



**Department
of Energy &
Climate Change**

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Your ref:
Our ref: 12.04.09.04/173C

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Dear Mr Gully

**PLANNING ACT 2008
APPLICATION FOR THE GALLOPER WIND FARM ORDER**

1. I am directed by the Secretary of State for Energy and Climate Change (the "Secretary of State") to advise you that consideration has been given to:
 - (a) the report of the Examining Authority, a panel of three Commissioners led by Jan Bessell and also including Annie Coombs and Michael Hayes as members ("the ExA"), which conducted an examination into the application ("the Application") made on 21 November 2011 by Gallopier Wind Farm Limited ("the Applicant") for a development consent order ("the Order") under sections 114, 120 and 149A of the Planning Act 2008 ("the 2008 Act") for the Gallopier Offshore Wind Farm ("the Development"); and,
 - (b) representations received by the Secretary of State and not withdrawn in respect of the Application.
2. The examination of the Application by the ExA began on 29 May 2012 and was completed on 29 November 2012. The examination was conducted on the basis of written evidence submitted to the ExA and discussed at hearings held on 30 August 2012 (at the Ip-City Centre, Ipswich), 17 October 2012 (White Lion Hotel, Aldeburgh), 18 October 2012 (Ipswich Town Hall), 19 October 2012 (Ipswich Town Hall), 22 and 23 October 2012 (Ip-City Centre, Ipswich) and 24 October 2012 (Ip-City Centre, Ipswich).
3. The Order, if made, would grant development consent for the construction and operation of an offshore wind turbine generating station in the

North Sea, a minimum of 27km off the coast of Suffolk, comprising up to 140 wind turbines with a gross electrical capacity of up to 504MW, up to one collection platform, up to one accommodation platform, up to three offshore sub-stations, up to three meteorological masts, inter-array cabling and export cables from the wind farm to a landfall point at mean low water to the south of the hamlet of Sizewell. The Development also includes onshore grid connection cabling, up to three cable jointing bays, an electrical sub-station compound, a screening landform and associated development.

4. In addition, the Order would also cover 400kV overhead electric lines connecting two new sealing end compounds to the existing pylon infrastructure and associated development comprising underground grid connections, an electrical sub-station compound and the grid connection cabling between the sealing end compounds and the proposed sub-station and other related works as necessary.

5. Enclosed with this letter is a copy of the ExA's report ("the Report" or "ER"). The findings and overall conclusions are set out in sections 5 - 17 of the Report while the recommendation is at section 20.

Summary of the ExA's Recommendation

6. The ExA recommended that the Order be made, on the basis of the provisions set out in Appendix F of the Report.

Summary of the Secretary of State's Decision

7. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's Consideration

8. The Secretary of State has carefully considered the Report, the representations made known to him in respect of the Application and all other material considerations. The Secretary of State's consideration of the Report is set out in the following paragraphs. His consideration of the representations received after the close of the examination (i.e post-29 November 2012) is also set out below (at paragraph 49). All paragraph references, unless otherwise stated, are to the Report and references to Requirements are to the requirements in Part 3 of Schedule 1 to the Order.

Need and Relevant Policy for the Proposed Development

9. After having regard to the comments of the ExA set out at sections 17.31 to 17.37 of the Report, the Secretary of State considers that, in the absence of any adverse effects which are unacceptable in planning terms, granting consent to the proposed Galloper Wind Farm would be consistent with energy National Policy Statements (“NPS”) EN-1 (Overarching NPS for Energy) and EN-3 (NPS for Renewable Energy Infrastructure), which set out the national need for development of new nationally significant electricity generating infrastructure of the type proposed at Galloper.

