



# Awel y Môr Offshore Wind Farm

## Statement of Reasons (Tracked)

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# Summary

This Statement is submitted by Awel y Môr Offshore Windfarm Limited (incorporated under company number 12270928 and having its registered office at Windmill Hill Business Park, Whitehill Way, Swindon, Wiltshire, United Kingdom, SN5 6PB) ("the Applicant") to set out the reasons and justification for seeking powers of compulsory acquisition in the application for a development consent order ("DCO") under the 2008 Act ("the 2008 Act") for the construction and operation of an offshore energy generating station and electrical connections comprising:

- (a) up to 50 offshore wind turbine generators;
- (b) other offshore infrastructure including substation platforms, a metrological mast and buoys;
- (c) an interlink (by sub-sea cable) to the existing Gwynt y Môr offshore windfarm;
- (d) up to two offshore export cable circuits to bring the power generated to shore;
- (e) landfall and onshore electrical connections and cabling; and
- (f) a new onshore substation to allow transmission of electricity to the National Grid.

The offshore windfarm array will be located approximately 11km off the coast of North Wales, to the west of the existing Gwynt y Môr windfarm. The electricity cables will come ashore at landfall to the east of Rhyl on Ffrith beach and then continue cross-country underground to the new Awel y Môr substation to the north of Glascoed Road, then connecting into the existing National Grid substation at Bodelwyddan.

A detailed description of the authorised development is included in Volume 2 Chapter 1 (offshore) and Volume 3 Chapter 1 (onshore) of Volume 2 of the Environmental Statement (application references 6.2.1 and 6.3.1).

This Statement has been prepared in accordance with the provisions of Regulation 5(2) (h) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 ("the 2009 Regulations").

This Statement is required because the DCO, if made, would authorise the compulsory acquisition of interests or rights in land. The Order would also confer on the Applicant the additional powers below:

- (a) extinguishment of private rights over land;
- (b) acquisition of subsoil only;
- (c) rights under or over streets;
- (d) imposition of restrictive covenants;
- (e) temporary use of land for carrying out the authorised development; and
- (f) temporary use of land for maintaining the authorised development.

This Statement forms part of the suite of documents submitted with the Application for a DCO. This Statement should be read in conjunction with the other DCO application documents that relate to the compulsory acquisition powers sought by the Applicant, including:

- ▲ Draft Development Consent Order (application reference:3.1);
- ▲ Explanatory Memorandum (application reference: 3.2);
- ▲ Land Plans (including Crown and Special Category Land Plans) (application references 2.2, 2.3, 2.4 and 2.10);
- ▲ Works Plans (application reference: 2.5);
- ▲ Funding Statement (application reference: 4.2);
- ▲ Book of Reference (application reference: 4.3); and
- ▲ Planning Statement (application reference: 8.1).

The Applicant's rationale and justification for seeking powers of compulsory acquisition are set out below. The Applicant considers that there is a clear and compelling case in the public interest for the inclusion of powers of compulsory acquisition within the Order to secure the land and interests which are required for the Project. The public benefit of allowing the Project to proceed outweighs the infringement of private rights which would occur should powers of compulsory acquisition be granted and exercised.

# 1 Introduction

## 1 This Statement:

- ▲ sets out the background against which the Order is made, and provides a description of the Project;
- ▲ explains the need for the Project;
- ▲ provides a statement of the statutory authority for the proposed acquisition of land and rights by the Applicant;
- ▲ describes the Order land;
- ▲ sets out the policy background;
- ▲ explains the relationship between the Order and the Human Rights Act 1998;
- ▲ considers alternatives to compulsory acquisition and sets out the Applicant's justification for making the Order;
- ▲ considers special categories of land;
- ▲ describes the nature of related consent/applications which will be required for the Project;
- ▲ describes the case for acquisition of individual interests and rights and explains the Applicant's engagement with affected landowners and third parties; and
- ▲ considers the funding and financial implications of the Project.

2 The purpose of the Order is to authorise the construction and operation of an offshore energy generating station which will help to meet the identified national need for new renewable energy generating capacity.

3 The Order sought includes powers to compulsorily acquire and land rights onshore which are required for the works necessary to connect the generating station to the National Grid. The Applicant has attempted to acquire the land and rights required voluntarily but has been unable to acquire all Plots and rights, and accordingly requires to seek powers of compulsory acquisition.

## 2 Definitions

4 In this Statement the following definitions apply:

Table 1: Definitions.

TERM	DEFINITION
Application	means the application for development consent made to the Secretary of State for Business, Energy and Industrial Strategy by Awel y Môr Offshore Windfarm Limited to construct and operate the proposed Awel y Môr offshore windfarm and associated development.
Book of Reference	means the document in five parts produced in accordance with the provisions of Regulation 7 and given document Reference 4.3.
Convention	means the European Convention on Human Rights.
EN-1	means the overarching National Policy Statement for Energy (EN-1) published by the Department of Energy and Climate Change, 2011.
EN-3	means the National Policy statement for Renewable Energy, published by the Department of Energy and Climate Change, 2011.
EN-5	means the National Policy statement for Electricity Networks Infrastructure, published by the Department of Energy and Climate Change, 2011.
ES	means the Environmental Statement forming part of the Application, which is in six volumes and has document numbers 6.1 to 6.6.
Guidance	means the 2008 Act, Guidance related to procedures for the compulsory acquisition of land published by



TERM	DEFINITION
	the Department for Communities and Local Government, September 2013.
National Grid	means National Grid Electricity Transmission Plc (company registration number 02366977), whose registered offices is at 1 to 3 Strand, London, WE2N 5EH.
Order	means the Awel y Môr Offshore Wind Farm Order 202[.].
Order Land	means the land and rights over land for which compulsory powers of acquisition are sought in the Order as set out in the Book of Reference.
Order Limits	means the limits shown on the Work Plans (document reference: 2.5) within which the development authorised by the Order may be carried out.
Plot	means each piece or area of land identified individually in the Book of Reference and any reference to Plots or a numbered Plot shall be construed accordingly.
Project	means the construction and operation of Awel y Môr together with associated development including electricity cabling, an electrical substation, access roads, landscaping and ancillary works including environmental and ecological mitigation.
2008 Act	means the 2008 Act
2009 Regulations	means the Infrastructure Planning (Applications; Prescribed Forms and Procedure) Regulations 2009 and “Regulation” shall be a reference to the appropriate part of those Regulations.
Statement	means this Statement of Reasons.

## 3 Background to project

- 5 The Applicant proposes to develop an offshore energy generating station and related electrical connections and infrastructure.
- 6 The offshore generating station is a nationally significant infrastructure project ("NSIP") within sections 14(1)(a) and 15(3B) of the 2008 Act. Under section 15(3B) a generating station is an NSIP if:
  - (g) it is in waters adjacent to Wales up to the seaward limits of the territorial sea, or in the Welsh zone, and
  - (h) its capacity is more than 350 megawatts.
- 7 The authorised development is an offshore generating station within the territorial sea waters adjacent to Wales and its capacity will be more than 350MW. It accordingly falls within section 15(3B).
- 8 As the authorised development would be an NSIP, development consent must be obtained from the Secretary of State and an application for a development consent order must be made to the Secretary of State, care of the Planning Inspectorate, under section 37 of the 2008 Act.

### 3.1 Associated development

- 9 The Order specifically authorises development which is associated with the NSIP. The Secretary of State may, under the provisions of section 115(4A) of the 2008 Act, grant consent for development that is associated with the NSIP ("**associated development**").
- 10 Guidance on associated development has been issued by the Secretary of State. In this guidance associated development is described as being "*typical of development brought forward alongside the relevant type of principal development or of a kind that is usually necessary to support a particular type of project*" (paragraph 6) and requiring "*a direct relationship between associated development and the principal development. Associated development should therefore either support the construction or operation of the principal development, or help address its impacts. Associated development should not be an aim in itself but should be subordinate to the principal development*" (paragraph 5).

- 11 The works to create the electrical connections from the proposed offshore generating station to the National Grid and the link to the existing Gwynt y Môr windfarm are associated development. This includes the offshore cables connecting to the onshore cables at the transition joint bays (TJBs) the onshore cables, the new electrical substation and associated works such as the creation of accesses, the improvement of junctions, landscaping, drainage works, diversion of utilities and environmental mitigation. A number of other works will also be required for construction and maintenance works including creating secure working areas and temporary construction compounds, creating entrance and exit pits for trenchless installation techniques and temporary drainage and environmental mitigation measures.
- 12 In some cases, there may be some overlap between associated development and works which form part of the NSIP. All elements of the proposed development either constitute part of the NSIP or are associated development within the meaning of section 115(4A) of the 2008 Act, and so can properly be authorised by the Order.

## 4 Project Description

- 13 The Project comprises the construction and operation of an offshore energy generating station and electrical connections comprising:
- ▲ up to 50 offshore wind turbine generators
  - ▲ other offshore infrastructure including substation platforms, a metrological mast and buoys;
  - ▲ an interlink (by sub-sea cable) to the existing Gwynt y Môr offshore windfarm;
  - ▲ up to two offshore export cable circuits to bring the power generated to shore;
  - ▲ landfall and onshore electrical connections and cabling; and
  - ▲ a new onshore substation to allow transmission of electricity to the National Grid.
- 14 A full Project description is included in the Environmental Statement, in particular the offshore and onshore project descriptions (document reference: 6.2.1 and 6.3.1).

### 4.1.1 Offshore windfarm

- 15 The wind turbine generators will be located within Work No 1.
- 16 No compulsory acquisition is proposed for the offshore windfarm array area and its associated offshore infrastructure. An agreement for lease for the area array is already in place with The Crown Estate for the seabed area within which Work 1 will be situated. Agreements for leases for the cable route and interlink cable are being progressed.

