP	outline landscape and ecological management plan
LGPL	London Gateway Port Limited
LHA	local highways authority
LiDAR	light detection and ranging
LIR	local impact report
LLFA	lead local flood authority
LMS	landfall method statement
LNR	local nature reserve
LNRS	local nature recovery strategy
LOAEL	lowest observed adverse effect level
LoD	limits of deviation
LPA	local planning authority
LRT	land rights tracker
LSE	likely significant effects
LVEP	local visitor economy partnership
LVIA	landscape and visual impact assessment
LWS	local wildlife site
m	metre(s)
MCA	Maritime and Coastguard Agency
MCAA	Marine and Coastal Access Act 2009
MCC	manual classified counts
MCZ	marine conservation zone
MCZA	marine conservation zone assessment
MDS	maximum design scenario
MHWS	mean high water springs
MinCA	mineral consultation area
(o)MMMP	(outline) marine mammal mitigation plan
MMO	Marine Management Organisation
MPA	marine protected area
MPE	marine physical environment
MU	management unit
MW	megawatt
NCA	national character area
NDHA	non-designated heritage assets
NE	Natural England
Nemo link	Nemo link interconnector
NESO	National Energy Systems Operator
NERC Act	Natural Environment and Rural Communities Act 2006

NFFO	National Federation of Fishermen's Organisations
NFU	National Farmers Union
NGET	National Grid Electricity Transmission
NGV	National Grid Ventures
NIA	noise important area
(o)NIP	(outline) navigation and installation plan
NL	national landscape
nm	nautical mile(s)
NMFS	National Marine Fisheries Service
NNR	national nature reserve
NO2	nitrogen dioxide
NOAA	National Oceanic and Atmospheric Administration
NOx	nitrogen oxide
NPPF	national planning policy framework
NPS	national policy statement
NPS EN-1	overarching NPS for Energy
NPS EN-3	NPS for Renewable Energy Infrastructure
NPS EN-5	NPS for Electricity Networks Infrastructure
NPSE	Noise Policy Statement for England
NR	Network Rail
NRA	navigational risk assessment
NRMM	non-road mobile machinery
NSIP	nationally significant infrastructure project
NSN	national site network
NSR	noise sensitive receptor
NT	National Trust
NTS	non-technical summary
NWHS	Natural World Heritage Site
NWL	Northumbrian Water Limited
oCTMTP	outline Constructive Traffic Management and Travel Plan
O&M	operation and maintenance
OD	ordnance datum
Ofgem	Office of Gas and Electricity Markets
(o)OCEMP	(outline) offshore construction environmental management plan
(o)OIMP	outline offshore INNS management plan
OFH	open floor hearing
OFTO	offshore electricity transmission
OHL	overhead line
(o)OLMP	(outline) operational lighting management plan
oRWMP	outline Rights of Way and Management Plan
OSU	other sea users
OTD	operation turtle dove
OTE	Outer Thames Estuary
OWF	offshore wind farm
OWSI	overarching written scheme of investigation
PA2008	Planning Act 2008
PADSS	principal areas of disagreement summary statements
PC	parish council
PD	procedural decision
PEIR	preliminary environmental information report

PLA	Port of London Authority
PLONOR	pose little or no risk
PM	preliminary meeting
PM10	particulate matter which is 10 micrometres or less in diameter
PM2.5	particulate matter which is 2.5 micrometres or less in diameter
PP	protective provisions
PRoW	public right(s) of way
PRoWMP	Public rights of way management plan
PSED	Public Sector Equality Duty
PTS	permanent threshold shift
R	requirement
RAM	restricted in ability to manoeuvre
RCP 8.5	representative concentration pathway
REAC	register of environmental actions and commitments
RIES	report on the implications for European sites
RPA	root protection area
RR	relevant representation
RRZ	recommended restricted zone
RSPB	Royal Society for the Protection of Birds
RTD	red-throated diver
RVP	representative viewpoint
RYA	Royal Yachting Association
s	section
SAC	special area of conservation
SAM	scheduled ancient monument
SASES	Substation Action Save East Suffolk
SBBOT	Sandwich Bay Bird Observatory Trust
SBHM	Sandwich Bay and Hacklinge Marshes
SBP	sub-bottom profiler
SCANS	Small Cetaceans in European Atlantic waters and the North Sea
SCC	Suffolk County Council
SCI	sites of community importance
SCOS	Special Committee on Seals
SEAS	Suffolk Energy Action Solutions Ltd
SECHNL(P)	Suffolk & Essex Coast & Heaths National Landscape (Partnership)
SEL/SELcum	sound exposure level/cumulative sound exposure level
SEN	special educational needs
SF6	sulphur hexafluoride
SFG	Southwold Fishermen's Group
SHC	Suffolk heritage coast
ShMP	Shoreline Management Plan
SMM	Save Minster Marshes
(o)SMP	(outline) soil management plan
SMU	seal management unit
SNCB	statutory nature conservation body
SNS SAC	Southern North Sea Special Area of Conservation
SOAEL	significant observed adverse effect level
SoCG	statement of common ground
SoNLI	schedule of negotiations with land interests
SoR	statement of reasons

SPA	special protection area
SPLpeak	peak sound pressure level
SPP	special parliamentary procedure
SPR	ScottishPower Renewables UK Limited
the SPR parties	SPR, East Anglia ONE North Limited (EA1NL) and East Anglia TWO Limited (EA2L)
SPZ	source protection zone
SSC	suspended sediment concentration
SSCEP	skills, supply chain and employment plan
SSSI	site of special scientific interest
STC	Saxmundham Town Council
SU	statutory undertaker
SuDS	sustainable drainage systems
TCE	The Crown Estate
tCO2e	tonnes of carbon dioxide equivalent
TCPA	Town and Country Planning Act
TCSB	Thanet Coast and Sandwich Bay
TDC	Thanet District Council
TDFZ	turtle dove friendly zone
TECFO	Thames Estuary Cockle Fishery Order
TeFA	Tenant Farmers Association
TEZ	temporary exclusion zone
TFA	Thanet Fishermen's Association
TJB	transition joint bay
TP	temporary possession
UK	United Kingdom
UKCP18	UK Climate Projections 2018
UK NSN	network of European sites within the UK
USI	unaccompanied site inspection
UU	unilateral undertaking
UXO	unexploded ordnance
WFD	Water Framework Directive
WHO	World Health Organisation
WHS	World Heritage Site
WNEL	William Notcutt Estates Limited
WR	written representation
WSI	written scheme of investigation
WWTP	wastewater treatment plant
ZoI	zones of influence
ZTV	zone of theoretical visibility
µg/m3	micrograms per metres cubed