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Ref: EN010106

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Dear Mr Murray,

PLANNING ACT 2008

PLANNING ACT 2008: APPLICATION FOR DEVELOPMENT CONSENT FOR SUNNICA ENERGY FARM

1. Introduction

- 1.1. I am directed by the Secretary of State for Energy Security and Net Zero (“the Secretary of State”) to advise you that consideration has been given to the report dated 28 June 2023 of the Examining Authority (“the ExA”) comprising two examining inspectors, Guy Rigby and Karin Taylor, which conducted an Examination into the application (“the Application”) submitted on 18 November 2021 by Sunnica Limited (“the Applicant”) for a Development Consent Order (“DCO”) (“the Order”) under section 37 of the Planning Act 2008 (“the PA2008”) for the Sunnica Energy Farm and associated development (“the Proposed Development”).
- 1.2. The Application was accepted for Examination on 16 December 2021. The Examination began on 28 September 2022 and closed on 28 March 2023. The Secretary of State received the ExA’s Report on 28 June 2023, and extended the statutory deadline from the 28 September to the 7 December 2023. The Secretary of State requested further information and so extended the statutory deadline for a second time to the 7 March 2024. The statutory deadline was then extended by the Secretary of State to the 11 April 2024 and then to the 20 June 2024. As this latter date fell within the pre-General Election period, immediately after the General Election the Secretary of State again extended the statutory deadline to allow this decision to be made. A Written Ministerial Statement to announce this extension will be made once Parliament returns.
- 1.3. The Order, as applied for, would grant development consent for the construction, operation, maintenance and decommissioning of a generating station with a gross electrical output capacity of over 50MW, comprising ground mounted solar photovoltaic (“PV”) panel arrays; one or more battery energy storage systems (“BESS”) with a gross storage capacity of over 50MW; connection to the UK electricity transmission system and other associated and ancillary development.
- 1.4. The Applicant also seeks compulsory acquisition (“CA”) and temporary possession (“TP”) powers, set out in the draft Order submitted with the Application.

- 1.5. Published alongside this letter on the Planning Inspectorate's National Infrastructure Planning website 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 4-8 of the ExA Report, and the ExA's summary of conclusions and recommendation is at Chapter 9. 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 matters 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: The Principle and Nature of the Development regarding Need, Policy, Alternatives and Site Selection; Air Quality and Human Health (Including Battery Storage); Ecology and Biodiversity; Cultural Heritage and Historic Environment, Landscape and Visual Impact; Noise and Vibration; Socio-Economics and Land Use; Traffic, Transport and Highway Safety; Water Resources, Flood Risk and Drainage; The Habitats Regulation Assessment ("HRA"); and, CA and TP.
- 2.2. The ExA recommended that the Secretary of State should withhold consent. The ExA's recommendation in paragraphs 9.2.1 and 9.2.2 (page 335 of the ExA report) is as follows:

"For all of the above reasons, and in the light of its findings and conclusions on important and relevant matters set out in this Report, the ExA, under the Planning Act 2008 (as amended), recommends that the Secretary of State does not make the Sunnica Energy Farm Order 202 in the form of the Proposed Development.*

For the above reasons and in the light of its further findings and conclusions on important and relevant matters, the ExA does not recommend that the Secretary of State makes the order in a revised form of the SCC Alternative Proposal."

- 2.3. This letter is intended to be read alongside the ExA's Report and unless it is specifically stated that the Secretary of State disagrees with the ExA's conclusions or recommendations then any perceived difference in emphasis between the summaries in this letter and the ExA's Report should not be inferred as conveying disagreement with the ExA's Report. Where not otherwise stated, the Secretary of State can be taken to agree with the ExA's findings, conclusions and recommendations as set out in the ExA's Report and the reasons given for the Secretary of State's decision are those given by the ExA in support of the conclusions and recommendations.

3. Summary of the Secretary of State's Decision

- 3.1. The PA2008 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 PA2008 by virtue of being a photovoltaic generating station with a generating capacity of over 50MW.
- 3.2. The original suite of energy National Policy Statements (NPS) did not provide policy for, and did not effect in relation to, solar PV NSIPs. Following a review, new energy NPSs were designated on 17 January 2024. These new NPSs do have effect in relation to solar PV, however as a result of the transitional provisions set out in the overarching NPS, EN-1, they will not have effect in relation to this application.

- 3.3. The statutory framework for deciding NSIP applications where there is no relevant designated NPS, such as for solar farms, is set out in section 105 of the PA2008. In deciding the application, the Secretary of State must have regard to:
- any Local Impact Report (“LIR”) submitted before the deadline specified under s60(2) of the PA2008;
 - any matters prescribed in relation to development of the description to which the application relates; and
 - any other matters which the Secretary of State thinks are both important and relevant to their decision.
- 3.4. 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. The Secretary of State has had regard to the joint LIR submitted by East Cambridgeshire District Council (“ECDC”), West Suffolk Council (“WSC”), Cambridgeshire County Council (“CCC”) and Suffolk County Council (“SCC”), 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.
- 3.5. 1360 Relevant Representations (“RRs”) were made in respect of the Application. Written Representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA.
- 3.6. On the 28 July, the Secretary of State requested further information from the Applicant and Natural England (“NE”) to clarify outstanding matters. On the 23 August, the Secretary of State requested further information, this time from the Applicant, Historic England (“HE”), Suffolk County Council (“SCC”) and Cambridge County Council (“CCC”). Upon the close of both consultations, Interested Parties (“IPs”) were invited to comment on both letters as well as the responses received from the parties named in the requests for information.
- 3.7. The Secretary of State has considered the responses from the IPs. In relation to the Secretary of State’s 28 July 2023 request for information, a request was received asking for clarification as to which regulations the Secretary of State was requesting more information on (for reference, the Secretary of State requested more information from the Applicant as to whether the BESS would fall under one of the three categories in Schedule 1 of the Health and Safety Regulations, as the BESS design had not been finalised). The Secretary of State subsequently issued a clarification of the regulations being referred to, i.e. the Planning (Hazardous Substances) Regulations 2015.
- 3.8. On 23 August 2023, the Secretary of State requested information from the Applicant, Historic England, Suffolk County Council, and Cambridge County Council. On 1 September 2023, Interested Parties were invited to comment on the responses received. A number of responses were received from IPs, including a Withdrawal of Objection to the Proposed Development from Federated Hermes Property Unit Trust (“FHPUT”), as an agreement had been reached between FHPUT and the Applicant. Other responses raised concerns regarding safety concerns around the BESS and its proximity to the towns, the removal of agricultural land for energy generation purposes, the assessment of available Best and Most Versatile (“BMV”) and matters relating to the compulsory acquisition of land.
- 3.9. On 14 December 2023, the Secretary of State issued a request for further information to the Applicant and NE. The Applicant was asked to provide updates in relation to its position on the mitigation proposed for landscape and visual impacts, including the use of anti-glare/anti-

reflective coating on the proposed solar arrays. NE was asked to provide updates in relation to its report on the functional linkage of stone curlew populations of the Breckland Special Protection Area (“SPA”). On 15 January 2024, the Secretary of State invited IPs to comment on the responses received. Again, several responses were received from IPs, mainly relating to NE’s ongoing research into stone curlew and its latest response, the terminology used by parties for valuing landscapes, and whether there was sufficient time to submit comments to the Planning Inspectorate in this latest consultation. On this last point, the Secretary of State considers that every IP that wished to have their view submitted did have the opportunity to do so, noting that no late submissions were received by the Planning Inspectorate. The Secretary of State still considers that he has had an opportunity to have regard to all matters which could be important and relevant in his consideration of the latest request for comments from IPs, in accordance with section 105(2)(c) of the PA2008.

- 3.10. In reaching his conclusions on the matters set out below, and in taking his decision on the Application, the Secretary of State has considered all responses received.
- 3.11. The Secretary of State has considered the overall planning balance and, for the reasons set out in this decision letter, has concluded that the public benefits for the Proposed Development outweigh the harm identified, and that development consent should therefore be granted for the Proposed Development. The Secretary of State has therefore decided under section 114 of the PA2008 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 PA2008 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”). 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. Matters considered by the ExA during the Examination

Principle and Need

- 4.1. The ExA notes the legislation and policies that are relevant to the consideration of the principle and need of development, including the 2011 NPS EN-1 and NPS EN-5, the 2024 NPS EN-1, NPS EN-3, dNPS EN-5, the National Planning Policy Framework (“NPPF”), the Planning Practice Guidance (“PPG”) and local planning policies [ER 4.6.1 et seq.]. The ExA notes that NPS EN-1 makes clear that applications put forward for development consent for the types of infrastructure covered should be assessed on the presumption that there is a need for those types of infrastructure [ER 4.6.4].
- 4.2. As explained at paragraph 3.2 above, this is an application under s105 of the PA2008 and the requirement to make this decision in accordance with a relevant NPS does not apply. However, in agreement with the ExA, the Secretary of State considers that the original NPSs (EN-1 and EN-5), as well as the draft and then recently designated new NPSs (EN-1, EN-3 and EN-5) are both important and relevant to this decision.
- 4.3. The energy NPSs were subject to review from December 2020 to January 2024. During this review, two sets of draft NPSs were published, in September 2021 and June 2023, which were considered by the ExA, and referred to as the “dNPS”. Final updated NPSs were laid in Parliament in November 2023 and designated by the Secretary of State on 17 January 2024 (“the 2024 NPSs”). The ExA did not consider the 2024 NPSs in their Report as they were published following the close of the Examination. The Secretary of State has had regard to the 2024 NPSs considers that in all material regards they are consistent with the dNPS considered by the ExA. 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.

- 4.4. Concerns were raised by IPs in relation to the Applicant’s Statement of Need and its choice of site on several grounds, with the common themes grouped as follows: questioning the motives of the Applicant; doubting the need for or the efficiency of the proposals; priority should be given to food security; negative impacts on the environment and local communities; alternatives should be used such as new homes with solar panels; and, carbon neutral requirements would never be delivered due to the lifetime greenhouse gas emissions arising from the scheme [ER 4.6.49].
- 4.5. Say No To Sunnica (“SNTS”) argued that the scheme, being connected to the national transmission system but not the local grid, would therefore do little to strengthen the grid locally [ER 4.6.50]. Various IPs queried whether a definite outcome for the Proposed Development should be secured in terms of generating capacity and battery storage [ER 4.6.53]. SNTS disagreed with an interpretation by the Applicant of policy that sought the maximisation of generation output “at all costs” and wished consideration to be given to setting a power limit for the BESS [ER 4.6.55]. The design of the scheme was criticised by many IPs including SNTS, stating that it disagreed that the Proposed Development complied with the underlying policy imperative of good design. SNTS also expressed concerns regarding various issues such as the heritage harm that the Applicant has underestimated would be done by the scheme; the assessment of soils and BMV classifications; the potential harm wrought to the HRI; the fire safety and lack of information regarding the BESS [REP2-240i] [ER 4.2.2]; and the size of the scheme [ER 4.6.57].
- 4.6. The Applicant’s Statement of Need sets out its assessment and conclusions drawn in respect of the need of urgent energy infrastructure established in the NPSs [ER 4.6.20] and how the Proposed Development will significantly contribute to meeting the UK’s legal obligations in becoming Net Zero, such as under the Paris Agreement [ER 4.6.22]. The Statement of Need makes the case for the importance of energy infrastructure projects in the wake of the COVID-19 pandemic and the subsequent fiscal recovery plans, and states that future electricity demand will grow significantly through the decarbonisation-through-electrification of other industry sectors, requiring significant new low-carbon electricity schemes [ER 4.6.22]. Further, the Statement of Need emphasises the importance of scale in solar generation and storage to security of supply. The importance of integrating low-carbon generation at scale with Energy Balancing Infrastructure technologies was also emphasised, as integration technologies are essential for delivering net zero in the UK [ER 4.6.23]. The Applicant considered that the Proposed Development would be an essential near-term step to meet government policy and address the climate change emergency [ER 4.6.23].
- 4.7. Regarding the scale of the Proposed Development, the ExA notes the Applicant’s submission that if the size was further reduced, it would reduce the amount of energy produced and in doing so would undermine the Government’s energy policy and legal commitments to net zero [ER 4.6.62].
- 4.8. With regards to the Applicant’s consideration of alternatives, the ExA notes that the Applicant’s Environmental Statement (“ES”) Chapter 4 [APP-036] states a four-stage site selection process was undertaken [ER 4.6.28]. The ExA notes that the chosen location of the Proposed Development was considered suitable for large scale solar development due to high levels of solar irradiation compared to other parts of the UK and predominately large open flat land; maximisation of use of low-grade-non best and most versatile (“BMV”) agricultural land, the land not being located in or near to Areas of Outstanding Natural Beauty

("AONB"), or internationally and nationally designated biodiversity sites and its ability to avoid direct physical impact on designated heritage assets [ER 4.6.29].

Suffolk County Council Alternative Proposal (SCC AP)

- 4.9. The ExA notes that an Alternative Proposal (known as the Suffolk County Council Alternative proposal – ("SSC AP") was put forward as an alternative to the Application by several IPs including the host local authorities ("the HA"). This involved the removal of parcels E05, E12, E13, W1-12 and W17 from the Application. The HA set out their reasoning for this in the LIR [REP1-024]. Removal of these parcels was sought mainly for reasons related to landscape and visual impact, ecology, and cultural heritage, but it would also potentially remove development consent for significant quantities of renewable energy generation [ER 2.2.13]. The removal of the parcels of land would also remove potential stone curlew nesting sites and plots of significance for other farmland birds from the Proposed Development [ER 4.8.107]. The HA also considered that land parcels W03 to W012 and W17 in Sunnica Site West B, parcel E05 in Sunnica East A and parcels E12 and E13 in Sunnica East B were incapable of adequate mitigation against landscape and visual effects and should therefore be removed from the Proposed Development, an approach supported by SNTS [ER 4.10.99].
- 4.10. The ExA notes that the Applicant rejected the SCC AP on the grounds that removing significant parcels of land would significantly reduce the generating capacity of the Proposed Development, complicate the design and construction to a high degree [REP10-032]. The ExA also notes that the SCC AP would reduce the employment benefits that the Proposed Development would bring [ER 9.1.18] and the applicant's view that it would become financially unviable and that there were no supporting documents to support the revised scale and effects of the alternative other than the SCC submission itself [ER 9.1.21]. The ExA conclude by recommending that the Secretary of State does not make the order in the revised form of the SCC AP [ER 9.2.2].
- 4.11. The Secretary of State notes the SCC AP put forward, but also notes that this is not the application that has been made and not the one that he has been asked to consider. As the ExA notes, the Applicant does not accept the SCC AP as an alternative that they wished to promote and there are no amended application documents to support the revised scale and effects of the alternative other than the SCC submission [ER 6.3.20, ER 8.3.6]. The ExA also note that Affected Persons were not specifically consulted on the revisions in terms of their land rights and interests [ER 7.6, ER 9.1.21].
- 4.12. While the ExA has considered the SCC AP as an alternative that could be granted development consent under this application, the Secretary of State disagrees; it is a materially different proposal to the one applied for and, except where required by law, there is no general policy requirement to consider alternatives or to establish that the development applied for is the best option. The ExA notes that SCC AP was openly examined, and evidence taken from the HA, the Applicant and other IPs who wished to make representations [ER 8.3.9]. The Secretary of State has considered the SCC AP and considered the Applicant's reasons for rejecting it as an alternative [ER 8.3.10]. The Secretary of State notes that the SCC AP would lead to a significant reduction in generation capacity - "almost 50% of the installed capacity" - and that as a result the SCC AP was unviable and uncommercial [ER 8.3.17, ER 9.1.21] and would complicate the technical design of the Proposed Development. The Secretary of State also notes the conclusions of the ExA that the SCC AP would only reduce some of the disbenefits it saw in the scheme as applied for [ER 6.3.39, ER 9.1.22]. Having considered the policy on alternatives set out in EN-1 [ER 8.3.7 et seq.], the Secretary of State agrees with the Applicant that the SCC AP is

not a reasonable alternative. The Secretary of State does not consider the SCC AP as a relevant planning issue for the rest of this decision letter as a result.

Other matters raised in the Examination

- 4.13. The ExA notes that more consideration might have been given to the implications of the inclusion of Sunnica West Site B, but the Applicant responded within the Examination process and submitted changes to the application that were accepted as non-material changes into the Examination. The ExA is also satisfied that a grid connection at Burwell is possible [ER 4.6.65] and agrees with the Applicant that efficient grid connection is an important aspect of viability [ER 4.6.73]. The ExA also agrees that the scale of the BESS is appropriate to the scale of the solar PV system [ER 4.6.71] and (consistent with dNPS EN-3) that a capacity limit is not an appropriate tool to constrain the environmental impacts of the Proposed Development [ER 4.6.72].
- 4.14. The ExA considers that given the national policy imperatives inherent in selection of a site that meets the objective need for the proposed development and have a realistic prospect of delivering the same capacity in the same timescale, especially in respect of the recognised need for large scale solar sites, the alternative sites assessment was undertaken in a proportionate manner. The ExA further notes that land type is not a predominating factor in determining the suitability of site location [ER 4.6.67]. The ExA notes that it has been mindful of the advice in dNPS EN-1 that an application should not be refused because there would be fewer adverse impacts from developing similar infrastructure on another suitable site, however in any event no other candidate site with those credentials was in fact identified [ER 4.6.67].
- 4.15. The ExA notes that, whilst it is conscious of the arguments concerning carbon emissions over the lifetime of the Proposed Development, these are more in the nature of generic uncertainties that could potentially apply to a wide range of renewable energy sources, and further notes that the Applicant is not required to demonstrate the overall need for renewable or low carbon energy. The ExA highlights that the Applicant's case is that there would be considerable net benefits in terms of carbon emissions over the 40-year life span of the Proposed Development, and the ExA does not find compelling evidence to suggest that its impacts would not be acceptable [ER 4.6.68].

Conclusions on Need

- 4.16. The ExA's conclusions on need are set out at ER 4.6.64 - 4.6.76. The ExA concludes that the Proposed Development would positively contribute to a secure, flexible energy supply, significantly contribute to meeting the identified need for additional generating capacity and, in view of the urgent need for additional low carbon generation, the ExA considers this should be afforded very considerable weight [ER 4.6.74]. The ExA concludes that, subject to consideration of the Proposed Development's specific impacts, the principle of the Proposed Development accords with both local and national policy [ER 4.6.76] and it gives substantial weight to the contribution that the Proposed Development would make towards meeting the need for energy infrastructure of the type proposed [ER 4.6.64]. The ExA further notes that solar is a key part of government's strategy for low-cost decarbonisation of the energy sector and the British Energy Security Strategy and draft energy NPSs indicate that the government expects a significant increase in solar electricity generation as part of its commitment to achieving net zero. Solar generation of various sizes is likely to form part of the government's preferred approach to energy generation and security in the future. The principle and viability of large-scale solar developments has been accepted in previous NSIP applications [ER 4.6.69]. The Secretary of State agrees that the Proposed Development would make a

meaningful contribution towards meeting the targets in the Climate Change Act 2008 [ER 4.6.69].

- 4.17. The Secretary of State agrees with the ExA's conclusions and that, subject to consideration of specific impacts, there would be no conflict in principle between the Proposed Development and national or local planning policy and agrees that the alternative sites assessment was undertaken in a proportionate manner. The Secretary of State agrees that there is an urgent need for the Proposed Development and ascribes this urgent need substantial positive weight in the planning balance.

Air Quality and Human Health (Including Battery Storage)

- 4.18. The ExA notes policy and legislation relevant to the consideration of air quality and human health including NPS EN-1, dNPS EN-1, dNPS EN-3, the Air Quality Directive, the NPPF, the PPG, and local planning policies [ER 4.7.6 et seq.].
- 4.19. Volume 1: Chapter 3 of the ES sets out the main components of the Proposed Development, and of particular relevant to air quality and human health are the sections on construction and decommissioning of the solar infrastructure and the operation of the panels and the BESS [ER 4.7.29]. Chapter 14 presents the results of the Applicant's Environmental Impact Assessment ("EIA") of potential impacts on air quality [ER 4.7.30]. Chapter 15 presents the results of the Applicant's EIA of potential impacts on human health [ER 4.7.31]; and Chapter 16 reports on the assessment of glint and glare and the assessment of unplanned atmospheric emissions from the BESS [ER 4.7.32].
- 4.20. The issues covered by the ExA in relation to this matter are air quality, health impacts, glint and glare, and battery energy storage [ER 4.7.2]. Other issues relating to mental health and well-being matters in respect of health impacts are also briefly addressed in this section.
- 4.21. The ExA notes that air quality and human health impacts were mentioned in around 300 RRs, covering issues such as: risk to human life from spooking horses; the Health and Safety Executive ("HSE") assessing the health and safety impacts of the proposed development; mental health impacts; and more general negative impacts on human health [ER 4.7.93]. Many RRs also expressed concerns about possible impacts on air quality and human health resulting from the safety of the BESS [ER 4.7.94]. The East of England Ambulance Service submitted a holding objection detailing its concerns in respect of the impacts of the Proposed Development on the services it provides, particularly in respect of the lack of information about access to public rights of way ("PRoW") and the Proposed Development, and the impact on operational resources [ER 4.7.91]. In response, the Applicant noted that major accidents and disasters have been assessed as part of Chapter 16: Other Environmental topics of the ES, concluding that there are no likely significant effects" [ER 4.7.92]. The UK Health Security Agency did not object to the Proposed Development [ER 4.7.91].
- 4.22. The main concerns raised in the Joint LIR were unplanned atmospheric emissions from the BESS in the event of a fire and dust and air quality emissions during construction and decommissioning [ER 4.7.84].
- 4.23. The Applicant stated that there was no consolidated assessment methodology for human health, and therefore assessed impacts qualitatively using best practice principles as provided in the NHS England Healthy Urban Development Unit Health Impact Assessment Toolkit 2019 [ER 4.7.53]. The ExA notes that the mitigation associated with the health assessment is presented in Tables 15-5 to 15-9 of this assessment, and that the Applicant's assessment finds that no mitigation other than that already embedded was deemed necessary [ER 4.7.71].

- 4.24. The Applicant also acknowledged in its response to representations on mental health impacts [REP1-016], that there would be temporary negative impacts on mental health in respect of air quality, noise and neighbourhood amenity, accessibility and active travel, and social cohesion during the construction and decommissioning phases, which have been assessed in Chapter 15: Human Health of the ES [APP-048] [ER 4.7.100].
- 4.25. In response to concerns around more general negative impacts on air quality and human health, the Applicant referred to Chapters 14 and 15 of the ES and acknowledged that there would be a negative impact on human health in respect of air quality during construction, which would be temporary, and stated that mitigation had been identified to minimise these effects [ER 4.7.101]. The Applicant responded to the air quality and human health issues raised in the LIR, stating that the framework CEMP contains details on how best practicable means have been adopted to reduce construction noise effects as far as reasonably practicable [REP3-019], also providing a brief response to light and dust issues with reference to its revised Framework CEMP [REP2-026] and Framework DEMP [REP2-028] [ER 4.7.88].
- 4.26. The ExA notes that primary mitigation measures are embedded with the Applicant's proposals [ER 4.7.69]. Mitigation measures in respect of the Dust Risk Assessment ("DRA") have been incorporated into the Framework Construction Environment Management Plan ("CEMP") [REP2-026] and other mitigation measures included in the framework CEMP relate to communications, site management, construction activities and monitoring [ER 4.7.70].

Air quality

- 4.27. The ExA notes that the potential for fugitive emissions of particulates during construction was assessed through a DRA, conducted in accordance with the Institute of Air Quality Management ("IAQM") guidance. The Applicant considers that emissions from Non-Road Mobile Machinery ("NRMM") will be temporary and localised, with no unusual plant machinery being used so emissions will not be significant and therefore have not been assessed further [ER 4.7.52]. The Applicant's ES states that the air quality in the study area is generally good, there are no relevant Air Quality Management Areas, the relevant HA have no concerns and do not monitor the air quality around the Order land [ER 4.7.43] and goes on to note that construction traffic and use on NRMM will be very limited during the operational phase so operational phase impacts have not been considered [ER 4.7.45].
- 4.28. Primary mitigation measures are embedded with the Applicant's proposals [ER 4.7.69]. Mitigation measures in respect of the DRA have been incorporated into the Framework CEMP [REP2-026] and other mitigation measures included in the framework CEMP relate to communications, site management, construction activities and monitoring [ER 4.7.70].
- 4.29. The ExA notes the Applicant's acknowledgement that there would be a temporary negative impact on air quality during construction and, with the identified mitigation, no likely negative human health effects have been identified [ER 4.7.140]. The ExA generally agrees with the methodology and assessment of air quality and human health impacts and concludes that adverse construction impacts are mainly capable of satisfactory mitigation and ascribes this slight negative weight against the Order being made [ER 4.7.152, ER 6.2.6].
- 4.30. With regards to general air quality issues, the Secretary of State accepts the Applicant's findings that, following the mitigation proposed by the Applicant, air quality impacts are negligible and not significant. Therefore, the Secretary of State disagrees with the ExA's conclusion that this matter should be ascribed negative weight in the planning balance. The Secretary of State, noting the mitigation secured for predicted construction air quality impacts, ascribes this matter neutral weight in the planning balance.

Glint and glare

- 4.31. The issues raised in the examination in relation to the impacts of glint and glare in relation to human health are predominantly relevant to impacts on horse riders. However, impacts from glint and glare can also be relevant to others, such as aviation, motorists and pedestrians. The Applicant considered that there was no process for determining the effects of glint and glare or for assessing the impacts of solar reflections in the available guidance, and thus identified receptors in a study area surrounding the Order land and then considered: visibility of panels from receptors; whether reflection can occur, and if so at what time; location of direct sunlight; published studies and guidance; and whether a significant detrimental effect is expected [ER 4.7.54]. Chapter 16 in the Applicant's ES (Appendix 16A: Glint and Glare Assessment [APP-121]) assessed the potential impact of glint and glare not only on the matters stated in dNPS EN-3, but also on horse facilities.
- 4.32. The ExA notes that the Applicant's Glint and Glare Assessment analysed in some detail the potential impacts on key receptors relating to horse facilities in the area to determine the impact on equestrian activity. An overview of the assessment found no predicted solar reflections likely at Limekilns Gallops, Godolphin Stables, Bury Hill Gallops, or Long Hill Gallops [ER 4.7.58]. The Glint and Glare Assessment concluded: "*Solar reflections are geometrically possible towards the Snailwell Gallops and British Racing School. Screening in the form of existing vegetation will however obstruct views of the reflecting panels for horse and riders at both horse facilities, which will be further bolstered by the proposed vegetation. No impacts are predicted, and no further mitigation is required*" [ER 4.7.56].
- 4.33. The ExA also notes that the solar PV array height was originally set at 3.5m to accommodate three racking panels in portrait. This was reduced to two panels in portrait meaning that the racking height could reduce to up to 2.5m in height, to minimise the potential visual impact of the Proposed Development [ER 4.7.60].
- 4.34. The ExA notes that mitigation for glint and glare is only considered to be required for reflections assessed as being visible for more than an hour per day and for more than three months per year. The Applicant considers that embedded mitigation, including careful siting of the Proposed Development, conserving landscape, ecology and archaeological features and new vegetation screen planting, will be sufficient, with a temporary solid hoarding adjacent to the A14 to screen road users until the new screening vegetation is sufficiently established [ER 4.7.72].
- 4.35. The risk to human life from the spooking of horses was raised in RRs [ER 4.7.93]. SNTS's written submission also made reference to the Applicant's glint and glare assessment, with particular reference to: there being only one receptor on the Limekilns, and that "*this receptor does not appear to be the most sensitive receptor as views of Sunnica West A are possible further east ...*"; there being "*no receptors on Railway Field despite views of West A being possible.*"; risks to horse and rider: "*The risk to racehorses being startled is acute ... and a more comprehensive assessment should have been done*"; the risk of injury "*to horse and/or rider in the event of a bolt has both welfare and cost implications that are significant*"; and other recreational riding locations such as Badlingham Lane, where "*panels are shown on both sides of the lane making it dangerous for riding*" [ER 4.7.111].
- 4.36. In response to RRs about the spooking of horses, the Applicant stated that sample receptor points were taken at the six identified equestrian facilities and that "*The Glint and Glare Assessment concluded that reflections from the PV panels to the receptors (including pedestrians and riders using PRow) during operation will either not be geometrically possible or will be sufficiently screened by the existing vegetation and landform, as well as the proposed planting for the Scheme*" [ER 4.7.96].

