

Response by the National Trust from ExA question arising from ISH3
Thanet Extension Offshore Wind Farm DCO EN010084, The National Trust 20012611
Site Selection and Alternatives

'The National Trust and Kent Wildlife Trust are to set out the specific policy basis (including references to National Policy Statements) for their objections to site selection conclusions, specifically in relation to the export cable landfall location. To include Habitats Regulation Assessment effects where relevant.'

The National Trust do not consider that the applicant's high level appraisal approach to the issue of site selection is appropriate. Although the NPS EN1 does not contain any general requirement to consider alternatives, the National Trust considers that it would be appropriate, proportionate and good practice for it to happen in this case. This would specifically enable the Examining Authority (taking account of the views and submissions of consultees) to meet the test in para 4.2.4 of NPS EN1, 'that the ExA should satisfy itself that any proposed mitigation measures or any adverse effects have been adequately assessed.'

Just because there is no general requirement to undertake a detailed assessment of site alternatives, is not a reason not to do so. The NPS does not list or specify any requirements as to when a full assessment of alternatives should be carried out or any exclusions when it should not. Full assessment of site alternatives is a generally accepted and normal practice for Environmental Impact Assessment (EIA). The National Trust's request is for a full assessment of a specific and significant element of the scheme, that of the cable landfall and it is considered that undertaking a full assessment of alternatives, for this specific aspect of the scheme, which affects international nature conservation designations, would be a proportionate and appropriate approach.

It is considered that policy in the NPS does indicate that full and adequate reasons and explanation of the choices made in the DCO, be explained and adequately assessed. The likely impacts under the habitats regulations would also indicate a full options appraisal would be required for cable routing. EN3 para 2.6.81 does require an assessment of alternative (cable) landfall sites. The main issue is the degree and transparency of the assessment that has been made and whether that assessment is adequate and meets the test under 4.2.4 of EN1 that the likely significant effects have been adequately assessed. With reference to our written reps, the National Trust does not consider that this has been done, and that we are unable to understand the choice and judgement made to select the preferred route. Therefore we do not consider that the cable landfall and route that has been selected has been adequately assessed and that the Environmental Statement fails on these policy grounds.

Extracts from the relevant NPS and commentary on them in relation to the cable landfall is detailed below.

Overarching National Policy Statement for Energy (EN-1)

4.2 Environmental Statement

4.2.1 All proposals for projects that are subject to the European Environmental Impact Assessment Directive must be accompanied by an Environmental Statement (ES) describing the aspects of the environment likely to be significantly affected by the project. The Directive requires an assessment of the likely significant effects of the proposed project on the environment, covering the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects at all stages of the project, and also of the measures envisaged for avoiding or mitigating significant adverse effects.

It is considered that a full appraisal of the landfall options, with commensurate environmental survey, data and technical appraisal would be relevant to meeting this part of the policy, particularly the comparative environmental impacts of the alternative route options outlines. It is not considered, as detailed in our written reps, that the Environmental Statement currently meets this requirement in relation to the alternative route options.

4.2.4 When considering a proposal the IPC should satisfy itself that likely significant effects, including any significant residual effects taking account of any proposed mitigation measures or any adverse effects of those measures, have been adequately assessed. In doing so the IPC should also examine whether the assessment distinguishes between the project stages and identifies any mitigation measures at those stages.

It is not considered that the alternative route options have been satisfactorily and fully assessed to allow the ExA to meet this requirement. The National Trust is unable, from the information provided, to understand how the applicant has made its cable landfall site selection, particularly in relation to the comparative effects of the alternative routes considered in the high level study and therefore we do not consider the EIA is sufficient or has adequately assessed the likely impacts of the route options, nor how it has selected the proposed route.

4.4.1 As in any planning case, the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective this NPS does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option.

The applicant has undertaken a site selection process for the cable landfall and has considered alternative route options, as recorded in its high level review. This indicates that the applicant does consider that consideration of those route options is valid and falls within the process. If the general requirement not to consider alternatives had been followed then no optioneering work would have been done. Having accepted the need for consideration of alternatives and having identified and reviewed a range of routes, it is considered to be incumbent on the applicant to do so to a level of detail that enables the ExA to make an assessment in accordance with 4.2.4, and to adequately assess the alternatives to a level that we as consultee can understand and be satisfied of the choice made. More importantly it needs to demonstrate to the ExA that it has done so. It is the National Trust's position that the ES and other information provided does not meet this level of justification or demonstration.

