



Department for
Business, Energy
& Industrial Strategy

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Dear Mr Lean

PLANNING ACT 2008

APPLICATION FOR THE NORFOLK VANGUARD OFFSHORE WIND FARM ORDER

1. Introduction

1.1 I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the report dated 10 September 2019 of the Examining Authority (“the ExA”), comprising a panel of four examining Inspectors, Karen Ridge (Lead Member), Caroline Jones, Gavin Jones and Grahame Kean, who conducted an examination into the application (“the Application”) submitted on 8 June 2018 and received in full on 26 June 2018 by Norfolk Vanguard Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Norfolk Vanguard Offshore Wind Farm and associated offshore and onshore development (“the Development”).

1.2 The Application was accepted for examination on 24 July 2018. The examination began on 10 December 2018 and was completed on 10 June 2019. The Secretary of State received the report containing the ExA’s conclusions and recommendation on 10 September 2019.

1.3 On 6 December 2019, the Secretary of State requested comments from the Applicant and Interested Parties in respect of: Ornithology (the Flamborough and Filey Coast Special Protection Area and the Alde-Ore Estuary Special Protection Area); the Haisborough Hammond and Winterton Special Area of Conservation; sediment

particle size; marine mammals (with regard to the potential use of vibropiling and Blue Hammer foundation installation techniques); water quality; traffic management at Cawston: the appearance of electrical equipment; the addition of sites to the list of trenchless crossings; the replacement period in landscaping schemes; the timing of traffic management measures; non-standard construction hours; the control of noise during the operational phase of the Development; the time period for cable exposure notification; the lighting and marking plan and the operation and maintenance programme. Comments were requested by 28 February 2020. Consultation responses were subsequently published and, as the Secretary of State considered that the information provided by the Applicant in response to those letters contained new environmental information, parties were given until 27 April 2020 to provide any additional comments. In order to fully consider the consultation responses, the statutory deadline for the Secretary of State's decision was originally extended from 10 December 2019 to 1 June 2020 and then extended again until 1 July 2020.

1.4 The Order would grant development consent for the construction and operation of an offshore wind farm with a generating capacity of up to 1,800 Megawatts ("MW") with associated offshore and onshore development in the North Sea and in the County of Norfolk.

1.5 The Development as applied for would comprise:

- construction and operation of up to 200 wind turbine generators;
- up to two offshore electrical platforms;
- up to two accommodation platforms;
- up to two meteorological masts;
- measuring equipment (LiDAR and wave buoys);
- subsea array and fibre optic cables;
- interconnector cables;
- export cables;
- onshore transmission works at landfall;
- onshore cable route, accesses, trenchless crossing technique;
- directional drilling zones and mobilisation areas;
- onshore project substation; and
- extension to the Necton National Grid substation and overhead line modifications.

1.6 During the Examination, the Applicant proposed a number of changes to the Development including a reduction in the number of wind turbine generators to 180. In the wake of consultation with the Applicant and other parties after the receipt of the ExA's Report, the Applicant further reduced the maximum number of turbines that would form the Development to 158.

1.7 The proposed Development will use High Voltage Direct Current ("HVDC") transmission to conduct the electricity generated from the wind turbines to the onshore project electricity substation where it would be converted to High Voltage Alternating Current ("HVAC") before being transmitted to an existing National Grid electricity substation which would be extended to accommodate the additional equipment needed to allow the importation of the electricity.

1.8 Powers of compulsory acquisition for both land, and new and existing rights over land, are also sought by the Applicant to support the delivery of the project.

1.9 Published alongside this letter on the Planning Inspectorate's website¹ is a copy of the ExA's Report of Findings and Conclusions and Recommendation to the Secretary of State ("the ExA Report"). The main features of the development proposals, as applied for, and site are set out in section 2 of the ExA's report. The ExA's findings are set out in sections 4 - 6 of the ExA Report, and the ExA's conclusions on the case for development consent, the request for compulsory acquisition powers and the terms of the Order are set out at sections 7, 8, 9 and 10.

2. Summary of the ExA's Report and Recommendation

2.1 The ExA's recommendation in section 10.3 (on page 376) of the ExA Report is as follows:

"10.3.1. For all of the above reasons, and in the light of its findings and conclusions on important and relevant matters set out in this Report, the ExA, under the Planning Act 2008 (as amended), recommends that the Secretary of State for Business, Energy and Industrial Strategy does not make the Norfolk Vanguard Offshore Wind Farm Order.

10.3.2. In the event that the Secretary of State concludes that it is appropriate to make the Norfolk Vanguard Offshore Wind Farm Order, the ExA recommends that the Secretary of State makes the Order in the form recommended at Appendix D."

3. Summary of the Secretary of State's views

3.1 A total of 267 Relevant Representations (as defined in the Planning Act 2008) were received by the Planning Inspectorate from statutory and non-statutory authorities, utility providers, Norfolk County Council, North Norfolk District Council, Broadland District Council, Breckland Council, local parish and town councils, local MPs, local organisations and local residents.

3.2 The principal matters considered by the ExA, as set out in the ExA's Report are:

- landscape and visual assessment;
- the historic environment;
- traffic and transport;
- socio-economic impacts;
- contamination and ground conditions;
- coastal change;
- flood risk and water resources;

¹<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/norfolk-vanguard/>

- noise and vibration;
- air quality
- human health
- onshore ecology and ornithology
- land use
- commercial fisheries;
- shipping and navigation;
- aviation;
- marine physical processes;
- substation safety issues (under ‘other considerations’);
- offshore biodiversity, biological environment and biodiversity; and
- findings and conclusions in relation to Habitats Regulations Assessment.

3.3 In addition to the ExA’s conclusion that it could not rule out an adverse effect on the integrity of sites and species designated under the Habitats Regulations, the ExA recommended that cumulative impacts (from the proposed Development and other projects) on certain seabird species (separate from the impacts on the bird species from the Habitats Regulations sites) weigh against development consent being granted. (See the “Offshore Biodiversity, Biological Environment and Biodiversity” section below).

3.4 However, the ExA’s view was that none of the matters raised during Examination was of such a magnitude either on its own or in-combination to justify withholding consent. The ExA did consider that the proposed Development would have a number of adverse impacts during its construction and operation particularly in relation to landscape character effects at the site of the proposed substation at Necton and in relation to traffic impacts at Cawston (when considered with the potential impacts of any traffic that might be generated by the proposed Hornsea Project Three offshore wind farm) but that the overall benefits of the proposed Development outweighed the harm.

3.5 Setting aside all seabird-related matters, the ExA’s overall conclusion is that the impacts of the proposed Development are not so great as to offset its significant benefits, particularly in respect of its contribution to the decarbonisation of the electricity generation sector. The Secretary of State agrees with the ExA’s conclusion.

3.6 Since the ExA’s Report was received, the Secretary of State has consulted with the Applicant and Interested Parties about a number of issues, particularly in respect of the potential Adverse Effects on the Integrity on the Flamborough and Filey Coast Special Protection Area and the Alde-Ore Estuary Special Protection Area. The Secretary of State considers that in light of the information received in response to the consultation, he is now able to determine that the Development would not have any Adverse Effects on the Integrity of the two Special Protection Areas sites and that development consent should be granted.

4 Matters considered by the ExA during the Examination

Need for the Development

4.1 The Planning Act 2008 sets out a process for decision-makers to follow in considering applications for nationally significant infrastructure projects (“NSIPs”). In the first instance, the decision-maker needs to consider whether the proposed NSIP is in accordance with the relevant National Policy Statement(s). The proposed Development is a ‘Nationally Significant Infrastructure Project’ (“NSIP”) as defined in sections 14 and 15 of the Planning Act 2008 by virtue of being an offshore generating station with a generating capacity of greater than 100MW.

4.2 Section 104 of the Planning Act 2008 sets out that decisions on NSIPs where a National Policy Statement has effect must have regard to the relevant Statement and any other matters that are both important and relevant to the decision. Any decision must be taken in accordance with the relevant national policy statement except where doing so would lead to a breach of the UK’s international obligations, lead to the Secretary of State being in breach of any duty imposed on him/her or under any enactment, be unlawful by virtue of any enactment, or where the adverse effects of a development outweighs its benefits (the last at section 104(7) of the Act).

4.3 National Policy Statements EN-1 (the Overarching National Policy Statement for Energy - “NPS EN-1”) and EN-3 (the National Policy Statement for Renewable Energy Infrastructure – “NPS EN-3”) set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed by the Applicant. NPS EN-1, in particular, sets out that the assessment of development consent applications should start with a presumption in favour of granting consent. The ExA noted the strong need case for renewable energy projects that was set out in NPS EN-1 and NPS EN-3. The ExA also considered the onshore and offshore cables and substations against the tests set out in National Policy Statement EN-5 (“the National Policy Statement for Electricity Networks Infrastructure – “NPS EN-5”).

4.4 The Secretary of State considers that the proposed Development is in accordance with the NPS EN-1, NPS EN-3 (and NPS EN-5) and benefits from the presumption in favour of electricity generating stations in general and in favour of offshore wind farm generating stations in particular. In addition, granting development consent for the Development would be consistent with government policy and will contribute to the delivery of low-carbon and renewable energy, ensuring a secure, diverse and affordable energy supply in line with legal commitments to “net zero” and the need to address climate change.

Consideration of Alternatives

4.5 The Applicant’s consultation efforts and its consideration of alternatives (particularly in respect cable landfall, the onshore cable route and the location of the grid connection for the Development) were all raised by many Interested Parties to the Examination as sources of concern. The main focus for the discussion about alternatives was the cable route from Happisburgh to Necton and the siting of the project substation and an extension to the existing National Grid substation in the same general location (close to Necton).

4.6 The ExA noted that concerns had been raised by many local people about the consultation process followed by the Applicant and the Applicant's failure to respond to ideas and worries that had been submitted to it as a result of the consultation. The ExA also noted that eleven district and local councils and City and County Councils had confirmed that the Applicant's statutory duty to publicise and consult on the Application had been complied with. The ExA further noted that the Applicant had made changes to the Application proposal as a result of the consultation responses. The ExA concluded that the consultation undertaken by the Applicant was adequate and sufficient to comply with the requirements of the Planning Act 2008. The Secretary of State sees no reason to disagree with the ExA on this matter.

4.7 As far as the consideration of alternatives is concerned, the ExA notes that the Applicant set out its rationale for the choices it made about offshore and onshore locations for the proposed Development in its 'Strategic Approach to Selecting a Grid Connection Point' document [ER 4.4.22]. As indicated above, the Applicant's decision-making on site locations came under scrutiny during the Examination with views being expressed that an offshore ring main, which would consolidate a number of grid connections for wind farms proposed off the Norfolk and Suffolk coasts into a single connection point, should be adopted for the Norfolk Vanguard, Norfolk Boreas and Hornsea Project Three projects. The Secretary of State received representations on this matter from three Norfolk MPs (George Freeman, Jerome Meyhew and Duncan Baker).

4.8 The ExA also notes that there were suggestions from Interested Parties that it would be beneficial if the grid connection points for the proposed Development (at Necton) and for the proposed Hornsea Project Three (at the Norwich Main substation) could be swapped between the projects.

4.9 The ExA notes the Applicant's approach to site selection for the onshore and offshore elements of the projects and the part that was played by National Grid in narrowing down the range of options, particularly in respect of the onshore substation at Necton. The ExA notes [ER 4.4.26] that the consideration of an offshore ring main is a strategic matter which involves many layers of interested organisations and is not, therefore, suitable for consideration by the ExA in a forum which is considering a development consent application for a single site. Similarly, the ExA concluded that suggestions about a grid connection swap between the proposed Development and Hornsea Project Three were not matters to be considered during the Examination.

4.10 In light of this position, the ExA's conclusion is that the Applicant did undertake a reasonable alternatives process in finalising its site options. The ExA also concludes [ER 4.4.33] that *the "SoS should also be aware of the strongly held views that, in view of the number of offshore wind farm projects coming forward in this region, there should be a strategic approach in terms of contributions towards the development of an offshore ring main"*.