10. He, therefore, accepts that the planning case for the wind farm should be considered on its merits.

11. The ExA also considered relevant and important policies in respect of the United Kingdom’s international obligations as set out in the Conservation of Habitats and Species Regulations 2010 (as amended) (“the Habitats Regulations”) which transpose Council Directive 92/43/EC on the conservation of habitats and species and of wild flora and fauna (“the Habitats Directive”) into UK law as far as the 12 nautical mile limit of territorial waters and in the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007 (as amended) (“the Offshore Regulations”) which do so beyond territorial waters in the UK’s offshore marine area. The Habitats Directive provides for the designation of sites for the protection of habitats and species of European importance and the Birds Directive for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species, called Special Protection Areas (“SPAs”) – collectively known as “European sites”. The Convention on Wetlands of International Importance 1972 (“the Ramsar Convention”) provides for the listing of wetlands of international importance – Ramsar sites. UK Government policy is to afford Ramsar sites the same protection as European sites (see for example, ER Section 5 and 17.23 - 17.30) and in this context, the Secretary of State has taken these policies into account in assessing potential adverse impacts.

12. Subject to the qualifications explained in the paragraphs below about drafting modifications to the Order, the Secretary of State agrees with the ExA’s conclusions on the matters discussed in the report (ER 20.1 – 20.16).

Biodiversity, Biological Environment and Ecology

13. The Secretary of State notes that the ExA considered a number of issues under the above heading:

(a) Nature Conservation Designations

14. The Secretary of State agrees with the ExA’s conclusion (ER 5.24) that mitigation proposed by the Applicant would be effective in ensuring there will

not be damage to the Sites of Special Scientific Importance assessed by the Applicant.

(b) Terrestrial Ecology

15. Interested parties confirmed that they were satisfied that mitigation for protected species and habitats could be achieved through measures in the Order, the proposed Construction Code of Practice and the Environmental Management Plan (ER 5.50).

16. There were concerns that clearance of vegetation for the construction of the sub-station could have a serious impact on reptiles found within the vegetated area (which already provides mitigation in respect of Greater Gabbard's onshore works and is also being considered for reptile mitigation for proposed development of the Sizewell C nuclear plant). However, EDF Energy, the operator of the Sizewell facility, and the Applicant reached agreement on land use matters and, more generally, concerns about impacts on reptiles were addressed by the provision of a reptile mitigation strategy. The ExA was satisfied, therefore, that there were no outstanding matters that would argue against the Order being made (ER 5.67). The Secretary of State agrees with that conclusion.

(c) Marine (non-ornithological) Ecology

17. The Secretary of State agrees with the ExA (at ER 5.81 and ER 5.96) that any impacts on the reef forming Ross worm (*Sabellaria Spinulosa*), an Annex 1 Biogenic Reef Habitat under the Habitats Directive, and on marine mammals, from construction can be mitigated through measures proposed by the Applicant and that there are, therefore, no matters still outstanding that would argue against the Order being agreed.

(d) Ornithology

18. The Secretary of State notes that the potential impacts of the Development on different species of birds were considered at length by the ExA during the Examination of the Application. The effect of regulation 61 of the Habitats Regulations and regulation 25 of the Offshore Regulations, and the policy on Ramsar sites, is that before deciding whether to grant development consent, the Secretary of State must consider whether a project (not directly connected with or necessary to its management) is likely to have a significant effect on a European site or a Ramsar site either alone or in combination with other projects. In the case of the Application, the evidence suggests that the Development is likely to have a likely significant effect on Lesser Black Backed Gulls (LBBGs), a qualifying feature of the Alde-Ore Estuary SPA and Ramsar sites. The Secretary of State is, therefore, required to carry out an appropriate assessment ("AA") under the Habitats Regulations and the Offshore Regulations of the implications for the site(s) concerned in view of its conservation objectives. In the light of the conclusions of the AA, the Secretary

of State may grant development consent only if he is satisfied that the project will not adversely affect the integrity of such sites (or if certain other specified criteria in the Habitats Regulations and the Offshore Regulations are met).

19. In the case of the Development, Natural England agreed with the Applicant that only one out of the ten sites that the latter had assessed as part of its consideration of potential impacts on European and Ramsar sites was likely to be significantly affected – the Alde-Ore Estuary SPA and Ramsar. The Royal Society for the Protection of Birds (“RSPB”) considered that another two European sites should also be considered as susceptible to adverse impacts. The ExA agreed with Natural England and the Applicant in this matter (ER 5.116).

