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Your ref: EN010095

05 July 2023

Dear Mr Hunt,

PLANNING ACT 2008: APPLICATION FOR DEVELOPMENT CONSENT FOR BOSTON ALTERNATIVE ENERGY FACILITY

1. Introduction

- 1.1. I am directed by the Secretary of State for of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the report dated 7 July 2022 of the Examining Authority (“the ExA”) consisting of a single Inspector, Max Wiltshire, which conducted an Examination into the application (“the Application”) submitted on 23 March 2021 by Alternative Use Boston Projects Limited (“the Applicant”) for a Development Consent Order (DCO) (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Boston Alternative Energy Facility and associated development (“the Proposed Development”).
- 1.2. The Application was accepted for Examination on 20 April 2021. The Examination began on 7 October 2021 and closed on 7 April 2022. The Secretary of State received the ExA’s Report on 7 July 2022. On 13 October 2022 the Secretary of State issued a Written Ministerial Statement¹ announcing that the statutory deadline for the decision had been reset to 10 January 2023. On 14 October 2022 a consultation letter was issued by the Secretary of State seeking information on several matters² (“the first consultation letter”). A further

¹ <https://questions-statements.parliament.uk/written-statements/detail/2022-10-13/hcws323><https://questions-statements.parliament.uk/written-statements/detail/2022-10-13/hcws323>

² [https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001389-BAEF-Information-Request-No.1-14.10.2022\(no-signature\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001389-BAEF-Information-Request-No.1-14.10.2022(no-signature).pdf)

consultation letter was issued on 25 November 2022, requesting further information³ (“the second consultation letter”). On 10 January 2023 the Secretary of State issued a Written Ministerial Statement⁴ announcing that the statutory deadline for the decision had been reset to 6 July 2023, and issued a further consultation letter on several matters⁵ (“the third consultation letter”). On 24 April 2023 a consultation letter was issued by the Secretary of State requesting further information from the Applicant⁶ (“the fourth consultation letter”). A further consultation letter was issued on 25 May 2023 requesting comments from all Interested Parties (IPs) on representations received since the close of the Examination⁷ (“the fifth consultation letter”). Together these are referred to as “the consultation letters”, with specific letters being identified as necessary.

- 1.3. The Order, as applied for, would grant development consent for the construction, operation, and maintenance of an energy recovery facility with a gross electrical output of 102 megawatts (MW), and associated development including an ash processing building, two carbon dioxide processing units, a lightweight aggregate manufacturing facility, electrical substation, wharf facility to receive waste refuse derived fuel (RDF) and import clay and sediment and export lightweight aggregates, supporting buildings, facilities and infrastructure, and temporary construction compounds.
- 1.4. The Applicant also seeks compulsory acquisition (CA) and temporary possession (TP) powers, set out in the draft Order submitted with Application.
- 1.5. Published alongside this letter on the Planning Inspectorate’s National Infrastructure Planning website⁸ is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 4-7 of the ExA Report, and the ExA’s summary of conclusions and recommendation is at Chapter 10. All numbered references, unless otherwise stated, are to paragraphs of the ExA’s Report [“ER *.*.”].

2. Summary of the ExA’s Report and Recommendation

- 2.1. The principal issues considered during the Examination on which the ExA has reached conclusions on the case for development consent are set out in the ExA Report under the following broad headings:
 - Air quality and emissions;
 - Climate change adaptation;
 - Good design;
 - Habitats, ecology and nature conservation;
 - Historic environment;
 - Landscape and visual;

³ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001399-BAEF%20-%20Information%20Request%2025.11.2022.pdf>

⁴ <https://questions-statements.parliament.uk/written-statements/detail/2023-01-10/hcws488>

⁵ <https://questions-statements.parliament.uk/written-statements/detail/2023-01-10/hcws488>

⁶ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001426-20230424_BAEF_Information_Request_No.4.pdf

⁷ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001434-BAEF-Interested-Parties-Letter-250523.pdf>

⁸ <https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/>

- Navigation;
- Noise, and vibration;
- Socio-economic;
- Traffic and transport;
- Waste management; and
- Water quality and flood risk.

2.2. The ExA recommended that the Secretary of State should not make an Order unless the Habitats Regulations Assessment (HRA) matters detailed in its Report could be resolved [ER 10.3.1 et seq].

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

3. Summary of the Secretary of State’s Decision

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

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

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

4.1. The Planning Act 2008 sets out a process for decision-makers to follow in considering applications for nationally significant infrastructure projects (NSIPs). The proposed Development is a NSIP as defined in sections 14 and 15 of the Planning Act 2008 by virtue of being an onshore generating station with a generating capacity of over 50MW.

4.2. The Secretary of State has considered the ExA’s Report and all other material considerations, including representations received after the close of the ExA’s Examination and responses to his consultation letters, which are dealt with as appropriate in the sections of the decision letter below. The Secretary of State’s consideration of the ExA’s Report is set out below.

4.3. The Secretary of State has had regard to the Local Impact Report (LIR) submitted by Boston Borough Council (BBC), environmental information as defined in regulation 3(1) of the EIA Regulations and to all other matters which are considered to be important and relevant to the Secretary of State’s decision as required by section 104 of the 2008 Act including relevant policy set out in the NPSs EN-1 and EN-3.

4.4. The Energy White Paper, *Powering Our Net Zero Future*, was published on 14 December 2020. It announced a review of the suite of energy NPSs but confirmed that the current NPSs

were not being suspended in the meantime. The review of the energy NPS suite is currently underway and draft versions of the new NPSs were subject to a consultation which closed on 29 November 2021. A further consultation on revised drafts of the NPSs closed on 23 June 2023. The transitional guidance in the consultation paper makes clear that the assessment of any decision-making about NSIP applications in progress, should continue to be made with reference to the currently designated NPS suite which remains in force and therefore forms the basis of the Secretary of State's consideration of the Application. Although the new NPSs are in draft form and have not been designated, the Secretary of State considers them to be important and relevant for the purpose of section 104 of the 2008 Act. As such, the Secretary of State has had regard to the draft energy NPSs in deciding the Application but does not consider that there is anything contained within the drafts of the relevant NPS documents that would lead him to reach a different decision on the Application. The Secretary of State has also had regard to the British Energy Security Strategy (BESS) published on 7 April 2022, which outlined the steps to accelerate the government's progress towards achieving Net Zero by 2050 and a long-term shift in delivering cheaper and cleaner power.

- 4.5. In making the decision, the Secretary of State has complied with all applicable legal duties and has not taken account of any matters which are not relevant to the decision.
- 4.6. 27 Relevant Representations (RRs) were made in respect of the Application by statutory authorities, businesses, non-governmental organisations, and individuals. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA.

The Proposed Development

- 4.7. The Application site lies approximately 2 km to the southeast of Boston town centre [ER 2.1.5] and comprises 26.8 hectares (ha) of land split into two components – the operational infrastructure for the Energy from Waste (EfW) site (the “Principal Application Site”) (25.3ha), and an area containing habitat mitigation works for wading birds (the “Habitat Mitigation Area” (HMA)) (1.5ha). The HMA is located approximately 170m to the southeast of the Principal Application Site and encompasses an area of saltmarsh and small creeks at the margins of The Haven, a tidal waterway of the River Witham between The Wash and Boston [ER 2.1.6]. The part of the site that will accommodate the wharf is approximately 750m downstream from the existing Port of Boston [ER 2.1.15].
- 4.8. The Principal Application Site comprises both undeveloped and previously developed land enclosed by a network of drainage ditches and is part of a wider industrial/commercial area allocated for development in the local plan, with large and small industrial businesses to the north, west and south of the site. A 132 kiloVolt (kV) overhead powerline on pylons traverses the site from north to south and bisects the Application site. The eastern site margins are defined in part by a primary flood defence bank along The Haven [ER 2.1.11 et seq.].
- 4.9. Road access to the Principal Application Site is via the Riverside Industrial Estate's existing road network, with access from the west to Marsh Lane from Bittern Way [ER 2.1.7].
- 4.10. Several public rights of way cross the Principal Application Site [ER 2.1.14].

Air Quality and Emissions

- 4.11. NPS EN-1 section 5.2.7 requires the Applicant to describe any significant air emissions, its mitigation and any residual effects generated by the project. In reaching a decision the Secretary of State should give air quality considerations substantial weight where a project would lead to a deterioration in air quality, even if this does not lead to any breaches of national air quality limits and consider whether mitigation measures would be needed both for operational and construction emissions [ER 5.2.7].
- 4.12. The Applicant's Environmental Statement (ES) contains an assessment of the likely significant effects in respect of air quality impacts associated with the Proposed Development during construction, operation, and decommissioning. Mitigation measures were proposed for significant effects that were identified, whilst residual effects were estimated to range between 'not significant' to 'minor adverse' [ER 5.2.10].
- 4.13. The ExA was satisfied that the Applicant's assessment satisfied the policy test of NPS EN-1 section 5.2, assessed significant air emissions, its mitigations, and any residual effects [ER 5.2.11].

Air Quality and Dust Management Plan

- 4.14. In response to the Applicant's Outline Air Quality and Dust Management Plan, Natural England (NE) raised concerns that the Applicant had not yet confirmed whether the dust impact mitigation measures and monitoring would also be in place at Havenside Local Nature Reserve (LNR) [ER 5.2.12]. The Applicant confirmed that mitigation measures and site controls to limit emissions of dust would be applied to Havenside LNR, and that these dust mitigation measures are secured via the Order [ER 5.2.14].
- 4.15. In response to a question from the ExA regarding what dust monitoring is proposed at boundary locations to ensure dust management controls are effective, the Applicant elaborated that dust monitoring and management procedures during the construction period for the Proposed Development would be detailed in the Outline Air Quality and Dust Management Plan, part of the Code of Construction Practice, as secured by Schedule 2⁹ of the draft Order [ER 5.2.15].
- 4.16. The ExA concluded that the mitigation measures for operational and construction emissions in relation regarding the air quality and dust management plan have been adequately identified and secured [ER 5.2.16].

Sensitivity of the Saltmarsh

- 4.17. The ES (Chapter 14) states that nitrogen deposition was quantified at all habitats in locally designated sites within the study area, however that only the deposition at the Havenside LNR was compared to a Critical Load value. NE disagreed with the ES' view that the saltmarsh at The Wash is not sensitive to acid deposition [ER 5.2.25 et seq].
- 4.18. The Applicant submitted an Air Quality Deposition Monitoring Plan, proposing monitoring ambient concentrations of compounds that contribute to nitrogen deposition for a minimum

⁹ Requirement 10(3)(d)

of 12 months proposing nine locations for representative monitoring points on the saltmarsh designated sites [ER 5.2.27]. These locations have not yet been agreed with NE [ER 5.2.31].

- 4.19. The Applicant confirmed significant effects were highly unlikely at these locations, but if any were identified that the most appropriate method for securing mitigative measures would be through an Improvement Condition within the Environment Permit (EP), issued by the Environment Agency (EA). The ExA considered this appropriate for dealing with this issue [ER 5.2.30].
- 4.20. The ExA concluded that the mitigation measures for likely deposition on the saltmarsh had been adequately identified through the Air Quality Deposition Monitoring Plan, and if significant, would be dealt with via the EP process. [ER 5.2.32]. The Secretary of State considers NE's post-examination responses regarding air quality from paragraph 4.28 below.

Deposition on the Saltmarsh

- 4.21. The ES (Chapter 17) concluded that the effect of deposition on saltmarsh habitats is minor adverse [ER 5.2.34]. Havenside LNR would be most impacted by the Proposed Development. The typical emissions of NO_x and NH₃ from the Proposed Development would result in total deposition below the Critical Load and no significant impacts would occur [ER 5.2.35].
- 4.22. The Applicant submitted "Comparison of Predicted Critical Load and Level Results Using Maximum Permissible Emissions Limits and Realistic Emission Scenarios" ("the Comparison Submission"), showing the in-combination Predicted Critical Load at The Wash would be less than 1% of the Critical Load and therefore impacts were considered insignificant. Other locations were predicted to experience in-combination Process Contributions (PC) above 1%, with total Predicted Environmental Concentrations (PEC) below the lower Critical Load range. NO_x and NH₃ concentrations were also predicted to be above 1% at all locations; however, total PECs would be well below the Critical Levels. As such, the Applicant considered that significant impacts are not expected to occur [ER 5.2.35]. The ExA considered the Comparison Submission assesses realistic emissions, all of which do not increase the PEC, and therefore concludes the issue is no longer outstanding. The ExA was satisfied the Applicant has evidenced an unlikelihood of significant effects of saltmarsh occurring [ER 5.2.38].