4.11 While acknowledging the views expressed both during and after the Examination, the Secretary of State notes that NPS EN-3 states "When considering grid connection issues, the IPC should be mindful of the constraints of the regulatory regime for offshore transmission networks" [paragraph 2.6.36]. The Secretary of State

considers that the offshore transmission proposal for the Development has been brought forward in line with the existing regulatory regime. Whilst discussions are taking place in respect of the future shape of the offshore transmission network, such discussions are at the preliminary stage. The Secretary of State considers that he must assess the Development in line with current policy as set out in the National Policy Statements. He does not consider that the decision should be delayed to await the outcome of the discussions on the offshore transmission network given the urgent need for offshore wind development as identified in the National Policy Statements.

Landscape and Visual Assessment

4.12 The Applicant assessed the potential visual impacts of the proposed Development in relation to the offshore wind farm itself, the onshore cable corridor and the substation and extension to an existing substation at Necton. Given their distance from the shore, the offshore wind farm areas were scoped out of the environmental assessment process under this heading.

4.13 Paragraph 5.9.18 of NPS EN-1 sets out the following guidance for decision-makers:

“All proposed energy infrastructure is likely to have visual effects for many receptors around proposed sites. The [Secretary of State] will have to judge whether the visual effects on sensitive receptors, such as local residents, and other receptors, such as visitors to the local area, outweigh the benefits of the project.”

4.14 NPS EN-1 and NPS EN-3 also set out that developers of Nationally Significant Infrastructure Projects should use good design wherever possible to mitigate any impacts on landscape and visual impacts. The need for good design is set out in the ExA’s Report [ER 4.5.4 et seq].

4.15 The National Planning Policy Framework sets out that policies and consent decisions should contribute and enhance the natural environment by recognising the “intrinsic character and beauty of the countryside.”

4.16 The ExA also notes [ER 4.5.9 et seq] that the relevant Development Plan policies for each of the local authorities which had an element of the proposed Development within its jurisdiction generally required that infrastructure should enhance or at least should not diminish landscape features.

4.17 The Applicant carried out various studies of the potential landscape and visual impacts of the onshore works. [ER 4.5.12 et seq]

4.18 In respect of the impacts of the proposed substation works at Necton are concerned, there were concerns from local councils, individuals and George Freeman MP about the scale of what was being proposed across the two sites and that it would be completely disproportionate to the size of the village (Necton) near to where they would be located and be a major visual blight. [ER 4.5.18 et seq]

4.19 Other concerns were expressed about the removal of hedgerows and trees along the onshore cable route although agreement was subsequently reached about the inclusion of a suitable condition for replacement planting in any development consent order that might be issued [ER 4.5.24]. There were also concerns from residents of Happisburgh about the potential impact of the works at the landfall site of the offshore export cable.

4.20 The ExA notes [ER 4.5.27 et seq] the continued opposition to the proposed onshore works throughout the examination process because of visual impact concerns and concerns about related matters such as the time period that should be allowed for replacement planting to take effect.

4.21 The Secretary of State's consultation letter of 6 December 2019 sought views on this matter. In response, North Norfolk District Council re-stated the need for a 10 year period of remedial work to ensure that proposed vegetation had the chance to establish itself. The Applicant's response was that it would not be able to undertake remedial work over a ten year period because it did not, by and large, have land access rights for plots of land for more than a five year period and it would not, therefore, be possible to work to a ten year period unless it could secure voluntary agreements with relevant landowners. Where that was the case, then the Applicant would work to a ten year window as secured in the Outline Landscape and Ecological Management Strategy and therefore secured through Requirement 18 of the DCO. North Norfolk District Council made the point that this proposal was not secured in the development consent order and suggested additional wording for the order to ensure suitable coverage.

4.22 In response, the Secretary of State accepts the arguments put forward by the Applicant in this matter and has decided, therefore, to maintain the planting period of five years on the face of the DCO while noting that the period of 10 years is maintained in the OLEMS.

4.23 The ExA notes [ER 4.5.34] that the substation buildings would have a height of 19 metres with lightning protection masts being 25 metres tall. The Applicant had prepared visualisations of the built structures on the basis of 25-metre-high buildings to represent the worst case 'Rochdale Envelope' of the substations. However, during the examination, the ExA asked the Applicant to produce revised visualisations to show more accurate representations of the building heights.

4.24 The ExA carefully considered the position at Necton which would accommodate an extension to the existing National Grid substation as well as a new project substation. [ER 4.5.35] The ExA notes that the proposed infrastructure would introduce significant additions to the built environment and that there was no guarantee that it would be possible to screen it to avoid it being seen. The ExA further notes that the development in Necton would represent a material change to the landscape character and visual characteristics of this locality.

4.25 The ExA considered the extension of the National Grid substation and the removal of one overhead line pylon tower and its replacement with two towers each with a maximum height of 50 metres. The ExA noted that the maximum height of the extension would be 15 metres and that it would more than double the floor area of the

existing substation to cover in excess of 50,000 square metres. The ExA also considered the effect of highways access points at the substation extension and noted that the need to clear vegetation from these areas would increase the visibility of the infrastructure for road users along the A47 trunk road which passes within reasonable proximity of the extension to the National Grid substation.

4.26 As far as the project substation was concerned, the ExA noted that the permanent footprint of the development would have dimension of around 300 metres x 250 metres. The Applicant had proposed that planting of trees and shrubs around some of the substation (including on top of a 2 metre high bund along its western edge) would mitigate the impacts to some extent although the degree of mitigation was not guaranteed. Assessments had, therefore been based on precautionary growth rates.

4.27 In considering the effects on landscape of the two developments at Necton, the ExA notes [ER 4.5.46] that the substation location is not within any designated landscape areas. The ExA sets out that the landscape is typically rural with hedgerow framed roads and much of the area being productive farmland. The ExA further notes that the location or the proposed new project substation would benefit from existing hedgerow and plantations of trees which would help to reduce potential visual and landscape impacts although some of the hedgerows would be removed during construction and would be replaced once construction had finished.

4.28 In respect of the extension to the existing substation at Necton, the ExA notes [ER 4.5.50] that the existing National Grid substation is a noticeable feature in the local landscape with the development being slightly incongruous within it. The ExA goes on to say that the extension to the substation would add to the impression of a large-scale energy development. This would be exacerbated for some vantage points by the removal of hedgerows during construction – for example along a section of the A47 trunk road alongside the substation extension. However, the ExA considers that over time, the initial significant effects would reduce.

4.29 The ExA notes [ER4.5.58] that for many viewpoints in the village of Necton the views of the substations would be screened by vegetation and the undulating topography. Similarly, in the small hamlet of Ivy Todd, there would be views of the upper parts of the new substation from certain properties on the north edge of the hamlet. The ExA concludes that the most significant impacts would be for walkers and drivers on certain local routes. The ExA's overall conclusion for Necton and Ivy Todd is that there would be no significant impacts on the views of residents within those villages. [ER 4.5.60]

4.30 Looking at the cumulative impacts of the two proposed substation developments, the ExA comments that someone walking around the Necton area would be conscious of two large scale energy plants. The ExA concludes [ER 4.5.62] that these views would be localised, there would be no open views of the whole of the project infrastructure and mitigation planting would reduce the impacts over time.

4.31 The onshore cable route would run 60km from Happisburgh on the Norfolk coast to Necton. As indicated above, the cables would be undergrounded for their entire length. The proposed works would also include the ducting within which any cables from the proposed Norfolk Boreas offshore wind farm would be laid for use in

the event that it was consented and taken forward to development. The cable corridor would be 45 metres wide along its length and include room for the cable trenches, a 'running track' (which allows construction equipment to move along the cable route) and spoil heaps of the excavated earth. There would also be along the length of the cable route various compounds (including 'mobilisation areas' with an area of around 10,000km²) that would be used to provide storage and working space for the activities that would be needed to dig the cable route and install the cables within it. At the end of the construction period, the land over the cable route would be re-instated. [ER 4.5.64]

4.32 In addition, for the duration of the operation of the onshore cables, there would be link boxes (of 1.5m x 1.5m dimensions) set into the ground every 1.5km along the cable route. These would generally not be visible.

4.33 In terms of the onshore cable route's impact on landscape character is concerned, the ExA notes that the flat landscape and the enclosed nature of the cable route means that there would be only limited visibility of the cable works. The ExA also notes that the short-term duration of the works and the fact that they would be reversible would limit the significance of the impacts. [ER 4.5.67] However, the ExA draws attention to concerns from Broadland District Council in its Local Impact Report about the loss of hedgerows and trees in hedgerows along the cable route – particularly at road crossing points – and the effect this would have on landscape character. The Council highlighted one particular crossing point where the loss of the trees would result in a significant detrimental impact on the landscape character and visual amenity. The Council suggested that a trenchless crossing technique (where the cable route would be tunnelled underneath the road in question – a technique which is used at a number of points along the cable route) should be utilised to minimise disturbance. The ExA agreed with the Council and the location in question has been added to the list of trenchless crossing points in the development consent order. The Secretary of State notes that there were competing arguments about whether trenched or trenchless crossing techniques should be used at Colby Road. Having weighed them up, the Secretary of State has decided that, on balance, a trenched crossing would be the most appropriate for this location. (He has, however, decided that a trenchless crossing would work best on the B1149.)

4.34 The ExA also considered the potential impacts of the onshore cable route on two designated landscapes – Salle Park and Blickling Hall – which would lie quite close to the cable route. [ER 4.5.71] Both landscapes feature in Historic England's Register of Parks and Gardens. The ExA concluded that the impacts on both landscape areas would be short term and reversible.

4.35 In concluding its assessment of the onshore cable route's effect on landscape character areas, the ExA considered that, while there would be harmful impacts, these would be limited and temporary. The impacts on the designated landscapes mentioned above would not be significant. [ER 4.5.73]

4.36 The ExA next considered the impacts of the onshore cable route on visual amenity. The loss of hedgerows and trees along the cable route would have some impacts for local residents and travellers using routes along the cable route until the

re-planting had taken effect. The ExA's conclusion on hedgerow removal is that there would be some localised harm to visual amenity. [ER 4.5.77]

4.37 The ExA also looked at the potential visual impacts of the users of a number of designated footpaths along the onshore cable route – particularly Wensum Way, Marriott's Way and Paston Way. In respect of Wensum Way, the ExA notes the potential for significant detrimental visual effects along a 550 metre section of the path following removal of hedgerow and trees. Replacement planting would fill the gaps but only over a long period of time. The ExA concludes, therefore that impacts would be moderate, localised and of medium-term duration. There would be impacts on Marriott's Way but these would be limited, short term and reversible. Finally, the ExA considers that the onshore cable route would have limited impacts on Paston Way. Overall, the ExA concludes that Wensum Way would be significantly affected over localised sections but the other routes would not be affected to the same extent. [ER 4.5.80]

4.38 There are a number of major and minor roads that run either alongside or across the onshore cable route. There would be a range of impacts arising from the onshore cable route with some roads having extended lengths of exposure to the construction works. However, in general terms, the ExA considers that the impacts would be time -limited (albeit for a two year period in some cases) and reversible.

4.39 The ExA also considered the potential impacts of the offshore cable landfall to the south of Happisburgh on the Norfolk coast. There would need to be construction works at the Happisburgh site (inland rather than on the beach) to ensure the onshore and offshore cables were joined together. The works would necessitate two 60 metre x 50 metre compounds within which two transition pits would be constructed. There would be no workings on the beach as the export cables would be drilled under the coastal strip from an offshore location to a point inland.

4.40 The ExA considered the impact of the landfall works on landscape character. While noting that the works would be visible within what is a largely agricultural landscape, the ExA concluded that any impact would be modest and reversible once the construction works had been removed. [ER 4.5.89]

4.41 The ExA also considered the impacts of the landfall works on visual amenity and noted that they would be visible for some residents of Happisburgh and nearby Eccles-on-Sea with the former being significantly affected. The ExA also notes that walkers along a section of the Norfolk Coastal Path would clearly notice the works which would be an unexpected intrusion in landward-facing views. The ExA refers to the significance of the impact but notes again that this limited to a short stretch of the Coastal Path and be reversible, although some residual impacts would remain until replacement planting took hold. [ER 4.5.91 et seq]

4.42 The ExA notes the proximity of the onshore cable route to the Norfolk Coast Area of Outstanding Natural Beauty (1.7km away at its closest point) and the Broads National Park (less than 1.2km away at its closest point). The ExA considers that given topography and vegetation cover between the onshore cable route and those designated areas, there would be only limited visibility of the works from those areas.