20. After considering the available evidence, the views of the ExA and the advice from Natural England, the Secretary of State agrees with the advice of Natural England and the ExA’s recommendation and considers that the only likely significant effect on a European site or Ramsar site is on the Alde-Ore Estuary SPA and Ramsar, as result of collision risk to LBBGs. The AA is concerned only with that issue.

21. The AA concludes that the Development will not have an adverse effect on the integrity of the Alde-Ore Estuary SPA and Ramsar site. This conclusion takes account of the recommendations of the ExA and the representations of all interested parties. Particular issues addressed in the AA are the modelling used to predict collisions, the impact of additional mortality on the LBBG bird population levels at the Alde-Ore Estuary SPA and Ramsar site and the best way to mitigate that impact. These issues generated much debate, and at the close of the Examination, there were outstanding disagreements between Natural England and the Joint Nature Conservation Committee, the Royal Society for the Protection of Birds (“RSPB”) and the Applicant about the likely scale of the impact and the most appropriate way to overcome it.

22. In considering those positions, the ExA assessed information provided by the Applicant and the interested parties in relation to the likely level of LBBG mortality that could be attributed to the Development as a result of collisions with operational wind turbines. The Applicant’s modelled mortality figure was 44 birds per annum which was based on an avoidance rate of 99% and other data refinements. (The avoidance rate is the percentage of birds that are likely to make a behavioural response to the presence of a wind farm or an individual turbine, so as to avoid flying on a path that puts them at risk of a collision with the rotating turbine blades.) Natural England’s assessment of the annual mortality figure was 119 birds based on a more precautionary avoidance rate of 98% and more robust data refinements. After some consideration, the ExA adopted Natural England’s mortality figure and recommended that the Secretary of State should use this figure in his AA (ER 5.205). The Secretary of State accepts the ExA’s recommendation on the annual level of mortality that needs to be considered in assessing the impact of the Development.

23. Having established the mortality figure that should be used in its assessment, the ExA considered the extent to which the 119 annual mortalities should be mitigated and how this could be achieved. Natural England's view was that the unfavourable declining status of the population levels of LBBGs at the Alde-Ore Estuary SPA meant that all of the mortalities had to be mitigated. The ExA agreed and recommended that all 119 mortalities were mitigated (ER 5.236 – ER 5.329). Although the Applicant considers that no mitigation is required, it offered to fund improved management measures at the SPA ("the SPA measures") in the event the Secretary of State decides that mitigation is necessary to rule out an adverse impact on the integrity of the European site. This was the Applicant's preferred option, although various forms of project mitigation were also offered. Natural England recommended that mitigation at the project level (that is through a reduction in turbine numbers or some adaptive configuration of the turbine layout) would reduce uncertainty levels. The RSPB opposed the principle of developer-funded improvements to the SPA as mitigation on the basis that their effects could not be distinguished from mitigation that Natural England would need to put in place anyway to maintain the integrity of the SPA to restore the conservation status of the LBBG feature.

24. After some consideration, the ExA determined that there should be mitigation measures at both the project level and the SPA management level ("a dual approach") and that the measures should be apportioned in a 7.6% (or 9 birds per annum) project to 92.4% (or 110 bird per annum) SPA management split (ER 5.305). The level of mitigation which can be assumed to be achieved by the SPA measures is calculated on the basis of the number of extra chicks that would realistically survive to become adult birds to replace the predicted mortalities of LBBGs as a result of turbine collisions. The Secretary of State's officials have considered the data used by the ExA and find it to be robust. However, the Secretary of State does not agree with the way that the ExA dealt with the data to draw its conclusions. The Secretary of State's view is that for the SPA measures to achieve a 92.4% reduction in mortality, they would require them to achieve an increase in chick productivity not supported by the data. The Secretary of State's view is that project mitigation measures should be required to achieve a reduction in mortality of 15.2% (or 18 birds per annum) so that the SPA measures would be required to deliver an 84.8% reduction, or 101 birds per annum, in order to mitigate fully the predicted additional annual collision mortality of 119 birds. The Secretary of State's reasoning is set out in detail in the AA (at sections 7 and 8).