Receptor R37

- 4.23. The Applicant confirmed the effect of annual average nitrogen dioxide concentrations at receptor R37 during the Facility's construction phase would be "moderate adverse" [ER 5.2.40]. The impact at receptor R37 arises from temporary increases in road traffic flows on the A52 Liquorpond Street. The Applicant's key mitigation measure is minimising additional road traffic during the construction phase, especially Heavy Goods Vehicles (HGV), secured through Requirement 13 of the Order [ER 5.2.43 et seq]. The ExA was satisfied with the proposed mitigation [ER 5.2.44].

Other Emissions

- 4.24. The Applicant confirmed that the Outline Air Quality and Dust Management plan addressed the ways in which other possible emissions of combustion-related air pollutants from various fleet, equipment and plant deployed on the site would be monitored [ER 5.2.46]. The

Applicant confirmed pre-Euro VI HGV vehicles were amongst the fleet used in the construction and operation phase road traffic air quality assessments, and as such worst-case assessments were considered. The ExA was satisfied [ER 5.2.47 et seq.].

- 4.25. In response to a representation requesting details of the assessment conclusions of the significance of effects of predicted concentrations of dioxins and furans [ER 5.2.49], the Applicant explained that the worst-case scenario assessments show that for the maximally exposed individual of these worst-case scenarios, exposure to dioxins, furans, dioxin-like polychlorinated biphenyls and trace metals is not significant [ER 5.2.50]. The ExA was satisfied that the Applicant had adequately assessed the significance of these predicted concentrations [ER 5.2.51].
- 4.26. The EA's RR noted that the application site is located within 250m of a landfill site that is potentially producing landfill gas and the application did not currently include measures to investigate or mitigate this risk. The Applicant responded that R9 (now R10 in the draft Order) has been amended to specifically include ground gases and requires the risk assessment to adopt the source-pathway receptor principle and take into account potential migration of off-site ground gases: no part of the authorised development would commence until approved by the Local Planning Authority. The ExA considered this acceptable and that the Applicant had provided justifiable responses with regard to the other emissions and their respective issues [ER 5.2.52].

The Secretary of State's post-Examination Consultations

- 4.27. In his first consultation letter the Secretary of State invited the EA to update its position regarding EP, particularly on air quality. The EA replied that there has been no further discussion with the Applicant since the EA's Deadline 10 submission [REP10-034], and so its position is unchanged¹⁰. The EA stated that: "*With regards to air quality in particular, our position remains as set out in our Deadline 3 response (REP3-025). We are broadly satisfied with the type of evidence provided by the applicant regarding air quality, but we are unable to pre-determine any permit application, should one be made*".
- 4.28. In his first consultation letter, the Secretary of State invited NE to update its advice regarding impacts from changes in air quality. NE responded that insufficient information had been provided to be able to rule out adverse impacts on habitats at Havenside LNR, Slippery Gowt Sea Bank Local Wildlife Site (LWS), South Forty Foot Drain LWS, the Habitat Mitigation Area and other areas of priority saltmarsh in The Haven. This advice also applied to relevant protected sites under The Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), which is considered further in the Secretary of State's Habitats Regulations Assessment. NE particularly noted a lack of consideration of nitrogen, acid and trace pollutants and ammonia in the construction assessment, the absence of mitigation and inadequate monitoring, whether mitigation measures will be secured in the Code of Construction Practice (CoCP) and clarification of the permitted levels¹¹.

¹⁰ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001398-EA-reply-to-SoS-BAEF-FINAL.pdf>

¹¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001395-NE-Updated-Air-Quality-Advice-Nov-2022.pdf>

4.29. The Applicant subsequently provided further information to address each outstanding matter. NE considered the Applicant's further assessment was robust, but a few issues remained, including quantification of the emissions from the Proposed Development which could be offset due to loss of emissions from agricultural land and justification of using the "grid average" background concentration to inform the Predicted Environmental Concentrations (PEC) at the protected sites. NE also advised that, due to residual concerns in relation to succession/coarse grasses, additional ecological monitoring should be undertaken. The Applicant provided further information and an updated Air Quality Deposition Monitoring Plan including a commitment to ecological monitoring, as advised by NE. The final methodology will be agreed with NE post-consent. In response to the final consultation letter, NE stated that impacts on priority saltmarsh (under section 40 of the Natural Environment and Rural Communities Act 2006) remains an outstanding issue, but it did not reference air quality.

The Secretary of State's Conclusion

4.30. The Secretary of State notes the EA were broadly satisfied with the Applicant's evidence in relation to air quality.

4.31. The Secretary of State is satisfied the Applicant's responses have provided information to address NE's concerns regarding air quality and welcomes the additional ecological monitoring secured in the updated Air Quality Deposition Monitoring Plan. He is satisfied the Applicant's ES accords with NPS EN-1 and its requirements pertaining to air quality and emissions, and that mitigation measures for operational and construction emissions have been adequately identified [ER 5.2.16 and 5.2.24]. The Secretary of State agrees with the ExA with regards to the justifications provided by the Applicant [ER 5.2.53] and agrees with the ExA that air quality and emissions matters do not weigh against the Order being made [ER 5.2.54].

Environmental Permit

4.32. The EA raised the issue of the Applicant needing to secure an EP. The Applicant responded that the EP would not be lodged for '*some months*' and that monitoring is not proposed as the air quality impact assessment identified that there would be no significant quality impacts [ER 5.2.18].

4.33. The EA stated that there are three distinct processes relating to permitting within the proposed design: the EfW plant, the Carbon Capture Plant (CCP) and the Lightweight Aggregate (LWA) Plant. EA acknowledged that both the EfW and CCP plants would utilise recognised technology and processes typical of what had been permitted previously in the UK. However, the ExA acknowledged that the LWA plant would be a 'novel' process requiring careful consideration due to the potential environmental impact [ER 5.2.19].

4.34. The Applicant provided details of regular monitoring proposals for heavy metals (discharged in the flue gasses from the five stacks) as a provision in the EP, along with specification requirements in response to a question from the ExA [ER 5.2.22].

4.35. In relation to the End of Waste Determination/Quality Protocol required when an application is under consideration for the EP, the Applicant confirmed that the process for preparing the application (including Article 6 of the Waste Framework Directive) had been underway and provided the steps to be carried out [ER 5.2.23].

4.36. The ExA concluded that the Applicant and EA engaged constructively during the Examination regarding the permits and was satisfied that EA would determine the permits once an application is made. The ExA also noted that the regimes for EP and PA2008 are exclusive, and that prior approval of EPs is not required for a DCO to be determined by the Secretary of State. As such, the ExA deemed the approach thus far as ‘broadly acceptable’ and there was no impediment within this matter towards the Order being made.

The Secretary of State’s consideration of Environmental Permits

4.37. In its response to the Secretary of State’s fifth consultation letter the EA stated that “no further evidence has been provided to overcome our concerns regarding the likelihood of an Environmental Permit being granted for the development as proposed.” It explained that it “can only provide assurance as to our likely position on a permit application once we can publish a draft decision on that permit application”.

4.38. The EA explained that “the proposed EfW will utilise recognised technology, typical of what has been permitted previously in the UK”, and that “the proposed CCP plant would utilise a process which is proven on a smaller scale and for which permits have been issued.” In both cases though the EA stressed that “the exact design would need to be assessed through the environmental permitting process given the large scale of the proposals.” For the LWA process the EA stated “it would be a novel process and require careful consideration of the potential environmental impacts that may arise from it.” This position in relation to the three processes was unchanged from that set out by the EA in its final SoCG with the Applicant [ER 5.2.19]. The EA could not confirm “that the facility as proposed is of a type and nature which could be permitted “in-principle”.”

4.39. It is a source of concern to the Secretary of State that these matters had not been progressed ahead of the Examination, and in particular that they were still outstanding more than a year after the Examination had closed, despite being raised by the EA from the start of the Examination [ER 5.2.17]. The smooth operation of the NSIP planning process depends upon frontloading of the issues, including all necessary permits and licences. The fact that during the Examination the Applicant did not envisage that the EP would be lodged for “some months” increases the Secretary of State’s concerns [ER 5.2.18]. Where novel processes are involved the Secretary of State considers that such matters should reach the point where the body responsible for issuing the licence or permit is in a position to issue a “letter of no impediment” before the decision on the NSIP application has to be made.

4.40. The Secretary of State notes that the ExA saw no apparent impediments to the Proposed Development from the EPs should the Secretary of State grant the application [ER 1.8.3]. The ExA was satisfied that the Applicant and EA had engaged constructively during the Examination regarding EPs [ER 5.2.24]. However the lack of progress on this matter since the end of the Examination means that the Secretary of State can have little confidence in the ExA’s conclusion in relation to EPs.

4.41. In this case the Secretary of State has been required to make a decision without the certainty that the necessary licence for the LWA process will be granted. The Secretary of State wishes to make it clear that his decision should not be seen as predetermining the EA’s decision on the EPs, which must be made on their own merits. The uncertainty in relation to the potential award of the EPs required to operate the Proposed Development is such that the Secretary of State accords it moderate negative weight in the planning balance.

Climate Change Adaptation

- 4.42. NPS EN-1 states that the IPC should be satisfied that applicants consider the potential impacts of climate change using the latest UK Climate Projections available at the time the ES is prepared, to ensure appropriate mitigations are identified, which should cover the expected lifetime of the proposed infrastructure [ER 5.3.3].
- 4.43. The ES assessed the Proposed Development's contribution to regional and national Greenhouse Gas (GHG) emissions, and its resilience to the projected effects of climate change. It concluded that the Proposed Development would not result in a significant effect on the UK's 2050 carbon reduction ambitions and was not vulnerable to increased temperature, drought conditions, and surface and tidal flooding [ER 5.3.4].
- 4.44. Lincolnshire County Council (LCC), BBC, and United Kingdom Without Incineration Network (UKWIN) commented in relation to climate change [ER 5.3.7].
- 4.45. All BBC and LCC's points on climate change were agreed and evidenced in the respective Statement of Common Ground (SoCG) [ER 5.3.8 et seq.].
- 4.46. UKWIN:
- a. questioned the approach undertaken in the document 'Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios' (produced to address concerns raised by LCC) to determine potential greenhouse gas emissions from different waste compositions;
 - b. raised queries on the carbon content ranges and how representative of current or future feedstock they are, and the assumed carbon fossil fuel percentages, and;
 - c. questioned the approach of comprising potential emission figures from the Proposed Development and other waste treatment pathways such as landfill [ER 5.3.11].
- 4.47. The Applicant argued that the GHG emissions assessment in the ES (Chapter 21) was a worst-case scenario, consistent with best practice approach to Environmental Impact Assessment (EIA), and that the analysis within the Further Greenhouse Gas Emissions Analysis and Consideration of Waste Composition Scenarios document provided additional information [ER 5.3.12].
- 4.48. The Applicant acknowledges RDF feedstocks are likely to have a higher carbon content compared to some other waste streams, but current and future feedstocks are likely to be within the parameters considered in the additional analysis [ER 5.3.12], and emissions of GHGs from processing waste at the Proposed Development would be lower under most scenarios than if the waste was sent to landfill [ER 5.3.13].
- 4.49. The ExA noted UKWIN's position that the Applicant's approach is not consistent with the best practice approach to EIA Regulations on the assumptions and methodologies [ER. 5.3.13. et seq.]. The ExA concluded that the Applicant's approach to determine potential GHG emissions from different waste compositions has been reasonably justified; that assumed carbon content ranges of current or future RDF and carbon fossil fuel percentages have been argued to be reasonably representative; and that the approach of comprising potential emission figures from the Proposed Development and other waste treatment pathways such as landfill has been reasonably justified [ER 5.3.14]. Therefore, the ExA was satisfied that the Applicant had taken into account the potential impacts of climate change, as per NPS

EN-1, and that all points on climate change were agreed within the final SoCGs with BBC and LCC [ER 5.3.15]. The ExA considered that climate change adaptation matters do not weigh against the Order being made [ER 5.3.15].