- 4.37. The ExA identified the impacts of glint and glare on equestrians as one of the main outstanding issues in respect of air quality and human health [ER 4.7.132]. With reference to representations about the adequacy of the glint and glare assessment undertaken at Railway Field and Limekilns, the ExA notes that there is only one receptor, but on that basis the Applicant has concluded that no solar reflection is geometrically possible at the Limekilns and therefore no impacts are possible [ER 4.7.142]. SNTS's submissions in respect of racehorses being startled, the need for a comprehensive assessment, the risk of injury, and impacts on recreational riding were noted by the ExA [ER 4.7.143]. The ExA concludes that there could be significant impacts due to glint and glare which have not been adequately assessed in respect of equestrian and other users and facilities (notably the Limekilns) or can be satisfactorily mitigated [ER 4.7.152]. The ExA recommends that in circumstances where development consent is granted a pre-condition of any grant should ensure that the potential effects of glint and glare on non-motorised users including horse riders be re-assessed and to ensure any mitigation is adequate to reduce any predicted adverse effects to an acceptable level where this is technically possible [ER 9.2.7]. The ExA concludes that further assessment is required in order to establish the nature and extent of these operational impacts in more detail, and that unless these operational impacts are effectively mitigated, they may cause harm and therefore weigh substantially against the Order being made [ER 6.2.7].
- 4.38. Noting the ExA's conclusions on the matter of glint and glare, the Secretary of State's letter of 27 July 2023 to the Applicant requested that the Applicant confirm whether it had any further updates in respect of its position on its assessment of glint and glare impacts, in particular in relation to equestrian users.
- 4.39. In its response dated 10 August 2023, the Applicant noted that its Glint and Glare Assessment assessed the potential effects on aviation receptors, railway receptors, roadway receptors, residential dwellings, PRow and bridleways (including horses and riders), permissive paths and horse facilities. The Applicant notes that this assessment concludes that reflections from the PV panels to the receptors during operation of the Proposed Development will either not be geometrically possible or will be sufficiently screened by the existing vegetation and landform, as well as the proposed planting for the Proposed Development. It notes that Appendix J of the assessment also shows that the potential 10-minute duration where glint and glare effects are geometrically possible (but where proposed screening would mitigate the effects) would occur between March and October (maximum) and would only occur at either approximately 06:00 or 18:00 or both during those months. The Applicant states that appropriate screening mitigation has been proposed and secured via Requirement 8 of Schedule 2 of the draft Order, and in any event, regardless of the PV panels, observers currently experience a similar and more intense impact in those locations by virtue of direct sunlight.
- 4.40. The Applicant further notes in its response that the impact of glint and glare on the users of PRow footpaths and bridleways was summarised in its Response to the Second Written Questions [REP5-056], and that these responses also outline the opinion of horse behavioural specialists (Professor Meriel Moore-Colyer, Professor of Equine Science at Royal Agricultural University, and Ashley Ede, a Bloodstock & Horseracing specialist at Blue Furlong Consultancy), who the Applicant engaged with regarding glint and glare. The Applicant notes that the proximity of reflectors, the short duration of 'exposure' time, the time of year and day and the more common use of bridlepaths (hacking/exercise rather than 'fast-work') are all mitigating factors in addition to the prescribed mitigations already outlined e.g. shrub and tree planting where appropriate. The Applicant notes that the response concludes that glint and glare would: have a small impact on PRow footpath and bridleway receptors; could only possibly occur for very short durations for part of the year; would not introduce a

hazard for equestrian users; and is sufficiently mitigated. Therefore, based on the conclusions of the horse behavioural experts and the Glint and Glare Assessment [APP-121], the Applicant highlights that it is not anticipated that there will be any adverse effects on horses and riders using bridleways as a result of glint and glare.

- 4.41. Further, the Applicant notes that it has also considered the effects of glint and glare on the horse racing industry (“HRI”) in the Horse Racing Industry Impact Assessment [REP2-039] and the Applicant's response to comments on its Horse Racing Industry Impact Assessment [REP4-039]. These conclude that reflections from the PV panels to the HRI receptor locations during operation will either not be geometrically possible or will be sufficiently screened.
- 4.42. On 14 August 2023, the Secretary of State invited IPs to comment on the responses to the letter of 27 July 2023. In response, the IPs raised a series of concerns relating to the potential impacts of glint and glare from the Proposed Development, stating that the proposed mitigation would take decades to eventually screen the solar panels from view, making mitigation futile, and that regarding the HRI, noting that horses are extremely sensitive and can be affected by any sudden noise, shadow or reflection and that the impact of the glint and glare would have a detrimental economic effect on the HRI industry. On the mitigation planting, the Applicant has stated in their ES that by year 15, most of the Proposed Development would be sufficiently screened and regarding the startling of racehorses, as stated above, the Applicant sought the opinions of horse behavioural specialists, who concluded that there will not be any adverse impacts on horses or their riders.
- 4.43. On 14 December 2023, the Secretary of State noted, with reference to draft NPS EN-3 paragraph 2.10.134, that the Applicant's Glint and Glare assessment appears to have been carried out on the basis that anti-reflective coating would be used. The Secretary of State requested that the Applicant explain whether it has considered the use of anti-glare/anti-reflective coating on the proposed solar arrays and, if so, whether it should be secured in the Order. In its response, the Applicant confirmed the assessment assumes an anti-reflective coating is applied to the solar arrays, with the arrays being considered by the Applicant for the Proposed Development manufactured to include an anti-reflective coating as standard. The Applicant highlights that photovoltaic arrays are designed to absorb sunlight, not reflect it, and that a 2010 US Federal Aviation Administration publication concluded that reflection from arrays is less than those from soil and vegetation. To secure the use of anti-reflective coating on the arrays, the Applicant suggested that requirement 6 in Schedule 2 of the Order be amended to explicitly reference an anti-reflective coating on the solar modules in Work No.1. The Secretary of State agrees with the Applicant and has amended the Order accordingly.
- 4.44. The Secretary of State, having considered the concerns of IP's raised through RR's and the ExA alongside the assessments and analysis submitted by the Applicant, as well as the concerns raised from IPs in response to requests for information dated 27 July and 23 August 2023, is satisfied that all relevant receptors, including those placed at horse racing facilities have been adequately assessed, and that glint and glare from the PV panels observed by the receptors during the operation of the Proposed Development will either not be geometrically possible and where visible, will be sufficiently screened by the proposed green infrastructure. The Secretary of State has not seen any evidence to show that the assessment is flawed or that there is any other potential route to glint and glare impacts on the receptors that has not been accounted for by the Applicant. While the Secretary of State accepts that the potential for some harm arising from glint and glare remains, in particular during the period when the screening planting has not yet fully matured, the Secretary of

State considers that the Applicant has mitigated for this harm as far as is reasonably possible.

- 4.45. The Secretary of State does accept that there is the potential for glint and glare impacts to be detected on some PRowWs; however, he is satisfied that the potential for the impacts is limited to certain times of the day (and year – 8 out of 12 months), and that for all the reasons mentioned above, does not consider that there is a realistic risk of adverse health impacts to horse riders on these paths. Further details on PRowWs can be found later in this decision letter.
- 4.46. On the issue of the receptor points, the Secretary of State agrees with the Applicant that the points have been picked on the basis of “professional judgement of a technical specialist” and to date, has not been provided with any evidence to suggest that there are any other points within the HRI sites (in particular the Limekilns and Railway Field) where it would be geometrically possible for there to be glint and glare impacts from the Proposed Development and where there will be potential impacts of glint and glare, Requirement 8 in the Order will secure appropriate mitigation for possible effects.
- 4.47. Noting the mitigation planting secured will take 15 years to mature, and that there is a limited, time-bound impact to PRowWs, the Secretary of State ascribes the human health impacts associated with glint and glare limited negative weight in the planning balance.

Major accidents and disasters and consideration of the BESS

- 4.48. The ExA states that the assessment of major accidents and disasters considered three categories: events that could not realistically occur, due to the nature of the Proposed Development or its location; events that could realistically occur, but for which the Proposed Development, and associated receptors, are no more vulnerable than any other development; and events that could occur, and to which the Proposed Development is particularly vulnerable, or which it has a particular capacity to exacerbate [ER 4.7.62]. The ExA also notes that fire is recognised as a potential event during the construction and decommissioning phases but will be managed by the contractor as part of normal site procedures [ER 4.7.65].
- 4.49. The LIR states that there are a number of unknowns with the exact nature of the BESS and this impacts the findings of the assessment, and that there will need to be a refinement of the assessment following the completion of the detailed design and the specification of the BESS, which will need to be secured in the Order [ER 4.7.86]. The other concern raised with the BESS was that due to the lack of sufficient detail on the plans for the BESS, Cambridgeshire and Suffolk Fire and Rescue Services (CRFS and SFRS respectively) cannot define the impact of the battery fire safety, concluding with the statement, “*There is a clear relationship between the design of the system and the potential hazards and risks posed to responders and the local environment alike. Once further information is received regarding the system design and the appropriate evidenced based emergency mitigation solutions the Councils will be in a more informed position to advise further*” [ER 4.7.87].
- 4.50. Chapter 18 of the LIR raises issues with the level of information provided on the safety of the BESS, which was considered insufficient to enable a proper assessment of the potential impacts. The Applicant responded in some detail, stating that they had provided an updated outline Battery Fire Safety Management Plan (“BFSMP”) and, “... *It is considered this provides a very detailed plan which ensures that the final design of the BESS will be acceptable and that in the unlikely event of a fire it would be managed safely ensuring the safety of site staff, first responders and the wider community*” [ER 4.7.90].

4.51. Chapter 16 of the Applicant's ES states, in respect of potential effects during the operational phase, that:

"... the Scheme does not process or include large scale chemicals and criminal damage to the infrastructure is unlikely to lead to a large-scale leak, explosion, or other major event. Therefore, the Scheme is not expected to have an effect on the environment due to the risk of a major accident occurring as a result of criminal activity during operation" however:

"There is a potential fire risk associated with certain types of batteries such as lithium ion. An Outline Battery Fire Safety Management Plan has been prepared and is provided with the DCO application [EN010106/APP/7.6]. The implementation of the Outline Battery Fire Safety Management Plan will be secured by a Requirement to the DCO. This fully explores the risks associated with fires from BESS equipment and minimises the impact of an incident during construction, operation and decommissioning of the facility..." [ER 4.7.67].

4.52. Dispersion modelling was carried out and emissions of hydrogen fluoride were assessed against PHE's acute exposure guideline levels AEGL - the guideline levels start at AEGL-1 and go up to AEGL-3). The assessment concluded that emissions would be below the AEGL-1 value [ER 4.7.68].

4.53. Mitigation in respect of major accidents and disasters will be achieved through carrying out risk assessments as required by the framework CEMP, Operation Environmental Management Plan ("OEMP") and Decommissioning Environmental Management Plan ("DEMP") provided as part of the ES [APP-123] [APP-126] [APP-125], and in particular, mitigation in respect of battery fires is included in the outline Battery Fire Safety Management Plan [APP-267] [ER 4.7.73].

4.54. The majority of RRs received on air quality and human health related to the safety of the BESS and what would happen in the event of a fire [ER 4.7.102]. In response, the Applicant summarised by referring to the worst-case approach in ES Appendix 16D Unplanned Atmospheric Emissions from BESS [APP-124] and to the provisions in the outline BFSMP [APP-267]. The Applicant disagreed that the fire safety plan was inadequate, as it had been prepared in consultation with the local fire services, and as stated in the document, it will be updated throughout the project lifecycle at each stage [ER 4.7.102]. In response to RRs about BESS fires around the world, the Applicant stated that *"The Outline Battery Fire Safety Management Plan has considered research on fire tests as well as lessons learnt from BESS fires"*. In response to RRs that stated that BESS fires could not be extinguished, the Applicant referred to page 544 of the outline BFSMP which includes a risk evaluation of the BESS and further details the Applicant's proposed measures to reduce any fire risks [ER 4.7.103].

4.55. Regarding concerns related to the involvement of HSE in assessing the impacts of the BESS, the Applicant stated that they had consulted with HSE during the preparation of the Outline BFSMP, noting that the document will be updated during each stage of the project life cycle and will include consultations with other applicable stakeholders [ER 4.7.98].

4.56. The ExA notes that the great majority of RRs related to inadequate information in respect of the safety of the BESS [ER 4.7.139]. However, the ExA notes that the BFSMP now includes all the necessary items at this stage, that it will be updated during each stage of the project lifecycle and will include consultations with HSE and other applicable stakeholders [ER 4.7.149]. The ExA notes the Applicant's position that detailed consequence modelling undertaken post consent would ensure that unplanned emission levels would not be exceeded and that there should be no adverse impacts outside the site boundary [ER

4.7.147]. However, the ExA is not persuaded that detailed consequence modelling undertaken post consent would necessarily ensure that unplanned emission levels would not be exceeded [ER 4.7.152]. Whilst the ExA goes on to note that it considered the main outstanding issue at the close of Examination to relate to the safety of the proposed BESS, and in particular, the assessment method and whether a requirement for hazardous substances consent should be included in the draft Order [ER 4.7.151], it concludes that it is persuaded that BESS is a rapidly evolving area of technology, that safety and performance will improve in the coming years, and that the BFSMP now secured in Requirement 7 of the recommended Order provides a satisfactory mechanism capable of addressing and mitigating all adverse impacts satisfactorily at the detailed design stage [ER 4.7.152, 6.2.8]. Balancing this against the fact that the adverse impacts of unplanned atmospheric emissions at any of the BESS sites could result in adverse air quality and human health impacts, the ExA concludes that this matter weighs slightly against the Order being made [ER 6.2.8].

- 4.57. Noting the concerns highlighted by the ExA in relation to the BESS and Hazardous Substance Consent, the Secretary of State's letter of 27 July 2023 requested an update from the Applicant in response of its position on the BESS design and whether or not it will fall under one of the three categories in Schedule 1 of the Planning (Hazardous Substances) Regulations 2015. In response, the Applicant noted its position throughout the examination: that it is not known at this stage (i.e. prior to detailed design taking place) whether hazardous substances consent is required for the BESS element of the Proposed Development and in any event, if hazardous substances consent is required, then there is no necessity for it to be obtained alongside the application for development consent. The Applicant notes that the Secretary of State should be satisfied that the relevant legislative provisions would operate properly at the relevant time. The Applicant further notes that it is of the view that it will only be able to determine whether hazardous substances consent will be required once it undertakes detailed design which will not occur until post-consent. The Applicant further notes that the details of the BESS design will be subject to approval of the relevant planning authorities pursuant to the requirements of the draft Order (specifically Requirements 6 and 7). If the Applicant determines that hazardous substances consent is required at that stage it will make an application in the normal way. The Applicant notes that the HSE were consulted on the application and participated in the examination. The Applicant notes that HSE's response dated 1 March 2023 whilst concerning the application of Health and Safety law generally, appears to concur with the Applicant's position that the necessity for hazardous substances consent will not be known until detailed design stage. The Applicant notes that the Secretary of State recently granted development consent for the Longfield Solar Farm Order 2023, which included provision for BESS, and no hazardous substances consent was sought either through the Order or in parallel with it. The Applicant notes that this is the same position that was taken for the Cleve Hill Solar Park Order 2020 and that its approach is therefore consistent with these applications.
- 4.58. On 14 August 2023, the Secretary of State invited IPs to comment on the responses received to the letter of 27 July 2023. In response, IPs expressed their concerns around the safety of the BESS; its proximity to the nearby schools and residencies; the fact that the Applicant had not submitted final design plans for the layout of the BESS; glint and glare; the economic risk posed to the horseracing industry; the potential risk for unplanned emissions being swept over the towns in the event of a disaster and the lack of safety risks being appropriately assessed. Most of the responses were similar to the RR's received. The Secretary of State has reviewed the responses that were sent in response to the request for information, and whilst noting the concerns, is still satisfied with the assessments conducted by the Applicant. The Secretary of State notes that the BFSMP now includes all the necessary items at this stage and will continue to be updated throughout the project lifecycle [ER 4.7.149].

4.59. The Secretary of State, having considered the concerns raised by IPs and the ExA's conclusions, alongside the HSE's submissions and the information submitted by the Applicant, agrees that there is no requirement to obtain Hazardous Substance Consent in advance of receiving development consent. The Applicant is not requesting that the Secretary of State himself make a decision to deem hazardous substances consent within the DCO. The Secretary of State has been given no reason to believe that Hazardous Substances consent will not be granted by the HSE at the relevant time. With regards to air quality regarding the BESS, the Secretary of State is satisfied that adequate mitigation has been secured for the air quality impacts identified and is persuaded that detailed consequence modelling undertaken post consent would ensure that unplanned emission levels would not be exceeded and that there should be no adverse impacts outside the site boundary. The Secretary of State, noting the ExA's conclusions at paragraphs 4.7.152 and 6.2.8 of its Report, is satisfied that the BFSMP secured in Requirement 7 of the Order provides a satisfactory mechanism capable of addressing and adequately mitigating all adverse impacts at the detailed design stage. The Secretary of State therefore ascribes this matter neutral weight in the planning balance.

Cumulative impacts and residual effects

4.60. The ExA concludes that cumulative impacts have been satisfactorily addressed and that there are no significant cumulative residual effects, so ascribes cumulative impacts and residual effects slight negative weight against the Order being made [ER 4.7.150, 6.2.9].

4.61. The Secretary of State notes the ExA's conclusion that cumulative impacts have been satisfactorily addressed and that there are no significant cumulative residual effects. The Secretary of State therefore disagrees that this is a matter that should be accorded negative weight and ascribes this matter neutral weight in the planning balance.

The Secretary of State's Conclusions

4.62. Upon review of the assessments, consultations and subsequent outstanding issues addressed by the Applicant, the Secretary of State is satisfied that the Applicant has adequately mitigated against any significant air quality and human health impacts as far as reasonably possible in the construction phase of the development. Noting the conclusions the Secretary of State has set out above in respect of air quality and human health (see paragraph 4.30), glint and glare (see paragraph 4.47), major accidents and disasters and consideration of the BESS (see paragraph 4.59), and cumulative impacts and residual effects (see paragraph 4.61), the Secretary of State ascribes the matter of human health and air quality neutral weight in the planning balance.

Ecology and Biodiversity

4.63. The ExA notes legislation and policy relevant to the consideration of ecology and biodiversity, including NPS EN-1 [ER 4.8.2 et seq.], dNPS EN-3 [ER 4.8.7], the National Planning Policy Framework ("NPPF") [ER 4.8.11], and relevant local policies [ER 4.8.12 et seq.].

4.64. The ExA identified the key issues relating to ecology and biodiversity as the adequacy of the Applicant's assessments, the impacts on designated sites, the effects on stone curlew, on other birds, on arable and other flora, on mammals, fish, reptiles, amphibians, and invertebrates, and the adequacy of mitigation measures in general and biodiversity net gain ("BNG") [ER 4.8.55].

- 4.65. The ExA notes that IPs disagreed as to the adequacy and appropriateness of the Applicant's survey work, and the ExA considers that some elements of the Applicant's field survey work were lacking or missing [ER 4.8.90]. The ExA considers that information submitted during Examination contained gaps relating to farmland birds and arable flora which affected the understanding of impacts on some species and, subsequently, ecological mitigation and compensation [ER 4.8.90]. The ExA notes that, for stone curlew, there was a lack of agreement on the interpretation of the data regarding the number of breeding pairs on the site [ER 4.8.90]. The ExA therefore considers that the Applicant has not fully satisfied the requirement in dNPS EN-3 to undertake ecological assessments that identified any ecological risk from developing on the proposed site [ER 4.8.90], and this weighs slightly against the Order being made [ER 4.8.105, ER 6.2.10].
- 4.66. Conversely, the ExA considers that the Applicant's methodology for the assessment of potential impacts and effects on designated nature conservation sites and ecological receptors was reasonable, and apart from issues relating to stone curlew, the limitations in the survey methodology did not give cause to doubt their conclusions [ER 4.8.91]. The ExA is satisfied that there will be no significant effects on any nationally and locally designated nature conservation sites because of the Proposed Development and that the Construction Environmental Management Plan ("CEMP") will provide adequate safeguards [ER 4.8.92 et seq., ER 6.2.10]. The ExA considers this is neutral in terms of the Order being made [ER 4.8.105].
- 4.67. The ExA notes the prominence of discussion regarding stone curlew amongst IPs during Examination; it notes that NE were satisfied that the Applicant's proposals included adequate mitigation, but that Say No To Sunnica ("SNTS") and the HA believed the Applicant had not followed the mitigation hierarchy [ER 4.8.95]. The ExA considers that, although the Applicant has provided offsetting land for stone curlew as mitigation for placing solar panels in fields containing known previous nesting sites, there is no guarantee that stone curlew will use it and the ExA therefore considers that there could be an impact on breeding [ER 4.8.96]. The ExA notes that the stone curlew population around the Proposed Development site is small and any reduction in numbers would equate to a significant impact [ER 4.8.96]. The ExA therefore considers that the Applicant has not satisfied the tests in NPS EN-1 regarding avoiding harm to biodiversity and considering reasonable alternatives, and so finds some merit in the HA's proposal that land parcels E05, E12 and E13 should be removed from the Proposed Development [ER 4.8.96]. The ExA notes that there are sufficient measures to prevent disturbance during construction and operation, but the ExA considers that the provision of replacement habitat for foraging and breeding is inadequate or unsuitable due to potential management issues [ER 4.8.97]. These issues include the conflicting requirements of parcels of land providing mitigation for both archaeological and stone curlew purposes, as well as managing the grasslands' height and density [ER 4.8.97]. Overall, the ExA concludes that the Proposed Development could cause significant harm to the stone curlew population within and adjacent to the site, that adequate consideration of reasonable alternatives has not been demonstrated and that the mitigation does not provide sufficient protection against harm as required by NPS EN-1 [ER 4.8.98]. The ExA considers that this weighs slightly against the Order being made [ER 4.8.98, ER 4.8.105, ER 6.2.10].
- 4.68. The ExA noted concerns throughout Examination regarding farmland birds and other breeding birds of important conservation status [ER 4.8.99]. The ExA considers that the size of the Proposed Development, and the solar arrays it contains, have the potential to cause adverse effects on some bird species [ER 4.8.99]. The ExA notes evidence indicating that skylark, in particular are displaced by solar developments [ER 4.8.99, REP2-240e]. The ExA considers this weighs slightly against the Order being made [ER 4.8.99, ER 4.8.105, ER 6.2.10].

- 4.69. Regarding arable flora, the ExA is content that the mitigation measures set out by the Applicant in the Environmental Masterplans and the Outline Landscape and Ecology Management Plan (“OLEMP”), including oversight by the proposed Ecology Advisory Group (“EAG”), will be adequate against adverse effects [ER 4.8.100].
- 4.70. The ExA is satisfied that there will be no significant adverse effects on other habitats and species as a result of the Proposed Development. The ExA attaches little weight to the remaining concerns of IPs in relation to mitigation for watercourses, acid grassland, and invertebrates [ER 4.8.101]. The ExA considers this is neutral in terms of the Order being made [ER 4.8.105, ER 6.2.10].
- 4.71. The ExA notes that there were concerns over whether there would be enough conservation seed mixes available and if the seeds would be able to provide grassland underneath and around the solar arrays, as a major element of the proposed ecological mitigation [ER 4.8.102]. The ExA notes similar concerns regarding the management of the grassland, were it to be established, by either grazing or mowing [ER 4.8.102]. However, although the ExA considers these issues can be resolved in the CEMP and through the EAG, so carry little weight, the ExA does consider these matters concerning due to the scale of the Proposed Development and the areas to be seeded and managed [ER 4.8.102]. Separately, the ExA considers that concerns about sufficient resourcing for the Ecological Clerk of Works and the EAG to carry out monitoring carry little weight [ER 4.8.103]. Regarding BNG, the ExA notes concerns about the Applicant’s methodology but that, because BNG is not yet a statutory requirement for NSIPs, this weighs neither for or against the Proposed Development [ER 4.8.104].
- 4.72. Having examined the Proposed Development’s potential impact on ecology and biodiversity, the ExA concludes that the Proposed Development would be likely to conflict with policies, as set out in the LIR [ER 9.1.5] and have a negative effect, and that this weighs against the Order being made in the planning balance [ER 4.8.106, ER 6.2.11].

The Secretary of State’s conclusions

- 4.73. The Secretary of State has considered the recommendations of the ExA, the advice of NE as the statutory nature conservation body (“SNCB”), the views of all other IPs, and the Applicant’s case. Generally, the Secretary of State disagrees with the ExA’s conclusions in relation to ecology and biodiversity issues. This is discussed in the below paragraphs, in Section 5 of this Decision Letter, and in the HRA. However, the Secretary of State does agree with the ExA’s conclusions and weighting in the planning balance regarding i) the Applicant’s safeguarding of designated nature conservation sites and ecological receptors of national and local importance, ii) arable flora, and iii) other habitats and species not discussed below, which the Secretary of State agrees with the ExA in considering that they will not be subject to any significant adverse effects and that this carries neutral weighting in the planning balance.
- 4.74. The Secretary of State notes that IPs including the HA questioned the comprehensiveness of the Applicant’s field survey work throughout, and at the end of the Examination [RR-0998, RR-1142, RR-1178, RR-1340, RR-1351, REP1-024, REP2-248, REP8-029, REP8-040, ER 4.8.50 et seq.]. However, by the close of Examination, the Secretary of State also notes that NE reached agreement with the Applicant in all respects in their final Statement of Common Ground (“SoCG”) [REP8-031]. Table 2 of the SoCG states that the Applicant “has identified and appropriately considered all applicable legislation and national policy”, reflected “current best practice and standards”, applied “appropriate and robust” professional judgement, and adopted “reasonable and appropriate” assumptions for assessments in relation to several environmental matters, including ecology and nature conservation [REP8-031]. Table 2 of

the SoCG further considers that the baseline conditions established by the scope, coverage and timing of surveys “are in line with best practice and appropriate to inform the assessment” within Chapter 8 of the Environmental Statement, Ecology and nature conservation [REP8-031, APP-040]. NE agrees that the Applicant’s approaches and methodology have identified the likely significant effects of the Proposed Development, as at the Assessment findings rows of Table 2 [REP8-031]. Noting NE’s position and consideration of issues regarding stone curlew in the paragraphs below, the Secretary of State disagrees with the ExA and considers that the Applicant has satisfied all policy requirements in its approach and methodologies, has dealt with this matter appropriately, and so accords with dNPS EN-3. The Secretary of State considers that there is nothing in the Applicant’s approach and methodology that should weigh against the Order being made.