25. In a response dated 28 October 2012 to questions posed by the ExA (Document Reference HE53), the Applicant offered up to 30% project mitigation (ER 5.255) in the event that the Secretary of State considers it necessary to increase the level of project mitigation in order to rule out an absence of adverse impact on the Alde-Ore estuary SPA/Ramsar. The Secretary of State does not consider that the full 30% project mitigation is necessary to conclude no adverse impact arising from the Development. In his view, to require 30% project mitigation would unduly restrict the deployment of renewable energy and unnecessarily limit the wider environmental benefits of the proposal. The

Secretary of State considers that it is appropriate to adopt the 15.2% project / 84.8% SPA mitigation split and that no adverse impact on the integrity of the Alde-Ore Estuary SPA/Ramsar arising from the Development will occur.

26. The ExA proposes at ER 5.306 that the Order should contain flexibility by allowing the Applicant to reduce the degree of project level mitigation on the basis of evidence of:

- growth over a minimum of three years of the LBBG population at the SPA;
- the performance of other mitigation measures required in the Order or secured by the Unilateral Undertaking; and,
- the operation of the Development has shown to be effective in offsetting the level of additional mortality that is predicted and assessed to have occurred as a result of the Development.

27. The Secretary of State welcomes research that may contribute to better understanding of bird behaviour in response to wind farms. However, he is mindful of what may be lawful, reasonable and practical to include in a development consent order requirement. Whilst such monitoring may form part of a useful evidence base, the Secretary of State considers that it is inappropriate to use such monitoring as a form of control on development and has concerns about the reasonableness and enforceability of this requirement. He is also mindful of the variety of other factors in the wider environment, such as food availability, that may influence future LBBG population levels and be difficult to distinguish from the impact of the Development and other offshore wind farms. Therefore, whilst the Secretary of State is, in general, supportive of a flexible approach for the consenting of renewable energy projects, in line with his responsibilities under NPS EN-3, in this instance he does not accept the ExA's recommendation, as he does not have confidence that sufficiently robust data would be gathered to justify the use of such a Grampian-style requirement. He also wishes to maintain certainty on the delivery of mitigation measures.

28. During the Examination, the Applicant made a further mitigation proposal by suggesting that part of the wind farm site (within Area B) could be made a `no turbine zone` and that this could be used as mitigation in respect of potential impacts on LBBGs. The ExA recommended that a requirement in the Order should define a `no turbine` zone within Area B (ER 5.308). The no turbine zone would remain in place unless the Applicant was able to demonstrate that the performance of other mitigation measures in the Order and the operation of the Development had been effective in offsetting the predicted and assessed LBBG mortality levels arising from the Development. The ExA recommended (ER 5.309) that any mitigation that might be attributed to this measure should not be given any weight but could provide the Secretary

of State with an additional level of comfort that the integrity of the Alde-Ore Estuary SPA and Ramsar would not be damaged.

29. The Secretary of State appreciates the different perspectives of the interested parties and the need for robustness in Habitats Directive decisions in the face of uncertainties associated with the marine environment in general and also in predicting the behaviour of wide-ranging species in response to environmental change. However, in this instance, he considers it unnecessary to restrict the Applicant by imposing the Area B no turbine zone. He notes that, were he to assign a quantifiable collision reduction value to this mitigation, it would be contrary to the advice of Natural England. Bearing in mind that he has imposed a higher level of project mitigation, as regards turbine restrictions, than recommended by the ExA, the Secretary of State considers that it is unnecessary to require the Area B no turbine zone. It is the Secretary of State's view that the combination of the 15.2% project mitigation with the SPA measures, will be sufficient to mitigate the predicted LBBG collisions, without the need for additional comfort from further project restrictions. He does not accept, therefore, that the proposed condition should be included in the Order nor in the deemed Marine Licence in which the provision is reflected.