## 4.1.2 Cable route

- 17 The offshore cables come ashore at Ffrith beach, Rhyl, (Work Nos 2A and 3) under the beach to the north of Rhyl Golf Club. The cable corridor will pass under sea defences, the Golf Club, Rhyl Coast Road and the railway line (Work Nos. 3, 4 and 5) (Plots 1, 28, 29, 30, 31, 34, 35, 87, 89, 90, 91, 97, 99) to reach the transition joint bays at Work No 8 (Plot 100). In these locations the cables will be installed using trenchless installation techniques, minimising the disruption to the surface. It is not anticipated that there will be any interference with the use of the road or railway. Access to the golf course and caravan park will be required in order to monitor the sub-surface installation of the cables.
- 18 At the TJBs (Work No 8) the offshore cables are joined to the onshore cables. The onshore cables then cross agricultural land (Work No.9) (Plots 101, 103, 105, 118) where open cut installation will be used until they reach Dyserth Road (Plot 131).
- 19 The next section of cable route (Work No.11) (Plots 140, 147, 157, 162, 184, 187, 190, 194) runs south from Dyserth Road to the A525 (Plots 216, 217). This section is mainly agricultural except for Plot 184 which is a wooded area and within which the cables will be installed using trenchless techniques in order to minimise impacts on the woodland. The A525 will be crossed using trenchless installation techniques.
- 20 From the A525, the cable route (Work No.15) runs south west. At the northern end of this section (Plots 242 and 247), the corridor is slightly wider than elsewhere to allow for optimal routing of the cable at installation following detailed ground investigations, in order to allow opportunity to minimise impacts on the landowner within the constraints of existing statutory undertaker apparatus. Space has been allowed to retain the flexibility to use trenchless crossing techniques across part of these plots if practical, however these need to be designed around existing electrical lines and water pipes, and cannot be committed to at this stage. This Work then continues through further agricultural land (Plot 250) and under the river Clywd at Plot 257 where it meets the next section (Work No. 18). The crossing under the river Clwyd will use trenchless techniques and there will be no works on or to the banks of the river.

- 21 Work No.18 (Plots 259, 260, 261, 269, 272, 275) is the cable corridor section running south from the river Clywd to Abergele Road (Plot 291). This section mainly comprises agricultural land, crossing a track (Plot 260). Work No. 21 continues south from Abergele Road over agricultural land (Plots 293, 294, 297, 309) to Rhuddlan Road (Plots 316, 320, 321, 322).
- 22 The cable corridor then continues south (Work No. 23) crossing Nant-y-faenol Road (Plot 342), over agricultural land (Plots 347, 353, 359, 374) and a private road (Plot 381) to the A55 (Plots 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402). Trenchless techniques will also be used to cross the A55 as part of Work No. 23 and there will be no interference with the surface of the highway. The cable corridor continues on over agricultural land (Plot 413) to the northern edge of the substation area where freehold will be sought where it connects to Work No. 29.
- 23 Within Work No. 23, there is a wooded area (Plot 349) where trenchless installation techniques will be used to install the cables without disturbing the surface. Access for construction in this area has also been routed around the woodland (Work No. 25), going outside the cable corridor so that no haul roads are required to be created in the woodland.
- 24 Work No. 29 connects the cables to the new substation to be constructed as part of the Project. Freehold is sought for the substation area (Plots 416 and 417) as the development of the substation, fencing of it, creation of new access and landscaping will be a permanent change of use of the land from its current agricultural use. The degree of interference required and the need of the Applicant to be able to control the land, including excluding access by anyone other than authorised persons to the substation, mean that freehold acquisition is required and justified. The bridleway located on Plot 416 will be maintained as a public right of way, with any closure required being temporary during construction and the route reopened as soon as practicable.

25 To the south of the new substation, the cable corridor (Work No. 36) will connect that to the existing National Grid substation at Bodelwyddan (Work No. 40). The route crosses Glascoed Road (Plot 425) then runs over agricultural land (Plots 435, 437, 438, 462, 465, 466, 471) crossing a minor road (Plot 444) and joining the existing National Grid substation (Plots 472, 473, 478, 479, 480, 481, 482, 483, 484, 485, 486). Some flexibility is required in this area as it is not yet known where the connection to the substation will be created. National Grid are currently designing works to extend this substation, and the Project requires to be able to connect into the substation as directed by National Grid having regard to the design of those works. Accordingly, the cable corridor currently allows connection to the substation at more than one point in order to ensure that the appropriate connection can be made once it is specified by National Grid.

#### 4.1.3 Access

26 Work No.41 comprises a number of accesses which are required for the operational (and potentially decommissioning) phase and over which permanent access rights are sought. These allow access to the entirety of the cable corridor and to land which has to be maintained for a number of years post construction to ensure habitat restoration and landscape planting becomes established. Where practical, these accesses have been routed over existing accesses and tracks in order to minimise the interference caused to landowners. Where existing accesses and tracks are used, rights will be sought and exercised alongside existing access rights and powers are not sought to extinguish any other person's access rights on these routes.

27 Access at the National Grid substation at Bodelwyddan is proposed to be taken over the existing access from Glascoed Road (Plots 486, 487, 488, 489, 490, 491, 492, 495, 496, 497, 498) and would be shared with the existing use.

#### 4.1.4 Mitigation works, habitat creation and enhancement

- 28 The Order Land includes areas for ecological and environmental mitigation works, habitat creation or enhancement for protected species translocation and biodiversity benefit/gain. These works are proposed on existing agricultural land, verges and hedgerows alongside and in proximity to the cable corridor and access routes (Plots 141, 143, 144, 146, 148, 149, 151, 156, 158, 163, 165, 167, 177, 188, 189, 191, 193, 198, 199, 200, 201, 202, 203, 204, 206, 207, 208, 209, 360, 361, 362, 363, 364, 376, 378, 408, 410, 445, 446, 447, 448, 456, 457, 458, 460) and land which has existing ponds (Plot 166) and woodland (Plots 185, 186).
- 29 Rights to create and maintain such works are sought over these Plots as, in order to be able to comply with the anticipated requirements of the landscape and ecological management plan (Document reference 8.4) which will require ongoing inspection and maintenance of restored and created habitat until established, rights to access the land and undertake works and prevent activities which would conflict with the requirements are needed for a period post construction, which is expected to be 3 to 5 years. This will include inspecting and replacing any planting which fails to establish, preventing removal of planting, managing, limiting or excluding access until planting establishes and preventing cutting in order to maintain areas of long grass until hedgerows establish in order to provide cover for species to move through the area, maintaining connectivity between sites and populations.



## 5 Need for and benefits of the project

- 30 The Planning Statement for the Project (document reference 8.1) sets out in detail the need for the Project and the contribution it would make towards achieving the objectives of policy, including UK and Welsh Government policy as set out in the National Policy Statements, Future Wales and the Welsh National Marine Plan. That case is not repeated in full here and this Statement should be read alongside the Planning Statement.
- 31 There is a cascade of international and national obligations, directives and policy statements that combine to place the UK on a legally binding path to reduce carbon dioxide emissions on an incremental basis.

### 5.1 Legislation

- 32 The Climate Change Act 2008 (as amended) commits the UK government to reducing greenhouse gas emissions by 100% of 1990 levels by 2050 and created a framework for setting a series of interim national carbon budgets and plans for national adaptation to climate risks. The 2011 Carbon Plan is the UK's national strategy under the Climate Change Act 2008 for delivering emissions reductions through to the Fourth Carbon Budget period (2023-27) and preparing for further reductions to 2050.

### 5.2 International obligations: United Nations Convention on Climate Change.

- 33 The Conference of Parties (COP) reviews the implementation of the Convention. In 2021, the COP negotiated a global agreement with the key goal of limiting increases of global temperatures to “well below 2°C compared to pre-industrial levels”. The parties also agreed to “pursue efforts to” limit the temperature increase to 1.5°C. This was a development of the Paris Agreement and represents a binding and universal agreement on climate from all the parties. The agreement was reached by 196 parties, seeking to prevent a “climate catastrophe” by keeping temperature rises within 1.5°C.

## 5.3 National Policy Statements

34 At the time of drafting this Statement, the Energy NPSs are subject to revision, following publication of draft NPSs for consultation in November 2021. The extant and draft NPSs establish the policy need for new renewable energy generation and the urgent need for new electricity NSIPs. The government has also clearly stated the need for energy security, including:

- ▲ The need to secure safe, affordable, reliable energy, preferably generated in the UK for the UK market;
- ▲ The need to replace existing ageing energy generation infrastructure;
- ▲ The need to meet expected electricity demand whilst meeting climate change commitments; and
- ▲ The need to maximise social and economic opportunities for the UK from energy infrastructure investment, as noted in the Clean Growth Strategy (Department for Business, Energy & Industrial Strategy (BEIS), 2017) and the UK offshore wind sector deal (Renewable UK, 2018) which aims to create 27,000 skilled jobs across the UK (up from 11,000 today) mainly in coastal areas by 2030.

35 In March 2019, the UK offshore wind sector committed to a sector deal which aims to increase offshore wind capacity to 30GW by 2030, which represents an increase from the approximately 8GW currently deployed today, envisaging an investment of £48 billion in the UK offshore wind infrastructure. On 7 April 2022 the UK Government, as part of its Energy Security Strategy, announced its aim for 50GW of offshore wind generation by 2030 with sufficient clean electricity to power every home in the UK.

- 36 The draft NPS EN-1 (paragraph 1.6.2) specifically notes that for any application accepted for examination before designation of the reviewed statements, the currently designated suite of NPSs should have effect in accordance with the terms of those NPS. It further notes that any amendments to the NPS will therefore have effect only in relation to those applications for development consent accepted for examination after the designation of those amendments. Paragraph 1.6.3 then goes on to note that any emerging draft NPSs (or those designated but not having effect) are potentially capable of being important and relevant considerations in the decision-making process. The draft NPSs are therefore important and relevant considerations in the decision-making process, particularly in relation the revised ambitious targets for renewable energy, and the need case for renewable energy developments set out therein.
- 37 Part 3 of NPS EN-1 establishes the urgent need for all types of energy infrastructure in order to achieve energy security and dramatically reduce carbon emissions (paragraph 3.1.1). Part 3 also sets out that, without significant amounts of new large-scale energy infrastructure, the Government's energy and climate change objectives cannot be met. It is not therefore necessary, when determining applications for offshore wind, to demonstrate a specific need for the principle of offshore wind development.
- 38 Beyond the principle of offshore wind being needed, it is important to note that the targets within the extant NPS, and markedly the draft NPS, require a level of deployment such that all currently planned and proposed offshore wind projects are necessary. This is captured within draft EN-1 at paragraph 3.2.6 which states that, in relation to the weight to be given to that identified need, the Secretary of State has determined that substantial weight should be given to this when considering applications for development consent under the 2008 Act.