- 4.75. The Secretary of State notes that the responses of the Applicant to IPs on some aspects of disagreement regarding stone curlew mitigation are not reported by the ExA in its Report [ER 4.8.95 et seq.], making it unclear as to whether the ExA has taken account of all important and relevant information in coming to its conclusions. The Secretary of State makes it clear that he has carefully considered the views and representations of all IPs, including the Applicant, in coming to his conclusions. The Secretary of State has requested and had sight of the unredacted versions of the OLEMP including Annex F [REP10-012] and ES 6.6 Offsetting Habitat Provision for Stone-Curlew Specification’ document [REP5-046, REP5-047].
- 4.76. The ExA considers the Applicant has not satisfied the tests in NPS EN-1 regarding avoiding harm to biodiversity and considering reasonable alternatives, and so finds some merit removing parcels E05, E12 and E13 from the Proposed Development [ER 4.8.96]. The Secretary of State considers that the Applicant’s approach to alternatives is reasonable and adequate because the Proposed Development has been designed so that impacts upon important habitats are avoided or reduced, where reasonably practicable, and compensated for where not, through the retention of existing habitat and the creation of replacement habitat [APP-040, ER 4.8.30]. The Secretary of State considers that the Applicant has had due regard to alternatives in ensuring the selected site for the Proposed Development meets the above criteria by considering and then deselecting 7 potential development areas which could have met the Applicant’s criteria in delivering the same scale and capacity of the Proposed Development, but would have had more adverse and significant impacts on ecology and biodiversity, amongst other issues [APP-054]. The Secretary of State therefore considers that the Applicant has accounted for selecting a site which accords with both NPS EN-1 and the NPPF regarding mitigating and compensating for any harm to ecology and biodiversity that cannot be avoided, whilst also ensuring the viability of the Proposed Development [APP-036, APP-054]. The Secretary of State considers the Applicant has also therefore adhered to the mitigation hierarchy in regard to the composition of the Proposed Development plots and stone curlew.
- 4.77. Further reasoning for the Secretary of State’s conclusions on stone curlew mitigation are presented in the HRA, which should be read alongside the conclusions presented here where relevant. The Secretary of State notes the conclusion of Natural England with respect to the impact on Stone Curlews (set out more fully in the HRA) and disagrees with the recommendation of the ExA, for the reasons summarised hereafter. Regarding the ExA’s conclusion that “although mitigation measures including the provision of offsetting land have been proposed by the Applicant, there is no guarantee that the stone curlew will use it and therefore there is no certainty that it will be successful or that there will not be an impact on breeding” [ER 4.8.96], the Secretary of State considers that it is not appropriate or reasonable to judge the measures against a ‘guarantee’ of use of the plots by curlew, given the inter-annual variability in stone curlew breeding site locations (as identified by the

Applicant), noting that the same argument could be made generally of ornithological offsetting provisions. The Secretary of State considers it more appropriate to consider the likelihood of success of the measure, and in doing so he finds that the proposed measures are likely to be successful and sufficient to mitigate any potential effects on stone curlew.

- 4.78. The Secretary of State notes that bare-ground curlew nesting plots generally are well-defined in terms of preferred locations, establishment and maintenance methods, and are a relatively well practiced measure especially around the Breckland SPA [ES Chapter 8 Ecology and Nature Conservation APP-040 para 8.8.18]. The Secretary of State also notes that the Applicant has engaged with NE and the RSPB in developing the outline plan for stone curlew mitigation [REP6-070, REP8-031, ER 4.8.61], and is confident that the nesting plots have a reasonable chance of adequately mitigating impacts to stone curlew. The Secretary of State notes that the Applicant adapted the stone curlew mitigation and offsetting plan throughout Examination in response to comments of IPs. For example, the HA's in their Joint Local Impact Report ("LIR") [REP1-024] stated that based on the current survey effort and taking a precautionary approach, a minimum of at least ten 2 ha stone curlew plots should be provided as opposed to a maximum of ten 2 ha plots as initially suggested by the Applicant. The Applicant responded [REP7-057] and updated the OLEMP [REP10-012] to commit to the creation of at least ten 2 ha plots. The Secretary of State is confident that the plans can be progressed and finalised post consent, with the final plan to be agreed by the relevant HAs in consultation with NE. The Secretary of State is satisfied with the provision for monitoring and management of the mitigation during operation of the Proposed Development, including the role of the EAG.
- 4.79. The Secretary of State notes the concern of the ExA and IPs, including WSC regarding the lack of a contingency plan to address any potential lack of effectiveness of the proposed stone curlew mitigation, and the potentiality of an alternative contingency arrangement being made [REP7-088, ER 4.8.63]. The Secretary of State considers that compliance with the objective of 50% of the plots being used by breeding pairs for 5 year iterations of the Proposed Development's lifecycle is adequately secured as a function of the EAG in section 6.2.13 of the OLEMP: "if the commitments and outcomes in this OLEMP are not being met, agree reasonable actions that the Applicant must implement in an agreed period of time (which may, but are not required to, include updating and amending the detailed LEMPs), in order to meet the relevant commitments and outcomes" [REP10-012]. The Secretary of State also notes that NE is satisfied with the requirements for delivering the proposed mitigation throughout the lifetime of the Proposed Development, and of the requirements in the Framework Operation Environmental Management Plan [REP7-036, REP8-057]. The Secretary of State considers that the arrangements for ongoing management of the stone curlew mitigation, including the role of the EAG in determining appropriate remedial actions, is adequately secured. The Secretary of State therefore agrees with the Applicant in accordance with the advice of NE, that an alternative contingency arrangement is not necessary in this instance [REP8-057].
- 4.80. The Secretary of State notes the ExA's conclusion that the proposed mitigation habitat for stone curlew for foraging and breeding purposes is inadequate or unsuitable due to potential management issues [ER 4.8.97]. The Secretary of State also notes that these are concerns of the HA, SNTS and Suffolk Wildlife Trust ("SWT") [REP2-079, REP4-131, REP6-057 and REP8-050] and he has carefully considered them, along with the submissions and responses of the Applicant [APP-258, REP3-019, REP5-046, REP5-056, REP7-057, REP8-023 and REP10-031].
- 4.81. WSC had concerns regarding recreational disturbance of the offsetting plots, that other introduced factors might affect the efficacy of the offsetting land at ECO3 such as the

introduction of a permissive footpath route, the recreational attraction of open grassland, potential impact of strategic development at West Suffolk site allocation SA4 within 1.5 km of ECO3, and habitat establishment and management of translocated turf from E13. The Applicant responded [REP8-023] that there is no evidence to suggest that stone curlew will avoid solar panels, and with specific reference to the Project site, stone curlew are nesting successfully in close proximity to residential areas (Worlington and Freckenham), roads (B1102 and B1104), PRoW (U6006), woodland belts, tree lines and mature hedgerows. In addition, stone curlew are subject to the regular presence of farm machinery and personnel, events which will cease or be greatly reduced during operation of the Project. The Applicant considers [REP5-057] that a number of measures have been implemented to reduce disturbance to stone curlew by members of the public. The creation of a circular access route around E05 will provide a focus for recreational users and along with appropriate signage will raise awareness of sensitive ecological receptors, as detailed in the oLEMP [REP10-012]. In addition, permanent anti-predator fencing will be erected around ECO1, ECO2 and ECO3 which will be electrified during the nesting season to prevent access to stone curlew areas when birds are present. This is set out in the updated oLEMP. The Applicant also responded [REP8-023] that, as set out in sections 4.1.31-4.1.35 of Appendix F Offsetting Habitat Provision for Stone-curlew Specification of the oLEMP and shown on the Environmental Masterplans, the permissive path south of Worlington is over 200 m away from the core stone curlew offsetting area in ECO3 and is screened by existing tree line and hedgerow. In addition, permanent fencing around ECO1, ECO2 and (part of) ECO3, will prevent intrusion to and recreational use of these areas. The Applicant has no reason to believe that there will be any potential impact to stone curlew offsetting areas within the Order limits from the strategic development at West Suffolk site allocation SA4, 1.5 km to the east of the Project. The Secretary of State considers that the Applicant has demonstrated there will be adequate screening of stone curlew offsetting plots and that the proximity of public recreational access is unlikely to affect the efficacy of the mitigation [REP5-057, REP8-023].

- 4.82. The Secretary of State notes that, in Table 2 of the Applicant's SoCG with NE, the parties agree that "there are no conflicts between the management of the Stone Curlew habitat, in particular the Stone Curlew plots, and the archaeological areas" [REP10-027]. The Secretary of State also considers that the Applicant has demonstrated the reasoning for, and likelihood of success regarding, the site-specific requirements for mitigation plot ECO1, including accounting for the plot's sensitive archaeology [REP5-046, EP7-016, REP10-012, Letter to DESNZ dated 30 August 2023]. The Secretary of State notes that the HAs did not have any concerns regarding the Applicant's provisions in the Outline Historic Environment Management Plan [REP8-023, REP10-012, Letter to DESNZ dated 30 August 2023]. The Secretary of State considers that the Applicant has demonstrated the effective management of plots in respect of both archaeological and ecological purposes. Nevertheless, he notes that the plans are subject to further development post-consent and that the mechanism provided by the relevant Local Authorities approving the LEMP and CEMP in consultation with the SNCB, gives the Local Authorities an opportunity to resolve any remaining concerns they may have regarding the conflict between the offsetting plots and archaeology.
- 4.83. The ExA agrees with the concerns of IPs that optimal grassland management of the site will not be delivered, in part due to proposed mowing within the first 5 years [REP2-240e, REP3A-063, REP8-050, REP8-040, ER 4.8.87, ER 4.8.97]. The Applicant responded that, to establish the grassland on areas of current arable farmland, there will need to be an element of mowing in the initial years to manage the sward before sheep grazing can be implemented [REP7-057, REP10-031]. The Secretary of State notes this has been included in the OLEMP and provides the required foraging conditions and assemblages and abundance of invertebrate prey for stone curlew [REP10-012]. Regarding WSC's concern

that stone curlew offsetting at ECO1 and ECO2 will not provide grass heath, which is the habitat used by stone curlew in the Brecks, the Applicant responded [REP8-023] that it is important to note that stone curlew occurring within the Order limits are not using grass heath habitats currently, but rather arable farmland. The key requirement is that the grassland is maintained at a particular height, i.e., approximately 5 cm, as set out in the oLEMP. This provides the required foraging conditions and assemblages and abundance of invertebrate prey. The type of grassland is not the critical factor. The Secretary of State also notes NE's advice [REP6-070] that it is satisfied with the proposed methods for creating and managing the offsetting habitat. NE did advise that any mowing conducted during the growing season must be preceded by surveys for stone curlew and should not be carried out if there are nesting stone curlew within the area to be mown, and that this point should be made clear in the relevant environmental management plan. This point was also made by the Local Authorities in their comments on the oLEMP. The Applicant responded [REP7-056] [REP10-031] and included the requirement for stone curlew and other ground nesting bird surveys by an ecologist prior to any mowing being undertaken in the updated oLEMP [REP10-012] and the Framework OEMP [REP10-016]. If an active nest is found, the nest should be monitored and mowing delayed until the chicks have fledged. The Secretary of State considers the Applicant has adequately addressed the concerns of IPs and the ExA regarding the provision of replacement stone curlew habitat for foraging and breeding purposes, and any potential management issues.

- 4.84. In considering the concerns of IPs in response to the consultation letter of 14 December regarding the impact on stone curlew that may be functionally linked to the Breckland SPA, the Secretary of State agrees with the response of Suffolk Wildlife Trust¹, that the same rigorous approach to assessing, avoiding, mitigating, and compensating for likely impacts of the Proposed Development on stone-curlew must apply regardless of the potential functional linkage between stone-curlews nesting within the Proposed Development area and the Breckland SPA. The Secretary of State acknowledges the importance of the Proposed Development site for stone curlew in regularly holding over 1% of the UK population, and he considers that the Applicant has applied a rigorous approach to assessing impacts on stone curlew in EIA terms, and avoiding, mitigating and compensating for the identified harm. The Secretary of States HRA is published alongside this letter.
- 4.85. While the Secretary of State does not attach any weight to this, he also notes that the Applicant, SCC and CCC signed a Deed of Obligation on 28 March 2023 regarding a financial contribution to the Royal Society for the Protection of Birds ("RPSB") to be used for stone curlew research [REP11-011, ER 4.8.66, Letter to DESNZ dated 10 August 2023]. The Secretary of State notes that this will be used to help monitor the Breckland stone curlew and undertake research projects to be approved by the EAG and NE [ER 4.8.66].
- 4.86. Overall, the Secretary of State considers that the Applicant has complied with the mitigation hierarchy in its consideration of alternatives and eventual site selection, and has sought to avoid harm to stone curlew before its consideration of mitigation. Subsequently, and noting the further development of the LEMP, CEMP and EAG post-consent, the Secretary of State is satisfied that the stone curlew offsetting provisions are appropriate to adequately mitigate impacts to stone curlew for the lifetime of the Proposed Development. The Secretary of State sees no reasonable evidence or compelling reason to disagree with the advice of NE, as the SNCB, provided on the Applicant's assessments into stone curlew. The Secretary of State disagrees with the ExA's conclusions in relation to the tests in NPS EN-1 regarding avoiding

¹ <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010106/EN010106-005935-Suffolk%20Wildlife%20Trust%20-%202024%20Jan%202024.pdf>

harm to biodiversity and considering reasonable alternatives and the merit in removing parcels E05, E12 and E13 from the Proposed Development. The Secretary of State attributes the impact of the Proposed Development on stone curlew neutral weight in the planning balance.

- 4.87. The Secretary of State notes the submission by SNTS regarding the effect of solar arrays on skylark and its views on the impact of the Proposed Development on farmland birds generally [REP2-240e, ER 4.8.69]. The Secretary of State notes these views are supported by other IPs including HAs, but agrees with the Applicant that it has robustly defended its approach throughout the Examination [REP10-032]. The Secretary of State considers that the Applicant's approach to surveys of wintering and breeding birds do not raise any concerns as to their methodology or their accuracy [APP-040, APP-084, APP-085], having noted that NE considers the Applicant to have adopted reasonable and appropriate assumptions in its assessments and that the assessment is robust with the limitations taken into account [REP10-027].
- 4.88. The Secretary of State considers that there is no reason to lose confidence in the conclusions reached by the Applicant on the importance of each population of farmland bird within and around the site of the Proposed Development [APP-084 section 6, APP-085 section 6]. Furthermore, the Secretary of State considers that the Applicant clearly highlights the temporary and controlled loss of existing grassland for breeding birds but that "significant areas of grassland habitats, along with boundary features (hedgerows, trees and woodland), will be retained and protected during construction with their quality improved (through positive management)", eventually leading to a net gain in habitats [APP-04 para 08.10.29]. The Secretary of State considers that the Applicant has addressed the concerns of HAs and the ExA [REP1-024, ER 4.8.68]. Regarding the effect of solar arrays on skylarks, the Secretary of State considers that the Applicant is not in disagreement that this species of arable farmland bird (assessed as of district importance) could be displaced; but that the net gain in habitats will be sufficient to accommodate the displaced populations [APP-084 section 6, REP2-240e, REP10-020, ER 4.8.69].
- 4.89. The Secretary of State also notes that NE is content that mitigation has been proposed for other bird species as well as stone curlew, including little ringed plover [REP10-027] and that the Applicant has fulfilled the request of NE to assess the impacts on farmland bird in its Ecological Impact Assessment ("EclA") [APP-040 Table 8-3] and mitigate the resulting effects. NE considered that no significant effect has been found.
- 4.90. The Secretary of State agrees with the Applicant and NE that the Applicant's assessments of the effects of the Proposed Development on farmland birds were correct and that no re-assessment was necessary [REP10-032, ER 4.8.70]. The Secretary of State agrees with the Applicant's conclusion that the effect on farmland birds is temporary minor adverse during construction (APP-040) but that there are no residual effects during construction, operation or decommissioning (APP-050). The Secretary of State ascribes the temporary minor adverse impact on farmland birds during construction minor negative weight in the planning balance.
- 4.91. The Secretary of State agrees with the ExA that concerns over grassland re-establishment and management can be resolved through the CEMP and EAG [ER 4.8.102 et seq.] and ascribes this matter neutral weight in the planning balance.
- 4.92. Regarding BNG, the Secretary of State notes that the Applicant's calculation was not agreed with by the HAs, SWT or SNTS [ER 4.8.89]. However, the Secretary of State considers it important to note that the figures the ExA highlights at ER 4.8.32 reflect the Applicant's original assessment [APP-259] and that, taking into account the comments of NE and other

IPs during Examination, the Applicant updated this document to show that the Proposed Development would achieve a BNG of 37% habitat units, 28% hedgerow units and 11% river units [REP10-020, REP10-027]. The Secretary of State further notes that the ExA did not report the advice of NE in coming to its recommendation; that NE agrees with the Applicant's BNG calculations and assessment [REP10-027]. The Secretary of State considers that the Applicant's final BNG assessment [REP10-020] is adequate. The Secretary of State disagrees with the ExA's recommendation and considers that, because BNG is not yet a statutory requirement for NSIP developments, the voluntary commitment of the Applicant to the Proposed Development achieving BNG over 10% weighs positively in favour of it. The Secretary of State ascribes the matter of BNG moderate positive weight in the planning balance.

- 4.93. Having properly considered all relevant information provided, the Secretary of State agrees with the advice of NE that there are no "no fundamental ecological reasons why the development should not proceed" [RR-1291, ER 4.8.36]. The Secretary of State sees no reason to lose confidence in the Applicant's assessments or NE's agreement with them and agrees that there will be no significant residual effects to biodiversity during all temporal phases of the Proposed Development [APP-050, REP10-032].
- 4.94. The Secretary of State attributes minor negative weight to the impacts on farmland birds, moderate positive weight to the matter of BNG and neutral weight to all other ecology and biodiversity matters. Considering these conclusions as well as the Secretary of State's conclusions in the HRA, the Secretary of State ascribes impacts on ecology and biodiversity neutral weighting in the overall planning balance.

Cultural Heritage and Historic Environment

- 4.95. The ExA notes legislation and policy relevant to the consideration of cultural heritage and the historic environment, including The Infrastructure Planning (Decisions) Regulations 2010 [ER 4.9.2], NPS EN-1 [ER 4.9.3 et seq.], dNPS EN-1 [ER 4.9.11], dNPS EN-3 [ER 4.9.16 et seq.], the National Planning Policy Framework ("NPPF") [ER 4.9.21], and relevant local policies [ER 4.ER 4.9.22 et seq.].
- 4.96. The ExA identified the key issues relating to cultural heritage and the historic environment arising during Examination as the adequacy of the Applicant's heritage assessments, archaeology, Chippenham Park Registered Park and Garden ("RPG"), the Isleham B-50 bomber plane crash site ("the Isleham site"), and the impacts on other designated and non-designated and cultural assets [ER 4.9.44 et seq., ER 4.9.60].
- 4.97. During the Examination, and in the SoCG with the HAs, there was general agreement with the assessment methodology used by the Applicant [ER 4.9.61]. The ExA notes that omissions in the initial assessments and deficiencies in the information submitted by the Applicant were largely, but not entirely, covered by the submission of additional information by the Applicant and IPs [ER 4.9.72]. The ExA notes that opinion differed as to the degree of potential harm to assets and so has reached its own conclusions based on all material presented to it, as well as site inspections [ER 4.9.61, ER 4.9.72].
- 4.98. The ExA considered the various submissions in respect of the potential effects of the Proposed Development on archaeology and considered that whilst these may amount to some harm, they would have only slight negative weight in terms of the DCO being made due to the Applicant's proposed mitigation [ER 4.9.75, ER 4.9.82, ER 6.2.12].
- 4.99. The ExA attributes much of Chippenham Park RPG's heritage interest to the estate's setting in the wider agricultural landscape and so it does not agree with the Applicant's assessment

of the Avenue extending south from the estate as “contributing little to the overall significance of the designated asset” [REP5-060, ER 4.9.76]. The ExA considers that the Proposed Development’s impacts to Chippenham Park RPG’s setting, as defined in the NPPF, have not been accurately estimated by the Applicant, with the effects being extensive in replacing views of productive agricultural land with those of quasi-industrial infrastructure [ER 4.9.77]. In this instance, the ExA considers that mitigation will further affect the setting of Chippenham Park RPG, as “the planting will in itself change the landscape” and reduce the visual links between the estate and the wider setting, whilst blurring the distinguishability of features like the Avenue [ER 4.9.78]. The ExA considers that the effects in terms of alterations to the landscape in which Chippenham Park RPG exists, both due to the scale and proximity of the Proposed Development, and because of mitigation planting, will lead to harm that is at the high end of less than substantial [ER 4.9.79]. The ExA considers that this weighs substantially against the Proposed Development [ER 4.9.79, ER 4.9.82, ER 6.2.12].

- 4.100. The ExA considered it evident from written and oral submission that the Isleham site is important and has the status of a non-designated cultural asset [ER 4.9.80]. The ExA is not convinced that any size of exclusion area proposed by the Applicant to be placed within land parcel E05 is appropriate due to the possibility of remains being in situ [ER 4.9.80]. The ExA considers that the change in character in E05 “from an expansive, agricultural field to a semi-industrial, enclosed landscape would result in a marked change in landscape character which is part of the appreciation of the heritage site” [ER 4.9.80]. The ExA notes other concerns with parcel E05 regarding landscape and visual amenity, as well as biodiversity, so, in combination, believes that development in this parcel would be inappropriate and that this weighs substantially against the Proposed Development [ER 4.9.80, ER 4.9.82, ER 6.2.12].
- 4.101. The ExA considers that the Proposed Development’s effects on other designated and non-designated historic and cultural assets are of a lower magnitude but, due to the scale of the Proposed Development, they cannot be sensitively and adequately mitigated [ER 4.9.81]. The ExA considers this weighs slightly against the Proposed Development [ER 4.9.81 et seq.].
- 4.102. Overall, the ExA considers its conclusions on Chippenham Park and the Isleham site are such that the Proposed Development would have negative impacts on cultural heritage and the historic environment, and that this weighs substantially against the Order being made [ER 4.9.83].

The Secretary of State’s conclusions

- 4.103. The Secretary of State has considered the recommendations of the ExA, the advice of Historic England (“HE”) as the statutory heritage conservation body, the views of all other IPs, and the Applicant’s case. On certain matters, the Secretary of State disagrees with the ExA’s conclusions. This is discussed below; however, the Secretary of State agrees with the ExA’s conclusions and weighting in the planning balance regarding the Applicant’s assessments and regarding the Proposed Development’s effects on other designated and non-designated historic and cultural assets, including on the Limekilns Gallops. The Secretary of State notes that there was disagreement between the Applicant and SNTS regarding whether the Limekilns is a heritage asset in its own right and how the Proposed Development would subsequently affect the gallops were it to be considered so [REP8-040, ER 4.2.3, ER 4.9.57, ER 4.9.71]. The Secretary of State considers the Proposed Development’s effects on the operational use of the Limekilns, separately within the context of the horse racing industry at paragraph 4.1.73. In relation to the matter of cultural heritage and the historic environment, the Secretary of State considers Limekilns to be a non-designated heritage asset, in agreement with the ExA [ER 4.9.57]. As the ExA does, the

Secretary of State ascribes the Proposed Development's effects on other designated and non-designated heritage and cultural assets, including the Limekilns, slight negative weight in the planning balance due to the change in setting, considered not significant, caused by the Proposed Development's proximity to these assets [ER 4.9.81].

- 4.104. The Secretary of State agrees with the ExA's conclusion that the removal of Sunnica West Site B has resolved conflict with archaeology assets such as Snailwell Roman Villa SM [ER 4.9.62] and that impacts due to the remaining proposed cable route in that area will be adequately mitigated [ER 4.9.73]. However, considering the submissions of HE [REP2-143, REP11-007, HE Response to request for information dated 30 August 2023], the Secretary of State has given further consideration to the Proposed Development's impacts on the Chippenham Barrow Group Bronze Age bowl barrows between land parcels W07 and W09 (NHLE 1015246 – "bowl barrows SM").
- 4.105. During Examination, the Secretary of State notes that HE welcomed the bowl barrows SM being included in an ecological mitigation area free from agricultural cultivation [ER 4.9.50, REP11-007] but that there would nonetheless be harm to the significance of the SM due to the Proposed Development, and of a greater level than the Applicant estimated [ER 4.9.50]. The Secretary of State noted that, by the close of Examination, agreement had been reached between the Applicant and HE on all matters other than how the outline Historic Environment Management Plan ("OHEMP" part of the outline Landscape and Ecology Management Plan ("OLEMP")) [REP10-012] would provide a coherent approach to the management of the bowl barrows SM [REP11-007]. The Secretary of State requested an update on the status of agreement regarding the bowl barrows SM from both the Applicant and HE on 23 August 2023.
- 4.106. HE maintained their concerns had still not been addressed with the OHEMP received at the close of Examination [HE Response to request for information dated 30 August 2023] but that they would be content with reviewing the Applicant's updates post-consent and prior to works commencing in the form of a revised Historic Environmental Management Plan Method Statement ("HEMPMS"). The Applicant originally responded on 30 August 2023 but, on reviewing HE's submission, responded to the Secretary of State again stating that it would be content with HE approving the HEMPMS post-consent [Applicant's letter to DESNZ dated 13 September 2023]. The Secretary of State is therefore satisfied that the management of the bowl barrows SM will be adequately secured through the HEMPMS post-consent to be approved by the HA and HE, and notes that this also secures the requirement for site specific HEMPMS in areas where stone-curlew offsetting habitat will be provided [Applicant's letter to DESNZ dated 30 August 2023, SCC letter to DESNZ dated 20 August 2023].
- 4.107. The Secretary of State considers that mitigation for the bowl barrows SM is secured but, in agreement with HE and the Applicant [APP-039, REP2-143], considers there will still be harm caused to the setting of the asset by the Proposed Development. The Secretary of State gives considerable importance and weight to the desirability of preserving the bowl barrows SM. The Secretary of State notes that although there is no direct harm to the bowl barrows SM, there is significant harm to its setting [APP-039], thereby causing indirect harm to the significance of the bowl barrows SM asset itself. However, the Secretary of State considers this indirect harm is less than substantial, as well as being both temporary and reversible, and that there is a clear justification for the Proposed Development in the public benefit which clearly outweighs the harm caused to the bowl barrows SM. The Secretary of State therefore considers that the Proposed Development has accorded with NPS EN-1, dNPS EN-1 and the NPPF regarding minimising harm to the bowl barrows SM.
- 4.108. Overall, the Secretary of State agrees with the Applicant and HE that, despite adequate agreed mitigation, there is harm to the setting of the bowl barrows SM which is overlooked

in the ExA's conclusions and weightings [ER 4.9.74 et seq.]. The Secretary of State therefore ascribes this matter moderate negative weight in the planning balance.

- 4.109. The Secretary of State disagrees with some of the ExA's conclusions regarding Chippenham Park RPG. The ExA states that proposed mitigation planting will affect the setting of Chippenham Park RPG and, specifically, blur the legibility of the once-formal Avenue in the immediate and wider landscape [ER 4.9.78]. The Secretary of State notes that the ExA, seemingly contradicting itself, then states that this loss of legibility is possible despite the fact that the formal lines of trees on the Avenue has already been largely lost [ER 4.9.78]. The Secretary of State (noting that air photo analysis could not be conducted due to Covid-19 restrictions [ER 4.9.31]) considers it is clear from the Environment Masterplan [REP10-050, REP10-051] and from Google Earth² that, at points of up to several hundred metres, the Avenue has already largely lost its formal linear features in places, and is illegible and non-existent to the north-west of land parcel W06. The Secretary of State considers this corroborates with the ExA's acknowledgement that the entrance to the park is no longer as far south as it was originally at 4.3km from Chippenham Hall, and that the Avenue has changed over the last three centuries [ER 4.9.76].
- 4.110. The Secretary of State notes the Applicant's commitment to avoid impacts on the existing treeline by micrositing the proposed works around them or by using horizontal directional drilling [ER 4.9.65]. The Secretary of State also notes Chapter 7 of the Applicant's Environmental Statement [APP-039] which confirms that "With specific reference to Chippenham Park, new planting is proposed along the avenue to reinstate a linear row of trees. The purpose of this is to recreate the physical structure of 'an avenue' whilst retaining and reinforcing all other vegetation via positive management, in accordance with ecological requirements".
- 4.111. The Secretary of State therefore considers that the legibility of the Avenue is not currently clear, and, instead, the Secretary of State considers that the Proposed Development's mitigation planting will benefit the legibility of the Avenue, notably between parcels W04 and W05 by filling gaps which have appeared in the treeline [REP10-051]. The Secretary of State considers the Applicant's plans for such planting therefore actually support the ExA's view that "the potential to recreate a more formal aspect remains", rather than conflict with it [ER 4.9.78]. Furthermore, the Secretary of State considers that, although the Applicant's mitigation planting "will in itself change the landscape" [ER 4.9.78], this change could benefit the extensive views of Chippenham Park RPG Avenue's setting specifically over the wider landscape. The Secretary of State does not therefore consider that there is any direct harm to the features of the RPG itself, and that instead there is the potential for some benefits.
- 4.112. However, the Secretary of State does agree with the position of the ExA that the proposed development will cause harm to the setting of Chippenham Park RPG. The Secretary of State agrees with the assessments of the Applicant that screening will help to mitigate some of this harm. Although as set out above, some of this planting may be beneficial, the Secretary of State considers that the proposed mitigation will, in itself, have the potential to cause landscape and visual changes in areas aside from the Avenue, which may cause some minor additional harm to the setting of the RPG. The Secretary of State also notes that the proposed mitigation may not be fully effective until year 15.
- 4.113. Given the proximity of Chippenham Park RPG to the Proposed Development, the Secretary of State considers that, overall, there is harm to its setting and appreciation within that

² Satellite image taken 22 April 2021, <https://earth.google.com/web/>

setting. However, the Secretary of State notes that Historic England stated that “proposed buffer planting would assist in reducing some of the visual impacts” [ER 4.9.49]. Having considered the mitigation plans in their entirety, the Secretary of State finds that those plans are adequate to minimise the harm as far as reasonably possible.