The Secretary of State's post-Examination Consultations

- 4.50. In response to the fifth consultation letter, another IP commented on the potential impacts to climate change, including the possibility of the site being under water within 50 years, and questioning whether the site will still be able to function safely and avoid risk of seepage of waste pollutants into the Haven Estuary.
- 4.51. The Secretary of State notes these concerns and maintains that the ExA has considered the risk of flooding and concluded that the Applicant (through Appendix 13.1) has demonstrated compliance with the Water Framework Directive (WFD) requirements, indicating that there would not be an increased flood risk on or off the site [ER 5.13.12], which the Secretary of State agrees with. Moreover, the Applicant has considered mitigation measures to manage the potential accidental release of contaminants, which would be managed by the EP and is ultimately considered “not significant” as a risk during the construction and operation [ER 5.13.10 et seq].

The Secretary of State's Conclusion

- 4.52. The Secretary of State has carefully considered the ExA's Report and notes its conclusions. He also notes the views of LCC, BBC, UKWIN, and the other IP in the ExA's Report and post-Examination submissions.
- 4.53. The Secretary of State considers that the Applicant has adequately assessed the potential impacts of climate change, in accordance with the relevant sections of NPS EN-1, and concludes that the climate change adaptation matters do not weigh against the Order being made.

Good Design

- 4.54. Section 4.5 of NPS EN-1 states that “...*the IPC should satisfy itself that the applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics (including its contribution to the quality of the area in which it would be located) as far as possible.*” [ER 5.4.3 et seq].
- 4.55. The Applicant's approach to design is detailed within its Design and Access Statement (DAS) [ER 5.4.6] and climate change in accordance with NPS EN-1 [ER 5.4.8].
- 4.56. During the examination, LCC raised the Applicant's change from gasification to thermal treatment [ER 5.4.10]. The Applicant explained that a proposed supplier of the technology's self-removal from the market and a lack of alternative solutions was the reason for the change and the thermal approach was still “proven technology” despite it being lower on the waste hierarchy [ER 5.4.10].
- 4.57. The Applicant proposed measures to ensure the Proposed Development (and its loading, unloading, holding etc) will not result in waste entering or being littered into the local environment around the site. The draft Order would be updated to include the management of litter from vessels or land derived sources as part of the Marine Pollution Contingency

Plan approved under Condition 16 of the draft Deemed Marine Licence (DML). Litter reduction and management would also be expected to be covered by the EP [ER 5.4.13].

- 4.58. The ExA was satisfied the Applicant had demonstrated good design in the siting of the Proposed Development, had taken into account functionality and aesthetics as far as possible, and considered mitigation measures to the local areas as a result of the Proposed Development. The ExA was satisfied the requirements of NPS EN-1 would be met [ER 5.4.14].

The Secretary of State's Conclusion

- 4.59. The Secretary of State is satisfied the Applicant has appropriately demonstrated good design with iterative, detailed, documentation highlighting the process. He agrees with the ExA's conclusions on good design and therefore considers this matter does not weigh against the Order being made.

Habitats, Ecology and Nature Conservation

- 4.60. The ES was accompanied by a Terrestrial Ecology Assessment and a Marine and Coastal Ecology Assessment [ER 5.5.7], which considered all residual impacts during construction and operation as being not significant (negligible to minor adverse) [ER 5.5.9].

Scour Protection

- 4.61. The Applicant explained that depending on river currents it may be unnecessary to provide scour protection to the river embankment at either end of the wharf. This would avoid the loss of habitat and is the preferred solution under any design [ER 5.5.14 et seq].
- 4.62. NE were concerned about increased erosion of surrounding habitat from placing hard substrata in the location of the berth and the potential increase in suspended sediments. It did not consider a 2% change in the tidal prism¹² insignificant and advised that further assessment is undertaken, and evidence presented to demonstrate that the impacts would be negligible [ER 5.5.15]. An assessment of habitat loss with incorporation of scour protection was undertaken and set out in the Outline Landscape and Ecological Mitigation Strategy (OLEMS): approximately 1.54 ha of mudflat and 1 ha of saltmarsh would be lost due to the direct loss within the footprint of the wharf and the dredge footprint, with potential loss due to scour protection (a worst-case scenario) and some potential loss as a result of hydrodynamic changes following dredging [ER 5.5.16].
- 4.63. The ExA was satisfied the Applicant had assessed the "worst case scenario" of habitat loss due to scour protection, which may not be required and, if it is, approval is secured in the draft Order via a condition in the DML [ER 5.5.18].

Impacts of Light Spillage on Smelt

- 4.64. The Applicant confirmed that lighting impacts on smelt larvae had not been specifically addressed in the ES and acknowledges the potential impact of light spillage from the Proposed Development on any European smelt larvae present [ER 5.5.20]. The Applicant's Outline Lighting Strategy explains that lighting would be highly directional and targeted only

¹² The volume of water exchanged between an estuary and the open sea in the course of a complete tidal cycle.

where needed, minimising spillage to The Haven [ER 5.5.20]. The ExA was satisfied with the lighting strategy and considered this issue resolved [ER 5.5.21 et seq].

Biodiversity Net Gain

4.65. In response to the ExA seeking clarity on the level of net gain proposed for terrestrial habitats and the marine environment the Applicant submitted an updated OLEMS at Deadline 3 [REP3-007] which included a baseline and post development calculation of Biodiversity Net Gain (BNG) [ER 5.5.23 et seq]. The Applicant identified a 36.80% total net unit change for habitats units (primarily associated with the loss of arable land) and a +57.27% net change for the hedgerows and stated that further off-site opportunities would be continuously explored [ER 5.5.25]. The ExA concluded that the Applicant had adequately sought to identify and pursue BNG opportunities [ER 5.5.27].

Designated Sites

4.66. The Wash Site of Special Scientific Interest (The Wash SSSI) was identified as the only designated site that may be affected by the Proposed Development [ER 5.5.28 et seq] and is the only designated site relevant to this Chapter of the ExA Report, aside from air quality impacts as considered in the relevant section of this Decision Letter. The SSSI is designated for its intertidal mudflats and saltmarsh and as a breeding ground for common (harbour) seals, on which potential impacts were identified. These are loss of intertidal mudflat and saltmarsh habitat; and impacts to harbour seal during construction and operation, including underwater noise, disturbance effects, collision with vessels and pollutant deposition [ER 5.5.30 et seq.].

4.67. Approximately 1.54 ha of mudflat and 1 ha of saltmarsh would be directly lost within the wharf and dredge footprints. The mudflats and saltmarsh are priority habitats under the UK Biodiversity Action Plan as specified by s41 of the Natural Environment and Rural Communities Act 2006, but are not priority habitats of the protected sites¹³ [ER 5.5.31]. A record of the Secretary of State's consideration of impacts on protected sites is presented in the HRA, including loss of habitat used by bird features of the protected sites, due to the wharf construction.

4.68. At Deadline 9 NE [REP9-063] stated that it remained concerned regarding vessel wash/erosion impacts on supporting habitats.

4.69. The ExA concluded that the Applicant has sought to avoid significant harm to biodiversity conservation interests, including through mitigation. [ER 5.5.33].

The Secretary of State's Conclusion

4.70. In response to the Secretary of State's consultation letters, NE¹⁴ stated it was unclear how impacts to priority habitats will be avoided and/or reduced due to the proposed activities. It requested implementation plans must be provided by the Applicant and signed off by the

¹³ Chapter 6 of the Applicant's HRA Report [AS-006] explains this in more detail.

¹⁴ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001407-Natural-England-updated-advice-on-outstanding-concerns.pdf>

competent authority in consultation with NE, prior to works commencing. The Applicant¹⁵ reiterated that it has agreed that any changes to the banks and the other works within the saltmarsh would be discussed and agreed fully with stakeholders (which includes NE and the Royal Society for Protection of Birds (RSPB), as outlined in the OLEMS document ([REP7-037] and updated in response to the consultation letters (V4.0)) in Appendix A, Paragraph 1.2.5. In response to the final consultation letter, NE¹⁶ stated that impacts on priority saltmarsh (under section 40 of the Natural Environment and Rural Communities Act 2006) remains an outstanding issue.

- 4.71. The Secretary of State notes that the detail on the final, agreed measures both for mitigation and biodiversity net gain will continue to be discussed with stakeholders, with full details of this included in the final Landscape and Ecological Mitigation Strategy (LEMS) as secured by Requirement 6 of the Order and Condition 18 of the DML. No part of the Proposed Development may commence until a LEMS for that part has been approved by the relevant planning authority (for works affecting mudflat and saltmarsh, the Marine Management Organisation (MMO) following consultation with the EA, NE, Lincolnshire Wildlife Trust (LWT) and the RSPB. The Secretary of State is satisfied that the LEMS secures that NE will be consulted and must be in agreement with any changes to the banks and works within the saltmarsh. The LEMS must be provided by the Applicant and signed off by the appropriate planning authority (in the case of works affecting saltmarsh; the MMO) in consultation with NE, prior to works commencing. The Secretary of State also notes the LEMS includes erosion monitoring as recommended by the EA [RR-013] and considers that this addresses NE's concerns. Nevertheless, the Secretary of State has made amendments to the relevant parts of the DCO to secure implementation plans as requested by the SNCB, to give it the assurance it seeks.
- 4.72. Having considered the further information provided, the Secretary of State is satisfied with the ExA's conclusion [ER5.5.33] that habitats, ecology and nature conservation matters do not weigh against the Order being made.

Historic Environment

- 4.73. NPS EN-1 states that in considering the impact of a Proposed Development on any heritage assets, the decision maker should consider the nature and significance of the assets and the value they hold [ER 5.6.2]. The ExA considered the Applicant's approach to historic environment matters in the ES (Chapter 8) and concluded that the nature and significance of historic environment assets were adequately assessed, in accordance with the NPS [ER 5.6.3].
- 4.74. Following representations from BBC and Historic England (HE) the ExA asked the Applicant how minor adverse impacts would be mitigated, what further archaeological work was planned, and what measures were proposed to limit the impact of piling [ER 5.6.8]. All HE's concerns were agreed with HE by the close of the Examination [ER 5.6.11]. An objection

¹⁵ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001429-9.114%20Applicant%E2%80%99s%20Response%20to%20Secretary%20of%20State%E2%80%99s%20Letter%20of%2024%20April%202023.pdf>

¹⁶ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001467-Boston%20Alternative%20Energy%20EN010095%20NE%20June%208%20Deadline%20Response%20to%20SoS.pdf>

remains from LCC regarding a programme of trial trenching being undertaken post-consent [ER 5.6.12]. The ExA considered that the outstanding matter with the BBC and LCC regarding how minor adverse impacts would be mitigated is relatively minor and can be resolved post-consent [ER 5.6.14]. The ExA concluded that the Applicant adequately assessed the nature and significance of the historic environment assets and the value they hold, in accordance with the NPS [ER 5.6.15], and that agreement had been reached with HE on the points addressed to the Applicant [ER 5.6.8 and 5.6.15].

- 4.75. The Secretary of State agrees with the ExA's conclusions and is satisfied that this matter does not weigh against the Order being made.