- 39 The extant NPS EN-3 recognises that offshore wind farms will deliver a significant proportion of the UK's renewable energy generating capacity up to 2020 and towards 2050 (paragraph 2.6.1). It also refers to the Offshore Energy Strategic Environmental Assessment (SEA) which concludes that there are no overriding environmental considerations preventing the plans [at that time] for 25 GW of new offshore wind capacity, if mitigation measures are implemented to prevent, reduce and offset significant adverse effects (NPS EN-3, paragraph 2.6.15). The draft NPS makes clear reference to the revised target of 40 GW of new offshore wind capacity, now updated to 50GW by the recent Energy Security announcement.
- 40 The role of offshore wind is key in achieving the UK government targets for 2030 and 2050. The offshore wind industry presents an opportunity to utilise and further develop the UK's maritime engineering skills as other industries decline (such as shipbuilding and North Sea oil) in order to secure supply chain and other employment opportunities in the UK.
- 41 The Welsh Government commissioned a report by the Carbon Trust, which concluded that a potential extension at Gwynt y Môr was a priority near-term opportunity for Wales to add to its existing fleet of assets, increasing in excess of 80% the 726 MW already installed and resulting in a cumulative capacity in excess of 1.3 GW, or 27% of total electricity consumption in Wales. The role in of the Project is therefore clear in delivering a tangible, significant contribution to Welsh electricity demand and renewables targets which is deliverable within the short term, and in advance of currently undefined future projects or technology. The same report noted that offshore wind projects are a major driver of economic activity, unlocking €35 billion in the UK between 2010 and 2017.
- 42 As established in Section 5 of the Planning Statement, the Project would make a significant contribution to meeting national need, in accordance with policy set out in Part 3 of NPS EN-1. Specifically, the Project:
- ▲ meets need in the UK for the types of energy infrastructure covered by EN-1, and contributes significantly towards the Welsh and UK's current cumulative electricity supply deployment target for 2030, enough for approximately 400,000 households, necessary in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions (paragraph 3.1.1); and

- ▲ would contribute to the delivery of the 33 GW of renewable energy envisaged in NPS EN1 and the ambition to deliver 50 GW of offshore wind by 2030 as set out in the UK Government's April 2022 Energy Security Strategy.
- 43 The Applicant accordingly submits that this application should therefore be assessed on the basis that the Government has demonstrated that there is a need for renewable energy infrastructure, that the scale of the need is significantly in excess of what is currently being promoted and that the need for renewable energy is urgent (paragraphs 3.2.3 and 3.4.5 of EN-1). In accordance with NPS policy substantial weight should be given to the contribution which the Project would make towards satisfying this need (paragraph 3.1.4 of EN-1).
- 44 The need for Awel y Môr and offshore wind in general is therefore clearly supported by the extant NPS EN-1, with an increased support noted in the draft EN-1 and EN-3, in addition to and wider governmental obligations and objectives relating to low carbon electricity generation, climate change and the economy.

## 5.4 Project Benefits

- 45 The Application's consistency with relevant planning policy, primarily NPS EN-1 and EN-3, and EN-5, is set out in detail in section 6 (Planning Assessment) of the Planning Statement and is only summarised in this Statement.
- 46 In relation to the benefits of the project, NPS EN1 paragraph 4.1.3 makes clear that in addition to any adverse impacts of a development the Secretary of State should take into account its potential benefits including its contribution to meeting the need for energy infrastructure, job creation and any long term or wider benefits. Paragraph 4.1.4 makes clear that "These may be identified in this NPS, the relevant technology-specific NPS, in the application or elsewhere (including in local impact reports)" and paragraph 4.2.2 gives the examples that "This information could include matters such as employment, equality, community cohesion and well-being". The NPS also requires, under individual topic areas, that potential benefits of a development in relation to those areas should be taken into account.

47 The proposed Project includes significant benefits both embedded within the Project including its design, and to be applied through mitigation measures, plans and strategies established under the requirements of the DCO. The key benefits of the development are:

- ▶ contributing to meeting global, European and national targets on carbon dioxide reduction in line with the Climate Change Act 2008;
- ▶ biodiversity benefits: paragraph 5.3.6 of NPS EN- 1 states that the Secretary of State “should take account of the context of the challenge of climate change: failure to address this challenge will result in significant adverse impacts to biodiversity....The benefits of nationally significant low carbon energy infrastructure development may include benefits for biodiversity and geological conservation interests and these benefits may outweigh harm to these interests”, the contribution towards the UK’s current cumulative electricity supply deployment target for 2030, and the displacement of an equivalent proportion of energy supply coming from fossil fuel burning sources is a demonstrable benefit for biodiversity;
- ▶ socio-economic and local businesses: an increased use of local accommodation and businesses during off- peak season for tourism is also included in the Tourism and Recreation ES Chapter, with further benefits noted in the Socio-Economics ES Chapter as a benefit of the project. As context for these benefits, RWE (a major shareholder of Awel y Môr Offshore Wind Farm Limited), operates 2.2 GW of wind, including the Awel y Môr sister project Gwynt y Môr, generating around 12% of all electricity generated in the UK. Examples of the already established socio-economic benefits of these already consented and/ or constructed projects, and RWE’s wider presence in Wales, to local businesses include: an overall investment of £3 billion pounds into Wales alone, with the Gwynt y Môr project investing £90 million in Wales during construction, and creating 100 long- term, skilled jobs at the Port of Mostyn; and a forecast £15 billion investment in the UK more broadly;
- ▶ employment and socio-economic: the Project will create an estimated peak employment of over 300 staff per day during onshore construction and between 100 to 300 Full Time Equivalent (FTE) jobs for offshore construction within north Wales;

- ▲ skills and investment: similarly, examples of skills benefits already established by RWE in north Wales and UK -wide are demonstrated in its investment in local training. RWE has sought to upskill the future generation through creation of its Wind Turbine Apprenticeship Programme in partnership with Grŵp Llandrillo Menai, which officially opened in 2012 as the UK training hub. The course has trained 30 new apprentices producing high quality technicians who are primarily deployed on offshore and onshore wind farms, both locally and across the United Kingdom (UK), demonstrating the potential significant legacy benefits of the project, which should be taken into account under paragraph 5.12.8 of NPS EN-1.
- ▲ transition to a low carbon economy: The generation of utility-scale quantities of electricity from renewable energy sources, such as the proposed Project, will have a significant beneficial impact on meeting the policy objectives for the UK to transition to a lower carbon economy.

48 The need for and the benefits of the Project demonstrate that there is a very strong and compelling case in the public interest for the Project to be delivered. In order to ensure delivery of the Project, powers of compulsory acquisition are required and the powers sought are proportionate.

## 6 Powers of compulsory acquisition

- 49 The Application has been made under the 2008 Act for a DCO granting consent to construct and operate the Project, including powers of compulsory acquisition for the land necessary to do that. The 2008 Act specifies in section 120 what may be included within a DCO, and provides that such orders may include provisions on matters ancillary to the development consented. Those ancillary matters may include the acquisition of land and the creation, suspension and extinguishment of interests in or rights over land as set out in Schedule 5 to that Act.
- 50 The draft Order contains the following provisions:
- ▶ Article 18 authorises the compulsory acquisition of any interest in land;
  - ▶ Article 20 authorises the compulsory acquisition of rights over land, including by creation of rights;
  - ▶ Article 22 provides for the extinguishment of private rights in land which is compulsorily acquired; and
  - ▶ Article 24 allows the Applicant to compulsorily acquire the subsoil of land only.
- 51 The exercise of compulsory powers is limited by Article 19 which provides that notices under such powers must be served within 7 years of the date of the Order being made. The draft Order also amends the compensation enactments to extend their provisions to cover acquisition of rights in land only as well as the land itself.
- 52 Section 122 of the 2008 Act sets out the purposes for which compulsory acquisition may be authorised and lists the conditions which must be met. This provides that the Secretary of State must be satisfied that the land; —
- ▶ is required for the development to which the development consent relates, or
  - ▶ is required to facilitate or is incidental to that development,
  - ▶ and that there is a compelling case in the public interest for the land to be acquired compulsorily.
- 53 As required by the Guidance, this Statement sets out the use to which each Plot subject to powers of compulsory acquisition would be put (see Section 11).



54 The DCO includes, as article 37, a provision that nothing in the Order can prejudice any interest held by the Crown without the consent of the Crown. While no compulsory acquisition of any Crown interest is sought in the Order, this article confirms that the powers granted cannot be exercised in a manner which would adversely affect Crown interests, including that rights of the Crown cannot be extinguished.

## **6.1 Consideration of alternatives to compulsory acquisition**

55 The objective to avoid or minimise compulsory acquisition was an important factor in selecting the current location for the Project. Negotiations are ongoing with affected parties and are detailed in Section 10 of this Statement.

56 In the absence of compulsory acquisition, all of the land and rights required to allow the Project to be constructed and operated may not be secured and the Project will therefore not proceed. The Applicant needs to have certainty that the required rights and land can be obtained within a reasonable timeframe and to be able to evidence this certainty to its funders. Given the clear policy support for the development of projects of this type, the granting of powers of compulsory acquisition to the Project represents a proportionate and legitimate interference with private rights and to be in the public benefit.

## 7 Site Selection

- 57 In February 2017, The Crown Estate ("TCE") launched an opportunity for existing offshore wind farms to apply for project extensions. TCE defined application criteria for these project extensions, which include the need to share a boundary with the existing wind farm which it is intended to extend. The process, and how the project has sought to fulfil the TCE's prescribed criteria, is presented in section 4.7 of the Site Selection and Alternatives Chapter (Document reference: 6.1.4).
- 58 The 2017 Extension Round criteria, which were also used to inform TCE's strategic plan level HRA and associated Cable Route Protocol, limit the level of flexibility an applicant can have with regard to the spatial configuration of extension projects
- 59 The offshore Export Cable Corridor (ECC) extends from the south-western to south-eastern boundary of the Awel y Môr array area in a south-easterly direction to Ffrith beach on the North Wales coast. The offshore ECC will be approximately 21 km in length.
- 60 The onshore ECC extends from the landfall, between Rhyl and Prestatyn, primarily through agricultural land to the onshore substation (OnSS) west of St Asaph's Business Park (SABP), before then connecting to the National Grid substation at Bodelwyddan (south of SABP). A number of features, such as the Rhyl Golf Club, the River Clwyd, woodlands, and the A55 highway require to be crossed on this route.
- 61 The Applicant has undertaken a logical, staged process to arrive at the Project location and design. The Site Selection and Alternatives Chapter of the ES (Document reference: 6.1.4), sets out in detail the approach to and consideration of alternatives with further technical assessment in the associated annexes. All of the main alternatives are described and assessed and the ES Chapter identifies where alternatives are considered to either not be commercially viable or physically/technically unsuitable to the extent that they carry significant risk to the implementation of the Project.