- 4.114. As the ExA acknowledges, the harm to Chippenham Park RPG’s setting is less than substantial. The Proposed Development, as well as the mitigation planting, is also temporary and reversible, so there is no need for the harm to be permanent. In this regard, while the Secretary of State agrees with Historic England that the Proposed Development will last for two generations and therefore will not feel temporary, he disagrees with Historic England that the project will set a precedent for development and therefore leads to permanent harm. The Proposed Development is temporary, and the Secretary of State expects it to be fully decommissioned and the land to be returned to open countryside once development consent expires. Therefore, while the Secretary of State agrees with the ExA that there is less than substantial harm to the setting of the RPG, for the reasons given above, he disagrees with the ExA that this harm is at the high end of less than substantial.
- 4.115. The Secretary of State gives considerable importance and weight to the desirability of preserving Chippenham Park RPG, and he notes that there is no direct harm to the RPG. However the Secretary of State does consider there is less than substantial harm to its setting which in turn will cause an indirect harm to the significance of Chippenham Park RPG, though this is both temporary and reversible. The Secretary of State therefore considers that the Proposed Development accords with NPS EN-1, dNPS EN-1 and the NPPF regarding minimising harm to the RPG.
- 4.116. Overall, the Secretary of State agrees that there is less than substantial harm to the setting and significance of Chippenham Park RPG but disagrees with the ExA as to the weight to be given to that harm. The Secretary of State therefore ascribes this matter moderate negative weight in the planning balance.
- 4.117. The Secretary of State disagrees with the ExA’s conclusions on the Isleham site. Whilst the Secretary of State agrees with the ExA’s views that the Isleham site is important and has the status of a non-designated cultural asset [ER 4.9.80], the Secretary of State also notes that ECDC and CCC did not know of the plane crash site until the submission of the application for the Proposed Development [ER 4.9.68]. The Secretary of State further notes that the “the remains of the aircraft and the bodies of the crew were recovered” [ER 4.9.67]. This leads the Secretary of State to consider that the Applicant’s plans which “included provision for a publicly accessible viewing place and memorial for the crash site” [ER 4.9.67, REP10-050], including a “commemorative plaque” [ER 4.9.80] and seating [REP10-012], give rise to more acknowledgement of the site at the site than previously existed (though the Secretary of State acknowledges other plaques of memorial exist elsewhere in Isleham).
- 4.118. Since the close of Examination, the Secretary of State notes that the Applicant has received a licence from the Ministry of Defence Joint Casualty and Compassionate Centre (“JCCC”) for a 100m radius exclusion zone around the crash site, with no comment from JCCC raising issue of the compatibility of co-existence between the Isleham site and the Proposed Development [Letter to the Secretary of State, 26 June 2023]. The Secretary of State considers that parcel E05 will be transformed from agricultural land to a solar farm, but that the Applicant’s plans, enforced by the JCCC licence, account for this transformation and enhance the site’s recognition within its setting by making the Isleham site “publicly viewable for the first time” [REP10-032, REP10-050]. The Secretary of State notes that, above the solar arrays, artwork will be visible marking the location of the crash site from the memorial plaque [REP10-012]. The Secretary of State also notes that an interpretation scheme of the

Applicant's plans is to be developed and approved by the HAs, following consultation with Isleham Parish Council [REP10-012, REP10-032].

- 4.119. The Secretary of State notes that the ExA's comments that it could not be ascertained that all remains of the crash had been recovered and that magnetic disturbances recorded across the site indicate that they may have not [ER 4.9.68]. However, the Secretary of State has no evidence that significant remains are still in situ. The Secretary of State considers that the proposed 100m exclusion zone around the crash site is a proportionate mitigation and that should other unexpected finds be discovered outside the exclusion zone then these will be dealt with in accordance with the Detailed Archaeological Mitigation Strategy [REP10-052].
- 4.120. The Secretary of State gives no weighting to the ExA including reference to other matters when concluding on the Proposed Development's effects on the Isleham site by stating "*that there are also concerns in relation to wider landscape and visual impact and to effects on biodiversity in relation to parcel E05 and considers that development in this land parcel would be inappropriate and weighs substantially against the Proposed Development*" [ER 4.9.80].; The Secretary of State considers that it is unhelpful to confuse the separate matters of ecology and biodiversity, and wider landscape and visual amenity, with the consideration of matters relating to impacts on specific cultural heritage sites (including impacts to the setting of the site). The Secretary of State considers it is further unhelpful for the ExA to conclude in combination on all these matters regarding parcel E05 overall, as this makes it difficult to differentiate between the conclusions on the Isleham site in relation to cultural heritage and the historic environment, and all other relevant matters. The Secretary of State considers the Proposed Development's effects on relevant matters other than cultural heritage and the historic environment elsewhere in this decision letter. The Secretary of State then considers the separate relevant matters as distinct but in combination with one another in the overall planning balance. In this section, the Secretary of State is therefore considering only the issue of the Proposed Development's effects on the Isleham site in relation to cultural heritage and historic environment, and not other matters. Regarding the Isleham site only, the Secretary of State considers that the Applicant's plans are appropriate and provide some permanent enhancement, but that there is temporary harm to the setting of the non-designated asset for the lifetime of the project (namely, the change in landscape character, although as noted above this change also brings about some benefits). The Secretary of State therefore disagrees with the ExA and concludes that this carries neutral weight in the planning balance.
- 4.121. Overall, the Secretary of State considers that the Applicant has planned as thoroughly as possible to prevent harm to cultural heritage and the historic environment in and around the site of the Proposed Development. In most cases, the Secretary of State considers the Applicant will succeed in this respect, though the general proximity of the Proposed Development to other designated and non-designated heritage assets carries slightly negative weighting in the planning balance. However, overall, the Secretary of State considers his conclusions on the bowl barrows SM and Chippenham Park RPG respectively mean that the Proposed Development would have moderate negative impacts on cultural heritage and the historic environment and that this weighs moderately against the Order being made.

Landscape and visual impact

- 4.122. The ExA notes legislation and policy relevant to the consideration of the landscape and visual impacts, including NPS EN-1, NPS EN-3, dNPS EN-1 and dNPS EN-3, the National Planning Policy Framework 2021 and relevant local plans [ER 4.10.2 et seq.].

- 4.123. The scope and approach to the Landscape and Visual Impact Assessment (“LVIA”) was set out by the Applicant in the EIA Scoping Report [APP-051] and was developed with reference to the following sources of guidance and information: Guidelines for Landscape and Visual Impact Assessment, (Landscape Institute and Institute of Environmental Management and Assessment, 2013) (hereafter referred to as GLVIA 3); Visual representation of development proposals (Landscape Institute, 2017); Landscape Institute Advice Note 01/11: Photography and photomontage in landscape and visual impact assessment; and Landscape Institute Technical Guidance Note “Assessing landscape value outside national designations” (May 2021) [ER 4.10.28].
- 4.124. The Applicant concluded that: construction effects would be visible to some sensitive receptors; whilst some receptors would experience visual effects looking towards Sunnica East and West in year 1, these would be largely filtered by vegetation; and, by Year 15, the Applicant considered summertime vegetation would substantially screen solar panels and associated infrastructure, with Moderate Adverse impact being limited to Viewpoint 38, the Limekilns [ER 4.10.44].
- 4.125. Of the 1360 RRs submitted, approximately one third mentioned impact on landscape or views, with many mentioning the extensive scale of the Proposed Development and the effects it would have in turning a largely agricultural landscape into a quasi-industrial landscape [ER 4.10.49]. NE confirmed that no nationally designated landscapes would be impacted by the Proposed Development and made no further comments regarding landscape and visual effects [ER 4.10.50].
- 4.126. The HA in their RRs made the following key points: the Proposed Development would have the potential to dominate and transform the local landscape and alter it beyond recognition and thus create a new landscape altogether; the fragmented layout of the proposals and their proximity to a number of settlements would have the potential to affect the sense of place, with many residents experiencing the adverse visual and perceptual effects of various elements of the solar farm on a daily basis; the scale, longevity and geographical distribution of the Proposed Development would likely result in significant adverse impacts as a result of accumulated effects and the ES was considered to underestimate the potential impacts; and the mitigation proposals were not considered to have been sufficiently tailored across the variety of landscape character types or not be adequate enough to deal sufficiently with the harm potentially caused by the project [ER 4.10.51]. The HA summarised their position in relation to landscape and visual amenity in their joint LIR:
- “Some impacts, such as those on Landscape and Visual Amenity as well as some ecological impacts, are fundamental to the nature and geography of the scheme and are unlikely to be capable of being dealt with without significant revision of the proposal to remove parts of the scheme in the most sensitive areas. The scale, duration and geographical extent of the proposed development are likely to result in widespread and significant adverse landscape impacts, and prolonged and, in some cases, permanent adverse visual impacts”* [ER 4.10.53].
- 4.127. The HA agreed with the conclusion in the ES that significant effects would be likely across the Proposed Development site during construction, operation and decommissioning. However, they did not agree with the Applicant that by year 15 the visual effects would have reduced to the extent that they would not be significant [ER 4.10.54]. The HA considered the proposals as submitted fell short of providing a new landscape with a positive effect of identity and sense of place [ER 4.10.57], and the extent, duration and nature of the likely effects were considered to have a reasonable expectation of affecting the place attachment of the residents of the affected villages and communities [ER 4.10.58].

- 4.128. The ExA notes the impacts identified by the local authorities as likely to be negative in specific areas: Lee Brook; The Avenue (Chippenham Park); Impacts on the historic landscape and the setting of Chippenham Park Registered Park and Garden (RPG); Landscape impact on Chippenham Fen; Impacts of BESS buildings and infrastructure on landscape character and views from viewpoints such as West Row, Elms Road, Ferry Road, the River Lark and the Limekilns; the impact on landscape character west of Lee Brook and visual impact on the Ark Church; and the visual impact along Golf Links Road; visual and landscape impact along Elms Road [ER 4.10.59].
- 4.129. Other representations were submitted to the Examination in relation to landscape and visual impacts included submissions from SNTS (who also represented the Newmarket Horsemen's Group). SNTS's view was that due to a flawed site selection process, the Proposed Development site included areas which were unsuitable on landscape and visual grounds because of the resulting significant long term adverse effects [ER 4.10.64]. SNTS stated that the Proposed Development would be fragmented and dispersed across several areas which they considered would result in cumulative impacts and landscape effects [ER 4.10.65]. SNTS also consider that the proposal would result in major adverse effects on the visual amenity of the following users due to loss of valued, open views of the countryside [ER 4.10.66], and considered that whilst the proposed mitigation planting would lessen the views of the infrastructure after 15 years, it would not restore the current visual amenity and in places the mitigation planting itself would restrict open views [ER 4.10.67].
- 4.130. The ExA notes that although there was general agreement between parties that the overall approach to LVIA was appropriate, there were outstanding concerns at the close of Examination in relation to the Applicant's conclusions regarding: the degree of harm that would be likely in terms of the overall landscape; data, interpretation of data and conclusions reached in relation to trees and hedgerows; and the degree to which the LEMP addresses glint and glare [ER 4.10.76]. The ExA also notes that in terms of the Applicant's approach to site selection [APP-036 and APP-054], SNTS suggested [REP2-240] that the landscape and visual criteria used to identify potential development areas (PDA) for solar development were inadequate, aspects such as green infrastructure were ignored, and there was no consideration of the cumulative impacts of the development [ER 4.10.78].
- 4.131. The HA commented [REP1-024] that the ES did not provide sufficient evidence for the site selection made and whilst they acknowledged that the LVIA was based on GLVIA 3, they disagreed with the method adopted by the Applicant to interpret the Guidelines and the resulting methodology. The ExA notes that in their final, signed SoCG [REP9-029], the HA stated that the application of local policy within the EIA had not been agreed in relation to landscape and visual amenity [ER 4.10.80].
- 4.132. The ExA notes that the LVIA informed the iterative design process and applied design principles that the Applicant considered responded to the policy requirements of good design; published landscape character assessments and field work analysis in order to mitigate the likely adverse effects of the Proposed Development [ER 4.10.45]. The report goes on to note that LVIA design principles would be secured by means of the Work Plans [APP-007] and the Outline Landscape and Ecology Management Plan (OLEMP) [APP-108], as well as being illustrated within the Parameter Plans (ES Figures 3-1 and 3-1) [APP-135 and APP-136] and within the Landscape Masterplan (ES Figures 10-14 a to f) [APP-209 to APP-214] [ER 4.10.46]. The OLEMP and Landscape Masterplans were amended throughout the Examination in response to IPs, questions from the ExA and in order to accommodate changes to the Proposed Development brought about through Change Requests 1 and 2 [ER 4.10.48].

- 4.133. The ExA notes that the scheme originally submitted provided over 30% of the Proposed Development Site as green infrastructure, utilising existing landscape and ecological features and habitats and providing mitigation for the landscape and visual impacts of the Proposed Development, with the intention of the proposed green infrastructure to reduce the visual impact of the scheme in relation to nearby settlements; the detailed approach of which can be found in the OLEMP [APP-108] [ER 4.10.84]. In their joint LIR, the HA commented that mitigation proposals were not sufficiently tailored across a variety of landscapes as previously stated and did not go far enough to deal sufficiently with the degree of harm that they considered the Proposed Development would have, and SNTS [REP2-240] considered that the Proposed Development was not sensitive to place, and the mitigation measures proposed by the Applicant would do little to improve that [ER 4.10.85].
- 4.134. The ExA notes that throughout the Examination, the Applicant produced various iterations of the OLEMP along with the removal of Sunnica West Site B in CR2 [ER 4.10.86], and in addition to the landscape value of the proposed ecological and archaeological offset or mitigation areas, the Applicant's proposed mitigation strategy focused on strengthening or providing new hedgerow and tree planting on the boundaries of the site and individual land parcels and fields, providing arable margins around appropriate fields and creating wetland habitat alongside the River Lark [ER 4.10.88].
- 4.135. RRs submitted by other IPs or on behalf of IPs who had concerns relating to visual effects were: The Ark Church (concerning effects on views from the Church); La Hogue Farm; Elms Road Travellers site (relating to visual effects on occupiers of the permanent caravan site); and Mr Alan Smith (concerns regarding visual effects on his house and the local landscape) [ER 4.10.69]. Representatives of The Ark Church [RR-0135 and REP2-251] considered the loss of rural views and green spaces would detract from the views from their building, which had recently been constructed by members of the congregation and would subsequently affect the physical and emotional wellbeing of all residents [ER 4.10.92]. Mr A Smith [REP2-098a] stated that the distance between his property and the solar PV array on a parcel of land located in Sunnica East Site B would be too close to his home (approx. 490m). The ExA notes that upon visiting this part of the site, mitigation planting would largely screen the Proposed Development by year 15, but it would still be visible from upstairs [ER 4.10.93]. The owners of La Hogue Farm stated that the Proposed Development would also have an adverse impact on their farm and the ExA notes that at year 1, the solar panels would be clearly visible at the farm, but by year 15, they would be screened by new planting [ER 4.10.94].
- 4.136. The ExA also notes the representations submitted by occupiers of the Elms Road permanent caravan site [REP2-257]. The Application as originally submitted showed a narrow line of mitigation planting alongside the access track to the caravan site. During the Examination, the Applicant enhanced the proposed visual mitigation measures to include a 15m wide strip of new hedgerow and tree planting, with a 2.5m, high environmental fence for 24 months during the construction phase, followed by a security fence (deer fence) during the operational phase. This proposal was not welcomed by the occupants, stating that they would feel hemmed in by the fence. The Applicant then increased the mitigation planting to a 25m wide strip [ER 4.10.95].
- 4.137. The ExA notes a specific example of potentially adverse effects on the visual amenity, in relation to the Limekilns and Water Hall Gallops. Effects of the setting of views from the Limekilns was a subject of extensive representations, and the Applicant acknowledged that the magnitude of impact during construction work would be "High" (Moderate Adverse/significant) and "Medium" (Moderate Adverse/significant) during the operation phase at years 1 and 15 and during the decommissioning phase and that even with

mitigation planting the Proposed Development would remain a noticeable change in the composition of the view [ER 4.10.96].

- 4.138. The ExA notes that the HA considered that three land parcels in Sunnica West B, one parcel in Sunnica East A and two parcels in Sunnica East B were incapable of adequate mitigation against landscape and visual impacts and should therefore be removed from the Proposed Development. This approach was also supported by SNTS [REP8-050]. In response, the Applicant stated that this would remove 28MW of generating capacity and would represent a significant loss of function [ER 4.10.99].
- 4.139. On the issue of permanence, the ExA notes that several IPs spoke about the timescale of the Proposed Development which from their viewpoints would outlive them. On this basis, they disagreed with the Applicant's description of the Proposed Development being temporary [ER.10.100].

The ExA's Conclusions

- 4.140. The ExA notes that NPS EN-1 and dNPS EN-3 acknowledge that siting and project design are important factors in minimising adverse landscape and visual effects, and that such impacts should be considered carefully in pre-application by applicants, as well as directing considerable effort towards minimising the landscape and visual impact of solar PV arrays. The ExA notes that whilst it is satisfied that the Applicant did undertake initial investigations into site selection, the extent to which the landscape and visual impacts were considered pre-application was limited [ER 4.10.103]. The report also states that the ExA considers the lack in rigour in the initial site selection and design processes led to belated attempts to provide adequate mitigation and therefore did not minimise harm [4.10.105].
- 4.141. Regarding design, the ExA concludes that the size, fragmented nature, and proximity to residents of the Proposed Development, it is likely to result in significant adverse impacts on their perception of their surroundings and weighs substantially against the proposal in terms of the requirement in NPS EN-1 to minimise harm in relation to landscape effects and potential impacts and to be sensitive to place [ER 4.10.106].
- 4.142. The ExA concludes that the size and fragmented nature of the Proposed Development would result in material harm to landscape character and visual amenity and does not constitute good design, which the ExA considers weighs substantially against the Order being made [ER 4.10.122]. The ExA further concludes that the design of the Sunnica West A element of the Proposed Development would result in general adverse effects on the landscape and falls short of the requirement to achieve good design and minimise landscape and visual impact, thus weighing substantially against the Order being made [ER 4.10.122].
- 4.143. The ExA further concludes that the design of the Proposed Development would result in the increased enclosure of an open and expansive landscape, to the detriment of its enjoyment and appreciation by residents and other users, and that this weighs slightly against the Order being made [ER 4.10.122].
- 4.144. Whilst the ExA agrees that planting additional trees and hedgerows would be an appropriate form of landscape mitigation at a very localised level, the effects would be less obvious at the landscape scale in terms of mitigating an extensive change from a rural/agricultural to an energy production landscape [ER 4.10.107] and concludes that the Applicant has not demonstrated adequately that the proposed mitigation is reasonable or appropriate as considered by NPS EN-1 [ER 4.10.108]. The ExA concludes that proposed landscape mitigation would minimise local visual impacts but would cause its own effects in terms of

overall landscape character, which the ExA considers weighs slightly against the Proposed Development [ER 4.10.122].

- 4.145. The ExA notes the scale of the Proposed Development and its three distinct sites, along with the connecting cable routes, and its location near 10 settlements, and concludes that the impact on communities, their daily lives and appreciation of the current landscape would therefore be more extensive than if the development were concentrated in one area, or the individual parts of it were spread further apart. The ExA concludes that, in this respect, the Proposed Development differs from all previously approved solar farm schemes and this weighs against the Proposed Development in terms of siting having not minimised harm as required by NPS EN-1 [ER 4.10.10].
- 4.146. The ExA also notes the suggestion in NPS EN-1 that reducing the scale of a project can help to mitigate the visual and landscape effects, but this may result in a significant drop in generation output [ER 4.10.118]. The ExA considers that only a large-scale reduction would adequately mitigate the extensive landscape and visual effects of the Proposed Development [ER 4.10.120]. The ExA further concludes that a reduction in the scale of the Proposed Development would need to be extensive in order to achieve adequate mitigation of landscape and visual effects and the current scale of the Proposed Development therefore weighs substantially against the Order being made [ER 4.10.122].
- 4.147. The ExA concludes that whilst the proposed mitigation planting would reduce the visibility of the solar PV panels by year 15, there would be a fundamental change in the view caused by the transition of an open landscape to a more enclosed one [ER 4.10.111]. The ExA concludes that views from The Ark Church and Mr A Smith's property would be affected by the long-term landscape effects and mitigation planting would have a limited effect from La Hogue Farm and the Elms Road permanent caravan site [ER 4.10.111 et seq.]. The ExA also considered the potential effects of the Proposed Development on the Limekilns, and notes that from observations on the USIs and ASI1 it has concluded that the viewpoint photographs submitted by SNTS more accurately reflected the views that were observed and that the views in the photographs submitted by the Applicant appeared more distant than in reality. The ExA notes that whilst the Applicant had submitted just one photomontage from the Limekilns, taken from the western end, views were extensive and the Proposed Development would be clearly visible from the full length of the Limekilns, extending for approximately 2km to the east [ER 4.10.115].
- 4.148. The ExA agrees with the submissions of SNTS and the Local Authorities and, from its observations, it considers that the Proposed Development would have an extensive adverse impact on the landscape character and setting of the Limekilns and Water Hall Gallops. The ExA notes that impacts from Sunnica West A in particular would have major adverse effects on the valued landscape of the Limekilns and the Proposed Development therefore does not meet the requirements of NPS EN-1 and NPS EN-3 in terms of good design and minimising the landscape and visual impact of solar PV arrays and would be contrary to the NPPF in terms of the potential adverse impact on a valued landscape [ER 4.10.116].
- 4.149. The ExA notes the extensive change in landscape character that would result from the solar PV panels and associated infrastructure on Sunnica West A would also be apparent from the north, in particular from the area to the south of Chippenham Park and from the Avenue. The ExA concludes that the adverse impact of the Sunnica West A development on the landscape would be extensive and in multiple directions [ER 4.10.117].
- 4.150. The ExA concludes that the Proposed Development would have an extensive adverse impact on the landscape setting of and views from the Limekilns, which comprises a valued landscape, and that this weighs substantially against the Proposed Development [ER

4.10.122]. The ExA further concludes that there would be material impacts on views from The Ark church, La Hogue Farm and the Elms Road permanent caravan site which weighs slightly against the Proposed Development [ER 4.10.122].

4.151. Taking all of these points into account, the ExA concludes that given the extent of the land that would be negatively affected by adverse impacts on landscape and visual amenity, this matter should be ascribed substantial negative weight against the Proposed Development [ER 4.10.123].

The Secretary of State's conclusions

4.152. On 14 December 2023, the Secretary of State asked the Applicant, with reference to NPS EN-1 paragraph 5.9.8, to provide any updates to its position on the mitigation provided for landscape and visual impacts, and with the aim of minimising harm to the landscape and visual effects as far as reasonably possible, advise whether their work concluded that the proposed mitigation was the best available or if any further mitigation could reasonably be provided. The Applicant's response of 11 January 2024 included a Landscape Technical Note ("LTN") which noted that the design of the Proposed Development has been informed and led by the LVIA since the outset, aiming to reduce impacts to the local landscape character and work with the views of IPs and the HAs. On the latter, the LTN explains that the Applicant cannot accommodate all of the changes proposed by the councils, including the removal of parcels which the LTN maintains would lead to a not insignificant reduction in capacity whilst also not resulting in very significant landscape or visual benefits. In summary, the Applicant noted that its proposed mitigation for landscape and visual impacts is appropriate and proportionate to the likely impacts, in accordance with NPS EN-1, and therefore is the best available, reiterating that no further mitigation measures are required.

4.153. The Secretary of State notes paragraph 5.9.8 of EN-1, which recognises that virtually all energy NSIPs will have landscape effects and that projects need to take account of their potential impacts. Having regards to siting, operational and other relevant constraints, the aim should be to minimise harm, providing reasonable mitigation where possible and appropriate [ER 4.10.4]. The Secretary of State also notes that paragraph 5.9.17 of EN-1 advises that consideration should be given to whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by reasonable mitigation [ER 4.10.8]. Further, the Secretary of State notes paragraph 5.9.15 of NPS EN-1 highlights that the scale of energy NSIPs may mean that they are visible over long distances, and that it is therefore necessary to judge whether any adverse landscape impacts would be so damaging as to outweigh an NSIP's benefits, including its need [ER 4.10.6]. Similarly, paragraph 5.9.18 of NPS EN-1 recognises that all proposed energy infrastructure is likely to have visual effects for many visual receptors around proposed sites or for visitors to an area and it is therefore necessary to judge whether the visual effects outweigh the benefits of the project [ER 4.10.9].

4.154. With regards to good design specifically, the Secretary of State notes paragraph 4.5.1 of NPS EN-1, which states: "The visual appearance of a building is sometimes considered to be the most important factor in good design. But high quality and inclusive design goes far beyond aesthetic considerations. The functionality of an object — be it a building or other type of infrastructure — including fitness for purpose and sustainability, is equally important. Applying "good design" to energy projects should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible. It is acknowledged, however that the nature of much energy infrastructure development will often limit the extent to which it can contribute to the enhancement of the

quality of the area.” Paragraph 4.5.3 of NPS EN-1 states that the Secretary of State should be satisfied that projects are as attractive, durable, and adaptable as they can be. dNPS EN-1 sets out similar advice, with an addition in paragraph 5.10.10, which advises that applicants should consider how landscapes can be enhanced using landscape management plans to help enhance environmental assets where they contribute to landscape and townscape quality [ER 4.10.11].

- 4.155. With regards to the Applicant’s methodology, the Secretary of State notes that the Applicant undertook a thorough four-stage site selection process [ER 4.6.26 et seq.] and the chosen site was considered due to the high levels of solar irradiation compared to other parts of the UK, the availability of predominately large open flat land, as well as a suitable connection point to the National Grid, the land not being located in or near to Areas of Outstanding Natural Beauty, and its ability to avoid direct physical impact on designated heritage assets [ER 4.6.29]. Further, the Secretary of State notes, as is acknowledged by the ExA [ER 4.6.7] that NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option, but that applicants are required to include information about the main alternatives studied and the main reasons for the choice made in their ES. The Secretary of State is therefore satisfied that the site selection process undertaken by the Applicant was appropriate, as set out in dNPS EN-3, which notes that grid connection capacity and access will be a major factor in site selection [ER 3.2.15].
- 4.156. Whilst the Secretary of State agrees with the ExA’s conclusion that the Proposed Development will undoubtedly have an impact on the local communities, he disagrees with the ExA’s conclusion that the Proposed Development would have less of an impact if it were concentrated in one area, or if the individual sites were spread further apart. The Secretary of State does not understand the basis of the ExA’s assertion here and considers that, to the extent that the ExA seems to be suggesting these as an alternative, the scenario presented by the ExA is vague and inchoate, and notes the policy set out in paragraph 4.4.3 of NPS EN-1 which states that alternative proposals which are vague or inchoate can be excluded on the grounds that they are not important and relevant to the Secretary of State’s decision.
- 4.157. The Secretary of State notes the Applicant’s approach to site selection, alongside the changes made during the Examination to improve the design of the Proposed Development in response to concerns raised by IPs and is satisfied that the Applicant’s design of the Proposed Development meets the criteria of “good design” set out in NPS EN-1.
- 4.158. The Secretary of State agrees that at a number of locations views and recreational enjoyment will be impacted by the Proposed Development but notes that by year 15 it will be largely screened by the mitigation planting. The Secretary of State notes that the Applicant has at points throughout pre-application and Examination increased the tree and hedgerow planting to further screen the solar farm from view and is satisfied that the Applicant has now taken all reasonable steps to mitigate landscape and visual impacts as far as possible and therefore concludes that the mitigation proposed by the Applicant is sufficient.
- 4.159. The Secretary of State considers that the Applicant’s site selection process and proposed mitigation, including screening via planting, have minimised harm to the landscape and impacts on visual effects as far as is possible.
- 4.160. With regards to the question of permanence, the Secretary of State concludes that the consent is temporary and reversible and does not set any precedent for how the land will be used after the consent expires. The Secretary of State concludes that predicted landscape and visual impacts (as set out in detail above) have been adequately mitigated

for by the Applicant, and further that they are temporary and reversible. The Secretary of State accepts that the proposed mitigation will, in itself, have the potential to cause landscape and visual changes, but does not consider that these are either significantly adverse or irreversible.