30. Subject to the matters set out above and in the AA, the Secretary of State agrees with the ExA's recommendations (ER 5.401, 6th and 7th bullets) that he should require the section 106 Unilateral Undertaking proposed by the Applicant in order to give effect to the SPA mitigation measures, and that the Order and Deemed Marine Licence should provide for the required level of project mitigation to be applied to confirm the final project details.

31. The Secretary of State does not agree with the suggestion made by the ExA (ER 5.401, 8th bullet) that he should consult on the proposed mitigation options before making his decision. In reaching his decision, the Secretary of State notes that has not taken into consideration any new evidence or matters of fact in relation to the data and the evidence on which he has reached his decision has been the subject of a consultation with the interested parties.

32. For the reasons set out above and further developed in the AA, the Secretary of State, while agreeing with the overall approach adopted by the ExA in this matter and many of its conclusions, does not accept all of the conclusions drawn by the ExA and has, therefore, decided to make changes to the Order to give effect to his decision.

Commercial Fisheries and Fishing

33. Representations were received from fishing operators and representative bodies (including those in the Netherlands and France) for both the inshore and offshore fishing fleets about the loss of fishing grounds and compensation measures, lack of communication, liaison and planning from the Applicant, the potential for damage to fishing gear arising from contact with debris, underestimation of the loss of fishing grounds, the need for monitoring of

impacts on fishing activity and fish stocks, and the impact of displaced trawlers and increased maritime activity associated with construction and maintenance on fixed gear operations (ER 6.6).

34. The ExA requested that the Applicant should attempt to put in place Statements of Common Ground (“SOCG”) with relevant interested parties. The Applicant did reach SOCGs on a number of fishing-related topics with the Marine Management Organisation and the Eastern Inshore Fisheries and Conservation Authority. However, the Applicant did not reach agreement with the UK’s National Federation of Fishermen’s Organisations or its Dutch and French equivalents, VisNed and CRPMEM respectively.

35. The ExA considered the various representations that had been made during the Examination of the Application and concluded that the balance of the policy imperative for the project set out in the relevant NPS and the potential impacts of the Development fell in favour of granting consent providing the commitments made by the Applicant were fulfilled. The ExA, therefore, concluded (ER 6.33) that it was satisfied that there are no matters outstanding that would argue against the Order being confirmed. The Secretary of State agrees with the ExA’s conclusion on this issue.

Electric and Magnetic Fields

36. The Secretary of State agrees with the ExA’s conclusions (ER 7.12), that adequate safeguards would be put in place to minimise and control impacts on humans and on marine ecology arising from electric and magnetic fields.

Historic Environment

37. The Secretary of State notes that there was general satisfaction from English Heritage and the relevant local planning authorities with the measures being proposed by the Applicant to minimise any impact on the historic environment both onshore and offshore, including safeguards in the Order and that there are suitable provisions in the Order and in the Deemed Marine Licence. He agrees, therefore, with the ExA’s conclusion in this matter (ER 8.19) that there are no heritage, or historic environment matters that argue against the Order being made.

Landscape and Visual Effects

38. The Secretary of State notes that there was consideration of a number of issues related to this heading during the examination of the development consent application:

- *Onshore Landscape and Visual Effects;*
- *Landscape and Visual Impact of Sub-station and other infrastructure located in Areas of Natural Beauty;*

- *Comparative effectiveness in screening of the landform mitigation with or without extra mitigation;*
- *Screen planting and long term management and maintenance;*
- *Pillbox Field landscape field planting; and*
- *Design and base level of the sub-station.*

He notes also that, while there were some disputes about the mechanisms that might be used to mitigate the impacts of the Development, he is also aware from the ExA's Report that these were eventually resolved after discussion and that a range of agreements, SoCGs and provisions in the draft Order have been put in place to provide a suite of mitigation measures. The Secretary of State, therefore, agrees with the ExA that the mitigation measures proposed and the mechanisms used to secure them are sufficient to keep any impacts to an acceptable level (ER 9.107).