- 62 The site selection and consideration of alternatives has been a sequential process informed by an understanding the potential locations for infrastructure and the detail of those areas, and refining the location options. This has ensured that the findings of the environmental assessments have guided the evolution of the proposed Project design, and the onshore development areas have been modified to avoid, reduce or mitigate the potentially adverse impacts as far as practicable.
- 63 As an example, Plot 15 is required for use as a temporary construction compound. The compound was moved to this location following consultation in order to minimise the impact on Rhyl Golf Course by locating the compound outside of the Course on an area of hardstanding and grass. Although temporary possession is still sought of areas of the Golf course, it is not intended to install any permanent works on the surface of the golf course and the cables will be installed underneath the Golf Course using trenchless installation techniques removing the need to trench the surface. Access to the surface is required to facilitate the use of trenchless installation techniques as it is necessary to be able to monitor the progress of the drill in the subsoil from the surface during the carrying out of the trenchless works.
- 64 Design mitigation has included a reduction in excess of 25% of the developable area, and a further reduction in excess of 50% in the number of turbines proposed for EIA scoping.
- 65 Consultation informed the final choice of landfall, as was also the case for the offshore cable route and the decision to avoid the Constable Bank feature on the request of stakeholders.
- 66 Cable installation methods have been considered and assessed as part of the EIA. Some flexibility has been retained for cable installation both offshore and in the intertidal zone due to uncertainties on ground conditions. Where optionality remains in the application, this has been fully assessed throughout the EIA.

## 8 Planning policy position

67 The Applicant's assessment of planning policy is set out in detail in the Planning Statement (Document reference: 8.1) which should be read alongside the summary in this Statement.

### 8.1 National Policy Statements (NPS)

68 The statutory framework for determining applications for development consent is provided by section 104 of the 2008 Act which states that, in deciding a DCO application, the Secretary of State must have regard to any national policy statements. NPS EN-1 (para 4.1.5) identifies that, where there is a conflict between a development plan and the NPS, the NPS prevails for the purpose of decision making, given the national significance of the infrastructure.

#### 8.1.1 The Overarching NPS for Energy: EN-1

69 Paragraph 4.1.2 of EN-1 provides that, given the level and urgency of need for infrastructure of the types covered by the energy NPSs, the Secretary of State should start with a presumption in favour of granting consent to applications for energy NSIPs. The presumption applies unless specific policies in the relevant NPSs clearly indicate that consent should be refused in a particular case. Paragraph 4.1.3 of EN-1 sets out that, in considering any proposed development, and in particular when weighing its adverse impacts against its benefits, the Secretary of State should take into account:

70 its potential benefits including its contribution to meeting the need for energy infrastructure, job creation and any long-term or wider benefits; and

71 its potential adverse impacts, including any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.

- 72 It is acknowledged that there are unavoidable (but reversible) significant seascape and landscape effects predicted for the Project, with associated unavoidable visual effects on Llandudno pier and a concomitant short term adverse effect on the tourism economy. There are also anticipated potentially significant, temporary adverse impacts on hedgerows and coastal dune invertebrates at a county level in the short term until the proposed mitigation is sufficiently mature and become established.
- 73 The Applicant has sought to minimise significant adverse effects on the physical environment where possible; this includes avoidance of the Constable Bank feature in response to stakeholder feedback. Where necessary, the ES has set out mitigation to avoid or reduce significant adverse effects. Proposals for minimising the effects on landscape and visual amenity from the onshore infrastructure are set out in the Outline Landscape and Ecological Management Plan ("OLEMP") (Document reference 8.4).
- 74 Volume 1, Chapter 4 of the ES (site selection and alternatives) (Document reference: 6.1.4) gives detailed consideration to the iterative design process and project golden rules that have resulted in avoidance of sites designated for landscape, biodiversity, heritage and Historic Landscape, Parks and Gardens. The avoidance of sites important for biodiversity has been applied across both the offshore and onshore elements of the project wherever practicable, with key design changes offshore including avoidance of the Constable Bank feature, as requested during stakeholder feedback. Indirect visual interaction with onshore infrastructure has been minimised where practicable and is subject to an Outline Landscape and Ecological Management Plan (Document reference; 8.4). The result is that the EIA concludes impacts on nature conservation, wildlife, natural and cultural heritage, public health and residential amenity to be not significant with regards the EIA Regulations (and therefore deemed acceptable in planning terms).
- 75 NPS EN-1 provides that delivery of NSIPs at the scale required will not be possible without some significant residual adverse impacts (paragraph 3.2.3), and the Project therefore continues to comply with it even with the limited adverse significant impacts identified.

## 8.1.2 The NPS for Renewable Energy EN-3

- 76 EN-3 covers technology specific matters including offshore wind.
- 77 EN-3 sets out a requirement for good design in paragraph 2.4.2. The design of offshore wind turbines and other offshore infrastructure such as offshore substations and meteorological masts have very limited scope in terms of physical appearance. However, careful consideration has been given to the siting of turbines, for example by ensuring that the turbine placement avoids the areas of highest sensitivity, by reducing the westerly spread of turbines following consultation undertaken between the scoping and statutory consultation phases.
- 78 Following statutory consultation under s42 of the 2008 Act, good design principles were applied with the Project further reducing the western extent of the array area. This reduction has achieved a net reduction of the developable area from 107km<sup>2</sup> to 78km<sup>2</sup>, and from a maximum design of 107 proposed wind turbine generators down to a maximum design of 50 wind turbine generators. This has resulted in a reduction in predicted effects on sensitive coastal areas.
- 79 For the onshore infrastructure, a key design choice made at the start of the project was to install cables underground rather than seek to use overhead lines. In addition, reinstatement measures and enhancements for the surrounding area have been identified. The effects of the onshore substation have been minimised as far as practical. During the site selection process, the Applicant sought to identify locations that benefit from existing screening. Design considerations are set out in the Design Principles Document (Document reference 8.8) which sets out the approach the Applicant proposes to the final design and details of the substation. These principles aim to provide mitigation and enhancements to the local area and reduce the significance of effect in the long term and incrementally during the initial period of planting establishment. In addition, proposals for additional screening and planting are set out in the OLEMP.

### 8.1.3 The NPS for Electricity Networks Infrastructure: EN-5

- 80 This NPS contains guidance on assessing applications for new electricity transmission lines as well as associated infrastructure. The Applicant has considered this NPS as new electricity infrastructure forms part of the Project. The Applicant has an agreement with National Grid Electricity Transmission for a grid connection at the existing Bodelywyddan substation.
- 81 The onshore cables will be installed underground, thereby minimising landscape and visual effects as required by paragraph 2.8.2 of EN-5. Archaeology is considered in NPS EN-5 where the potential effects to below ground archaeological remains are balanced against the visual effects of using overhead lines. The potential for underground installation to adverse effects on archaeology has been assessed in the ES and an outline written scheme of investigation has been produced to minimise and mitigate any effects.
- 82 Section 2.10 of NPS EN-5 considers the potential for Electro-Magnetic Fields (EMF) to arise as a result of new power transmission projects, and suggests an approach to mitigation for EMF effects, where they might occur. The Applicant has considered the potential for the generation of EMFs as a result of the onshore components of the project. The ES Chapter considered potential effects on Public Health as a result of EMF and concluded that the effect would be of negligible adverse significance.

## 8.2 National and Local Planning Policy

### 8.2.1 Net Zero Wales

- 83 The Net Zero Wales plan covers the second carbon budget (2021-25). The suite of regulations passed by the Senedd in March 2021 increased the Welsh decadal emissions targets from their 2018 level and set Carbon Budgets 2 and 3 in line with them. The plan focuses on the need to outperform the second carbon budget (of 37% average reduction in emissions) to build the foundations necessary to meet the significant step change (of 58% average reduction) required by the third carbon budget (2026-30).

## 8.2.2 Future Wales

- 84 Future Wales – the National Plan 2040 (“Future Wales”) is the Welsh national development framework, setting the direction for development in Wales to 2040. The Plan notes that Wales faces a climate emergency which is actively changing the Welsh environment and directly affecting communities. In the context of the climate emergency, and renewable energy, Future Wales notes that Wales can become a world leader in renewable energy technologies.
- 85 Future Wales notes in Policy 24 that onshore developments associated with offshore renewable energy projects will be supported in principle.

## 8.2.3 Planning Policy Wales (Edition 11, February 2021)

- 86 PPW sets out the land use planning policies of the Welsh Government. PPW Chapter 2 (paragraph 2.8) highlights that all planning policies, proposals and decisions must seek to promote sustainable development and support the well-being of people and communities across Wales. It is noted that, as required by the Well-being of Future Generations Act 2015, proposals should seek to maximise the social, economic, environmental and cultural benefits, while considering the potential impacts.
- 87 PPW provides further guidance that planning authorities should identify and require suitable ways to avoid, mitigate or compensate adverse impacts of renewable and low carbon energy development. The same emphasis is placed on developers who PPW recommends should take an active role in engaging with the local community on renewable energy proposals, including pre-application discussion, and wherever possible consider how to avoid, or otherwise minimise adverse impacts through careful consideration of location, scale, design and other measures.



88 As an extension project, Awel y Môr by its nature is required to be adjacent to the existing GyM Offshore Wind Farm. This is considered further in relation to constraints that may be placed on extensions projects identified in EN-3, and which are considered in detail in the Planning Statement. Whilst Awel y Môr is, constrained with regards where it can be located, Volume 1, Chapter 4 Site Selection and Alternatives (Document reference: 6.1.4), provides a comprehensive account of the engagement the Applicant has undertaken with local communities and stakeholders to identify appropriate mitigation and minimise effects wherever practical. The process of engagement, recorded in full in the Consultation Report and Evidence Plan Report (Document references: 5.1 and 8.2), has resulted in the Project minimising impacts across all receptor groups.

#### 8.2.4 Denbighshire Local Development Plan 2006-2021 (adopted 2013);

89 In deciding applications for development consent, section 104(d) of the 2008 Act requires the Secretary of State to have regard to other matters which the Secretary of State thinks are both important and relevant to the decision. In this regard, NPS EN-1 at paragraph 4.15 states “other matters that the Secretary of State may consider both important and relevant to its decision-making may include Development Plan documents or other documents in the Local Development Framework”. It is however important to recognise that whilst the provisions of the development plan documents may be matters to which the Secretary of State may have regard, there is no legal requirement to determine this application in accordance with the provisions of the development plan documents, as section 38(6) of the Planning and Compulsory Purchase Act 2004 is not applicable to applications for development consent.

90 The Denbighshire LDP key objectives include ensuring that Denbighshire makes a significant contribution to reducing greenhouse gases through both supporting the principle of large wind farm development within identified zones and other suitable renewable energy technologies.