Landscape and Visual

- 4.76. NPS EN-1 (section 5.9) requires a Landscape and Visual Impact Assessment (LVIA) as part of the ES [ER 5.7.3]. NPS EN-3 details the specific considerations that apply to biomass and waste [ER 5.7.4].
- 4.77. The ES identified potential temporary construction effects to views, which it deemed to be worst case scenario. Views from the footpaths along the eastern bank of The Haven are predicted to be most affected, with effects to close range and open views to construction of the wharf and LWA plant considered moderate major adverse, views from certain residential properties predicted moderate adverse, visual effects during operation slightly adverse, and close-range views of the Proposed Development from The Haven considered moderate adverse. The Applicant has considered mitigation measures including additional tree and shrub-planting within existing belts of vegetation, and planting of new shrubs and hedgerow around the Proposed Development [ER 5.7.7].
- 4.78. The ES concluded that the existing industrial context of the Principal Application Site and surrounding area means the Proposed Development will not cause significant effects to landscape character [ER 5.7.7]. The ExA considered the Applicant has complied with the requirements of NPS EN-1 in undertaking a LVIA as part of the ES [ER 5.7.8]. The ExA considered the Applicant's OLEMS sets out the objectives and proposals behind the mitigation measures, is secured through Requirement 6 of the Order, and complied with NPS EN-3 through mitigating adverse landscape and visual effects [ER 5.7.9 et seq.].
- 4.79. The EA requested further information in relation to visible plumes from the stacks. The Applicant provided a photomontage depicting the visible fumes which was later included into the LVIA. The ExA concluded that the EA were later in agreement with the information confirmed within the LVIA [ER 5.7.11].
- 4.80. The ExA asked BBC whether stack heights were acceptable, in relation to the Proposed Development potentially obstructing a public view of St Botolph's Church or challenging its visual dominance [ER 5.7.13]. BBC confirmed that proposals for mitigation measures are being presented to deal with this matter (to be likely be agreed by a subsequent deadline) and that all other matters were agreed [ER 5.7.14].
- 4.81. The ExA concluded that the Applicant had presented an acceptable LVIA as part of the ES and demonstrated good mitigation. The ExA did not consider that these matters weigh against the order being made [ER 5.7.15].

The Secretary of State's Conclusion

4.82. The Secretary of State agrees with the ExA's conclusions and is satisfied that this matter does not weigh against the Order being made.

Navigation

- 4.83. The ES (Chapter 18) considers navigation issues arising from the construction and operation of the Proposed Development [ER 5.8.3]. The ExA notes that the NPS for Ports does not provide guidance or policy on assessment of impacts to commercial navigation. As such, the Applicant determined that the policy implications for the Proposed Development would instead be directed by The Marine Policy Statement (MPS), and that the navigation impact assessment, in consultation with the Port of Boston (PoB) (the Statutory Harbour Authority (SHA) for The Haven and out to the harbour limits within the Wash), would address the requirements of the MPS. The East Marine Plan and Local Planning Policy were also considered key policies within this area [ER 5.8.2].
- 4.84. The Applicant worked closely with the PoB to determine the timing and content of a draft Navigation Risk Assessment (NRA), a Navigation Management Plan (NMP) template and a Pilotage Statement, for managing navigational matters for all users of The Haven [ER 5.8.6]. Impacts to commercial and recreational vessels were determined to be manageable and not of significance to the PoB [ER 5.8.4]. The draft NRA, as defined within the NMP template, would contain a process to ensure all users and management measures would be considered to ensure safety of navigation [ER 5.8.8].
- 4.85. The Eastern Inshore Fisheries and Conservation Authority (EIFCA) requested that the NRA should avoid, minimise, or mitigate impacts on fishing activity or on access to fishing groups from the Proposed Development. The Applicant confirmed that the objective of the NMP would be to secure measures for this [ER 5.8.11].
- 4.86. The MMO confirmed it had reached agreement with the Applicant on a number of issues raised during the Examination, with the ExA concluding that the outstanding matters of disagreement pertain to wording which are "*minor*" in nature [ER 5.8.14].
- 4.87. The requirement for the NMP is contained within condition 14 of the Deemed Marine License, within Schedule 9 of the draft Order. The NMP must be; written in consultation with PoB, informed by the final NRA, and approved by the MMO before commencing licensed activities [ER 5.8.16]. The Applicant submitted a template NMP which had been produced in conjunction with the PoB [ER 5.8.21]. No concerns were raised by IPs and users of The Haven regarding the increase in vessel movements and navigational safety [ER 5.8.25].
- 4.88. The only IP to raise a concern on the ability of the PoB to manage navigation within its jurisdiction (including its SHA obligations), was the Boston and Fosdyke Fishing Society (BFFS) [ER 5.8.26], which objected to the Proposed Development on the grounds that the increase in operational vessel traffic would have a "*considerable and significantly detrimental impact ... upon the working fishermen*" [ER 5.8.7]. BFFS commissioned an independent review of the NRA, to which the Applicant provided a response ("the response") considered by the ExA [ER 5.8.37].
- 4.89. The PoB addressed questions from the ExA concerning any navigational requirements the Applicant should consider regarding fishermen's interests and its view of appropriate mitigation of possible effects [ER 5.8.35]. The PoB responded that it is content the Pilotage

Statement and NMP would provide further clarity on the impact of the Proposed Development, that the fishermen's concerns would be incorporated into the NRA and NMP, and that an increase in commercial shipping number does not (of itself) lead to any significant impact on the safety or efficiency of navigation in The Haven [ER 5.8.36].

- 4.90. The ExA considered PoB's views on the response, noting that the Port was satisfied with the submissions of the Applicant (both the NMP template and draft NRA) which in their view is *"the most effective way to mitigate impacts on the safety of navigation"*, and concluded that with regard to the increased vessel number concern of BFFS, there is *"little likelihood of any significant adverse impact on their activities."* [ER 5.8.38 et seq].
- 4.91. The ExA was satisfied the evidence supplied by the Applicant within the ES and throughout the Examination is comprehensive and sufficient and shows that the navigational safety throughout the lifetime of the Proposed Development would be maintained [ER 5.8.41]. This view is strengthened by the evidence submitted by the PoB that, with the implementation of a NMP supported by an NRA, the safety of navigation can be maintained for all Haven users [ER 5.8.41].
- 4.92. The management of speed on The Haven falls to the PoB as SHA. The ExA confirmed that PoB, as SHA, does not enforce a speed limit for vessels on The Haven but instead rely on the Convention on the International Regulations for Preventing Collisions at Sea 1972 (COLREGS) for safe speed [ER 5.8.43].

ExA Conclusions

- 4.93. The ExA concludes that the Applicant has identified appropriate navigational policies and applied them appropriately to the Proposed Development, appropriately considered impacts on navigation of all users, identified mitigations through the NMP, and provided a satisfactory mechanism for resolving the fishermen's issues post-consent via the NMP template (a Development Consent Order certified document). The ExA was satisfied that these navigation matters do not weigh against the Order being made [ER 5.8.47].

The Secretary of State's post-Examination Consultations

- 4.94. In response to the fifth consultation response letter, BFFS reiterated their concerns with the Proposed Development, stating that because the NMP will not be drawn up and agreed upon until the Proposed Development is granted consent, this creates an impossible situation for the BFFS who require knowledge of the agreed plan to be able to work with it to sustain their livelihoods. The BFFS state that the extra shipping will have huge impacts on safe navigation and the local fishing industry will have to endure enormous disruption. It states the NMP should be agreed in full with BFFS before it is formally signed off. BFFS also reference the East Inshore and East Offshore Marine Plan 2014, which states that no new business should have a detrimental impact on any existing business or for that existing business to expand¹⁷.

The Secretary of State's Conclusion

- 4.95. The Secretary of State has considered the ExA's Report and notes its conclusions. He also notes the views of BFFS on the impacts of the Proposed Development on navigation set out

¹⁷ https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001470-Boston%20and%20Fosdyke%20Fishing%20Society_Consultation%20response.pdf

within the ExA's Report and in their post-Examination submission. The Secretary of State in light of the concerns has amended the wording of the DCO to include BFFS as a consultee.

- 4.96. The Secretary of State concludes that the Applicant has assessed the potential impacts of navigation in accordance with the relevant sections of the MPS and other navigational policies, and that through the NMP, appropriate mitigative measures had been identified which should address BFFS's concerns. The Secretary of State acknowledges BFFS' concerns, and has added it as a consultee for the development of the NMP. The Secretary of State concludes that it is appropriate to accord minor negative weight against the Order.

Noise and Vibration

- 4.97. NPS EN-1 requires that development consent should not be granted unless significant adverse impacts on health and quality of life from noise are avoided, other adverse impacts are mitigated and minimised, and where possible, the proposals contribution to health and quality of life through the effective management of control and noise [ER 5.9.5].
- 4.98. The ES (Chapter 10) assesses noise and vibration, identifying a number of potential impacts at nearby noise sensitive receptors (NSRs) including effects due to on-site construction activities, vehicle movements generated by transportation of materials to and from the Proposed Development, and noise levels during the operational phase [ER 5.9.7 et seq.].
- 4.99. The ES concluded that on-site construction activities could be reduced from moderate adverse to minor adverse and therefore not significant by covering piles with a full-length shroud [ER 5.9.7]. The assessment also assessed noise impacts associated with vessel movement during the operational phase to be minor adverse at worse [ER 5.9.10].
- 4.100. The ES considered vibration impacts during construction and concluded that the identified NSR is sufficiently distant from the development that it will not be significant [ER 5.9.7]. It also considered mitigation measures integrated into the design would prevent any significant sources of vibration in relation to noise levels from the operation of the development. Consequently, the ES proposed no additional mitigation in respect of vibration and considered impacts as non-significant, with which ExA agreed [ER 5.9.8].
- 4.101. The ExA also noted the Applicant's submission of an Updated Piling Noise Assessment, where effects were predicted to be negligible to minor adverse [ER 5.9.11].
- 4.102. The ExA was satisfied that the assessment of noise and vibration impacts of construction, operation, and transportation to and from the development meets the requirements in NPS EN-1 [ER 5.9.14]. The ExA was satisfied that the noise arising from the construction, operation and transportation of materials would remain below the significance thresholds [ER 5.9.14].

The Secretary of State's Conclusion

- 4.103. The Secretary of State has considered the ExA's report and agrees that with the current mitigation measures, noise and vibration impacts should be avoided and will remain non-significant, and therefore accords it no weight in the planning balance.

Socio-Economic

- 4.104. The ES considered the socio-economic impact of the Proposed Development on various factors such as employment, housing market, community infrastructure (including primary and secondary education and health) and tourism in both its construction and operational phases, and all effects were predicted to be of either beneficial, negligible, or minor adverse significance [ER 5.10.7].
- 4.105. The Applicant confirmed the estimated costs for land acquisition and construction in their Funding Statement, and that the Proposed Development would be funded through both commercial debt and additional equity [ER 5.10.8]. The applicant also confirmed that any compensation measures required would be secured via a schedule to the Order [ER 5.10.9].
- 4.106. The ExA concluded that with regard to funding, the Applicant has satisfactorily confirmed the ability to fund the Proposed Development [ER 5.10.11].
- 4.107. The Applicant confirmed that a Combined Heat and Power (CHP) assessment had been submitted with the application, in response to the ExA's request for detail on the consideration given to the promotion of renewable energy use locally [ER 5.10.12].
- 4.108. The ExA was satisfied that the Proposed Development would utilise opportunities for socio-economic benefits such as creating new and highly skilled jobs in the renewable sector, increasing opportunities and access to employment for local residents and tourism, and that these are ultimately positive economic and social impacts. The ExA concluded that these matters weigh positively for the Order being made [ER 5.10.14 and 5.10.16].

The Secretary of State's Conclusion

- 4.109. The Secretary of State has considered the ExA's report and agrees with its conclusions. He notes that the ExA does not quantify the level of positive weight for the planning balance. He notes the positive socio-economic benefits of the Proposed Development and comprehensive assessment of impacts as part of the ES. Against these he has considered the potential negative impacts upon local residents and businesses during and after the construction period. On balance, the Secretary of State concludes that it is appropriate to grant moderate positive weight for the Order being made when considering the socio-economic benefits of the Proposed Development.