- 4.161. Further, the Secretary of State notes that the policy set out in NPS EN-1 emphasises that it is necessary to judge whether any adverse landscape or adverse visual impacts would be so damaging as to outweigh an NSIP's benefits, including its need. The Secretary of State disagrees with the ExA that the landscape and visual impacts outweigh the benefits associated with the Proposed Development.
- 4.162. The Secretary of State does however agree that the proposed mitigation may not be fully effective until year 15 in the operational phase and that in some places the screening will not be complete even at 15 years. The Secretary of State also acknowledges the predicted moderate adverse impact on the Limekilns. However, as noted above, the Secretary of State considers that mitigation for the identified impacts has been secured as far as is reasonably possible. Therefore, although EN-1 acknowledges that virtually all nationally significant energy infrastructure projects will have effects on the landscape and are likely to have visual effects for many receptors around proposed sites, the Secretary of State considers that these are matters that should weigh against the proposal in the planning balance. Overall, the Secretary of State ascribes landscape and visual impacts moderate negative weight in the planning balance.

Socio-economics and land use: Economic and employment effects (including horse racing industry)

- 4.163. The ExA notes legislation and policy relevant to the consideration of economic and employment effects, including NPS EN-1 [ER 4.12.3 et seq.], dNPS EN-1 ER 4.12.8], and other national and local policies [ER 4.12.8 et seq., ER 4.12.11] – the latter of which explicitly reference the HRI.
- 4.164. The ExA notes the support given to the HRI through local plan policies and acknowledges that the pre-eminence of the HRI in Newmarket is not in question. It further notes that the apprehension expressed by the host authorities in the joint LIR [REP1-024] is a legitimate concern which was supported by evidence presented by IPs with involvement in and deep experience of the HRI in Newmarket and beyond [ER 4.12.70]. The ExA notes that IPs considered that the maintenance of an attractive and safe setting for the HRI in Newmarket to be of vital importance, and a loss of confidence in these aspects would, in their opinions, result in owners and trainers relocating away from Newmarket with consequent negative effects on the industry locally and therefore the local economy [ER 4.12.71].
- 4.165. Having examined the Proposed Development's potential impact on economic and employment effects, including the horse racing industry, the ExA is satisfied that the agreed measures in the Outline Skills Supply Chain and Employment Plan ("OSSCEP") [APP-268] will secure the potential improvements, mitigation and compensation to local communities in connection with the Proposed Development [ER 4.12.77]. The ExA is satisfied that the OSSCEP meets the requirements of NPS-1 and aims of dNPS EN-1 by focussing its measures on considering local suppliers in the Proposed Development's supply chain [ER 4.12.78]. The ExA concludes that the mitigation proposed in the OSSCEP would be necessary to not only mitigate adverse socio-economic impacts of the Proposed Development but would also provide positive benefits for the local and regional area [ER 4.12.79]. The ExA also disagrees with the HA and concludes that there would be no material adverse effect on tourism within the local economy [ER 4.12.80].

- 4.166. The ExA notes that disagreement remained at the close of Examination between the Applicant and the HA over baseline employment figures and employment assumptions relating to the travel area [ER 4.12.74]. The ExA considers that the Applicant could have engaged with local parties earlier to improve its methodology, particularly in respect of the HRI, rather than relying on standard formulae to estimate employment and gross value added (GVA) figures [ER 4.12.75]. The ExA is subsequently not assured that there will be an overall net benefit in respect of the potential for jobs to be created by the Proposed Development, in comparison to the potential loss of jobs across the HRI both within and outside of the 45-minute travel study area [ER 4.12.15, ER 4.12.76].
- 4.167. Overall, the ExA considers that the Proposed Development does not meet the requirements of the National Planning Policy Framework (“NPPF”) in terms of supporting a strong, competitive economy [ER 4.12.71]. The ExA considers that, due to adverse visual impacts on adjacent horseracing industry facilities (“HRIF”) which cannot be adequately mitigated, the resultant potential adverse socio-economic impacts cause the Proposed Development to be in conflict with NPS EN-1 [ER 4.12.71]. The ExA concludes that insufficient evidence has been presented to demonstrate that there would not be adverse effects in the long-term on the economy and employment, including the HRI [ER 4.12.81]. The ExA ascribes this matter substantial negative weight in the planning balance [ER 4.12.81].

Secretary of State’s conclusions

- 4.168. The Secretary of State has considered the ExA’s conclusions and relevant documentation, including the ‘Lichfields Report’ [REP2-039], the ‘Rapleys Report’ [REP2-240f], the ‘Popham Report’ [REP3A-070] as well as other documents which have been referenced by the ExA [APP-042, APP-044, APP-121, RR-1128, REP1-016, REP1-024, REP3A-066, REP4-039, REP5-098], and the Applicant’s response to the Secretary of State’s 27 July 2023 information request letter dated 10 August 2023.
- 4.169. Noting that the agreed upon OSSCEP has been secured for submission and approval in advance of development commencing in Requirement 20 of Schedule 2 of the Order [ER 4.12.53, APP-044], the Secretary of State agrees with the ExA’s conclusions that the plan will satisfactorily and necessarily mitigate the adverse socio-economic impacts of the Proposed Development and provide positive benefits for the local and regional area [ER 4.12.77 et seq.]. The Secretary of State also agrees with the ExA’s conclusions on tourism within the local economy.
- 4.170. The Secretary of State notes the ExA’s and others’ points on the Applicant’s methodology used to reach conclusions on the employment effects of the Proposed Development [ER 4.12.42 et seq., ER 4.12.75 et seq.]. However, although the Secretary of State agrees with the ExA that it would have been helpful for the Applicant to engage earlier with the HA and IPs, the Secretary of State also agrees with the ExA’s statement that the HA relied on their experience in doubting the figures saying that they were “unlikely” without putting forward calculations of their own to counter those submitted by the Applicant and that this does not make the Applicant’s assessment “null and void” [ER 4.12.76].
- 4.171. Furthermore, the Secretary of State considers that the Applicant’s approach [APP-044] is similar to other planning applications in the methodology used to reach conclusions on employment effects and GVA. Noting, as the Applicant does, that there “is no statutory guidance on methodology to assesses socio-economic...effects” [ER 4.12.12], the Secretary of State does not consider that it is inappropriate for the Applicant to use standard formulae to estimate overall employment and GVA figures.
- 4.172. In the absence of any alternative assessment from the HA, the Secretary of State concludes that the Applicant’s methodology and assessment is appropriate and that there is likely to be no overall net loss in terms of employment from the Proposed Development, even taking

into account the perception that the Applicant underappreciated the HA and IPs' "combined expertise and experience of the local labour market" [ER 4.12.75].

- 4.173. The Secretary of State agrees with the ExA that the starting point for any assessment of the impact on the HRI is the policy on economic impacts in EN-1 [ER 4.12.3 et seq.]. The Secretary of State has also considered the policy in the NPPF, and the HRI specific policy set out in local policy, in particular Policy EMP6 of the East Cambridgeshire Local Plan (2015) and Policy DM48 of the Forest Heath and St Edmundsbury Joint Development Management Policies Document (2015) [ER 4.12.11]. Policy EMP6 and DM48 set out a two-stage test to consider impacts on the HRI, firstly whether development is likely to have a material adverse impact on the operational use of an existing HRI site and secondly whether development would threaten the long-term viability of the HRI as a whole. The Secretary of State agrees with the ExA that these policies are important and relevant to his decision. For the Secretary of State to find there is either the likelihood of adverse impact on the operational use of an existing HRI site or a threat to the long-term viability of the HRI as a whole the Secretary of State needs evidence. Generally, the Secretary of State disagrees with the ExA's conclusion that the concerns of IPs and HAs regarding the potential adverse impacts of the Proposed Development on the local economy and employment, including the HRI, were "supported by evidence" [ER 4.12.70]. The Secretary of State agrees with the Applicant's view that the planning system cannot "be required to give weight to un-evidenced assertion of threat or harm simply because an objector claims a threat to exist" [REP4-039].
- 4.174. The Secretary of State notes that the Popham Report, commissioned by SNTS and other HRI IPs including the Newmarket Horsemen, concluded that there would be adverse or high adverse impacts on the operational use of four HRIF: the Limekilns Gallops, Godolphin's Chippenham/Snailwell Gallops, stud farms, and on roads and PRoWs used by the HRI [REP3A-070, ER 4.12.59 et seq.]. Other submissions, such as the Rapleys Report [REP2-240f] and others outlined above, included views which were developed further and presented in the Popham Report about the harm that would be done by the Proposed Development to these four HRIF.
- 4.175. The Secretary of State notes that the Popham Report proposes that the adverse harm on Limekilns would be due to the impact on the landscape and visual character upon the HRIF's upper slopes [REP2-240f, REP3A-070] which, in tandem with the economic benefits of the valued landscape, is sought to be protected in the NPPF [REP3A-070]. The Popham Report considers that the historical significance and quality of the landscape will be adversely impacted, and the Secretary of State notes that the Applicant does not dispute that there will be a change to the landscape [REP2-039, REP3A-070, REP4-039]. The Applicant acknowledged that the magnitude of impact during construction work would be "High" (Moderate Adverse/significant) and "Medium" (Moderate Adverse/significant) during the operation phase at years 1 and 15 and during the decommissioning phase and that even with mitigation planting the Proposed Development would remain a noticeable change in the composition of the view [ER 4.10.96, REP2-039, REP4-039].
- 4.176. However, the Applicant considers this change and its impacts will not result in an adverse impact on the operational use of the HRIF at any point [REP4-039]. The Secretary of State concurs that HRI IPs do not present evidence in either the Popham or Rapleys Reports, or any other submission, which causes the Secretary of State to lose confidence in the Applicant's assessments that "the Limekilns landscape is already experienced in the context of the existing roads and railway lines, and investors are shrewd and act in a business-like fashion, weighing up all the benefits Newmarket offers against any potential disbenefits" [REP4-039]. If, as set out in the paragraph below, there are no physical effects on the horses and personnel using the Limekilns gallops, the Secretary of State does not consider that the changed setting of the historical gallops alone amounts to evidence or reason enough for

new or prospective owners and investors to forego working with the trainers at Limekilns, and thus affecting the gallops' operational use.

- 4.177. The Secretary of State agrees with the Applicant that for those investing in the Newmarket HRI "views of the landscape are secondary to their activity, which is their main focus" [REP2-039]. Therefore, whilst the Applicant and the Secretary of State agree that, under the NPPF and EN-1, there is some harm to the valued landscape of Limekilns, the Secretary of State considers these impacts have been reduced and mitigated for as far as reasonably possible for and are unlikely to significantly affect Limekilns' economic benefits. The potential effects of the Proposed Development on the Newmarket HRI's long-term viability, and the role of the historical significance of the Limekilns gallops and wider Newmarket HRI within that, are discussed further in a section below. The Proposed Development's effects on landscape and visual impacts are also considered further at paragraph 4.121.
- 4.178. Aside from a change in landscape and setting of Limekilns affecting its operational use, HRI IPs also consider that harm caused by glint and glare could impact galloping horses including, specifically, valuable Derby trialist horses which may use the Limekilns gallops in a different direction to normal [REP3A-070]. HRI IPs consider that "sudden glare from panels" [REP1-024] may cause distress to horses or that "glint and glare from solar panels and reflective surfaces would be a potential safety problem when the sun is above the horizon when horses train" [REP3A-070]. As above, the Applicant accepts that solar panels will be in view from the Limekilns gallops, but the Applicant's Glint and Glare assessment demonstrates that, after mitigation, reflection is not geometrically possible towards Limekilns, consequently neither are any glint and glare impacts [APP-121, REP1-016, REP2-039, REP4-039, REP10-032, Letter to DESNZ dated 10 August 2023].
- 4.179. The Secretary of State notes that, whilst the Rapleys Report considers that "little is known" about the effect of glint and glare on horses [REP2-240f], the Applicant has engaged horse behavioural specialists regarding glint and glare (Professor Meriel Moore-Colyer, Professor of Equine Science at Royal Agricultural University, and Ashley Ede, Bloodstock & Horseracing specialist at Blue Furlong Consultancy) [REP2-039]. The Secretary of State notes these specialists consider that even in the absence of mitigation, it is unlikely a horse would be affected by glare given the location, distance and direction of travel of Limekilns gallops in relation to the solar panels, and there won't be adverse impacts on the training/movement of horses [REP2-039]. Without any objective evidence to the contrary, the Secretary of State is confident that reflections from the PV panels to the Limekilns gallops are both geometrically impossible and will be sufficiently screened in any case. The Proposed Development's effects on glint and glare impacts are considered further at paragraph 4.31.
- 4.180. The Secretary of State therefore disagrees with the Popham Report [REP3A-070, ER 4.12.61] and agrees with the Applicant's Lichfields Report that there will be no adverse impacts on the operational use of the Limekilns gallops due to the Proposed Development [REP2-039, REP4-039, ER 4.12.57]. Furthermore, the Secretary of State disagrees with the ExA [ER 4.12.71] and concludes that there is no potential for adverse socio-economic impacts due to the adverse visual effects on Limekilns and that, in any case, the OSSCEP – as the ExA agrees – is adequate mitigation in providing positive benefits for the local and regional area [ER 4.12.77 et seq.]. The Secretary of State disagrees with the ExA [ER 4.12.71] and concludes that the Proposed Development is therefore in accordance with both NPS EN-1 and the NPPF regarding its effects on the Limekilns gallops and supporting a strong, competitive socio-economic receptor.
- 4.181. The Secretary of State notes that the Popham Report proposes that the medium/high adverse impacts on the operational use of Godolphin's Chippenham/Snailwell Gallops are due to the adjacent proximity of Sunnica West Site A to the gallops [REP2-240f, REP3A-070]. The Popham Report suggests that unpredictable, sudden noises from electrical

equipment close to the gallops could dangerously startle the highly nervous and expensive racehorses, and that both glint and glare and landscape and visual impacts could be subjected on riders and horses using both the gallops and bridleway PRoW 204/5 which accesses the site [REP2-240f, REP3A-070].

- 4.182. The Applicant outlined any potential effects from the Proposed Development regarding Noise and Vibration in Chapter 11 of the ES [APP-043]. The Secretary of States notes that mitigation to construction traffic and noise will be implemented through the Construction Traffic Management Plan (“CTMP”) [REP2-039, REP7-017] but that the Applicant considers most traffic impacts near the gallops are assessed as negligible and short term [APP-045, REP2-039]. Once operational, the Secretary of State notes that the noise “from a solar farm is low and continuous and unlikely to cause disturbance in the long-term” [REP2-039] and that there are predicted to be no health impacts or long-term significant effects on equestrian users on bridleways or horse in training facilities [APP-043]. The Secretary of State also notes that the Applicant will locate onsite substations, BESS and solar stations away from the boundary with PRoW 204/5 and Godolphin’s Chippenham/Snailwell Gallops [APP-043].
- 4.183. The Secretary of State agrees with the Applicant that while “there will be some noise impacts, these are localised, temporary and negligible, and would be at a level where they are unlikely to cause disturbance to horses nearby” [REP2-039]. Furthermore, the Secretary of State is confident that the CTMP [REP7-017] and Construction Environmental Management Plan (“CEMP”) [REP10-014] secure adequate monitoring and management of disturbance to horses or equestrian users through including a requirement for the Applicant “to engage with equestrian groups on scheduling of construction activities with potential for generating high levels of noise” [REP10-032]. For example, regarding Godolphin’s Chippenham/Snailwell Gallops specifically, noisy works will not be undertaken until after 10:00hrs in the work areas close to the gallops [REP2-039]. The Secretary of State is reassured such management and monitoring will be carried forward into the operational phase of the Proposed Development in the Operation Environmental Management Plan (“OEMP”) [REP10-016].
- 4.184. The Secretary of State is satisfied any unpredictable, sudden noises will be avoided and any remaining noises due to the Proposed Development will be negligible and acceptable to both horses and equestrian users. The Secretary of State therefore considers that there is no potential for Godolphin’s Chippenham/Snailwell Gallops “to become unusable as the risk to horses and riders would simply not be worth taking” [REP3A-070] and that noise impacts from the Proposed Development would not adversely impact the operational use of the gallops. The Proposed Development’s wider effects on noise and vibration impacts are considered further at paragraph 4.230, where the Secretary of State agrees with the ExA that the Proposed Development would avoid significant adverse impacts and minimise other adverse impacts through effective management. The Secretary of State considers these other, minimised adverse impacts may affect Godolphin’s Chippenham/Snailwell Gallops specifically, but that they will be managed through the CEMP and CTMP to a point where the HRIF’s operational use is not affected.
- 4.185. Regarding glint and glare impacts on Godolphin’s Chippenham/Snailwell Gallops, the Secretary of State notes that the Applicant acknowledges reflections are geometrically possible towards the gallops and PRoW 204/5 in the morning [APP-121, REP2-039, REP4-039, REP10-032]. However, the Applicant will bolster existing vegetation with proposed mitigation planting to screen the Proposed Development from both HRIF, meaning that no significant residual impacts are predicted on horses or riders [APP-121, REP2-039, REP4-039, REP10-012, REP10-032, REP10-051]. Prior to the mitigation planting growing to an adequate height and thickness, temporary screening will be erected [REP10-051] which the Secretary of State considers will compound the adverse landscape and visual impacts on the gallops, as discussed in the paragraph below, but will beneficially prevent glint and glare

impacts. The Secretary of State disagrees with the Popham Report [REP3A-070] and considers that, once fully grown, mitigation planting will not visually separate PRow 204/5 from its rural setting as the planting is infilling existing gaps in vegetation [REP10-032, REP10-051]. The Secretary of State is therefore satisfied that glint and glare impacts from the Proposed Development would not adversely impact the operational use of the gallops.

- 4.186. The Applicant considers there will be minor adverse (not significant) visual impacts on both Godolphin's Chippenham/Snailwell Gallops during construction, and negligible adverse (not significant) impacts during Year 1 of operation [APP-042, REP2-039, REP4-039]. For PRow 204/5, dependent on where an equestrian user is along the bridleway, there will be minor adverse (not significant) to moderate adverse (significant) visual impacts during construction and during Year 1 of operation, but by Year 15 of operation and into decommissioning all impacts would be between negligible adverse (not significant) and minor adverse (not significant) [APP-042, REP4-039]. The Secretary of State sees no evidence to lose confidence in the Applicant's findings in any of the submissions by HRI IPs. Further, the Secretary of State agrees with the Applicant that, for all parties involved, "it appears to be common ground that users of the PRow will experience an adverse visual impact during construction (albeit the degree of this impact is not agreed between the applicant and SNTS)" [REP4-039]. However, the Secretary of State agrees with the Applicant that any adverse effect must be demonstrated to adversely impact the operational use of the HRIF [REP4-039]. As with the Limekilns gallops, the Secretary of State considers that HRI IPs do not present any empirical or objective evidence in either the Popham or Rapleys Reports, or any other submission, that would make him confident that the Proposed Development's landscape and visual impacts on Godolphin's Chippenham/Snailwell Gallops would lead to an adverse impact on the HRIF's operational use. The Secretary of State agrees with the Applicant that the residual significant landscape and visual effects of the Proposed Development are acceptable in planning terms and comply with the applicable policy tests in the suite of NPS and the NPPF [REP10-032].
- 4.187. The Secretary of State therefore disagrees with the Popham Report [REP3A-070, ER 4.12.61] and agrees with the Applicant's Lichfields Report that there will be no significant adverse impacts on the operational use of the Godolphin's Chippenham/Snailwell Gallops due to the Proposed Development [REP2-039, REP4-039, ER 4.12.57].
- 4.188. The Secretary of State notes that both the Popham Report and the HA's LIR consider that the Proposed Development will have an adverse impact on the operational use of stud farms due to the loss of land or the farms' proximity to the Proposed Development, which could affect the setting of relative quiet and tranquillity required for brood mares and young foals [REP1-024, REP3A-070, ER 4.12.61, ER 4.12.65]. The Secretary of State also notes that the Rapleys Report raises two adverse impacts on the operation of stud farms around the Proposed Development [REP2-240f].
- 4.189. However, the Secretary of State, having seen no evidence to the contrary in submissions from HRI IPs, firstly agrees with the Applicant that Chippenham Estate is currently not used as a stud farm and so not considered a HRIF and, secondly, that no evidence has been demonstrated to justify the magnitude of possible and combined effects on both Arran House Stud and St Simon Stud [REP2-240f, REP4-039]. The Secretary of State is satisfied that these HRIF outlined in the Rapleys Report are not within the scope for the Applicant to address or for the Secretary of State to decide upon regarding their potential impacts on their operational use.
- 4.190. Having considered the evidence presented, the Secretary of State concurs with the Applicant's assertion that the redirection of a PRow adjacent to the boundary of Brookside Stud farm will not lead to any different impacts to those already experienced by other stud

farms adjacent to PRow in the vicinity of Newmarket, none of which have evidentially had their operational use affected by PRow users [REP3A-070, REP4-039, REP10-032, REP10-051]. As discussed earlier, the Secretary of State has seen no evidence presented to suggest that noise and vibration from solar infrastructure itself would detriment mares and foals in any of the three stud farms highlighted in the Popham Report [REP3A-070] by being anything other than not significant [APP-043], and that the CTMP [REP7-017], CEMP [REP10-014] and OEMP [REP10-016] would help secure against adverse effects from “significant unpredictable disturbance” [REP3A-070] from increased traffic. The Secretary of States notes these plans also require the Applicant to engage with HRI farms like Plantation and Snailwell Studs, to ensure they can continue their operation without severe disturbance due to construction activities, including the movement of heavy goods vehicles.

- 4.191. Further, the Secretary of State notes that planting – of up to 25m in width - will take place to the north and east of Brookside Stud to create visual screening from the Proposed Development [REP10-051]. The Secretary of State agrees with the Applicant that no clear evidence has been provided to suggest the Proposed Development would inhibit an emergency evacuation from any stud farm [REP3A-070, REP4-039]. And, as with both the Limekilns gallops and the Godolphin’s Chippenham/Snailwell Gallops, the Secretary of State considers that the adverse effects on the landscape and visual setting of the stud farms have not been demonstrated sufficiently by HRI IPs to convince the Secretary of State that any HRIF affected will be at “a severe competitive disadvantage” which would impact a site’s continued operational use [REP3A-070].
- 4.192. The Secretary of State takes into consideration paragraph 187 of the NPPF, which notes that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities and as such, considers the Applicant’s plans and submissions adequately address concerns raised in the Popham Report [REP10-032]. This gives the Secretary of State confidence in the coexistence of the Proposed Development with existing stud farms, that it won’t adversely affect the operational use of any HRIF [REP10-032]. In this respect, the Secretary of State finds that the Scheme is consistent the National Policy and the existing user principle relating to this matter.
- 4.193. The Secretary of State earlier concluded that there will be only be significant adverse visual impacts to users of PRow 204/5 during construction (see paragraph 4.185 et seq.) and that Brookside, Snailwell and Plantation Studs (as well as their adjacent PRows) will not see their operational use significantly affected due to impacts from increased traffic. The Secretary of State further notes that both the Popham and Rapleys Reports consider there will be adverse impacts to the operational use of the wider network of roads and PRows used by the HRI in the vicinity of the Proposed Development [REP2-240f, REP3A-070]. These routes are used daily by horses in establishments of the HRI [REP3A-070] and are considered among the less obvious HRI assets [REP2-240f]. HRI IPs consider that impacts from glint and glare, noise and vibration, and landscape and visual effects will adversely impact the operational use of these networks [REP2-240f, REP3A-070].
- 4.194. As referenced earlier, the Secretary of State notes and agrees with the Applicant’s Glint and Glare Assessment which demonstrates that reflections are not geometrically possible onto any specific HRIF except Godolphin’s Chippenham/Snailwell Gallops, but that the Proposed Development could potentially cause limited harm to PRows at certain times of day, at certain times of year (see paragraph 4.45 et seq.) [APP-121, REP4-039]. The Secretary of State is satisfied these limited impacts, which carry limited negative weight in the planning balance, will not affect the operational use of the PRow networks used by the HRI. The Secretary of State is also satisfied any unpredictable, sudden noises will be avoided and any remaining noises due to the Proposed Development will be negligible and acceptable to both

horses and equestrian users, as secured through the CTMP, CEMP and OEMP [REP7-017, REP10-014, REP10-016].

- 4.195. The Secretary of State also considers, as the Applicant does, that any adverse visual and landscape effects must be demonstrated to adversely impact the operational use of the HRIF [REP4-039]. The Secretary of State can see no evidence to suggest the wider network of roads and PRoWs would have their operational use for the HRI adversely impacted by the landscape and visual effects of the Proposed Development, which will be screened in some form from routes [REP4-039, REP10-012, REP10-051]. The Secretary of State therefore agrees with the Applicant that the “Popham Report does not present or refer to any additional evidence (over and above that presented or referred to in the Rapleys report)” [REP4-039], and that neither report presents anything other than unevidenced opinions which do convince the Secretary of State to lose confidence in the Applicant’s assessments.
- 4.196. The Secretary of State therefore disagrees with both the Rapleys and Popham Reports [REP2-240f, REP3A-070] and agrees with the Applicant’s Lichfields Report that there will be no significant adverse impacts on the operational use of the roads and PRoWs utilised by the Newmarket HRI due to the Proposed Development [REP2-039, REP4-039].
- 4.197. The Secretary of State notes the concerns of IPs that important and foundational members of the industry could decide to leave the Newmarket due to the Proposed Development because owners and investors are “likely to be sensitive about changes to the landscape that could affect the attractiveness of the area for horseracing” [REP1-024, REP2-240f, REP3A-070]. The Secretary of State further notes that HRI IPs consider that any decline could be over the long term [REP1-024, REP2-240f, REP3A-070]. Alongside the “change in character from rural/agricultural to an energy production landscape” [ER 4.10.107], particularly “the landscape and setting of and views from the Limekilns” gallops [ER 4.10.122], HRI IPs conclude “that perception of impacts alone would be sufficient to cause significant harm to the industry (through its effect on investment)” [REP2-240f]. The ExA agrees with the submissions of HRI IPs that the area around Newmarket could decline over the long-term because the “Sunnica scheme is likely to have an adverse impact on the operational use of multiple existing sites within the Newmarket horseracing industry” [REP3A-070, ER 4.12.71, ER 4.12.81].
- 4.198. However, as above, the Secretary of State considers that impacts on specific HRIF have been addressed to demonstrate that there will not be any significant adverse impacts on their operational use by the HRI. The Secretary of State considers this prevention of actual impacts will help prevent and reduce any perception and sensitivity felt by the industry towards the Proposed Development. The Secretary of State notes the Applicant’s deadline 4 submission [REP2-039] refers to the 2020 Hatchfield Farm planning decision, in which members of the HRI suggested a development of Hatchfield Farm’s scale would cause similar impacts to those now presented by the HRI as potential adverse impacts of the Proposed Development [REP4-039], i.e. that the local economy would suffer as the development forces a change in perception of the Newmarket area and HRI, leading to investment and industry-specific personnel being driven away.
- 4.199. The Applicant asserts that members of the HRI have not provided evidence of any trainers leaving the HRI around Newmarket since the Hatchfield Farm decision over two and a half years ago [REP4-039]. The Applicant states that both with Hatchfield Farm and the Proposed Development, representatives of the HRI were/are seeking to advance a position that the mere perception of a harm to the HRI was/is sufficient to fail the policy tests; a position explicitly rejected by the Inspector in the Hatchfield Farm decision [REP4-039].
- 4.200. The Secretary of State notes the position of IPs that the Hatchfield Farm decision is irrelevant because it was a different type of development with a different type of impacts. However, the

Secretary of State's agrees with the Applicant that the type of development or impacts are not relevant to the reliance the Applicant seeks to place upon it. The Applicant's reliance on this decision relates to the potential impacts on the HRI, how they have been put by HRI IPs, and how they should be addressed in this decision. In this regard, the Secretary of State disagrees with the ExA [ER 4.12.71] and considers that insufficient evidence has been presented by HRI IPs to support the claim that the perception of harm caused by the Proposed Development will lead to a long-term threat that would see the Proposed Development fail the policy test [ER 4.12.11, ER 4.12.66].