### 8.3 Conclusion on planning policy

- 91 The fundamental test to be applied in the decision-making process is whether, on balance, the project is in accordance with the relevant NPSs (except to the extent that one or more of the matters set out in Section 104(4) to 104(8) applies). The Planning Statement sets out the Project, the background and context of the development, and the legal and policy context within which it will be examined and decided. The Applicant accordingly submits that the project accords with the relevant NPSs, and with the emerging NPSs which forms an important and relevant consideration.
- 92 The Planning Statement establishes the accordance of the proposed Project with NPS policy in all respects. Where minor adverse or similar impacts are identified in the application, these are in no cases significant enough to constitute a conflict with such policy. Any predicted significant effects have been mitigated as far as practicable, and when considering the Project as a whole, however, it is not considered that there are any adverse effects, individually or cumulatively, that would be sufficient to outweigh the substantial benefits and need case of Awel y Môr.
- 93 The Project would make a significant contribution to the achievement of the Welsh and broader UK national renewable energy targets, and to the UK's contribution to global efforts to reduce the effects of climate change. The proposed Project has the potential to make a substantial contribution to UK 2030 energy targets, providing ~1.8% of the 50 GW target. Moreover, the proposed project would have a direct positive benefit by providing a secure renewable energy supply for approximately 400, 000 UK households. The proposed project would reduce carbon emissions and contribute to the economy by providing socio-economic and other benefits that should be taken into account under NPS and other Government policies and legislation. The Project will also make an important contribution to energy security, seen as a critical driver for UK renewable energy.
- 94 For all of the above reasons, the Project would bring significant benefits under a range of national, international and local policy considerations, would be in accordance with relevant NPSs and legislation and therefore consent should be granted.

## 9 Engagement with affected parties

- 95 As well as consulting all persons with an interest in the Order Land about the Project proposals in accordance with section 42 of the 2008 Act, the Applicant has had regard to the requirement under paragraph 25 of the Guidance to seek to acquire land by negotiation wherever practicable.
- 96 The Applicant has entered into discussions with the relevant landowners and occupiers to secure the necessary interests over the land required for the Project by agreement rather than seek powers of compulsory acquisition under the Order. Negotiations have taken place through letters, emails, phone calls and face to face meetings. Whilst negotiations with landowners have continued over a number of years, agreement for the acquisition of many of the rights over or under certain Plots of land have yet to be secured.
- 97 In order to provide certainty for the Project and ensure funding can be achieved, powers of compulsory acquisition are sought over the land required for the Project (the Order Land). This parallel approach of making the Application (including powers of compulsory acquisition) and conducting negotiations to acquire land by agreement is in accordance with paragraph 25 of the Guidance.
- 98 Further detail of the discussions that the Applicant has had with landowners and occupiers to acquire the Order Land by agreement, as well negotiations with statutory undertakers and the Crown, are set out in the separate summary of negotiations (which will be updated as appropriate throughout Examination). Some landowners who have protected status are considered below.

### 9.1.1 The Crown Estate

- 99 The plots are required for the cable rights at the foreshore 1 and 29, and at the River Clywd (plot 257). The Applicant has been in communication with The Crown Estate throughout the pre-application phase regarding these plots. The Applicant's land agent, Dalcour Maclaren have provided The Crown Estate and their instructed agent with regular project updates and have begun to discuss terms to secure rights in land for both the Foreshore and the River Clwyd crossing. Negotiations are being actively pursued and it is the Applicant's intention to agree terms in principle with The Crown Estate prior to the beginning of the Examination.
- 100 Plots are required for permanent rights or access over the beach and foreshore areas. The Applicant's land agent, Dalcour Maclaren has received confirmation from The Crown Estate indicating which of their HM land registry titles is affected by the Order Limits. The Applicant has sought to initiate discussions regarding the rights required in land.
- 101 Temporary possession is also sought over TCE plots and, the Applicant is in negotiation over commercial terms with The Crown Estate. The commercial figures set out in the terms will include the temporary possession plots.

### 9.1.2 Denbighshire County Council

- 102 The Applicant has been in communication with Denbighshire County Council representatives and attended meetings with the land and property team at the Council's registered offices in Denbigh. The Council representatives have confirmed their interests in land within the Order Limits. The Applicant shall be providing Denbighshire County Council with a set of populated draft Heads of Terms imminently with a view to progressing negotiations in respect of the rights required. It is hoped that negotiations can be concluded ahead of the commencement of the Examination.
- 103 The Applicant has reviewed the highway and adopted highway extent provided by Denbighshire County Council. The Project crosses the highway extent on several occasions and the Applicant will issue Denbighshire County Council with populated draft Heads of Terms to secure the rights in or over their land.

### 9.1.3 The Welsh Government (including rights held in the names of the National Assembly for Wales, Welsh Ministers, Secretary of State for Wales) (Crown interests)

#### Bridleway plot at substation (416) – freehold acquisition

104 The Welsh Government is the beneficiary of a right of access contained within transfer agreement signed by Welsh Development Agency over a plot required for freehold acquisition by the Applicant in their draft order limits. The Applicant will seek to acquire this plot under a voluntary agreement with the current freeholder and the Applicant does not wish to extinguish the right of access the Welsh Government hold in this plot. The Welsh Ministers also hold an option over the land; discussion with them is ongoing.

#### Land and Property

105 The Applicant has shared with representatives of the Welsh Government project updates and further progression and annotations of the draft order limits affecting their property. The Applicant has confirmed ownership and interest in land. The Applicant has over the pre-application phase agreed survey licences to undertake intrusive and non-intrusive surveys on the property to refine the Applicant's Order Limits. Although the Applicant is yet to agree terms with the Welsh Government, the Applicant anticipates that terms will be agreed prior to the beginning of the Examination.

## Highways plots

106 The Applicant has confirmed ownership and interest in land through exchange of phone calls, e-mails and letter correspondence with representatives from the Welsh Government. The Applicant is seeking to agree commercial terms with the Welsh Government for crossing of the A55 North Wales Trunk road. The Applicant has completed several Microsoft Teams calls with the Welsh Government to ensure the Applicant develops the Project in a manner that is does not jeopardise any road infrastructure forming part of the A55 North Wales Trunk road, furthermore, the Applicant has liaised with the North and Mid Wales Trunk Road Agency of the its intent to cross the road infrastructure with its export cables. The Applicant has yet to agree terms with the Welsh Government but anticipates that negotiations will progress over the coming months.

### 9.1.4 National Grid

107 The Applicant has been in discussions with National Grid regarding the land at Boddelwyddan substation in order to ensure the extent of land required for Applicant's physical cable connection works into the extended National Grid substation are understood including rights of access for construction and operation/maintenance. National Grid has subsequently instructed Land Agents and Solicitors to act on their behalf. Discussions are ongoing with National Grid as their design for the extension of the existing substation evolves, as well as with the parties whose interests in land may be required.

### 9.1.5 Network Rail

108 Network Rail owns plot 99 along with interests in other plots; the electrical substation near foreshore (plot 94), restrictive covenants on 96, 97, 98, and a right of access on plot 100. The Applicant has been in active negotiation with Network Rail and has received a Business Clearance Certificate and a Technical Clearance Certificate. This means that negotiation on heads of terms for the Land Agreements can now be progressed. A protection agreement has also been signed and engineering approval is awaited.

# 10 Case for powers of acquisition sought

- 109 This section sets out the Applicant's proposals and justification for each class of acquisition. This includes explaining where the Applicant is seeking necessary flexibility for the detailed design stage and it may be that the final land take is less than identified.
- 110 The Applicant is in discussions with the landowners with the intention of reaching a voluntary agreement for land rights required. Powers of compulsory acquisition are therefore sought on a precautionary basis to ensure that the Project can be delivered should the landowner default on that agreement or where unknown interests in the land emerge. While the Applicant has undertaken a thorough and diligent land referencing and investigatory exercise, this possibility cannot be excluded and the Applicant requires to be able to acquire such interests where they emerge.

## 10.1 Acquisition of rights and imposition of restrictive covenants

### 10.1.1 (a) Cable rights and restrictive covenants

Plots 1, 28, 29, 30, 31, 32, 33, 34, 35, 87, 97, 101, 103, 105, 118, 139, 140, 157, 162, 184, 187, 190, 194, 242, 247, 250, 257, 258, 259, 261, 269, 272, 275, 285, 293, 294, 297, 309, 316, 317, 318, 319, 335, 347, 349, 353, 359, 365, 374, 401, 403, 413, 435, 437, 438, 453, 462, 465, 466, 471

- 111 Rights are sought for the installation, retention, operation, maintenance and decommissioning of underground cables and ancillary infrastructure in these Plots. The rights include those necessary to carry out the works, including occupying the land to carry out works, using the land as a temporary working area, storing or stockpiling materials on the land, taking access over and across the land, breaking open the land to install or reach cables and using trenchless installation techniques. In order to carry out works safely, rights are also sought to erect fencing or other means of enclosure and signage, to drain the land, to clear obstacles including fences, woods, hedges, tree or shrubs, to divert or alter apparatus and to create access and haul routes.
- 112 The imposition of restrictive covenants necessary to protect the cables once installed is sought. The restrictive covenants would prevent building or construction over the cables, blasting, hard surfacing over the cables, changing the levels of the land, excavation (excluding normal ploughing), and planting of trees or shrubs which may interfere with or prevent access to the cables. A restrictive covenant is also sought to protect any habitat creation or enhancement carried out on the land as part of the authorised development in order that the Applicant can demonstrate that any mitigation or compensation to be provided can be retained and maintained for the required period.

### 10.1.2 (b) Cable rights, transition joint bay rights and restrictive covenants

Plot 100

- 113 This category is the same as (a) but with the addition of rights to install and retain in the land transition joint bays (Work No.8). This is the only Plot in which it is sought to site transition joint bays.

### 10.1.3 (c) Cable rights and restrictive covenants under existing infrastructure

Plots 89, 90, 91, 99, 131, 147, 216, 217, 260, 291, 320, 321, 322, 342, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 425, 444



- 114 The rights sought in this category are the same as for (a) but these plots will contain crossings of infrastructure where the restrictive covenants sought under (a) would be incompatible with the existing surface use. It is not considered reasonable to seek to control hard surfacing on the public highway for example as the highway authority must be able to maintain their highway as they consider appropriate.
- 115 Trenchless installation techniques are proposed on crossing of the railway line and most public highways to prevent any interference with the existing use or damage to that infrastructure. Where infrastructure is crossed by trenchless installation techniques the right to break open the surface will be limited by the effect of protective provisions, but is retained for where it is necessary to effectively carry out trenchless installation (subject to any controls on the exercise of that agreed with the asset owner).
- 116 For all 3 forms of cable rights sought ((a), (b) and (c)), the rights sought are the minimum necessary to allow the construction and safe operation and maintenance of the Project. The Project is seeking to acquire rights in the land and not ownership of it as the buried cables can co-exist with the existing land uses. Once the cables are installed the current, use of the cable corridor plots can resume, resulting in minimal interference to the owners and occupiers.
- 117 The cables are intended to coexist with other infrastructure while causing the minimum interference, for example by limiting the impact to sub-surface under existing rail lines and highways and micro-siting the cables to avoiding needing to alter water apparatus. Other undertakers' apparatus will only be altered where necessary and there are no proposals to remove any apparatus without a diversion being put in place. The rights sought are accordingly proportionate.