Natural England agrees that there would be no adverse effects on the designated areas.

4.43 The Applicant identified the potential for cumulative visual and landscape effects to arise in relation to the onshore cable route for the proposed Development and the onshore cabling works for the proposed Hornsea Project Three offshore wind farm. In particular, the crossing point for the two cable routes just outside the small town of Reepham in Norfolk. For a short stretch of the path, walkers along Marriott's Way would be able to see both sets of construction works. However, the ExA notes that, while there would be some significant effects, they would be localised, be short term and be reversible. [ER 4.5.97 et seq]

4.44 The Applicant also noted cumulative effects from the construction compounds for the proposed Development and the proposed Hornsea Project Three offshore wind farm which would be located close to the village of Oulton. The ExA considered that while the compounds were reasonably close together, there would be no materially harmful cumulative effects on landscape character or visual amenity arising from them. [ER 4.5.100]

4.45 The ExA also considered whether there would be any cumulative impacts arising from the construction compounds in respect of Salle Park and concluded that there would be no significant adverse effects because of the dense woodland enclosing the Park. [ER 4.5.101]

4.46 The ExA notes that, while the Applicant's Landscape and Visual Impact Assessment cumulative assessment included the proposed Norfolk Boreas offshore wind farm, it was not considered by the ExA because of the limited information available on that project. The ExA concluded, therefore, that this matter should be considered in the future as part of the examination of the development consent application for the Norfolk Boreas offshore wind farm. [ER 4.5.102]

4.47 The ExA's Report also considers possible changes to the DCO to include new or modify old mitigation conditions in respect of landscape character and visual impact.

4.48 In concluding its assessment of the impacts of the proposed Development on landscape character, the ExA considers that with mitigation measures enacted, there would be significant local effects in the vicinity of the onshore substations which would lessen over time and affect only a small part of the overall landscape character area. In respect of visual amenity, the ExA notes there would be localised but significant effects during construction along parts of the A47 trunk road and some minor roads. In terms of the onshore cable route and landfall location, there would be local but short term harm to landscape character which would not be significant. There would be significant but short term and reversible effects along some roads and footpaths. Considering all these matters in the whole, the ExA finds that the proposed Development would accord with the policy requirements of NPS EN-1 and NPS EN-2 and would not cause material harm to key characteristics of Norfolk County Council's relevant development plans and policy strategies covering the onshore cable route and the cable landfall. The ExA noted that the impacts of the proposed Development would be generally acceptable except in respect of the harm to visual amenity in relation to the substation works. The proposed Development would not, therefore,

fully conform to relevant policies in Breckland Council's Core Strategy documents. However, given the localised nature of the harm that would arise, the ExA gives this matter limited weight in the overall planning balance.

4.49 The Secretary of State notes the opposition to the Development's onshore substations at Necton (which has driven calls for an offshore ring main to provide a single infrastructure connection point). The substations are very large and local people in Necton (and their local MP, George Freeman) feel that the scale of development would be completely out of keeping with the local setting. However, The Secretary of State considers that the ExA's analysis of the landscape character and visual amenity impacts is sound and see no reason to disagree with its conclusions.

The Historic Environment

4.50 The ExA notes that NPS EN-1 sets out the cultural heritage/historic environment issues that should be addressed by an Applicant for a development consent order in submitting its application for development consent and considered by the Secretary of State in determining any application. The ExA specifically notes the presumption in favour of the conservation of designated heritage assets and that any significant impact on those assets should be weighed against the public benefit of the development in question.

4.51 The Applicant assessed both the onshore and offshore areas covering the wind farm, export cable route, onshore cable route and substation locations. The Applicant's assessment for onshore areas showed that with one exception – the Blickling Conservation Area – that the area of the proposed Development and the proposed works would avoid direct physical impacts on designated heritage assets. However, there could be indirect impacts on designated assets though mitigation measures would avoid significant adverse impacts. Similarly indirect impacts would be avoided.

4.52 During the examination, the Applicant produced further information on possible impacts on heritage assets – the Grade I listed St Andrew's Church at Bradenham and the Cawston Conservation Area in the town of Cawston. The assessment of St Andrew's Church indicated that, while the onshore project substation and the extension to the National Grid substation would be visible from a part of the churchyard, there would be a less than significant impact. As far as the Cawston Conservation Area is concerned, the assessment concluded that changes to the town through highway mitigation measures would affect the character and appearance of the CCA. In addition, there would be harm – identified as short term and reversible, once construction traffic had finished passing through Cawston.

4.53 As far as offshore areas were concerned, the Applicant's study showed potential archaeological resources within the boundary of the proposed Development but noted that these could be avoided with mitigation, including micrositing of assets. The Applicant's conclusion was that there would be no significant adverse impacts.

4.54 Broadland District Council raised concerns about the impact that HGVs travelling along Cawston High Street might have on listed buildings in the Cawston Conservation Area. Cawston Parish Council and local people raised similar concerns.

Broadland District Council welcomed some of the traffic control measures that would be put in place but had a concern about whether the widening of a footpath in the High Street would increase the risk of a listed building – Whitehouse Farm - being struck by passing vehicles. [ER 4.6.18]

4.55 North Norfolk District Council indicated the impacts from the proposed Development on heritage assets would be less than significant and the benefits of the proposed Development would outweigh any harm to those assets.

4.56 Historic England was generally content that any harm to designated historic assets – St Andrew’s Church, Salle Park, Blickling Hall and the Blickling Conservation Area – would be limited in duration and be less than substantial.

4.57 Residents of Happisburgh raised concerns about potential impacts on the Grade 2 listed Happisburgh Lighthouse and Cottages and on the Grade 2 listed Bradenham Hall. [ER 4.6.25]

4.58 There were no real concerns about the impacts of the proposed Development on offshore heritage assets (but see paragraph 4.61 below).

4.59 In its analysis of the above issues, the ExA notes [ER 4.6.28] that the need for a Written Scheme of Investigation to be put in place to inform mitigation strategies. There would also be engagement with the National Trust about its Blickling Estate and mitigations and archaeological activities that might be put in place. The ExA considers therefore, that matters relating to onshore and offshore archaeology have been satisfactorily addressed. Further, the ExA notes the potential harm to the properties and Conservation Areas outlined above, particularly on the Cawston Conservation Area (through an increase in HGV traffic through the village) and on St Andrew’s Church at Bradenham (from the proximity of the substation). [ER 4.6.28 et seq]

4.60 In reaching its conclusions, the ExA notes [ER 4.6.40 et seq] NPS EN-1’s presumption in favour of the conservation of heritage assets and notes the legal requirements placed upon in considering applications for development consent where the setting of heritage assets might be affected. The ExA notes any impacts on onshore and offshore archaeology would be mitigated by measures in the Written Scheme of Identification that would need to be provided by the Applicant. There would be no impacts on the setting and heritage significance on the majority of onshore and offshore heritage assets. The ExA does consider that the setting of St Andrew’s Church at Bradenham would not be preserved and this harm, thus, must be considered against the public benefit of the proposed Development. The ExA undertakes such a consideration and concludes that the public benefits of the proposed Development, in terms of the policy support in the National Policy Statements for renewable energy electricity generation, would outweigh the less than significant harm that is identified. The ExA concludes that the effect on the historic environment carries limited weight in the planning balance.

4.61 The Secretary of State notes that on 8 November 2019, Historic England notified the Planning Inspectorate of the Designation Decisions under the Ancient Monuments and Archaeological Areas Act 1979 (as amended) for two vessels – The Seagull and Xanthe – lying off the Norfolk coast. The vessels were added to the

Schedule of Monuments after the close of the examination. The Secretary of State is aware that the vessels are located close to the offshore cable route for the Development. The Secretary of State also notes that the ExA records [ER 4 6.16] that the Applicant proposes to avoid heritage features by way of Archaeological Exclusion Zones and micro-siting during detailed design of the Development and that embedded mitigation has been incorporated into the detailed project design and this would be set out in an Outline Written Scheme of Investigation for consideration by Historic England and other relevant authorities.

4.62 The Secretary of States notes the potential impacts on the historic environment and that weight is given to those impacts in relation to St Andrew's Church at Bradenham. However, he has also had regard to the ExA's overall conclusion in respect of the historic environment [ExA 7.3.10] – "In terms of onshore and offshore heritage assets any impact on onshore and offshore archaeology would be adequately addressed and mitigated through the measures secured in the DCO" - and agrees that the matters set out above carry limited weight in the planning balance.

Traffic and Transport

4.63 The consideration of traffic and transport impacts arising from the proposed Development was a major issue through the Examination. The ExA notes that consideration of the impacts was made more difficult by the need to factor in the impacts arising from the proposed Hornsea Project Three offshore wind farm, the development consent application for which has not yet been determined by the Secretary of State. The ExA also notes that discussions between the Applicant and relevant councils about traffic and transport impacts and mitigations were taking place throughout the examination process. [ER 4.7.1 et seq]

4.64 The ExA notes the position set out in NPS EN-1 in relation to the information to be provided by the Applicant about traffic and transport assessments and mitigation measures to support an application and the way that information should be considered by the decision-maker. The Applicant's methodology for traffic assessment and cumulative impacts was agreed with Highways England and Norfolk County Council.

4.65 The main areas for consideration of traffic and transport impacts were the cable landfall at Happisburgh, the onshore cable route and the traffic access to the onshore substation construction sites at Necton (from the A47 trunk road).

4.66 There was considerable discussion about the substation access points off the A47, with particular emphasis on the safety of vehicle movements both accessing the sites and using the road for other, non-construction, purposes. The Applicant worked closely with Highways England and Norfolk County Council during the examination to address issues about access to the substation sites. The ExA concludes that, with mitigation being set out in an Access Management Plan which would need to be agreed with the local planning authority in consultation with the relevant highways authority, the access arrangements are satisfactory.

4.67 The B1145 road runs across Norfolk to link King's Lynn to Mundesley on the north east coast of the County. Part of the road runs through the village of Cawston. Concerns were expressed by the local parish council, local residents and Broadland

District Council about the potential impacts of construction traffic related to the onshore cable route for the proposed Development – particularly in relation to the number of Heavy Goods Vehicles that would need to drive through the village along the B1145. The concerns were compounded because of the cumulative impact of vehicles associated with the construction of the onshore cable route for the proposed Hornsea Project Three offshore wind farm using the same road through the village.

4.68 The concerns revolved around whether the narrow main road through Cawston (effectively the High Street) would be able to cope with the extra traffic, with implications for local amenity and the safety of pedestrians and other road users. As indicated above, there were also concerns about the impact of Heavy Goods Vehicle movement through Cawston on the village's Conservation Area. During the examination, there were extensive discussions between various parties to try to address the issues, including the possibility of using a route that would avoid using the road through the village.

4.69 The ExA notes the mitigation proposals that the Hornsea Project Three developers had put forward for their works. The ExA also noted that the Applicant committed to reducing the number of the proposed Development's daily Heavy Goods Vehicle traffic movements through Cawston from a peak of 144 to 112. The ExA sets this in the context of 127 daily Heavy Good Vehicle movements for the Hornsea Project Three works. Norfolk County Council was of the view that it would be possible to produce a mitigation scheme for Cawston but that it needed more information to do so. However, there would be caps on the numbers of Heavy Good Vehicle movements using the Cawston route which would mean the peak flow would happen only over a limited period rather than throughout the construction phase.