- 4.201. The Secretary of State agrees with the Applicant and considers that statements suggesting that there would be a "potential loss in local economy due to change in investor perception of area as a destination for horseracing business" [RR-1128] or that the Proposed Development has the "potential to drive away further investors and deter potential owners" [REP3A-066] are not substantiated by objective supporting evidence in either the ExA's report or in submissions presented by IPs [REP2-240f, REP3A-070, REP4-039]. The Secretary of State considers that the vulnerability of the HRI expressed in the Popham Report and other submissions [REP2-240f, REP3A-070, ER 4.12.61] is disproved by the Applicant [REP2-039, REP4-039] which demonstrates that Newmarket has "broadly retained its position" within the wider international industry [REP4-039]. The Secretary of State considers this remains true in relation to the growth of the HRI in Ireland in relation to Great Britain, and Newmarket as its principal HRI centre. The Secretary of State considers there is a lack of convincing evidence to demonstrate that the Proposed Development will result in any adverse effects on the operational use of any Newmarket HRIF which would unduly exacerbate the existing competition with Ireland in Ireland's favour and see the wider Newmarket HRI lose standing in comparison [REP2-039, REP2-240f, REP3A-070, ER 4.12.62]. Therefore, the Secretary of State considers that the Proposed Development will not significantly exacerbate, through actual or perceived impacts, the position of the Newmarket HRI or its establishments.
- 4.202. The Secretary of State notes that the ExA does not refer to any evidence presented by HRI IPs to demonstrate that the adverse impacts of the Proposed Development would have "the potential to cause adverse effects on the HRI and that this could have knock-on effects on the local economy and local employment which would be likely to last beyond the temporary timescale of the Proposed Development" [ER 4.12.214]. Whilst the Secretary of State acknowledges that HRI IPs present various detailed opinions from members of the industry as evidence which the Secretary of State does take into account [RR-1128, REP1-024, REP2-240f, REP3A-070, REP3A-066, REP5-098], the Secretary of State considers that these opinions are unsubstantiated. The Secretary of State considers that there is a lack of supporting evidence to demonstrate that owners, trainers, and investors would relocate away from Newmarket due to the perceived impacts of the Proposed Development on the HRI. The Secretary of State considers this includes a lack of robust supporting evidence to suggest that the Proposed Development, in combination with the cumulative effects of other energy projects in the local area and region, would lead to a widespread change in long-term investor perception during operation [REP1-024, ER 4.12.65]. The Secretary of State is satisfied with the Applicant's approach to cumulative schemes and identified cumulative effects [APP-037, APP-044, APP-055]. The Secretary of State is therefore satisfied that, with the operational and long-term viability of the Newmarket HRI not under threat from the Proposed Development, the identified in-combination effects will not be any different from those identified by the Applicant and will also not cause a perception change from owners, trainers and investors which could have adverse impacts on the Newmarket HRI.
- 4.203. The Secretary of State agrees with the ExA that the "pre-eminence of Newmarket is not in question" [ER 4.12.70] but considers that this is not clearly or obviously threatened by the Proposed Development or any of its impacts – perceived or otherwise. Considering the negligible impacts on horses and riders, the most significant of which relate to landscape

and visual effects and, thus, the likelihood of an industry-wide change in perception based upon the perceived impacts of the Proposed Development, the Secretary of State concludes that the evidence presented by HRI IPs and the ExA is not convincing in supporting the theory that there is a tangible “relationship between impact and vulnerability” regarding the effects of the Proposed Development on the long-term viability of the HRI and, subsequently, the local economy and employment [REP5-098, ER 4.12.81]. The Secretary of State is therefore confident that the Proposed Development does not pose a threat to the long-term viability of the Newmarket HRI.

- 4.204. The Secretary of State considers that the methodology used in the Applicant’s assessments and plans [APP-044, APP-238, APP-268] is sufficient and appropriate. The Secretary of State also agrees with the ExA that the OSSCEP will satisfactorily and necessarily mitigate the adverse socio-economic impacts of the Proposed Development and provide positive benefits for the local and regional area. The Secretary of State also agrees with the ExA’s conclusions on tourism within the local economy.
- 4.205. The Secretary of State concludes that, after mitigation and cumulatively with other development schemes, the residual effects of the Proposed Development are, at worst, not going to result in a net loss in employment.
- 4.206. Whilst the Secretary of State understands the concerns of the HAs and IPs associated with the HRI, the Secretary of State concludes that insufficient objective evidence and data has been presented by these parties or any other such parties to link the presence of the Proposed Development throughout construction, operation, and decommissioning with substantial adverse effects on the local economy and employment, including and especially the HRI. The Secretary of State considers that any impacts on the HRI the Proposed Development does have will be adequately mitigated as far as reasonably possible [REP10-032]. The Secretary of State therefore disagrees with the ExA and concludes that the Proposed Development does meet the requirements of EN-1 and the NPPF in supporting a strong, competitive economy. Noting that the adverse impacts on HRI adjacent to the Proposed Development will be adequately mitigated, the Secretary of State concludes that the Proposed Development accords with NPS EN-1, dNPS EN-1, and meets the HRI-related tests in Policies EMP6 and DM48.
- 4.207. In the absence of significant harm to the HRI, the Secretary of State considers that, on balance, the evidence submitted indicates that the Proposed Development is not going to cause harm to the wider local economy and employment and ascribes this matter neutral weight in the planning balance.

Socio-economics and land use: BMV agricultural land

- 4.208. The ExA notes legislation and policy relevant to the consideration of best and most versatile (“BMV”) agricultural land and farming circumstances, including NPS EN-1 [ER 4.12.82], dNPS EN-1 [ER 4.12.83], dNPS EN-3 [ER 4.12.84], the NPPF [ER 4.12.85], a Written Ministerial Statement of the former Secretary of State for Communities and Local Government dated 25 March 2015 (“WMS”) [ER 4.12.86], and relevant local policies [ER 4.12.88 et seq.].
- 4.209. Throughout Examination, IPs disputed the Applicant’s agricultural land classification (“ALC”) findings as the Applicant heeded NE’s advice by not incorporating a factor for the availability of reliable irrigation in the findings, which would have essentially made land a grade higher [ER 4.12.132 et seq.]. This could have increased the BMV land percentage on the site were it to remain a factor in deciding ALC, particularly for land the Applicant assessed to have changed in classification from 3a to 3b [ER 4.12.135]. However, the ExA notes that NE advised that, even in areas of droughty soils such as the site of the Proposed Development, the change in classification of land due to irrigation “should not be included in ALC

assessments” [ER 4.12.136]. The ExA also notes NPS EN-1 provides little policy guidance whilst dNPS EN-3 notes the criteria for grading ALC “is decided by Natural England” [ER 4.12.137].

4.210. The ExA further notes that the NPPF does not make clear irrigation should be retained as a factor either, disagreeing with a SNTS submission which misinterprets NE’s TIN049 advice on ALC as detailed technical guidance [REP2-240o, ER 4.12.139]. Instead, the ExA notes ALC grading is deliberately designed to be insensitive to good or bad agricultural land management [ER 4.12.139]. Therefore, the ExA considers that the Government has removed irrigation to focus technical grading on the “intrinsic properties of the soil and the site”, but the ExA has still taken into account irrigation as a factor impacting agricultural land and included this in the overall planning balance [ER 4.12.140].

4.211. The ExA considers that the Applicant should have provided soil surveys for the underground cabling and access routes, in accordance with dNPS EN-3, as the work to excavate and stockpile soil could have significant residual effects on ALC [ER 4.12.143].

4.212. At the close of Examination, the ExA concluded that valid differences in position on ALC remained between the Applicant and NE on one hand, and SNTS and other IPs on the other. The position of the Applicant, based upon ALC surveys, was that a total of 37.3ha of BMV land would be used for solar infrastructure and associated mitigation. [APP-044, ER 4.12.98]. SNTS and other IPs disputed this finding, instead using NE’s predictive BMV map to show that as a reasonable worst case 82% of the scheme area is 60% or more likely to be BMV [REP11-033, ER 4.12.128]. Considering the results consistently achieved by farmers, the ExA found some merit in a Rochdale envelope approach put forward by HA’s, which disagreed with the Applicant’s assessments and considered that 82% of the Proposed Development’s site could be 60% or more likely to be BMV [REP11-033, ER 4.12.145]. The ExA concludes that issues relating to BMV agricultural land and farming circumstances carry moderately negative weight in the planning balance [ER 4.12.151, ER 6.2.35].

4.213. On 15 May 2024 the Secretary of State published a WMS stating:

“The new National Policy Statement that we published in January makes clear that applicants should, where possible, utilise suitable previously developed land, brownfield land, contaminated land and industrial land. Where the proposed use of any agricultural land has been shown to be necessary, poorer quality land should be preferred to higher quality land avoiding the use of “Best and Most Versatile” agricultural land where possible. The Government in Powering Up Britain: Energy Security Plan clarified that while “solar and farming can be complementary” developers must also have “consideration for ongoing food production.”

“...due weight needs to be given to the proposed use of Best and Most Versatile land when considering whether planning consent should be granted for solar developments. For all applicants the highest quality agricultural land is least appropriate for solar development and as the land grade increases, there is a greater onus on developers to show that the use of higher quality land is necessary. Applicants for Nationally Significant Infrastructure Projects should avoid the use of Best and Most Versatile agricultural land where possible.”

Secretary of State’s conclusions

4.214. The Secretary of State has considered all information available and the ExA’s own conclusions and notes the differences in position regarding the ALC of land across the site

of the Proposed Development. The Secretary of State particularly notes the submissions of the Applicant [APP-115, APP238, APP239, REP10-032, Letter to the Secretary of State dated 10 August 2023], NE [REP4-139, REP7-104, REP10-027, Letter to Matt Hancock MP and Lucy Frazer MP dated 28 March 2023], SNTS [REP2-240d, REP2-240o, REP4-140, REP11-033], and A G Wright & Son (Farms) Limited [REP2-097a-af]. The Secretary of State has also had regard to the relevant sections of national policy in the designated 2024 NPSs. The Secretary of State notes that the ALC has remained a divisive issue since the close of Examination, with many responses to the information provided during the Secretary of State's information requests of 27 July 2023 and 23 August 2023 disputing both the findings of the Applicant and the supporting position of NE [for example, R F Turner & Son's representation dated 31 August 2023].

- 4.215. However, the Secretary of State must, as the ExA concurs, "have proper regard to advice from the statutory advisor" [ER 4.12.144]. In this regard, NE are content with the Applicant's arrangements to carry out ALC surveys for parts of the cable route post-consent [REP4-139, REP7-104, ER 4.12.143], and NE is also content with the Applicant's overall approach to the ALC field surveys and grading of land [REP4-139, REP7-104, REP10-027, ER 4.12.144,]. In NE's letter to Matt Hancock MP and Lucy Frazer MP dated 28 March 2023, the Secretary of State notes that this position is due to NE's satisfaction with the Applicant's consultants' approach and methodology, and compliance with current guidance. In the same letter, the Secretary of State also notes that NE disprove the accuracy of SNTS' reliance upon 'Provisional ALC' maps due to their strategic, rather than detailed, scale. NE considers that SNTS reached the incorrect conclusion that 82% of Proposed Development's site could be 60% or more likely to be BMV because of their incorrect use of NE's Predictive BMV Map, as included in one of A G Wright & Son (Farms) Limited's submissions [REP2-097u, REP11-033]. The Applicant reinforces this agreement with NE, and confirms its assessments of ALC, in its letter to the Secretary of State, dated 10 August 2023 and the Statement of Common Ground [REP10-027].
- 4.216. The Secretary of State sees no reason to disagree with the conclusions of NE and of the Applicant [REP10-032, ER 4.12.98 et seq.]. The Secretary of State therefore agrees that there will be less than 40ha BMV land affected for the lifetime of the Proposed Development, and that the alternative Rochdale Envelope approach is unhelpful and incorrect.
- 4.217. The Secretary of State has considered all relevant policy contained within the 2011 and 2024 NPSs relating to solar and land use as important and relevant considerations within the decision-making process. The Secretary of State recognises that the 15 May 2024 WMS emphasises elements of the 2024 NPSs. The Secretary of State notes the guidance in 2024 NPS EN-3 that "land type should not be a predominating factor in determining the suitability of the site location" [NPS EN-3, paragraph 2.10.29], and that "the development of ground mounted solar arrays is not prohibited on [BMV] agricultural land" [NPS EN-3, paragraph 2.10.30]. The Secretary of State is satisfied that the Applicant has properly assessed agricultural land classification and properly justified the extent of use of BMV land. The Secretary of State agrees that the Proposed Development "maximises the use of poorer quality agricultural land and will not result in the permanent loss of BMV land" due to the Proposed Development being decommissioned following 40 years of operation, [REP10-032, ER 4.12.99]. Disagreeing with the ExA, the Secretary of State therefore concludes that the Proposed Development accords with all policies regarding harm to BMV agricultural land, including the NPS and the recent WMS, and that the Applicant has justified the use of BMV agricultural land and the protection of soil resources [REP10-032],

and sees no reason to disagree with the conclusions of NE and of the Applicant, recognising NE's position on the Applicant's assessments and its significance to the matter as the SNCB.

- 4.218. The ExA concluded that issues relating to BMV agricultural land carry moderate negative weight in the planning balance [ER 4.12.151, ER 6.2.35]. The Secretary of State disagrees.
- 4.219. The Secretary of State is satisfied with the Applicant's approach to the assessment and use of BMV land and that this does not conflict with policy. However, the Secretary of State is not persuaded that there will be a benefit to soil quality on the site of the Proposed Development (as discussed below at paragraph 4.225 and notes that, regardless of accordance with policy, some BMV land will nevertheless be temporarily lost to the Proposed Development. The Secretary of State therefore concludes that the issues relating to BMV agricultural land carry slightly negative weight in the planning balance.
- 4.220. Cumulative impacts on BMV land were not raised during the examination or discussed by the ExA. The Secretary of State is aware that a number of solar farms are coming forward in the wider East of England and East Midlands region, and that there is a potential for cumulative impacts on BMV land. However, the Secretary of State has no evidence that these impacts are such that the Secretary of State considers that additional weight should be given to this cumulative impact.

Socio-economics and land use: farming circumstances

- 4.221. The ExA agreed with the Applicant that any farmland temporarily lost to grassland designed for landscape and ecological mitigation could not thereafter remain in place in perpetuity as this could see farming business owners lose a large amount of land which could no longer be farmed [ER 4.12.131]. However, the ExA disagreed with the Applicant that developing the site for solar power generation would involve little soil disturbance and would therefore allow retention of the land resource for future use [ER 4.12.146]. The ExA considered this untrue for the installation of BESS, substations and cabling for the Proposed Development [ER 4.12.147]. Furthermore, the ExA considered that overall construction impacts could be more significant than the Applicant assessed due to the tracking of delivery and construction vehicles, distinct and dissimilar to the current baseline of heavy farming machinery [ER 4.12.148].
- 4.222. The ExA disagreed with the Applicant's assessments and considered that the suspension of a farming enterprise for the duration of the Proposed Development would effectively result in the loss of the farming enterprise [ER 4.12.149]. The ExA considered that any farming business lost would be for two generations, that the fallow during this period has not been demonstrated to benefit soil condition, and that the benefits of more available and diversified resources for enterprise for the farming businesses has also not been demonstrated [ER 4.12.149]. The ExA therefore considered that the magnitude of change for farming businesses losing their land is high, and the sensitivity of the receptor is medium due to the loss being effectively permanent and possibly constituting a significant proportion of the business [ER 4.12.150].

Secretary of State's conclusions

- 4.223. The Secretary of State disagrees with the ExA and agrees with the view of the Applicant that any agricultural land resource lost to the Proposed Development "could return to supporting agricultural production, grazing sheep and so would not be lost or degraded" [ER 4.12.105]. The Secretary of State considers that a solar farm is a temporary and reversible development and considers that there is no evidence to suggest that agriculture cannot be reestablished

on the land temporarily lost. Regarding soil disturbance, the Secretary of State notes that the Applicant has implemented the advice of NE in the CEMP and Soil Management Plan [REP10-014] and that soil handling and consistence will be managed during construction [REP10-027]. This gives the Secretary of State confidence that the tracking of delivery and construction vehicles would not lead to significant impacts, as the ExA considers. The SMP gives the Secretary of State confidence that management of soil material during construction would also extend to the installation of BESS, substations and the cabling [REP10-014, REP10-027].

- 4.224. However, the Secretary of State agrees with the ExA that the loss of a farming enterprise for the duration of the Proposed Development will not feel temporary and may constitute a significant proportion of the farming enterprise to farm business owners [ER 4.12.149 et seq.]. The Secretary of State agrees with the ExA that a diversified enterprise due to the greater availability of water because of lost land does not reduce the harm done to farm business owners to temporary negligible, considered not significant [ER 4.12.110].
- 4.225. The Secretary of State further considers the cumulative harm to farming circumstances is not reduced through the compensation received through compulsory acquisition and leasing the land to the Applicant, the justification for which is discussed separately at Section 6 of this Decision Letter. However, after reviewing information received from the Applicant, the Secretary of State notes there remains only one farming business which upholds its objection and will lose land compulsorily [Applicant's letter to the Secretary of State dated 10 August 2023]. The Secretary of State considers this does not reduce the significance of the harm caused to farming businesses by the Proposed Development but does reduce the scale of it.
- 4.226. The ExA concluded that issues relating to farming circumstances carry moderate negative weight in the planning balance [ER 4.12.151, ER 6.2.35]. The Secretary of State disagrees. The Secretary of State accepts that there will be some harm caused to farming businesses by the Proposed Development. However, the scale of this harm is limited and the Secretary of State considers the harm is temporary for the duration of the Proposed Development, with agriculture able to reestablish on farmland following decommissioning. The Secretary of State therefore concludes that the issues relating to farming circumstances carry slightly negative weight in the planning balance.

Socio-economics and land use: Public Rights of Way

- 4.227. The ExA note the legislation and policy relevant to the consideration of PRoW, including NPS EN-1 [ER 4.12.152], dNPS EN-1 [ER 4.12.153], the NPPF [ER 4.12.154] and other relevant local planning policies [ER 4.12.155 et seq.].
- 4.228. The ExA notes that there will be disruption caused by the closure of PRoWs across the local landscape but notes the Applicant has acknowledged the emphasis given in the ECDC and WCS local plan documents, highlighting the importance of ensuring existing PRoWs are retained and that disruptions to PRoWs during the construction phase are kept to a minimum [ER 4.12.223]. The ExA also notes that the Applicant has committed to close PRoWs temporarily only where no reasonable alternative exists, and in such cases, a consultation would take place with the relevant local highway authority or authorities on PRoW management or closures in accordance with article 11 of the Order [ER 4.12.224].
- 4.229. The ExA is satisfied that the alternative provision and diversions could be arranged at least as attractively, safely and conveniently for public use, considering their temporary nature and that local plan requirements to minimise disruption to PRoW users during the construction phase of development would be met by making reasonable provision by the proposed

diversions and permissive paths in light of the predicted adverse effects, to offset the disadvantages to the public [ER 4.12.225].

- 4.230. The ExA is satisfied that the proposals put forward by the Applicant would achieve reasonable enhancements to the PRoW network in connection with the Proposed Development, and adverse impacts of the Proposed Development on PRoW users and the network would be appropriately mitigated [ER 4.12.226].
- 4.231. The Secretary of State notes the measures the Applicant has taken to ensure that disruption to the PRoWs will be kept to a minimum, as well as the compensation fund to two of the local councils, but nevertheless considers that there will be some temporary harm caused by closures. The Secretary of State therefore agrees with the conclusions drawn by the ExA on this matter and ascribes this matter slight negative weighting in the planning balance.

Traffic, transport and highway safety

- 4.232. The ExA concludes that the Proposed Development will have adverse transport, traffic and highway safety impacts, particularly during transport of Abnormal Indivisible Loads and in respect of Heavy Goods Vehicles on local roads, but that these adverse impacts are capable of being satisfactorily managed and minimised through the Construction Traffic Management Plan and the recommended Order [ER 4.13.14]. However, the ExA concludes that these impacts will nevertheless cause harm, albeit temporary, and therefore carry moderately negative weight in the planning balance [ER 4.13.14]. The Secretary of State agrees with the ExA's conclusions on this matter and ascribes the matter moderate negative weight in the planning balance.

Water resources, flood risk and drainage

- 4.233. The ExA concludes that an appropriate Flood Risk Assessment, which meets the requirements set out in NPS EN-1 and dNPS EN-1, has been carried out by the Applicant for the Proposed Development, [ER 4.14.65]. The ExA concludes that emergency response measures for flooding are robustly provided for in the Framework CEMP [ER 4.14.66]. The ExA notes that the Applicant has also assessed the potential effects on the water environment and no significant residual effects on surface water, groundwater resources or flood risk are predicted for the Proposed Development [ER 4.14.69] and the ExA concludes that the Proposed Development accords with the requirements of the Water Framework Directive. The ExA ascribes this matter neutral weight. The Secretary of State agrees with the ExA's conclusions on this matter and ascribes this matter a neutral weighting in the overall planning balance.

Noise and Vibration

- 4.234. The ExA notes that the Applicant's noise and vibration assessment assesses those matters required to be assessed in NPS EN-1 and concludes that operational noise with respect to human receptors was properly assessed using British Standards and other guidance as appropriate [ER 4.11.60]. The ExA considers that the Proposed Development would avoid significant adverse impacts on health and quality of life from noise and mitigate and minimise other adverse impacts on health and quality of life from noise through effective management and control of noise as set out in the Framework CEMP [ER 4.11.61]. The ExA notes that the measures set out in the Application and amplified through iterations of the Order, Framework CEMP and Framework OEMP would in the ExA's view minimise and where possible reduce noise pollution, and the infrastructure would be capable of being appropriately sited where its users and receptors would not be significantly adversely affected by noise or vibration [ER 4.11.63].

4.235. The noise resulting from the construction, operation and decommissioning of the Proposed Development would remain below the significance thresholds as set out in the Noise Policy Statement for England (NPSE) and NPPF [ER 4.11.64]. The ExA concludes that the Proposed Development would accord with Government policy on noise and vibration as set out in NPS EN-1, NPS EN-5, draft NPSs, the NPSE and NPPF, as well as local planning policy. The ExA ascribes this matter slight negative weight in the overall planning balance [ER 4.11.65]. The Secretary of State agrees with the conclusions drawn on this matter and ascribes a slightly negative weight in the planning balance.

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").

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. 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 (regulations 64 and 68). The complete process of assessment is commonly referred to as an HRA.
- 5.7. 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, the advice of the SNCB and all representations received in response to the post-Examination consultation letters. The Secretary of State considers that the Proposed Development has the potential to have a LSE on seven protected sites when considered alone and in-combination with other plans or projects:
- Fenland SAC;
 - Chippenham Fen Ramsar;
 - Wicken Fen Ramsar;
 - Rex Graham Reserve SAC;
 - Breckland SAC
 - Breckland SPA; and
 - Devil's Dyke SAC.
- 5.8. The Secretary of State notes the repeated advice of the SNCB regarding the absence of a functional linkage of the land of the Order limits with the Breckland SPA for stone curlew, but also acknowledges the concerns of IPs including SNTS regarding the unavailability of the supporting evidence which NE uses to support its advice. Whilst NE's advice is that the publication of the evidence document will be 'unlikely' to change its advice regarding the absence of a functional linkage, on a precautionary basis the Secretary of State has considered that the Order limits and land within 500m of it may be functionally linked to the Breckland SPA, and has considered the impacts to stone curlew and mitigation in the AA.
- 5.9. The Secretary of State does not consider it is necessary to defer his decision until NE has concluded its research and evidence document, as suggested by some IPs, because he has already assumed that a functional linkage cannot be excluded on a precautionary basis and has proceeded to consider effects on stone curlew of the Breckland SPA and mitigation in the Appropriate Assessment.
- Appropriate Assessment conclusion*
- 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 NE as the SNCB the views of all other IPs including the Host Authorities and SNTS, the Applicant's case and responses to consultation letters.
- 5.11. Taking account of appropriate mitigation measures, the ExA was of the view that the Proposed Development would not lead to an adverse effect on the integrity of Fenland SAC; Chippenham Fen Ramsar Site; Breckland SAC; Rex Graham Reserve SAC; and Devil's Dyke SAC, either alone or in-combination with other plans or projects. However, the ExA [ER 5.12.20, 5.13.2, 5.14.7] was not satisfied, on the basis of the information available at the end of Examination, that an adverse effect on the integrity of The Breckland SPA could be excluded beyond reasonable scientific doubt due to displacement effects on land within the

Order limits that is used by breeding stone curlew and which may be functionally linked to The Breckland SPA.

- 5.12. Having properly considered the views of all IPs including the Applicant and having regard to the advice of NE and giving its advice considerable weight, the Secretary of State disagrees with the recommendation of the ExA regarding Breckland SPA. The Secretary of State considers the Applicants case to be reasonable and he sees no convincing evidence or reasons to suggest that recreational disturbance effects, potential conflicts of stone curlew mitigation land and archaeology, or grassland management issues would be likely to reduce the efficacy of the proposed stone curlew mitigation as suggested by the ExA and other IPs. The Secretary of State is satisfied that the stone curlew provisions are appropriate to adequately mitigate impacts to stone curlew, and that the Development Consent Order secures provision of the plans to be progressed and finalised post consent and agreed by the relevant Local Authority in consultation with NE as the SNCB. The Secretary of State is satisfied with the provisions for monitoring and management of the mitigation for the lifetime of the Project, including the role of the Ecological Advisory Group in determining appropriate remedial actions. The Secretary of State sees no evidence to suggest that management issues could render the proposed mitigation habitat inadequate or unsuitable and he sees no compelling reason to disagree with the reasoned advice of NE as the SNCB in this instance. Therefore, the Secretary of State is satisfied that the mitigation measures secured are sufficient such that an AEoI of Breckland SPA from displacement effects on stone curlew resulting from the Project alone and in-combination can be excluded beyond all reasonable scientific doubt.
- 5.13. Overall, the Secretary of State agrees with the Applicant, in accordance with the advice of NE as SNCB, that subject to mitigation measures as secured in the DCO an AEoI of any protected site can be excluded beyond all reasonable scientific doubt.

Compulsory Acquisition and Temporary Possession

- 6.1. The ExA concluded that development consent should not be granted and consequently that the compelling case in the public interest which is required to justify the inclusion of CA and TP powers has not been made out [ER 7.1.2]. However, the ExA recognises that the Secretary of State may conclude that development consent should be granted and the ExA has therefore considered the case for CA and TP on that basis. Apart from the matters on which the ExA has recommended against the Application, the ExA notes that it would have otherwise concluded that, generally, a compelling case had been made in the public interest for the CA powers sought and that the Proposed Development would comply with s122(2) and s122(3) of the PA2008 in most cases [ER 9.2.4].
- 6.2. The PA2008, together with related case-law and guidance, provides that CA can only be granted if certain conditions are met. Under section 122 of the PA2008 CA may only be authorised if:
- the land is required for the development to which the consent relates, or
 - it is required to facilitate or is incidental to that development; or
 - it is replacement land which is to be given in exchange for the Order land under sections 131 or 132 of the PA2008; and
 - there is a compelling case in the public interest.
- 6.3. In applying these statutory tests, relevant factors will include:
- the land required to be taken must be no more than is reasonably required and be proportionate;
 - there must be a need for the project to be carried out;

- all reasonable alternatives to CA 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
- the decision-maker is satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the interference with the human rights of those affected.