#### 10.1.4 (d) Access rights

Plots 6, 8, 11, 12, 14, 36, 41, 42, 48, 51, 53, 55, 56, 58, 61, 63, 66, 76, 77, 78, 82, 83, 102, 106, 114, 115, 116, 125, 126, 129, 134, 135, 136, 142, 152, 153, 154, 155, 169, 174, 175, 178, 179, 180, 183, 196, 213, 214, 220, 222, 225, 226, 233, 235, 236, 238, 239, 240, 241, 243, 244, 245, 246, 252, 253, 254, 255, 256, 262, 263, 264, 265, 266, 267, 268, 278, 280, 281, 286, 287, 288, 292, 295, 296, 298, 299, 300, 301, 302, 304, 305, 306, 336, 337, 344, 346, 354, 355, 356, 358, 366, 367, 368, 371, 372, 373, 377, 379, 380, 407, 412, 429, 436, 439, 440, 461, 467, 468, 469, 470

118 These access rights are required for the operational phase and allow access to the entirety of the cable corridor and to land which has to be maintained for a number of years post construction. The rights may also be required in any decommissioning phase. As set out in the onshore project description of the ES [APP-062] at section 1.9 the precise details of any onshore decommissioning works, and therefore access needed, will be determined towards the end of the operational life of the Project. The access rights are located outside of the cable corridor and it would not necessary or proportionate to seek the same rights as for the cable corridor, or to seek to impose restrictive covenants over these Plots.

119 Where practical, the operational (and where applicable decommissioning) accesses have been routed over existing accesses and tracks in order to minimise the interference caused to landowners. Where existing accesses and tracks are used, rights will be sought and exercised alongside existing access rights, and it is not sought to extinguish any other person's access rights on these routes. The rights sought are accordingly the minimum necessary to ensure that the Project can be accessed once constructed whilst minimising the impacts of doing so by avoiding the need to create new accesses through hedgerows on multiple occasions.

#### 10.1.5 (e) Visibility splay and highway verge rights and restrictive covenants

Plots 418, 419, 420, 421, 422, 423, 426, 427, 428, 430, 431, 432

120 In order to be able to provide safe operational access with suitable visibility for the Project, it is necessary for some visibility splays and highway verges to be cleared, improved or extended and for their function as a visibility splay to be protected. Rights are accordingly sought to carry out these works and to prevent future activities which would reduce the visibility function. A restrictive covenant to prevent building on the splays or otherwise interfering with this function is accordingly sought. This is necessary as not all of the Plots are mapped as being within the adopted highway, and the use as a visibility splay accordingly may not be protected by adopted highway status. The restrictive covenant does not prevent the highway authority undertaking works to the highway, including to splays in verges.

#### 10.1.6 (f) Mitigation work areas access rights, mitigation rights and restrictive covenants

Plots 145, 150, 160, 164, 168, 192, 409, 459; and

#### 10.1.7 (g) Temporary mitigation area works rights and restrictive covenants

Plots 141, 143, 144, 146, 148, 149, 151, 156, 158, 163, 165, 166, 167, 177, 185, 186, 188, 189, 191, 193, 198, 199, 200, 201, 202, 203, 204, 206, 207, 208, 209, 360, 361, 362, 363, 364, 376, 378, 408, 410, 445, 446, 447, 448, 456, 457, 458, 460

121 Categories (f) and (g) apply to land which has to be maintained for a number of years post construction to ensure mitigation works, habitat restoration and landscape planting becomes established. In order to be able to comply with the anticipated requirements of the landscape and ecological management plan which will require ongoing inspection and maintenance of restored and created habitat until established, rights to access the and undertake works and prevent activities which would conflict the requirements are needed for a period post construction, which period is expected to be 3 to 5 years. Rights are accordingly sought to allow the Applicant to be in a position to comply with the anticipated requirements.

- 122 In category (f), the mitigation rights are co-located with access rights to access the cable corridor; accordingly both forms of rights are sought under this heading. This co-location reduces the impact on landowners by minimising the number of Plots required while allowing mitigation use to be undertaken and connectivity between areas to be maintained. In such cases, access will be over an unsurfaced route and managed to avoid adverse impact on the mitigation works. The need for a separate access route or hard surfaced route is accordingly removed, resulting in the in the minimum interference to the landowner.
- 123 It is intended that the exercise of mitigation rights and effect of restrictive covenants will be time limited to the period required to deliver the mitigation secured in the Order, after which only access rights will be exercised.

### 10.1.8 (h) Drainage rights and restrictive covenants

Plot 415

- 124 It is necessary to provide drainage for the cable corridor to the north of the substation site and the substation site itself. As an electrical installation, the substation site must be properly drained and resilient to flooding. Plot 415 has been identified as the best location for provision of drainage to ensure this. The rights sought are those required to effect, use and protect the drainage of the substation site.
- 125 The size and shape of Plot 415 was amended following consultation in response to landowner feedback, and a reduced area from that consulted upon has been included in the application.

### 10.1.9 (i) National Grid substation works area rights

Plots 472, 473, 478, 479, 480, 481, 482, 483, 484, 485, 486

126 In this area rights are required to allow the installation, retention, operation and maintenance of the cables and to carry out works to connect the cables to the National Grid substation. The details of the works to connect to the substation will require to be approved by National Grid, who are currently in the process of designing an extension to the substation which design will have to be completed before the final connection can be confirmed. National Grid will affect the final connections to their infrastructure. The Applicant is not seeking any consent to interfere with or remove any National Grid apparatus or to undertake any works within the existing substation without National Grid's consent, this is secured by the protective provisions in favour of National Grid. The acquisition proposed seeks to ensure that the necessary land rights are available to the Applicant to carry out the works.

#### 10.1.10 (j) National Grid substation access area rights

Plots 487, 488, 489, 490, 491, 492, 496, 497

127 The final category of rights is for access rights over the existing access to the National Grid substation. This is to secure rights to use the access along with National Grid and any other person having rights of access over the route. It is not proposed to seek to extinguish any existing rights over this route.

#### 10.1.11 Temporary possession

128 Although not strictly a form of compulsory acquisition, temporary possession powers are sought in the Order to reduce the land within which the Applicant requires to seek permanent rights and to minimise the interference with landowners' and occupiers' rights. The Applicant is seeking to temporarily occupy land required during the construction of the Project over which rights may not be required once construction has been completed. This minimises interference by allowing the Applicant to access the land needed for construction without requiring the permanent acquisition of that land.

129 Temporary possession powers apply to all of the Order land, and powers may be used before permanent rights are acquired. However, the Plots listed in schedule 6 of the Order will only be subject to temporary possession and will not be subject to powers of compulsory acquisition. Those Plots, and the purposes for which they may be occupied are set out in the table below:

Table 2: Temporary possession land.

<b>(1) NUMBER OF PLOT SHOWN ON LAND PLANS</b>	<b>(2) PURPOSE FOR WHICH TEMPORARY POSSESSION MAY BE TAKEN</b>	<b>(3) RELEVANT PART OF AUTHORISED DEVELOPMENT</b>
2	Temporary use as a construction working area, use for cable installation vessel anchoring and for access to facilitate construction of Work Nos 2A, 3 and 4	Work No.3A
3, 4, 5, 24, 27	Temporary use as a construction working area, use for cable installation vessel anchoring and for access to facilitate construction of Work Nos. 2A, 3 and 4	Work Nos.3A and 6
37, 38, 39, 40, 43, 44, 45, 46	Temporary use as a construction working area, use for cable installation vessel anchoring and for access to facilitate construction of Work Nos.2A, 3, 4, 5 and 41	Work Nos.3A and 7
7, 9, 10, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 88	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 2A, 3, 4, 5, 7 and 41	Work No.6
92, 93, 94, 95, 96, 98	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 5 and 7	Work No.6
15	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 2A, 3, 4, 5, 7 and 41	Work Nos. 6 and 6A
47, 49, 50, 52, 54, 57, 59, 60, 62, 64, 65, 67, 68, 69, <del>69a</del> , 70, 71, 72, 73, 74, 79, 80, 81, 84, 85, 86	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 2A, 3, 4, 5, 7 and 41	Work No. 7 and temporary mitigation area

<b>(1) NUMBER OF PLOT SHOWN ON LAND PLANS</b>	<b>(2) PURPOSE FOR WHICH TEMPORARY POSSESSION MAY BE TAKEN</b>	<b>(3) RELEVANT PART OF AUTHORISED DEVELOPMENT</b>
75	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 2A, 3, 4, 5, 7 and 41	Work Nos. 7 and 7A
104, 107, 108, 109, 110, 111, 112, 113, 117, 121, 122, 123, 124,	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 5, 8, 8A, 9 and 41	Work No.8
119, 127, 130, 132, 133, 137, 138	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 9, 11 and 41	Work No.10
120, 128	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 9, 11 and 41	Work No.10A
159, 161	Temporary use as a construction working area and for access to facilitate construction of Work No. 11	Work No.12
170, 171, 172, 173, 176, 181, 182	Temporary use as a construction working area and for access to facilitate construction of Work No. 11 and temporary mitigation area	Work No.13 and temporary mitigation area
195, 197, 205	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 11, 15 and 41 and temporary mitigation area	Work Nos.14,14A and temporary mitigation area
210, 211, 212, 215, 218, 219	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 11, 15 and 41 and temporary mitigation area	Work No. 14 and temporary mitigation area
221, 237	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 11, 15 and 41	Work Nos.16 and 16A

<b>(1) NUMBER OF PLOT SHOWN ON LAND PLANS</b>	<b>(2) PURPOSE FOR WHICH TEMPORARY POSSESSION MAY BE TAKEN</b>	<b>(3) RELEVANT PART OF AUTHORISED DEVELOPMENT</b>
223, 224, 227, 228, 229, 230, 231, 232, 234	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 11, 15 and 41	Work No. 16
248, 249, 251,	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 15, 18 and 41	Work No. 17
270, 271, 273, 274	Temporary use as a construction working area for drainage during construction of Work No. 19	Work No. 19
276, 277, 279, 282	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 19, 21 and 41	Work Nos. 20 and 20A
283, 284, 289, 290	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 19, 21 and 41	Work No. 20
303	Temporary use as a construction working area for drainage during construction of Work No. 21	Work No. 21
307, 308, 313	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 21, 23 and 41	Work Nos. 22 and 22A
310, 311, 312, 314, 315, 323, 324, 325, 326, 327, 328, 329	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 21, 23 and 41	Work No. 22
357	Temporary use as a construction working area for drainage during construction of Work No. 23	Work No. 23
330, 331, 332, 333, 334, 338, 339, 340, 341, 343, 345	Temporary use to improve visibility splays and for access to facilitate construction of Work Nos. 23 and 41	Work No. 24
348, 350, 351, 352	Temporary use a construction working area and for access to facilitate construction of Work No. 23	Work No. 25