4.70 In considering the issues related to traffic impacts in Cawston, the ExA assesses two scenarios: one with the traffic related to the Hornsea Project Three included and one without. In the event that Hornsea Project Three did not proceed, then the ExA considers that the traffic impacts at Cawston would be acceptable subject to suitable mitigations being put in place. [ER 4.7.59]

4.71 The ExA acknowledges the complications that arise in the event that a development consent for the Hornsea Project Three wind farm has been granted by the time the Secretary of State determines the Application. The ExA assesses the combined Heavy Goods Vehicle traffic that would use the road through Cawston and notes that on a worst case scenario there could be a maximum of 222 HGV movements associated with the two projects using the village every day. (The existing baseline HGV flow through the village would add another 100 plus vehicles to the traffic flow.) The ExA notes that there would be 34 HGV movements an hour through the village over the 12-hour construction working day – one every two minutes (or more frequently). [ER 4.7.58 et seq]

4.72 The ExA is sceptical that the mitigation measures proposed by the Applicant in the scenario where both the proposed Development and the Hornsea Project Three projects constructed the onshore cable route at the same time would avoid a material harm to highway safety. [ER 4.7.66]. The ExA's rationale is that the narrowness of the roadway, the narrow footways, parked vehicles along the route and the volume of

HGV traffic would impact on pedestrian and walker safety and increase the prospects of delays and blockages of the carriageway. [ER 4.7.70]

4.73 The ExA notes that Norfolk County Council was of the view that an acceptable mitigation scheme could come forward from the Applicant. The ExA concludes that it disagrees with the Applicant and Norfolk County Council and believes that material revisions would be needed to the mitigation measures to make the scheme acceptable. Accordingly, the ExA recommends to the Secretary of State that the Applicant should be made to secure a revised mitigation scheme “which considers each project in combination and the overall scheme context”. [ER 4.7.72]

4.74 The Secretary of State consulted on this matter on 6 December 2019 seeking views on the inclusion of a provision in the development consent order that would provide additional mitigation for traffic impacts that might arise at Cawston in the event that both the proposed Development and the proposed Hornsea Project Three offshore wind farms were granted development consent. In light of the responses received, the Secretary of State considers that amendments should be made to the development consent order to require further mitigation measures to be agreed between the Applicant and relevant local authorities should the Hornsea Project Three and Norfolk Boreas projects be granted consent.

4.75 The ExA also considered potential impacts on other sections of road that might be affected by traffic associated with the onshore works – The Street at Oulton (where there would be potential cumulative impacts from works that would be undertaken for the Hornsea Project Three offshore wind farm), the B1149 at Edgefield, the B1149 at Horsford, the B1436 at Felbrigg, a local road at Happisburgh, and Blickling Road close to the Blickling Estate. In these cases, the ExA considered that mitigation measures would satisfactorily remediate any significant harm. [ER 4.7.73 et seq]

4.76 The ExA also considered the use by construction traffic for the proposed Development of a number ‘sensitive junctions’ along the A47 road and the cable crossing of the A47 at Scarning. In each case the ExA notes agreement with the mitigation measures that would be put in place. [ER 4.7.101 et seq]

4.77 The ExA records that there was disagreement between the Applicant and Norfolk County Council over the need for trenchless crossings for the onshore cable route in respect of the A1067 and B1149 roads. Agreement was reasonably easily reached that trenchless crossing would be utilised in respect of the A1067. In contrast, there was considerable discussion about the best way for the onshore cable route to cross the B1149 north of Cawston which would be used by construction traffic for the onshore cable route for the proposed Development and the proposed Hornsea Project Three projects. Norfolk County Council was adamant that trenchless crossing techniques should be used while the Applicant sought to utilise its trenching option supported by changes to traffic management measures. The ExA’s consideration of the issues led it to conclude that the B1149 should be subject to trenchless crossing for the onshore cable route. However, the ExA does make the point that the need for trenchless crossing of the B1149 would be avoided if the Hornsea Project Three development was not granted consent as it would be easier to manage the traffic from the single development. [ER 4.7.110 et seq]

4.78 As a result of the above issues, the ExA made a number of suggestions to modify the development consent order that might be granted by the Secretary of State.

4.79 In its conclusion [ER 4.6.132 et seq], the ExA points out that the construction of projects such as the proposed Development will always generate an increase in traffic movements – often Heavy Goods Vehicles. However, the ExA notes that the impacts would be acceptable subject to the adoption of suitable mitigation measures as set out in the development consent order submitted to the Secretary of State by the ExA.

4.80 The Secretary of State acknowledges that the impacts of traffic and transport measures from the proposed Development on local people and their villages and ability to move around the local area are of concern to many parties potentially affected by them. It should also be noted that the impacts at any given location will be spread over many months. However, in light of the ExA's conclusions, the responses to the Secretary of State's consultation and the inclusion of suitable wording in the development consent order, the Secretary of State considers there is no reason why traffic and transport impacts should stop the grant of consent for the proposed Development.

Socio-Economic Impacts

4.81 The main discussions about the potential socio-economic impacts of the proposed Development were about the potential for community benefits, job creation and the potential (adverse) impacts the project would have on tourism. The ExA noted that NPS EN-1 requires that applicants for development consent should make an assessment of socio-economic impacts and of the existing socio-economic setting. The ExA also notes that there were a number of local policies on socio-economics which also needed to be considered. [ER 4.8.1 et seq]

4.82 The Applicant provided a socio-economic analysis of the impacts of the proposed Development. On employment opportunities, the Applicant estimated the proposed Development might create more than 1,000 FTE jobs during its construction and around 290 FTE during its operation: the jobs would generally be filled by workers from the East Anglian jobs market. The onshore cable route would employ between 250 and 420 people in the summers of 2022 and 2023. More generally, the Applicant was working with local businesses and representative bodies to look at local economic benefits arising from the proposed Development. On communities and community benefits, the ExA notes that there were strong local calls for a community fund to be set up but that the Applicant argued these were not directly related to planning issues and so should not be dealt with as part of the examination process. On tourism, the Applicant recorded moderate adverse short-term impacts in the vicinity of the landfill works (at Happisburgh) although there were claims that there would also be an impact on some holiday lets in the vicinity of the substations. [ER 4.8.10 et seq]

4.83 North Norfolk District Council made strong representations during the examination about the potential harm that the proposed Development would have on the local tourist sector. The Council sought the inclusion of a Requirement in any development consent order that might be made to require the Applicant to contribute to organisations that aimed to boost local tourism to increase tourist footfall across the

area. The Applicant disputed the rationale for such a requirement arguing that it was unnecessary and unlawful. [ER 4.8.25 et seq]

4.84 In considering the various issues raised under the socio-economic heading, the ExA notes that the wording of the Council's proposed Requirement was not justified in light of the absence of any authoritative information that there would be an actual or perceived impact on tourism and the case has not, therefore, been made for its inclusion in a development consent order. In respect of the other socio-economic matters mentioned above, the ExA concluded that the jobs and skills package proposed by the Applicant would be capable of supporting the region's aspirations and achieving sustainable economic growth.

4.85 The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

Contamination and Ground Conditions

4.86 This issue was a major concern for local people with particular focus on the possibility of residual impacts from the crash of a Royal Danish Air Force F-16 fighter plane in 1996 which came down in the vicinity of Necton, close to the proposed site of the substation and over part of the cable corridor.

4.87 In line with the requirements of NPS EN-1, the Applicant produced an assessment of potential risks from contaminated land. The Applicant's overall conclusion was that provided embedded and proposed mitigation measures were put in place, there would be only minor adverse effects arising from the proposed Development. [ER 4.9.6]

4.88 However, the crash site was not included in the Applicant's risk assessment – a matter of serious concern for local people. The particular concern for local people was the possibility that some of the remains of the plane and its various contaminants might remain below ground and could be disturbed by the construction work on the substation and onshore cable route. The concern covered the possibility that the crash site had not been cleared properly leaving radioactive contaminants, hydrazine (which is highly toxic and unstable), oil, and shards of carbon fibre in situ. One member of the public raised the possibility of a cancer cluster in the vicinity of the crash (although the cluster had not been investigated by Public Health England). [ER 4.9.14]

4.89 The Environment Agency ("EA") stated during the examination that it had not been established whether the land around the crash site was contaminated by radioactivity. The EA also said that based on the records kept by the RAF, there was little risk of contamination of water courses or aquifers and any impacts were likely to be localised and risks appeared to have been addressed and mitigated. The EA did not, therefore, see the need for a site investigation prior to the commencement of the development but stated that a discovery strategy should be in place during the works in case contamination was discovered. [ER 4.9.16]

4.90 Breckland District Council did not raise the possible contamination of the crash site in its Local Impact Report. However, once it had considered the documents

submitted by Necton Parish Council about the crash site, it confirmed it had no reason to raise the risk level of the site. The Council was also content that the Applicant's commitment to produce a Contaminated Land and Groundwater Plan as part of its Code of Construction Practice was adequate to deal with potential contamination at the site.

4.91 Other issues were raised under this heading which were generally agreed with the EA and other bodies. The possibility of subsidence occurring at a point on the B1145 road just outside Cawston because of the increase in Heavy Goods Vehicle movements. [ER 4.9.21]

4.92 The ExA acknowledges the concerns of local people about the potential for contamination of the land at the site of the plane crash. However, the ExA is satisfied that appropriate mechanisms for the discovery and remediation of any discoveries would be secured in a development consent order that might be granted by the Secretary of State. Other potential sources of contamination related to the proposed Development have been agreed with relevant bodies. As far as the possibility of subsidence related to construction traffic is concerned, the ExA notes that the Applicant will survey highways before and after construction and make good any damage that might occur. [ER 4.9.22 et seq]

4.93 Overall, the ExA concludes that any adverse impacts would be mitigated by conditions in the development consent order. There would be no significant adverse impacts. These matters were satisfactorily considered during examination. The ExA considers, therefore, that the proposed Development would accord with NPS EN-1 and with the National Planning Policy Framework. [ER 4.9.32]

4.94 The Secretary of State acknowledges that the question of possible contamination at the crash site has generated strong feelings among people living in proximity to the site. However, the ExA's analysis of the issue is robust and mitigation would be put in place in the event any contamination was discovered. The Secretary of State sees no reason to disagree, therefore, with the ExA's conclusion in this matter.

Coastal Change

4.95 Again, this was an important matter for residents of Happisburgh where cable landfall would be made in a context of an increasing rate of coastal erosion along that section of coastline. The matter was also of concern to North Norfolk District Council, Natural England and Happisburgh Parish Council and there were discussions throughout the examination about it.

4.96 The Applicant made the case that its approach to horizontal drilling of the cable under the beach and cliffs adopted a conservative approach which took account of the retreat of the coast and cliff lines over time. The Applicant also argued that the proposed Development would not have any impact on the coastal erosion processes. In the end, there was general consensus that the Applicant's design of the cable landfall at Happisburgh appropriately factored in coastal retreat and that mitigation measures secured in the development consent order would provide further comfort.

4.97 The ExA concludes [ER 4.10.19] that the cable landfall as proposed would neither exacerbate coastal erosion nor be affected by it. The proposed Development would be in accord with the relevant provisions of NPS EN-1.

4.98 The Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

Flood Risk and Water Resources

4.99 The ExA notes the policy requirement in EN-1 in relation to the potential impacts of national significant energy infrastructure projects on the water environment and the need for applicants to assess these impacts and for the decision-maker to consider them against a range of relevant issues (e.g. flood risk, requirements of the Water Framework Directive etc). [ER 4.11.1 et seq]

4.100 The Applicant's assessment recorded that most of the proposed Development (including the onshore project substation and the extension to the National Grid substation) would lie within the low risk Flood Zone 1 designation, although some parts of the onshore cable route would be in areas with Flood Zone 2 and Flood Zone 3 designations. Various mitigations were proposed which would be secured by requirements in the development consent order. [ER 4.11.7 et seq]

4.101 Norfolk County Council, as Lead Local Flood Authority initially had concerns about the design of the onshore substation and the wording of some of the proposed Requirements in the development consent order but was in agreement with the Applicant on these issues by the end of the examination. The Environment Agency also had concerns about certain aspects of the proposed Development. More specifically, there were concerns from members of the public and landowners about the possibility that all the onshore components of the proposed Development would increase the risk of flooding – with an existing flooding issue near Necton (in the vicinity of the onshore substations) being mentioned as a particular issue. [ER 5.11.14 et seq]

4.102 In considering the issue, the ExA notes that the Applicant's assessment methodology for flood risk and water resources was agreed with Norfolk County Council and the Environment Agency. The ExA also notes that various mitigation measures would be included in any development consent order that might be made. As far as the flooding near Necton was concerned, the ExA concludes that the drainage systems that would be put in place at the onshore substations would mean the presence of those structures would not exacerbate the existing risk of flooding. (The ExA determined that it would not be reasonable to require the Applicant to undertake repairs to the culvert that was causing the flooding.) [ER 4.11.17 et seq]

4.103 The ExA concludes that, taking account of all relevant issues, it was unlikely the proposed Development would cause any significant impacts on flood risk or water resources. It continues that the proposed Development would accord with the requirements of NPS EN-1 and that this matter should not weigh against the development consent order being made. [ER 4.11.26] The Secretary of State sees no reason to disagree with the ExA's position.