The Applicant's case

- 6.4. The purposes and need for which the CA and TP powers are required are set out in the Applicant's Statement of Reasons [REP7-005, ER 7.3.11 et seq.]. The Applicant explains that "it requires the powers of compulsory acquisition sought in order to provide certainty that it will have all the land required to construct and operate the Scheme, in order to realise its very significant public benefits" [Para 5.4.9 REP7-005]. The Applicant justifies the need for the Proposed Development and therefore the powers requested by stating that the Proposed Development's contribution to "UK decarbonisation and security of supply, while helping lower bills for consumers throughout its operational life, will be critical on the path to Net Zero" [Para 6.3.6 REP7-005]. The Applicant also provided evidence to support this at Compulsory Acquisition Hearing 1 ("CAH1") [ER 7.5.102, ER 7.5.115].
- 6.5. The Secretary of State notes that the Statement of Need [APP-260], the Statement of Reasons [REP7-005] and Appendix 4A of the Environmental Statement 'Alternative Sites Assessment' [APP-054] explain the Applicant's consideration of reasonable alternatives for the Proposed Development required when seeking powers of CA [ER 7.4.8]. The Applicant also provided evidence to support this at CAH1 [ER 7.5.104, ER 7.5.112 et seq.]. The ExA is satisfied that sufficient details of alternatives, and how these were considered as part of the overall design of the Proposed Development, have been provided to meet the requirements of NPS EN-1, dNPS EN-1 and the EIA Regulations [ER 6.2.2].
- 6.6. The Application includes provision for powers relating to land of which the freehold and leasehold are to be compulsorily acquired [ER 7.2.23, ER 7.3.14], and to land of which new rights are to be compulsorily acquired and restrictive covenants imposed, and land in relation to which existing easements, servitudes and other private rights the exercise of which is inconsistent with the rights and restrictions acquired pursuant to the Order are to be extinguished [ER 7.2.22, ER 7.3.15 et seq.]. The Application also includes provision for powers relating to land, which is to be subject to temporary use, and during any period of temporary possession the exercise of easements, servitudes and other private rights is to be suspended [ER 7.2.21, ER 7.3.27 et seq.]. The ExA was satisfied that the requirements of section 123 of PA2008 are satisfied in respect of all the land and rights over land sought by the Applicant in the draft Order [ER 7.2.23].
- 6.7. The Applicant seeks rights over Crown land and so section 135 of PA2008 is engaged [ER 7.3.30 et seq.]. None of the land included in the CA request is National Trust Land, Open Space or common land [ER 7.3.39]. The Applicant obtained a s135 consent from the Secretary of State for Transport in respect of Plot 4-03 and therefore the ExA concluded that Crown consent has been obtained in respect of any Crown land [ER 7.5.140 et seq., ER 7.6]. The ExA also concluded that there is no special category land within the Order limits [ER 7.5.143, ER 7.6].
- 6.8. The powers sought by the Applicant would affect Statutory Undertakers under sections 127 and 138 of PA2008 [ER 7.3.34]. There were no representations from Statutory Undertakers outstanding and not withdrawn at the close of Examination [ER 7.5.5, ER 7.5.137, ER 7.6]. As contributing evidence to the powers sought, the Applicant also provided a Funding

Statement [REP7-007, ER 7.3.40 et seq.] and an updated Equality Impact Assessment [REP10-039, ER 7.3.51].

Examination

- 6.9. The ExA examined all documents relevant to CA and TP in the Application and found that they met the requirements of the relevant regulations and guidance [ER 7.5.4 et seq.].
- 6.10. The Applicant submitted two proposed changes to the Application [ER 7.5.86]. The ExA concluded that neither change constituted a request for the CA of additional land or rights, that the Infrastructure Planning (Compulsory Acquisition) Regulations 2010 ("CA Regulations") were not engaged, and that there were no new Affected Persons ("AP") [ER 7.5.90, ER 7.5.93]. Both changes were accepted into the Examination by the ExA [ER 7.5.94].

Consideration of objections

- 6.11. There were over 30 RRs related to CA and TP issues [ER 7.5.7]. By the end of Examination, and after changes to the application, there were 27 remaining objectors to CA and/or TP proposals [ER 7.5.8 et seq., ER 7.5.12 et seq., 7.5.192].
- 6.12. The ExA considers that the CA tests have been entirely met in relation to all objections and their relevant plots [ER Chapter 7 section 5] and for the Charity of Katharine Shore [ER 7.5.168 et seq., REP7-025 (not a formal objection)], other than those shown below and later discussed by the Secretary of State.

The ExA's recommendation

- 6.13. In the event that the Secretary of State is minded to grant development consent for the Proposed Development, the ExA concluded that the case for CA and TP powers has not been made out in respect of:
 - the freehold title of Plots 9-07, 11-05 and 11-06; but rights are adequate;
 - the freehold title of Plots 1-02 and 1-03; but rights are adequate;
 - either freehold or rights in Plots 13-03, 13-04, 14-02 and 14-03, save for rights in sufficient land in Plots 14-02 and 14-03 for the grid connection;
 - access rights in Plot 14-04;
 - either freehold or rights in Plots 10-06 to 10-11 inclusive;
 - access rights in plots 10-01 to 10-05 inclusive;
 - cable rights in respect of Plots 10-12 to 10-20 inclusive, Plots 10-29 to 10-32 inclusive and part of Plot 10-33 [ER 7.6].
- 6.14. The ExA therefore recommended that:
 - Plots 10-01 to 10-20 inclusive, Plots 10-29 to 10-32 inclusive, and Plots 13-03, 13-04 and 14-04 be removed from the Order land, and the BoR and land plan be modified accordingly;
 - Plots 14-02 and 14-03 be reduced in size to the land necessary for rights only, not freehold acquisition, for the cable route, and the BoR and the land plan be modified accordingly;
 - The extent of rights sought over Plot 10-33 be modified so as to include only the extent of land necessary for the remainder of the cable route, and the BoR and land plan be modified accordingly;
 - CA proposals in respect of Plots 1-02, 1-03, 9-07, 11-05, 11-06, 14-02 and 14-03 be amended to indicate that only necessary access and cable rights are sought and not the freehold, and the BoR and land plan be modified accordingly;

- CA powers be granted over the remainder of the Order land; and
- TP powers be granted over the remainder of the Order land [ER 7.6].
- Prior to any grant of development consent, the Secretary of State should obtain further information to be able to conclude whether there is a reasonable prospect of the requisite funds for acquisition becoming available within the necessary timescale, capable of meeting all financial liabilities arising from the exercise of the CA and TP powers sought [ER 7.5.130].

Secretary of State's consideration and conclusions – Case in the public interest

- 6.15. The Secretary of State notes the ExA's position that there is generally "a fair balance between the public interest in the development going ahead and the interference with the rights of those affected" [ER 7.5.191]. The Secretary of State also notes that, except for the objections discussed below, the ExA considered that it would have otherwise concluded that, generally, a compelling case had been made in the public interest for the CA powers sought and that the Proposed Development would comply with s122(2) and s122(3) of the Planning Act 2008 ("PA2008") in most cases [ER 9.2.4].
- 6.16. The Secretary of State considers that the Applicant has clearly demonstrated sufficient consideration of alternatives and accorded with the position set out in both the NPSs and dNPSs that the case for the need of the Proposed Development is built upon its contribution to decarbonisation, security of supply, and affordability [Para 6.2.2 et seq. REP7-005]. The Secretary of State considers that the Proposed Development will support the urgent need to both decarbonise and increase the generating capacity of the UK energy sector [NPS EN-1 3.3.22, NPS EN-1 3.4.5, ER 7.5.102]. The Secretary of State further considers that, as a large-scale solar scheme, the Proposed Development is in accordance with dNPS EN-3 as it would make a significant contribution to the government's ambition of a five-fold increase in solar deployment by 2035 (up to 70GW) [British Energy Security Strategy, dNPS EN-3 3.10.2].
- 6.17. As discussed elsewhere in this decision letter, the Secretary of State concludes that development consent should be granted for the Proposed Development and consequently that the urgent compelling case in the public interest which is required to justify the inclusion of CA and TP powers has been made out and, after discussing the objections below, this applies in all instances [ER 7.1.2]. The Need for the Proposed Development, including its urgent need and the case in the public interest for development consent to be granted, is discussed further at paragraph 4.1.

Secretary of State's consideration and conclusions – Other matters

- 6.18. The Secretary of State notes the ExA's position on the Applicant's changes to the Application [ER 7.5.93 et seq.], on statutory undertakers and protective provisions, and regarding Crown and special category land [ER 7.6]. The Secretary of State agrees with the ExA's conclusions on these matters. The Secretary of State also agrees with the ExA in relation to the exercise of CA and TP powers in relation to all plots other than those discussed below [ER 7.5.193, ER 7.6].

Secretary of State's consideration and conclusions on objection RR-0881: Joanna Reeks

- 6.19. Joanna Reeks objected to the Applicant being granted CA of all interests and rights in relation to Plots 10-06, 10-07, 10-08, 10-09, 10-10, 10-11, 11-05 and 11-06, and to being granted CA of rights over Plots 10-02, 10-03, 10-05, 10-12, 10-17, 10-19, 10-28, 10-29, 10-33, 11-01, 11-02, 11-03, 11-04 [ER 7.5.26]. Mrs Reeks objected on several grounds, including the size of the Proposed Development, the loss of farmland to solar panels, and

the inapparent necessity of the need for her land in the interest of the Proposed Development or public benefit [ER 7.5.26 et seq., ER 7.5.173, RR-0881, REP2-161, REP7-081].

- 6.20. The ExA noted these submissions and conducted both unaccompanied and accompanied site inspections [ER 7.5.29, ER 7.5.176, EV-003, EV-013]. The ExA concurred with Mrs Reeks objections, stating that the loss of the land would mean Mrs Reeks would no longer be able to productively farm the land and this loss would be effectively permanent, because of the length of time Mrs Reeks and her successors couldn't use the land and because there was no guarantee of the soil quality post-decommissioning [ER 7.5.31, ER 7.5.177]. The ExA also agreed that Mrs Reeks land is clearly delineated from the rest of the Proposed Development by the A11, and this would require extra works to facilitate the plots' connection [ER 7.5.31, ER 7.5.177].
- 6.21. Considering the importance of the existing farm operation and weighing infringing upon an individual's support under the ECHR, the ExA concluded that the cost of connections and solar arrays, combined with the loss of farm operations and food production for the nation, did not establish the need for the land in the public interest as these disadvantages outweigh the public benefit of the energy produced over the lifetime of the project [ER 7.5.32, ER 7.5.178]. The ExA also concluded that the Applicant's purposes in respect of farmland Plots 10-06, 10-07, 10-08, 10-09, 10-10 and 10-11 (the plots detached from Sunnica West Site A to the east of the A11) are not proportionate or sufficient to justify interfering with the human rights of those with an interest in them [[ER 7.5.32, ER 7.5.178].
- 6.22. The ExA carried its conclusions on RR-0881 and Mrs Reeks' plots into its overall recommendations regarding CA and TP, as highlighted above [ER 7.5.34 et seq., ER 7.5.179, ER 7.5.193].
- 6.23. The Secretary of State notes that Mrs Reeks signed an option agreement on 28 March 2023, immediately prior to the close of Examination but her submissions [RR-0881, REP2-161, REP7-081] were not formally withdrawn at this stage [ER 7.5.175, REP11-004]. The Secretary of State was informed via the Applicant that Mrs Reeks and the Tillbrook Family, who share her interest in the plots, withdrew their objection and entered into two Option Agreements with the Applicant in relation to all their property interests [Letter to Secretary of State, dated 26 June 2023].
- 6.24. Regardless, and as discussed in other objections below, the Secretary of State acknowledges that any loss of interests and rights over plots – through CA or agreement – will not feel temporary to farming enterprise owners and that some harm will be caused by the Proposed Development in this regard, though this is reduced for Mrs Reeks and the Tillbrook Family considering their voluntary agreements with the Applicant. However, the Secretary of State agrees with the Applicant that, although it may not feel like it, any loss of land is temporary and that the harm caused is to be weighed against the urgent compelling need for the Proposed Development in the public interest, already outlined above.
- 6.25. The Secretary of State therefore disagrees with the ExA and considers that the disadvantages of the private harm caused to Mrs Reeks and the Tillbrook Family are outweighed by the significant public benefits of the Proposed Development. The Secretary of State disagrees with the ExA's assertion that the presence of the A11 in some way reduces the justification or proportionality when considering Mrs Reeks human rights. Any additional costs caused by the A11 are a matter for the Applicant. Similarly, the loss of food production, in national terms, caused by the CA would be minimal and should not weigh upon the proportionality of CA for human rights purposes. The Secretary of State concludes that CA of these plots is legitimately sought, is proportionate, and is no more than is reasonably required to facilitate the Proposed Development.

- 6.26. The Secretary of State therefore disagrees with the ExA and concludes that, even if Mrs Reeks had not withdrawn her objections, those objections would not be sufficient for the Secretary of State to conclude that granting CA powers did not strike a fair balance between the public benefit and the interference with Mrs Reeks' and the Tillbrooks' human rights in this case.

Secretary of State's consideration and conclusions on objection RR-1054: Lesley Haird

- 6.27. Lesley Haird objected to the Applicant being granted CA of subsoil rights over Plot 10-02 [ER 7.5.47]. Mrs Haird objected on matters including the Proposed Development's impact on the local village, the unsuitable location of the site, and the impact on wildlife [ER 7.5.47, RR-1054].
- 6.28. The Applicant seeks the use of Plot 10-02, part of Dane Hill Road, to access the eastern part of Sunnica West Site A where Joanna Reeks has freehold of Plots 10-06, 10-07, 10-08, 10-09, 10-10 and 10-11 [ER 7.5.47]. Given the ExA's conclusions on Mrs Reeks' objection and plots, as outlined above, and that Mrs Haird's plot relates solely to the access of Mrs Reeks' farmland plots, the ExA concluded that the need to acquire rights in respect of Plot 10-02 falls away [ER 7.5.47].
- 6.29. The ExA carried its conclusions on RR-1054 and Mrs Haird's plot into its overall recommendations regarding CA and TP, as highlighted above [ER 7.5.47, ER 7.5.193].
- 6.30. The Secretary of State notes that, unlike Mrs Reeks, Mrs Haird did not withdraw her objection in relation to their property interests in Plot 10-02. Considering the withdrawal of Mrs Reeks' objection, and the above conclusion on the case for the voluntary acquisition of Mrs Reeks' land, the Secretary of State considers that the need to acquire Mrs Haird's access rights in respect of Plot 10-02, in order to access Mrs Reeks' farmland plots, has been made out. The Secretary of State concludes that these rights are proportionate and required to facilitate the Proposed Development. The Secretary of State disagrees with the ExA and concludes that there is a fair balance between the public benefit and the interference with Mrs Haird's human rights in this case.

Secretary of State's consideration and conclusions on objection RR-1178: Cambridgeshire County Council ("CCC")

- 6.31. Cambridgeshire County Council (CCC) objected to the Applicant being granted CA of all interests and rights including freehold of Plots 9-07, 11-05, 11-06, and 13-01, and to being granted CA of rights over Plots 8-06, 9-03, 9-04, 9-05, 10-02, 10-19, 10-24, 10-26, 11-02, 11-03, 11-04, 14-05, 14-08, 15-02, 15-03, 16-10, 16-11, 16-13, 16-15, 16-16, 16-17, 16-18, 18-02, 18-03, 18-04, 18-05, 18-06, 18-07, 18-11, 18-12, 18-15, 18-16, 18-18, 19-12, 19-13, 19-14, 20-01, 20-03, 20-12, 20-13, 20-15, 20-21, and 22-01 [ER 7.5.54, ER 7.5.58 et seq.]. CCC objected on a multitude of issues including cultural heritage, socioeconomic and land use, air quality and human health, and ecology and nature conservation [ER 7.5.54, RR-1178. REP2-112]. The ExA notes that CCC considers the application is "incomplete and inadequate, particularly in respect of mitigation", for example, regarding agricultural assessments and effects [ER 7.5.55 et seq.].
- 6.32. As discussed above, the ExA was not satisfied that the case for seeking rights in relation to Joanna Reeks' Plots 10-06, 10-07, 10-08, 10-09, 10-10 and 10-11 has been made out [ER 7.5.61]. Therefore, and in conjunction with the ExA's conclusions on Lesley Haird's Plot 10-02, the ExA considered that the need case for rights over plots to access Mrs Reeks' plots also falls away, including the need to acquire rights in respect of CCC's rights over Plot 10-02 [ER 7.5.61]. The ExA was also not persuaded of the need for CA of the freehold of CCC's

Plots 9-07, 11-05 and 11-06 (listed in the Book of Reference (“BoR”) as “verge and hedgerow (La Hogue Road)” [REP8-004]) but considered the CA of necessary access rights to these plots is proportionate [ER 7.5.61].

- 6.33. Aside from Plots 9-07, 10-02, 11-05 and 11-06, the ExA was satisfied that the proposed interference with CCC interests and rights is proportionate [ER 7.5.61]. The ExA carried its conclusions on RR-1178 and CCC’s plots into its overall recommendations regarding CA and TP, as highlighted above [ER 7.5.61, ER 7.5.193].
- 6.34. The Secretary of State notes that CCC did not withdraw their objection [RR-1178] in relation to their property interests in Plots 9-07, 10-02, 11-05 and 11-06 in their response to the Secretary of State dated 30 August 2023. Considering the withdrawal of Mrs Reeks’ objection, and the above conclusions on the voluntary acquisition of Mrs Reeks’ land and the compulsory acquisition of Mrs Haird’s rights, the Secretary of State considers that the need to acquire CCC’s access rights in respect of Plot 10-02, in order to access Mrs Reeks’ farmland plots, has been made out.
- 6.35. The Secretary of State requested information from CCC and the Applicant regarding Plots 9-07, 11-05 and 11-06 on 23 August 2023. The Secretary of State notes that CCC considered “the freehold of the land should be in the ownership of the Applicant, because the land could only be dedicated by the freehold owner of the land to become highway maintainable at public expense”, something not possible if the Applicant pursued rights only [CCC response to request for information dated 30 August 2023]. CCC also consider that the freehold of these plots should be acquired in order to carry out the intended landscaping/environmental mitigation to be included within these plots. In its response to responses dated 13 September, the Applicant agrees with CCC that it requires CA powers for freehold over these plots.
- 6.36. Noting that neither the CCC nor the Applicant objected to the CA of the freehold of Plots 9-07, 11-05 and 11-06 [CCC response to request for information dated 30 August 2023], the Secretary of State disagrees with the ExA and is persuaded of the need for CA of Plots 9-07, 11-05 and 11-06 [ER 7.5.61]. The Secretary of State agrees with the ExA that the CA tests are met in respect of the necessary access rights [ER 7.5.61]. However, the Secretary of State also concludes that the freehold of these plots is no more than is reasonably required and proportionate, and that the CA of the freehold of these plots is needed to facilitate the Proposed Development as the Applicant envisages. The Secretary of State therefore concludes that the CA tests are met in respect of all of CCC’s plot interests.

Secretary of State’s consideration and conclusions on objection RR-1340: Suffolk County Council

- 6.37. Suffolk County Council (SCC) objected to the Applicant being granted CA of all interests and rights including freehold of Plots 1-02, 1-03, 3-06, 5-03, and 5-11, and to being granted CA of rights over Plots 1-04, 3-07, 3-08, 4-03 (Crown land), 4-04, 5-02, 5-04, 5-08, 5-09, 5-10, 6-02, 6-05 (plot removed during examination), 6-07, 6-08, 7-06, 7-07, 8-02, 21-01, 21-02, 21-03 [ER 7.5.66, ER 7.5.68 et seq.]. SCC highlighted to the ExA its considerable experience in engaging with nationally significant energy infrastructure projects and in supporting low carbon energy generation [ER 7.5.67]. SCC, informed by this experience, objected on a multitude of issues including landscape and visual amenity, socioeconomic impacts, battery fire safety, and transport and access issues [ER 7.5.66 et seq., RR11-1340, REP1-024, REP2-246].
- 6.38. The ExA was not persuaded of the need for CA of the freehold of SCC’s Plots 1-02 and 1-03 (listed in the BoR as “verge and...overhead telecommunications lines (Unnamed Road)”)

[REP8-004]) or of Plot 5-11 hedgerow (listed in the BoR as “public bridleway and byway (U6006) and hedgerow”[REP8-004]), but considered the CA of necessary access rights to these plots is proportionate [ER 7.5.71].

- 6.39. Aside from Plots 1-02, 1-03 and 5-11, the ExA was satisfied that the proposed interference with SCC interests and rights is proportionate [ER 7.5.71]. The ExA carried its conclusions on RR-1340 and SCC’s plots into its overall recommendations regarding CA and TP, as highlighted above [ER 7.5.71, ER 7.5.193].
- 6.40. The Secretary of State requested information from SCC and the Applicant regarding Plots 1-02, 1-03 and 5-11 on 23 August 2023. The Secretary of State notes that SCC did not withdraw their objection [RR-1340] regarding these plots in their response to the Secretary of State dated 30 August 2023. As CCC considered for their plots, SCC considered that “if the applicant wishes for any works in plots 1-02, 1-03 and 5-11 to ultimately become part of the publicly maintainable highway, the freehold title to those land parcels will need to be acquired” [SCC response to request for information dated 30 August 2023]. The Applicant, in its response to responses dated 13 September 2023, appeared to misunderstand SCC’s direction and considered that it could proceed “by acquisition of rights rather than obtain the freehold ownership of these plots” [Applicant’s response to responses dated 13 September 2023]. The Secretary of State has to have regard to the owners’ interests in this instance, and so agrees with the direction SCC, as the objector, has given. Although SCC have not withdrawn their objection, they are clear that if the Proposed Development is to go ahead then the Applicant is likely to need to acquire the freehold title.
- 6.41. The Secretary of State notes that SCC consider the Applicant will have to acquire the freehold and rights of Plots 1-02, 1-03 and 5-11 but, unlike the Applicant’s BoR and SoN [REP8-004, REP10-009], SCC are unsure they are indeed plots within the council’s ownership (SCC response to request for information dated 30 August 2023). Furthermore, as already highlighted, the Applicant considered that SCC was content with only acquiring rights to these plots, which it was not (Applicant’s response to responses dated 13 September 2023). As already stated, the Secretary of State agrees with SCC’s direction.
- 6.42. Regardless, the Secretary of State disagrees with the ExA and is persuaded of the need for the CA of SCC’s interests in Plots 1-02, 1-03 and 5-11 [ER 7.5.71]. The Secretary of State agrees with the ExA that the CA tests are met in respect of the necessary access rights [ER 7.5.61]. However, the Secretary of State also concludes that the freehold of these plots is no more than is reasonably required and proportionate, and that the CA of the freehold of these plots is needed to facilitate the Proposed Development as the Applicant envisages. The Secretary of State therefore concludes that the CA tests are met in respect of all of SCC’s plot interests.

Secretary of State’s consideration and conclusions on objection RR-1348: R F Turner and Son

- 6.43. R F Turner and Son (The Turners) objected to the Applicant being granted CA of all interests and rights including freehold of Plots 13-03, 13-04, 14-02, and 14-03, and to being granted CA of rights over Plots 9-02, 9-03, 9-04, 9-05, 14-04, 14-07, 15-01. [ER 7.5.72, ER 7.5.74]. The Turners objected to the permanent loss of their productive farmland, to the Applicant and NE’s flawed approach to agricultural land classification (ALC), and to the impact of the Proposed Development on soil quality [ER 7.5.72 et seq., RR-1348, REP2-217, REP10-076/a].
- 6.44. The ExA noted these submissions and found that the land is productively farmed and expected to be so in the future, that the land will be used dually for solar arrays and ecological

mitigation, and that the loss of farmland would be effectively permanent because up to two generations of The Turners would be unable to use the land and there was no guarantee of the soil being of the same quality after decommissioning [ER 7.5.75].

- 6.45. The ExA considered the importance of using these plots to The Turners, the loss of food production when compared with energy production, and the subsequent weighting of private loss of EHCR against public benefit [ER 7.5.76]. The ExA concluded that the permanent loss of food production and disproportionate interference with The Turners' human rights in respect of their interests to Plots 13-04, 14-02, 14-03 and, consequentially, 14-04 would not be in the public interest [ER 7.5.77 et seq.]. The ExA was satisfied that the proposed interference with The Turners' interests and rights in respect of Plots 9-02, 9-03, 9-04, 9-05, 14-07 and 15-01 is proportionate [ER 7.5.78].
- 6.46. The ExA carried its conclusions on RR-1348 and The Turners' plots into its overall recommendations regarding CA and TP, as highlighted above [ER 7.5.78, ER 7.5.193].
- 6.47. The Secretary of State notes that The Turners have not withdrawn their objection [RR-1348] regarding these plots. The Secretary of State has considered his conclusions on farming circumstances in relation to whether to grant powers of CA and TP in regard to The Turners' plots. Farming circumstances are discussed earlier at paragraph 4.216 (et seq.) and ascribed slightly negative weighting. The Secretary of State understands that the loss of productive farmland to The Turners will not feel temporary and that there will be some harm caused by the Proposed Development to The Turners by losing interests and rights over their plots.
- 6.48. However, as above, the Secretary of State considers there is a compelling case in the public interest for the Proposed Development. The Secretary of State disagrees with the ExA and considers that the public benefit of the Proposed Development meets the urgent need for low carbon energy generation, and that this outweighs the "effectively permanent loss of food production" [ER 7.5.77] which the Secretary of State considers, like the loss of farming enterprise, may feel permanent, but is in reality temporary. The Secretary of State considers this significant public benefit also outweighs the harm caused to The Turners' farming enterprise. As mentioned above in relation to Mrs Reeks (see paragraph 6.25), the Secretary of State considers that the loss of food production, in national terms, caused by the exercising of CA powers would be minimal and, in any event, should not weigh upon the proportionality of CA for human rights purposes.
- 6.49. The Secretary of State also notes that Plots 13-03, 13-04, 14-02, 14-03 and 14-04 form a considerable portion of Sunnica West Site A, including both solar arrays and ecological mitigation. The Secretary of State therefore considers that, in this case, there is a fair balance between the public and environmental benefit provided by the Proposed Development in these plots, and the interference with the human rights of The Turners who will be compensated for their loss of farming enterprise by the Applicant. The Secretary of State therefore concludes that the CA tests have been met in respect of all of The Turners interests in respect of all their plots.

Secretary of State's consideration and conclusions – Adequacy of funding

- 6.50. During Examination, the Applicant updated its Funding Statement at various intervals to take account of changes of ownership in the parent company [ER 7.5.118, ER 7.5.129, REP7-007]. The ExA questioned the ability of the Applicant and its parent company to fund CA and other compensation [ER 7.5.121]. The ExA considered the parent company reserves were below the legal minimum and requested a guarantee or other form of security from the Applicant prior to any grant of development consent. The Applicant responded to state that

such a provision is included in the draft Order and that to provide a parent company guarantee prior to any grant of development consent is not in line with precedent SoS has been content with previously in other made Orders [ER 7.5.121].