<b>(1) NUMBER OF PLOT SHOWN ON LAND PLANS</b>	<b>(2) PURPOSE FOR WHICH TEMPORARY POSSESSION MAY BE TAKEN</b>	<b>(3) RELEVANT PART OF AUTHORISED DEVELOPMENT</b>
369, 370, 375	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 23 and 41, and temporary mitigation area	Work Nos.26, 26A and temporary mitigation area
404, 405, 406, 411, 414	Temporary use as a construction working area and for access to facilitate construction of Work Nos. 23 and 41, and temporary mitigation area	Work No. 27 and temporary mitigation area
424, 433, 434	Temporary use as a construction working area, use as a temporary construction compound and for access to facilitate construction of Work Nos. 33, 34, 36 and 41, and temporary mitigation area	Work Nos.37, 37A and temporary mitigation area
441, 442, 443, 449, 450, 451, 452, 454, 455	Temporary use to improve visibility splays and for access to facilitate construction of Work Nos. 36 and 41, and temporary mitigation area	Work No. 38 and temporary mitigation area
463, 464	Temporary use as a construction working area, use as a temporary construction compound, improvement of existing accesses and for access to facilitate construction of Work Nos. 36, 40 and 41, and temporary mitigation area	Work Nos.39, 39A and temporary mitigation area
474, 475, 476, 477, 493, 494, 495, 498, 499	Temporary use as a construction working area, improvement of existing accesses and for access to facilitate construction of Work Nos. 36, 40 and 41, and temporary mitigation area	Work No. 39 and temporary mitigation area

# 11 Special considerations

## 11.1 Crown Land

- 130 The offshore wind farm array area and offshore cabling will be situated within seabed/land owned and managed by The Crown Estate, and no compulsory acquisition is proposed in this area. An agreement for lease for the array area has already been finalised with the Crown Estate and a further agreement for lease for the cable area is being progressed.
- 131 Within the intertidal and foreshore area a number of Plots have been included within the Book of Reference and scope of compulsory acquisition which are Crown land. As set out in article 37 of the DCO and noted in these entries in the book of reference, there is no intention to seek to compulsorily acquire or interfere with the rights of the Crown. These Plots have been included as a purely precautionary measure to address any unknown interests which may arise. Negotiations with the Crown Estate for appropriate leases and licences for these areas are ongoing and are progressing well.
- ▲ The Plots required for the cable rights and within which all of the restrictive covenants are sought be imposed are 1, 28, 29, 31, 32 and 35, in the foreshore area, under the river Clywd in Plots 257, 258 and 259 cable corridor plots 365, 374, 376 (the Crown interest being rights of access which will not be interfered with), 401, 403, 413 and plot 415.
  - ▲ The Crown also has a number of interests within under public highways and footpaths. New rights are sought in the subsoil under public highways for installation of the cable rights in Plots 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, and 403. The restrictive covenants sought on these plots reflect the existing use of the surface and do not, for example, seek to prevent hard surfacing.
  - ▲ Those plots required for permanent rights or access over the beach and foreshore areas are Plots 6, 11, 12, 48, 53, 55, 56, 58, and 61. In the vicinity of the river Clywd access rights are sought in plot 255. There are also Crown interests in plots 371, 372, 373, 377, 379, 380, 407, 412, 468 and 469, over which access rights are sought.

- ▲ Acquisition of rights are also sought to carry out environmental and ecological mitigation works which will require a longer period of access and maintenance than can be provided under temporary possession. The plots in this category are; 363, 364, 378, 408, 409, 410.
- ▲ Acquisition of drainage rights is sought in plot 415 over which the Welsh Government holds an interest.
- ▲ Temporary possession of Crown land is also sought in Plots 2, 3, 4, 5, 7, 10, 23, 27, 38, 39, 44, 45, 46, 47, 49, 52, 54, 57, 59, 60, 369, 370, 375, 404, 405, 406, 411 and 414. The Plots within which temporary possession are sought are necessary to allow the construction of the cable corridor to provide the electrical connection for the Project. The proposed use of the temporarily possessed land includes construction working areas and access. It is proposed that the cables will be installed under the foreshore and sea defences through use of trenchless installation techniques minimising the disturbance on the surface of land. In other area, open trenching will be used.

132 Acquisition of Plot 416 (being a bridleway woodland, agricultural land and hedgerow) within which the Crown interest is a right of maintenance of drainage and support (which is not proposed to be interfered with) is sought as part of the site for the new substation to be constructed as part of the Project. The compulsory acquisition sought to this Plot does not include any interests of the Crown and the voluntary negotiations to acquire this outside of compulsory acquisition are progressing.

## 11.2 Open space

133 The Order Land includes a number of Plots which fall within a definition of open space within the 2008 Act. There are no rights of common over any of the open space within the Order Land.

134 Rights to install, retain and maintain the cables and imposition of restrictive covenants to protect them are sought over plots 1, 28, 29, 30, 31, 32, 33, 34 and 35. All of these plots form part of the foreshore area within the cable corridor where the cable will be installed underground.

135 Rights to temporarily possess open space land are sought over Plots 2, 3, 4, 5, 7, 9, 10, 13, 23, 24, 27, 37, 38, 39, 40, 43, 44, 45, 46, 47, 49, 50, 52, 54, 57, 59, 60, 62, 64, 65, 67, 68, 69, ~~69a~~, 70, 71, 72, 73, 74, 75, 80, 81, 84, 85 and 86.

- 136 Rhyl Golf Course is not considered to form open space as it is not open to 'public recreation' as required by the definition of open space. Access is restricted by the club and is not available to the public as of right. Access may be restricted to specified groups of person (such as club members) or denied to any person. In addition, and in line with the status of the course as not being open to public recreation, the path through the course is permissive and may be restricted or closed at any time.
- 137 Permanent access rights to access the cable corridor are sought over Plots 6, 8, 11, 12, 14, 36, 41, 42, 48, 51, 53, 55, 56, 58, 61, 63, 66, 76, 77, 82 and 83. The access routes to the cable corridor in the foreshore area will be taken over existing accesses as far as possible, which routes will be shared. The accesses over the beach area, which do not follow a route, extend some distance out onto the beach in order to allow access around groynes without requiring to interfere with those. These routes will only be used for access for inspection and, if required, maintenance. No permanent acquisition of the surface of any open space is sought other than rights to take access over it or take access for maintenance to cables installed under it.
- 138 Section 132 of the 2008 Act applies to the compulsory acquisition of rights over land forming part open space. It makes provision for Special Parliamentary Procedure (SPP) to apply where a DCO authorises the compulsory acquisition of rights over such land. This means that the Order will be subject to SPP unless the Secretary of State is satisfied that section 132(3) or (4) applies.
- 139 Section 132(3) applies if the order land, when burdened with the order right, will be no less advantageous that it was before to the persons in whom it is vested, other person, if any, entitled to rights of common or other rights and the public. It is considered that subsection (3) of 132 applies, and that the order land when burdened with the order rights will be no less advantageous to the persons to whom it is vested and the public that it currently is.

- 140 The Applicant is seeking rights to install cables under open space land. In order to protect these cables a number of restrictive covenants are sought to be imposed over the surface of the land. The purpose of these restrictive covenants is to prevent activities on the surface which would endanger the cables. The restricted activities include construction, planting of trees over the cable area and alteration of the level of the land to such an extent that the cables would be endangered.
- 141 The restrictive covenants are intended to prevent construction on the land which is entirely compatible with its designation as open space. Once the cables are installed under this land there will be no interference with the current uses, including that of the golf course which can undertake its regular activities including ongoing maintenance.
- 142 Outside the cable corridor, the Applicant seeks rights of access over open space land. This includes rights of access over existing tracks and roadways as well as over the foreshore and beach area. The granting of rights or access over these areas would not interfere with the current open space use. The granting of rights over access over existing track roads and a beach would not interfere with any other party's rights as there is no proposal to extinguish any other party's right to use such accesses or the beach. The Applicant would take access only when required for inspection and maintenance, and would share the access with other users.
- 143 At the Eastern extent of the affected foreshore area the relevant open space is situated within the access to be taken from Ferguson Avenue over Plots 77, 80, 76, 82, 83, 51, 61 and 58. This access route utilises existing tracks and footways rather than creating new hard surfaces on the open space. It therefore minimises the interference on the open space by using existing routes.
- 144 At the western end of the scheme access is taken from Garford Road and the existing footways and footpaths will be used to provide access along the foreshore. A second access over the beach area has also been provided (Plot 6). In common with the Eastern access, the Western access has been designed to utilise existing routes and hard surfacing and to remove any need to create new hard surfacing over open space land.

145 Given all of the above the Applicant considers that while there will be some temporary disruption to the use of open space during construction, once the cables have been installed there will be no ongoing impact and the acquisition of the rights sought will not render the open space less advantageous than it is at present to its owner or the public.

### **11.3 National Trust land**

146 No National Trust land is included in or affected by the Order Land.

### **11.4 Statutory Undertakers' Land and Apparatus**

147 The Order, if made, will authorise the compulsory acquisition of statutory undertaker's rights in land. The land rights are held by statutory undertakers for the purposes of carrying out their statutory undertaking.

148 Section 138 of the 2008 Act provides that a DCO may include provision for the extinguishment of a relevant right or removal of relevant apparatus only if the Secretary of State is satisfied that this is necessary for the purpose of carrying out the development to which the order relates.

149 The Applicant has, during preparation of the Application, been in discussions with all relevant undertakers about the proposed permanent compulsory acquisition and compulsory acquisition of rights. The Applicant has identified statutory undertakers or utility providers that may have land or apparatus belonging to them within the Order Limits and has been in contact with them.

150 The draft Order (document reference: 3.1) includes draft protective provisions in respect of statutory undertakers which are under negotiation. The Applicant is currently seeking to agree the form of protective provisions with the affected undertakers.