Noise and Vibration

39. The Secretary of State notes that there is potential for the construction and operation of the Development to generate adverse impacts. However, the Applicant has proposed mitigation measures to limit the impact of construction activities, both onshore and offshore, and it is agreed that operational activities will not have an adverse impact. The ExA, therefore, is satisfied that there are no outstanding noise and vibration issues that would argue against the Order being made (ER 10.35). The Secretary of State agrees with the ExA's conclusions in this matter.

Nuclear Safety and operational impacts

40. The Secretary of State notes that both the onshore works for the Development and the offshore cable route from the proposed wind farm part of the development have the potential to impact on the operations of the Sizewell B nuclear power station and on proposals for another nuclear power station, Sizewell C (ER 11.4). The particular issues considered by the ExA were:

- *Emergency response and site security issues;*
- *Ensuring continuity of mains water supply via the water main traversing Pillbox Field;*
- *Ensuring continuity of access via Sizewell Gap Road;*
- *The quality of water entering the Sizewell B cooling water intakes;*

- *The Sizewell B cooling water intake and outfall infrastructures;*
- *The potential impact of inshore cable laying and subsequent cable maintenance on the proposed cooling water intake structures for Sizewell C;*
- *The impact of cable laying on the integrity of the Coralline Crag and the Sizewell Bank; and*
- *The Waverider buoy.*

41. The Secretary of State notes that there were discussions with relevant parties about the potential impacts of the proposed Development and that, as a result of those discussions suitable agreements were made and amendments were proposed to the draft Order to ensure that protective measures were put in place to mitigate any impacts. The Secretary of State, therefore, agrees with the ExA's conclusions (ER 11.72) that there are no reasons to not make the Order.

Operational Safety Zones

42. The Applicant has indicated that it will apply for safety zones to be put in place around the offshore structures that comprise the Developer during both the construction and operation of the project. There were objections to the declaration of safety zones during the operation of the Galloper project as the interested parties did not believe there was a justifiable case for doing so. However, the ExA concluded that the need and extent of any safety zones should be matters for the Secretary of State to consider should any application be made (ER 12.23). The Secretary of State agrees that it would be appropriate to consider this issue further at the time that such an application is made.

Cabling Safety

43. The Secretary of State notes that offshore cables can have an adverse effect on maritime safety unless mitigation measures are put in place. The ExA was satisfied that measures proposed in the Order and in a SoCG agreed between the Applicant and the Royal Yachting Association provided suitable mitigation to minimise or avoid any impacts.

44. Overall, the ExA concluded that there were no matters outstanding in relation to this matter that would argue against the Order being made (ER 12.34). The Secretary of State agrees with the ExA's conclusions.

Radar, Navigation and Search and Rescue Operations

45. The Secretary of State notes that the ExA concluded that mitigation for any impacts was agreed by relevant interested parties and there was, therefore,

nothing under this heading that would argue against the Order being made (ER 13.34). The Secretary of State agrees with the ExA's conclusions on this matter.

Sediment Dynamics Waste and Debris

46. The Secretary of State notes that concerns about the potential impact of the Development on some Suffolk beaches were satisfactorily addressed. He agrees, therefore with the ExA's conclusions (ER 14.34) that there were no matters outstanding under this heading that would prevent the Order being made.

Socio-Economic and other Local Effects

47. The Secretary of State noted concerns about the impacts of the onshore works on local communities and of the offshore works on recreational boat users and tourism more generally. However, the ExA concluded that the Applicant had met the requirements of the relevant NPS in its proposals and addressed the matters raised by interested parties. Accordingly, the ExA determined that there were no matters outstanding that would argue against the Order being confirmed (ER 15.32). The Secretary of State agrees with the ExA's conclusions on this matter.