Traffic and Transport

- 4.110. NPS EN-1 recognises that new energy NSIPs can result in substantial impact on the surrounding transport infrastructure [ER 5.11.5]. NPS EN-3 advises that materials (fuel and residues) should be transported by water or rail routes where possible [ER 5.11.6]. The Applicant's ES includes a transport assessment and outlined approach to transport and traffic [ER 5.11.8].
- 4.111. The ES considers transport effects including those associated with pedestrian severance, pedestrian amenity, road safety and driver delay [ER 5.11.9 et seq.]. Mitigation measures have been proposed to reduce the significance of effects, most notably to divert traffic away from the A52 Liquorpond Street) during peak construction [ER 5.11.9]. The Applicant has proposed that mitigation measures will be secured through commitments contained in a Construction Traffic Management Plan (CTMP) with an outline CTMP included in the application. Impacts during the construction and operational phases are ultimately

considered not to be significant (between negligible to minor adverse significance) [ER 5.11.9].

- 4.112. Table 19-1 of the ES states that the Proposed Development is located next to The Haven with proposals to construct a wharf to take deliveries of RDF by barge, which would consequently remove the majority of equivalent HGV movements from the highway network during operation [ER 5.10.10].
- 4.113. LCC's RR noted that the assessment is reliant on using vessels to transport RDF so there should be a requirement or planning obligation to ensure the RDF would not be switched to road transport [ER 5.11.13]. The Applicant agreed to specify the maximum number of daily operational HGV movements in Requirement 17 of the draft Order, which states that they must not exceed a maximum of 30 two-way vehicle movements per day. Following this, all points on traffic and transport were agreed to in the SoCG with LCC [ER 5.11.13].
- 4.114. BBC, NE, and LCC, submitted representations concerning Public Right of Way (PRoW) diversions through the Proposed Development. The ExA requested a detailed assessment of the proposals for permanently closing PRoW and relevant mitigations, also asking for NE's position on the realignment of the Coast Path, renamed the King Charles III English Coast Path on 1st May 2023¹⁸, (ECP) [ER 5.11.15]. For ease of reference and consistency with the ExA's Report ECP is used throughout this decision letter.
- 4.115. The Applicant provided a PRoW guide and Stopping Up Plan, proposing measures to help mitigate the effects and to enhance the retained sections of footpath that would provide the necessary diversion [ER 5.11.16]. LCC and BBC agreed with this plan [ER 5.11.17]. NE confirmed the diverted route would be appropriate but proposed an alternative route for the proposed ECP [ER 5.11.18]. The Applicant opted against this due to the minor removal of terrestrial BNG required, operational noise affecting potential users of this alternative route and security issues, and viewed the original proposed diversion most appropriate, as per the original DCO application [ER 5.11.18].
- 4.116. NE elaborated on the alternative ECP, referencing the duty placed on the Secretary of State and NE by The Marine and Coastal Access Act 2009 to secure a long-distance walking trail around the open coast of England and the need for NE to ensure access to the coast must be restricted in the "smallest way possible": therefore in NE's view its alternative diversion would uphold the aims of the ECP [ER 5.11.20].
- 4.117. The ExA concluded that the ES transport and traffic assessments appropriately identified the relevant impacts and implications of the Proposed Development and was satisfied that the Applicant has sought to mitigate these impacts [ER 5.11.21]. The ExA found NE's suggested 'alternative route' proposal more compelling, which directly follows the coast, and recommended this route in the Report. The ExA concluded that there were no land issues with this suggested route, and that transport and traffic matters do not weigh against the Order being made. [ER 5.11.21].

¹⁸ <https://www.gov.uk/government/collections/england-coast-path-improving-public-access-to-the-coast>

The Secretary of State's Conclusion

- 4.118. The Secretary of State has considered the views of the Applicant, NE and ExA on the most appropriate route for the ECP and agrees with the ExA that NE's alternative route is the most suitable. He has therefore made the ExA's recommended changes to Schedule 4 streets subject to alteration of layout, and Schedule 6 permanent stopping up of streets and PRow of the Order.
- 4.119. The Secretary of State is satisfied that transporting the proposed deliveries by water, coupled with the mitigation measures in the ES, mean there will not be any unacceptable transport or traffic impacts arising from the Proposed Development. The Secretary of State accords traffic and transport no weight in the planning balance.

Waste Management

- 4.120. The Applicant's ES (Chapter 23) assesses waste generation during the construction, operation and decommissioning phases, considering the proposed options for recycling, recovery or disposal of waste in accordance with the Waste Hierarchy and the capability of the existing local or regional waste management facilities to manage the waste [APP-061] [ER 5.12.4].
- 4.121. The ExA noted the Fuel Availability and Waste Hierarchy Assessment [APP-037] which complies with requirements of NPS EN-1¹⁹, and the Addendum to Fuel Availability and Waste Hierarchy Assessment [REP1-018], which support the ES [ER 5.12.4].
- 4.122. The ExA noted representations made by LCC [RR-014] and BBC [RR-0-19] during the course of the Examination concerning waste and that all points were agreed within their respective SoCGs [REP10-028] and [REP10-028] [ER 5.12.13 and 5.12.22].
- 4.123. UKWIN [RR-001] were not satisfied with various elements of the Application, including (i) the Applicant's methodology of determining a catchment area around the indicative ports from which the RDF would be transferred, (ii) their approach and outcomes to the consideration of waste plans within their Fuel Sourcing and Waste Hierarchy (FSWH) Report, (iii) failure to consider additional EfW capacity in the UK, and (iv) lack of "more recent" waste data [ER 5.12.14].
- 4.124. The Applicant used a 2-hour travel time methodology to present a practicable limit over which bulk waste transport becomes economically unattractive, as detailed in the ES [ER 5.12.15 (i)]. The ExA concluded that this methodology to determine a catchment area around the ports provided a satisfactory response [ER 5.12.17].
- 4.125. The Applicant confirmed that the approach in the FSWH Report was consistent with NPS EN-3²⁰ and previous comparable consent order determinations relating to EfW Facilities. The Applicant also highlighted the Proposed Development's transportation of RDF by sea as "optimising the opportunity for the most economic and best environmental solution", and LCC's endorsement of the national need for the Proposed Development which does not compromise Lincolnshire local policies²¹ [ER 5.12.15 (ii) et seq]. UKWIN considered these

¹⁹ Paragraphs 5.14.2 and 5.14.3.

²⁰ Paragraph 2.5

²¹ Lincolnshire Minerals and Waste Local Plan

points do not reasonably justify the need for the proposed capacity [ER 5.12.16 (vi) et seq]. The ExA noted this view but concluded that the Applicant satisfactorily addressed UKWIN's concern regarding the approach and outcomes to the consideration of waste plans [ER 5.12.17].

4.126. On points (iii) and (iv) the ExA highlighted that the Applicant used the most up-to-date information on EfW facilities that have reached financial close²² and the Applicant also used up to date data from reliable sources such as the Department for Environment, Food and Rural Affairs (Defra), EA and the Scottish Environment Protection Agency (SEPA) [ER 5.12.15]. (iii) & (iv)]. The ExA was satisfied the Applicant has adequately addressed this matter [ER 5.12.17].

4.127. The ExA was satisfied that the Applicant appropriately considered the proposed options for recycling, recovery, and disposal of waste, in accordance with the Waste Hierarchy, provided satisfactory answers to UKWIN's raised concerns, and that all points on waste were agreed within the final SoCGs with BBC and LCC [ER 5.12.17]. The ExA concluded that these matters do not weigh against the Order being made.

The Secretary of State's post-Examination Consultations

4.128. The Secretary of State received representations from UKWIN on 12 July 2022, 2 March 2023, and 11 April 2023: these are published on the Project webpage²³, and the Secretary of State requested the Applicant to comment on points UKWIN raised in relation to the ongoing draft Energy NPS consultation in his fourth consultation letter. In response to the fifth consultation letter, UKWIN stated that the Applicant's responses to their representations made of 2nd March 2023 and 11th April 2023 contained materially inaccurate statements. UKWIN stated that the Applicant failed to address the increased capacity at existing plants, did not set out the timescales involved for new capacity coming online long before any significant number of existing EfW plants might close if they are not refurbished or replaced, and failed to adequately consider the extent to which newly consented plants which have not yet entered construction could outstrip capacity lost from plants which close. UKWIN therefore view the Applicant's Fuel Availability and Waste Hierarchy Assessment as failing to adequately address these matters.²⁴ The Secretary of State has considered UKWIN's responses and the impacts of the Proposed Development in relation to waste management. The Secretary of State considers that the benefits of transportation of waste by sea ultimately outweigh the concerns of UKWIN.

The Secretary of State's Conclusion

4.129. The Secretary of State has considered the ExA's conclusions and all post-Examination representations, noting the matters raised by UKWIN, and accords it minor negative weight in the planning balance.

²² When the Tolvik report was published in 2021

²³ <https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&stage=6&filter1=Post-examination+submissions>

²⁴ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010095/EN010095-001451-UKWIN%20Comments%20on%20Applicant%20response%20to%20SoS%20consultation%20dated%2024%20April%202023.pdf>

Water Quality and Flood Risk

- 4.130. The ExA reviewed Table 13-1 of the ES [APP-051] and confirmed that the ES complies with the specific assessment requirements for surface water, flood risk and drainage, as detailed in NPS EN-1 and EN-3 [ER 5.13.4].
- 4.131. The EA agree with the evidence presented by the Applicant in the Worst-Case Assessment for Land Raising [AS-008] and other information provided in relation to flood risk. There were ongoing discussions to finalise the flood risk legal agreement before the EA could fully agree to the flood risk assessment, which the ExA considered finalisation of as likely [ER 5.3.17].
- 4.132. The EA raised a concern relating to the direct loss of habitat as a result of the Proposed Development. The Applicant's Overall Summary of Case [REP10-019]²⁵ stated that the direct loss of habitat is mitigated by the HMA,²⁶ though the EA stated that this would need to be agreed with NE [REP10-032] [ER 5.13.20].
- 4.133. The ExA concluded that the ES has complied with the specific assessment requirements for surface water, flood risk and drainage, as detailed in the NPSs, and considered water quality and flood risk matters do not weigh against the Order being made [ER 5.13.21].

The Secretary of State's Conclusion

- 4.134. The Secretary of State agrees with the ExA's conclusions and considers that this matter does not weigh against the Order being made.

5. Habitats Regulations Assessment

- 5.1. The Secretary of State's Habitats Regulations Assessment (HRA) is published alongside this letter. The following paragraphs summarise and provide conclusions of the HRA, and must be read alongside the HRA which is the full record of the Secretary of State's consideration of these matters.
- 5.2. The Conservation of Habitats and Species Regulations 2017 (as amended) ("the Habitats Regulations") aim to ensure the long-term conservation of certain species and habitats by protecting them from possible adverse effects of plans and projects. The Habitats Regulations provide for the designation of sites for the protection of habitats and species of international importance. These sites are called Special Areas of Conservation (SACs). They also provide for the classification of sites for the protection of rare and vulnerable birds and for regularly occurring migratory species within the UK and internationally. These sites are called Special Protection Areas (SPAs). SACs and SPAs together form part of the UK's National Site Network (NSN).
- 5.3. The Convention on Wetlands of International Importance 1972 ("the Ramsar Convention") provides for the listing of wetlands of international importance. These sites are called Ramsar sites. Government policy is to afford Ramsar sites in the UK the same protection as sites within the NSN (collectively with SACs and SPAs referred to in this decision letter as "protected sites").

²⁵ para 4.7.10

²⁶ Chapter 17 Marine and Coastal Ecology [REP9-011], the OLEMS [REP7-037].

5.4. Regulation 63 of the Habitats Regulations provides that: “...before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in-combination with other plans or projects), and (b) is not directly connected with or necessary to the management of that site, [the competent authority] must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.”

And that: “In the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).”

5.5. The Proposed Development is not directly connected with, or necessary to the management of a protected site. Therefore, under regulation 63 of the Habitats Regulations, the Secretary of State is required (as Competent Authority) 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 any protected site. If likely significant effects (LSE) cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment (AA) addressing the implications for the protected site in view of its Conservation Objectives.