4.4.2 However applicants are obliged to include in their ES, as a matter of fact, information about the main alternatives they have studied. This should include an indication of the main reasons for the applicant's choice, taking into account the environmental, social and economic effects and including, where relevant, technical and commercial feasibility;

It is the National Trust's view that while this has been largely achieved in the ES, it has not been done to sufficient a level and detail to allow a clear understanding of the choices made, and the comparative impacts, so that we as a consultee and affected landowner can have confidence in that selection process. 4.4.2 does require technical and commercial feasibility to be considered and evidence of this having been done to any level of detail is not available in the ES to the best of our knowledge, especially the technical feasibility of the various route options. This technical appraisal is particularly relevant as the applicant in their response to the ExA first questions, again refer to various technical construction matters but no detail of these is again available to the best of our knowledge.

4.4.3 Where there is a policy or legal requirement to consider alternatives the applicant should describe the alternatives considered in compliance with these requirements. Given the level and urgency of need for new energy infrastructure, the IPC should, subject to any relevant legal requirements (e.g. under the Habitats Directive) which indicate otherwise, be guided by the following principles when deciding what weight should be given to alternatives:

- *the consideration of alternatives in order to comply with policy requirements should be carried out in a proportionate manner;*
- *the IPC should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security and climate change benefits) in the same timescale as the proposed development;*

It is our view that the European level habitat designations on the site warrant an appropriate level of scrutiny, which does not appear to have been given. It is not our view that the level of information

provided in the ES is proportionate and is indeed lacking in technical detail and comparative analysis of likely impacts on the various options. As all the options have been provided by the applicant and as far as is known none have been ruled out on capacity grounds, all of the available options can be and should be assessed, both in general terms and specifically relating to the habitats regulations need.

5.3.7 As a general principle, and subject to the specific policies below, development should aim to avoid significant harm to biodiversity and geological conservation interests, including through mitigation and consideration of reasonable alternatives (as set out in Section 4.4 above); where significant harm cannot be avoided, then appropriate compensation measures should be sought.

The proposed cable route will impact numerous environmentally designated sites; the Sandwich and Pegwell Bay National Nature Reserve, Sandwich Bay to Hacklinge Marshes SSSI, Sandwich Bay SAC, Thanet Coast and Sandwich Bay Ramsar site, and the Thanet Coast and Sandwich Bay SPA. We believe that the current proposal will have numerous disruptive impacts on land designated for nature conservation – designations that have been determined objectively against criteria which have national and international recognition. NPS EN-1 outlines that ‘the most important sites for biodiversity are those identified through international conventions and European Directives’. The Habitats Directive provides statutory protection for these sites which include Special Protection Areas, Ramsar sites and Special Areas of Conservation which are known as ‘European Sites’. Many SSSIs are also designated as sites of international importance and all National Nature Reserves, are notified as SSSIs¹.

Under the Habitats Directive, when considering granting consent for a development that may adversely impact on European sites, there must be sufficient evidence that ‘there are no feasible alternative solutions to the plan or project which are less damaging’ which includes using different routes. We do not believe that the applicant has adequately demonstrated that the chosen route is the least environmentally damaging, or that the alternative onshore route options are not feasible. We do not consider that it is appropriate for the ES to state that the proposed development will not damage the integrity of the site, and we believe that feasible alternative routes exist that were prematurely discounted. Ecological surveys were focused on one onshore cable route (Pegwell Bay) resulting in a lack of comparable ecological data. Without comparable ecological data for other proposed onshore cable routes and landfall options, we cannot accept that the route chosen is the least environmentally damaging.

Overall, we believe that given the importance of this site; the numerous designations and the cumulative disturbance caused by several other large scale developments affecting the site, a precautionary approach should be taken and this area should be protected and an alternative route proposed that has less impact on these environmental designations.

National Policy Statement for Renewable Energy Infrastructure (EN-3)

2.6.81 An assessment of the effects of installing cable across the intertidal zone should include information, where relevant, about:

- *any alternative landfall sites that have been considered by the applicant during the design phase and an explanation for the final choice;*
- *any alternative cable installation methods that have been considered by the applicant during the design phase and an explanation for the final choice;*
- *potential loss of habitat;*

Para 2.6.81 of EN-3 does require the specific analysis of alternative landfall sites, as well as a series of wider examinations including loss of habitat. This would indicate that a cable landfall and route options analysis or options appraisal should be undertaken as part of the DCO process and would normally fall within the ES. What has been provided does not meet this requirement in our view or to the depth and detail that enables us as consultee to understand the route selection process.