Traffic and transportation

48. The Secretary of State is aware of concerns that the traffic associated with the construction of the Development would have an adverse impact on local communities, road users and pedestrians, particularly when coupled with other projects being undertaken in the area. However, the ExA considered that suitable mitigation measures would be put in place by way of a Requirement in the draft Order which will require a Construction Code of Practice to be approved by the relevant planning authority, and concluded that there was no reason to refuse the grant of development consent on this account (ER 16.29). The Secretary of State agrees with the ExA's analysis on this matter.

Representations Received After Close of Examination of Galloper Application

49. The National Trust wrote to the Planning Inspectorate after the examination of the Application had closed expressing concern that it had been named without its permission in a Unilateral Undertaking offered by the Applicant under section 106 of the Town and Country Planning Act 1990. However, the Applicant subsequently indicated to the Secretary of State that it will remove the reference to the National Trust from the Undertaking in the event that the Order is made.

Extinguishment of the Public Right of Navigation

50. In the absence of representations on this issue, the Secretary of State agrees with the ExA (ER 19.92) that the public rights of navigation should be extinguished in the terms set out in the Order for those wind turbines, substations, meteorology masts, accommodation platforms and collection platforms, including their foundations that are located within territorial waters.

Compulsory Acquisition

51. The Applicant has requested that compulsory acquisition rights should be granted in respect of a number of parcels of land on which parts of the Development (the onshore works) would be located. While there were objections to the compulsory acquisition of the land in question (including from EDF Energy), these were eventually withdrawn. The ExA concluded, therefore, that the application was appropriate in the context of the relevant requirements of the Planning Act (ER 18.142). The Secretary of State agrees with the ExA's conclusion.

Crown Land

52. Section 135(2) of the 2008 Act requires consent from a relevant Crown Authority for inclusion of any provision applying in relation to "Crown land". The Secretary of State notes the offshore elements of the Development would be located in areas of the seabed owned by, or subject to rights granted to, the Crown Estate and has sought explicit consent from the Crown Estate Commissioners. The Secretary of State further notes that the Crown Estate Commissioners (as the appropriate "Crown Authority" under section 227(5)(a) of the 2008 Act) have consented by way of a letter dated 15 May 2013 to the inclusion of Section 135(2) provisions in the Order.

Secretary of State's Conclusions and Decision

53. For the reasons given in this letter, the Secretary of State agrees with the ExA that there is a compelling case for authorising the Development (which accords with the principles set out in the relevant NPS, given the added contribution that it would make to the production of renewable energy and that this case is not outweighed by the potential adverse local impacts of the Development as mitigated by the proposed terms of the Order.

54. The Secretary of State has therefore decided to accept the ExA's recommendation at ER 20.15 to make the Order granting development consent on the basis of the provisions set out in the draft Order proposed by the ExA (in Appendix F to the ER), but subject to the modifications outlined in paragraph 49 below. He confirms that, in reaching this decision, he has had regard to the local impact reports submitted by Suffolk County Council and Suffolk Coastal District Council and to all other matters which he considers important and relevant to his decision as required by section 105 of the 2008 Act. The

Secretary of State confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

Modifications to the Order

55. The Secretary of State has decided to make various changes to the form of the draft Order set out in Appendix F of the ExA's Report which, while altering the way in which certain specific issues are dealt with, do not materially alter its effect, including changes to conform with the current practice for Statutory Instruments (for example, modernisation of language), changes in the interests of clarity and consistency and changes to ensure that the Order has the intended effect.

Challenge to decision

56. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached as an Annex to this letter.

Publicity for Decision

57. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours sincerely

GILES SCOTT
Head, National Infrastructure Consents

ANNEX

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 former Infrastructure Planning Commission or 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 High Court during the period of six weeks from the date when the Order is published. The Galloper Wind Farm Order as made is being published on the date of this letter on the Planning Inspectorate web-site at the following address:

<http://infrastructure.planningportal.gov.uk/projects/eastern/galloper-offshore-wind-farm/>

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).