5.6. Where an adverse effect on the integrity (AEoI) of the site cannot be ruled out beyond all reasonable scientific doubt, regulations 64 and 68 of the Habitats Regulations provide for the possibility of a derogation which allows such plans or projects to be approved provided three tests are met:

- there are no feasible alternative solutions to the plan or project which are less damaging to protected sites;
- there are imperative reasons of overriding public interest (IROPI) for the plan or project to proceed; and
- compensatory measures are secured to ensure that the overall coherence of the NSN is maintained.

5.7. The Secretary of State may grant development consent only if it has been ascertained that the Proposed Development will not, either on its own or in-combination with other plans or projects, adversely affect the integrity of protected sites unless he chooses to continue to consider the derogation tests as above. The complete process of assessment is commonly referred to as a HRA.

5.8. The ExA considered that there was sufficient information before the Secretary of State to enable him to undertake an AA and to apply the derogation tests of the Habitats Regulations of alternative solutions and IROPI in order to fulfil his duties under the requirements of the Habitats Regulations.

5.9. The Secretary of State has carefully considered the information presented during the Examination, including the Report on the Implications for European Sites (RIES), the ES, representations made by IPs, the ExA’s Report and all representations received in response to the consultation letters. He considers that the Proposed Development has the potential to have a LSE on three protected sites when considered alone and in-combination with other plans or projects:

- The Wash SPA;

- The Wash Ramsar; and
- The Wash and North Norfolk Coast SAC.

5.10. The Secretary of State has undertaken an AA in respect of the Conservation Objectives of the sites to determine whether the Proposed Development, either alone or in-combination with other plans or projects, will result in an AEoI of the identified protected sites. The Secretary of State has considered all information available to him including the recommendations of the ExA, the advice of Natural England (NE) as the Statutory Nature Conservation Body (SNCB), the views of all other IPs such as the RSPB, the Applicant's case and all responses to his consultation letters.

5.11. The Secretary of State requested further information and updates in the five consultation letters, including for the Applicant to propose additional/enhanced mitigation measures regarding disturbance effects to waterbirds at the Application site, along The Haven and at the Mouth of The Haven (MOTH), and collision effects to harbour seal. For harbour seal the Applicant proposed a 10-knot vessel speed restriction whenever reasonably practicable to do so, as offered by the Port of Boston, as a measure to reduce collision effects. In responding to the second consultation letter regarding the Applicant's response, NE stated that its advice remains unchanged from that provided in Examination. NE stated that it understands that the vessel speed reduction to 10 knots for an unknown proportion of the vessels transiting down The Haven, is a suggestion to reduce risks to harbour seals allowing more leeway with development associated impacts. While this is helpful and would have wider environmental benefits from reduced wash, NE advise that there is only limited evidence presented to demonstrate that 10 knots is sufficient to mitigate boat disturbance/collision. While NE welcomed clarification that piloted vessels will maintain a speed below 10 knots; it remains unclear a) how many of the additional vessel movements associated with the development this mitigation will apply to and b) no evidence has been provided to demonstrate that a 10 knots restriction on some of the vessels will sufficiently reduce the disturbance/impact to seals from an ecological perspective. For disturbance to birds of The Wash SPA and Ramsar, the Applicant proposed 'toolbox talks' for pilots navigating The Haven with the aim of increasing awareness of bird species and their international significance.

5.12. The position of NE after reviewing the Applicant's responses to the first consultation letter, with regards to The Wash SPA and Ramsar and The Wash and North Norfolk Coast SAC is summarised:

"Natural England has reviewed the response provided by the Applicant to the 14th October 2022 SoS consultation and unfortunately there is insufficient information to materially change Natural England previous advice in relation The Wash SPA Annex I Bird impacts and The Wash and North Norfolk Coast SAC Annex II Harbour Seals impacts."

5.13. The position of the RSPB after reviewing the Applicant's responses to the first consultation letter, with regards to The Wash SPA and Ramsar is summarised:

"We have not seen any new information presented by the Applicant that alters our position set out at the end of the Examination. We consider that an adverse effect on the integrity of The Wash SPA/Ramsar site cannot be ruled out beyond reasonable scientific doubt. A robust compensation package that can be shown to be ecologically viable and legally and financially securable must be in place."

Changes in air quality

5.14. In his first consultation letter, the Secretary of State invited NE to update its advice regarding air quality impacts on protected sites subsequent to Deadline 5. NE responded that insufficient information had been provided to be able to rule out adverse effects. This advice applied to all three identified protected sites. In response the Applicant provided further information and responses to the points raised by NE, concluding that emissions from the Proposed Development would not result in an AEoI of the protected sites or functionally linked land. NE subsequently considered that substantial progress had been made but had some remaining recommendations. These included a quantification of the loss of agricultural land and how this will affect any existing emission profile, and justification for the use of the 'grid average' background concentrations to inform the Predicted Environmental Concentration (PEC) at the protected sites. NE also advised that the emission/deposition monitoring strategy should include baseline pre-construction ecological survey during construction, and operational ecological surveying is required to determine if impacts are as predicted and if greater ensure further mitigation measures will be implemented. The Applicant provided the information requested by NE, including an updated Air Quality Deposition Monitoring Plan with a commitment to ecological monitoring to determine whether additional mitigation may be necessary. The final methodology will be agreed with NE. In response to the fifth consultation letter, NE advised that impacts to priority saltmarsh (under section 40 of the Natural Environment and Rural Communities Act 2006) are the only outstanding issue (aside from ornithology and compensation) and did not mention air quality impacts on protected sites.

Appropriate Assessment conclusion

- 5.15. Having considered the available information including the mitigation measures secured in the draft Order submitted to the Secretary of State on 7 July 2022 and mitigation measures proposed by the Applicant in response to the consultation letters, the Secretary of State is satisfied that an AEoI of The Wash SPA due to habitat loss, construction noise disturbance and construction/operational lighting impacts at the Principal Application Site can be excluded subject to the secured mitigation measures, including in the OLEMS, CoCP and artificial light emissions management plan.
- 5.16. The Secretary of State is also satisfied that an AEoI of The Wash and North Norfolk Coast SAC due to physical interaction of vessels and harbour seal within the anchorage area, underwater noise disturbance and changes in air quality can be excluded subject to the secured mitigation measures, including in the Outline Marine Mammal Management Plan, DML and the Air Quality Deposition Monitoring Plan.
- 5.17. However, in accordance with the recommendation of the ExA, and advice of NE, the RSPB, and LWT, the Secretary of State considers that an AEoI cannot be ruled out beyond all reasonable scientific doubt due to:
- alone effects due to vessel disturbance on:
 - the redshank and waterbird assemblages features of The Wash SPA and Ramsar, at the Principal Application Site;
 - the waterbird assemblages feature of The Wash SPA and Ramsar, along The Haven; and
 - the dark-bellied brent goose, black-tailed godwit, oystercatcher, redshank, turnstone and waterbird assemblages features of The Wash SPA and Ramsar, at the MOTH.

- alone effects due to collision risk with vessels on the harbour seal feature of The Wash and North Norfolk Coast SAC.

Consideration of Further Tests under the Habitats Regulations

- 5.18. The Secretary of State has therefore decided to review the Proposed Development in the context of regulations 64 and 68 of the Habitats Regulations to determine whether it can be consented. Consent may only be given under the Habitats Regulations where no alternative solutions to the project are available which meet the project objectives and are less damaging to the affected protected site, where there is IROPI, and where regulation 68 (compensatory measures) is satisfied. Regulation 64 allows for the consenting of a project even though it would cause an AEoI of a protected site if it is required for IROPI. Regulation 68 of the Habitats Regulations requires the appropriate authority to secure any necessary compensatory measures to ensure that the overall coherence of NSN is protected.
- 5.19. In accordance with relevant guidance, the Secretary of State reviewed the Proposed Development following a sequential process, considering:
- alternative solutions to the Proposed Development that have been sought;
 - whether there are IROPI for the Proposed Development to proceed; and
 - compensation measures proposed by the Applicant for ensuring that the overall coherence of the NSN is protected.

Alternative Solutions

- 5.20. The objectives for the Proposed Development as set out by the Applicant, are to:
- provide a sustainable and renewable form of energy recovery and contribute towards meeting renewable targets and carbon emissions, in line with the requirements of the Overarching National Policy Statement for Energy (NPS EN-1) and National Policy Statement for Renewable Energy Infrastructure (NPS EN-3);
 - reduce the quantity of waste disposed to landfill;
 - reduce the quantity of waste exported abroad;
 - nurture and develop skills within Lincolnshire;
 - create employment opportunities within Lincolnshire;
 - minimise adverse impacts on the function and efficiency of strategic transport infrastructure;
 - minimise carbon emissions associated with transportation;
 - develop the Proposed Development at a location that aligns with local planning policy; and
 - minimise waste and apply the principles of waste hierarchy.
- 5.21. As set out in the HRA, the Secretary of State does not consider that the development of alternative forms of energy generation would meet the objectives for the Proposed Development. Alternatives to the Proposed Development considered by the Secretary of State are consequently limited to either “do nothing” or alternative energy from waste projects.
- 5.22. The ExA considered information on alternatives submitted during Examination by the Applicant and other IPs. Noting that alternative solutions must be financially, legally and technically feasible, the ExA concluded [ER 6.7.8] that the alternatives assessed would not constitute an alternative solution that would meet the objectives of the Proposed

Development. The ExA was satisfied that no alternative solutions exist which would deliver appreciable benefits in terms of adverse effects on the protected sites.

- 5.23. The Secretary of State concludes that no alternative solutions are available which would meet the objectives of the Proposed Development with a lesser impact on protected sites. IROPI can therefore be considered.

Imperative Reasons of Overriding Public Interest (IROPI)

- 5.24. A development having an AEoI on a protected site may only proceed (subject to a positive conclusion on alternatives and provision of any necessary compensation) if the project must be carried out for IROPI. The Secretary of State has therefore considered whether the Proposed Development is required for IROPI.
- 5.25. The ExA described its findings in respect of IROPI at [ER 6.10.7] and [ER 1.6 App. C]. The ExA was not able to conclude that IROPI for the Proposed Development could be established based on the evidence submitted. On behalf of the Secretary of State, officials sought clarification from the ExA as to the basis of its recommendation on IROPI. On 31 August 2022 the ExA clarified that *"the overall evidence provided by the Applicant was not sufficiently robust or detailed for the ExA to conclude that reasons of IROPI could be established."*
- 5.26. In his first consultation letter, the Secretary of State requested the Applicant to provide any further information which may assist the Secretary of State in considering its without prejudice IROPI case. The Applicant responded, referencing matters relating to: the need for energy security, including the BESS; the role of EfW in secure electricity generation; carbon dioxide recovery and food grade carbon dioxide; an urgent need for waste management; need for processing; need for lower carbon transportation; need for developing in a location aligning with local planning policy; and socio-economic need.
- 5.27. The Secretary of State notes that a need for electricity generation from EfW technology is established via NPS EN-1 and EN-3 and has continued to consider whether IROPI is established for the Proposed Development. The Secretary of State considers that the need for the Proposed Development is established by the Applicant and the relevant NPS for EfW technology and he places substantial weight upon this established need and the extent to which the 102MW (80MW net export) of low carbon electricity provided by the Proposed Development provides an essential public benefit. After considering the need as well as the information on benefits provided by the Applicant, the Secretary of State is satisfied that there are IROPI for the Proposed Development to proceed.
- 5.28. In arriving at his conclusion, the Secretary of State has reviewed both the extent to which the Proposed Development provides an essential public benefit 8.6 below and the degree to which this benefit outweighs the harm to The Wash SPA and Ramsar, and The Wash and North Norfolk Coast SAC that the Proposed Development is predicted to cause. On the basis of the evidence submitted, including in response to his consultation letters, he considers that the established public benefits of the Proposed Development do outweigh the adverse effects upon site integrity which cannot be excluded.