Noise and Vibration

4.104 The topic heading covers the noise and vibration arising from the construction and operation of the onshore elements of the proposed Development. Airborne noise from the construction operation and decommissioning of the offshore wind farm element of the proposed Development were scoped out of the noise and vibration assessment.

4.105 The ExA notes that NPS EN-1 highlights the adverse effect that excessive noise and vibration can have on human health and that development consent should not be granted unless significant impacts on health and quality of life can be avoided. NPS EN-5 refers to noise from substations and sets out that where an applicant has demonstrated that appropriate mitigation measures can be put in place then it should be possible for the decision-taker to give limited weight to residual noise impacts. [ER 4.12.4 et seq]

4.106 The Applicant identified some areas where there would be significant noise impacts in a worst-case situation. However, it would be possible to mitigate those impacts to reduce them to negligible. It was noted that there were proposals for 24-hour working at some locations along the onshore cable route.

4.107 There were many concerns about the potential impact of the proposed Development's onshore elements particularly in respect of construction noise, noise and vibration from Heavy Goods Vehicle movements (especially at Cawston and Oulton where there would be considerable numbers of such movements because of the cumulative impacts of the Development and the proposed Hornsea Project Three development) and noise from the operational substations. Residents of Necton had concerns about the potential impact of the construction of the substations near their village having experienced the impact of the construction of the substation that services the Dudgeon offshore wind farm. [ER 4.12.20 et seq]

4.108 The ExA notes the range of concerns that have been expressed about the noise and vibration impacts of the Development and acknowledges the adverse impacts that excessive noise and vibration can have on human health. However, the ExA also notes the extensive mitigation measures that would be put in place by the Applicant requiring approval from the relevant planning authorities to limit those impacts and considers that these measures will provide adequate safeguards for residents and others potentially affected by the construction and operation of the proposed Development. While there would be some minor adverse effects, the ExA concludes that impacts would be minimised and mitigated in accordance with the provisions of NPS EN-1 and, therefore, attract limited weight in the planning balance. [ER 4.12.31] Notwithstanding the ExA's general position, the Secretary of State did consult about how mitigation measures in this matter might be given effect and suggested amended wording for the Order to do this. In light of responses received, the Secretary of State has incorporated his suggested wording into the Order and agrees with the ExA's overall conclusion in this matter.

Air Quality

4.109 The ExA notes that this heading covers air quality impacts from the construction and decommissioning of the onshore elements: the offshore elements and the onshore operational impacts were scoped out of the Applicant's assessment because they were negligible.

4.110 NPS EN-1 sets out that large infrastructure projects can have adverse effects on air quality which may lead to impacts on health. Significant weight should be given to air quality issues in situations where a deterioration in air quality was likely to result or national air quality limits would be breached. [ER 4.13 1 et seq]

4.111 The Applicant considered that air quality impacts could arise from the construction and decommissioning of the onshore works with the primary sources being dust and vehicle emissions. The Applicant had identified a suite of mitigation measures which would form part of an Air Quality Management Plan that would sit within a Construction Code of Practice which would be secured by a condition in the development consent order. The Applicant notes that the Swaffham Air Quality Management Area would be 1km south of the A47 road but anticipated that as no construction traffic would be going through Swaffham there would be no increase in pollution concentrations in the Air Quality Management Area. The Applicant's overall conclusion at the point of application was that the application of mitigation measures would mean any air quality impacts (for the project alone and in combination with other plans or projects) would not be significant.

4.112 Emissions of dust from construction activities and emissions from vehicles engaged in those activities were raised as concerns by a number of Interested Parties to the examination including Cawston Parish Council (with concerns about pollution from vehicle movements) and Oulton Parish Council.

4.113 While noting concerns about adverse air quality impacts arising from the proposed Development, the ExA was satisfied that the Applicant had appropriately addressed air quality matters and that suitable mitigation would be put in place to limit any air quality impacts arising from the proposed Development. The ExA concludes that local air quality objectives would not be breached and predicted pollution levels would be below air quality objectives for all receptors. There would also be adequate mitigation for dust emissions. The ExA concludes that the proposed Development would be in accordance with NPS EN-1 and that air quality matters should not weigh against the development consent order being made. [ER 4.13.17 et seq] The Secretary of State has no reason to disagree with the ExA's conclusions in this matter.

Human Health

4.114 The examination considered impacts on human health in respect of the onshore works only as it was not considered there were any sensitive receptors in close enough proximity to the offshore works to trigger any human health impacts. [ER 4.14.1]

4.115 Large energy infrastructure projects have the potential to affect the health of people in their vicinity. The ExA notes that NPS EN-1 sets out that significant health

impacts arising from those projects are likely to be subject to separate legislation which would constitute effective mitigation. It is unlikely, therefore, that health impacts would constitute a reason to refuse consent or require mitigation. However, the decision-taker would need to consider health impacts when looking to set conditions relating to potential impacts.

4.116 The ExA further notes that NPS EN-5 refers to electromagnetic fields generated by electric cables and their potential impacts on human health. While primarily an issue for overhead lines (the potential for electromagnetic fields is diminished by the undergrounding of electric cables), NPS EN-5 requires the decision-taker to be satisfied that any infrastructure proposal is in accordance with the International Commission on Non-Ionizing Radiation Protection (ICNIRP) Guidelines. NPS EN-5 concludes that where exposure to electromagnetic fields is within ICNIRP reference levels, then mitigation is unlikely to be required.

4.117 The Applicant produced an assessment of potential health effects arising from the onshore elements of the proposed Development. With the implementation of mitigations, the assessment concluded that the health impacts on the general population would be negligible though with an increased potential for minor adverse effects on older people and those with existing health conditions. The assessment also looked at impacts from electromagnetic fields in light of guidelines from Public Health England which identified threshold above which there could be potential health effects. The Applicant concluded that the level of electromagnetic fields produced by the proposed Development even taking account of the potential impact of the cables for the Hornsea Project Three proposal, the level of electromagnetic fields would be well below the level set in the Public Health England Guidelines. [ER 4.4.11 et seq]

4.118 Many Interested Parties, including Cawston Parish Council and Oulton Parish Council, raised concerns about the health impacts of the electromagnetic fields associated with the cabling. Several Interested Parties also raised concerns about the levels of stress that had been generated by the proposals for the proposed Development's onshore works. [ER 4.14.15 et seq]

4.119 Public Health England decided not to register as an Interested Party for the proposed Development. [ER 4.14.18]

4.120 The ExA assessed the information provided by the Applicant and other parties. It concluded that the electromagnetic fields produced by the cabling for the proposed Development would be within the ICNIRP Guidelines and the in-combination effects at the crossing point for the Hornsea Project Three cabling would also meet those tests. In its conclusion, the ExA sets out that the electromagnetic fields would be within the levels in the ICNIRP Guidelines: the proposed development would, therefore, meet the requirement of NPS EN-5. Overall, the ExA also concluded that the proposed Development would not give rise to any significant mental or physical health impacts and would, therefore, comply with NPS EN-1. Health impacts should not, therefore, weigh against a development consent order being granted [ER 4.4.19 et seq]. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

Onshore Ecology and Ornithology

4.121 The National Policy Statements provide extensive references to the considerations that the Applicant must address in framing applications for development consent for nationally significant energy infrastructure and that the decision-taker must weigh in the balance in considering whether to grant development consent. The National Planning Policy Framework takes a similar line. Relevant UK and European legislation and local development plans must also be considered. [ER 4.15.1 et seq]

4.122 The Applicant submitted a wide range of documents as part of its Environmental Statement which formed part of its application. Potential impacts on a broad range of potentially affected flora and fauna were considered and mitigation measures were proposed. All statutory and non-statutory sites within the Order land have been avoided except for the River Wensum Special Area of Conservation and Site of Special Scientific Interest which would be avoided by the use of trenchless crossing technique. There would be impacts on hedgerows with consequential impacts on bats. However, these were expected to be of temporary duration until the hedgerows were reinstated. [ER 4.15.10 et seq]

4.123 The key matters considered during the Examination were: impacts on groundwater; bird features of sites of special scientific interest; the sand martin colony at Happisburgh Cliffs; nesting birds; monitoring; and, air quality and Felbrigg Wood Site of Special Scientific Interest. There were some concerns about whether enough ecological surveying had been carried out over some parts of the onshore cable route but the ExA considered that sufficient baseline information had been provided to allow an assessment of impacts to be undertaken.

4.124 In considering the potential impacts on onshore ecology and ornithology, the ExA notes that there was agreement with relevant parties about mitigation proposals. The ExA further notes that all ecological management proposals put forward by the Applicant were set out in the Outline Landscape and Management Environmental Strategy and these would be further secured by inclusion in an Environmental Management Plan which would need to be approved by the relevant local planning authority in consultation with Natural England. The Environment Management Plan would be conditioned in the development consent order. In the event consent was granted, there would also be surveying of those areas which hadn't been covered in the Application process.

4.125 The ExA concludes that the mitigations proposed by the Applicant in its pre-Application consideration of alternative routes/locations for the Development's onshore works and in any post-consent development consent order would avoid significant harm to onshore ecological interests. There would be some adverse impacts on bats through hedgerow loss but these would be short term in nature. In general, relevant policy considerations have been met and the Assessment Principles set out in NPS EN-1 have been followed. [ER 4.15.46 et seq]

4.126 The Secretary of State notes that a representation from the Necton Substation Action Group was submitted to him on 26 June 2020 drawing attention to the sighting of a red kite close to the location of the electricity substation at Necton. The

representation was accompanied by an e-mail from the British Trust for Ornithology stating that red kite were “increasing in Norfolk and breeding is more widespread than just a few years ago.....and it is likely that a pair are now breeding in your area”. The Secretary of State notes that the submission from the Necton Substation Action Group does not provide evidence that the Development would have an impact on red kites and that the ExA does not make any reference to impacts on red kites having been raised by parties to the Examination (including by Natural England). The Secretary of State, therefore, considers this matter does not materially influence his consideration of the Application. Overall, the Secretary of State sees no reason to disagree with the ExA’s conclusions on onshore ecology and ornithology.

Land Use

4.127 The National Policy Statements for Energy set out that nationally significant energy infrastructure projects should aim to minimise impacts on best quality agricultural land (classified as Grade 1, 2 and 3a under the Agricultural Land Classification (“ALC”)) and should instead use land of poorer quality (Grade 3b, 4 and 5 under the ALC). NPS EN-1 also requires developers to consider and minimise effects on uses of land including for recreational purposes.

4.128 The Applicant set out that the majority of the land that would be used by the onshore works was agricultural land with Grade 1 to 4 classification under the ALC though mainly between Grades 2 and 3. The onshore project substation would be located in ALC Grade 3 land. An assessment of impacts without mitigation measures in place ranged from ‘no impact’ to ‘moderate adverse’ (at the extension to the National Grid substation extension). There would also be impacts of moderate adverse significance on land drainage systems during construction of the proposed Development and the Hornsea Project Three proposal. As far as impacts on recreation are concerned, the Applicant states that tourist sites have been avoided for onshore works. However around 45 public rights of way would be intersected by the onshore works. There were also potential impacts in the coastal area where cable landfall would be made. The Applicant has committed to working with Norfolk County Council to ensure any impacts are temporary across the full range of the project. The updated Statement of Common Ground between the Applicant and Norfolk County Council showed that all matters relating to recreation had been agreed. [ER 4.16.7 et seq]

4.129 At the end of the examination, the only outstanding matters related to concerns by the National Farmers Union about certain compulsory acquisition matters (considered elsewhere) and potential impacts on farmland. In respect of the latter, the Applicant amended its Outline Code of Construction Practice to address the issues. [ER 4.16.37 et seq]

4.130 In considering these matters, the ExA notes that, while there would be impacts on agricultural land – including the loss of some higher grade land – these would be set in the context of occurring over a very small proportion of agricultural land of similar grade within Norfolk and generally being of temporary duration. The ExA notes agreements would be in place with affected parties to minimise impacts, including with the developer of the proposed Hornsea Project Three offshore wind farm. On recreational impacts, the ExA is satisfied that mitigation measures, including horizontal

directional drilling where necessary to cross heavily used public rights of way and the advertising of alternative routes while rights of way were closed by construction activity would mitigate impacts.