- 6.51. Several IPs also raised issue with the Applicant's ability to fund the full delivery cost of the Proposed Development, including decommissioning, and – following the change of ownership – who would be responsible for CA liabilities [ER 7.5.124 et seq.]. The Applicant maintained that any obligations in respect of compensation will be met and that the Proposed Development is viable [ER 7.5.128].
- 6.52. The ExA concluded that there were outstanding concerns regarding the adequacy of the Applicant's assessments, availability of funding, and low level of reserves, all amounting to a risk that AP could have their land or rights taken away without compensation [ER 7.5.130]. The ExA carried its conclusions on the Applicant's funding into its overall recommendations regarding CA and TP, as discussed below [ER 7.5.130].
- 6.53. The Secretary of State disagrees with the ExA's conclusions on the adequacy of the Applicant's Funding Statement [REP7-007] and considers that the Funding Statement is satisfactory and complies with the Department for Communities and Local Government's 2013 guidance on CA³. The Secretary of State considers that the Applicant has provided as much information as is required and has demonstrated how it will achieve a route to funding the whole Proposed Development, including in meeting CA and TP liabilities within the five years allowed for in the Order [CA Guidance paragraph 17 et seq., REP7-007].
- 6.54. The Secretary of State notes that the Applicant provided an indication of how any potential shortfalls are intended to be met, rather than evidencing that they have the exact capital available currently. This is common for large infrastructure projects and the Secretary of State has accepted a similar funding position on a number of previous applications.
- 6.55. The Secretary of State is content with the funding statement and that any liabilities in relation to CA and TP will be met. In any event Article 43 of the Order requires a suitable guarantee to be in place and approved by the Secretary of State to cover all such liabilities before any CA or TP can take place. The Secretary of State agrees with the Applicant and considers that Article 43 of the Order is in accordance with the precedent that a parent company guarantee does not need to be provided prior to any grant of development consent, as has been the case with other made Orders [ER 7.5.121].
- 6.56. The Secretary of State therefore disagrees with the ExA and does not consider that there is a risk that AP could have their land or rights taken away without compensation [ER 7.5.130], as the Secretary of State will have confirmation that the guarantee is in place and is adequate before powers of CA and TP can be exercised.
- 6.57. The Secretary of State also notes the ExA's comment that there is a risk the guarantee may have "to be honoured by the SoS (i.e. the taxpayer) in order to ensure that no AP has their land or rights taken away without compensation" [ER 7.5.130]. Firstly, this is a misunderstanding of the position. The Secretary of the State approves the guarantee, but he is not party to it such that any liability could fall to the taxpayer. Secondly, as above, the Secretary of State does not consider that there is a fundamental funding risk that could lead to any AP having land or rights taken away without compensation being conferred. Thirdly,

3

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/236454/Planning_Act_2008_-_Guidance_related_to_procedures_for_the_compulsory_acquisition_of_land.pdf

given the Secretary of State's role in approving any guarantee by the Applicant, there could be no scenario in which land or rights would be taken away from AP prior to the Applicant's availability of funding for liabilities being demonstrated to the Secretary of State and approved in the form of a guarantee or other form of security. Finally, the Secretary of State would like to reassure AP and the taxpayer that there is no circumstance in which land or rights would be compulsorily acquired and the liabilities would not be met by the Applicant or its guarantors. If the Applicant does not present a robust guarantee or other form of security, then the Secretary of State will not approve it and the powers of CA and TP will not be able to be relied upon by the Applicant. In the case of the Proposed Development, Article 43 of the Order secures this process.

Secretary of State's consideration and conclusions – Human rights and PSED

- 6.58. The ExA noted no representations were made during Examination in respect of human rights or the PSED, and concluded that all persons wishing to be heard have had adequate opportunity and that human rights and PSED have been adequately considered by the Applicant [E 7.5.182 et seq., ER 7.5.191]. The ExA was satisfied that the Applicant has not generally interfered with the rights conferred by the Articles of the European Convention on Human Rights ("ECHR") [ER 7.5.18 et seq., ER 7.5.191]. However, the ExA considered that the exercise of CA and TP interferes with Article 1 of the First Protocol to the ECHR and, although in most cases the interference is minimised to a proportionate and lawful level to facilitate the Proposed Development, in some cases – those discussed already above - the ExA considered the Applicant's proposals do not strike a fair balance between the public benefit and the interference with individual rights [ER 7.5.189]. The Secretary of State has already explained his reasoning and conclusions on these cases and, disagreeing with the ExA, concludes that there is a fair balance between the harms done to individual rights and the significant public benefits.
- 6.59. The Secretary of State is satisfied that the requirements of s122 and 123 are met and therefore the use of CA and TP powers is lawful. The Secretary of State also considers that the Applicant has done all it can to minimise the interference with landowners' rights from exercising CA and TP powers to a proportionate level in all cases. The Secretary of State considers that the Applicant's proposals do strike a fair balance between the public benefit and the interference with individual rights. The Secretary of States is therefore satisfied that to the extent that the decision to allow the Applicant CA and TP powers does interfere with ECHR rights, any such interference is legitimate and justified. The Secretary of State agrees with the ExA that PSED has also been adequately considered by the Applicant and that there are no outstanding PSED issues for him to consider [ER 7.5.191, ER 7.6].

Secretary of State's conclusions – Overall

- 6.60. Having decided to grant development consent the Secretary of State is satisfied that all the land over which CA and TP is sought is required for the development for which consent is sought or is required to facilitate or is incidental to that development. The Secretary of State is also satisfied that there is a compelling case in the public interest for the CA and TP powers sought.
- 6.61. The Secretary of State considers that the case for CA and TP has been made out and that the Applicant's case accords with the ECHR and PSED. The Secretary of State notes that there will be harm to certain private interests over the loss of land and rights. However, the Secretary of State is content that interference with these rights is for a legitimate purpose and that these harms are proportionate and are justified by the public benefits of the Proposed Development, which in this case outweigh those harms. The Secretary of State is satisfied that the Applicant has met the requirements of s122 and s123 of PA2008. The

Secretary of State is also satisfied with the funding will be in place to ensure that the Applicant's liabilities regarding CA and TP are met.

- 6.62. Therefore, the Secretary of State disagrees with the ExA's conclusions, and is satisfied that all the powers sought by the Applicant regarding CA and TP are necessary, and that it is appropriate to include them in the Order.

Secretary of State's Consideration of the Planning Balance

- 7.1. The Secretary of State has considered the case for the Proposed Development under section 105 of the PA2008 as section 104 does not apply. In taking this decision, the Secretary of State has had regard to the relevant LIR, relevant matters prescribed in relation to development of the description to which the Application relates, and all important and relevant matters to the decision.

- 7.2. The Secretary of State acknowledges the ExA's conclusion that:

"the ExA is firmly of the view that there would be substantial disbenefits resulting from the Proposed Development, principally in terms of the harm that would be caused to the setting of the Chippenham Park RPG, the extensive adverse impact on the landscape setting of and views from the Limekilns, a non-designated but an especially valued landscape, and the design of the Sunnica West A element. These elements would also be in conflict with local plan policies on landscape and heritage assets. Overall, the combination of these harms, taken together with the other harms identified, clearly outweigh the benefits of the Proposed Development. These disbenefits are not outweighed by the public benefit of the provision of solar generating capacity despite its need and urgency. Consequently, the ExA recommends that development consent for the Application be refused in the terms sought." [ER 6.3.19]

- 7.3. The Secretary of State agrees with the weighting ascribed by the ExA to the following matters:

- Principle of development and need – significant positive weight (see paragraph 4.17) [ER 6.3.18]
- Effects on other habits and species (excluding stone curlew and farmland birds) – neutral weight (see paragraph 4.94) [ER 6.3.6]
- Public Rights of Way – slight negative weight (see paragraph 4.231) [ER 6.3.15].
- Traffic, transport and highway safety – moderate negative weight (see paragraph 4.232) [ER 6.3.16]
- Water resources, flood risk and drainage – neutral weight (see paragraph 4.232) [ER 6.3.17]
- Noise and vibration – slight negative weight (see paragraph 4.235) [ER 6.3.11].

- 7.4. However, there are a number of matters upon which the Secretary of State disagrees with the ExA's conclusions and weightings ascribed in the planning balance.

- 7.5. The ExA concludes that the Proposed Development has the potential to cause harm to the setting of the Chippenham Park RPG, and will unsatisfactorily mitigate impacts on the Isleham site, which weighs substantially against the Order being made. The ExA concludes that potential effects on archaeological sites, other heritage assets and their settings, caused by a lack of sensitive design, would also be adverse but the ExA considers that the harm would be less than substantial [ER 6.3.7]. The Secretary of State, in considering heritage assets further, disagrees with the ExA and concludes that the temporary harm to the Isleham

site is mitigated by the permanent enhancements made to the site. However, the Secretary of State considers there will be temporary harm to the setting of both the Bronze Age bowl barrows SM and Chippenham Park RPG for the duration of the Proposed Development. In agreement with the ExA, the Secretary of State also acknowledges the proximity of the Proposed Development to other designated and non-designated heritage assets carries slightly negative weight in the planning balance. Overall, the Secretary of State ascribes this matter harm moderate negative weighting in the planning balance (see paragraph 4.121).

- 7.6. Furthermore, the ExA considers that the Proposed Development would cause significant harm to landscape character and visual amenity which is an integral feature of good design for developments as set out in NPS EN-1 and dNPS EN-3. The ExA concludes that in particular there would be an extensive adverse impact on the landscape setting of and views from the Limekilns, which comprise a valued landscape, and upon the landscape in the vicinity of and views towards the Sunnica West A element of the Proposed Development.
- 7.7. Proposed mitigation planting would cause its own effects on the landscape which could be negative in terms of reducing characteristic openness, although the harm caused would be less than substantial. Overall, the harm, including the harm caused by the scale of the development, would result in general adverse effects on the landscape that weigh substantially against the Proposed Development [ER 6.3.8]. The Secretary of State agrees with the conclusion drawn by the ExA that the proposed mitigation may not fully be effective until year 15 in the operational phase and also acknowledges that the predicted Moderate adverse impact on the Limekilns but disagrees with ExA on the point that the landscape and visual impacts are so severe as to outweigh the benefits associated with the Proposed Development. The Secretary of State therefore ascribes this matter moderate negative weighting in the planning balance (see paragraph 4.162).
- 7.8. The ExA further concludes that the detriment to enjoyment of and appreciation by residents and other users of the area caused by adverse impacts on views, as in relation to The Ark church, La Hogue Farm and the Elms Road permanent caravan site, would cause harm which also weighs moderately against the Order being made [ER 6.3.9]. The ExA considers that the temporary nature of the Proposed Development would not outweigh these negative impacts in terms of landscape effects or on people's enjoyment of their landscape and that a reduction in the scale of the Proposed Development would need to be extensive to achieve adequate mitigation of landscape and visual effects [ER 6.3.10].
- 7.9. The Secretary of State notes paragraph 5.9.8 of NPS EN-1 which recognises that virtually all energy NSIPs will have landscape and visual effects and that projects need to take account of their potential impacts, and notes paragraph 5.9.17 of EN-1, which advises that consideration should be given to whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by reasonable mitigation [ER 4.10.8], which he believes has been adequately conducted by the Applicant. The Secretary of State therefore ascribes this matter moderate negative weight in the planning balance (see paragraph 4.162).
- 7.10. With regard to air quality and human health (including battery storage), the ExA concludes that the potential adverse impacts would generally be mitigated through the measures in the Order via the CEMP and CTMP, and hence weigh only slightly against the Proposed Development [ER 6.3.1]. The Secretary of State is satisfied that adequate mitigation has been secured for the air quality impacts and ascribes this matter limited negative weight in the planning balance (see paragraph 4.30).

- 7.11. The ExA notes that technology and safety in the performance of BESS is likely to evolve and improve in the future, and it is satisfied that the fire safety management plan secured in the dDCO would be capable of satisfactorily addressing and mitigating all adverse impacts at the detailed design stage. The ExA concludes that this leaves a small residual risk which is adverse and therefore weighs slightly against the Proposed Development [ER 6.3.3]. The Secretary of State disagrees with the ExA's conclusion, noting that the Applicant has evidenced appropriate mitigation and preventative measures during the construction phase and will be updating the Battery Fire Safety Management Plan at each stage of the project lifecycle, and the Secretary of State therefore ascribes this matter limited negative weight in the planning balance (see paragraph 4.59).
- 7.12. In respect of glint and glare, the ExA concludes that there could be significant impacts due to glint and glare which have not been adequately assessed [ER 4.7.154] and considers that the proposed mitigation measures cannot reduce the harm to an acceptable level and so the potential effects of glint and glare weigh substantially against the Proposed Development [ER 6.3.2]. The Secretary of State disagrees with the ExA's conclusion on glint and glare and concludes that the Applicant has adequately assessed and mitigated for the effects of glint and glare. The Secretary of State ascribes this matter neutral weight in the planning balance (see paragraph 4.47).
- 7.13. In respect of the effects on stone curlew, the ExA recommended that the provision of replacement habitat for foraging and breeding is inadequate or unsuitable due to potential management issues [ER 4.8.97] and that the Proposed Development has the potential to cause significant harm to the stone curlew population within and adjacent to the site [ER 4.8.98]. NE advised that it was satisfied with the proposals [ER 4.8.95], including the proposed methods for creating and managing the offsetting habitat [REP6-070]. The Secretary of State is satisfied that the Applicant has adhered to the mitigation hierarchy in its consideration of alternatives which avoid harm prior to mitigation and that stone curlew offsetting provisions are appropriate to adequately mitigate impacts to stone curlew for the lifetime of the Proposed Development. The Secretary of State sees no compelling evidence or reasons to disagree with the advice of NE, the SNCB, on this matter, in accordance with the Applicant's assessments. Therefore, the Secretary of State disagrees with the ExA's conclusions and considers that the Applicant has met the requirements of NPS EN-1. The Secretary of State ascribes impacts on stone curlew neutral weight in the planning balance (see paragraph 4.86).
- 7.14. With regard to other farmland birds (namely skylark, yellow wagtail, linnet and lapwing, [REP6-057; REP8-050] and other breeding birds of important conservation status including quail, hobby and ringed plover [REP1-024]), the ExA concludes that due to the size of the Proposed Development, it will have the potential to cause adverse effects on some bird species but also notes that during the Examination, the Applicant maintained its position that it had not identified additional evidence to suggest that the criteria and sources presented in its assessments of the effect of the Proposed Development on farmland birds were incorrect and therefore no re-assessment was made [REP10-032] [ER 4.8.99]. Natural England was content with the mitigation proposed for bird species and considered that no significant affect had been found [REP10-027]. The Secretary of State ascribes the temporary minor adverse impact on farmland birds during construction minor negative weight in the planning balance (see paragraph 4.90).
- 7.15. With regard to BNG, the ExA concludes that, because BNG is not yet a statutory requirement for NSIPs, BNG weighs neither for or against the Proposed Development [ER 4.8.104]. The Secretary of State disagrees with the ExA and considers that it is because BNG is not yet a statutory requirement for NSIPs, that the voluntary commitment of the Applicant to achieve

BNG of over 10% weighs moderately for the Proposed Development in the planning balance (see paragraph 4.90). The Secretary of State ascribes the impacts on ecology and biodiversity neutral weighting in the overall planning balance (see paragraph 4.94).

- 7.16. With regard to socio-economic impacts, the ExA concludes that it is not satisfied that there would be an overall net benefit in terms of the local economy and employment in terms of jobs to be created from within the study area [ER 6.3.12]. However, the ExA notes that the main parties have now agreed measures outlined in the updated OSSCEP and is satisfied that the proposed measures would secure in a reasonable manner the potential improvements, mitigation and compensation to local communities. In terms of the Newmarket HRI, the Secretary of State concludes that that the impacts on the HRI, as a result of landscape and visual impacts, including glint and glare, will be adequately mitigated, including through the provision of screening. The Secretary of State considers that there is no substantive and objective evidence to suggest that the Proposed Development is likely to have a negative impact on either specific HRIF or the long-term viability of the HRI, as proposed by HRI IPs and concluded by the ExA. The Secretary of State therefore ascribes this matter neutral weight in the planning balance (see paragraph 4.207).
- 7.17. With regard to BMV agricultural land and farming circumstances, the ExA conclude that the Proposed Development will have an adverse impact on farming enterprises, particularly in respect of the loss of productive farmland and that these impacts will cause harm [ER 6.3.13]. The Secretary of State disagrees with the conclusions drawn on this matter and agrees with the view of the Applicant that any agricultural land resource lost to the Proposed Development “could return to supporting agricultural production, grazing sheep and so would not be lost or degraded” [ER 4.12.105]. The Secretary of State considers that a solar farm is a temporary and reversible development and considers that there is no evidence to suggest that agriculture cannot be reestablished on the land temporarily lost, but agrees with the ExA that the loss of a farming enterprise for the duration of the Proposed Development will not feel temporary and may constitute a significant proportion of the farming enterprise to farm business owners – though the number of these parties affected and still in opposition to the voluntary acquisition of their land is limited [ER 4.12.149 et seq.]. Furthermore, the Secretary of State is not convinced there will be a benefit to the soil quality due to the Proposed Development and notes that, although the Application is in accordance with policy, some BMV land will nevertheless be temporarily lost to the Proposed Development. The Secretary of State therefore ascribes these matters slightly negative weight in the planning balance (see paragraph 4.219).
- 7.18. Regarding CA and TP, the ExA considered that development consent should not be granted and that, therefore, the compelling case in the public interest which is required to justify CA and TP powers has not been made out. If the Secretary of State were to conclude that development consent ought to be granted, the ExA considered that the case for CA and TP had not been made out in respect of certain plots. Conversely, the Secretary of State is satisfied that all the land over which CA and TP is sought is required for the development for which consent is sought or is required to facilitate or is incidental to that development. The Secretary of State is also satisfied that there is a compelling case in the public interest for the CA and TP powers sought. The Secretary of State considers that the case for CA and TP has been made out and that the Applicant’s case accords with the ECHR and PSED. The Secretary of State notes that there will be harm to certain private interests over the loss of land and rights. However, the Secretary of State is content that interference with these rights is for a legitimate purpose and that these harms are proportionate and are justified by the public benefits of the Proposed Development, which in this case outweigh those harms. The Secretary of State is satisfied that the Applicant has met the requirements of s122 and s123 of PA2008. The Secretary of State is also satisfied that the funding will be in place to ensure

that the Applicant's liabilities regarding CA and TP are met. Therefore, the Secretary of State disagrees with the ExA's conclusions, and is satisfied that all the powers sought by the Applicant regarding CA and TP are necessary, and that it is appropriate to include them in the Order (see paragraph 6.62).

- 7.19. The Secretary of State acknowledges that all nationally significant energy infrastructure projects will have some potential adverse impacts. The Secretary of State has considered all the benefits and adverse impacts associated with the Proposed Development. Overall, the Secretary of State has concluded that on balance the benefits, in particular in relation to the need for new generation capacity as established in paragraph 4.16 above, outweigh the adverse impacts associated with the Proposed Development. The Secretary of State therefore concludes that consent should be granted for the Proposed Development.

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; disability; gender reassignment; marriage and civil partnerships⁴; pregnancy and maternity; race; religion and belief; sex; and sexual orientation.
- 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 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 people 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.

⁴ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

- 8.6. The Secretary of State is of the view that the ExA's Report, together with the Environmental Statement 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.

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 Sunnica Energy Farm. 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 reject the ExA's recommendation to withhold consent. In reaching this decision, the Secretary of State confirms that regard has been given to the ExA's Report, the LIRs submitted by SCC, ECDC, WSC and CCC, 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 105 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.

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.
- The Secretary of State has amended Article 7 to remove reference to Section 65(8) of the Control of Pollution Act 1974, which is no longer in force.
 - The Secretary of State has removed Article 15 from the draft Order, which sought to mandate that the Applicant remove and rebury or cremate any human remains from burial grounds within the Order limits. There are no known burial grounds within the Order limits so the Secretary of State considers this article to be unnecessary. Provision for any archaeological human remains should be included in the site-specific written scheme of investigation, as set out in the Detailed Archaeological Mitigation Strategy.
 - The Secretary of State has amended Article 38 to make clear that any decisions of the Secretary of State made under the Order are not subject to arbitration, as well as amending Schedule 13 to remove the Secretary of State from the definition of relevant authority for the purpose of the procedure for discharge.
 - The Secretary of State has amended requirement 6 in Schedule 2 of the Order to reflect the inclusion of anti-reflective coating as standard on the solar array modules in Work No.1.
 - The Secretary of State has amended Schedule 8 of the Order to reflect the final position on land in which only new rights etc may be acquired. The Secretary of State has also updated Schedule 10 of the Order to reflect the final versions of the documents and

plans to be certified under Article 37 of the Order.

- The Secretary of State has removed Part 13 of Schedule 12 to the Order to reflect the agreement between the Applicant, SCC and CCC in relation to highways matters. The Secretary of State has also amended what was Part 15, now Part 14, of Schedule 12, so that it can operate alongside Part 8 of Schedule 12, which also deals with protection for drainage authorities.

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 confirm with the current practice for statutory instruments and changes in the interests of clarity and consistency and to achieve consistency with other DCOs.

Challenge to decision

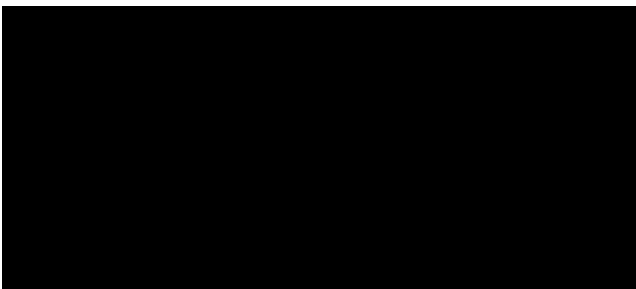
11.1. The circumstances in which the Secretary of State's decision may be challenged are set out in the Annex to this letter.

Publicity for decision

12.1. The Secretary of State's decision on this Application is being publicised as required by section 116 of the PA2008 and regulation 31 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

12.2. Section 134(6A) of the PA2008 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 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://national-infrastructure-consenting.planninginspectorate.gov.uk/projects/EN010106>

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 Effects on Integrity (HRA assessment)
AIL	Abnormal Indivisible Load
ALC	Agricultural Land Classification
AONB	Area of Outstanding Natural Beauty
AP	Affected Person
APA	Archaeological Protection Area
ASI	Accompanied Site Inspection
BESS	Battery Energy Storage System
BFSMP	Battery Fire Safety Management Plan
BMV	Best and Most Versatile
BNG	Biodiversity Net Gain
BoR	Book of Reference
CA	Compulsory Acquisition
CCC	Cambridgeshire County Council
CEA	Cumulative Effects Assessment
CEMP	Construction Environmental Management Plan
CIEEM	Chartered Institute of Ecology and Environmental Management
CPO	Compulsory Purchase Order
CR1	Change Request 1
CR2	Change Request 2
CTMP	Construction Traffic Management Plan
CWS	County Wildlife Site
DBSC	Daniel Baird Soil Consultants
DCO	Development Consent Order
dDCO	draft Development Consent Order
DEMP	Decommissioning Environmental Management Plan
DLUHC	Department of Levelling Up, Housing and Communities
dNPS	Draft National Policy Statement
EA	Environment Agency
EAG	Ecology Advisory Group
ECDC	East Cambridgeshire District Council
EclA	Ecological Impact assessment
ECOW	Ecological Clerk of Works
ECHR	European Convention on Human Rights
EIA	Environmental Impact Assessment
EIA Regulations	The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017
EM	Explanatory Memorandum
EP	Environmental Permit
EPA1990	Environmental Protection Act 1990
EPR	The Infrastructure Planning (Examination Procedure) Rules 2010
ER	Examining Authority's Report

ES	Environmental Statement
EU	European Union
ExA	Examining Authority
ExQ1	Examining Authority's First Written Questions
ExQ2	Examining Authority's Second Written Questions
ExQ3	Examining Authority's Third Written Questions
FHDC	Forest Heath District Council
FHPUT	Federated Hermes Property Unit Trust
FRA	Flood Risk Assessment
GB	Great Britain
GEART	Guidelines for the Assessment of Road Traffic
GHG	Greenhouse Gases
GLVIA 3	Guidelines for Landscape and Visual Impact Assessment, 3rd Edition
GVA	Gross Value Added
HA	Host Authorities
ha	Hectare(s)
HDD	Horizontal Directional Drilling
HE	Historic England
HEMP	Historic Environment Management Plan
HEMPMS	Heritage Environmental Management Plan Method Statements
HER	Historic Environment Record
HGV	Heavy Goods Vehicle
HMA	Habitat Mitigation Area
HPUT	HPUT A Limited and HPUT B Limited
HRA	Habitats Regulations Assessment
HRI	Horse Racing Industry
HRIF	Horse Racing Industry Facility/Facilities
HSE	Health and Safety Executive
IAPI	Initial Assessment of the Principal Issues
IEMA	Institute of Environmental Management and Assessment
IP	Interested Party
IPCC	Intergovernmental Panel on Climate Change
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
JCCC	Ministry of Defence Joint Casualty and Compassionate Centre
km	Kilometres
kV	Kilovolts
LEMP	Landscape and Ecology Management Plan
LEMS	Landscape and Ecological Mitigation Strategy
LGV	Large Goods Vehicle
LHA	Local Highway Authority
LIR	Local Impact Report
LLCA	Local Landscape Character Area
LLFA	Lead Local Flood Authority
LNR	Local Nature Reserve
LOAEL	Lowest Observable Adverse Effect Level

LPA	Local Planning Authority
LSE	Likely Significant Effects
LTN	Landscape Technical Note
LTP	Local Transport Plan
LVIA	Landscape and Visual Impact Assessment
LWA	Lightweight Aggregate
LWS	Local Wildlife Site
m	Metre
m sq	Square Metres
MoD	Ministry of Defence
MW	Megawatts
NCA	National Character Area
NE	Natural England
NETS	National Electricity Transmission System
NGESO	National Grid Electricity System Operator
NGET	National Grid Electricity Transmission plc
NGO	Non-governmental Organisation
NGT	National Gas Transmission
NMU	Non-motorised user
NNR	National Nature Reserve
NO ²	Nitrogen Dioxide
NOEL	No Observed Effect Level
NO _x	Nitrogen Oxide
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
NPS	National Policy Statement
NPS EN-1	Overarching National Policy Statement for Energy
NPS EN-3	National Policy Statement for Renewable Energy Infrastructure
NPS EN-5	National Policy Statement for Electricity Networks
NPSE	National Policy Statement for England
NSIP	Nationally Significant Infrastructure Project
NSN	National Site Work
NSR	Noise Sensitive Receptor
OEMP	Operation Environmental Management Plan
OFH	Open Floor Hearing
OHEMP	Outline Historic Environment Management Plan
OLEMP	Outline Landscape and Ecology Management Plan
OLEMS	Outline Landscape Mitigation Strategy
OSSCEP	Outline Skills, Supply Chain and Employment Plan
PD	Proposed Development
PDAs	Potential Development Areas for Solar Development
PEC	Predicted Environmental Concentration
PHE	Public Health England
PM	Preliminary Meeting
PPG	Planning Practice Guidance
PRN	Primary Route Network

PRoW	Public Right of Way
pSACs	possible SACs
PSED	Public Sector Equality Duty
pSPAs	potential SPAs
PV	Photovoltaic
rDCO	Recommended Development Consent Order
RIES	Report on the Implications for European Sites
RoWIP	Rights of Way and Improvements Plan
RPG	Registered Park and Garden
RR	Relevant Representation
RSPB	The Royal Society for the Protection of Birds
SAC	Special Area of Conservation
SCC	Suffolk County Council
SCC AP	Suffolk County Council Alternative Proposal
SCI	Sites of Community Importance
SI	Statutory Instrument
SM	Scheduled Monument
SNCB	Statutory Nature Conservation Body
SNTS	Say No to Sunnica Action Group
SO ₂	Sulphur Dioxide
SOAEL	Significant Observed Adverse Effect Level
SoCG	Statement of Common Ground
SoS	Secretary of State
SPA	Special Protection Area
SRN	Strategic Road Network
SSSI	Site of Special Scientific Interest
SU	Statutory Undertaker
SuDS	Sustainable Drainage System
SWT	Suffolk Wildlife Trust
TA	Transport Assessment
TGN	Technical Guidance Note
The 2008 Act/ PA2008	The Planning Act 2008
TP	Temporary Possession
TPO	Tree Preservation Order
UK	United Kingdom
USI	Unaccompanied Site Inspection
VP (followed by a number)	Viewpoint (from the Applicant's LVIA [APP-216 to APP-219])
WFD	Water Framework Directive
WMP	Water Management Plan
WMS	Written Ministerial Statement
WR	Written Representation
WSC	West Suffolk Council
ZoI	Zone of Influence (ecological assessment)
ZTV	Zone of the Theoretical Visibility