Compensatory Measures

The Wash SPA and Ramsar

- 5.29. The Applicant submitted a without prejudice package of proposed compensatory measures with regards to The Wash SPA and Ramsar (referred to as the Compensation Measures Document (CMD)) [REP2-013], which was subsequently updated at Deadline 6, Deadline 8 [REP8-006] and in response to the third consultation letter (“the final CMD”). Section 3 of the CMD defines the quantum of compensation likely to be required and provides information on potential compensation sites that could provide additional or enhanced habitat for birds should this be required. It was anticipated by the Applicant that, in the event that the Secretary of State determined that an AEOI could not be excluded, based on the comments received from NE, the RSPB and LWT it would be due to at least one of the following potential reasons: loss of wader roosting habitat at the application site; vessel disturbance of waterbirds at the application site; vessel disturbance of waterbirds at the MOTH; and vessel disturbance of waterbirds along the middle stretches of The Haven.
- 5.30. Towards the end of Examination, disagreement amongst the IPs remained regarding the proposed compensation. NE considered that issues were slowly progressing towards a satisfactory outcome, however, insufficient clarity on some elements of the project design and evidence gaps remained and it was unlikely that appropriate compensation measures could be agreed and secured and concerns about the adequacy of the derogation case could be resolved prior to the end of the Examination. It considered the proposed compensation sites were unlikely to be able to support all impacted species but should be sufficient to mitigate impacts at the application site and would potentially compensate for a substantial part of the impacts at the mouth of The Haven. The RSPB restated its view that the proposed compensation measures were not acceptable or in any way adequate. It concluded that the Applicant had not presented a package of measures that would meet the ecological requirements of the impacted SPA and Ramsar site species such that the coherence of the NSN would be protected.
- 5.31. The ExA recommended that insufficient information had been provided on the nature of the proposed compensatory sites, their carrying capacity, suitability, survey data, and whether any additional consents or licences would be required before they could be utilised as compensatory habitat. The ExA considered that the compensatory sites would be required to be fully functioning prior to any impacts occurring, however the timeline for implementing this is unknown. Due to the late submission of material by the Applicant covering proposed compensation sites, the ExA considered their deliverability to remain uncertain. The ExA concluded that there was insufficient information for the Secretary of State to establish that appropriate compensatory measures have been secured at the time that would allow him to fulfil his duty under the requirements of regulation 68 of the Habitat Regulations. The ExA concluded that it could not be ascertained at that stage that the overall package of proposed compensation measures would ultimately ensure the overall coherence of the UK NSN.

Additional information

- 5.32. The Secretary of State requested the Applicant to provide significant further information regarding the proposed compensatory measures in the consultation letters. A full record of the additional information provided and the Secretary of State’s consideration is presented in the HRA.

- 5.33. The Secretary of State particularly notes that the Applicant proposed additional compensation sites and increased areas of existing sites, and provided letters of comfort from landowners of three of the proposed compensation sites. Results of additional surveys (field visits and desk-based assessments of landscape and opportunity for creating wetland) of the compensation sites were conducted. An updated implementation timeline was provided, which allows for at least 2 years and 1 month from establishment of the compensation sites to onset of impact. Further information regarding the monitoring and adaptive management of the proposed sites was provided. The Applicant considers the proposed compensatory measures would meet the requirements to compensate for the disturbance to waterbirds caused by increased numbers of vessels using The Haven.
- 5.34. NE remains concerned that insufficient details, assurances and agreements are in place for the Secretary of State to have confidence in the feasibility and deliverability of the proposed compensation measures. NE considers that the fundamental issues relate to the location not being secured and maintaining a wetland with sufficient water. The RSPB welcomed the progress on the identification of sites in suitable locations but stated that it had no confidence in the Applicant's ability to secure a suitable supply of water or obtain any necessary planning and legal consents.

The Wash and North Norfolk Coast SAC

- 5.35. No without-prejudice compensation measures were proposed by the Applicant with the Application or during Examination regarding collision risk to harbour seal of the Wash and North Norfolk Coast SAC.
- 5.36. In his first consultation letter, the Secretary of State requested the Applicant to provide without-prejudice compensation measures with regards to collision risk to harbour seal of The Wash and North Norfolk Coast SAC. The Applicant declined to do so. In his third consultation letter, the Secretary of State requested the Applicant to provide without-prejudice compensation measures, in the event that the Secretary of State as competent authority were to decide that such measures are required.
- 5.37. The Applicant provided a without-prejudice compensation package for harbour seal, and an updated Order with a new Schedule 12 to secure such measures. This consists of two proposed measures. Firstly, this is to provide funding of £10,000 per year throughout the operational lifetime of the Project for the rehabilitation of harbour seals in The Wash. This equates to the successful rehabilitation of five harbour seals per year on average. Secondly, this is to support and contribute funding towards research to understand reasons for harbour seal population decline and threats. The Applicant proposes to fund research up to the value of £10,000 per year for three years.
- 5.38. NE welcomed the proposals and confirmed that the measures proposed would offset any losses of Annex II Harbour Seals from the Wash and North Norfolk Coast SAC.

Conclusion on Compensation Measures

- 5.39. The Secretary of State has carefully considered the further information and responses of all IPs and gives substantial weight to the advice of NE as the SNCB. Regarding the compensatory measures for The Wash SPA and Ramsar, having made amendments to Schedule 11 of the Order, the Secretary of State concludes that further studies and environmental appraisals are required to progress and refine all proposed compensatory

measures, but he is satisfied that this is amenable to development post-consent and that a sufficient level of detail has been provided at this stage to give the necessary level of confidence that a package of measures which would protect the overall coherence of the NSN as required by regulation 68 of the Habitats Regulations can be provided.

- 5.40. Regarding the compensatory measures for The Wash and North Norfolk Coast SAC, having made significant amendments to Schedule 12 of the Order to ensure the successful rescue and rehabilitation and subsequent release of five harbour seals per year (on average) for the duration of the operational period, the Secretary of State is satisfied on the basis of the information available to him, that a package of measures which would protect the overall coherence of the NSN as required by regulation 68 of the Habitats Regulations can be provided. The Secretary of State is supportive of the proposals to fund and support research into the decline of the harbour seal population as a supplementary measure and encourages the Applicant to pursue this, but he considers that, as this proposal does not comprise an ecological measure as set out in relevant guidance, this should not be considered a compensatory measure under the Habitats Regulations.

The Secretary of State's Conclusion on the Habitats Regulations Assessment

- 5.41. On the basis of the information available to him including additional information and mitigation proposed in response to the consultation letters, the Secretary of State cannot exclude an AEoI of The Wash SPA and Ramsar and The Wash and North Norfolk Coast SAC beyond reasonable scientific doubt, due to vessel disturbance to waterbirds at the MOTH, along The Haven and at the application site, and due to collision risk to harbour seal.
- 5.42. Given the information available to him, the Secretary of State is satisfied that there are no feasible alternative solutions which would meet the Proposed Development objectives with a lesser impact on protected sites. He considers that there is IROPI for the Proposed Development to proceed. Having sought further information and updates, the Secretary of State is satisfied that appropriate compensatory measures can be secured which will maintain the overall coherence of the NSN. He has made amendments to Schedule 11 and Schedule 12 of the Order to satisfy himself that appropriate measures are secured and for the lifetime of the Proposed Development.

6. Compulsory Acquisition

- 6.1. The Secretary of State notes that to support the delivery of the Proposed Development, the Applicant is seeking powers of CA and TP of land and rights which it had not been able to acquire by voluntary agreement. The Applicant is seeking these powers to:
- acquire land permanently within the Order limits;
 - temporarily possess land within the Order limits;
 - acquire rights over some land within the Order limits;
 - extinguish rights over some of the land within the Order limits; and
 - temporarily suspend rights over some of the land within the Order limits in order to construct, operate and maintain the Proposed Development [ER 8.1.1].
- 6.2. The Applicant is seeking limited CA powers (permanent acquisition) over four plots of land²⁷. As the land is unregistered, the ExA notes that it would not be sufficient for the Applicant to

²⁷ Plots 19, 19b, 21 and 23 [ER 8.3.1].

only acquire rights of the land as there is no party to enforce these rights against, but should instead acquire full title which will allow sufficient control in order to implement the Authorised Development. The Applicant is also seeking TP over one plot of unregistered land²⁸ which is in unknown ownership: The Applicant identified one potential interest holder but the potential interest holder was only able to establish a potential riparian interest [ER 8.3.1].

- 6.3. The Applicant has entered into a voluntary section 106 agreement pursuant to the Town and Country Planning Act 1990 with Alchemy Farms Limited who own the land required for the Proposed Development comprising all the land within the redline boundary except the Crown land²⁹ and the four CA plots [ER 8.3.2].
- 6.4. The Applicant concluded on the Crown Estate land that the Crown Estate had provided consent pursuant to s135(2) of PA2008 by email to the Planning Inspectorate on 6 April 2022 [ER 8.3.4].
- 6.5. There were no Statutory Undertaker (SU) objections to the Proposed Development [ER 8.3.5].
- 6.6. The ExA notes that CA powers can only be granted if the conditions set out in s122 and s123 of PA2008, together with relevant guidance, including "Guidance Related to Procedures for the Compulsory Acquisition of Land", DCLG, September 2013 (the Former Department for Communities and Local Government (DCLG) CA Guidance) and case-law are met [ER 8.4.1].
- 6.7. s122(2) of PA2008 requires that the land subject to CA must be required for the development to which the consent relates to or must be required to facilitate or be incidental to the development, and that the land to be taken must be no more than is reasonably required and proportionate [ER 8.4.2].
- 6.8. s122(3) of PA2008 requires that there must be a compelling case in the public interest to acquire the land, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected [ER 8.4.3].
- 6.9. s123 of PA2008 requires that one of three procedural conditions in subsections (2) to (4) must be met by the application proposal, namely:
 - 2) The application for the order included a request for compulsory acquisition of the land to be authorised.
 - 3) All persons with an interest in the land consent to the inclusion of the provision.
 - 4) The prescribed procedure has been followed in relation to the land. [ER 8.4.4].
- 6.10. A number of general considerations must also be addressed by the Applicant, either as a result of following the guidance or in accordance legal duties on decision makers:
 - 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

²⁸ Plot 3 (a drain) [ER 8.3.1].

²⁹ Any land in which there is a Crown interest or a Duchy interest, as per section 227 of the PA2008.

- the decision-maker must be satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected [ER 8.4.5].

6.11. The Applicant concluded that, the conditions in s122 of PA2008 are met and that the tests in the CA Guidance are satisfied; that all of plots of lands subject to CA and TP powers are necessary to construct, operate, maintain and mitigate to achieve the objectives of the Proposed Development; that the extent of the land sought is reasonable and proportionate; and that there is a compelling case in the public interest to include the CA powers sought by the Applicant in the draft Order, that in the absence of, the Applicant considers that it would not be possible to proceed the Proposed Development without [ER 8.5.5].

6.12. The ExA agreed with the Applicant's conclusions on the generality of the CA and TP case [ER 8.5.6] and no objections to these were received [ER 8.5.7]. The ExA concluded that the CA sought is compatible with the Human Rights Act and the European Convention of Human Rights [ER 8.7.5]; no SUs raised issues with regard to CA [ER 8.6.4]; and in relation to Crown land, the relevant consent has been provided [ER 8.6.7].

The Secretary of State's Conclusion

6.13. The Secretary of State agrees with the ExA's conclusions and considers that conditions 122(2) and (3) and 123(2) and (3) of PA2008 have been met. Therefore, the Secretary of State is satisfied with CA powers apply to four plots of land (19, 19b, 21 and 23) and TP powers apply to one plot of land (plot 3). As such, he considers that this matter does not weigh against the Order being made.

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

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

7.1. Where NPSs have effect, section 104 of the PA2008 requires the Secretary of State to have regard to a range of policy considerations including the relevant NPSs, Development Plans and LIRs prepared by local planning authorities in reaching a decision.