4.131 The ExA's overall conclusion is that land use impacts would be appropriately mitigated and any loss of good quality agricultural land would be justified by the benefits of the proposed Development. The Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

Commercial Fisheries

4.132 The ExA notes that the Applicant identified some impacts on commercial fishing interests arising from the offshore cabling and wind farm elements of the proposed Development ranging from 'negligible' to 'minor adverse' for vessel from the UK and other countries. (There would be minor adverse impacts for UK beam trawlers and UK inshore fishing vessels.)

4.133 A number of concerns about the Development were raised by UK (the National Federation of Fishermen's Organisations – "the NFFO") and foreign representatives of fishing interests. One of the NFFO's concerns was the possibility of floating wind turbines being used for the wind farm but the Applicant discounted this option. The NFFO was also concerned about the likely spacing of wind turbines as this would affect the sort of fishing activity that might take place within the wind farm area. The Applicant indicated it would be able to increase the spacing of turbines within the wind farm array because of a reduction (to 180) in the number of turbines that would be deployed. The ExA notes that the Applicant's proposed increase in spacing would still not meet the NFFO's desired spacings. (The Applicant has further revised down the number of turbines that would be deployed – now proposed as a maximum of 158).

4.134 Further concerns were expressed by fishing representative organisations about areas of the North Sea being closed to specific fishing activities and the cumulative impact the closures and the proposed Development would have on the activities of fishermen. As a result, the Applicant amended its assessment of potential impacts and concluded that for certain activities carried out by Dutch or Anglo-Dutch fishing vessels, the cumulative impact would be of 'moderate adverse' significance which was greater than first predicted.

4.135 In considering commercial fisheries, the ExA notes that some commercial fishing activity would be possible within the wind farm array. The ExA also notes that the proposed closure of areas of the North Sea to fishing activity would have an impact, but that given the relevant designations had not yet been made, only limited weight could be given to the impact this might generate.

4.136 In conclusion, the ExA notes that at the close of the Examination, there was still disagreement between the NFFO and VisNed (the Dutch fishing representative organisation) about whether fishing would be possible within the wind farm array. The ExA concludes that while some commercial fishing would be possible, there would be an impact from the Development combined with the closure of areas to fishing activity. The ExA considers that the requirements of NPS EN-1 and NPS EN-3 have been met.

The Secretary of State has no reason to disagree with the ExA's conclusion on this matter.

Shipping and Navigation

4.137 NPS EN-3 sets out very clearly the nationally significant energy infrastructure projects should avoid or minimise disruption or impacts on commercial shipping interests. The NPS states that consent should not be granted for proposed developments if doing so would cause interference to the use of recognised sea lanes essential to international navigation.

4.138 The Applicant undertook an assessment of the potential impacts of the proposed Development (offshore cabling and wind turbines) on navigation and shipping. The conclusion was that potential impacts would be tolerable with mitigation. Mitigation was offered as part of the design of the wind farm and cabling route.

4.139 The ExA notes that most issues that formed the basis of disputes between the Applicant and a small number of parties were agreed before the close of the Examination. The outstanding issues were the timing of notification by the Applicant that a buried electric sub-sea cable had become exposed on the seabed (which had been raised as an issue by the Maritime and Coastguard Agency) and safety concerns raised by the NFFO and VsdNed. The ExA concludes that the timing of notification should be Three business days rather than the five days as proposed by the Applicant and that mitigations in the proposed development consent order would provide suitable mitigation for safety concerns. The ExA states the proposed Development would not conflict with the relevant provisions of NPS EN-3.

4.140 The Secretary of State consulted on the proposed amendment to the notification period for seabed cable exposure. In response, the Applicant, the Marine Management Organisation ("MMO") and the Maritime and Coastguard Agency indicated they had reached agreement that three days was an acceptable period of time from the time when the exposure was discovered. Wording for a development consent order was provided and this has been included in the DCO. Consultation discussions also covered further points in relation to the trigger for the notification to mariners and the timeframe for sending copies of notices to the MMO and MCA. Agreement has been reached on all these matters. The Secretary of State agrees with the ExA's overall conclusion in respect of this matter.

Aviation

4.141 The ExA sets out that NPS EN-1 and NPS EN-3 provide a robust framework for applicants and decision-takers to work within the terms of the potential impacts of nationally significant energy infrastructure projects on aviation interests. In particular, the ExA notes that NPS EN-1 states that development consent should not be granted if the development in question would impede the safe and effective use of defence assets or have adverse impacts on civil aviation infrastructure.

4.142 The Applicant assessed that apart from potential interference with defence and aviation radar systems, the worst-case scenarios assessed with appropriate mitigation would produce impacts that are not significant. [ER 4.19.20]

4.143 The key issues for consideration during the examination were the potential impacts on the Ministry of Defence's Air Defence ("MOD") Radar at Trimmingham (a village on the Norfolk coast) and the National Air Traffic Services ("NATS") Primary Surveillance Radar ("PSR") at Cromer. During the examination, the MOD agreed wording about suitable mitigation for inclusion in any development consent order that might be made and removed its objection to the proposed Development as long as that wording was used. As far as the potential impacts on the NATS PSR were concerned, NATS and the Applicant discussed a contractual agreement to put in place mitigation measures for the PSR. By the close of the Examination, no agreement had been signed. However, NATS wrote to the Planning Inspectorate on 6 November 2019 to indicate it would remove its objection to the proposed Development subject to the inclusion of specific wording in any development consent order that might be made to mitigate impacts on the PSR.

4.144 The ExA was satisfied that subject to suitable wording being included in any development consent order that might be granted by the Secretary of State, aviation impacts would be satisfactorily addressed and thus meet the policy tests in NPS EN-1. In light of the withdrawal of the objection from NATS, the Secretary of State sees no reason to disagree with the ExA's conclusion in this matter.

Marine Physical Processes

4.145 The ExA notes the Applicant considered the potential impacts of the proposed Development to be negligible on its own and minor adverse in combination with other plans or projects. The Applicant produced an updated Outline Scour Protection and Cable Protection Plan during the Examination which took account of changes to the proposed Development, including the reduction in turbine numbers from 200 to 180. The total amount of scour protection would be specified in any development consent order that might be granted.

4.146 The MMO agreed with the methodology used by the Applicant and to the conclusions it reached in relation to project alone and in-combination impacts. However, Natural England disagreed with some of the conclusions on assessment of impact. Natural England was also concerned that material dredged from the seabed should be deposited with other seabed material of similar size. Natural England also had concerns about the fact that the area of scour protection had not been specified by the Applicant and about the extent of cable protection within the Haisborough Hammond and Winterton Special Area of Conservation.

4.147 In considering the issues raised during the Examination, the ExA noted concerns about the volume of inert material that would be disposed of material and how it would be monitored but was satisfied that conditions in the development consent order would address these issues. One outstanding issue was the particle size of deposited material. Here the ExA follows the view of Natural England and considers that a suitable condition should be included in the development consent order. The ExA proposed a form of words but was not able to consider the formulation

with the Applicant so recommended that the Secretary of State should do so. The Secretary of State, therefore, sought comments on the proposed working in his letter of 6 December 2019.

4.148 The Applicant considers that the practicality (for any industry) of sampling all dredged sediment and areas within the disposal site in order to determine 95% similarity is unfeasible. There would be limitations in the extensive sampling of dredged sediment. The Applicant understands that both Natural England and the MMO share these concerns. The Applicant further noted that the disposal principles in the Site Integrity Plan ensure appropriate sediment disposal which must be agreed with the MMO in consultation with Natural England and so a 95% condition is not considered necessary, or achievable.

4.149 While the ExA concludes that, subject to the inclusion of the 'particle condition' in any development consent order that might be made, there would be no reason to withhold consent, the Secretary of State considers that the Applicant's position as set out above is acceptable.

Other Considerations

4.150 The ExA notes [ER 4.21.2 et seq] that representations were received from Interested Parties who were concerned that the onshore substations might be the target of terrorism or be a fire risk. The ExA considered these matters and concluded that there was little evidence that a terrorist attack is foreseeable and that the design of the substations would meet health, safety and other regulatory matters. The ExA concluded that these were not matters that weigh against consent being granted. The Secretary of State sees no reason to disagree with the ExA's conclusions in this matter.

4.151 The ExA also notes representations about the potential impacts of the onshore works on property values but states that this is not a planning matter and cannot be taken into account in the planning process.

Offshore Biodiversity, Biological Environment and Ecology [see also Habitats Regulations Assessment section below]

4.152 Several disagreements on ornithological methodologies for Environmental Impact Assessment ("EIA") remained between Natural England, the Royal Society for the Protection of Birds ("RSPB") and the Applicant at the end of the Examination. These issues centred on the level of precaution that should be applied to Environmental Impact Assessment which led to Interested Parties arriving at different conclusions on the significance of impacts on seabird populations. Natural England and RSPB considered that the cumulative effect of the proposed Development and other projects would be moderate adverse for key populations of red-throated diver, guillemot, razorbill, kittiwake, gannet and great black-backed gull. In contrast, the Applicant's calculations led to a conclusion of minor adverse effects for these populations. Natural England and RSPB's conclusions equate to significant impact in EIA terms, and noting the conservation status for some of these species, the ExA agreed with this conclusion.

4.153 A significant cumulative effect on these populations would weigh against the Order being made as it would not conform with NPS-1. However, in view of the Development's small contribution to the cumulative numbers, the Secretary of State believes that, on balance, this issue should not prevent the granting of a development consent order in respect of proposed Development. The Secretary of State has considered the precautionary nature of the RSPB and NE positions. The Secretary of State has also considered the Habitats Regulations Assessment-specific mitigation that has been secured post-examination, which will go further to reduce the cumulative effect for some species. Furthermore, the Secretary of State is also aware of the potential for lower numbers of predicted seabird mortalities than previously calculated based on built scenarios as opposed to the assessed or consented scenarios ('headroom').

4.154 In addition to matters relating to seabirds, the ExA considered several other issues relating to marine ecology. The Secretary of State agrees with the ExA's conclusions on these matters, notably that:

- whilst some affected marine habitats and communities of benthos, fish, shellfish, and marine mammals are not protected by Natura 2000 sites (because, for example, they are located beyond a designations boundaries or they are not a named feature), HRA-specific mitigation will be used to manage impacts on these receptors to acceptable levels;
- in relation to at-sea piling, appropriate monitoring will be carried to safeguard marine mammals through an Offshore In Principle Monitoring Plan. This document provides that if, in the opinion of the MMO (in consultation with Natural England), initial noise monitoring measurements show different impacts to those assessed in the Applicant's Environmental Statement or failures of mitigation, then piling activities must cease until an update to the Marine Mammal Mitigation Plan and further monitoring requirements have been agreed.

5. Biodiversity and Habitats

The Habitats Regulations and the Planning Act 2008 process

5.1 The Secretary of State notes that the Examination, the ExA asked the Applicant to comment on compensatory measures for sites designated under the Habitats Regulations. The Applicant's position was that there would be no Adverse Effects on Integrity on these sites and that, consequently, it did not identify compensatory measures.

5.2 The Secretary of State is clear that the development consent process for nationally significant infrastructure projects is not designed for consultation on complex issues, such as Habitats Regulations Assessment, to take place after the conclusion of the Examination. On occasion, as a pragmatic response to particular circumstances, he may undertake such consultation, but no reliance should be placed on the fact that he will always do so. In this instance, he has exercised his discretion, and allowed the Applicant to make further representations on the matter of possible compensatory measures for those sites. However, he wishes to make it clear that, in

order to maintain the efficient functioning of the development consenting system, he may not always request post-examination representations on such matters. Indeed, it should be assumed that he will not do so, and he may, therefore, make decisions on such evidence as is in front of him following his receipt of the ExA's report. It is, therefore, important that potential Adverse Effects on the Integrity of designated sites are identified during the pre-application period and full consideration is given to the need for derogation of the Habitat Regulations during the Examination. He expects Applicants and statutory nature conservation bodies ("SNCBs") to engage constructively during the pre-application period and provide all necessary evidence on these matters, including possible compensatory measures, for consideration during the Examination.