## 12 Human Rights

- 151 The Human Rights Act 1998 incorporated the Convention into domestic law. The Convention includes provision in the form of Articles, the aim of which is to protect the right of the individual.
- 152 Section 6 of the Human Rights Act prohibits public authorities from acting in a way which is incompatible with the Convention and in exercising its powers of compulsory acquisition the Applicant is acting as a public authority for the purpose of the Human Rights Act 1998 so must be conscious of the need to strike a balance between the rights of the individual and the interests of the public.
- 153 Various Convention rights may be engaged in the process of making and considering compulsory acquisition, notably Article 1 which protects the right of everyone to the peaceful enjoyment of possessions. No-one can be deprived of possessions except if it is in the public interest and subject to relevant national and international laws. Further, in relation to Article 8 (right to respect for private and family life and home) rights may only be restricted if the infringement is for a legitimate purpose and is fair and proportionate in the public interest.
- 154 The Order has the potential to infringe the rights of the affected parties. Such infringement has to be weighed against the public benefit in allowing the Order. There would be significant public benefit brought about by the Project. As demonstrated by the Planning Statement (document reference A8.3) there is a clear public interest in granting the Order. The public benefit should be weighed against the limited land take, and as set out in section 11 of this Statement, the Applicant is seeking the minimum rights necessary to allow the Project to succeed.

- 155 The rights of owners of interests in the Order Land under the Human Rights Act 1998 have been taken into account by the Applicant when considering whether to make the Order and in considering the extent of the interests to be comprised in the Order. The Applicant considers that there is a compelling case in the public interest for confirmation of the Order and that the Order, if confirmed, would strike an appropriate balance between public and private interest. The Applicant has had due regard to the requirement to minimise interference wherever possible and is only seeking to acquire the minimum land take reasonably necessary to allow the Project to proceed.
- 156 The Applicant recognises that the Project may have an impact on individuals but considers that the significant public benefits that will arise from the Project as set out in this Statement outweigh any harm to those individuals. The draft Order strikes a fair balance between the public interest in seeing the Project proceed (which would not happen in the absence of the Order) and the private rights which will be affected by the compulsory acquisition in relation to both Article 1 and 8. The compelling case in the public interest for the compulsory acquisition powers included within the Order has been demonstrated in the statement of case (document reference: A8.3). The land over which compulsory acquisition powers are sought as set out in the draft Order is the minimum necessary to ensure the delivery of the Project. The Project has been designed to minimise harm whilst achieving its publicly stated objectives. In this respect the interference with human rights is both proportionate and justified.
- 157 It is also a right to have a fair and public hearing. As explained in above, appropriate consultation took place and is taking place in the planning process with an opportunity given for interested parties to make representations and the Applicant remains committed to pursuing active engagement with landowners with regard to compulsory acquisition. Those directly affected by the Order will be entitled to statutory compensation.



# 13 Compensation

158 The Applicant has sufficient funding to compensate those with an interest in the Order Land. Further detail of this is included in the Funding Statement (Document reference: 4.2).

## 13.1 Corporate structure

159 The Applicant is owned by three entities:

- ▲ Siemens Project Ventures GmbH (10%). Siemens Project Ventures GmbH is registered in Erlangen, Germany (Fuerth commercial register number HRB 5812). Siemens Project Ventures GmbH is ultimately owned by Siemens AG, a company incorporated in Germany with registered offices in Berlin (registry number HRB 12300) and Munich (registry number HRB 6684).
- ▲ SWM UK Wind ONE Limited (30%). SWM UK Wind ONE Limited is registered in the UK with company number 07110700. SWM UK Wind ONE Limited is owned by Stadtwerke München GmbH, a company established in Munich, Germany, registered with the commercial register of the local court in Munich under HRB 121920. Its ultimate parent is Landeshauptstadt München (City of Munich).
- ▲ RWE Renewables UK Swindon Limited (60%). RWE Renewables UK Swindon Limited is registered in the UK with company number 02550622. RWE Renewables UK Swindon Limited is ultimately owned by RWE Aktiengesellschaft which is registered in Germany with company number HRB 14525.

160 RWE Renewables UK Swindon Limited has substantial financial resources in its own right, plus, as a wholly owned subsidiary, it has the financial backing of RWE AG. RWE AG is one of Europe's five leading electricity and gas companies, with significant expertise in oil, gas and lignite production, in electricity generation from gas, coal, nuclear and renewables, and in energy trading as well as electricity and gas distribution and supply. Moody's and Fitch rated RWE AG as Baa2 and BBB+ respectively as at 11 May 2021, with a stable outlook across both ratings agencies. As at 31 October 2021 RWE AG had total assets of €145.6 billion.

- 161 Siemens Project Ventures GmbH is a global investor in infrastructure projects with a significant asset base and adequate financial resources at its disposal. Siemens Project Ventures GmbH, as a 100% subsidiary of Siemens AG, also enjoys strong financial and liquidity support from its parent. Siemens AG is one of the largest global technology conglomerates with a focus on energy, healthcare, mobility and infrastructure sectors. Siemens AG is rated as A1 and A+ by Moody's and S&P respectively with a Stable outlook by both agencies. As at 30 September 2021, Siemens AG had total assets of €140 billion with cash and cash equivalents of €9.5 billion.
- 162 SWM UK Wind One Limited has substantial financial resources, plus, as a wholly owned subsidiary, it has the vast financial backing of Stadtwerke München GmbH. Stadtwerke München GmbH is one of the largest municipal companies in Germany and manages its business across all segments of the value chain: Energy – subdivided into Generation, Networks, Sales, and Trade –, Water, Mobility, Telecommunications, and Public Pools. As at 31 December 2020 SMW GmbH had total assets of €10.7billion

## 13.2 Project funding

- 163 The Applicant has taken professional advice regarding the estimated cost of acquiring the land and interests required to deliver the Project, and is satisfied that the requisite amount of funding is available to meet this cost.
- 164 The funding required in relation to land assembly will be provided by the Applicant. It will not be necessary to obtain any third party funding in respect of the land assembly requirements of the Project. This is because as RWE AG, Siemens AG and Stadtwerke München GmbH have made allowances for these costs, as they would with any large infrastructure project they undertake, and will ensure that the necessary funds will be available when they are due.
- 165 As such, no funding shortfalls are anticipated. The possibility of either Siemens AG, Stadtwerke München GmbH or RWE AG being unable to meet its financial commitments in respect of land assembly is extremely remote as demonstrated by the sound credit ratings of the companies.

166 The Applicant has included in Article 31 of the DCO a provision which prevents the Applicant exercising the powers of compulsory acquisition granted by the DCO until guarantees or alternative forms of security in respect of the liability of the undertakers to pay compensation are in place. The form of guarantee or security and the amount of these must be approved by the Secretary of State.

### 13.3 Estimated Project Cost

167 The current cost estimate for the Project is approximately £1.81bn. This includes the costs of construction, development, project management, financing, land acquisition and operation. The Applicant is confident that the Project will be commercially viable based on the assessments it has undertaken.

168 The Applicant has sought advice from Dalcour McLaren (DM) who are expert chartered surveyors with experience of Offshore Windfarm development. DM have provided possible heads of liability for:

- ▲ compulsory acquisition of land and rights,
- ▲ compensation arising out of temporary works,
- ▲ blight,
- ▲ severance,
- ▲ injurious affection,
- ▲ claims arising under Part 1 of the Land Compensation Act 1973,
- ▲ Business Loss Claims,
- ▲ Part 1 claims and
- ▲ Third Party Professional Fees.

169 DM have considered blight in relation to the Project and have concluded that the Project will not blight any properties so the quantum of liability under this head of claim is £0. Overall DM estimate the costs associated with compulsory acquisition and potential compensation claims to be in the region of £11.2m.

170 Article 31 of the DCO provides that the Applicant may not exercise a number of powers until it has put in place a guarantee or security equal to its potential liability to compensation payable under the DCO.

# 14 Absence of impediments

## 14.1 Other consents and licences

171 All of the other consents and licences required to construct and operate the Project and an explanation of how the Applicant proposes to deal with each is set out in the Other Consents and Licences Statement (Document reference: 5.4). It is considered that none of these other consents or licences represents an impediment to the delivery of the Project.

# 15 Conclusion

- 172 The land, and other interests required to be subject to compulsory acquisition represents the minimum level of interference reasonably required to facilitate the Project. The purpose of the powers of compulsory acquisition are to enable the delivery of the Project which is needed both locally and nationally, has numerous benefits and has substantial policy support. This justifies the interference with the rights of those persons with an interest in the land proposed to be acquired.
- 173 The land identified to be subject to compulsory acquisition is no more than is reasonably necessary for that purpose and is therefore proportionate.
- 174 The need for the Project, suitability of the Order Land and the support for such projects in the National Policy Statements demonstrates that there is a compelling case in the public interest for the land to be acquired compulsorily. All reasonable alternatives to compulsory acquisition have been explored. The Applicant has clearly set out what each Plot of the Order Land will be used for and why it is required. Given the national and local need for the Project and the support for it in policy, as well as the suitability of the Order Land, compulsory acquisition of the land, other interests together with the suspension and extinguishment of matters affecting the Order Land identified by the Applicant for the Project is justified.
- 175 The requisite funds to meet any costs of land acquisition and compensation payable as a result of the use of powers of compulsory acquisition have been included in the budget for the Project.
- 176 The Applicant therefore respectfully submits, for the reasons explained in this Statement, that the inclusion of powers of compulsory acquisition in the Order for the purposes of the Project meets the conditions of section 122 of the Act. For the reasons summarised in this Statement, the Applicant considers the Order to be within the necessary statutory powers and that a compelling case exists in the public interest which justifies the making of the Order.

## 16 Further information

177 Electronic copies may be inspected at:

The National Infrastructure Planning website:  
[www.infrastructure.planninginspectorate.gov.uk](http://www.infrastructure.planninginspectorate.gov.uk)

### 16.1 Negotiation of Sale

178 The Applicant believes it is in contact with all relevant owners and occupiers. Owners and occupiers of property affected by the Order who believe they are affected and wish to negotiate a sale should contact the Applicant:

179 By mail at:

Awel y Môr Offshore Wind Farm,

RWE Renewables

Windmill Hill Business Park

Whitehill Way

Swindon

Wiltshire

SN5 6PB

180 or by email to: [REDACTED]

181 or by telephone on: 0800 1978232

### 16.2 Compensation

182 Compensation for the compulsory acquisition of land is governed by statute. The Department for Levelling Up, Housing and Communities has a series of booklets (updated in December 2021) on compensation which may be of interest to affected persons:

▲ Booklet No. 1 - Compulsory Purchase Procedure;

- ▲ Booklet No. 2 - Compensation to Business Owners and Occupiers;
- ▲ Booklet No. 3 - Compensation to Agricultural Owners and Occupiers; and
- ▲ Booklet No.4 - Compensation for Residential Owners and Occupiers.

183 Copies of these booklets are obtainable, free of charge, from [www.gov.uk/government/collections/compulsory-purchase-system-guidance](http://www.gov.uk/government/collections/compulsory-purchase-system-guidance).



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