7.2. The ExA notes that the Proposed Development would meet the need established in section 3.4 of NPS EN-1 and NPS EN-3 to which substantial weight is accorded, and of the assessment topics socio-economic matters weigh positively. These matters therefore weigh in favour of the draft Order, strongly so in relation to the policy justification [ER 7.3]. The Secretary of State agrees with the conclusions of the ExA in this matter regarding the policy balance.

7.3. The Secretary of State agrees with the ExA's conclusions on planning weight for the following issues:

- Climate change adaptation (neutral);
- Good design (neutral);
- Habitats, ecology and nature conservation (neutral);
- Historic environment (neutral);
- Landscape and visual(neutral);

- Noise and vibration (neutral);
 - Traffic and transport (neutral); and
 - Water quality and flood risk (neutral).
- 7.4. The ExA concluded that socio-economic considerations weigh positively in the planning balance, but did not quantify the level of weight. The Secretary of State has carefully considered the issue and has accorded socio-economic considerations moderate positive weight (paragraph 4.109 above).
- 7.5. The Secretary of State has concluded that air quality and emissions hold moderate negative weight in the planning balance. The Secretary of State has concluded that the uncertainty around the granting of environmental permits holds moderate negative weight in the planning balance. The Secretary of State has concluded that navigation and waste management hold minor negative weight in the planning balance.
- 7.6. All NSIPs will have some potential adverse impacts. In the case of the Proposed Development, most of the potential impacts have been assessed by the ExA as having not breached NPS EN-1 and NPS EN-3 or those contained in the emerging draft NPSs, subject in some cases to suitable mitigation measures being put in place to minimise or avoid them completely as required by NPS policy. The Secretary of State considers that these mitigation measures have been appropriately secured.
- 7.7. The Secretary of State acknowledges the ExA's recommendation that the proposal would likely have an adverse effect on the integrity of protected sites, for which compensation would be required, and ultimately that the requirements of regulation 68 of the Habitats Regulations had not been satisfied at that time as far as compensatory measures. The Secretary of State is satisfied, having sought additional information that there is a case for IROPI and after making amendments to Schedule 11 and 12 of the Order, that appropriate compensatory measures can be secured which will maintain the overall coherence of the UK National Site Network. The Secretary of State considers the Habitats Regulations matters are resolved and is satisfied that the planning balance weighs for the case for consent being made.

8. Other Matters

Equality Act 2010

- 8.1. The Equality Act 2010 includes a public sector “general equality duty” (PSED). This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Equality Act 2010; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships³⁰; pregnancy and maternity; religion and belief; and race.
- 8.2. In considering this matter, the Secretary of State (as decision-maker) must pay due regard to the aims of the PSED. This must include consideration of all potential equality impacts

³⁰ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

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.

- 8.3. The Secretary of State has had due regard to this duty and has not identified any parties with a protected characteristic that might be discriminated against as a result of the decision to grant consent to the proposed Development.
- 8.4. The Secretary of State is confident that, in taking the recommended decision, he has paid due regard to the above aims when considering the potential impacts of granting or refusing consent and can conclude that the Proposed Development will not result in any differential impacts on people sharing any of the protected characteristics. The Secretary of State concludes, therefore, that granting consent is not likely to result in a substantial impact on equality of opportunity or relations between those who share a protected characteristic and others or unlawfully discriminate against any particular protected characteristics.

Natural Environment and Rural Communities Act 2006

- 8.5. The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, has 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 making this decision.
- 8.6. The Secretary of State is of the view that the ExA's Report, together with the Environmental Impact Analysis considers biodiversity sufficiently to inform him in this respect. In reaching the decision to give consent to the Proposed Development, the Secretary of State has had due regard to conserving biodiversity.

9. Secretary of State's Conclusions and Decision

- 9.1. For the reasons given in this letter, the Secretary of State considers that the benefits of the Proposed Development outweigh its adverse impacts and that the outstanding matters relating to Habitat Regulations [ER 7.3.5] have been satisfied. Consequently, the Secretary of State considers that development consent should be granted for the Boston Alternative Energy Facility. The Secretary of State does not believe that the national need for the Proposed Development as set out in the relevant NPSs is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order.
- 9.2. The Secretary of State has therefore decided to accept the ExA's recommendation to consent subject to Habitats Regulations matters being resolved. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the LIRs submitted by BBC, the NPSs, draft NPSs, and to all other matters which are considered important and relevant to the Secretary of State's decision as required by section 104 of the Planning Act 2008. The Secretary of State confirms for the purposes of regulation 4(2) of the EIA Regulations that the environmental information as defined in regulation 3(1) of those Regulations has been taken into consideration.

10. Modifications to the draft Order

- 10.1. Following consideration of the draft Order provided by the ExA, the Secretary of State has made the following modifications to the draft Order:

- a. Amending the references to 'outline surface water drainage strategy' in Part 1 (Preliminary) to 'outline surface and foul water drainage strategy' to make the document references clear and consistent.
- b. The inclusion of a provision to give effect to Schedule 12 (Harbour Seal Compensation Measures) at Article 55 'Harbour Seal Compensation Measures'.
- c. Amending the references to 'outline landscape and ecological landscape mitigation strategy' in Part 1 of Schedule 2 to 'outline landscape and ecological mitigation strategy' to make the references clear and consistent.
- d. Amendments made to Part 1 (Permanent Alteration of Layout) of Schedule 4 (Streets Subject to Alteration of Layout) and Schedule 6 (Permanent Stopping up of Streets and Public Rights of Way) as recommended by the ExA regarding the alternative ECP route.
- e. Insertion of the word '*impact*' at paragraph 13 sub paragraph (2)(e) of Part 3 in Schedule 9 (Deemed Marine Licence).
- f. Insertion of new wording at paragraph 15 sub paragraph 6(a) and (b) of Part 3 in Schedule 9 (Deemed Marine Licence) as proposed by the Applicant to restrict the use of vessels at Work No. 4 in accordance with the navigation management plan to be approved.
- g. Amendments to paragraph 18(4)(a) and (b) of Part 3 (conditions) in Schedule 9 (Deemed Marine Licence) to demonstrate how impacts to priority saltmarsh habitats will be avoided and/or reduced from the proposed activities including creating areas to provide Ornithological mitigation.
- h. Amendments to Schedule 10 (Documents and plans to be certified) to include the following additional documents: 'Addendum to the outline ornithological compensation implementation and monitoring plan', 'Compensation addendum' and 'Harbour seal compensation measures document' and updating revision numbers as appropriate. Amendments also made to Schedule 11 and Schedule 12 to ensure the ornithology compensation measures and harbour seal compensation measures include the mitigations set out in the additional compensation documents.
- i. Removal of the wording '*the roosting and foraging habitat loss as a result of the construction of Work. No. 4 and*' from the definition of "OCIMP" in Schedule 11 (Ornithology Compensation Measures), as proposed by the Applicant.
- j. A number of amendments to Schedule 11 (Ornithology Compensation Measures) to clarify and strengthen the role of the Ornithology Engagement Group ("OEG"), ensure consultation with appropriate parties, and to ensure that a package of measures has been provided which would protect the overall coherence of the NSN.
- k. Amendments to paragraph 6 of Schedule 11 (Ornithology Compensation Measures), as proposed by the Applicant, to prevent hot commissioning of line 2 of Work No. 1A for two full years to have elapsed following the implementation of the relevant measures set out in the OCIMP.

- l. Removal of paragraph 11 of Schedule 11 (Ornithology Compensation Measures) in accordance with the recommendation of the ExA as the Secretary of State has determined that the habitat loss as a result of the construction of Work No. 4 does not result in an AEol.
 - m. Insertion of a new Schedule 12 (Harbour Seal Compensation Measures) to ensure the successful rescue and rehabilitation and subsequent release of five harbour seals per year (on average) for the duration of the operational period by way of compensation in relation to the impacts on Harbour Seals in The Wash and North Norfolk Coast Special Area of Conservation and to ensure that a package of measures which would protect the overall coherence of the NSN as required by the Habitats Regulations can be provided.
- 10.2. In addition to the above, the Secretary of State has made various changes to the draft Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments (for example, modernisation of language), changes made in the interests of clarity and consistency, and changes to ensure that the Order has its intended effect.

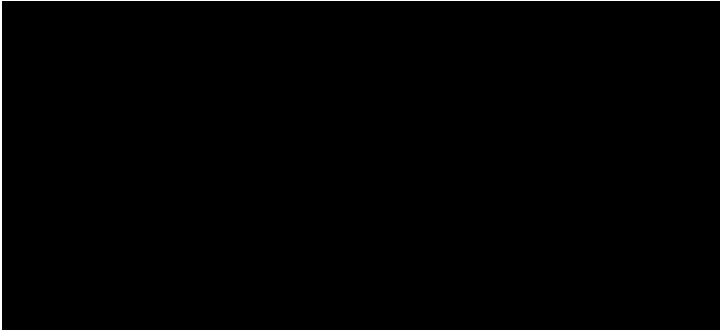
11. Challenge to decision

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

12. Publicity for decision

- 12.1. 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.
- 12.2. 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,



David Wagstaff OBE
Head of Energy Infrastructure Development

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

Under section 118 of the Planning Act 2008, an Order granting development consent or a decision to refuse 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 or decision is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/>

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).

ANNEX B: LIST OF ABBREVIATIONS

Abbreviation	Reference
AA	Appropriate Assessment
AEoI	Adverse Effect on Integrity
BBC	Boston Borough Council
BBFS	Boston and Fosdyke Fishing Society
BESS	British Energy Security Strategy
BNG	Biodiversity Net Gain
CA	Compulsory Acquisition
CCP	Carbon Capture Plant
CHP	Combined Heat and Power
CMD	Compensation Measures Document
CoCP	Code of Construction Practice
COLREGS	Convention on the International Regulations for Preventing Collisions at Sea 1972
CTMP	Construction Traffic Management Plan
DAS	Design and Access Statement
DCO	Development Consent Order
Defra	Department for the Environment, Food and Rural Affairs
DML	Deemed Marine Licence
EA	The Environment Agency
ECP	King Charles III English Coast Path (formerly the English Coast Path)
EfW	Energy from Waste
EIA	Environmental Impact Assessment
EIFCA	Eastern Inshore Fisheries and Conservation Authority
EP	Environmental Permit
ER	Examining Authority's Report
ES	Environmental Statement
ExA	The Examining Authority
FSWH	Fuel Sourcing and Waste Hierarchy
GHG	Greenhouse Gas
ha	Hectare
HE	Historic England
HGV	Heavy Good Vehicle
HMA	Habitat Mitigation Area
HRA	Habitats Regulations Assessment
IP	Interested Party
IPC	Infrastructure Planning Commission (now abolished)
IROPI	Imperative Reasons of Overriding Public Interest
kV	KiloVolt
LCC	Lincolnshire County Council
LEMS	Landscape and Ecological Mitigation Strategy
LIR	Local Impact Report
LNR	Local Nature Reserve

LSE	Likely Significant Effect
LVIA	Landscape and Visual Assessment
LWA	Lightweight Aggregate
LWS	Local Wildlife Site
LWT	Lincolnshire Wildlife Trust
MMO	Marine Management Organisation
MW	Megawatt
MOTH	Mouth of The Haven
MPS	Marine Policy Statement
NE	Natural England
NMP	Navigation Management Plan
NPS	National Policy Statement
NRA	Navigation Risk Assessment
NSN	National Site Network
NSR	Noise Sensitive Receptor
NSIP	Nationally Significant Infrastructure Project
OLEMS	Outline Landscape and Ecological Mitigation Strategy
PC	Process Contribution
PEC	Predicted Environmental Concentration
PoB	Port of Boston
PRoW	Public Rights of Way
PSED	Public Sector Equality Duty
RDF	Refuse Derived Fuel
RIES	Report on the Implications for European Sites
RR	Relevant Representation
RSPB	The Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SEPA	Scottish Environmental Protection Agency
SHA	Statutory Harbour Authority
SNCB	Statutory Nature Conservation Body
SoCG	Statement of Common Ground
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
SU	Statutory Undertaker
The 2008 Act	The Planning Act 2008
TP	Temporary Possession
UKWIN	United Kingdom Without Incineration Network