5.3 This does not mean that it is necessary for Applicants to agree with SNCBs if SNCBs consider that there would be significant adverse impacts on designated sites. The final decision on such matters remains for the Secretary of State (though the Secretary of State reserves the right not to request further evidence from Applicants following the Examination). Applicants should be assured that where they disagree with SNCBs and maintain a position that there are no significant adverse impacts, but provide evidence of possible compensatory measures for consideration at the examination on a "without prejudice" basis, both the ExA in the examination and the Secretary of State in the decision period will give full and proper consideration to the question of whether or not there are significant adverse impacts. It will not be assumed that the provision of information regarding possible compensatory measures signifies agreement as to the existence of significant adverse impacts. The ExA will be required to provide an opinion on the sufficiency of the proposed compensation even if it considers that compensation is not required (in case the Secretary of State disagrees with that conclusion), but such measures would only be required if the Secretary of State were to find that there would be significant adverse impacts (and that the proposed compensatory measures are appropriate).

Offshore Ecology and Requirements of the Marine and Coastal Assess Act 2009 and the Habitats Regulations

5.4 The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations") and the Conservation of Offshore Marine Habitats and Species Regulations ("the Offshore Regulations") require the Secretary of State to consider whether the proposed Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a Natura 2000 Site, as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then an Appropriate Assessment must be undertaken by the Secretary of State pursuant to regulation 63(1) of the Habitats Regulations and regulation 28 of the Offshore Regulations to address potential adverse effects on site integrity. The Secretary of State may only agree to the project if the Secretary of State has ascertained that it will not adversely affect the integrity of a European site. This process is collectively known as a Habitats Regulations Assessment.

5.5 The preparation of the Habitats Regulations Assessment ("HRA") that accompanies this submission has been supervised by environmental specialists in the Energy Infrastructure Planning team in BEIS. The HRA concluded that a likely significant effect could not be ruled out in respect of fifteen European sites when

considered alone or with other plans and projects. It was, then, necessary to consider whether the proposed Development would have an adverse effect, either alone or in-combination, on the integrity of those sites. An appropriate assessment was, therefore, undertaken to determine whether an adverse effect on the sites could be ruled out in light of the sites' conservation objectives. The overall conclusion of the assessment was that the proposed Development would have no adverse effects on the integrity ("AEol") on any European sites. The Secretary of State does not, therefore, consider that there is any breach of his duty under the Habitats Regulations and the Offshore Habitats Regulations in the event is granted consent for the proposed Development.

5.6 The Secretary of State's assessment differs from the ExA's conclusions on HRA in that, in agreement with the Applicant, he considers that he has been presented with enough information to rule out an AEol on two sites: the Alde-Ore Estuary Special Protection Area ("SPA") and the Flamborough and Filey Coast SPA. The key details of the Secretary of State's assessment are provided below. Due to a large number of representations regarding the Haisborough, Hammond and Winterton SAC and the Southern North Sea SAC, key details of the assessment for these two sites are also provided below.

Flamborough and Filey Coast SPA and the Alde-Ore Estuary SPA

5.7 In relation to these SPAs, the ExA came to its conclusion in view of the potential for a range of seabird species, protected as features of these sites, to collide with the turbines or be disturbed and displaced from the array (depending on the species). On the advice of Natural England, the ExA's recommendation concluded that an AEol could not be ruled out when the total number of birds impacted is added to the in-combination total for other windfarms. The ExA's recommendation also warned that the Applicant's in-combination assessment was incomplete due to the use of incomplete seabird survey data from the Hornsea Three project. However, the Secretary of State considers that a robust in-combination assessment has been made in view of additional survey data provided by Hornsea Three. Furthermore, due to additional mitigation commitments made by the Applicant during the post-examination period, the Secretary of State considers that the potential loss of a relatively very small number of birds through collision impacts does not contribute in a significant way to the total number of birds predicted to be impacted in-combination ("*de minimis*"). On this basis the Secretary of State concludes that the proposed development will not have an adverse effect on the above SPA sites and, therefore, developmental consent should not be refused on Habitats Regulations grounds.

Haisborough, Hammond and Winterton Special Area of Conservation ("SAC")

5.8 The SAC is designated for Annex I Sandbanks which are slightly covered by seawater all the time and Annex I Reefs (*Sabellaria spinulosa*). The ExA recommended that a conclusion of no AEol can be reached on the basis of the information submitted during Examination. Having reviewed all representations received during and after Examination, the Secretary of State agrees with a conclusion of no AEol as the Applicant has demonstrated that the area of the site affected will be relatively small (in the case of reef, kept to a minimum through micrositing), any affected features are able to recover, and all cable protection will be removed at the

time of decommissioning. In relation to this last point, The Secretary of State notes that the decommissioning of cable protection will be secured in the DCO to ensure that any effects are lasting (for the duration of the project) but temporary (repairable effect).

5.9 Also in relation to this site, the Secretary of State notes the Applicant's commitment to producing a Haisborough, Hammond and Winterton Site Integrity Plan, which he views as an additional safeguarding mechanism, although it is not critical to our recommendation. The Site Integrity Plan commits the Applicant to agree all works and potential mitigation measures associated with offshore cable installation (including seabed preparation works and cable protection) and maintenance within the Haisborough, Hammond and Winterton SAC, with the MMO in consultation with Natural England, in order to ensure there would be no AEoI. The Secretary of State considers that it provides sufficient detail on potential mitigation measures at this stage, whilst granting the Applicant a flexible approach until the extent and nature of mitigation becomes clear.

5.10 Finally, the ExA's recommendation also included a change to the DCO that had not been agreed during Examination. This was made in order to meet Natural England's request that the Applicant should commit to depositing any dredged material in location within the SAC that contain benthic material of similar particle size. The Secretary of State consulted on this request post Examination; however, the Applicant has not been able to commit to ensuring that the particle size composition is within 95% of the similarity to the particle size composition of the seabed at the disposal location. This is on the basis that it is not feasible to extensively sample all sediments to enable a realistic analysis of 95% similarity. However, the Applicant has committed to requiring the location and method for sediment disposal being agreed with the MMO in consultation with Natural England. This will be secured in the Haisborough, Hammond and Winterton SAC Site Integrity Plan. The Secretary of State of State is satisfied with this approach.

Southern North Sea SAC

5.11 The ExA's recommendation made clear that at the close of Examination, a number of matters remained unresolved in relation to in-combination disturbance to the harbour porpoise feature of this site. Of particular note are the residual concerns from Natural England, Whale and Dolphin Conservation and the Wildlife Trusts over the effectiveness of the Applicant's Southern North Sea Site Integrity Plan. Nevertheless, the ExA was satisfied that with this plan secured, the Applicant will use the most appropriate mitigation measures based on best knowledge, evidence, and proven available technology at the time of construction in order to avoid adversely affecting this SAC. Having reviewed this plan, the Secretary of State considers that it provides sufficient detail on potential mitigation measures at this stage, whilst granting the Applicant a flexible approach until the extent and nature of mitigation becomes clear. On this basis, the Secretary of State considers that in-combination disturbance will not have an AEoI of the Southern North Sea SAC.

5.12 In relation to this site, the ExA's recommendation included a change to the DCO that had not been discussed during Examination with regard to the use of vibropiling or 'blue-hammer' technology. In response to the Secretary of State's post-examination

consultation, the Applicant highlighted that during the Examination, alternative text had been proposed that referred to all piled foundations irrespective of the technology used to install them. The Secretary of State is content that the text proposed by the Applicant captures all possible installation scenarios involving piling and so specific mention of those techniques in the condition is not required. The Applicant informed the Secretary of State that the Marine Management Organisation and Natural England were in agreement with the Applicant's position.

5.13 For the protection of marine mammals, the ExA also recommended that a maximum hammer energy should be secured in the DMLs and the DCO. Following the ExA's recommendation, the Secretary of State has included a provision in the deemed Marine licences that limits the maximum hammer energy to 5,000KJ.

5.14 Finally, the Secretary of State notes that the French Biodiversity Agency participated in the Examination because of the potential impacts of the proposed Development on birds from two sites in French waters designated under the Habitats Directive. The ExA did not consider that the proposed Development, either alone or in-combination with any other projects, would give rise to any significant effects on the French sites (or any other transboundary sites) but suggested the Secretary of State might want to consider whether any further information was needed from the Agency. The Secretary of State considers that no further information is needed in relation to this matter. Further details can be found in the Secretary of State's Habitats Regulations Assessment that is published alongside this decision letter.

Marine and Coastal Assess Act 2009 ("MCAA")

5.15 The Secretary of State notes that the ExA considered the potential impact of the Development on the Cromer Shoal Chalk Beds Marine Conservation Zone. The ExA noted that the embedded mitigation measures in the Application mean the offshore cable route avoids the Cromer Shoal Chalk Beds. The Secretary of State does not consider that there is any evidence of adverse impacts arising from the Development on the Cromer Shoal Chalk Beds Marine Conservation Zone.

6. Consideration of Compulsory Acquisition and Related Matters

6.1 The Applicant is seeking powers for the Compulsory Acquisition of land, rights over land and related matters including temporary possession. The Applicant is seeking those powers, "*to acquire compulsorily land and interests and other related powers to support the delivery of the Project*".

6.2 The Planning Act 2008, together with related case-law and guidance, provides that compulsory acquisition can only be granted if certain conditions are met. Under section 122 of the Planning Act compulsory acquisition may only be authorised if:

- the land is required for the development to which the consent relates, or
- it is required to facilitate or is incidental to that development; or
- it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the Planning Act; and
- there is a compelling case in the public interest for the land to be acquired compulsorily.

6.3 In connection with this:

- The land required to be taken must be no more than is reasonably required and be proportionate
- there must be a need for the project to be carried out;
- all reasonable alternatives to compulsory acquisition have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- they are satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

6.4 The ExA notes that the Applicant submitted documentation with the Application to support the request for compulsory acquisition powers. The powers sought were set out in the development consent order that the Applicant submitted with its application for development consent. The ExA considered a broad range of matters related to the request for compulsory acquisition powers and asked a considerable number of questions during the Examination.

6.5 One of the issues covered was whether the ducting related to the proposed Norfolk Boreas offshore wind farm could be classed as 'Associated Development' as defined in the Planning Act 2008 and thus be subject to compulsory acquisition powers. The ExA considered relevant legislation (the Planning Act 2008) and guidance ("DCLG Guidance on Associated Development Applications for Major Infrastructure Projects" which was issued in 2013) before concluding that 'Boreas ducting' could be classified as Associated Development and would, therefore, benefit from the compulsory acquisition powers that the Applicant sought. The Secretary of State agrees with this conclusion.

6.6 Prior to and during the Examination, the Applicant sought to make some minor changes to the Application and to the compulsory acquisition requirements which were accepted by the ExA suitable for consideration during Examination.

6.7 The Applicant provided a Funding Statement to explain how the acquisition of land would be funded. The Statement confirmed that the Applicant's parent company would provide sufficient funds to cover any requests for compensation arising from the acquisition of land and rights, the creation of new rights and from statutory blight where compensation is claimed. The ExA sought further information from the Applicant about the overall cost of the proposed Development. In response, the Applicant indicated that the owner of the parent company – Vattenfall AB – was 100% owned by the Swedish state and that necessary funding would be made available as required. However, specific costs of the project were not provided. The Applicant further stated that it would not seek to implement the development consent order or exercise any of the powers in it until Final Investment Decision had been reached.

6.8 There were a considerable number of objections to the grant of compulsory acquisition powers over certain plots of land although many were withdrawn before the end of the Examination.

6.9 Provisions in the Planning Act 2008 permit developers of nationally significant infrastructure projects to extinguish or relocate the rights of Statutory Undertakers where the Secretary of State is satisfied that the use of those powers is necessary for the project in question. The ExA notes discussions between the Applicant and a number of Statutory Undertakers with interests that were subject to the request for compulsory acquisition powers. In most cases, the parties reached agreement over the interests that were sought and/or any protective provisions that would be included in any development consent order that might be granted. The exception was the discussion with Network Rail which was not concluded at the close of the Examination with Network Rail maintaining its objection. Notwithstanding this position, the ExA concluded that the powers sought by the Applicant in relation to Statutory Undertakers were necessary to carry out the proposed Development and that the relevant Planning Act provisions had been met. The Secretary of State notes that Network Rail subsequently wrote to him to withdraw its objection. In light of this, the Secretary of State agrees with the ExA's conclusions in this matter.

6.10 'Crown Land' is also subject to special provisions under the Planning Act 2008 – the interests in Crown Land cannot be compulsorily acquired but third party interests can be. In the case of the proposed Development such land is held by The Crown Estate ("TCE") only. (Highways England owns land interests affected by the proposed Development but these are not technically Crown Land although they are treated as though they are.) Consent has been granted by TCE under section 135(1) of the Planning Act 2008 in respect of Crown land on the foreshore. The consent is conditional on TCE being consulted if any variation to the Order is proposed which could affect other provisions of the Order subject to sections 135(1) and or 135(2) of the Planning Act 2008, and the inclusion of amendments to the development consent order. These amendments were included in the development consent order that was submitted to the Secretary of State by the ExA and are incorporated into the development consent order that the Secretary of State will make.

6.11 'Open Space Land' was also considered by the ExA in relation to the Applicant's compulsory acquisition requests with relevant land plots on the beach at Happisburgh and the Marriott's Way long distance path. The Open Space Land is owned by a number of interests including individuals but also Norfolk County Council and North Norfolk District Council. The ExA notes that trenchless crossing techniques would be used to install cables and ducting under the Open Space Land so that it should not be affected by the proposed Development. The Open Space Land would, therefore, be no less advantageous than it was before for its owners, occupiers, tenants, members of the public etc.

6.12 The proposed Development would use National Trust land which, in the absence of an agreement between the parties, would only be permitted under a Special Parliamentary Procedure. The ExA notes that the National Trust and the Applicant were discussing agreement during the Examination but that these had not concluded by the time the Examination closed: the Trust was still, therefore, formally objecting to the use of its land. However, the Secretary of State notes that the National Trust wrote on 25 September 2019 to withdraw its objection.

6.13 The ExA notes that there were still a number of issues outstanding at the close of the Examination but that considered that these had been satisfactorily addressed.

Human Rights

6.14 As far as human rights in relation to the proposals for compulsory acquisition and temporary possession of land and rights over land are concerned, the ExA is satisfied that: the Examination ensured a fair and public hearing; any interference with human rights arising from implementation of the proposed Development is proportionate and strikes 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. The Secretary of State sees no reason to disagree with the ExA's conclusion that there is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998.

Overall Conclusion on Compulsory Acquisition

6.15 Because the ExA concluded that development consent should not be granted, it consequently considered that the compelling case in the public interest for the land to be acquired compulsorily had not been made out. However, it was mindful that the Secretary of State might conclude that development consent should be granted and so examined the case for Compulsory Acquisition and Temporary Possession on that basis. The Secretary of State considers that relevant legislation and guidance relating to compulsory acquisition and temporary possession have been followed by the Applicant and that, given his overall consideration that development consent for the proposed Development should be granted, there is a compelling case in the public interest to grant compulsory acquisition and temporary possession powers to facilitate the Development.

7. Secretary of State's Consideration

7.1 The Secretary of State notes that the ExA determined that consent should not be granted for the proposed Development because of potential impacts on habitats and species afforded protection under the Habitats Directive. In determining that it was not possible on the basis of the information available to it to rule out an AEoI on two sites protected by the Directive – the Flamborough and Filey Coast Special Protection Area and the Alde-Ore Estuary Special Protection Area – the ExA concluded that the proposed Development would not be in accordance with NPS EN-1 and could not therefore be granted consent.

7.2 However, in other respects, the ExA concluded that, while there would be impacts arising from the proposed Development across a range of issues (including on local landscape and traffic and transport), those impacts were not of such significance or would be mitigated to such a degree as to be not significant as to outweigh the substantial benefits that would derive from the development of a very large, low carbon, infrastructure project. The ExA notes that, if one set aside the conclusion on Habitats-related issues, then in all other matters, the proposed Development would be in accordance with the National Policy Statements and national policy objectives. This conclusion was subject to some clarification on specific points, including mitigation proposals.

7.3 As is set out elsewhere in this submission, in light of the ExA's Report to the Secretary of State, the Secretary of State consulted a range of parties including the Applicant about the Habitats-related issues and other relevant matters that had been raised in the ExA's Report. On Habitats, further information on potential bird impacts such that the Secretary of State is now able to conclude that, on balance, there would be no Adverse Impact on Integrity for the Flamborough and Filey Coast Special Protection Area and the Alde-Ore Estuary Special Protection Area.

7.4 The Secretary of State notes that there were a range of views about the potential impacts of the Development with strong concerns expressed about the impacts on, among other things, the landscape around the substation, traffic and transport impacts and potential contamination effects at the site of the F-16 plane crash. However, he has had regard to the ExA's consideration of these matters and to the mitigation measures that would be put in place to minimise those impacts wherever possible. The Secretary of State considers that findings in the ExA's Report and the conclusions of the HRA together with the strong endorsement of offshore wind electricity generation in NPS EN-1 and NPS EN-3 mean that, on balance, the benefits of the proposed Development outweigh its adverse impacts. He, therefore, concludes that development consent should be granted in respect of the Development.

8. Other Matters

Representations Received Following the Close of Examination

8.1 In addition to the responses that were submitted to the Secretary of State in the wake of the 6 December 2019 consultation, and the matter raised above concerning Red kites, a number of other parties have made representations about the proposed Development. Many of these representations cover ground that was considered during the Examination of the Application and a large number seek the deferral of a decision on the proposed Development pending the consideration of proposals that might come forward as part of any offshore ring main project. These matters are considered in the letter above.

8.2 However, other matters were raised which fall outside the scope of the ExA's consideration and these are set out below.

8.3 The energy company, ENI UK Limited wrote to the Planning Inspectorate on 5 September 2019 asking it to draw to the Secretary of State's attention the fact that the company was planning to drill an offshore exploratory hydrocarbon well in the vicinity of the proposed Development. The company explained that it wanted to drill the well in September 2019 and that it wanted to ensure that the exploration drilling and any subsequent development should a commercial discovery be made would co-exist with the proposed Development. ENI said it would engage with Norfolk Vanguard going forward. The Secretary of State understands that the exploration well was drilled at the end of October 2019 but we have heard nothing more from ENI about its outcome. However, there is a presumption that the oil and gas and offshore wind farm sectors can work together to maximise energy production around the UK coast.

8.4 A member of the public wrote to suggest that the Secretary of State should seek to move the site of the Necton substations to a new site in the vicinity to lower its visual

impact. However, the proposed location would need to be subject to a new application for consent (as it does not form part of the Application submitted by the Applicant) and the ExA considered that the locations of the substations proposed by the Applicant were acceptable (while acknowledging that there would be localised visual impacts). In this situation, the Secretary of State does not believe that there is any need to consider an alternative location where an existing proposal is acceptable.

8.5 Another member of the public wrote on behalf of Happisburgh REACT to draw attention to a cliff collapse on the coastline near Happisburgh. The writer was worried about the instability of the coastline along the section of coast near to where the export cable landfall would be located. The Secretary of State notes the concerns expressed but also notes that coastal erosion along the section of the Norfolk coastline was considered during the Examination and that the ExA concluded that the Development would neither cause nor be at risk from coastal erosion.

9. Equality Act 2010

9.1 The Equality Act 2010 includes a public sector equality duty (“PSED”). This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Planning Act 2008; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil partnerships²; pregnancy and maternity; religion and belief; and race.) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

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

9.3 The ExA notes that the Applicant considered that no protected interests had been identified during its diligent enquiry exercise. The ExA also notes that there were no representations submitted by Interested Parties which directly referenced PSED. However, a few of the submissions did contain information about personal characteristics related to age or disability. The ExA, while noting that there would be a minor adverse impact on older people, those living with existing health conditions and those living in deprived areas, considered the information that had been provided did not show any evidence of differentiated or disproportionate impacts on individuals or groups with protected characteristics that would not be felt by others who shared those characteristics.

9.4 The Secretary of State has no reason to disagree with the ExA’s conclusion in this matter.

² In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

10 Natural Environment and Rural Communities Act 2006

10.1 The Secretary of State has considered his duty in accordance with section 40(1) of the Natural Environment and Rural Communities Act 2006, where he is required to have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

10.2 The Secretary of State is of the view that the ExA's report, together with the environmental impact analysis, considers biodiversity sufficiently to inform the Secretary of State in reaching the decision to grant consent to the proposed Development.

11. Climate Change Act and the Net Zero Target

11.1 On 2 May 2019, the Climate Change Committee recommended the UK reduce greenhouse gas emissions by net zero by 2050. This was proposed to deliver on the commitments the UK made by signing the Paris Agreement in 2016. On 26 June 2019, following advice from the Committee on Climate Change, Government announced a new carbon reduction 'net zero' target for 2050 which resulted in an amendment to the Climate Change Act 2008 requiring the UK to reduce net carbon emissions by 2050 from 80% to 100% below the 1990 baseline.

11.2 The Secretary of State notes that the National Policy Statements continue to form the basis for decision-making under the Planning Act 2008. The ExA was unable to consider this matter as it occurred after the close of the Examination. However, the ExA did conclude that *"the strong policy support for renewable energy generation and the benefits of the scheme in terms of the large-scale generation of renewable energy and its contribution to sustainable development objectives, substantially outweigh the limited harms which have been set out above. When considered as a whole the ExA concludes that the Proposed Development would be in accordance with all of the relevant NPSs."* [ER 10.2.10] The Secretary of State does not consider that the amendment to the Climate Change Act 2008 has lessened the need for renewable energy generation and that the Development is, therefore, still in accordance with the NPSs in that respect.

12. Modifications to the draft Order

12.1 The Secretary of State has made the following modifications to the Order:

- Article 6: Removal of the power for Vattenfall to transfer the benefit of the DCO within the Vattenfall group without seeking the Secretary of State's approval or otherwise meeting the requirements for not needing consent;
- Article 37: Providing for the outline Norfolk Vanguard Haisborough, Hammond, and Winterton Special Area of Conservation Site Integrity Plan;
- Article 38: Removing the following from the arbitration clause: 'Should the Secretary of State fail to make an appointment under paragraph within 14 days

of a referral, the referring party may refer to the Centre for Effective Dispute Resolution for appointment of an arbitrator.’;

- Requirement 18: providing for a trenchless crossing at the B1149 (and consequential changes later in the DCO);
- Requirement 21: amending provision for traffic management in the event that development consent is granted for the Hornsea Project Three and/or Norfolk Boreas Offshore Wind Farms;
- Requirement 27(3): Addition of text: ‘Such measurements must be submitted to the relevant planning authority no later than 28 days following completion to confirm the rating level of operational noise emissions do not exceed the levels specified in sub-paragraphs (1) and (2), including details of any remedial works and a programme of implementation should the emissions exceed the stated levels.’
- Removal of appeals procedure in Part 5 of Schedules 9 - 12 and consequential change to conditions;
- New ‘decommissioning of cable protection within marine areas’ condition added to Schedules 9 - 12;
- New language to add clarity in the Licenced Marine Activities in Part 2 of Schedules 9 -12 dealing with amendments to or variations from the approved plans;
- Amended procedure following identification of the exposure of subsea cabling, Schedules 9 - 12;
- Providing at paragraph 1(2) to Schedule 14 that parties will first use their reasonable endeavours to settle a dispute amicably through negotiations undertaken in good faith by the senior management of the Parties. Any dispute which is not resolved amicably by the senior management of the Parties within 20 business days of the dispute arising, or such longer period as agreed in writing by the Parties, shall be subject to arbitration in accordance with the terms of this Schedule;
- Schedule 15: amending the procedure for discharge of Requirements to provide that where the Secretary of State has to appoint a person as part of the Appeals process, they will have 28 rather than 20 days to do so; and
- In the interpretation of ‘specified works’ in Paragraphs 13 and 29 to Schedule 16 included reference to any of the activities that are referred to in paragraph 8 of T/SP/SSW/22 (National Grid’s policies for safe working in proximity to gas apparatus “Specification for safe working in the vicinity of National Grid, High pressure Gas pipelines and associated installation requirements for third parties).

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

13. Challenge to decision

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

14. Publicity for decision

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

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

Yours sincerely

Gareth Leigh

Gareth Leigh
Head of Energy Infrastructure Planning

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/eastern/norfolk-vanguard/>

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